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CUMULATIVE TABLE OF VIRGINIA ADMINISTRATIVE CODE SECTIONS ADOPTED, AMENDED, OR REPEALED

The table printed below lists regulation sections, by Virginia Administrative Code (VAC) title, that have been amended, added or repealed in the *Virginia Register* since the regulations were originally published or last supplemented in VAC (the Spring 2003 VAC Supplement includes final regulations published through *Virginia Register* Volume 19, Issue 11, dated February 10, 2003). Emergency regulations, if any, are listed, followed by the designation "emer," and errata pertaining to final regulations are listed. Proposed regulations are not listed here. The table lists the sections in numerical order and shows action taken, the volume, issue and page number where the section appeared, and the effective date of the section.

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
Title 4. Conservation and Natural Resources			
4 VAC 5-36-50	Amended	19:16 VA.R. 2370	5/21/03
4 VAC 5-36-60	Amended	19:16 VA.R. 2373	5/21/03
4 VAC 5-36-70	Amended	19:16 VA.R. 2375	5/21/03
4 VAC 5-36-90	Amended	19:12 VA.R. 1881	3/27/03
4 VAC 5-36-100	Amended	19:12 VA.R. 1883	3/27/03
4 VAC 5-36-110 through 4 VAC 5-36-140	Amended	19:16 VA.R. 2376-2379	5/21/03
4 VAC 5-36-170 through 4 VAC 5-36-210	Amended	19:16 VA.R. 2379-2392	5/21/03
4 VAC 15-30-50	Amended	19:19 VA.R. 2818	7/1/03
4 VAC 15-40-230	Amended	19:19 VA.R. 2818	7/1/03
4 VAC 15-40-282	Added	19:19 VA.R. 2818	7/1/03
4 VAC 15-40-283	Added	19:19 VA.R. 2818	7/1/03
4 VAC 15-40-284	Added	19:19 VA.R. 2819	7/1/03
4 VAC 15-50-10	Amended	19:19 VA.R. 2819	7/1/03
4 VAC 15-50-20	Amended	19:19 VA.R. 2819	7/1/03
4 VAC 15-50-25	Amended	19:19 VA.R. 2819	7/1/03
4 VAC 15-50-30	Repealed	19:19 VA.R. 2819	7/1/03
4 VAC 15-50-70	Amended	19:19 VA.R. 2819	7/1/03
4 VAC 15-50-71	Added	19:19 VA.R. 2820	7/1/03
4 VAC 15-50-80	Amended	19:19 VA.R. 2820	7/1/03
4 VAC 15-50-81	Added	19:19 VA.R. 2820	7/1/03
4 VAC 15-50-90	Amended	19:19 VA.R. 2820	7/1/03
4 VAC 15-50-91	Added	19:19 VA.R. 2820	7/1/03
4 VAC 15-50-110	Amended	19:19 VA.R. 2820	7/1/03
4 VAC 15-50-120	Amended	19:19 VA.R. 2820	7/1/03
4 VAC 15-60-20	Amended	19:19 VA.R. 2820	7/1/03
4 VAC 15-90-10	Amended	19:19 VA.R. 2821	7/1/03
4 VAC 15-90-20	Amended	19:19 VA.R. 2821	7/1/03
4 VAC 15-90-21	Amended	19:19 VA.R. 2821	7/1/03
4 VAC 15-90-70	Amended	19:19 VA.R. 2821	7/1/03
4 VAC 15-90-80	Amended	19:19 VA.R. 2822	7/1/03
4 VAC 15-90-90	Amended	19:19 VA.R. 2822	7/1/03
4 VAC 15-90-100	Amended	19:19 VA.R. 2822	7/1/03
4 VAC 15-90-110	Amended	19:19 VA.R. 2822	7/1/03
4 VAC 15-90-120	Amended	19:19 VA.R. 2822	7/1/03
4 VAC 15-90-121	Added	19:19 VA.R. 2822	7/1/03
4 VAC 15-90-141	Amended	19:19 VA.R. 2822	7/1/03
4 VAC 15-90-160	Amended	19:19 VA.R. 2822	7/1/03
4 VAC 15-90-170	Amended	19:19 VA.R. 2822	7/1/03
4 VAC 15-90-190	Amended	19:19 VA.R. 2822	7/1/03
4 VAC 15-90-195	Amended	19:19 VA.R. 2823	7/1/03
4 VAC 15-90-200	Amended	19:19 VA.R. 2823	7/1/03
4 VAC 15-90-210	Amended	19:19 VA.R. 2823	7/1/03
4 VAC 15-90-220	Amended	19:19 VA.R. 2823	7/1/03
4 VAC 15-90-230	Amended	19:19 VA.R. 2823	7/1/03

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
4 VAC 15-90-231	Added	19:19 VA.R. 2823	7/1/03
4 VAC 15-90-240	Amended	19:19 VA.R. 2823	7/1/03
4 VAC 15-90-241	Added	19:19 VA.R. 2823	7/1/03
4 VAC 15-140-20	Amended	19:19 VA.R. 2823	7/1/03
4 VAC 15-140-40	Repealed	19:19 VA.R. 2823	7/1/03
4 VAC 15-160-10	Amended	19:19 VA.R. 2824	7/1/03
4 VAC 15-160-20	Repealed	19:19 VA.R. 2824	7/1/03
4 VAC 15-160-31	Amended	19:19 VA.R. 2824	7/1/03
4 VAC 15-200-10	Amended	19:19 VA.R. 2824	7/1/03
4 VAC 15-210-30	Amended	19:19 VA.R. 2824	7/1/03
4 VAC 15-210-40	Repealed	19:19 VA.R. 2824	7/1/03
4 VAC 15-210-51	Amended	19:19 VA.R. 2824	7/1/03
4 VAC 15-230-20	Amended	19:19 VA.R. 2824	7/1/03
4 VAC 15-230-30	Repealed	19:19 VA.R. 2824	7/1/03
4 VAC 15-230-60	Amended	19:19 VA.R. 2824	7/1/03
4 VAC 15-230-70	Repealed	19:19 VA.R. 2824	7/1/03
4 VAC 15-240-31	Amended	19:19 VA.R. 2825	7/1/03
4 VAC 15-240-40	Amended	19:19 VA.R. 2825	7/1/03
4 VAC 15-240-50	Amended	19:19 VA.R. 2825	7/1/03
4 VAC 15-240-80	Amended	19:19 VA.R. 2825	7/1/03
4 VAC 15-240-81	Added	19:19 VA.R. 2825	7/1/03
4 VAC 15-240-90	Amended	19:19 VA.R. 2825	7/1/03
4 VAC 15-240-91	Added	19:19 VA.R. 2825	7/1/03
4 VAC 15-260-120	Amended	19:19 VA.R. 2826	7/1/03
4 VAC 15-290-115	Amended	19:19 VA.R. 2826	7/1/03
4 VAC 15-430-40	Erratum	19:14 VA.R. 2176	--
4 VAC 15-430-210	Erratum	19:14 VA.R. 2177	--
4 VAC 20-252-130 emer	Amended	19:12 VA.R. 1905	1/31/03-2/28/03
4 VAC 20-252-130	Amended	19:14 VA.R. 2086	3/1/03
4 VAC 20-252-150 emer	Amended	19:12 VA.R. 1906	1/31/03-2/28/03
4 VAC 20-252-150	Amended	19:14 VA.R. 2087	3/1/03
4 VAC 20-380-10	Amended	19:14 VA.R. 2087	3/1/03
4 VAC 20-380-30	Amended	19:14 VA.R. 2087	3/1/03
4 VAC 20-380-50	Amended	19:14 VA.R. 2087	3/1/03
4 VAC 20-380-60	Amended	19:14 VA.R. 2088	3/1/03
4 VAC 20-563-10 through 4 VAC 20-563-50 emer	Added	19:16 VA.R. 2417	3/26/03-4/24/03
4 VAC 20-620-50	Amended	19:14 VA.R. 2088	3/1/03
4 VAC 20-620-70	Amended	19:14 VA.R. 2089	3/1/03
4 VAC 20-720-20 emer	Amended	19:12 VA.R. 1906	2/1/03-3/3/03
4 VAC 20-720-40 emer	Amended	19:12 VA.R. 1907	2/1/03-3/3/03
4 VAC 20-720-50 emer	Amended	19:12 VA.R. 1907	2/1/03-3/3/03
4 VAC 20-720-70 emer	Amended	19:12 VA.R. 1908	2/1/03-3/3/03
4 VAC 20-720-80	Erratum	19:12 VA.R. 1915	--
4 VAC 20-720-80 emer	Amended	19:12 VA.R. 1909	2/1/03-3/3/03
4 VAC 20-910-45 emer	Amended	19:12 VA.R. 1911	1/31/03-2/28/03
4 VAC 20-910-45	Amended	19:14 VA.R. 2089	3/1/03
4 VAC 20-950-30	Amended	19:14 VA.R. 2090	3/1/03
4 VAC 20-950-45	Amended	19:14 VA.R. 2090	3/1/03
4 VAC 20-1050-10	Added	19:16 VA.R. 2392	3/26/03
4 VAC 20-1050-20	Added	19:16 VA.R. 2392	3/26/03
4 VAC 20-1050-30	Added	19:16 VA.R. 2392	3/26/03
4 VAC 20-1060-10	Added	19:16 VA.R. 2393	3/26/03
4 VAC 20-1060-20	Added	19:16 VA.R. 2393	3/26/03
4 VAC 20-1060-30	Added	19:16 VA.R. 2393	3/26/03
4 VAC 25-40 (Forms)	Amended	19:17 VA.R. 2589	--
4 VAC 25-150-120	Amended	19:18 VA.R. 2663	7/1/03

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
4 VAC 25-160-30	Amended	19:18 VA.R. 2664	7/1/03
Title 6. Criminal Justice and Corrections			
6 VAC 20-210-10 through 6 VAC 20-210-110 emer	Added	19:10 VA.R. 1511-1512	1/7/03-1/6/04
Title 8. Education			
8 VAC 20-440-10	Amended	19:12 VA.R. 1886	3/28/03
8 VAC 20-440-90	Amended	19:12 VA.R. 1886	3/28/03
8 VAC 20-440-110	Amended	19:12 VA.R. 1886	3/28/03
8 VAC 20-440-120	Amended	19:12 VA.R. 1886	3/28/03
8 VAC 20-440-140	Amended	19:12 VA.R. 1886	3/28/03
8 VAC 20-440-150	Amended	19:12 VA.R. 1886	3/28/03
8 VAC 20-440-160	Amended	19:12 VA.R. 1886	3/28/03
8 VAC 20-440 Appendix A	Amended	19:12 VA.R. 1887	3/28/03
8 VAC 20-440 Appendix B	Amended	19:12 VA.R. 1890	3/28/03
Title 9. Environment			
9 VAC 5-20-204	Amended	19:17 VA.R. 2486	6/4/03
9 VAC 5-20-310	Amended	19:17 VA.R. 2486	6/4/03
9 VAC 5-40-6000 through 9 VAC 5-40-6150	Amended	19:17 VA.R. 2487-2494	7/1/03
9 VAC 5-40-6180	Amended	19:17 VA.R. 2494	7/1/03
9 VAC 5-40-6190	Amended	19:17 VA.R. 2499	7/1/03
9 VAC 5-40-6220	Amended	19:17 VA.R. 2500	7/1/03
9 VAC 5-40-7950	Amended	19:17 VA.R. 2501	7/1/03
9 VAC 5-40-7960	Amended	19:17 VA.R. 2502	7/1/03
9 VAC 5-40-8090	Amended	19:17 VA.R. 2505	7/1/03
9 VAC 5-40-8100	Amended	19:17 VA.R. 2505	7/1/03
9 VAC 5-40-8110 through 9 VAC 5-40-8160	Amended	19:17 VA.R. 2507-2519	7/1/03
9 VAC 5-40-8180	Amended	19:17 VA.R. 2519	7/1/03
9 VAC 20-60-17	Amended	19:18 VA.R. 2665	7/1/03
9 VAC 20-60-18	Amended	19:12 VA.R. 1891	3/26/03
9 VAC 20-60-40	Amended	19:18 VA.R. 2665	7/1/03
9 VAC 20-60-70	Amended	19:18 VA.R. 2665	7/1/03
9 VAC 20-60-124	Amended	19:18 VA.R. 2665	7/1/03
9 VAC 20-60-261	Amended	19:18 VA.R. 2665	7/1/03
9 VAC 20-60-262	Amended	19:18 VA.R. 2665	7/1/03
9 VAC 20-60-264	Amended	19:18 VA.R. 2665	7/1/03
9 VAC 20-60-265	Amended	19:18 VA.R. 2668	7/1/03
9 VAC 20-60-270	Amended	19:18 VA.R. 2670	7/1/03
9 VAC 20-60-305	Amended	19:18 VA.R. 2670	7/1/03
9 VAC 20-60-315	Amended	19:18 VA.R. 2670	7/1/03
9 VAC 20-60-328	Amended	19:18 VA.R. 2670	7/1/03
9 VAC 20-60-420	Amended	19:18 VA.R. 2670	7/1/03
9 VAC 20-60-440	Amended	19:18 VA.R. 2670	7/1/03
9 VAC 20-60-450	Amended	19:18 VA.R. 2670	7/1/03
9 VAC 20-60-490	Amended	19:18 VA.R. 2670	7/1/03
9 VAC 20-60-1260	Amended	19:18 VA.R. 2670	7/1/03
9 VAC 20-60-1280	Amended	19:18 VA.R. 2670	7/1/03
9 VAC 20-60-1285	Amended	19:18 VA.R. 2670	7/1/03
9 VAC 20-60-1370	Amended	19:18 VA.R. 2672	7/1/03
9 VAC 20-60-1380	Amended	19:18 VA.R. 2672	7/1/03
9 VAC 20-60-1390	Amended	19:18 VA.R. 2672	7/1/03
9 VAC 20-60-1420	Amended	19:18 VA.R. 2672	7/1/03
9 VAC 20-90-10	Amended	19:18 VA.R. 2672	7/1/03
9 VAC 20-90-20	Repealed	19:18 VA.R. 2672	7/1/03
9 VAC 20-90-30 through 9 VAC 20-90-100	Amended	19:18 VA.R. 2672-2675	7/1/03
9 VAC 20-90-110	Added	19:18 VA.R. 2675	7/1/03
9 VAC 20-90-120	Added	19:18 VA.R. 2675	7/1/03

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
9 VAC 20-110-10 through 9 VAC 20-110-40	Amended	19:19 VA.R. 2826-2827	7/2/03
9 VAC 20-110-90	Amended	19:19 VA.R. 2827	7/2/03
9 VAC 20-110-100	Amended	19:19 VA.R. 2828	7/2/03
9 VAC 20-110-110	Amended	19:19 VA.R. 2828	7/2/03
9 VAC 20-110-115	Repealed	19:19 VA.R. 2828	7/2/03
9 VAC 20-110-121	Amended	19:19 VA.R. 2828	7/2/03
9 VAC 20-110-122	Amended	19:19 VA.R. 2828	7/2/03
9 VAC 20-130 (Forms)	Amended	19:12 VA.R. 1912	--
9 VAC 20-170-10 through 9 VAC 20-170-60	Added	19:19 VA.R. 2829-2833	7/2/03
9 VAC 20-170-70	Added	19:18 VA.R. 2678	¹
9 VAC 20-170-80 through 9 VAC 20-170-190	Added	19:19 VA.R. 2833-2839	7/2/03
9 VAC 20-170-195	Added	19:18 VA.R. 2679	¹
9 VAC 20-170-270 through 9 VAC 20-170-420	Added	19:19 VA.R. 2842-2862	7/2/03
9 VAC 25-20-10	Amended	19:18 VA.R. 2680	7/1/03
9 VAC 25-20-110	Amended	19:18 VA.R. 2681	7/1/03
9 VAC 25-20-120	Amended	19:18 VA.R. 2681	7/1/03
9 VAC 25-20-130	Amended	19:18 VA.R. 2681	7/1/03
9 VAC 25-70	Repealed	19:14 VA.R. 2090	4/23/03
9 VAC 25-71-10 through 9 VAC 25-71-70	Added	19:14 VA.R. 2090	4/23/03
9 VAC 25-120 (Forms)	Amended	19:18 VA.R. 2739	--
9 VAC 25-210 (Forms)	Amended	19:12 VA.R. 1912	--
9 VAC 25-210 (Forms)	Added	19:16 VA.R. 2418	--
9 VAC 25-260-140	Amended	18:24 VA.R. 3289	²
9 VAC 25-260-155	Amended	18:24 VA.R. 3289	²
9 VAC 25-260-310	Amended	18:20 VA.R. 2659	²
9 VAC 25-260-390	Amended	18:20 VA.R. 2661	²
9 VAC 25-420	Repealed	19:14 VA.R. 2091	4/24/03
9 VAC 25-430	Repealed	19:14 VA.R. 2091	4/24/03
9 VAC 25-440	Repealed	19:14 VA.R. 2091	4/24/03
9 VAC 25-450	Repealed	19:14 VA.R. 2091	4/24/03
9 VAC 25-452	Repealed	19:14 VA.R. 2091	4/24/03
9 VAC 25-460	Repealed	19:14 VA.R. 2091	4/24/03
9 VAC 25-470	Repealed	19:14 VA.R. 2091	4/24/03
9 VAC 25-480	Repealed	19:14 VA.R. 2091	4/24/03
9 VAC 25-490	Repealed	19:14 VA.R. 2091	4/24/03
9 VAC 25-500	Repealed	19:14 VA.R. 2091	4/24/03
9 VAC 25-510	Repealed	19:14 VA.R. 2091	4/24/03
9 VAC 25-520	Repealed	19:14 VA.R. 2091	4/24/03
9 VAC 25-530	Repealed	19:14 VA.R. 2091	4/24/03
9 VAC 25-540	Repealed	19:14 VA.R. 2091	4/24/03
9 VAC 25-550	Repealed	19:14 VA.R. 2091	4/24/03
9 VAC 25-560	Repealed	19:14 VA.R. 2091	4/24/03
9 VAC 25-570	Repealed	19:14 VA.R. 2091	4/24/03
9 VAC 25-572	Repealed	19:14 VA.R. 2091	4/24/03
9 VAC 25-660 (Forms)	Amended	19:12 VA.R. 1912	--
9 VAC 25-660 (Forms)	Added	19:16 VA.R. 2418	--
9 VAC 25-670 (Forms)	Amended	19:12 VA.R. 1912	--
9 VAC 25-680 (Forms)	Amended	19:12 VA.R. 1912	--
9 VAC 25-680 (Forms)	Added	19:16 VA.R. 2418	--
9 VAC 25-690 (Forms)	Amended	19:12 VA.R. 1912	--
9 VAC 25-690 (Forms)	Added	19:16 VA.R. 2418	--
9 VAC 25-720	Erratum	19:20 VA.R. 2999	--
9 VAC 25-720-10 through 9 VAC 25-720-140	Added	19:14 VA.R. 2091-2138	4/24/03

¹ Section suspended in 19:18 VA.R. 2680.

² Effective 30 days after notice in the Virginia Register of EPA approval.

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
9 VAC 25-720-50	Erratum	19:18 VA.R. 2746-2747	--
9 VAC 25-720-80	Erratum	19:18 VA.R. 2747	--
9 VAC 25-720-120	Erratum	19:18 VA.R. 2747	--
9 VAC 25-720-130	Erratum	19:18 VA.R. 2747	--
9 VAC 25-730	Repealed	19:14 VA.R. 2090	4/23/03
Title 11. Gaming			
11 VAC 5-10-10 through 11 VAC 5-10-70	Amended	19:15 VA.R. 2264	5/7/03
11 VAC 5-10-80	Added	19:15 VA.R. 2264	5/7/03
11 VAC 5-20-10	Amended	19:15 VA.R. 2265	5/7/03
11 VAC 5-20-60	Amended	19:15 VA.R. 2265	5/7/03
11 VAC 5-20-70	Amended	19:15 VA.R. 2265	5/7/03
11 VAC 5-20-80	Amended	19:15 VA.R. 2265	5/7/03
11 VAC 5-20-90	Repealed	19:15 VA.R. 2265	5/7/03
11 VAC 5-20-100	Repealed	19:15 VA.R. 2265	5/7/03
11 VAC 5-20-110	Repealed	19:15 VA.R. 2265	5/7/03
11 VAC 5-20-120 through 11 VAC 5-20-180	Amended	19:15 VA.R. 2265	5/7/03
11 VAC 5-20-420	Amended	19:15 VA.R. 2265	5/7/03
11 VAC 5-30	Repealed	19:15 VA.R. 2265	5/7/03
11 VAC 5-31-10 through 11 VAC 5-31-200	Added	19:15 VA.R. 2266	5/7/03
11 VAC 5-40	Repealed	19:15 VA.R. 2266	5/7/03
11 VAC 5-41-10 through 11 VAC 5-41-340	Added	19:15 VA.R. 2266-2269	5/7/03
Title 12. Health			
12 VAC 5-31-610	Added	19:3 VA.R. 493	³
12 VAC 5-31-620	Added	19:3 VA.R. 494	³
12 VAC 5-31-730	Added	19:3 VA.R. 516	³
12 VAC 5-31-940	Added	19:3 VA.R. 503	³
12 VAC 5-31-1030	Added	19:3 VA.R. 504	5/6/03 ⁴
12 VAC 5-31-1140	Added	19:3 VA.R. 505	5/6/03 ⁴
12 VAC 5-90-80 emer	Amended	19:13 VA.R. 1971	2/11/03-2/10/04
12 VAC 5-90-80 emer	Amended	19:18 VA.R. 2737	4/24/03-4/23/04
12 VAC 5-585-10	Amended	19:14 VA.R. 2138	4/23/03
12 VAC 5-585-40	Amended	19:14 VA.R. 2140	4/23/03
12 VAC 5-585-50	Amended	19:14 VA.R. 2141	4/23/03
12 VAC 5-585-270	Amended	19:14 VA.R. 2141	4/23/03
12 VAC 5-585-660 through 12 VAC 5-585-750	Added	19:14 VA.R. 2141-2145	4/23/03
12 VAC 5-590-10	Amended	19:17 VA.R. 2520	6/4/03
12 VAC 5-590-370	Amended	19:17 VA.R. 2526	6/4/03
12 VAC 5-590-420	Amended	19:17 VA.R. 2549	6/4/03
12 VAC 5-590-420	Amended	19:20 VA.R. 2982	7/16/03
12 VAC 5-590-440	Amended	19:17 VA.R. 2565	6/4/03
12 VAC 5-590-530	Amended	19:17 VA.R. 2568	6/4/03
12 VAC 5-590-530	Amended	19:20 VA.R. 2982	7/16/03
12 VAC 5-590-550	Amended	19:20 VA.R. 2982	7/16/03
12 VAC 5-590-990, Appendix F and Appendix G	Amended	19:20 VA.R. 2983-2984	7/16/03
12 VAC 5-590 Appendix M	Amended	19:17 VA.R. 2575	6/4/03
12 VAC 30-20-80	Amended	19:18 VA.R. 2682	7/1/03
12 VAC 30-20-150	Amended	19:18 VA.R. 2682	7/1/03
12 VAC 30-20-160	Amended	19:18 VA.R. 2683	7/1/03
12 VAC 30-40-235 emer	Added	19:21 VA.R. 3076	8/1/03-7/31/04
12 VAC 30-50-10 emer	Amended	19:21 VA.R. 3078	7/1/03-6/30/04
12 VAC 30-50-20 emer	Amended	19:21 VA.R. 3078	7/1/03-6/30/04
12 VAC 30-50-50 emer	Amended	19:21 VA.R. 3079	7/1/03-6/30/04
12 VAC 30-50-60 emer	Amended	19:21 VA.R. 3079	7/1/03-6/30/04

³ Section withdrawn in 19:16 VA.R. 2393.

⁴ Section readopted in 19:16 VA.R. 2393.

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 30-50-120 emer	Amended	19:21 VA.R. 3080	7/1/03-6/30/04
12 VAC 30-50-140	Amended	19:18 VA.R. 2684	7/1/03
12 VAC 30-50-140 emer	Amended	19:21 VA.R. 3080	7/1/03-6/30/04
12 VAC 30-50-150	Amended	19:18 VA.R. 2685	7/1/03
12 VAC 30-50-160	Amended	19:18 VA.R. 2686	7/1/03
12 VAC 30-50-460	Repealed	19:18 VA.R. 2686	7/1/03
12 VAC 30-50-530 emer	Amended	19:21 VA.R. 3081	7/1/03-6/30/04
12 VAC 30-60-70	Amended	19:18 VA.R. 2687	7/1/03
12 VAC 30-70-201	Amended	19:21 VA.R. 3058	8/1/03
12 VAC 30-70-221	Amended	19:18 VA.R. 2699	7/1/03
12 VAC 30-70-281	Amended	19:18 VA.R. 2699	7/1/03
12 VAC 30-70-351	Amended	19:18 VA.R. 2699	7/1/03
12 VAC 30-70-351 emer	Amended	19:21 VA.R. 3082	7/1/03-6/30/04
12 VAC 30-80-20 emer	Amended	19:21 VA.R. 3083	7/1/03-6/30/04
12 VAC 30-80-20	Amended	19:18 VA.R. 2699	7/1/03
12 VAC 30-80-40	Amended	19:18 VA.R. 2701	7/1/03
12 VAC 30-80-200 emer	Added	19:21 VA.R. 3085	7/1/03-6/30/04
12 VAC 30-90-41	Amended	19:18 VA.R. 2702	7/1/03
12 VAC 30-90-257	Added	19:18 VA.R. 2702	7/1/03
12 VAC 30-110-1210	Repealed	19:18 VA.R. 2689	7/1/03
12 VAC 30-110-1350 through 12 VAC 30-110-1410	Added	19:18 VA.R. 2703	6/19/03
12 VAC 30-120-50	Amended	19:18 VA.R. 2690	7/1/03
12 VAC 30-120-140 emer	Amended	19:15 VA.R. 2270	3/17/03-3/16/04
12 VAC 30-120-150 emer	Amended	19:15 VA.R. 2273	3/17/03-3/16/04
12 VAC 30-120-160 emer	Amended	19:15 VA.R. 2274	3/17/03-3/16/04
12 VAC 30-120-165 emer	Added	19:15 VA.R. 2276	3/17/03-3/16/04
12 VAC 30-120-170 emer	Amended	19:15 VA.R. 2281	3/17/03-3/16/04
12 VAC 30-120-180 emer	Amended	19:15 VA.R. 2282	3/17/03-3/16/04
12 VAC 30-120-190 emer	Amended	19:15 VA.R. 2284	3/17/03-3/16/04
12 VAC 30-120-490	Amended	19:18 VA.R. 2692	7/1/03
12 VAC 30-120-500	Amended	19:18 VA.R. 2693	7/1/03
12 VAC 30-120-520 through 12 VAC 30-120-550	Amended	19:18 VA.R. 2694-2699	7/1/03
12 VAC 30-130-50	Amended	19:18 VA.R. 2699	7/1/03
12 VAC 30-130-620 emer	Amended	19:21 VA.R. 3077	8/1/03-7/31/04
12 VAC 30-141-10 through 12 VAC 30-141-660	Added	19:21 VA.R. 3058-3071	8/1/03
12 VAC 35-11-10 through 12 VAC 35-11-90	Amended	19:19 VA.R. 2864-2865	7/2/03
12 VAC 35-11-15	Added	19:19 VA.R. 2864	7/2/03
12 VAC 35-11-100	Repealed	19:19 VA.R. 2864	7/2/03
12 VAC 35-11-110	Added	19:19 VA.R. 2865	7/2/03
12 VAC 35-40-10 through 12 VAC 35-40-340	Repealed	19:19 VA.R. 2865	8/1/03
12 VAC 35-45-10 through 12 VAC 35-45-200	Added	19:19 VA.R. 2865-2866	8/1/03
Title 13. Housing			
13 VAC 10-40-110	Amended	19:12 VA.R. 1892	1/24/03
13 VAC 10-40-220	Amended	19:12 VA.R. 1892	1/24/03
13 VAC 10-40-230	Amended	19:12 VA.R. 1892	1/24/03
13 VAC 10-180-10	Amended	19:16 VA.R. 2394	4/2/03
13 VAC 10-180-50	Amended	19:16 VA.R. 2394	4/2/03
13 VAC 10-180-60	Amended	19:16 VA.R. 2394	4/2/03
13 VAC 10-180-60	Amended	19:16 VA.R. 2404	1/1/04
Title 14. Insurance			
14 VAC 5-200-20	Amended	19:12 VA.R. 1893	4/1/03
14 VAC 5-200-30	Amended	19:12 VA.R. 1893	4/1/03
14 VAC 5-200-40	Amended	19:12 VA.R. 1893	4/1/03
14 VAC 5-200-60	Amended	19:12 VA.R. 1893	4/1/03
14 VAC 5-200-75	Amended	19:12 VA.R. 1893	4/1/03
14 VAC 5-200-77	Added	19:12 VA.R. 1894	4/1/03

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
14 VAC 5-200-150	Amended	19:12 VA.R. 1894	4/1/03
14 VAC 5-200-153	Added	19:12 VA.R. 1894	4/1/03
14 VAC 5-200-200	Amended	19:12 VA.R. 1894	4/1/03
14 VAC 5-260 (Forms)	Amended	19:14 VA.R. 2169	--
14 VAC 5-270-40	Amended	19:21 VA.R. 3071	7/1/03
14 VAC 5-270-80	Amended	19:21 VA.R. 3071	7/1/03
Title 15. Judicial			
15 VAC 5-80-50	Amended	19:17 VA.R. 2579	4/11/03
Title 16. Labor and Employment			
16 VAC 15-10-10	Amended	19:19 VA.R. 2867	7/2/03
16 VAC 15-10-20	Amended	19:19 VA.R. 2867	7/2/03
16 VAC 15-10-40	Amended	19:19 VA.R. 2867	7/2/03
16 VAC 15-10-50	Amended	19:19 VA.R. 2867	7/2/03
16 VAC 15-10-80	Amended	19:19 VA.R. 2867	7/2/03
16 VAC 15-10-90	Amended	19:19 VA.R. 2867	7/2/03
16 VAC 15-10-100	Amended	19:19 VA.R. 2867	7/2/03
16 VAC 15-40-50	Amended	19:21 VA.R. 3072	8/1/03
16 VAC 25-50-20	Amended	19:19 VA.R. 2867	7/2/03
16 VAC 25-50-150	Amended	19:19 VA.R. 2867	7/2/03
16 VAC 25-50-340	Amended	19:19 VA.R. 2867	7/2/03
16 VAC 25-50-440	Amended	19:19 VA.R. 2868	7/2/03
16 VAC 25-50-445	Added	19:19 VA.R. 2868	7/2/03
16 VAC 30-50-30	Amended	19:18 VA.R. 2703	7/1/03
Title 18. Professional and Occupational Licensing			
18 VAC 5-21-20	Amended	19:12 VA.R. 1895	3/26/03
18 VAC 15-40-10 through 18 VAC 15-40-190	Added	19:18 VA.R. 2706-2712	7/1/03
18 VAC 25-10-10 through 18 VAC 25-10-50	Amended	19:19 VA.R. 2868	7/3/03
18 VAC 25-10-90	Amended	19:19 VA.R. 2868	7/3/03
18 VAC 41-20-10 through 18 VAC 41-20-280	Added	19:18 VA.R. 2712-2714	7/1/03
18 VAC 60-20-10	Amended	19:20 VA.R. 2984	7/16/03
18 VAC 60-20-90	Amended	19:18 VA.R. 2714	6/18/03
18 VAC 60-20-106	Added	19:18 VA.R. 2714	6/18/03
18 VAC 60-20-200	Amended	19:20 VA.R. 2985	7/16/03
18 VAC 60-20-210	Amended	19:20 VA.R. 2985	7/16/03
18 VAC 60-20-220	Amended	19:20 VA.R. 2985	7/16/03
18 VAC 65-20-70	Amended	19:19 VA.R. 2869	7/2/03
18 VAC 65-20-130	Amended	19:19 VA.R. 2869	7/2/03
18 VAC 65-20-140	Amended	19:19 VA.R. 2869	7/2/03
18 VAC 65-20-150	Repealed	19:19 VA.R. 2869	7/2/03
18 VAC 65-20-151	Added	19:19 VA.R. 2869	7/2/03
18 VAC 65-20-152	Added	19:19 VA.R. 2869	7/2/03
18 VAC 65-20-153	Added	19:19 VA.R. 2869	7/2/03
18 VAC 65-20-154	Added	19:19 VA.R. 2869	7/2/03
18 VAC 65-20-500	Amended	19:19 VA.R. 2869	7/2/03
18 VAC 76-30-10 through 18 VAC 76-30-120	Added	19:19 VA.R. 2869-2870	7/2/03
18 VAC 85-20-122	Amended	19:21 VA.R. 3073	7/30/03
18 VAC 85-20-210	Amended	19:21 VA.R. 3074	7/30/03
18 VAC 85-20-225	Added	19:18 VA.R. 2715	6/18/03
18 VAC 85-20-280	Amended	19:19 VA.R. 2870	7/2/03
18 VAC 85-20-280	Amended	19:21 VA.R. 3074	7/30/03
18 VAC 85-20-285	Added	19:19 VA.R. 2871	7/2/03
18 VAC 85-20-290	Amended	19:19 VA.R. 2871	7/2/03
18 VAC 85-20-300	Amended	19:19 VA.R. 2871	7/2/03
18 VAC 85-20-310 through 18 VAC 85-20-390	Added	19:18 VA.R. 2719-2720	6/18/03
18 VAC 85-40-10	Amended	19:19 VA.R. 2873	7/2/03

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 85-40-35	Added	19:19 VA.R. 2873	7/2/03
18 VAC 85-40-40	Amended	19:19 VA.R. 2873	7/2/03
18 VAC 85-40-45	Amended	19:19 VA.R. 2873	7/2/03
18 VAC 85-40-50	Amended	19:19 VA.R. 2873	7/2/03
18 VAC 85-40-55	Added	19:18 VA.R. 2717	6/18/03
18 VAC 85-40-60	Amended	19:19 VA.R. 2873	7/2/03
18 VAC 85-40-61	Amended	19:19 VA.R. 2873	7/2/03
18 VAC 85-40-65	Amended	19:19 VA.R. 2873	7/2/03
18 VAC 85-40-66	Added	19:19 VA.R. 2873	7/2/03
18 VAC 85-40-80	Repealed	19:19 VA.R. 2873	7/2/03
18 VAC 85-50-10	Amended	19:18 VA.R. 2722	6/18/03
18 VAC 85-50-40	Amended	19:18 VA.R. 2722	6/18/03
18 VAC 85-50-59	Added	19:18 VA.R. 2722	6/18/03
18 VAC 85-50-101	Amended	19:18 VA.R. 2722	6/18/03
18 VAC 85-50-110	Amended	19:18 VA.R. 2722	6/18/03
18 VAC 85-50-115	Amended	19:18 VA.R. 2722	6/18/03
18 VAC 85-80-65	Added	19:18 VA.R. 2717	6/18/03
18 VAC 85-101-10	Amended	19:19 VA.R. 2873	7/2/03
18 VAC 85-101-25	Added	19:19 VA.R. 2873	7/2/03
18 VAC 85-101-30 through 18 VAC 85-101-60	Amended	19:19 VA.R. 2873	7/2/03
18 VAC 85-101-61	Added	19:19 VA.R. 2873	7/2/03
18 VAC 85-101-80	Repealed	19:19 VA.R. 2873	7/2/03
18 VAC 85-101-90	Repealed	19:19 VA.R. 2873	7/2/03
18 VAC 85-101-100	Amended	19:19 VA.R. 2873	7/2/03
18 VAC 85-101-130	Amended	19:19 VA.R. 2873	7/2/03
18 VAC 85-101-140	Amended	19:19 VA.R. 2873	7/2/03
18 VAC 85-101-150	Amended	19:19 VA.R. 2873	7/2/03
18 VAC 85-101-151	Amended	19:19 VA.R. 2873	7/2/03
18 VAC 85-101-160	Repealed	19:19 VA.R. 2873	7/2/03
18 VAC 85-101-145	Added	19:18 VA.R. 2717	6/18/03
18 VAC 85-110-145	Added	19:18 VA.R. 2718	6/18/03
18 VAC 85-120-85	Added	19:18 VA.R. 2718	6/18/03
18 VAC 90-20-271	Added	19:18 VA.R. 2722	6/18/03
18 VAC 90-20-360	Amended	19:13 VA.R. 1967	4/9/03
18 VAC 90-20-361	Added	19:13 VA.R. 1967	4/9/03
18 VAC 90-20-362	Added	19:13 VA.R. 1967	4/9/03
18 VAC 90-20-363	Added	19:13 VA.R. 1968	4/9/03
18 VAC 90-20-364	Added	19:13 VA.R. 1968	4/9/03
18 VAC 90-30-10	Amended	19:19 VA.R. 2874	7/2/03
18 VAC 90-30-70	Amended	19:19 VA.R. 2874	7/2/03
18 VAC 90-30-90	Amended	19:19 VA.R. 2874	7/2/03
18 VAC 95-20-10	Amended	19:19 VA.R. 2874	7/2/03
18 VAC 95-20-175	Amended	19:19 VA.R. 2875	7/2/03
18 VAC 95-20-200	Amended	19:19 VA.R. 2875	7/2/03
18 VAC 95-20-220	Amended	19:19 VA.R. 2876	7/2/03
18 VAC 95-20-230	Amended	19:19 VA.R. 2876	7/2/03
18 VAC 95-20-290	Repealed	19:19 VA.R. 2876	7/2/03
18 VAC 95-20-300	Amended	19:19 VA.R. 2876	7/2/03
18 VAC 95-20-310	Amended	19:19 VA.R. 2876	7/2/03
18 VAC 95-20-330	Amended	19:19 VA.R. 2877	7/2/03
18 VAC 95-20-340	Amended	19:19 VA.R. 2877	7/2/03
18 VAC 95-20-380	Amended	19:19 VA.R. 2877	7/2/03
18 VAC 95-20-390	Amended	19:19 VA.R. 2877	7/2/03
18 VAC 105-20-75	Added	19:19 VA.R. 2877	7/2/03
18 VAC 110-20-75	Added	19:19 VA.R. 2878	7/2/03
18 VAC 110-20-170	Amended	19:19 VA.R. 2878	7/2/03

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 110-20-240	Amended	19:20 VA.R. 2986	7/16/03
18 VAC 110-20-255	Added	19:20 VA.R. 2986	7/16/03
18 VAC 110-20-275	Added	19:20 VA.R. 2986	7/16/03
18 VAC 110-20-320	Amended	19:20 VA.R. 2986	7/16/03
18 VAC 110-20-330	Amended	19:19 VA.R. 2878	7/2/03
18 VAC 110-20-400	Amended	19:20 VA.R. 2986	7/16/03
18 VAC 110-20-411	Amended	19:19 VA.R. 2878	7/2/03
18 VAC 110-20-430	Repealed	19:20 VA.R. 2986	7/16/03
18 VAC 110-20-530	Amended	19:20 VA.R. 2986	7/16/03
18 VAC 110-20-730	Added	19:20 VA.R. 2986	7/16/03
18 VAC 115-30-10	Amended	19:18 VA.R. 2724	6/18/03
18 VAC 115-30-30	Amended	19:18 VA.R. 2724	6/18/03
18 VAC 115-30-40	Amended	19:18 VA.R. 2724	6/18/03
18 VAC 115-30-45	Amended	19:18 VA.R. 2724	6/18/03
18 VAC 115-30-50	Amended	19:18 VA.R. 2724	6/18/03
18 VAC 115-30-60	Amended	19:18 VA.R. 2724	6/18/03
18 VAC 115-30-61	Added	19:18 VA.R. 2724	6/18/03
18 VAC 115-30-62	Added	19:18 VA.R. 2724	6/18/03
18 VAC 115-30-70	Repealed	19:18 VA.R. 2724	6/18/03
18 VAC 115-30-90	Amended	19:18 VA.R. 2724	6/18/03
18 VAC 115-30-110	Amended	19:18 VA.R. 2724	6/18/03
18 VAC 115-30-140	Amended	19:18 VA.R. 2724	6/18/03
18 VAC 130-20-10	Amended	19:18 VA.R. 2724	7/1/03
18 VAC 130-20-30	Amended	19:18 VA.R. 2728	7/1/03
18 VAC 130-20-40	Amended	19:18 VA.R. 2729	7/1/03
18 VAC 130-20-50	Amended	19:18 VA.R. 2729	7/1/03
18 VAC 130-20-60	Amended	19:18 VA.R. 2730	7/1/03
18 VAC 130-20-70	Amended	19:18 VA.R. 2730	7/1/03
18 VAC 130-20-110	Amended	19:18 VA.R. 2730	7/1/03
18 VAC 130-20-170	Amended	19:18 VA.R. 2731	7/1/03
18 VAC 130-20-180	Amended	19:18 VA.R. 2731	7/1/03
18 VAC 130-20-200	Amended	19:18 VA.R. 2733	7/1/03
18 VAC 130-20-210	Amended	19:18 VA.R. 2733	7/1/03
18 VAC 130-20-220	Amended	19:18 VA.R. 2733	7/1/03
18 VAC 130-20-230	Amended	19:18 VA.R. 2734	7/1/03
18 VAC 135-20-10 through 18 VAC 135-20-80	Amended	19:12 VA.R. 1899-1901	4/1/03
18 VAC 135-20-30	Erratum	19:14 VA.R. 2177	--
18 VAC 135-20-60	Erratum	19:14 VA.R. 2177	--
18 VAC 135-20-100	Amended	19:12 VA.R. 1901	4/1/03
18 VAC 135-20-105	Added	19:12 VA.R. 1901	4/1/03
18 VAC 135-20-110 through 18 VAC 135-20-150	Amended	19:12 VA.R. 1901	4/1/03
18 VAC 135-20-155	Added	19:12 VA.R. 1901	4/1/03
18 VAC 135-20-160 through 18 VAC 135-20-180	Amended	19:12 VA.R. 1901	4/1/03
18 VAC 135-20-185	Added	19:12 VA.R. 1901	4/1/03
18 VAC 135-20-190	Amended	19:12 VA.R. 1901	4/1/03
18 VAC 135-20-200	Repealed	19:12 VA.R. 1903	4/1/03
18 VAC 135-20-220	Amended	19:12 VA.R. 1903	4/1/03
18 VAC 135-20-230	Repealed	19:12 VA.R. 1903	4/1/03
18 VAC 135-20-240 through 18 VAC 135-20-300	Amended	19:12 VA.R. 1903-1904	4/1/03
18 VAC 135-20-260	Erratum	19:14 VA.R. 2177	--
18 VAC 135-20-320	Repealed	19:12 VA.R. 1904	4/1/03
18 VAC 135-20-330	Amended	19:12 VA.R. 1904	4/1/03
18 VAC 135-20-340	Amended	19:12 VA.R. 1904	4/1/03
18 VAC 135-20-360	Amended	19:12 VA.R. 1904	4/1/03
18 VAC 135-20-370	Amended	19:12 VA.R. 1904	4/1/03
18 VAC 135-20-410	Amended	19:12 VA.R. 1904	4/1/03

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 135-40-10	Repealed	19:19 VA.R. 2880	7/2/03
18 VAC 135-40-20	Amended	19:19 VA.R. 2880	7/2/03
18 VAC 135-40-30	Repealed	19:19 VA.R. 2880	7/2/03
18 VAC 135-40-40	Repealed	19:19 VA.R. 2880	7/2/03
18 VAC 135-40-50	Amended	19:19 VA.R. 2880	7/2/03
18 VAC 135-40-60	Amended	19:19 VA.R. 2880	7/2/03
18 VAC 135-40-70	Repealed	19:19 VA.R. 2880	7/2/03
18 VAC 135-40-80	Amended	19:19 VA.R. 2880	7/2/03
18 VAC 135-40-90	Repealed	19:19 VA.R. 2880	7/2/03
18 VAC 135-40-110	Amended	19:19 VA.R. 2880	7/2/03
18 VAC 135-40-120	Repealed	19:19 VA.R. 2880	7/2/03
18 VAC 135-40-130	Repealed	19:19 VA.R. 2880	7/2/03
18 VAC 135-40-140	Amended	19:19 VA.R. 2880	7/2/03
18 VAC 135-40-150	Amended	19:19 VA.R. 2880	7/2/03
18 VAC 135-40-160	Amended	19:19 VA.R. 2881	7/2/03
18 VAC 135-40-170 through 18 VAC 135-40-410	Repealed	19:19 VA.R. 2881	7/2/03
18 VAC 135-40-420	Amended	19:19 VA.R. 2881	7/2/03
18 VAC 135-40-430	Amended	19:19 VA.R. 2881	7/2/03
18 VAC 135-40-440 through 18 VAC 135-40-530	Repealed	19:19 VA.R. 2882	7/2/03
18 VAC 140-20-30	Amended	19:14 VA.R. 2145	4/23/03
Title 20. Public Utilities and Telecommunications			
20 VAC 5-200	Erratum	19:20 VA.R. 2999	--
20 VAC 5-312-20	Amended	19:17 VA.R. 2579	4/10/03
20 VAC 5-400-180	Repealed	19:17 VA.R. 2583	4/10/03
20 VAC 5-417	Erratum	19:20 VA.R. 2999	--
20 VAC 5-417-10 through 20 VAC 5-417-80	Added	19:17 VA.R. 2583-2587	4/10/03
20 VAC 5-429-10 through 20 VAC 5-429-60	Added	19:17 VA.R. 2587-2588	4/10/03
Title 22. Social Services			
22 VAC 30-20-10 through 22 VAC 30-20-40	Amended	19:14 VA.R. 2147-2154	4/24/03
22 VAC 30-20-60	Amended	19:14 VA.R. 2154	4/24/03
22 VAC 30-20-80	Amended	19:14 VA.R. 2154	4/24/03
22 VAC 30-20-90	Amended	19:14 VA.R. 2155	4/24/03
22 VAC 30-20-90	Amended	19:18 VA.R. 2736	6/18/03
22 VAC 30-20-95	Added	19:14 VA.R. 2155	4/24/03
22 VAC 30-20-100 through 22 VAC 30-20-130	Amended	19:14 VA.R. 2155-2164	4/24/03
22 VAC 30-20-150	Amended	19:14 VA.R. 2164	4/24/03
22 VAC 30-20-160	Amended	19:14 VA.R. 2164	4/24/03
22 VAC 30-20-170	Amended	19:14 VA.R. 2165	4/24/03
22 VAC 30-20-181	Amended	19:14 VA.R. 2166	4/24/03
22 VAC 30-20-200	Amended	19:14 VA.R. 2167	4/24/03
22 VAC 40-220-10	Repealed	19:19 VA.R. 2882	7/2/03
22 VAC 40-220-20	Repealed	19:19 VA.R. 2882	7/2/03
22 VAC 40-293-10 emer	Added	19:19 VA.R. 2883	7/1/03-6/30/04
22 VAC 40-293-20 emer	Added	19:19 VA.R. 2883	7/1/03-6/30/04
Title 24. Transportation and Motor Vehicles			
24 VAC 30-280-20	Amended	19:16 VA.R. 2414	3/24/03
24 VAC 30-280-40	Amended	19:16 VA.R. 2415	3/24/03
24 VAC 30-280-50	Amended	19:16 VA.R. 2415	3/24/03
24 VAC 30-280-60	Amended	19:16 VA.R. 2416	3/24/03

PETITIONS FOR RULEMAKING

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

Richmond, VA 23230-1712, telephone (804) 662-9918, FAX (804) 662-9114, or e-mail elaine.yeatts@dhp.state.va.us.

VA.R. Doc. No. R03-235; Filed June 20, 2003, 9:21 a.m.

BOARD OF DENTISTRY

Initial Agency Notice

Title of Regulation: **18 VAC 60-20. Regulations Governing the Practice of Dentistry and Dental Hygiene.**

Statutory Authority: §§ 54.1-2400 and 54.1-2724 of the Code of Virginia.

Names of Petitioner: James W. Jelinek, DDS.

Nature of Petitioner's Request: To amend 18 VAC 60-20-200, which establishes that no more than two dental hygienists may work under the supervision of a licensed dentist at any one time. The petitioner requests that the ratio be changed to three hygienists for each dentist since the current ratio limits his practice and ability to provide hygiene services to his patients.

Agency's Plan for Disposition of Request: The board will consider the petition for rulemaking at its meeting on September 12, 2003.

Written comments may be submitted until August 5, 2003.

Agency contact: Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6603 West Broad Street, Richmond, VA 23230-1712, telephone (804) 662-9918, FAX (804) 662-9114, or e-mail elaine.yeatts@dhp.state.va.us.

VA.R. Doc. No. R03-234; Filed June 20, 2003, 9:22 a.m.

Initial Agency Notice

Title of Regulation: **18 VAC 60-20. Regulations Governing the Practice of Dentistry and Dental Hygiene.**

Statutory Authority: §§ 54.1-2400 and 54.1-2729 of the Code of Virginia.

Names of Petitioner: Eric Reale of the American Safety & Health Institute.

Nature of Petitioner's Request: To amend 18 VAC 60-20-50 on continuing education to approve the American Safety & Health Institute as a provider of Cardiopulmonary Resuscitation (CPR) to dental personnel, as its program adheres to the same guidelines as those of the American Heart Association and the American Red Cross.

Agency's Plan for Disposition of Request: The board will consider the petition at its meeting on September 12, 2003. The petition may also be considered as a comment on proposed regulations when the board receives permission to publish its proposal and send it out for public comment.

Written comments may be submitted until August 5, 2003.

Agency contact: Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6603 West Broad Street,

BOARD OF NURSING

Agency Decision

Title of Regulation: **18 VAC 90-20. Regulations Governing the Practice of Nursing.**

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

Names of Petitioner: Susan D. Reynolds, Jennifer R. Rewerts, Joanne M. Butler, Darleen E. Matthews, Tabitha T. Palmer.

Nature of Petitioner's Request: The petitioners requested the board to amend regulations requiring a nurse to wear identification giving her name and licensure so as to not require the inclusion of the last name on a nametag or badge.

Statement of Reasons for Decision: The request to amend the regulation has been denied because the board has not yet received permission to publish the proposed regulation in which 18 VAC 90-20-35 was amended and therefore cannot amend its proposal at this time. Once the proposed regulation is available for public comment, the petitioners' request will be noted and a specific response to their concerns given in the adoption of final regulations. Further, in compliance with legislative action by the 2003 General Assembly, the board no longer posts street addresses or rural route numbers on the Internet, which should mitigate much of the petitioner's concern about privacy.

Agency contact: Jay P. Douglas, Executive Director, Board of Nursing, 6603 West Broad Street, Richmond, VA 23230-1712, telephone (804) 662-9909, FAX (804) 662-9512, or e-mail jay.douglas@dhp.state.va.us.

VA.R. Doc. No. R03-242; Filed June 25, 2003, 12:18 p.m.

NOTICES OF INTENDED REGULATORY ACTION

Symbol Key

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

TITLE 6. CRIMINAL JUSTICE AND CORRECTIONS

BOARD OF CRIMINAL JUSTICE SERVICES

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Criminal Justice Services intends to consider amending regulations entitled **6 VAC 20-180, Crime Prevention Specialists**. The purpose of the proposed action is to amend eligibility and certification requirements for crime prevention specialists.

The agency intends to hold a public hearing on the proposed regulation after publication in the *Virginia Register*.

Statutory Authority: §§ 9.1-102 and 9.1-161 of the Code of Virginia.

Public comments may be submitted until August 13, 2003.

Contact: Dan Gilmore, Criminal Justice Program Manager, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 371-0635, FAX (804) 692-0948 or e-mail dgilmore@dcjs.state.va.us.

VA.R. Doc. No. R03-232; Filed June 12, 2003, 10:50 a.m.

TITLE 9. ENVIRONMENT

STATE WATER CONTROL BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Water Control Board intends to consider amending regulations entitled **9 VAC 25-260, Water Quality Standards**. The State Water Control Board (board) proposes to amend the state's Antidegradation Policy (9 VAC 25-260-30), part of the Water Quality Standards, by designating a section of Ragged Island Creek for special protection as an Exceptional Water (9 VAC 25-260-30 A 3 c). The Exceptional Waters category of the Antidegradation Policy allows the board to designate waters that display exceptional environmental settings and either exceptional aquatic communities or exceptional recreational opportunities for added protection. Once designated, the Antidegradation Policy provides that no water quality degradation would be allowed in the Exceptional Waters. The only exception would be temporary, limited impact activities. By ensuring that no water quality degradation is allowed to occur in waters with exceptional environmental settings and either exceptional recreational opportunities or exceptional aquatic communities, the board is protecting these special waters at their present quality for use and enjoyment by future generations of

Virginians. (See 19:19 VA.R. 2787-2789 June 2, 2003, for more detailed information on this regulatory action.)

The agency intends to hold a public hearing on the proposed regulation after publication in the *Virginia Register*.

Statutory Authority: § 62.1-44.15 of the Code of Virginia, Clean Water Act (33 USC 1251 et seq.) and 40 CFR Part 131.

Public comments may be submitted until 5 p.m. on July 25, 2003.

Contact: Jean W. Gregory, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4113, FAX (804) 698-4522, or e-mail jwgregory@deq.state.va.us.

VA.R. Doc. No. R03-199; Filed May 9, 2003, 1:59 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Water Control Board intends to consider amending regulations entitled **9 VAC 25-260, Water Quality Standards**. The State Water Control Board (board) proposes to amend the state's Antidegradation Policy (9 VAC 25-260-30), part of the Water Quality Standards, by designating a section of Little Stony Creek for special protection as an Exceptional Water (9 VAC 25-260-30 A 3 c). The Exceptional Waters category of the Antidegradation Policy allows the board to designate waters that display exceptional environmental settings and either exceptional aquatic communities or exceptional recreational opportunities for added protection. Once designated, the Antidegradation Policy provides that no water quality degradation would be allowed in the Exceptional Waters. The only exception would be temporary, limited impact activities. By ensuring that no water quality degradation is allowed to occur in waters with exceptional environmental settings and either exceptional recreational opportunities or exceptional aquatic communities, the board is protecting these special waters at their present quality for use and enjoyment by future generations of Virginians. (See 19:19 VA.R. 2789-2790 June 2, 2003, for more detailed information on this regulatory action.)

The agency intends to hold a public hearing on the proposed regulation after publication in the *Virginia Register*.

Statutory Authority: § 62.1-44.15 of the Code of Virginia, Clean Water Act (33 USC 1251 et seq.) and 40 CFR Part 131.

Public comments may be submitted until 5 p.m. on July 25, 2003.

Contact: Jean W. Gregory, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4113, FAX (804) 698-4522, or e-mail jwgregory@deq.state.va.us.

VA.R. Doc. No. R03-200; Filed May 9, 2003, 1:59 p.m.

Notices of Intended Regulatory Action

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Water Control Board intends to consider amending regulations entitled **9 VAC 25-260, Water Quality Standards**. The State Water Control Board (board) proposes to amend the state's Antidegradation Policy (9 VAC 25-260-30), part of the Water Quality Standards, by designating Lake Drummond and portions of Brown Mountain Creek, Laurel Fork, North Fork of the Buffalo River, Pedlar River, Ramseys Draft, and Whitetop Laurel Creek as Exceptional Waters (9 VAC 25-260-30 A 3 c). The Exceptional Waters category of the Antidegradation Policy allows the board to designate waters that display exceptional environmental settings and either exceptional aquatic communities or exceptional recreational opportunities for added protection. Once designated, the Antidegradation Policy provides that no water quality degradation would be allowed in the Exceptional Waters. The only exception would be temporary, limited impact activities. By ensuring that no water quality degradation is allowed to occur in waters with exceptional environmental settings and either exceptional recreational opportunities or exceptional aquatic communities, the board is protecting these special waters at their present quality for use and enjoyment by future generations of Virginians. (See 19:19 VA.R. 2790-2791 June 2, 2003, for more detailed information on this regulatory action.)

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

Statutory Authority: § 62.1-44.15 of the Code of Virginia, Clean Water Act (33 USC 1251 et seq.) and 40 CFR Part 131.

Public comments may be submitted until 5 p.m. on July 25, 2003.

Contact: Jean W. Gregory, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4113, FAX (804) 698-4522, or e-mail jwgregory@deq.state.va.us.

VA.R. Doc. No. R03-202; Filed May 9, 2003, 2 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Water Control Board intends to consider amending regulations entitled **9 VAC 25-260, Water Quality Standards**. The State Water Control Board (board) proposes to amend the state's Antidegradation Policy (9 VAC 25-260-30), part of the Water Quality Standards, by designating a section of Bottom Creek for special protection as an Exceptional Water (9 VAC 25-260-30 A 3 c). The Exceptional Waters category of the Antidegradation Policy allows the board to designate waters which display exceptional environmental settings and either exceptional aquatic communities or exceptional recreational opportunities for added protection. Once designated, the Antidegradation Policy provides that no water quality degradation would be allowed in the Exceptional Waters. The only exception would be temporary, limited impact activities. By ensuring that no water quality degradation is allowed to occur in waters with exceptional environmental settings and either exceptional recreational opportunities or exceptional aquatic communities,

the board is protecting these special waters at their present quality for use and enjoyment by future generations of Virginians. (See 19:19 VA.R. 2791-2792 June 2, 2003, for more detailed information on this regulatory action.)

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

Statutory Authority: § 62.1-44.15 of the Code of Virginia, Clean Water Act (33 USC 1251 et seq.) and 40 CFR Part 131.

Public comments may be submitted until 5 p.m. on July 25, 2003.

Contact: Jean W. Gregory, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4113, FAX (804) 698-4522, or e-mail jwgregory@deq.state.va.us.

VA.R. Doc. No. R03-201; Filed May 9, 2003, 2 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Water Control Board intends to consider adopting regulations entitled **9 VAC 25-780, Local and Regional Water Supply Planning**. The regulatory action will address the need for improved local and regional water supply planning. The recent drought highlighted the need to require that localities be prepared to plan for and implement contingency plans during unusual climatic events. The goal of the new regulation is to establish a basic set of criteria that each local or regional water supply plan must contain so that they may plan for and provide adequate water to their citizens in a manner that balances the need for environmental protection and future growth. (See 19:20 VA.R. 2926-2927 June 16, 2003, for more detailed information on this regulatory action.)

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

Statutory Authority: § 62.1-44.38:1 of the Code of Virginia.

Public comments may be submitted until 5 p.m. on July 21, 2003.

Contact: Scott Kudlas, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4456, FAX (804) 698-4522, or e-mail swkudlas@deq.state.va.us.

VA.R. Doc. No. R03-214; Filed May 28, 2003, 10:29 a.m.

TITLE 12. HEALTH

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Medical Assistance Services intends to consider amending regulations entitled

Notices of Intended Regulatory Action

12 VAC 30-40, Eligibility Conditions and Requirements, and 12 VAC 30-130, Amount, Duration, and Scope of Selected Services. The purpose of the proposed action is to establish upper payment limits for noncovered, medically necessary items and services allowed as adjustments to Medicaid enrolled nursing facility residents. Medicaid will permit expenditures up to the maximum amount reimbursed by Medicare or Medicaid for the same items or services.

The agency does not intend to hold a public hearing on the proposed regulation after publication in the Virginia Register.

Statutory Authority: §§ 32.1-324 and 32.1-325 of the Code of Virginia.

Public comments may be submitted until July 30, 2003, to James P. Cohen, Director, Division of Medical Support, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (8904) 786-7959, FAX (804) 787-1680 or e-mail vsimmons@dmas.state.va.us.

VA.R. Doc. No. R03-219; Filed June 11, 2003, 11:26 a.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Medical Assistance Services intends to consider amending regulations entitled **12 VAC 30-70, Methods and Standards for Establishing Payment Rates; Inpatient Hospital Services.** The purpose of the proposed action is to amend the reimbursement methodology for inpatient hospitals with two separate changes: (i) inpatient capital costs are to be paid at 80% of allowable cost and (ii) reimbursement rates for freestanding psychiatric hospitals are to remain unchanged for FY 2004.

The agency does not intend to hold a public hearing on the proposed regulation after publication in the Virginia Register.

Statutory Authority: §§ 32.1-324 and 32.1-325 of the Code of Virginia.

Public comments may be submitted until August 13, 2003, to Scott Crawford, Director, Division of Reimbursement, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (8904) 786-7959, FAX (804) 787-1680 or e-mail vsimmons@dmas.state.va.us.

VA.R. Doc. No. R03-231; Filed June 13, 2003, 2:56 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Medical Assistance Services intends to consider amending regulations entitled **12 VAC 30-80, Methods and Standards for Establishing Payment Rates; Other Types of Care.** The purpose of the

proposed action is to amend the reimbursement of hospitals for outpatient services providing that, effective July 1, 2003, allowable costs shall be limited to 80% of costs. State teaching hospitals are excluded from this action. It also proposes to establish a prospective reimbursement methodology for private rehabilitation agencies. Public rehabilitation agencies, those affiliated with community services boards, will continue to be reimbursed retrospectively.

The agency does not intend to hold a public hearing on the proposed regulation after publication in the Virginia Register.

Statutory Authority: §§ 32.1-324 and 32.1-325 of the Code of Virginia.

Public comments may be submitted until July 30, 2003, to Scott Crawford, Director, Division of Reimbursement, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (8904) 786-7959, FAX (804) 787-1680 or e-mail vsimmons@dmas.state.va.us.

VA.R. Doc. No. R03-220; Filed June 11, 2003, 11:25 a.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF ACCOUNTANCY

† Withdrawal of Notice of Intended Regulatory Action

Notice is hereby given that the Board of Accountancy has WITHDRAWN the Notice of Intended Regulatory Action for **18 VAC 5-21, Board of Accountancy Regulations**, which was published in 19:5 VA.R. 757 November 18, 2002.

Contact: Nancy Taylor Feldman, Executive Director, Board of Accountancy, 3600 W. Broad St., Richmond, VA 23230-4916, telephone (804) 367-8505, FAX (804) 367-2174 or e-mail boa@boa.state.va.us.

VA.R. Doc. No. R03-64; Filed June 27, 2003, 8:19 a.m.

BOARD FOR CONTRACTORS

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board for Contractors intends to consider amending regulations entitled **18 VAC 50-22, Board for Contractors Regulations**, and **18 VAC 50-30, Tradesman Rules and Regulations.** The purpose of the proposed action is to adjust the licensing fees for contractors and tradesmen regulated by the Board for Contractors.

Notices of Intended Regulatory Action

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

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

Public comments may be submitted until August 13, 2003.

Contact: Eric L. Olson, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2785, FAX (804) 367-2474 or e-mail olson@dpor.state.va.us.

VA.R. Doc. No. R03-241; Filed June 24, 2003, 1:40 p.m.

BOARD FOR GEOLOGY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board for Geology intends to consider amending regulations entitled **18 VAC 70-20, Rules and Regulations for the Virginia Board for Geology**. The purpose of the proposed action is to make general clarifying amendments to existing language, eliminate definitions contained in statute, ensure consistency with state law, review renewal and reinstatement requirements, review fees for compliance with the Callahan Act (§ 54.1-113 of the Code of Virginia) and make other changes that may result from the board's periodic review of the regulations.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: §§ 54.1-113, 54.1-201, and 54.1-1403 of the Code of Virginia.

Public comments may be submitted until July 18, 2003.

Contact: Joseph Kossan, Assistant Administrator, Board for Geology, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-7507, FAX (804) 367-6128, or e-mail geology@dpor.state.va.us.

VA.R. Doc. No. R03-195; Filed May 2, 2003, 12:27 p.m.

BOARD OF HEALTH PROFESSIONS

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Health Professions intends to consider adopting regulations entitled **18 VAC 75-40, Regulations Governing the Certification of Dialysis Care Technicians**. The purpose of the proposed action is to promulgate regulations to establish approval of certain certifying bodies that certify dialysis care technicians by training and examination.

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

Statutory Authority: § 54.1-2400 and Chapter 27.01 (§ 54.1-2729.1 et seq.) of Title 54.1 of the Code of Virginia.

Public comments may be submitted until August 13, 2003.

Contact: Elizabeth A. Carter, Ph.D., Executive Director, Board of Health Professions, 6603 W. Broad St., Richmond, VA 23230-1712, telephone (804) 662-7691, FAX (804) 662-9504 or e-mail elizabeth.carter@dhp.state.va.us.

VA.R. Doc. No. R03-236; Filed June 20, 2003, 9:21 a.m.

TITLE 22. SOCIAL SERVICES

CHILD DAY-CARE COUNCIL

† Withdrawal of Notice of Intended Regulatory Action

Notice is hereby given that the Child Day-Care Council has withdrawn the Notice of Intended Regulatory Action for **22 VAC 15-21, General Procedures and Information for Licensure for Child Day Centers**, which was published in 19:7 VA.R 1065 December 16, 2002. This action was taken at the council's June 12, 2003, meeting.

Contact: L. Richard Martin, Jr., Regulatory Coordinator, Department of Social Services, 730 East Broad Street, Richmond, VA 23219-1849, telephone (804) 692-1825.

VA.R. Doc. No. R03-76; Filed June 20, 2003, 9:16 a.m.

STATE BOARD OF SOCIAL SERVICES

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Social Services intends to consider amending regulations entitled **22 VAC 40-25, Auxiliary Grants Program: Levels of Care and Rate Setting**. The purpose of the proposed action is to clarify reimbursement procedures and issues regarding oversight of residents' funds by an assisted living facility or adult foster care home. In addition, the term "adult care residence" will be replaced with "assisted living facility" throughout.

The agency does not intend to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: §§ 63.2-217 and 63.2-800 of the Code of Virginia.

Public comments may be submitted until July 16, 2003.

Contact: Jayne Flowers, Human Services Program Consultant, Department of Social Services, Division of Licensing Programs, 730 E. Broad St., 7th Floor, Richmond, VA 23219, telephone (804) 692-1263, FAX (804) 786-8372 or e-mail jyf900@dss.state.va.us.

VA.R. Doc. No. R03-210; Filed May 23, 2003, 2:18 p.m.

† Withdrawal of Notice of Intended Regulatory Action

Notice is hereby given that the State Board of Social Services has withdrawn the Notice of Intended Regulatory Action for **22 VAC 40-135, Treatment Foster Care Standards for Child**

Notices of Intended Regulatory Action

Placing Agencies, which was published in 18:9 VA.R 1176 January 14, 2002. This action was taken at the board's June 18, 2003, meeting.

Contact: L. Richard Martin, Jr., Regulatory Coordinator, Department of Social Services, 730 East Broad Street, Richmond, VA 23219-1849, telephone (804) 692-1825.

VA.R. Doc. No. R02-100; Filed June 20, 2003, 9:16 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Social Services intends to consider amending regulations entitled **22 VAC 40-745, Assessment in Adult Care Residences**. The purpose of the proposed action is to bring the regulation into compliance with changes in the Department of Social Services' regulation on licensure of assisted living facilities and with the Department of Medical Assistance Services' administrative policy for reimbursement of assisted living services. In addition, the term "adult care residence" will be replaced with "assisted living facility" throughout, including in the regulation's title.

The agency does not intend to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: §§ 63.2-217 and 63.2-1804 of the Code of Virginia.

Public comments may be submitted until July 16, 2003.

Contact: Marjorie L. Marker, Adult Services Program Consultant, Department of Social Services, Division of Licensing Programs, 730 E. Broad St., 7th Floor, Richmond, VA 23219, telephone (804) 692-1262, FAX (804) 786-8372 or e-mail maj2@dss.state.va.us.

VA.R. Doc. No. R03-211; Filed May 23, 2003, 2:17



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.

TITLE 9. ENVIRONMENT

STATE AIR POLLUTION CONTROL BOARD

Title of Regulation: 9 VAC 5-20. General Provisions (Rev. G02) (amending 9 VAC 5-20-206).

Statutory Authority: § 10.1-1308 of the Code of Virginia and §§ 110 and 182 of the Clean Air Act, 40 CFR Part 51.

Public Hearing Date: August 26, 2003 - 9 a.m.

Public comments may be submitted until 5 p.m., September 12, 2003.

(See Calendar of Events section for additional information)

Agency Contact: Kathleen R. Sands, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4413, FAX (804) 698-4510, or e-mail krsands@deq.state.va.us.

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

Purpose: The purpose of the regulation is to require owners to limit emissions of air pollution from a variety of sources to the level necessary for (i) the protection of public health and welfare and (ii) the attainment and maintenance of the air quality standards. The proposed amendments are being made to enlarge the scope of the Hampton Roads Emissions Control Area in order to meet Virginia's obligation to implement contingency measures as a result of this area's violation of the one-hour ozone standard.

Substance: Currently, Chapter 40 of the Regulations for the Control and Abatement of Air Pollution contains a number of regulations with VOC emission standards. The geographic applicability of these rules is defined by establishing VOC emissions control areas in a list located in 9 VAC 5-20-206. This list currently exempts existing stationary sources in four jurisdictions within the Hampton Roads VOC Emissions Control Area: James City County, York County, Poquoson City, and Williamsburg City. The applicable VOC standards are set forth in the following articles in Chapter 40:

Article 5 - Emission standards for synthesized pharmaceutical products manufacturing operations

Article 6 - Emission standards for rubber tire manufacturing operations

Article 24 - Emission standards for solvent metal cleaning operations using nonhalogenated solvents

Article 25 - Emission standards for volatile organic compound storage and transfer operations

Article 26 - Emission standards for large appliance coating application systems

Article 27 - Emission standards for magnet wire coating application systems

Article 28 - Emission standards for automobile and light duty truck coating application systems

Article 29 - Emission standards for can coating application systems

Article 30 - Emission standards for metal coil coating application systems

Article 31 - Emission standards for paper and fabric coating application systems

Article 32 - Emission standards for vinyl coating application systems

Article 33 - Emission standards for metal furniture coating application systems

Article 34 - Emission standards for miscellaneous metal parts and products coating application systems

Article 35 - Emission standards for flatwood paneling coating application systems

Article 36 - Emission standards for flexographic, packaging rotogravure and publication rotogravure printing lines

Article 37 - Emission standards for petroleum liquid storage and transfer operations

Article 39 - Emission standards for asphalt paving operations.

The proposed amendments will remove the exemptions for sources in the four localities in order to render those sources subject to the VOC standards for existing sources, as is the case in the other jurisdictions within the Hampton Roads Emissions VOC Control Area.

The proposed amendments will remove the exemptions for sources in the four localities in order to render those sources subject to the VOC standards for existing sources, as is the case in the other jurisdictions within the Hampton Roads Emissions VOC Control Area.

Issues:

Public: The primary advantage to the public is that the amendments will significantly decrease emissions of VOCs in the Hampton Roads area, thus benefiting public health and welfare. There are no disadvantages to the public.

Department: The primary advantages to the department are that the amendments will allow Virginia (i) to implement the contingency measures of the one-hour maintenance plan established for the Hampton Roads area and (ii) to avoid

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federal sanctions that would be imposed for violating the SIP provisions of the Clean Air Act. There are no disadvantages to the department.

Localities Particularly Affected: The localities particularly affected are James City County, York County, Poquoson City, and Williamsburg City.

Public Participation: The department is seeking comment on the proposed regulation and the costs and benefits of the proposal. The department is also seeking comment on the impacts of the proposed regulation on farm and forest lands.

Fiscal Impact: Information derived from data collected by the Department of Environmental Quality via the Comprehensive Environmental Data System (CEDS) reveals 23 potentially affected sources located in the four jurisdictions for which the exemption is being removed. This number is derived from the total number of sources in the area (34) excepting the five dry cleaners, three sewage treatment plants, and three factories for the production of pottery, glass, and cigarettes. These 11 sources might not be affected by this regulatory action. Of the remaining 23 sources, the two hospitals, depending on their size and the nature of their operations, might become subject to Article 24 (Emission standards for solvent metal cleaning operations using nonhalogenated solvents). The five national security facilities, depending on their size and the nature of their operations, might become subject to these same two articles plus Articles 25, 36, 37, and 39 (Emission standards for volatile organic compound storage and transfer operations, Emission standards for flexographic, packaging rotogravure and publication printing lines, Emission standards for petroleum liquid storage and transfer operations, and Emission standards for asphalt paving operations). Other articles that might become applicable to sources in these four jurisdictions include Article 28 (Emission standards for automobile and light duty truck coating application systems, applicable to the transportation equipment manufacturer) and Article 29 (Emission standards for can coating application systems, applicable to the metal can manufacturer).

In addition, an unknown number of service stations might become subject to Article 24. Neither the CEDS database nor the Virginia Gasoline Marketers Council could produce an estimate of the number of service stations in the four affected jurisdictions.

1. Costs to affected entities.

Source-specific cost data was determined for the following articles:

Article 24 - Emission standards for solvent metal cleaning operations using non-halogenated solvents: \$1,400 per ton (*Control Measure Development Support Analysis of Ozone Transport Commission Model Rules*, E. H. Pechan and Associates, March 31, 2001, p. 19).

Article 25 - Emission standards for volatile organic compound storage and transfer operations: \$4,300-120,000 capital cost per tank (67 CFR 15674, April 2, 2002).

Article 34 - Emission standards for miscellaneous metal parts and products coating application systems: \$2,635-

114,540 total cost per year, depending on source size, type, location, and controls (67 CFR 52780, August 13, 2002).

Article 36 - Emission standards for flexographic, packaging rotogravure and publication rotogravure printing lines: \$120-2,000 per ton, depending on source size, type, location, and controls (*Regulatory Analysis Document for Standards for Sources of Volatile Organic Compounds*, Virginia Department of Environmental Quality, May 22, 1995).

Article 39 - Emission standards for asphalt paving operations: \$89-121 per ton (*Summary of Technical Information for Selected VOC Source Categories*, U.S. Environmental Protection Agency, May 1981, p. 2-9; 1981 figures may be adjusted according to CPI inflators: 1.17 annually to 1995 and 1.2 annually from 1996).

Source-specific cost data was not determined for the remainder of the applicable articles. For these articles, the average cost per ton of VOC removal may be assumed to be \$2,400 (letter to Mary Nichols, EPA, from Mary A. Gade et al., Ozone Transport Assessment Group, Attachment B, "Recommendation: Additional Modeling and Air Quality Analysis," July 8, 1997). The actual figure for each article, of course, will vary widely depending on source type, size, location, and controls.

2. Costs to localities. The projected costs of the amendments on localities are not expected to be beyond those of other affected entities and are addressed in paragraph 1 above.

3. Costs to agency. It is not expected that the amendments will result in any cost to the department beyond that currently in the budget. The sources of department funds to carry out this regulation are the general fund and the federal trust (grant money provided by the U.S. Environmental Protection Agency under § 105 of the federal Clean Air Act or permit fees charged to affected entities under the permit program). The activities are budgeted under the following program (code)/subprogram (code): (i) Environmental and Resource Management (5120000)/Air Quality Stationary Source Permitting (5122000) and (ii) Air Quality Stationary Source Compliance Inspections (5122100). The costs are expected to be ongoing.

4. Benefits. The adoption of these amendments will significantly decrease emissions of VOCs in the Hampton Roads area, thus benefiting public health and welfare. The amendments will also allow Virginia to implement the contingency measures of the one-hour maintenance plan established for the Hampton Roads area and to avoid federal sanctions that would be imposed for violating the SIP provisions of the Clean Air Act.

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 § 2.2-4007 H of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007 H 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 General Assembly mandates in § 10.1-1308 of the Code of Virginia that the State Air Pollution Control Board promulgate regulations abating, controlling, and prohibiting air pollution throughout or in any part of the Commonwealth.

The proposed regulation removes the exemption given to four jurisdictions within the Hampton Roads volatile organic compounds (VOC) emissions control area from meeting the VOC emission standards for existing sources contained in Chapter 40 of the regulations for control and abatement of air pollution. The four jurisdictions currently exempt from these requirements are the counties of James City and York and the cities of Poquoson and Williamsburg. Once the exemption is removed, sources in these four localities will be required to meet VOC emissions standards met by other jurisdictions in the Hampton Roads VOC emissions control area.

Estimated economic impact. The federal Clean Air Act requires the Environmental Protection Agency (EPA) to prescribe primary and secondary air quality standards (developed for the protection of public health and public welfare, respectively) for each air pollutant for which air quality criteria were issued before the enactment of the Clean Air Act in 1970. These standards are known as the national ambient air quality standards (NAAQS) and they establish the maximum limits of pollutants that are permitted in the outside ambient air.

Each state is required by federal law to adopt and submit to EPA a plan (the state implementation plan or SIP) that provides for the implementation, maintenance, and enforcement of NAAQS within each air quality control region in the state. The Clean Air Act requires that EPA propose geographic boundaries and pollution classification levels for all nonattainment areas in each state based on air quality data from that state. Nonattainment areas are classified as marginal, moderate, serious, severe, and extreme and subject to more stringent measures as the classification moves from marginal nonattainment to extreme nonattainment. Following the establishment of nonattainment areas, each state is then required to submit an SIP demonstrating how it intends to achieve NAAQS in each nonattainment area. Once the pollution levels are at or below NAAQS levels, the SIP is also required to demonstrate how the state intends to maintain air pollution concentrations at the reduced levels.

A state may petition the EPA to redesignate a nonattainment area as attainment and EPA may or may not approve the redesignation subject to certain criteria being met. One of these criteria is that EPA fully approve a maintenance plan that provides for maintenance of NAAQS for at least 10 years after redesignation. Moreover, eight years after redesignation, the state is required to submit another maintenance plan for

the next 10 years. Each maintenance plan must include contingency measures that are to be implemented in case the area fails to maintain NAAQS.

The process of EPA determining geographic boundaries and pollution classification levels resulted in Hampton Roads being classified as a marginal nonattainment area. Hampton Roads was first designated a nonattainment area in 1991. However, it was able to achieve the one-hour ozone standard and was redesignated a maintenance area on June 26, 1997. The maintenance plan submitted and approved at the time of redesignation included specific strategies aimed at maintaining air quality and contingency measures in the event the area measures ozone concentrations above allowable levels. Following the approval of the maintenance plan at the time of redesignation, EPA required Virginia to strengthen the contingency measures specified in the plan by including removal of the exemption provided to sources in the four localities in the Hampton Roads area from meeting existing VOC standards. Since the initial promulgation of the VOC emissions control areas in 1979, these four localities have been exempt from meeting the VOC emission standards. At the time, they were deemed to be too rural to make a significant contribution to air pollution in the area. However, more than two decades later, these localities can no longer be considered rural.

More than three exceedances in a three-year period constitute a violation of the one-hour ozone standard. Between 1999 and 2001, Hampton Roads recorded four exceedances. Thus, Virginia is now required to implement the contingency measures specified in the maintenance plan established for Hampton Roads. As mentioned above, one of these measures is the removal of the exemption provided to four localities in the area from existing requirements for limiting VOC emissions. Removing the exemption will allow Virginia to implement contingency measures required by the maintenance plan. Failure to do so could result in sanctions such as the loss of federal funds for highways and other projects and/or EPA promulgating and implementing an air quality plan for Virginia.

Description of the Regulation and Estimated Economic Impact. The proposed regulation removes the exemption provided to four localities in the Hampton Roads VOC emissions control area from meeting existing VOC emission standards. The four localities are the counties of James City and York and the cities of Poquoson and Williamsburg. Existing sources of VOC emissions in these localities will now be required to meet emissions standards set forth in Chapter 40 of the regulations for control and abatement of air pollution. The standards include emission standards for synthesized pharmaceutical products manufacturing operations, rubber tire manufacturing operations, solvent metal cleaning operations using nonhalogenated solvents, VOC storage and transfer operations, large appliance coating application systems, magnet wire coating application systems, automobile and light duty truck coating application systems, can coating application systems, metal coil coating application systems, paper and fabric coating application systems, vinyl coating application systems, metal furniture coating application systems, miscellaneous metal parts and products coating application systems, flatwood paneling coating application systems,

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flexographic, packaging rotogravure and publication rotogravure printing lines, petroleum liquid storage and transfer operations, and asphalt paving operations. These standards are currently being enforced in other counties in the Hampton Roads VOC emissions area. According to DEQ, the rules for solvent metal cleaning operations, VOC storage and transfer operations, automobile and light duty truck coating application systems, can coating application systems, miscellaneous metal parts and products coating application systems, and asphalt paving operations are likely to achieve the most VOC reductions.

According to the Department of Environmental Quality (DEQ), there are 34 existing sources of VOC emissions in the area. Excluding sources not likely to be significantly affected by the proposed regulatory action (five dry cleaners, three sewage treatment plants, and three factories producing pottery, glass, and cigarettes), the remaining 24 sources likely to be affected to varying degrees by the proposed action. Of the 24, 12 are located in Williamsburg, seven are located in York county, and four are located in James City county. In addition, an unknown number of service stations might be affected by the emission standards for solvent metal cleaning operations using nonhalogenated solvents. The estimated economic impact of the proposed changes is the sum of the economic impacts of each of the 17 rules on the four affected localities.

The costs associated with implementing each article vary widely depending on the source type, size, location, and controls. According to study produced by the Ozone Transport Commission (OTC, the estimated cost of implementing the solvent cleaning rule is approximately \$1,400 per ton of VOC reduced¹. According to DEQ, the VOC storage and transfer operations rule could result in the replacement of some tanks (a majority of which are to be found at the four defense-related facilities located in the area), and could cost between \$4,300 and \$120,000 per tank. The miscellaneous metal parts and products coating application systems rule is estimated to cost between \$2,635 and \$114,540 depending on the source type, size, location, and existing controls. Based on an EPA report, the asphalt-paving rule is likely to cost between \$81 and \$121 per ton of VOC emissions reduced². DEQ estimates that the flexographic, packaging rotogravure and publication rotogravure printing lines rule is likely to cost between \$120 and \$2,000 per ton of VOC emissions reduced.

While DEQ estimates that the proposed regulatory action will reduce VOC emissions by up to 0.5 tons per day, data on VOC emissions reduction by rule is not currently available. Without information on the emissions reduction by rule, it is not possible at this time to arrive at a precise estimate of the costs associated with implementing the proposed regulatory action. However, based information contained in a letter from the Ozone Transport Assessment Group (OTAG) to EPA, an average cost of \$2,400 per ton of VOC reduced can be assumed for low-end local VOC removal and an average cost of \$10,000 per ton of VOC reduced can be assumed for high-

end local VOC removal³. According to DEQ, the cost per ton of VOC emissions reduced as a result of the proposed regulatory action is likely to be closer to the low-end value than the high-end value. DEQ believes full reductions are likely to be achieved no later than one year after the effective date of the regulation. Daily VOC emissions reductions of 0.5 tons would mean annual VOC emissions reductions of 182.5 tons. At \$2,400 per ton of VOC reduced, the proposed change would cost an estimated \$438,000 on an annualized basis.

Implementing the proposed changes will also result in some economic benefits. Removing the exemption provided to existing sources of VOC emissions in the four affected localities may help prevent further exceedances of the one-hour ozone standard in the Hampton Roads VOC emissions control area. The emissions reductions achieved by the implementation of these rules would also allow Virginia to avoid federal sanctions that would be imposed for violating the SIP provisions of the Clean Air Act. The sanctions could include the loss of federal funds for highways and other projects and/or more restrictive requirements for new industries. Moreover, the lack of an acceptable plan to get VOC emissions below NAAQS could also result in EPA promulgating and implementing an air quality plan for Virginia.

The emissions reductions could also provide some benefits to public health and welfare in the Hampton Roads area. According to EPA, exposure to ozone at the ground level can cause a number of respiratory problems. It could result in permanent lung damage in children and accelerate the decline in lung function with age in adults. Reducing the level of ozone is likely to provide economic benefits in the future in terms of respiratory health problems and fatalities prevented (reflected in lower health care and other costs) because of lower amounts of ground-level ozone.

The net economic impact of the proposed change will depend on whether the costs of implementing VOC emissions standards in the four affected localities are greater than or less than the benefits of doing so. The estimated cost of the proposed regulatory action is approximately \$438,000 on an annual basis. It is not possible at this time to estimate the number and severity of respiratory problems and fatalities that will be prevented as a result of implementing these regulations. The extent of federal funding retained as a result of implementing the proposed regulatory action is also not known. Moreover, there are no studies or data available at this time estimating the economic benefits of having air quality programs run by states rather than by the federal government.

Businesses and entities affected. The proposed regulatory action will affect some existing sources of VOC emissions located in the counties of James City and York and the cities of Poquoson and Williamsburg in the Hampton Roads VOC emissions control area. Until the proposed action, sources located in these four localities were exempt from the VOC emission standards for existing sources contained in Chapter 40 of the regulations for control and abatement of air pollution. The proposed action will remove the exemption provided to

¹ The OTC was formed by Congress in 1990 to help coordinate plans for reducing ground-level ozone in the Northeast and mid-Atlantic states. Twelve states including Virginia are represented in the OTC.

² "Summary of Technical Information for Selected VOC Source Categories," U.S. EPA, May 1981.

³ "Recommendation: Additional Modeling and Air Quality Analysis," Attachment B, in a letter to Mary Nichols, EPA from Mary A. Gade et al., OTAG, July 8, 1997.

these sources and require them to meet VOC emissions standards met by other localities in the Hampton Roads VOC emissions control area. According to DEQ, there are 34 existing sources in the affected area and 23 of these sources could be affected by the proposed regulatory action.

Localities particularly affected. The proposed regulatory action will only affect the following localities in Virginia: the counties of James City and York and the cities of Poquoson and Williamsburg.

Projected impact on Employment. The proposed regulatory action is likely to have a negative impact on employment. Some businesses currently exempt from meeting existing VOC emission standards will now be required to comply with these standards. The cost of compliance could include changes in technology and changes in operational and other procedures. The estimated annualized cost of \$438,000 of implementing the proposed regulatory action includes the increased cost of compliance faced by sources of VOC emissions affected by the proposed action. Increased compliance costs will increase the cost of operation for these businesses and could result in people being laid off at these facilities.

Effects on the use and value of private property. The proposed regulatory action is likely to have a negative impact on the use and value of private property in the four affected localities. By imposing additional requirements on certain sources of VOC emissions, the proposed regulatory action will impose additional costs and lower the asset value of these businesses. However, the proposed regulatory action may also have a positive impact on residential properties in the Hampton Roads area. Due to a reduction in the amount of ground-level ozone in the area, some residential properties could see an increase in their market value. However, it is not possible at this time to estimate the exact extent of the increase in market value of these properties resulting from a reduction in ground-level ozone.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The department has reviewed the economic impact analysis prepared by the Department of Planning and Budget and has no comment.

Summary:

The proposed amendments remove the exemptions for sources in James City County, York County, Poquoson City, and Williamsburg City to render those sources subject to the VOC standards for existing sources, as is the case in the other jurisdictions within the Hampton Roads Emissions VOC Control Area.

9 VAC 5-20-206. Volatile organic compound and nitrogen oxides emissions control areas.

Emissions control areas are geographically defined below by locality for the pollutants indicated.

1. Volatile organic compounds.

a. Northern Virginia Emissions Control Area.

Arlington County	Alexandria City
Fairfax County	Fairfax City

Loudoun County	Falls Church City
Prince William County	Manassas City
Stafford County	Manassas Park City

b. Richmond Emissions Control Area.

Charles City County	Colonial Heights City
Chesterfield County	Hopewell City
Hanover County	Richmond City
Henrico County	

c. Hampton Roads Emissions Control Area.

James City County*	Poquoson City*
York County*	Portsmouth City
Chesapeake City	Suffolk City
Hampton City	Virginia Beach City
Newport News City	Williamsburg City*
Norfolk City	

2. Nitrogen Oxides.

a. Northern Virginia Emissions Control Area.

Arlington County	Alexandria City
Fairfax County	Fairfax City
Loudoun County	Falls Church City
Prince William County	Manassas City
Stafford County	Manassas Park City

b. Richmond Emissions Control Area.

Charles City County	Colonial Heights City
Chesterfield County	Hopewell City
Hanover County	Richmond City
Henrico County	

c. Hampton Roads Emissions Control Area.

James City County	Poquoson City
York County	Portsmouth City
Chesapeake City	Suffolk City
Hampton City	Virginia Beach City
Newport News City	Williamsburg City
Norfolk City	

~~*Emission standards for volatile organic compounds prescribed in 9 VAC 5-Chapter 40 (9 VAC 5-40-10 et seq.) shall not be applicable in localities marked by an asterisk.~~

VA.R. Doc. No. R03-68; Filed June 24, 2003, 11:46 a.m.

Title of Regulations: **9 VAC 5-20. General Provisions (Rev. C03) (amending 9 VAC 5-20-206).**

9 VAC 5-40. Existing Stationary Sources (amending 9 VAC 5-40-300; 9 VAC 5-40-310, 9 VAC 5-40-5200, and 9 VAC 5-40-5220).

Statutory Authority: § 10.1-1308 of the Code of Virginia and §§ 110 and 182 of the Clean Air Act, 40 CFR Part 51.

Public Hearing Dates: August 26, 2003 - 9 a.m. (Virginia Beach)

August 26, 2003 - 1:30 p.m. (Harrisonburg)

Proposed Regulations

Public comments may be submitted until 5 p.m. on September 12, 2003.

(See Calendar of Events section for additional information)

Agency Contact: Karen G. Sabasteanski, Policy Analyst, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4426, FAX (804) 698-4510, or e-mail kgsabastea@deq.state.va.us.

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

Purpose: The purpose of the regulation is to require owners to limit emissions of air pollution from sources of VOCs and NO_x to the level necessary for (i) the protection of public health and welfare and (ii) the attainment and maintenance of the air quality standards. The proposed amendments are being made to implement a program established by EPA for areas potentially designated as nonattainment under the 8-hour ozone standard. This program enables such areas to avoid the nonattainment designation through early reduction credits.

Substance: Currently, Chapter 40 of the Regulations for the Control and Abatement of Air Pollution contains a number of regulations with VOC emission standards. The geographic applicability of these rules is defined by establishing VOC emissions control areas in a list located in 9 VAC 5-20-206. Chapter 40 also contains a regulation (Article 4) that establishes a process for making case-by-case control technology determinations for major sources of VOC and NO_x. The geographic applicability of these rules is defined by the VOC emissions control areas as well as NO_x emissions control areas. The VOC and NO_x regulations found in Chapter 40 are as follows:

Article 4 - General Process Operations

Article 5 - Synthesized Pharmaceutical Products Manufacturing Operations

Article 6 - Rubber Tire Manufacturing Operations

Article 24 - Solvent Metal Cleaning Operations Using Nonhalogenated Solvents

Article 25 - Volatile Organic Compound Storage and Transfer Operations

Article 26 - Large Appliance Coating Application Systems

Article 27 - Magnet Wire Coating Application Systems

Article 28 - Automobile And Light Duty Truck Coating Application Systems

Article 29 - Can Coating Application Systems

Article 30 - Metal Coil Coating Application Systems

Article 31 - Paper and Fabric Coating Application Systems

Article 32 - Vinyl Coating Application Systems

Article 33 - Metal Furniture Coating Application Systems

Article 34 - Miscellaneous Metal Parts and Products Coating Application Systems

Article 35 - Flatwood Paneling Coating Application Systems

Article 36 - Flexographic, Packaging Rotogravure and Publication Rotogravure Printing Lines

Article 37 - Petroleum Liquid Storage and Transfer Operations

Article 39 - Asphalt Paving Operations.

Each of these Chapter 40 rules contains, in the applicability section, the following statement: "The provisions of this article apply to sources of volatile organic compounds in volatile organic compound emissions control areas designated in 9 VAC 5-20-206." Geographic applicability and reference to emissions control areas are also found in the VOC and NO_x requirements of Article 4. Therefore, in order for these rules to apply in the areas that wish to participate in the early reduction program, the localities must belong to a VOC and a NO_x emissions control area. To this end, two new VOC and two new NO_x emissions control areas have been added to the list in 9 VAC 5-20-206: the Northeastern Virginia Emissions Control Area (Caroline, Fauquier, and Spotsylvania Counties and Fredericksburg City), and the Western Virginia Emissions Control Area (Albemarle, Augusta, Botetourt, Frederick, Pittsylvania, Roanoke, and Rockingham Counties, the portions of Page and Madison Counties containing Shenandoah National Park, and Roanoke, Salem, and Winchester Cities).

Issues: Public: Public health and welfare will benefit through the reduction of ozone air pollution. By implementing this program in advance of EPA's eight-hour implementation policies, these areas will enjoy this benefit sooner than if they waited for final implementation. Additionally, by avoiding official designation as nonattainment, these areas will avoid the consequences of the nonattainment designation, including the imposition of offsets on new major stationary sources, and the need to make transportation and general conformity determinations.

Department: The department will benefit from a better understanding of air emissions from these areas, and will benefit from more accurate long- and short-term air quality planning though the state overall. There is a slight disadvantage to the department in that more sources will have to be permitted and inspected, resulting in an increased workload; however, this disadvantage should be outweighed by the benefit of avoiding resource-intensive nonattainment area new source review.

Localities Particularly Affected: The following localities are potentially affected: the Northeastern Virginia Emissions Control Area of Caroline County, Fauquier County, Fredericksburg City and Spotsylvania County, and the Western Virginia Emissions Control Area of Albemarle County, Augusta County, Botetourt County, Frederick County, Pittsylvania County, Roanoke County, Rockingham County, Roanoke City, Salem City, Winchester City, and the portions of Page County and Madison County containing Shenandoah National Park.

Public Participation: The department is seeking comment on the proposed regulation and the costs and benefits of the proposal. The department is also seeking comment on the impacts of the proposed regulation on farm and forest lands.

Fiscal Impact: Unlike areas that are currently designated nonattainment or maintenance, very little source-specific data exists for localities which have hitherto been considered to be attainment areas. Additionally, there is still some uncertainty as to which localities will be participating in the early reduction program, as well as which specific Chapter 40 rules will apply. In order to gain a general sense of what entities may be affected, the department searched its Comprehensive Environmental Data System (CEDS) for information relevant to localities which are, as of this writing, fairly certain to participate in the early reduction program: the Roanoke and Winchester areas. Information derived from data collected by CEDS reveals approximately five potentially affected sources in the Roanoke area, and nine potentially affected sources in the Winchester area; this is discussed in more detail below.

In addition, an unknown number of area sources might become subject to the regulations of Chapter 40. This information is not available from the CEDS database.

1. Costs to affected entities.

General issues. Based on EPA guidance, the average cost per ton of VOC removal is generally recognized to be \$2,400. Specific data on projected costs to regulated entities for implementation and compliance is, however, virtually impossible to quantify because the department does not have information available in its database to determine what sources will be affected. Actual costs will vary widely depending on source type, size, location, and controls. It is important to note that sources tend to make changes to their operation - work practices, products used, etc. - in order to avoid imposition of regulatory requirements. Often, sources are able to realize cost savings by improving operation efficiency, seeking alternative processes, use of less polluting substances, and so forth. It is also important to recognize that a significant element of this action - the control technology requirements of Article 4 - makes its control technology determinations on a case-by-case basis, thereby making it impossible to predict the outcome of each potential source's analysis.

As discussed in the section on public participation, the department is seeking comment on the costs and benefits of the proposal.

RACT issues. Emissions from all major sources are to be controlled through reasonably available control technology (RACT). This is accomplished through Article 4, which establishes a process for making case-by-case control technology determinations for major sources of VOCs and NO_x. Cost effectiveness is one tool in RACT selection. The cost effectiveness of a pollution control system is a simple ratio of the projected cost of the control system to the amount of emissions that would be controlled. The resulting cost effectiveness can then be compared to that of other related controls to provide a measure of how "reasonable" the system is relative to the others. Thus, the cost effectiveness value for a particular control system is usually

expressed in terms of dollars per ton of pollutant removed by the control system. The cost effectiveness value is obtained by adding the capital costs for the control equipment to the operating and maintenance costs and amortizing that sum over an appropriate period of time. The result is called the annualized cost. Dividing this value by the tons of pollutant removed gives the cost effectiveness value.

The costs to affected entities will vary widely according to source size and type, and the particular options chosen by each source in order to comply with the regulations. It appears that most, if not all, of the potentially affected sources in the area will remain below the threshold for applying NO_x RACT.

The emission standards for VOCs in Article 4 do not contain set emission limits or other specific requirements. For this reason, no definitive cost impact data can be established for Article 4. The standards are structured to provide a process for the establishment of the specific emission limits achievable by the use of RACT and other necessary requirements on a case-by-case basis. This approach was taken because most of the sources subject to Article 4 are unique as to source type and size. The specific requirements, once determined, will be enforced through an operating permit issued by the board.

VOC issues. VOC emission standards for rules other than Article 4 do contain set emission limits and other specific requirements relating to compliance, testing, monitoring, recordkeeping, and reporting. For this reason, the available cost impact data for these other rules is more definitive than it is for Article 4. As mentioned earlier, the average cost per ton of VOC removal is generally recognized to be \$2,400. However, as discussed elsewhere, sources may make changes to their operation - work practices, products used, etc. - in order to avoid imposition of regulatory requirements. Often, sources are able to realize cost savings by improving operation efficiency, seeking alternative processes, use of less polluting substances, and so forth.

The following sources and the amount of VOCs they emitted in 2001 are located in the Roanoke area and could possibly be affected by Chapter 40 VOC rules:

Three sources potentially subject to Article 4 (General Process Operations): 61 tons, 79 tons, and 155 tons.

One source potentially subject to Article 6 (Rubber Tire Manufacturing Operations): 81 tons.

One source potentially subject to Article 34 (Miscellaneous Metal Parts/Products Coating Application): 185 tons.

The following sources and the amount of VOCs they emitted in 2001 are located in the Winchester area and could possibly be affected by Chapter 40 VOC rules:

Eight sources potentially subject to Article 4 (General Process Operations): 36 tons, 52 tons, 90 tons, 98 tons, 112 tons, 206 tons, 270 tons, and 559 tons.

One source potentially subject to Article 36: 24 tons.

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2. Costs to localities. Because this is a voluntary program in which localities enter into agreements with EPA, localities will experience administrative costs relative to planning and recordkeeping. It is not expected that these costs will be beyond the localities' current capacities to perform. Once these initial costs are experienced, ongoing costs should be minor. Any such costs to localities will be outweighed by improvements in air quality and the avoidance of a nonattainment designation.

3. Costs to agency. Because the specific number of affected sources is as yet unknown, it is not possible to quantify costs to the agency, although preliminary inventories suggest that the number will be small. The department will need to perform additional inspection, monitoring and recordkeeping to ensure that the emissions limitations are being met, which will require increased expenditure in personnel and equipment. However, the increase in data to be gathered and analyzed will benefit the department by enhancing its ability to make both short- and long-term planning decisions. It is also expected that long-term savings will be achieved by avoidance of nonattainment area new source review. The sources of department funds to carry out this regulation are the general fund and the federal trust (grant money provided by EPA under § 105 of the federal Clean Air Act or permit fees charged to affected entities under the permit program). The activities are budgeted under the following program (code)/subprogram (code): (i) Environmental and Resource Management (5120000)/Air Quality Stationary Source Permitting (5122000) and Air Quality Stationary Source Compliance Inspections (5122100) and (ii) Environmental Research and Planning (5130000)/Air Quality Research and Planning (5130700). The costs are expected to be ongoing.

4. Benefits. The regulation will benefit the citizens of the Commonwealth by helping to prevent air pollution, the source of damage to health, welfare, and property. While no specific data on the cost benefits from the controls are available, costs are, to a degree, offset by the benefits in human health and welfare, including a reduction in the number of cancer cases and other disease, reduction in structural damage, and an increase in welfare factors such as visibility. Citizens living in the affected localities will also enjoy the benefits of reductions in emissions sooner than if they waited for the implementation of EPA's new 8-hour requirements.

By avoiding the need for resource-intensive conformity review, the state, and therefore the localities, will realize considerable savings. While no specific data is available, the Virginia Department of Transportation estimates costs savings to be considerable.

Industries directly affected by this regulation will experience a number of benefits. Existing companies will be able to identify whether they are operating efficiently, and if they require more efficient equipment, or perhaps a more efficient process. Industries seeking to locate a major new source, and localities seeking such sources, will benefit by avoiding resource-intensive nonattainment area new source review, and the necessity of obtaining offsets.

Benefits to the department and board stemming from the regulation include better determination of compliance and monitoring, as well as a better knowledge of emissions in the affected areas. The regulations will also contribute to statewide regulatory consistency. Increased Title V fees may be realized if additional sources are required to obtain operating permits. Finally, the department will benefit from avoiding resource-intensive nonattainment area new source review.

As evidenced by the lack of comprehensive inventory and cost data available for the potentially affected areas, one of the significant benefits from implementation of this action will be the improved knowledge of what sources are affected and what their emissions are.

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 § 2.2-4007 H of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007 H 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 Air Pollution Control Board proposes to establish two new emissions control areas for volatile organic compounds and nitrogen oxides in order to meet the new eight-hour ozone standard. The proposed designations will allow a number of localities to take advantage of the early reduction program and avoid the potential nonattainment designations and allow some other localities that do not qualify for early reduction credits to implement the compliance strategies for the new ozone standard in a timely manner.

Estimated economic impact. The Air Pollution Control Board proposes to establish Northern Virginia Emissions Control Area (Counties of Caroline, Fauquier, Spotsylvania, and the City of Fredericksburg) and Western Virginia Emissions Control Area (Counties of Albemarle, Augusta, Botetourt, Frederick, Pittsylvania, Page, Madison, Roanoke, Rockingham and Cities of Roanoke, Salem, Winchester) for volatile organic compound and nitrogen oxide emissions in order to meet the new eight-hour ozone standard in these areas.

Volatile organic compounds (VOC) and nitrogen oxides (NO_x) are the two precursors of ozone. VOC and NO_x chemically react in the presence of sunlight and create ground level ozone pollution. Thus, lower VOC and NO_x emissions improve air quality. To prevent ozone pollution, the Environmental Protection Agency (EPA) established the one-hour ozone standard in 1979. When the concentrations of ozone in the ambient air exceed the standard, an area is considered to be out of compliance, designated various nonattainment

classifications (i.e., marginal, moderate, serious, severe, and extreme), and is required to reduce VOC and NO_x emissions. In 1997, EPA replaced the one-hour standard with a new more stringent eight-hour ozone standard. The new standard has been subject to litigation, which has been recently addressed by the U.S. Supreme Court. EPA prevailed on most issues with the exception of its implementation policy, which is currently being developed. Thus, eventually, the areas that do not meet the eight-hour standard will be designated as nonattainment and will be required to reduce their emissions. EPA is expected to finalize the requirements by the end of 2003 so that the states can begin to develop their implementation plans.

In July 2002, as required by the Clean Air Act, Virginia made recommendations to EPA concerning the geographic boundaries with respect to the eight-hour standard attainment and nonattainment areas. This recommendation included a number of areas that are already designated as emissions control area under the current regulations (9 VAC 5-20-206) for which no further regulatory action is required at this time for implementation of emissions reduction strategies. However, a number of other recommended areas are not currently designated as VOC and NO_x control areas and emission reduction strategies currently cannot be implemented. The proposed regulations will establish two new emission control areas for VOC and NO_x emissions so that emission reduction strategies can be implemented. The proposed list of new emission control areas are subject to change as negotiations with EPA currently continues. The Department of Environmental Quality (DEQ) anticipates that the final designations will be made and become effective in April 2004. The proposed list of new control areas is believed to be more inclusive than what the final designations will comprise. If this is the case, the board plans to drop some of the areas from the current proposed list in the final stage of these proposed regulations.

The main purpose of establishing new emissions control areas now rather than waiting the final determinations is to take advantage of a program known as "early reduction program." This program allows areas that may potentially become designated nonattainment under the eight-hour standard to implement early local emission control programs, reduce air quality violations, and avoid being designated as nonattainment before 2008. The areas participating in early reduction program have the flexibility to choose their own emissions reduction approach.

However, participating areas must have signed an early action compact with EPA on or before December 31, 2002. The areas that signed this compact are the City of Winchester/Frederick County and the Roanoke Metropolitan Statistical Area (cities of Roanoke, Salem and counties of Roanoke, Botetourt, and the town of Vinton). Thus, only these localities are eligible for deferral of a nonattainment designation and qualify for early reduction credits. None of the other localities will be eligible for early reduction credits. Any emissions reduced prior to nonattainment designation will not be counted toward the emissions budget that will be introduced following the designation.

The purpose of designating other localities as emissions control areas with these proposed changes is for timing and planning purposes. DEQ anticipates that the time these proposed regulations become effective will coincide with about the time nonattainment designations will be made. And, if these areas are designated as nonattainment, the regulatory authority will exist to start taking necessary measures without having to promulgate a new set of amendments. The emission reductions achieved after the nonattainment designation will be counted toward achieving the emissions budget. Thus, these localities will not qualify for early reduction credits, but the reduction strategies could be implemented in these areas earlier than it would be without the proposed changes.

The emissions reduction approaches the localities may undertake are not known at this time. However, there are three basic emissions reduction strategies: stationary control measures, mobile source control measures, and transportation source control measures. Stationary control measures target emission reductions from commercial/industrial facilities through emission limits, control technology requirements, preconstruction permit requirements for new industry and expansions, and source specific control requirements. The stationary control measures also comprise a variety of area source control measures that are directed at small businesses and consumer activities. Mobile source control measures target emission reductions from motor vehicles through motor vehicle emission standards, fuel volatility limits, reformulated gasoline, emissions control system anti-tampering programs, and inspection and maintenance programs. Transportation control measures aim to reduce emissions from the use of motor vehicles through carpools, special bus lanes, rapid transit systems, commuter park and ride lots, bicycle lanes, signal system improvements, etc.

No matter which strategy the localities choose to implement, there will be possibly significant costs associated. These include emissions control, testing, monitoring, recordkeeping, and reporting costs. Existing and new industrial facilities, vehicle owners, citizens, the local governments, as well as the state are subject to these cost implications. These control measures have the potential to affect a wide spectrum of economic activities.¹ One particular concern is potentially discouraging industrial facilities from locating in the proposed emissions control areas which would probably hinder economic development where this occurs. This may have a negative effect on the growth of business activity. Additionally, it is likely that some sources will alter their production process to avoid being subject to regulations if the costs of compliance are high enough. However, very little is known about the specifics of potential economic effects at this time because the

¹ The types of industries subject to these requirements include general process operations; synthesized pharmaceutical products manufacturing; rubber tire manufacturing; solvent metal cleaning operations using nonhalogenated solvents; VOC storage and transfer operations; coating application systems for large appliances, magnet wires, automobiles, light duty trucks, cans, metal coils, papers, fabrics, vinyl, metal furniture, miscellaneous metal parts and products, flatwood paneling; flexographic, packaging rotogravure and publication rotogravure printing; petroleum liquid storage and transfer operations; asphalt paving operations.

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actual size and distribution of the potential costs on affected entities will eventually be determined by the choices made (i.e. selected source type, size, location, and case-by-case controls). The flexibility to implement emission reduction strategies from a menu of options, however, will allow the localities to minimize most potential adverse economic effects.

Additionally, major source emissions will be controlled through reasonably available control technology, which requires that the case-by-case determinations take into account the cost effectiveness of the control system. If there are any major sources, the use of this control technology will likely help them contain the costs within the "reasonable" costs of the other control technologies available.

In an effort to identify potentially affected sources, a review of current inventory is conducted. This review focuses on the Roanoke and Winchester areas, the two localities that will participate in the early reduction program. Although the current inventory contains very little source specific emissions data, it reveals approximately five potentially affected sources in the Roanoke area and nine sources in the Winchester area with a total of 561 and 1,447 tons of VOC emissions, respectively. There is no NO_x inventory available for any of the proposed emissions control areas at this time and therefore the overall number of potentially affected emission sources is not known.

In addition to potential costs on affected emissions sources, the local governments will likely incur some administrative costs associated with planning and recordkeeping. Separately, DEQ will incur additional costs in terms of expenditures and personnel to perform additional inspections, to monitor air quality data and compliance, to keep records, and to administer the requirements in general. Based on the preliminary inventory data, DEQ expects these costs to be relatively small and does not plan to increase staffing for this purpose.

Just like the costs, the most significant benefits are expected to accrue to the localities. The local governments, industries, businesses, vehicle owners, and public have vested interest in the proposed Northern Virginia and Western Virginia emissions control area designations. Initiation of an early reduction program in these areas that qualify for early reduction credits prior to determining final air quality designations will allow the localities to take credit for the emissions already reduced. Thus, these areas will increase their chances of avoiding being classified as a nonattainment area and the consequences follow this designation. The major consequences of nonattainment designation include imposition of offsets on new major stationary sources and the need to make transportation and general conformity determinations requiring that development and implementation of federally funded highway plans and other funded projects must support the air quality goals.

The offset requirement is designed to control total emissions and improve air quality in nonattainment areas. Construction or reconstruction of new major stationary sources and modifications to existing major stationary sources in designated control areas are subject to offset requirements. The total tonnage of increased emissions of VOC and NO_x

from the new or modified sources must be offset elsewhere at least as much as the expected emissions increase.² This implies that offset requirement has significant cost implications for the major sources. Also, the Department of Transportation suggests that the transportation conformity requirements are quite expensive. Thus, the chance to avoid offsets and conformity requirements and the costs associated with them is probably the most significant benefit expected from the proposed changes. In other words, while the proposed changes will introduce possibly significant costs to emissions sources, these costs are probably much lower than the potential costs of complying with nonattainment area controls.

Also, the effects on air quality and environment could be significant. Reducing VOC and NO_x emissions earlier rather than later would have a positive impact on health of citizens living in the proposed nonattainment areas. In addition to the effects on humans, lower ozone pollution would positively affect agricultural crops and forests, reduce structural damage, and improve visibility.

Another potential benefit of the proposed designations is the ability to develop an accurate inventory of emissions in the affected areas. Accurate emissions inventory data is expected to assist DEQ in developing more accurate long- and short-term air quality planning throughout the Commonwealth. DEQ also expects to achieve some cost savings from avoiding nonattainment area new source reviews from fewer new industries locating in these areas.

In summary, the proposed changes will provide an option to localities that signed the early action compact to avoid nonattainment designation and more serious consequences and allow other localities to start implementing emission reduction controls immediately in the event of a nonattainment designation. Given the voluntary nature of participation in the early action compact, it can be reliably inferred that the proposed changes will provide net economic benefits for those localities. For the other localities, the proposed regulations will allow an option to act earlier rather than later in the event of a nonattainment designation. Localities are likely to take advantage of the option to act early and implement control strategies if it is in their best interest. In this sense, the proposed regulations will provide net economic benefits to them as well. Moreover, earlier rather than later reduction of ozone pollution could only produce net economic benefits to the environment and public.

Businesses and entities affected. The number of emission sources located in areas that are proposed to be designated as VOC and NO_x emissions control areas is not known at this time.

Localities particularly affected. The localities in the proposed emissions control areas are: counties of Caroline, Fauquier, Spotsylvania, Albemarle, Augusta, Botetourt, Frederick,

² Currently, there is some uncertainty as to what the final offset ratio EPA would require if an area is designated nonattainment for the new eight-hour ozone standard. The Commonwealth recently proposed to adopt a one-to-one offset ratio because of the provisions of the federal Clean Air Act, which does not include any other offset ratios for the eight-hour ozone standard.

Pittsylvania, Page, Madison, Roanoke, Rockingham and the cities of Fredericksburg, Roanoke, Salem, and Winchester. If any, major emission sources located in these areas may particularly be affected. However, this list is subject to change prior to these regulations being finalized as the negotiations are currently continuing with EPA.

Projected impact on employment. The designation of the two emissions control areas now rather than later will allow some of the sources to take advantage of early reduction credit program and avoid being subject to more stringent requirements in the future. Thus, relative to being designated as nonattainment area, the proposed changes would probably result in a labor demand that is higher than it would be otherwise by avoiding more dire cost consequences.

Effects on the use and value of private property. Similarly, by avoiding the more serious consequences of nonattainment classification, the proposed changes may in fact reduce the potential negative effect on profits and offset some of the losses from complying with nonattainment area emissions reduction controls, which could be interpreted as a positive impact on the value of industrial facilities or businesses subject to controls.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The department has reviewed the economic impact analysis prepared by the Department of Planning and Budget and has no comment.

Summary:

The proposed amendments add two new VOC and two new NO_x Emissions Control Areas to the list in 9 VAC 5-20-206: the Northeastern Virginia Emissions Control Area (Caroline, Fauquier, and Spotsylvania Counties and Fredericksburg City) and the Western Virginia Emissions Control Area (Albemarle, Augusta, Botetourt, Frederick, Pittsylvania, Roanoke, and Rockingham Counties, the portions of Page and Madison Counties containing Shenandoah National Park, and Roanoke, Salem, and Winchester Cities).

9 VAC 5-20-206. Volatile organic compound and nitrogen oxides emissions control areas.

Emissions control areas are geographically defined below by locality for the pollutants indicated.

1. Volatile organic compounds.

a. Northern Virginia Emissions Control Area.

Arlington County	Alexandria City
Fairfax County	Fairfax City
Loudoun County	Falls Church City
Prince William County	Manassas City
Stafford County	Manassas Park City

b. Richmond Emissions Control Area.

Charles City County	Colonial Heights City
Chesterfield County	Hopewell City
Hanover County	Richmond City
Henrico County	

c. Hampton Roads Emissions Control Area.

James City County*	Poquoson City*
York County*	Portsmouth City
Chesapeake City	Suffolk City
Hampton City	Virginia Beach City
Newport News City	Williamsburg City*
Norfolk City	

d. Northeastern Virginia Emissions Control Area.

Caroline County	Spotsylvania County
Fauquier County	Fredericksburg City

e. Western Virginia Emissions Control Area.

Albemarle County	Roanoke County
Augusta County	Rockingham County
Botetourt County	Roanoke City
Frederick County	Salem City
Pittsylvania County	Winchester City
Page County (portions containing Shenandoah National Park)	
Madison County (portions containing Shenandoah National Park)	

2. Nitrogen oxides.

a. Northern Virginia Emissions Control Area.

Arlington County	Alexandria City
Fairfax County	Fairfax City
Loudoun County	Falls Church City
Prince William County	Manassas City
Stafford County	Manassas Park City

b. Richmond Emissions Control Area.

Charles City County	Colonial Heights City
Chesterfield County	Hopewell City
Hanover County	Richmond City
Henrico County	

c. Hampton Roads Emissions Control Area.

James City County	Poquoson City
York County	Portsmouth City
Chesapeake City	Suffolk City
Hampton City	Virginia Beach City
Newport News City	Williamsburg City
Norfolk City	

d. Northeastern Virginia Emissions Control Area.

Caroline County	Spotsylvania County
Fauquier County	Fredericksburg City

e. Western Virginia Emissions Control Area.

Albemarle County	Roanoke County
Augusta County	Rockingham County
Botetourt County	Roanoke City
Frederick County	Salem City
Pittsylvania County	Winchester City
Page County (portions containing Shenandoah National Park)	

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Madison County (portions containing Shenandoah National Park)

*Emission standards for volatile organic compounds prescribed in 9 VAC 5 Chapter 40 (9 VAC 5-40-10 et seq.) shall not be applicable in localities marked by an asterisk. *This exception is not applicable to the emission standards for volatile organic compounds prescribed in Article 37 (9 VAC 5-40-5200 et seq.) of Part II of 9 VAC 5 Chapter 40.*

9 VAC 5-40-300. Standard for volatile organic compounds.

A. No owner or other person shall cause or permit to be discharged from any affected facility any volatile organic compound emissions in excess of that resultant from using reasonably available control technology.

B. The provisions of this section apply to all facilities that (i) are within a stationary source in the Northern Virginia, Richmond, *Northeastern*, or *Western* Emissions Control Area (see 9 VAC 5-20-206) and (ii) are within a stationary source that has a theoretical potential to emit 25 tons per year or greater in the Northern Virginia, *Northeastern*, or *Western* Emissions Control Area or 100 tons per year or greater in the Richmond Emissions Control Area. Theoretical potential to emit shall be based on emissions at design capacity or maximum production and maximum operating hours (8,760 hours/year) before add-on controls, unless the facility is subject to state and federally enforceable permit conditions which limit production rates or hours of operation. Emissions from all facilities, including facilities exempt from any other emission standard for volatile organic compounds in this chapter, shall be added together to determine theoretical potential to emit.

C. For facilities subject to the provisions of this section, the owners shall within three months of the effective date of this emission standard (i) notify the board of their applicability status, (ii) commit to making a determination as to what constitutes reasonably available control technology for the facilities and (iii) provide a schedule acceptable to the board for making this determination and for achieving compliance with the emission standard as expeditiously as possible but not later than the following dates:

1. For facilities in the Northern Virginia Emissions Control Area with a theoretical potential to emit 50 tons per year or greater, May 31, 1995.
2. For facilities in the Northern Virginia Emissions Control Area with a theoretical potential to emit 25 tons per year or greater, but less than 50 tons per year, May 31, 1996.
3. For facilities in the Richmond Emissions Control Area with a theoretical potential to emit 100 tons per year or greater, May 31, 1995.
4. *For facilities in the Northeastern Virginia Emissions Control Area and the Western Virginia Emissions Control Area with a theoretical potential to emit 25 tons per year or greater, November 15, 2005.*

9 VAC 5-40-310. Standard for nitrogen oxides.

A. No owner or other person shall cause or permit to be discharged from any affected facility any nitrogen oxides emissions in excess of that resultant from using reasonably available control technology.

B. Unless the owner demonstrates otherwise to the satisfaction of the board, compliance with the provisions of subsection A of this section shall be achieved for the applicable source types by the use of reasonably available control technology as defined in 9 VAC 5-40-311.

C. The provisions of this section apply to all facilities that (i) are within a stationary source in the Northern Virginia, *Northeastern*, or *Western* Emissions Control Area (see 9 VAC 5-20-206) and (ii) are within a stationary source that has a theoretical potential to emit 25 tons per year or greater. Theoretical potential to emit shall be based on emissions at design capacity or maximum production and maximum operating hours (8,760 hours/year) before add-on controls, unless the facility is subject to state and federally enforceable permit conditions which limit production rates or hours of operation. Emissions from all facilities, including facilities exempt from any other emission standard for nitrogen oxides in this chapter, shall be added together to determine theoretical potential to emit.

D. For facilities subject to the provisions of subsection A of this section, the owners shall within three months of the effective date of the emission standard (i) notify the board of their applicability status, (ii) commit to making a determination as to what constitutes reasonably available control technology for the facilities and (iii) provide a schedule acceptable to the board for making this determination and for achieving compliance with the emission standard as expeditiously as possible but no later than the following dates:

1. For facilities in the Northern Virginia Emissions Control Area with a theoretical potential to emit 50 tons per year or greater, May 31, 1995.
2. For facilities in the Northern Virginia, *Northeastern*, or *Western* Emissions Control Area with a theoretical potential to emit 25 tons per year or greater, but less than 50 tons per year, November 15, 2005.

E. For facilities to which the provisions of subsection B of this section are applicable, the owners shall within three months of the effective date of the emission standard (i) notify the board of their applicability status, (ii) commit to accepting the emission standard as reasonably available control technology for the applicable facilities or to submitting a demonstration as provided in subsection B of this section and (iii) provide a schedule acceptable to the board for submitting the demonstration no later than the dates specified in subdivisions 1 and 2 and 3 of this subsection, and for achieving compliance with the emission standard as expeditiously as possible but no later than the dates specified in subdivisions 3 and 4, 5 and 6 of this subsection.

1. For facilities in the Northern Virginia Emissions Control Area with a theoretical potential to emit 50 tons per year or greater, January 1, 1994.

2. For facilities in the Northern Virginia Emissions Control Area with a theoretical potential to emit 25 tons per year or greater, but less than 50 tons per year, January 1, 2004.

3. *For facilities in the Northeastern Virginia Emissions Control Area and the Western Virginia Emissions Control Area with a theoretical potential to emit 25 tons per year or greater, January 1, 2004.*

3 4. For facilities in the Northern Virginia Emissions Control Area with a theoretical potential to emit 50 tons per year or greater, May 31, 1995.

4 5. For facilities in the Northern Virginia Emissions Control Area with a theoretical potential to emit 25 tons per year or greater, but less than 50 tons per year, November 15, 2005.

6. *For facilities in the Northeastern Virginia Emissions Control Area and the Western Virginia Emissions Control Area with a theoretical potential to emit 25 tons per year or greater, November 15, 2005.*

F. No owner or other person shall cause or permit to be discharged from any facility any nitrogen oxides emissions in excess of those necessary to achieve emissions reductions identified in any attainment or maintenance plan or any other legally enforceable document submitted to the U.S. Environmental Protection Agency as a revision to the state implementation plan.

1. The facilities to which the provisions of this subsection apply are facilities within the Richmond Emissions Control Area (see 9 VAC 5-20-206) identified in any attainment or maintenance plan submitted to the U.S. Environmental Protection Agency as a revision to the state implementation plan.

2. The board may establish case-by-case emission limits and other requirements as may be necessary to achieve the required emission reductions via permits, consent orders, or other legally enforceable means.

3. Facilities subject to this subsection shall be in compliance with any limits and other requirements established pursuant to subdivision 2 of this subsection within the timeframes established in any state plan revision, permit, or other legally enforceable document.

4. The provisions of subsections A through E of this section shall not apply to facilities within the Richmond Emissions Control Area (see 9 VAC 5-20-206).

9 VAC 5-40-5200. Applicability and designation of affected facility.

A. Except as provided in subsection C of this section, the affected facility to which the provisions of this article apply is each operation involving the storage or transfer of petroleum liquids or both.

B. *Except as provided in subdivisions 1 and 2 of this subsection, the provisions of this article apply to sources of volatile organic compounds in volatile organic compound emissions control areas designated in 9 VAC 5-20-206. The provisions of this article shall apply in localities outside the*

~~volatile organic compound emissions control areas according to the following schedule of effective dates:~~

1. ~~On January 1, 1993, for facilities subject to The emission standards in 9 VAC 5-40-5220 A, B, and C and associated tank trucks that load at these facilities C, D, E, F and G shall not apply to affected facilities in the following localities: Albemarle County, Augusta County, Botetourt County, Caroline County, Fauquier County, Frederick County, Pittsylvania County, Rockingham County, Spotsylvania County, Fredericksburg City, Winchester City, Page County (portions containing Shenandoah National Park), and Madison County (portions containing Shenandoah National Park).~~

2. ~~On January 1, 1996, for facilities subject to The emission standard in 9 VAC 5-40-5220 D and associated account trucks that load or unload at these facilities F shall apply only to affected facilities in the Northern Virginia and Richmond Volatile Organic Compound Emissions Control Areas.~~

3. ~~On January 1, 1999, for facilities subject to the emission standard in 9 VAC 5-40-5220 E.~~

~~For the purposes of this subsection, the term "localities outside the volatile organic compound emissions control areas" means the following localities: Charles City County, James City County, Roanoke County, York County, Poquoson City, Roanoke City, Salem City and Williamsburg City.~~

C. The provisions of this article do not apply to affected facilities using petroleum liquids with a vapor pressure less than 1.5 pounds per square inch absolute under actual storage conditions or, in the case of loading or processing, under actual loading or processing conditions. (Kerosene and fuel oil used for household heating have vapor pressures of less than 1.5 pounds per square inch absolute under actual storage conditions; therefore, kerosene and fuel oil are not subject to the provisions of this article when used or stored at ambient temperatures).

D. The burden of proof of eligibility for exemption from this article is on the owner. Owners seeking such an exemption shall maintain adequate records of average monthly throughput and furnish these records to the board upon request.

9 VAC 5-40-5220. Standard for volatile organic compounds.

A. Petroleum liquid storage--fixed roof tanks.

1. No owner or other person shall use or permit the use of any fixed roof tank of more than 40,000 gallons capacity for storage of petroleum liquids, unless such tank is equipped with a control method which will remove, destroy or prevent the discharge into the atmosphere of at least 90% by weight of volatile organic compound emissions.

2. Achievement of the emission standard in subdivision A 1 of this ~~section~~ subsection by use of methods in 9 VAC 5-40-5230 A will be acceptable to the board.

3. The provisions of *this* subsection ~~A of this section~~ shall not be applicable to fixed roof tanks having capacities less than 400,000 gallons for crude oil or condensate stored,

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processed or treated at a drilling and production facility prior to custody transfer.

4. The owner of a fixed roof tank subject to the provisions of subdivision A 1 of this ~~section~~ *subsection* shall:

a. When the fixed roof tank is equipped with an internal floating roof, perform a visual inspection annually of the floating cover through roof hatches, to ascertain compliance with the specifications in subdivisions A-4 a (1) and (2) of *this subsection*.

(1) The cover should be uniformly floating on or above the liquid and there should be no visible defects in the surface of the cover or liquid accumulated on the cover.

(2) The seal must be intact and uniformly in place around the circumference of the cover between the cover and tank wall.

b. Perform a complete inspection of the cover and seal and record the condition of the cover and seal when the tank is emptied for nonoperational reasons such as maintenance, an emergency, or other similar purposes.

c. Maintain records of the throughput quantities and types of petroleum liquids stored, the average monthly storage temperature and true vapor pressure of the liquid as stored, and the results of the inspections performed under the provisions of subdivisions A-4 a and b of this ~~section~~ *subsection*.

B. Petroleum liquid storage--floating roof tanks.

1. No owner or other person shall use or permit the use of any floating roof tank of more than 40,000 gallons capacity for storage of petroleum liquids, unless such tank is equipped with a control method which will remove, destroy or prevent the discharge into the atmosphere of at least 90% by weight of volatile organic compound emissions.

2. Achievement of the emission standard in subdivision B 1 of this ~~section~~ *subsection* by use of methods in 9 VAC 5-40-5230 B will be acceptable to the board.

3. The provisions of *this subsection* ~~B of this section~~ shall not be applicable to the following:

a. Floating roof tanks having capacities less than 400,000 gallons for crude oil or condensate stored, processed or treated at a drilling and production facility prior to custody transfer.

b. Floating roof tanks storing waxy, heavy pour crude oil.

4. The owner of a floating roof tank subject to the provisions of subdivision B 1 of this ~~section~~ *subsection* shall:

a. Perform routine inspections annually which shall include a visual inspection of the secondary seal gap.

b. When the floating roof is equipped with a vapor-mounted primary seal, measure the secondary seal gap annually in accordance with subdivisions B 4 b (1) and (2) of this ~~section~~ *subsection*.

(1) Physically measuring the length and width of all gaps around the entire circumference of the secondary

seal in each place where a 1/8-inch uniform diameter probe passes freely (without forcing or binding against the seal) between the seal and tank wall; and

(2) Summing the area of the individual gaps.

c. Maintain records of the types of petroleum liquids stored, the maximum true vapor pressure of the liquid as stored, and the results of the inspections performed under the provisions of subdivisions B 4 a and b of this ~~section~~ *subsection*.

C. Gasoline bulk loading--bulk terminals.

1. No owner or other person shall cause or permit the discharge into the atmosphere from a bulk gasoline terminal (including any appurtenant equipment necessary to load the tank truck compartments) any volatile organic compound in excess of .67 pounds per 1,000 gallons of gasoline loaded.

2. Achievement of the emission standard in subdivision C 1 of this ~~section~~ *subsection* by use of methods in 9 VAC 5-40-5230 C will be acceptable to the board.

D. Gasoline bulk loading--bulk plants.

1. No owner or other person shall use or permit the use of any bulk gasoline plant (including any appurtenant equipment necessary to load or unload tank trucks and account trucks) unless such plant is equipped with a vapor control system that will remove, destroy or prevent the discharge into the atmosphere of at least 77% by weight of volatile organic compound emissions.

2. Achievement of the emission standard in subdivision D 1 of this ~~section~~ *subsection* by use of methods in 9 VAC 5-40-5230 D will be acceptable to the board.

3. The provisions of *this subsection* ~~D of this section~~ shall not be applicable to facilities whose average daily throughput of gasoline is less than 4,000 gallons per working day when based on a 30-day rolling average. Average daily throughput means the average daily amount of gasoline pumped at a gasoline dispensing facility during the most recent 30-day period. Average daily throughput shall be calculated for the two most recent consecutive calendar years. If during this two-year period or any period thereafter, the average daily throughput exceeds 4,000 gallons per working day, the facility is no longer exempt from the provisions of subdivision D 1 of this ~~section~~ *subsection*.

E. Transfer of gasoline--gasoline dispensing facilities--Stage I vapor control systems.

1. No owner or other person shall transfer or permit the transfer of gasoline from any tank truck into any stationary storage tank unless such tank is equipped with a vapor control system that will remove, destroy or prevent the discharge into the atmosphere of at least 90% by weight of volatile organic compound emissions.

2. Achievement of the emission standard in subdivision E 1 of this ~~section~~ *subsection* by use of methods in 9 VAC 5-40-5230 E will be acceptable to the board.

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

- a. Transfers made to storage tanks that are either less than 250 gallons in capacity or located at facilities whose average monthly throughput of gasoline is less than 10,000 gallons.
- b. Transfers made to storage tanks equipped with floating roofs or their equivalent.

F. Transfer of gasoline--gasoline dispensing facilities--Stage II vapor recovery systems.

1. No owner or other person shall transfer or permit the transfer of gasoline into the fuel tank of any motor vehicle at any affected gasoline dispensing facility unless the transfer is made using a certified Stage II vapor recovery system that is designed, operated, and maintained such that the vapor recovery system removes, destroys or prevents the discharge into the atmosphere of at least 95% by weight of volatile organic compound emissions.

2. Achievement of the emission standard in subdivision ~~F 1 of this section~~ subsection by use of methods in 9 VAC 5-40-5230 F will be acceptable to the board.

3. ~~The provisions of subsection F of this section shall apply to affected facilities in the Northern Virginia and Richmond Volatile Organic Compound Emissions Control Areas designated in 9 VAC 5-20-206.~~ The affected gasoline facilities shall be in compliance with the emissions standard in subdivision ~~F 1 of this section~~ subsection according to the following schedule:

- a. Facilities which begin actual construction on or after January 1, 1993, must comply upon startup unless the facility can prove it is exempt under the provisions of subdivision ~~F 4 of this section~~ subsection.
- b. Facilities which begin actual construction after November 15, 1990, and before January 1, 1993, must comply by May 15, 1993.
- c. Facilities which begin actual construction on or before November 15, 1990, and dispense an average monthly throughput of 100,000 gallons or more of gasoline must comply by November 15, 1993.
- d. All other affected facilities which begin actual construction on or before November 15, 1990, must comply by November 15, 1994.

4. The provisions of *this* subsection ~~F of this section~~ shall not apply to the following facilities:

- a. Gasoline dispensing facilities with an average monthly throughput of 10,000 gallons or less.
- b. Gasoline dispensing facilities owned by independent small business gasoline marketers with an average monthly throughput of 50,000 gallons or less.
- c. Gasoline dispensing devices that are used exclusively for refueling marine vehicles, aircraft, farm equipment, and emergency vehicles.

5. Any gasoline dispensing facility subject to the provisions of *this* subsection ~~F of this section~~ shall also comply with the provisions of subsection E of this section (Stage I vapor controls).

6. In accordance with the provisions of AQP-9, Procedures for Implementation of Regulations Covering Stage II Vapor Recovery Systems for Gasoline Dispensing Facilities (see 9 VAC 5-20-121), owners of affected gasoline dispensing facilities shall:

- a. Register the Stage II system with the board and submit Stage II vapor recovery equipment specifications at least 90 days prior to installation of the Stage II vapor recovery system. Owners of gasoline dispensing facilities in existence as of January 1, 1993, shall contact the board by February 1, 1993, and register the Stage II vapor recovery system according to the schedule outlined in AQP-9. Any repair or modification to an existing Stage II vapor recovery system that changes the approved configuration shall be reported to the board no later than 30 days after completion of such repair or modification.

- b. Perform tests, before the equipment is made available for use by the public, on the entire Stage II vapor recovery system to ensure the proper functioning of nozzle automatic shut-off mechanisms and flow prohibiting mechanisms where applicable, and perform a pressure decay/leak test, a vapor space tie test, and a liquid blockage test. In cases where use of one of the test methods in AQP-9 is not feasible for a particular Stage II vapor recovery system, the owner may, upon approval of the board, use an alternative test method.

- c. No later than 15 days after system testing is completed, submit to the board documentation showing the results of the tests outlined in subdivision ~~F 6 b of this section~~ subsection.

- d. Ensure that the Stage II vapor recovery system is vapor tight by performing a pressure decay/leak test and a liquid blockage test at least every five years, upon major system replacement or modification, or if requested by the board after evidence of a system malfunction which compromises the efficiency of the system.

- e. Notify the board at least two days prior to Stage II vapor recovery system testing as required by subdivisions ~~F 6 b and F 6 d of this section~~ subsection.

- f. Conspicuously post operating instructions for the vapor recovery system on each gasoline dispensing pump which includes the following information:

- (1) A statement, as described in Part III F 1 of AQP-9 (see 9 VAC 5-20-121), describing the benefits of the Stage II vapor recovery system.
- (2) A clear description of how to correctly dispense gasoline with the vapor recovery nozzles.
- (3) A warning that repeated attempts to continue dispensing gasoline, after the system has indicated that the vehicle fuel tank is full (by automatically shutting off) may result in spillage or recirculation of gasoline.

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(4) A telephone number to report problems experienced with the vapor recovery system to the board.

g. Promptly and conspicuously post "Out Of Order" signs on any nozzle associated with any part of the vapor recovery system which is defective if use of that nozzle would allow escape of gasoline vapors to the atmosphere. "Out of order" signs shall not be removed from affected nozzles until said system has been repaired.

h. Provide adequate training and written instructions for facility personnel to assure proper operation of the vapor recovery system.

i. Perform routine maintenance inspections of the Stage II vapor recovery system on a daily and monthly basis and record the monthly inspection results as specified in Part III E of AQP-9 (see 9 VAC 5-20-121).

j. Maintain records on site, in a form and manner acceptable to the board, of operator training, system registration and equipment approval, and maintenance, repair and testing of the system. Original documents may be maintained at a centralized location only if copies of these documents are maintained onsite according to the requirements set forth in AQP-9. Records shall be retained for a period of at least two years, unless specified otherwise, and shall be made immediately available for inspection by the board upon request.

G. Tank trucks/account trucks and vapor collection systems.

1. No owner or other person shall use or permit the use of any tank truck or account truck that is loaded or unloaded at facilities subject to the provisions of subsection C, D or E of this section unless such truck is designed, maintained and certified to be vapor tight. In addition, there shall be no avoidable visible liquid leaks. Invariably there will be a few drops of liquid from disconnection of dry breaks in liquid lines even when well maintained; these drops are allowed.

2. Vapor-laden tank trucks or account trucks exclusively serving facilities subject to subsection D or E of this section may be refilled only at facilities in compliance with subsection C of this section.

3. Tank truck and account truck hatches shall be closed at all times during loading and unloading operations (periods during which there is liquid flow into or out of the truck) at facilities subject to the provisions of subsection C, D or E of this section.

4. During loading or unloading operations at facilities subject to the provisions of subsection C, D or E of this section, there shall be no volatile organic compound concentrations greater than or equal to 100% of the lower explosive limit (LEL, measured as propane) at 2.5 centimeters around the perimeter of a potential leak source as detected by a combustible gas detector. In addition, there shall be no avoidable visible liquid leaks. Invariably there will be a few liquid drops from the disconnection of well-maintained bottom loading dry breaks and the raising of well-maintained top loading vapor heads; these few drops are allowed. The vapor collection system includes all piping,

seals, hoses, connection, pressure-vacuum vents and other possible leak sources between the truck and the vapor disposal unit and between the storage tanks and vapor recovery unit.

5. The vapor collection and vapor disposal equipment must be designed and operated to prevent gauge pressure in the tank truck from exceeding 18 in H₂O and prevent vacuum from exceeding 6 in H₂O.

6. Testing to determine compliance with subdivision ~~G~~ 1 of this ~~section~~ subsection shall be conducted and reported and data shall be reduced as set forth in procedures approved by the board using test methods specified there. All tests shall be conducted by, or under the direction of, a person qualified by training or experience in the field of air pollution testing, or tank truck maintenance and testing and approved by the board.

7. Monitoring to confirm the continuing existence of leak tight conditions specified in subdivision ~~G~~ 4 of this ~~section~~ subsection shall be conducted as set forth in procedures approved by the board using test methods specified there.

8. Owners of tank trucks and account trucks subject to the provisions of subdivision ~~G~~ 1 of this ~~section~~ subsection shall certify, each year that the trucks are vapor tight in accordance with test procedures specified in subdivision ~~G~~ 6 of this ~~section~~ subsection. Trucks that are not vapor tight must be repaired within 15 days of the test and be tested and certified as vapor tight.

9. Each truck subject to the provisions of subdivision ~~G~~ 1 of this ~~section~~ subsection shall have information displayed on the tank indicating the expiration date of the certification and such other information as may be needed by the board to determine the validity of the certification. The means of display and location of the above information shall be in a manner acceptable to the board.

10. An owner of a vapor collection/control system shall repair and retest the system within 15 days of the testing, if it exceeds the limit specified in subdivision ~~G~~ 4 of this ~~section~~ subsection.

11. The owner of a tank/account truck or vapor collection/control system or both subject to the provisions of this section shall maintain records of all certification testing and repairs. The records must identify the tank/account truck, vapor collection system, or vapor control system; the date of the test or repair; and, if applicable, the type of repair and the date of retest. The records must be maintained in a legible, readily available condition for at least two years after the date testing or repair was completed.

12. The records of certification tests required by subdivision ~~G~~ 11 of this ~~section~~ subsection shall, as a minimum, contain the following:

- a. The tank/account truck tank identification number;
- b. The initial test pressure and the time of the reading;
- c. The final test pressure and the time of the reading;

- d. The initial test vacuum and the time of the reading;
- e. The final test vacuum and the time of the reading; and
- f. Name and the title of the person conducting the test.

13. Copies of all records and reports required by this section shall immediately be made available to the board, upon verbal or written request, at any reasonable time.

14. The board may, at any time, monitor a tank/account truck, vapor collection system, or vapor control system, by the method referenced in subdivision 6 or 7 of this ~~section~~ subsection to confirm continuing compliance with subdivision 1 or 4 of this ~~section~~ subsection.

15. If, after over one year of monitoring (i.e., at least two complete annual checks), the owner of a truck subject to the provisions of subdivision 6 of this ~~section~~ subsection feels that modification of the requirements are in order, he may request in writing to the board that a revision be made. The request should include data that have been developed to justify any modifications in the monitoring schedule. On the other hand, if the board finds an excessive number of leaks during an inspection, or if the owner finds an excessive number of leaks during scheduled monitoring, consideration shall be given to increasing the frequency of inspection.

VA.R. Doc. No. R03-101; Filed June 24, 2003, 11:46 a.m.

Title of Regulations: 9 VAC 5-20. General Provisions (amending 9 VAC 5-20-21).

9 VAC 5-40. Existing Stationary Sources (amending 9 VAC 5-40-3260; adding 9 VAC 5-40-5700 through 9 VAC 5-40-5770, and 9 VAC 5-40-6820 through 9 VAC 5-40-7230).

Statutory Authority: § 10.1-1308 of the Code of Virginia; §§ 110, 111, 123, 129, 171, 172 and 182 of the Clean Air Act, 40 CFR Parts 51 and 60.

Public Hearing Date: August 26, 2003 - 9 a.m.
Public comments may be submitted until 5 p.m. on September 12, 2003.
(See Calendar of Events section for additional information)

Agency Contact: Kathleen R. Sands, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4413, FAX (804) 698-4510, or e-mail krsands@deq.state.va.us.

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

Purpose: The purpose of the regulations is to require owners to limit emissions of air pollution from portable fuel containers, solvent cleaning, mobile equipment repair and refinishing, and architectural and industrial maintenance coatings to the level necessary for (i) the protection of public health and welfare and (ii) the attainment and maintenance of the air quality standards. The regulations are proposed in order to provide

emissions reductions sufficient to achieve the ozone standard in Northern Virginia.

Substance: The proposed regulatory action will add four new regulations, as explained below.

1. Portable Fuel Container Spillage Control (Rule 4-42) establishes standards for emissions of volatile organic compounds from portable fuel containers and spouts. Exempted from the regulation is any portable fuel container or spout manufactured for shipment, sale, and use outside of the Northern Virginia volatile organic compound emissions control area. Also exempted is a manufacturer or distributor who sells, supplies, or offers for sale a portable fuel container or spout that does not comply with the emission standards specified in 9 VAC 5-40-5720, as long as the manufacturer or distributor can demonstrate that: (i) the portable fuel container or spout is intended for shipment and use outside of the Northern Virginia volatile organic compound emissions control area; and (ii) that the manufacturer or distributor has taken reasonable prudent precautions to assure that the portable fuel container or spout is not distributed within the Northern Virginia volatile organic compound emissions control area. Also exempted are safety cans meeting the requirements of 29 CFR Part 1926 Subpart F. Also exempted are portable fuel containers with a nominal capacity less than or equal to one quart. Also exempted are rapid refueling devices with nominal capacities greater than or equal to four gallons, provided such devices are designed either (i) to be used in officially sanctioned off-highway motorcycle competitions, (ii) to create a leak-proof seal against a stock target fuel tank, or (iii) to operate in conjunction with a receiver permanently installed on the target fuel tank. Also exempted are portable fuel tanks manufactured specifically to deliver fuel through a hose attached between the portable fuel tank and the outboard engine for the purpose of operating the outboard engine.

2. Solvent Cleaning (Rule 4-47) establishes standards for emissions of volatile organic compounds from cold cleaning machines, batch vapor cleaning machines, in-line vapor cleaning machines, airless or air-tight cleaning machines, and other equipment.

3. Mobile Equipment Repair and Refinishing (Rule 4-48) establishes standards for emissions of volatile organic compounds from automotive pretreatment primer, automotive primer-surfacer, automotive primer-sealer, automotive topcoat, single stage-topcoat, 2-stage basecoat/clearcoat, 3- or 4-stage basecoat/clearcoat, automotive multi-colored topcoat, automotive specialty coating, and other coatings. Exempted from the regulation for mobile equipment repair and refinishing is any mobile equipment repair and refinishing operation subject to Article 28 (9 VAC 5-40-3860 et seq.) of 9 VAC 5 Chapter 40 (Emission Standards for Automobile and Light Duty Truck Coating Application Systems). Also exempted is any mobile equipment repair and refinishing operation subject to Article 34 (9 VAC 5-40-4760 et seq.) of 9 VAC 5 Chapter 40 (Emission Standards for Miscellaneous Metal Parts and Products Coating Application Systems). Also exempted is

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any person applying the coatings who does not receive compensation for the application of the coatings.

4. Architectural and Industrial Maintenance Coatings (Rule 4-49) establishes standards for emissions of volatile organic compounds from lacquer coatings, metallic pigmented coatings, shellacs, fire-retardant coatings, pretreatment wash primers, low-solids coatings, wood preservatives, high-temperature coatings, temperature-indicator safety coatings, antenna coatings, antifouling coatings, flow coatings, bituminous roof primers, specialty primers, sealers, undercoaters, and other coatings. Exempted from the regulation for architectural and industrial maintenance coatings is any architectural coating that is sold or manufactured for use exclusively outside of the Northern Virginia Volatile Organic Compounds Emission Control Area or for shipment to other manufacturers for reformulation or repackaging. Exempted is any aerosol coating product. Exempted is any architectural coating that is sold in a container with a volume of one liter (1.057 quart) or less. Also exempted are coating plants whose emissions of volatile organic compounds are not more than 2.7 tons per year, 15 pounds per day, and 3 pounds per hour, based on the actual emission rate.

5. The regulations incorporate by reference a number of provisions from other regulations concerning standards for visible emissions, odor, and toxic pollutants; compliance; test methods and procedures; monitoring; notification, records, and reporting; registration; facility and control equipment maintenance or malfunction; and permits.

6. The regulations apply to affected facilities and persons in jurisdictions within the Northern Virginia volatile organic compounds emissions control area designated in 9 VAC 5-20-206: the counties of Arlington, Fairfax, Loudoun, Prince William, and Stafford; and the cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park.

Issues: Public: The primary advantage to the public is that the adoption of these regulations will significantly decrease emissions of VOCs in the Northern Virginia area, thus benefiting public health and welfare. There are no disadvantages to the public.

Department: The primary advantages to the department are that the adoption of these regulations will allow Virginia to (i) avoid federal sanctions that would be imposed for violating the SIP provisions of the Clean Air Act and (ii) uphold its promise to its jurisdictional neighbors (Maryland and Washington, D.C.). There are no disadvantages to the department.

Localities Particularly Affected. The localities particularly affected by the proposed regulations are the counties of Arlington, Fairfax, Loudoun, Prince William, and Stafford; and the cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park.

Public Participation. The department is seeking comment on the proposed regulations and the costs and benefits of the proposal. The department is also seeking comment on the impacts of the proposed regulations on farm and forest lands.

Impact:

Entities affected. The first number below (for automotive refinishing facilities) was obtained from the Washington Metropolitan Autobody Association. The second and third numbers below were obtained by the Department of Environmental Quality via the Comprehensive Environmental Data System (CEDS). The first two numbers below are for Northern Virginia only; the third number covers all Virginia. The number of sellers of coatings and cans could not be determined.

237 automotive refinishing facilities (mobile equipment repair and refinishing rule); see also "manufacturers" below

392 service stations and 4 degreasing and solvent recovery facilities (solvent cleaning rule)

193 manufacturers of architectural coatings, automobile refinishing coatings, and portable gas cans

Total facilities: 826

Fiscal impact.

1. Costs to affected entities. The citations for the cost figures cited below are derived from a report entitled "Control Measure Development Support Analysis of Ozone Transport Commission Model Rules," by E. H. Pechan and Associates, prepared for the Ozone Transport Commission, March 31, 2001. These costs do not apply to sellers of coatings and cans, whose costs could not be determined.

a. Mobile equipment repair and refinishing rule: \$1,534 per ton;

b. Solvent cleaning rule: \$1,400 per ton;

c. Portable fuel container spillage rule: \$450 per ton;

d. Architectural and industrial maintenance coatings rule: \$6,400 per ton.

2. Costs to localities. The projected cost of the regulation on localities is not expected to be beyond that of other affected entities and are addressed in paragraph 1 above.

3. Costs to agency. It is not expected that the regulation will result in any cost to the department beyond that currently in the budget. The sources of department funds to carry out this regulation are the general fund and the federal trust (grant money provided by the U.S. Environmental Protection Agency under § 105 of the federal Clean Air Act or permit fees charged to affected entities under the permit program). The activities are budgeted under the following program (code)/subprogram (code): (i) Environmental and Resource Management (5120000)/Air Quality Stationary Source Permitting (5122000) and Air Quality Stationary Source Compliance Inspections (5122100). The costs are expected to be ongoing.

4. Benefits. The adoption of these regulations will significantly decrease emissions of VOCs in the Northern Virginia area. This emissions reduction will benefit public health and welfare. It will also allow Virginia to avoid federal sanctions that would be imposed for violating the SIP

provisions of the Clean Air Act and to uphold its promise to its jurisdictional neighbors (Maryland and Washington, D.C.) to take this 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 § 2.2-4007 H of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007 H 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 General Assembly mandates in § 10.1-1308 of the Code of Virginia that the State Air Pollution Control Board promulgate regulations abating, controlling, and prohibiting air pollution throughout or in any part of the Commonwealth.

The proposed regulatory action adds four new sections to existing regulations for the control and abatement of air pollution. It establishes new emission standards (emission limits and control technology requirements) and other requirements for portable fuel containers, mobile equipment repair and refinishing operations, and architectural and industrial maintenance coatings. It also proposes more stringent emission standards and requirements than currently required for solvent metal cleaning operations. The new and amended standards and requirements being proposed only apply to persons and sources in the Northern Virginia volatile organic compounds (VOC) emissions control area (Counties: Arlington, Fairfax, Loudoun, Prince William, and Stafford; Cities: Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park). The proposed regulatory action also amends the documents incorporated by reference to take into account the new standards and requirements being proposed.

Estimated economic impact. Rationale: The federal Clean Air Act requires the Environmental Protection Agency (EPA) to prescribe primary and secondary air quality standards (developed for the protection of public health and public welfare, respectively) for each air pollutant for which air quality criteria were issued before the enactment of the Clean Air Act in 1970. These standards are known as the national ambient air quality standards (NAAQS) and they establish the maximum limits of pollutants that are permitted in the outside ambient air.

The Clean Air Act also requires each state to adopt and submit to EPA a plan (the state implementation plan or SIP) that provides for the implementation, maintenance, and enforcement of NAAQS within each air quality control region in the state. The Clean Air Act establishes a process for evaluating air quality in each region and identifying and classifying nonattainment areas according to the severity of the air pollution problem. Nonattainment areas are classified

as marginal, moderate, serious, severe, and extreme and subject to more stringent measures as the classification moves from marginal nonattainment to extreme nonattainment. The Clean Air Act requires EPA to propose geographic boundaries and pollution classification levels for all nonattainment areas in each state based on air quality data from that state. Following the establishment of nonattainment areas, each state is then required to submit an SIP demonstrating how it intends to achieve NAAQS in each nonattainment area. The SIP specifies how the state intends to reduce air pollution concentrations to a level at or below these standards. Once the pollution levels are at or below NAAQS levels, the SIP also demonstrates how the state intends to maintain air pollution concentrations at the reduced levels.

Effective July 1, 2003, parts of northern Virginia will be classified as severe nonattainment areas for ozone and its precursors, volatile organic compounds or VOCs. The Northern Virginia VOC emissions control area includes the counties of Arlington, Fairfax, Loudoun, Prince William, and Stafford and the cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park. The Northern Virginia VOC emissions control area is currently classified as a serious nonattainment area. As a result of deterioration in air quality and change in the federal ozone standard its classification is being changed to a severe nonattainment area. The changes being proposed are additional measures to be incorporated into the SIP to bring VOC emissions to a level at or below NAAQS for ozone in northern Virginia. These measures were decided upon before the reclassification and DEQ believes that the reclassification makes them even more essential. Failure to prepare such a plan and/or failure to obtain EPA approval for such a plan could result in sanctions such as the loss of federal funds for highways and other projects and EPA promulgating and implementing an air quality plan for Virginia.

Description of the regulation and estimated economic impact: The proposed regulation adds four new sections to the existing regulation for the control and abatement of air pollution. The new sections apply only to the Northern Virginia VOC emissions control area. The four new sections relate to: Portable fuel container spillage control: The proposed regulatory action establishes VOC emission standards from portable fuel containers and spouts. The requirements of this section apply to all individuals and businesses manufacturing, selling, or supplying portable fuel containers and spouts in northern Virginia with a capacity larger than one-fourth of a gallon but less than or equal to 10 gallons. The provisions of this section do not apply to the following: manufacturers and distributors who can demonstrate that the portable fuel container and/or the spout is for sale outside the Northern Virginia VOC emissions control area and that they have taken reasonable precautions to prevent its distribution in Northern Virginia, rapid refueling devices with a capacity greater than or equal to four gallons, safety cans and portable marine fuel tanks operated in conjunction with outboard engines, and certain types of portable fuel containers meeting federal fire protection and prevention requirements.

The proposed regulatory action requires that all portable fuel containers and spouts have an automatic shut-off to prevent overfilling, are capable of automatically closing and sealing

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the container and/or spout when not dispensing fuel, provide a fuel flow rate and fill level specified in the regulation, do not exceed a permeation rate of 0.4 grams per gallons per day, and are under a manufacturers warranty for at least one year in case of defects in material or workmanship. In addition, portable fuel tanks are required to have only one opening for both filling and pouring. The proposed regulation specifies the test methods to determine compliance with these requirements and the notification, recordkeeping, and reporting requirements to be met by manufacturers. The proposed regulation also specifies additional labeling and administrative requirements. All portable fuel containers and spouts manufactured after January 1, 2005, will have to meet these standards. Barring the granting of a waiver, all manufacturers and distributors will also have to meet the standards and requirements of this regulation by January 1, 2005.

The standards being proposed are identical to model rules established by the Ozone Transport Commission (OTC)¹ and standards implemented by other states such as Maryland and California. According to a study by the OTC,² portable gas containers with a capacity between one and six gallons currently cost an average of \$4.25. They estimate that gas containers meeting the specifications of this rule would cost an average of \$12.33, almost three times what gas containers not meeting these requirements currently cost. Based on these calculations, the report concludes that the cost of compliance with these requirements is \$450 per ton of VOC reduced. The OTC report estimates that the model rule benefit for Northern Virginia for 2005 is VOC emissions reduction of 2 tons per day. Daily VOC emissions reductions of 2 tons would mean annual VOC emissions reductions of 730 tons. At \$450 per ton of VOC reduced, the proposed change would cost an estimated \$328,500 on an annualized basis.

Solvent Cleaning: The proposed regulatory action establishes emission standards for solvent metal cleaning operations. Regulations currently exist in Virginia establishing emission standards for solvent metal cleaning operations using nonhalogenated solvents. However, the standards being proposed for the Northern Virginia VOC emissions area are significantly more stringent. The requirements of the regulation apply to solvent metal cleaning operations including cold or vapor degreasing at service stations, motor vehicle repair shops, automobile dealerships, machine shops, and any other metal refinishing, cleaning, repair, or fabrication facility. DEQ believes that the proposed standards are likely to most affect operations at automobile repair and maintenance facilities and electronics and furniture manufacturers. The proposed regulation applies to cold cleaning machines that process metal parts and contain more than one liter of VOC, batch vapor cleaning machines that process metal parts, all in-line vapor cleaning machines, all airless cleaning machines, and air-tight cleaning machines that process metal parts. In

addition, certain provisions of the regulation apply to sellers and manufacturers of solvents for use in cold cleaning machines.

The proposed regulatory action requires vapor cleaning machines covered by this regulation to meet certain hardware requirements and operating procedures (including monitoring, recordkeeping, and labeling requirements). Cold cleaning machines covered by this regulation are required to meet solvent volatility limits in addition to hardware requirements and operating procedures. Airless cleaning machines and air-tight cleaning machines covered by this regulation are required to meet specific emission standards in addition to required operating procedures. Manufacturers of cold cleaning machine solvents containing VOCs will be required to provide additional information to the buyer. Use of some types of cold cleaning machine solvents containing VOCs and some types of cold cleaning machines (such as those using air agitated solvent baths) will be prohibited under this regulation. All solvent metal cleaning operations and manufacturers affected by the regulation will be required to comply with its requirements by January 1, 2005.

The standards being proposed are identical to model rules proposed by the OTC and standards implemented by other states such as Maryland and Illinois. The OTC report estimates the cost effectiveness of the proposed change to be \$1,400 per ton of VOC reduced. The cost estimate is based on the South Coast Air Quality Management District's³ cost analysis for their solvent cleaning rule. According to DEQ, while the regulation does prohibit the use of certain types of machines and solvents, it is not likely to result in many machines becoming redundant. In DEQ's opinion, the operational and training requirements to ensure that solvent metal cleaning machines are operated such that VOC emissions are kept below required levels is likely to be the most burdensome aspect of the regulation. The OTC report estimates that the solvent cleaning model rule benefit for Northern Virginia is VOC emissions reduction of nine tons per day. Daily VOC emissions reduction of nine tons would mean annual VOC emissions reductions of 3,285 tons. At \$1,400 per ton of VOC reduced, the proposed change would cost an estimated \$4.6 million on an annualized basis.

Mobile Equipment Repair and Refinishing: The proposed regulatory action establishes emission standards for mobile equipment repair and refinishing operations. The proposed changes apply to all mobile equipment repair and refinishing operations in the Northern Virginia VOC emissions control area. This includes any facility applying automotive pretreatment, automotive primer-surface, automotive primer-sealer, automotive topcoat, or automotive specialty or color matched coating to mobile equipment and mobile equipment components. Mobile equipment refers to any equipment that may be driven or is capable of being driven on a roadway such as automobiles, trucks (including truck cabs, truck bodies, and truck trailers), buses, motorcycles, utility bodies, camper shells, mobile cranes, bull dozers, street cleaners, golf

¹ The OTC was formed by Congress in 1990 to help coordinate plans for reducing ground-level ozone in the Northeast and mid-Atlantic states. Twelve states including Virginia are represented in the OTC.

² "Control Measure Development Support Analysis of Ozone Transport Commission Model Rules", by E.H. Pechan and Associates, prepared for the Ozone Transport Commission, March 31, 2001.

³ The South Coast Air Quality Management District is the air pollution control agency for Orange County and major portions of Los Angeles, San Bernardino and Riverside counties in Southern California.

carts, ground support vehicles used at airports, and farm equipment. Certain provisions of the regulation apply to manufacturers and distributors of the affected coatings. Mobile equipment and refinishing operations subject to existing emission standards for automobile and light duty truck coating application systems and/or existing emission standards for miscellaneous metal parts and products coating application systems are exempt from the requirements of this regulation. Persons applying coatings that do not receive compensation for the application of the coating are also exempt from the requirements of this regulation.

The proposed regulation requires mobile equipment repair and refinishing operations to apply finish material according to application techniques specified in the regulation. According to DEQ, the list of acceptable application techniques was found to be comprehensive by the Washington Metropolitan Auto Body Association. Exemptions to these requirements include the use of airbrush application methods for stenciling, lettering, and other identification markings, application of coatings sold in nonrefillable aerosol containers, and application of automotive touch-up repair finish materials. Spray guns used to apply mobile equipment repair and refinishing coatings are to be cleaned according to the specifications of the regulation such that solvent loss is minimized. Mobile equipment repair and refinishing operations are required to implement certain housekeeping, pollution prevention, and training measures in order to comply with the requirements of this regulation. The proposed regulation also establishes VOC content limits for paints used in the industry that are consistent with federal VOC limits for mobile equipment refinishing materials. The VOC per volume of coating limits for automotive pretreatment primers, automotive primer-surface, automotive primer-sealer, automotive single and multi-stage topcoat, automotive multi-colored topcoat, and automotive specialty coating are likely to affect the manufacturers and distributors of such coatings.

The standards being proposed are identical to model rules proposed by the OTC and standards implemented by other states such as Maryland and Pennsylvania. DEQ believes that, for the sake of operator safety and product conservation (approximately 30% less paint is consumed when using the high-efficiency equipment required by this regulation), most mobile equipment repair and refinishing operations voluntarily meet some of the requirements being proposed. The OTC report estimates the cost effectiveness of the proposed change to be \$1,534 per ton of VOC reduced. The report also estimates that the mobile equipment repair and refinishing model rule benefit for Northern Virginia is VOC emissions reduction of two tons per day. Daily VOC emissions reductions of two tons would mean annual VOC emissions reductions of 730 tons. At \$1,534 per ton of VOC reduced, the proposed change would cost an estimated \$1.1 million on an annualized basis.

Architectural and Industrial Maintenance Coatings: The proposed regulatory action establishes emission standards for architectural and industrial maintenance coatings in Northern Virginia. The requirements of the regulation apply to manufacturers and distributors of architectural coatings and all individuals who apply or solicit for application any architectural coating (industrial maintenance coatings are defined as high-

performance architectural coatings formulated for application to surfaces exposed to extreme environmental conditions). The provisions of this section do not apply to aerosol coating products, architectural coating sold in containers with a capacity of one liter or less, and architectural coatings that are sold or manufactured for use exclusively outside the Northern Virginia VOC emissions control area or for shipment to other manufacturers for reformulation and/or repackaging.

The proposed regulation requires the manufacturers, distributors, and users of architectural coating not to manufacture, sell, or use coating that exceeds VOC emissions limits specified in the regulation for various types of architectural coatings. The VOC content limits are based on suggested control measures adopted by the Air Resources Board and the State and Territorial Air Pollution Program Administrators/Association of Local Air Pollution Control Officials. The regulation specifies the test methods and procedures (based on EPA guidelines) to be used by manufacturers to demonstrate compliance with the VOC content limits. Manufacturers are also required to meet container labeling as well as notification, recordkeeping, and reporting requirements specified in the regulation. Users/appliers of architectural coatings are required to meet operational procedures and requirements specified in the regulation. Manufacturers, distributors, and users of architectural coatings are required to comply with the requirements of the regulation by January 1, 2005. All coating manufactured after January 1, 2005, are required to meet the VOC content limits specified in the regulation and coating manufactured prior to January 1, 2005, are allowed to be sold until December 31, 2007.

The standards being proposed are identical to model rules proposed by the OTC and standards implemented by other states such as Delaware. DEQ believes that the proposed regulation will primarily affect manufacturers of architectural and industrial maintenance coatings and that the reformulation of such coatings to meet the VOC content limits is likely to be the most burdensome aspect of the regulation. Architectural and industrial maintenance coatings currently meeting the VOC content limits cost approximately the same as coatings not meeting these limits. The OTC report estimates that the cost effectiveness of the proposed change to be \$6,400 per ton of VOC reduced.⁴ The OTC cost was estimated based on the Air Resource Board's cost analysis of the suggested control measures. The OTC report estimates that the model rule benefit for Northern Virginia for 2005 is VOC emissions reduction of 5 tons per day. Daily VOC emissions reductions of 5 tons would mean annual VOC emissions reductions of 1,825 tons. At \$6,400 per ton of VOC reduced, the proposed change would cost an estimated \$11.7 million on an annualized basis.

DEQ has proposed the above four rules as possible ways by which to reduce VOC emissions in the Northern Virginia VOC emissions control area. The Metropolitan Washington Air

⁴ This estimate incorporates coating manufacturers' cost of reformulating architectural coating to meet the VOC content limits and DEQ believes these costs to be inflated.

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Quality Committee (MWAQC),⁵ based on projected future emissions and other regional data, determined that the proposed rules were necessary for the area to meet its emissions reductions and attainment requirements. MWAQC decided on January 23, 2002, that Washington, D.C., Maryland, and Virginia would adopt the proposed regulations. Maryland already has regulations in place similar to the portable fuel container spillage control rule, the solvent cleaning rule, and the mobile equipment repair and refinishing rule being proposed and is in the hearings process for the architectural and industrial maintenance coating rule. Washington, D.C. is in the process of promulgating and adopting all four rules. Many states in the Northeast and the mid-Atlantic regions have promulgated or are in the process of promulgating regulations along the lines of the regulations being proposed in Virginia. So much so that the OTC produced a study providing estimates of the emissions reductions for each state within the OTC jurisdiction associated with the implementation of each of the rules (based on current federal and state regulations and SIP assumptions) as well as the costs associated with implementing each rule.

DEQ estimates that the proposed regulatory action will affect 193 manufacturers of portable gas cans, automobile refinishing coatings, and architectural coatings. In addition, 392 service stations and 4 degreasing and solvent recovery facilities will be affected by the solvent cleaning rule, and 237 automotive refinishing facilities will be affected by the mobile equipment repair and refinishing rule. The number of distributors of portable gas cans and coatings (architectural and automobile refinishing), the number of cold cleaning solvent manufacturers, and the number of users/appliers of architectural coatings could not be determined. The estimated economic impact of the proposed regulatory action is the sum of the economic impact of each of the four rules being proposed.

Once full emissions reductions are achieved, the annualized costs associated with implementing the portable fuel container spillage rule, the solvent cleaning rule, the mobile equipment repair and refinishing rule, and the architectural and industrial maintenance coating rule are \$328,500, \$4.6 million, \$1.1 million, and \$11.7 million, respectively. According to DEQ, full reductions for the portable fuel container spillage rule will be achieved by 2015 when the last of the old gas cans are

replaced. DEQ expects that full reductions for the remaining three rules will most likely be achieved within a year of the effective date of the rule. Total annualized costs associated with the proposed regulatory action once full reductions from all four rules have been achieved will be approximately \$17.7 million (assuming VOC reductions of equal increments in each year between 2005 and 2015 resulting from the implementation of the portable fuel container spillage rule and a discount rate of 5.89%, the average yield on 10 year Treasury bonds between 1993 and 2002).

Implementing the proposed changes will also result in some economic benefits. The adoption of these four rules is likely to significantly reduce emissions of VOCs in the Northern Virginia VOC emissions control area. The emissions reductions are likely to be beneficial to public health and welfare. According to EPA, exposure to ozone at the ground level can cause a number of respiratory problems such as irritation of the respiratory system, reduced operation of the lungs, inflammation and damage to the cells lining the lungs, and aggravation of existing lung problems. Repeated ozone exposure can cause permanent damage to children's developing lungs and accelerate the decline in lung function with age in adults. Reducing the level of ozone will provide economic benefits in the future in terms of respiratory health problems and fatalities prevented (reflected in lower health care and other costs) because of lower amounts of ground-level ozone. The emissions reductions achieved by the implementation of these four rules would also allow Virginia to avoid federal sanctions that would be imposed for violating the SIP provisions of the Clean Air Act. The sanctions include the loss of federal funds for highways and other projects and/or more restrictive requirements for new industries. Moreover, the lack of an acceptable plan to get VOC emissions below NAAQS could also result in EPA promulgating and implementing an air quality plan for Virginia. Implementing the proposed rules would produce economic benefits by allowing Virginia to continue to receive federal funds and letting Virginia run its own air quality program.

The net economic impact of the proposed regulatory action will depend on whether the economic benefits of implementing these rules is greater than or less than the costs of doing so. The estimated cost of the proposed regulatory action is approximately \$17.7 million. It is not possible at this time to estimate the number and severity of respiratory problems and fatalities that will be prevented as a result of implementing these regulations. The extent of federal funding retained as a result of implementing the proposed regulatory action is also not known. Moreover, there are no studies or data available at this time estimating the economic benefits of having air quality programs run by states rather than by the federal government.

Alternative to the Proposed Regulatory Action:

Alternatives to the proposed regulatory action considered by DEQ were to take no action or to make alternative regulatory changes to those required by provisions of the law and associated regulations and policies. Market-based mechanisms such as emissions cap-and-trade programs⁶ were not explicitly stated as an alternative considered by DEQ. Such programs exist for reducing emissions of air pollutants such as nitrogen oxides (NOX), sulfur dioxide, and

⁵ A body of locally affected officials certified by the mayor of Washington, D.C. and the governors of Maryland and Virginia to prepare an air quality plan for the DC-Maryland-Virginia metropolitan statistical area.

⁶ According to EPA, cap-and-trade is a policy approach to controlling large amounts of emissions from a group of sources at costs that are lower than if the sources were regulated individually. The approach first sets an overall cap, or maximum amount of emissions per compliance period, that will achieve the desired environmental effects. Authorizations to emit in the form of emission allowances are then allocated to affected sources, and the total number of allowances cannot exceed the cap. Individual control requirements are not specified for sources. The only requirements are that sources completely and accurately measure and report all emissions and then turn in the same number of allowances as emissions at the end of the compliance period.

VOCs at the federal and state level. In fact, Virginia has an emissions allowance-trading program for sources producing NO_x emissions. Section 10.1-1322.3 of the Code of Virginia authorizes DEQ to consider market-based mechanisms as an option when formulating regulatory actions for achieving and maintaining NAAQS.

The market-based emissions reduction program implemented in the Chicago ozone nonattainment area is the closest model of a program that could be applied to the Northern Virginia VOC emissions control area. The Chicago ozone nonattainment area has an emissions allowance-trading program that covers a large number of sources producing VOC emissions in the region. Parts of northern Illinois in and around Chicago have been classified by EPA as severe ozone nonattainment area. Under provisions of the federal Clean Air Act, the area must attain NAAQS by 2007. Illinois already has a number of technology-based or command and control rules, similar to those being proposed in Virginia, to limit VOC emissions from stationary sources. In order to meet the additional VOC emissions reductions required by the federal Clean Air Act for the Chicago ozone nonattainment area, Illinois considered the implementation of further command and control measures. However, because the less expensive command and control rules had already been implemented, the only options available were rules with a very high cost of implementation.

In order to minimize the cost of further VOC reductions, Illinois chose instead to pursue a market-based approach to reducing VOC emissions. The emissions reduction market system (ERMS) was introduced in 2000. The ERMS is a cap-and-trade program in which participating sources must hold trading units equivalent to their VOC emissions. Each participating source is given a baseline depending on their actual VOC emissions in previous years adjusted for their compliance or noncompliance with existing rules. They are then issued trading units based on their baseline and adjusted for a 12% reduction in VOC emissions. Exceptions are provided for some sources for which emissions cannot be further reduced. Including exceptions and contingencies the program produces an overall VOC emissions reduction of 9% compared to the baseline. The ERMS operates from May 1 to September 30 (the time ground-level ozone formation is at its maximum) and trading units are retired after each season in order to account for each source's VOC emissions during the season. Thus, participating sources can either limit their emissions (through emissions controls or changes in technology) to the number of trading unit allotted to them or buy additional trading units from other sources in order to cover their excess emissions. Total VOC emissions are capped by the number of trading units issued. Even while participating in the program, ERMS participants are subject to all existing state and federal rules to limit VOC emissions.

The ERMS has been operating for three years and appears to be meeting its emissions reduction objectives. In 2001, there were 172 participating sources (excluding exempt sources) in the ERMS program. According to the annual performance review report for 2001, the ERMS program has achieved desired emissions reductions. In fact participating sources were found to be performing significantly below the baseline and allotment levels (allotments show a 9.6% and 9.9%

reduction from the original baseline for all participating sources in 2000 and 2001, respectively). Moreover, the report found that the market-based system operated effectively with sources able to find trading partners (there was a sufficient supply of available trading units and market prices were conducive to trading).

Market-based emissions reduction programs have several economic advantages over technology-based command and control regulations.

1. They increase the flexibility of affected sources in meeting the emissions reduction requirements. Sources can still choose to limit their emissions by placing emission controls and through changes in technology. In addition, under a market-based program, sources facing high cost options to limit their emissions can trade with other sources not using all of their allotted trading units or facing less costly ways of lowering their emissions. Sources not currently using their entire allotment of trading units will be able to receive compensation for surplus trading units that would otherwise have been worthless, sources exceeding their allotment will be able to continue to emit VOCs, and the entire area would continue to meet its aggregate emissions reduction target. Moreover, sources with low cost options to reducing emissions will have an incentive to reduce their VOC emissions and sell the surplus trading units to other sources that would otherwise have to spend more money to reduce their own emissions. Thus, implementation of a market-based program provides more flexibility to sources emitting VOCs to choose the most cost-effective method of meeting emissions reduction targets and creates incentives for the adoption of low-cost emissions reduction technologies.

2. Market-based programs are more likely to result in actual VOC emissions reductions than technology-based measures. A major problem with technology-based command and control measures has been enforcement. Better enforcement of emissions reduction targets is likely to lead to the attainment of NAAQS in a shorter time and produce economic benefits by reducing the number and severity of illnesses and fatalities from exposure to ground-level ozone. By requiring sources to monitor and report their emissions and by basing trading unit allotments on these emissions, a cap-and-trade program reduces the incentive for noncompliance and thus increases the chances for actual emissions reductions. According to an EPA analysis of the federal sulfur dioxide cap-and-trade program (or the acid rain program), compliance has been at a near-perfect 99%. Reductions in the early years of the program were 25% below allowable levels. In fact, according to EPA, the federal sulfur dioxide cap-and-trade program has achieved greater emissions reductions in the given time than any other single program to control air pollution.

3. Market-based programs also tend to be less expensive to implement than technology-based command and control measures. The operation and design of market-based programs such as cap-and-trade programs are relatively simple and this helps keep compliance and administrative costs low. According to EPA, cost savings from implementing cap-and-trade programs have been

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significant, as expensive source-specific reductions no longer have to be imposed and enforced on each source. The federal sulfur dioxide trading program ended up costing 75% less than cost estimated at the time the program was implemented. Moreover, emissions monitoring and reporting requirements of market-based programs are not likely to be any more burdensome than similar requirements of most technology-based measures.

4. The design of the ERMS program provides additional economic benefits over technology-based measures. The ERMS program is implemented only during the times of the year when ozone concentrations at the ground level are the highest, i.e., between May and September. By running the program only during these times, ERMS creates an incentive for sources to reschedule activities that produce VOC emissions to times of the year when the ozone concentration is lower. Thus, sources of VOC emissions will choose to engage in such activities during the high ozone times only if the economic benefits are greater than the costs associated with doing so. It is likely that some sources will choose to postpone these activities to another time of the year when the costs associated with engaging in them is lower. By ensuring that these activities are undertaken during different times of the year based on the cost of engaging in them during those times of the year, the design of the ERMS program will produce efficiency gains.

Overall, market-based programs are more likely to produce actual emissions reductions than technology-based command and control measures reducing the number and extent of illnesses and fatalities resulting from exposure to ozone. Moreover, the emissions reductions are likely to be achieved at a lower cost. Thus, market-based program for reducing emissions are likely to produce maximum benefits for public health and welfare and do so in the most efficient manner and with the least waste of resources.

In formulating a plan for the Northern Virginia VOC emissions control area, the Illinois cap-and-trade program should have been considered and analyzed extensively. The Chicago area has been classified as a severe ozone nonattainment area for some years now despite having technology-based rules similar to those in Virginia. In addition, the Chicago ozone nonattainment area also has regulations in place for portable gas can spillage control, solvent cleaning, mobile equipment repair and refinishing, and architectural and industrial maintenance coatings such as the ones being proposed for the Northern Virginia VOC emissions control area. Despite all these measures, the Chicago area continues to have problems in meeting NAAQS for ozone. While differences in factors such as growth in population and the number polluting industries located in the area may be an issue when evaluating the cost effectiveness market-based mechanisms for reducing VOC emissions, it is recommended that DEQ consider such programs for implementation in the Northern Virginia VOC emissions control area.

Businesses and entities affected. The proposed regulatory action will affect manufacturers of portable fuel containers and spouts, manufacturers of cold cleaning solvent used in some solvent metal cleaning operations, manufacturers of automobile refinishing coating, and manufacturers of

architectural and industrial maintenance coating in the Northern Virginia VOC emissions control area. The proposed regulatory action will affect all solvent metal cleaning operations and mobile equipment repair and refinishing operations in the Northern Virginia VOC emissions control area. In addition, the proposed regulatory action will affect distributors of portable fuel containers and spouts and distributors and users/appliers of architectural and industrial maintenance coatings in the Northern Virginia VOC emissions control area.

DEQ estimates that the 193 manufacturers of portable gas cans, automobile refinishing coatings, and architectural coatings will be affected by the proposed regulatory action. Approximately 392 service stations and 4 degreasing and solvent recovery facilities will be affected by the solvent cleaning rule, and 237 automotive refinishing facilities will be affected by the mobile equipment repair and refinishing rule. The number of distributors of portable gas cans and coatings (architectural and automobile refinishing), the number of cold cleaning solvent manufacturers, and the number of users/appliers of architectural coatings could not be determined.

Localities particularly affected. The proposed regulation will only affect localities in the Northern Virginia VOC emissions control area consisting of the counties of Arlington, Fairfax, Loudoun, Prince William, and Stafford and the cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park.

Projected impact on employment. The proposed regulatory action is likely to have a negative impact on employment. Increasing the cost of operation for businesses engaged in solvent metal cleaning and mobile equipment repair and refinishing could result in people being laid off at these facilities. Moreover, increasing the costs associated with manufacturing cold cleaning solvents and coatings (architectural and automobile refinishing) may lead to some people being laid off at these facilities.

Effects on the use and value of private property. The proposed regulatory action is likely to have a negative impact on the use and value of private property in the Northern Virginia VOC emissions control area. By imposing additional requirements on facilities engaged in solvent metal cleaning and mobile equipment repair and refinishing and on manufacturers of cold cleaning solvents and coatings used for architectural and industrial maintenance and automobile refinishing, the proposed regulatory action will impose additional costs and lower the asset value of these businesses. The proposed regulatory action may also have a positive impact on residential properties in the Northern Virginia area. Due to a reduction in the amount of ground-level ozone in Northern Virginia, some residential properties could see an increase in their market value. However, it is not possible at this time to estimate the exact extent of the increase in market value of these properties resulting from a reduction in ground-level ozone.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Department of Environmental Quality has reviewed the economic impact

analysis prepared by the Department of Planning and Budget and disagrees with the "Alternative to the Proposed Regulatory Action" section. This regulatory action is not intended to address solely Virginia's ozone problem but the problem of ozone transport throughout the entire northeastern corridor of the United States. The suggestion that Virginia should implement a Chicago-style cap-and-trade program instead of adopting the proposed regulations ignores the large-scale regional directive behind the decision to adopt these regulations for the metropolitan Washington, D.C., area, a decision made by the Metropolitan Washington Air Quality Committee (not by Virginia alone) after it examined many other alternatives. The point of the rulemaking is for Virginia and Maryland and Washington, D.C., to develop programs that parallel those of the other states in the Ozone Transport Region in order to give sources a unified directive and a solid financial incentive to lower VOC emissions. Furthermore, because of the complexity of federal guidance and the stringency of federal oversight on emissions trading, the development of a cap-and-trade program would take years longer to develop and implement than will the regulations, with VOC emissions remaining unreduced in the meantime.

Summary:

The proposed amendments add four new articles to Chapter 40 of Regulations for the Control and Abatement of Air Pollution. These regulations will apply only to sources in the Northern Virginia volatile organic compounds emissions control area designated in 9 VAC 5-20-206.

1. The regulation for portable fuel container spillage control (Rule 4-42) will apply (with some exceptions) to any person who sells, supplies, offers for sale, or manufactures for sale portable fuel containers or spouts.

2. The regulation for solvent cleaning (Rule 4-47) will apply (with some exceptions) to each solvent metal cleaning operation, including, but not limited to, cold or vapor degreasing at service stations; motor vehicle repair shops; automobile dealerships; machine shops; and any other metal refinishing, cleaning, repair, or fabrication facility. The provisions of this article also apply to sellers of solvents for use in a cold cleaning machine.

3. The regulation for mobile equipment repair and refinishing (Rule 4-48) will apply (with some exceptions) to each mobile equipment repair and refinishing operation. The provisions also apply to each person who sells coatings used in such operations.

4. The regulation for architectural and industrial maintenance coatings (Rule 4-49) will apply (with some exceptions) to any person who supplies, sells, offers for sale, or manufactures any architectural coating for use, as well as any person who applies or solicits the application of any architectural coating.

The regulations will establish emission standards, consisting of emission limits and control technology requirements, and other requirements which control levels of VOCs being emitted into the ambient air. They will also establish source surveillance requirements which (i) provide the enforcement basis, specify test methods and procedures, and specify

procedures for monitoring for determining compliance with the emission standards; and (ii) require the owner to provide certain notifications, records and reports in order that the department may determine compliance with emission standards and other applicable requirements.

9 VAC 5-20-21. Documents incorporated by reference.

A. The Administrative Process Act and Virginia Register Act provide that state regulations may incorporate documents by reference. Throughout these regulations, documents of the types specified below have been incorporated by reference.

1. United States Code.
2. Code of Virginia.
3. Code of Federal Regulations.
4. Federal Register.
5. Technical and scientific reference documents.

Additional information on key federal regulations and nonstatutory documents incorporated by reference and their availability may be found in subsection E of this section.

B. Any reference in these regulations to any provision of the Code of Federal Regulations (CFR) shall be considered as the adoption by reference of that provision. The specific version of the provision adopted by reference shall be that contained in the CFR (~~2004~~ 2002) in effect July 1, ~~2004~~ 2002. In making reference to the Code of Federal Regulations, 40 CFR Part 35 means Part 35 of Title 40 of the Code of Federal Regulations; 40 CFR 35.20 means § 35.20 in Part 35 of Title 40 of the Code of Federal Regulations.

C. Failure to include in this section any document referenced in the regulations shall not invalidate the applicability of the referenced document.

D. Copies of materials incorporated by reference in this section may be examined by the public at the central office of the Department of Environmental Quality, Eighth Floor, 629 East Main Street, Richmond, Virginia, between 8:30 a.m. and 4:30 p.m. of each business day.

E. Information on federal regulations and nonstatutory documents incorporated by reference and their availability may be found below in this subsection.

1. Code of Federal Regulations.
 - a. The provisions specified below from the Code of Federal Regulations (CFR) are incorporated herein by reference.
 - (1) 40 CFR Part 50-National Primary and Secondary Ambient Air Quality Standards.
 - (a) Appendix A--Reference Method for the Determination of Sulfur Dioxide in the Atmosphere (Paros-aniline Method).
 - (b) Appendix B--Reference Method for the Determination of Suspended Particulate Matter in the Atmosphere (High-Volume Method).

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(c) Appendix C--Measurement Principle and Calibration Procedure for the Continuous Measurement of Carbon Monoxide in the Atmosphere (Non-Dispersive Infrared Photometry).

(d) Appendix D--Measurement Principle and Calibration Procedure for the Measurement of Ozone in the Atmosphere.

(e) Appendix E--Reference Method for Determination of Hydrocarbons Corrected for Methane.

(f) Appendix F--Measurement Principle and Calibration Procedure for the Measurement of Nitrogen Dioxide in the Atmosphere (Gas Phase Chemiluminescence).

(g) Appendix G--Reference Method for the Determination of Lead in Suspended Particulate Matter Collected from Ambient Air.

(h) Appendix H--Interpretation of the National Ambient Air Quality Standards for Ozone.

(i) Appendix I--Reserved.

(j) Appendix J--Reference Method for the Determination of Particulate Matter as PM sub10 in the Atmosphere.

(k) Appendix K--Interpretation of the National Ambient Air Quality Standards for Particulate Matter.

(2) 40 CFR Part 51--Requirements for Preparation, Adoption, and Submittal of Implementation Plans.

Appendix M--Recommended Test Methods for State Implementation Plans.

Appendix S--Emission Offset Interpretive Ruling.

Appendix W--Guideline on Air Quality Models (Revised).

(3) 40 CFR Part 58--Ambient Air Quality Surveillance.

Appendix B--Quality Assurance Requirements for Prevention of Significant Deterioration (PSD) Air Monitoring.

(4) 40 CFR Part 60--Standards of Performance for New Stationary Sources.

The specific provisions of 40 CFR Part 60 incorporated by reference are found in Article 5 (9 VAC 5-50-400 et seq.) of Part II of Chapter 50, Rule 5-5, Environmental Protection Agency Standards of Performance for New Stationary Sources.

(5) 40 CFR Part 61--National Emission Standards for Hazardous Air Pollutants.

The specific provisions of 40 CFR Part 61 incorporated by reference are found in Article 1 (9 VAC 5-60-60 et seq.) of Part II of Chapter 60, Rule 6-1, Environmental Protection Agency National Emission Standards for Hazardous Air Pollutants.

(6) 40 CFR Part 63--National Emission Standards for Hazardous Air Pollutants for Source Categories.

The specific provisions of 40 CFR Part 63 incorporated by reference are found in Article 2 (9 VAC 5-60-90 et seq.) of Part II of Chapter 60, Rule 6-2, Environmental Protection Agency National Emission Standards for Hazardous Air Pollutants for Source Categories.

(7) 40 CFR Part 59, Subpart D--National Volatile Organic Compound Emission Standards for Architectural Coatings, Appendix A--"Determination of Volatile Matter Content of Methacrylate Multicomponent Coatings Used as Traffic Marking Coatings."

(8) 40 CFR Part 64, Compliance Assurance Monitoring.

(9) 40 CFR Part 72, Permits Regulation.

(10) 40 CFR Part 73, Sulfur Dioxide Allowance System.

(11) 40 CFR Part 74, Sulfur Dioxide Opt-Ins.

(12) 40 CFR Part 75, Continuous Emission Monitoring.

(13) 40 CFR Part 76, Acid Rain Nitrogen Oxides Emission Reduction Program.

(14) 40 CFR Part 77, Excess Emissions.

(15) 40 CFR Part 78, Appeal Procedures for Acid Rain Program.

b. Copies may be obtained from: Superintendent of Documents, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954; phone (202) 783-3238.

2. U.S. Environmental Protection Agency.

a. The following documents from the U.S. Environmental Protection Agency are incorporated herein by reference:

(1) Reich Test, Atmospheric Emissions from Sulfuric Acid Manufacturing Processes, Public Health Service Publication No. PB82250721, 1980.

(2) Compilation of Air Pollutant Emission Factors (AP-42). Volume I: Stationary and Area Sources, stock number 055-000-00500-1, 1995; Supplement A, stock number 055-000-00551-6, 1996; Supplement B, stock number 055-000-00565, 1997; Supplement C, stock number 055-000-00587-7, 1997; Supplement D, 1998; Supplement E, 1999.

b. Copies of Volume I and Supplements A through C may be obtained from: U.S. Department of Commerce, National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161; phone 1-800-553-6847. Copies of Supplements D and E may be obtained online from EPA's Technology Transfer Network at <http://www.epa.gov/ttn/chief/ap42/index.html>.

3. U.S. government.

a. The following document from the U.S. government is incorporated herein by reference: Standard Industrial Classification Manual, 1987 (U.S. Government Printing Office stock number 041-001-00-314-2).

- b. Copies may be obtained from: Superintendent of Documents, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954; phone (202) 512-1800.
4. American Society for Testing and Materials (ASTM).
- a. The documents specified below from the American Society for Testing and Materials are incorporated herein by reference.
- (1) D323-99a, "Standard Test Method for Vapor Pressure of Petroleum Products (Reid Method)."
 - (2) D97-96a, "Standard Test Method for Pour Point of Petroleum Products."
 - (3) D129-00, "Standard Test Method for Sulfur in Petroleum Products (General Bomb Method)."
 - (4) D388-99, "Standard Classification of Coals by Rank."
 - (5) D396-98, "Standard Specification for Fuel Oils."
 - (6) D975-98b, "Standard Specification for Diesel Fuel Oils."
 - (7) D1072-90(1999), "Standard Test Method for Total Sulfur in Fuel Gases."
 - (8) D1265-97, "Standard Practice for Sampling Liquefied Petroleum (LP) Gases (Manual Method)."
 - (9) D2622-98, "Standard Test Method for Sulfur in Petroleum Products by Wavelength Dispersive X-Ray Fluorescence Spectrometry."
 - (10) D4057-95(2000), "Standard Practice for Manual Sampling of Petroleum and Petroleum Products."
 - (11) D4294-98, "Standard Test Method for Sulfur in Petroleum and Petroleum Products by Energy-Dispersive X-Ray Fluorescence Spectroscopy."
 - (12) *D523-89, "Standard Test Method for Specular Gloss" (1999).*
 - (13) *D1613-02, "Standard Test Method for Acidity in Volatile Solvents and Chemical Intermediates Used in Paint, Varnish, Lacquer and Related Products" (2002).*
 - (14) *D1640-95, "Standard Test Methods for Drying, Curing, or Film Formation of Organic Coatings at Room Temperature" (1999).*
 - (15) *E119-00a, "Standard Test Methods for Fire Tests of Building Construction Materials" (2000).*
 - (16) *E84-01, "Standard Test Method for Surface Burning Characteristics of Building Construction Materials" (2001).*
 - (17) *D4214-98, "Standard Test Methods for Evaluating the Degree of Chalking of Exterior Paint Films" (1998).*
- b. Copies may be obtained from: American Society for Testing Materials, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428-2959; phone (610) 832-9585.
5. American Petroleum Institute (API).
- a. The following document from the American Petroleum Institute is incorporated herein by reference: *Evaporative Loss from Floating Roof Tanks*, API MPMS Chapter 19, April 1, 1997.
- b. Copies may be obtained from: American Petroleum Institute, 1220 L Street, Northwest, Washington, D.C. 20005; phone (202) 682-8000.
6. American Conference of Governmental Industrial Hygienists (ACGIH).
- a. The following document from the ACGIH is incorporated herein by reference: *Threshold Limit Values for Chemical Substances 1991-1992 and Physical Agents and Biological Exposure Indices (ACGIH Handbook)*.
- b. Copies may be obtained from: ACGIH, 1330 Kemper Meadow Drive, Suite 600, Cincinnati, Ohio 45240; phone (513) 742-2020.
7. National Fire Prevention Association (NFPA).
- a. The documents specified below from the National Fire Prevention Association are incorporated herein by reference.
- (1) NFPA 385, *Standard for Tank Vehicles for Flammable and Combustible Liquids*, 2000 Edition.
 - (2) NFPA 30, *Flammable and Combustible Liquids Code*, 2000 Edition.
 - (3) NFPA 30A, *Code for Motor Fuel Dispensing Facilities and Repair Garages*, 2000 Edition.
- b. Copies may be obtained from the National Fire Prevention Association, One Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts 02269-9101; phone (617) 770-3000.
8. American Society of Mechanical Engineers (ASME).
- a. The documents specified below from the American Society of Mechanical Engineers are incorporated herein by reference.
- (1) ASME Power Test Codes: *Test Code for Steam Generating Units*, Power Test Code 4.1-1964 (R1991).
 - (2) ASME Interim Supplement 19.5 on Instruments and Apparatus: *Application, Part II of Fluid Meters*, 6th edition (1971).
 - (3) *Standard for the Qualification and Certification of Resource Recovery Facility Operators*, ASME QRO-1-1994.
- b. Copies may be obtained from the American Society of Mechanical Engineers, Three Park Avenue, New York, New York 10016; phone (800) 843-2763.
9. American Hospital Association (AHA).
- a. The following document from the American Hospital Association is incorporated herein by reference: *An Ounce of Prevention: Waste Reduction Strategies for*

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Health Care Facilities, AHA Catalog no. W5-057007, 1993.

b. Copies may be obtained from: American Hospital Association, One North Franklin, Chicago, IL 60606; phone (800) 242-2626.

10. Bay Area Air Quality Management District (BAAQMD).

a. The following documents from the Bay Area Air Quality Management District are incorporated herein by reference:

(1) Method 41, "Determination of Volatile Organic Compounds in Solvent-Based Coatings and Related Materials Containing Parachlorobenzotrifluoride" (December 20, 1995).

(2) Method 43, "Determination of Volatile Methylsiloxanes in Solvent-Based Coatings, Inks, and Related Materials" (November 6, 1996).

b. Copies may be obtained from: Bay Area Air Quality Management District, 939 Ellis Street, San Francisco, CA 94109, phone (415) 771-6000.

11. South Coast Air Quality Management District (SCAQMD).

a. The following documents from the South Coast Air Quality Management District are incorporated herein by reference:

(1) Method 303-91, "Determination of Exempt Compounds," in Manual SSMLLABM, "Laboratory Methods of Analysis for Enforcement Samples" (1996).

(2) Method 318-95, "Determination of Weight Percent Elemental Metal in Coatings by X-Ray Diffraction," in Manual SSMLLABM, "Laboratory Methods of Analysis for Enforcement Samples" (1996).

b. Copies may be obtained from: South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, CA 91765, phone (909) 396-2000.

12. California Air Resources Board (CARB).

a. The following documents from the California Air Resources Board are incorporated herein by reference:

(1) Test Method 510, "Automatic Shut-Off Test Procedure for Spill-Proof Systems and Spill-Proof Spouts" (July 6, 2000).

(2) Test Method 511, "Automatic Closure Test Procedure for Spill-Proof Systems and Spill-Proof Spouts" (July 6, 2000).

(3) Test Method 512, "Determination of Fuel Flow Rate for Spill-Proof Systems and Spill-Proof Spouts" (July 6, 2000).

(4) Test Method 513, "Determination of Permeation Rate for Spill-Proof Systems" (July 6, 2000).

b. Copies may be obtained from: California Air Resources Board, P.O. Box 2815, Sacramento, CA 95812, phone (906) 322-3260 or (906) 322-2990.

9 VAC 5-40-3260. Applicability and designation of affected facility.

A. The affected facility to which the provisions of this article apply is each solvent metal cleaning operation using nonhalogenated solvents, including, but not limited to, cold or vapor degreasing at service stations; motor vehicle repair shops; automobile dealerships; machine shops; and any other metal refinishing, cleaning, repair, or fabrication facility.

B. The provisions of this article apply only to sources of volatile organic compounds in volatile organic compound emissions control areas designated in 9 VAC 5-20-206. They do not apply to sources in the Northern Virginia volatile organic compound emissions control area designated in 9 VAC 5-20-206. These sources are subject to Article 47.

Article 42.

Emission Standards for Portable Fuel Container Spillage in the Northern Virginia Volatile Organic Compound Emissions Control Area (Rule 4-42).

9 VAC 5-40-5700. Applicability.

A. Except as provided in subsections C through H of this section, the provisions of this article apply to any person who sells, supplies, offers for sale, or manufactures for sale portable fuel containers or spouts.

B. The provisions of this article apply only to sources and persons in the Northern Virginia volatile organic compounds emissions control area designated in 9 VAC 5-20-206.

C. The provisions of this article do not apply to any portable fuel container or spout manufactured for shipment, sale, and use outside of the Northern Virginia volatile organic compound emissions control area.

D. This article does not apply to a manufacturer or distributor who sells, supplies, or offers for sale a portable fuel container or spout that does not comply with the emission standards specified in 9 VAC 5-40-5720, as long as the manufacturer or distributor can demonstrate that: (i) the portable fuel container or spout is intended for shipment and use outside of the Northern Virginia volatile organic compound emissions control area; and (ii) that the manufacturer or distributor has taken reasonable prudent precautions to assure that the portable fuel container or spout is not distributed within the Northern Virginia volatile organic compound emissions control area. This subsection does not apply to portable fuel containers or spouts that are sold, supplied, or offered for sale to retail outlets.

E. This article does not apply to safety cans meeting the requirements of 29 CFR Part 1926 Subpart F.

F. This article does not apply to portable fuel containers with a nominal capacity less than or equal to one quart.

G. This article does not apply to rapid refueling devices with nominal capacities greater than or equal to four gallons, provided such devices are designed either (i) to be used in officially sanctioned off-highway motorcycle competitions, (ii) to create a leak-proof seal against a stock target fuel tank, or (iii) to operate in conjunction with a receiver permanently installed on the target fuel tank.

H. This article does not apply to portable fuel tanks manufactured specifically to deliver fuel through a hose attached between the portable fuel tank and the outboard engine for the purpose of operating the outboard engine.

9 VAC 5-40-5710. Definitions.

A. For the purpose of applying this article in the context of the Regulations for the Control and Abatement of Air Pollution and related uses, the words or terms shall have the meanings given them in subsection C of this section.

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

C. Terms defined.

"ASTM" means the American Society for Testing and Materials.

"Consumer" means any person who purchases or otherwise acquires a new portable fuel container or spout for personal, family, household, or institutional use. Persons acquiring a portable fuel container or spout for resale are not "consumers" for that product.

"Distributor" means any person to whom a portable fuel container or spout is sold or supplied for the purpose of resale or distribution in commerce. This term does not include manufacturers, retailers, and consumers.

"Fuel" means all motor fuels subject to any provision of Chapter 12 (§ 59.1-149 et seq.) of Title 59.1 of the Code of Virginia.

"Manufacturer" means any person who imports, manufactures, assembles, produces, packages, repackages, or relabels a portable fuel container or spout.

"Nominal capacity" means the volume indicated by the manufacturer that represents the maximum recommended filling level.

"Outboard engine" means a spark-ignition marine engine that, when properly mounted on a marine watercraft in the position to operate, houses the engine and drive unit external to the hull of the marine watercraft.

"Permeation" means the process by which individual fuel molecules may penetrate the walls and various assembly components of a portable fuel container directly to the outside ambient air.

"Portable fuel container" means any container or vessel with a nominal capacity of 10 gallons or less intended for reuse that is designed or used primarily for receiving, transporting, storing, and dispensing fuel.

"Product category" means the applicable category that best describes the product with respect to its nominal capacity, material construction, fuel flow rate, and permeation rate, as applicable, as determined by the board.

"Retailer" means any person who owns, leases, operates, controls, or supervises a retail outlet.

"Retail outlet" means any establishment at which portable fuel containers or spouts are sold, supplied, or offered for sale.

"Spill-proof spout" means any spout that complies with the standards specified in 9 VAC 5-40-5720 B.

"Spill-proof system" means any configuration of portable fuel container and firmly attached spout that complies with the standards in 9 VAC 5-40-5720 A.

"Spout" means any device that can be firmly attached to a portable fuel container and through which the contents of the container may be poured.

"Target fuel tank" means any receptacle that receives fuel from a portable fuel container.

9 VAC 5-40-5720. Standard for volatile organic compounds.

A. No person shall sell, supply, offer for sale, or manufacture for sale any portable fuel container that at the time of sale or manufacture does not meet all of the following standards for spill-proof systems:

1. Has an automatic shut-off that stops the fuel flow before the target fuel tank overflows.
2. Automatically closes and seals when removed from the target fuel tank and remains completely closed when not dispensing fuel.
3. Has only one opening for both filling and pouring.
4. Provides a fuel flow rate and fill level of:

a. Not less than one-half gallon per minute for portable fuel containers with a nominal capacity of:

(1) Less than or equal to 1.5 gallons and fills to a level less than or equal to one inch below the top of the target fuel tank opening; or

(2) Greater than 1.5 gallons but less than or equal to 2.5 gallons and fills to a level less than or equal to one inch below the top of the target fuel tank opening if the spill-proof system clearly displays the phrase "Low Flow Rate" in type of 34 point or greater on each spill-proof system or label affixed thereto and on the accompanying package, if any; or

b. Not less than one gallon per minute for portable fuel containers with a nominal capacity greater than 1.5 gallons but less than or equal to 2.5 gallons and fills to a level less than or equal to 1.25 inches below the top of the target fuel tank opening; or,

c. Not less than two gallons per minute for portable fuel containers with a nominal capacity greater than 2.5 gallons.

5. Does not exceed a permeation rate of 0.4 grams per gallon per day.

6. Is warranted by the manufacturer for a period of not less than one year against defects in materials and workmanship.

B. No person shall sell, supply, offer for sale, or manufacture for sale any spout that at the time of sale or manufacture does not meet all of the following standards for spill-proof spouts:

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1. Has an automatic shut-off that stops the fuel flow before the target fuel tank overflows.

2. Automatically closes and seals when removed from the target fuel tank and remains completely closed when not dispensing fuel.

3. Provides a fuel flow rate and fill level of:

a. Not less than one-half gallon per minute for portable fuel containers with a nominal capacity of:

(1) Less than or equal to 1.5 gallons and fills to a level less than or equal to one inch below the top of the target fuel tank opening; or,

(2) Greater than 1.5 gallons but less than or equal to 2.5 gallons and fills to a level less than or equal to one inch below the top of the target fuel tank opening if the spill-proof spout clearly displays the phrase "Low Flow Rate" in type of 34 point or greater on the accompanying package, or for spill-proof spouts sold without packaging, on either the spill-proof spout or a label affixed thereto; or,

b. Not less than one gallon per minute for portable fuel containers with a nominal capacity greater than 1.5 gallons but less than or equal to 2.5 gallons and fills to a level less than or equal to 1.25 inches below the top of the target fuel tank opening; or,

c. Not less than two gallons per minute for portable fuel containers with a nominal capacity greater than 2.5 gallons.

4. Is warranted by the manufacturer for a period of not less than one year against defects in materials and workmanship.

C. The test procedures for determining compliance with the standards in this section are set forth in 9 VAC 5-40-5760. The manufacturer of portable fuel containers or spouts shall perform the tests for determining compliance as set forth in 9 VAC 5-40-5760 to show that its product meets the standards of this section prior to allowing the product to be offered for sale. The manufacturer shall maintain records of these compliance tests for as long as the product is available for sale and shall make those test results available within 60 days of request.

D. Compliance with the standards in this section does not exempt spill-proof systems or spill-proof spouts from compliance with other applicable federal and state statutes and regulations such as state fire codes, safety codes, and other safety regulations, nor will the board test for or determine compliance with such other statutes or regulations.

E. Notwithstanding the provisions of subsections A and B of this section, a portable fuel container or spout manufactured before January 1, 2005, may be sold, supplied, or offered for sale after January 1, 2005, if the date of manufacture or a date code representing the date of manufacture is clearly displayed on the portable fuel container or spout.

9 VAC 5-40-5730. Administrative requirements.

A. Each manufacturer of a portable fuel container subject to and complying with 9 VAC 5-40-5720 A shall clearly display on each spill-proof system:

1. The phrase "Spill-Proof System";

2. A date of manufacture or representative date; and

3. A representative code identifying the portable fuel container as subject to and complying with 9 VAC 5-40-5720 A.

B. Each manufacturer of a spout subject to and complying with 9 VAC 5-40-5720 B shall clearly display on the accompanying package, or for spill-proof spouts sold without packaging on either the spill-proof spout or a label affixed thereto:

1. The phrase "Spill-Proof Spout";

2. A date of manufacture or representative date; and

3. A representative code identifying the spout as subject to and complying with 9 VAC 5-40-5720 B.

C. Each manufacturer subject to subsection A or B of this section shall file an explanation of both the date code and representative code with the board no later than the later of three months after the effective date of this article or within three months of production, and within three months after any change in coding.

D. Each manufacturer subject to subsection A or B of this section shall clearly display a fuel flow rate on each spill-proof system or spill-proof spout, or label affixed thereto, and on any accompanying package.

E. Each manufacturer of a spout subject to subsection B of this section shall clearly display the make, model number, and size of those portable fuel containers the spout is designed to accommodate and for which the manufacturer can demonstrate the container's compliance with 9 VAC 5-40-5720 A on the accompanying package, or for spill-proof spouts sold without packaging on either the spill-proof spout or a label affixed thereto.

F. Manufacturers of portable fuel containers not subject to or not in compliance with 9 VAC 5-40-5720 may not display the phrase "Spill-Proof System" or "Spill-Proof Spout" on the portable fuel container or spout or on any sticker or label affixed thereto or on any accompanying package.

G. Each manufacturer of a portable fuel container or spout subject to and complying with 9 VAC 5-40-5720 that due to its design or other features cannot be used to refuel on-road motor vehicles shall clearly display the phrase "Not Intended For Refueling On-Road Motor Vehicles" in type of 34 point or greater on each of the following:

1. For a portable fuel container sold as a spill-proof system, on the system or on a label affixed thereto, and on the accompanying package, if any; and

2. For a spill-proof spout sold separately from a spill-proof system, on either the spill-proof spout, or a label affixed thereto, and on the accompanying package, if any.

9 VAC 5-40-5740. Compliance.

The provisions of subsections B, D, F, and J of 9 VAC 5-40-20 (Compliance) apply. The other provisions of 9 VAC 5-40-20 do not apply.

9 VAC 5-40-5750. Compliance schedules.

A. Affected persons shall comply with the provisions of this article as expeditiously as possible but in no case later than January 1, 2005.

B. Any person who cannot comply with the provisions of this article by the date specified in subsection A of this section, due to extraordinary reasons beyond that person's reasonable control, may apply in writing to the board for a waiver. The waiver application shall set forth:

1. The specific grounds upon which the waiver is sought;
2. The proposed date by which compliance with the provisions of this article will be achieved; and
3. A compliance report detailing the methods by which compliance will be achieved.

C. No waiver may be granted unless all of the following findings are made:

1. That, due to reasons beyond the reasonable control of the applicant, required compliance with this article would result in extraordinary economic hardship;
2. That the public interest in mitigating the extraordinary hardship to the applicant by issuing the waiver outweighs the public interest in avoiding any increased emissions of air contaminants that would result from issuing the waiver; and
3. That the compliance report proposed by the applicant can reasonably be implemented and shall achieve compliance as expeditiously as possible.

D. Any approval of a waiver shall specify a final compliance date by which compliance with the requirements of this article shall be achieved. Any approval of a waiver shall contain a condition that specifies the increments of progress necessary to assure timely compliance and such other conditions that the board finds necessary to carry out the purposes of this article.

E. A waiver shall cease to be effective upon the failure of the party to whom the waiver was granted to comply with any term or condition of the waiver.

F. Upon the application of any person, the board may review, and for good cause, modify or revoke a waiver from requirements of this article.

9 VAC 5-40-5760. Test methods and procedures.

A. The provisions of subsection G of 9 VAC 5-40-30 (Emission testing) apply. The other provisions of 9 VAC 5-40-30 do not apply.

B. Testing to determine compliance with 9 VAC 5-40-5720 B of this article shall be performed by using the following test procedures:

1. California Air Resources Board (CARB) Automatic Shut-Off Test Procedure for Spill-Proof Systems and Spill-Proof Spouts.

2. CARB Automatic Closure Test Procedure for Spill-Proof Systems and Spill-Proof Spouts.

3. CARB Determination of Fuel Flow Rate for Spill-Proof Systems and Spill-Proof Spouts.

C. Testing to determine compliance with 9 VAC 5-40-5720 A of this article shall be performed by using all test procedures in subsection B of this section and the following test procedure: CARB Determination of Permeation Rate for Spill-Proof Systems. These test methods are incorporated by reference in 9 VAC 5-20-21.

9 VAC 5-40-5770. Notification, records and reporting.

The provisions of subsections D, E, F, and H of 9 VAC 5-40-50 (Notification, records and reporting) apply. The other provisions of 9 VAC 5-40-50 do not apply.

Article 47.

Emission Standards for Solvent Metal Cleaning Operations in the Northern Virginia Volatile Organic Compound Emissions Control Area (Rule 4-47).

9 VAC 5-40-6820. Applicability and designation of affected facility.

A. The affected facility to which the provisions of this article apply is each solvent metal cleaning operation, including, but not limited to, cold or vapor degreasing at service stations; motor vehicle repair shops; automobile dealerships; machine shops; and any other metal refinishing, cleaning, repair, or fabrication facility. Certain provisions of this article also apply to sellers of solvents for use in a cold cleaning machine.

B. The provisions of this article apply only to sources and persons in the Northern Virginia volatile organic compounds emissions control area designated in 9 VAC 5-20-206.

9 VAC 5-40-6830. Definitions.

A. For the purpose of applying this article in the context of the Regulations for the Control and Abatement of Air Pollution and related uses, the words or terms shall have the meanings given them in subsection C of this section.

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

C. Terms defined.

"Airless cleaning system" means a solvent cleaning machine that is automatically operated and seals at a differential pressure of 0.50 pounds per square inch gauge (psig) or less, prior to the introduction of solvent or solvent vapor into the cleaning chamber and maintains differential pressure under vacuum during all cleaning and drying cycles.

"Air-tight cleaning system" means a solvent cleaning machine that is automatically operated and seals at a differential pressure no greater than 0.50 psig, prior to the introduction of solvent or solvent vapor into the cleaning chamber and during all cleaning and drying cycles.

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"Batch vapor cleaning machine" means a vapor cleaning machine in which individual parts or a set of parts move through the entire cleaning cycle before new parts are introduced into the cleaning machine. The term includes solvent cleaning machines, such as ferris wheel cleaners or cross rod machines, that clean multiple loads simultaneously and are manually loaded. The term does not include machines that do not have a solvent/air interface, such as airless and air-tight cleaning systems.

"Carbon adsorber" means a bed of activated carbon into which an air/solvent gas-vapor stream is routed and which adsorbs the solvent on the carbon.

"Cold cleaning machine" means a device or piece of equipment, containing or using an unheated liquid that contains greater than 5.0% volatile organic compound or 5.0% hazardous air pollutant (HAP) by weight, where parts are placed to remove dirt, grease, oil or other contaminants and coatings, from the surfaces of the parts or to dry the parts. The term does not include machines that do not have a solvent/air interface, such as airless and air-tight cleaning systems.

"Dwell" means holding parts within the freeboard area of a solvent cleaning machine but above the solvent vapor zone. Dwell occurs after cleaning to allow solvent to drain from the parts or parts baskets back into the solvent cleaning machine.

"Dwell time" means the period of time between when a parts basket is placed in the vapor zone of a batch vapor or in-line vapor cleaning machine and when solvent dripping ceases. Dwell time is determined by placing a basket of parts in the vapor zone and measuring the amount of time between when the parts are placed in the vapor zone and dripping ceases.

"Freeboard ratio" means for a cold cleaning machine, the distance from the liquid solvent to the top edge of the cold cleaning machine divided by the width of the cold cleaning machine; for an operating batch vapor cleaning machine or an in-line vapor cleaning machine, the distance from the top of the solvent vapor layer to the top edge of the vapor cleaning machine divided by the width of the vapor cleaning machine.

"Freeboard refrigeration device" means a set of secondary coils mounted in the freeboard area of a solvent cleaning machine that carries a refrigerant or other chilled substance to provide a chilled air blanket above the solvent vapor. A solvent cleaning machine primary condenser that is capable of maintaining a temperature in the center of the chilled air blanket at not more than 30% of the solvent boiling point is both a primary condenser and a freeboard refrigeration device.

"Immersion cold cleaning machine" means a cold cleaning machine in which the parts are immersed in the solvent when being cleaned.

"In-line vapor cleaning machine" means a vapor cleaning machine that uses an automated parts handling system, typically a conveyor, to automatically provide a supply of parts to be cleaned. In-line vapor cleaning machines are fully enclosed except for the conveyor inlet and exit portals.

"Reduced room draft" means decreasing the flow or movement of air across the top of the freeboard area of a solvent cleaning machine to less than 50 feet per minute (15.2 meters per minute) by methods including redirecting fans or air vents, moving a machine to a corner where there is less room draft, or constructing a partial or complete enclosure.

"Remote reservoir cold cleaning machine" means a machine in which liquid solvent is pumped to a sink-like work area that immediately drains solvent back into an enclosed container while parts are being cleaned, allowing no solvent to pool in the work area.

"Solvent/air interface" means the location of contact between the concentrated solvent vapor layer and the air. This location of contact is defined as the midline height of the primary condenser coils. For a cold cleaning machine, it is the location of contact between the liquid solvent and the air.

"Solvent cleaning machine" means a device or piece of equipment that uses solvent liquid or vapor to remove contaminants, such as dirt, grease, oil, and coatings, from the surfaces of materials. Types of solvent cleaning machines include batch vapor cleaning machines, in-line vapor cleaning machines, immersion cold cleaning machines, remote reservoir cold cleaning machines, airless cleaning systems and air-tight cleaning systems.

"Solvent cleaning machine automated parts handling system" means a mechanical device that carries all parts and parts baskets at a controlled speed from the initial loading of soiled or wet parts through the removal of the cleaned or dried parts.

"Solvent cleaning machine down time" means the period when a solvent cleaning machine is not cleaning parts and the sump heating coils, if present, are turned off.

"Solvent cleaning machine idle time" means the period when a solvent cleaning machine is not actively cleaning parts and the sump heating coil, if present, is turned on.

"Solvent metal cleaning operation" means the process of cleaning foreign matter from metal surfaces by using solvents, including, but not limited to, cold cleaning machines that process metal parts and contain more than one liter of volatile organic compounds; batch vapor cleaning machines that process metal parts; in-line vapor cleaning machines; and airless cleaning machines and air-tight cleaning machines that process metal parts.

"Superheated vapor system" means a system that heats the solvent vapor to a temperature 10°F above the solvent's boiling point. Parts are held in the superheated vapor before exiting the machine to evaporate the liquid solvent on the parts.

"Vapor cleaning machine" means a solvent cleaning machine that boils liquid solvent, generating a vapor, or that heats liquid solvent that is used as part of the cleaning or drying cycle. The term does not include machines that do not have a solvent/air interface, such as airless and air-tight cleaning systems.

"Vapor cleaning machine primary condenser" means a series of circumferential cooling coils on a vapor cleaning machine

through which a chilled substance is circulated or recirculated to provide continuous condensation of rising solvent vapors, and thereby, create a concentrated vapor zone.

"Vapor up control switch" means a thermostatically controlled switch that shuts off or prevents condensate from being sprayed when there is no vapor. On in-line vapor cleaning machines the switch also prevents the conveyor from operating when there is no vapor.

"Working mode cover" means any cover or solvent cleaning machine design that allows the cover to shield the cleaning machine openings from outside air disturbances while parts are being cleaned in the cleaning machine. A cover that is used during the working mode is opened only during parts entry and removal.

9 VAC 5-40-6840. Standard for volatile organic compounds.

A. No owner or other person shall use or permit the use of a cold cleaning machine that processes metal parts and contains more than one liter of volatile organic compounds unless the machine complies with this article. The board may make an exception if the owner demonstrates and the board approves in writing that compliance with the article will result in unsafe operating conditions.

1. Immersion cold cleaning machines shall have a freeboard ratio of 0.75 or greater unless the machines are equipped with covers that are kept closed except when parts are being placed into or being removed from the machine.

2. Immersion cold cleaning machines and remote reservoir cold cleaning machines shall:

a. Have a permanent, conspicuous label summarizing the operating requirements in subdivision 3 of this subsection.

b. Be equipped with a cover that shall be closed at all times except during cleaning of parts or the addition or removal of solvent. For remote reservoir cold cleaning machines that drain directly into the solvent storage reservoir, a perforated drain with a diameter of not more than six inches shall constitute an acceptable cover.

3. Cold cleaning machines shall be operated in accordance with the following procedures:

a. Waste solvent shall be collected and stored in closed containers. The closed containers may contain a device that allows pressure relief, but does not allow liquid solvent to drain from the container.

b. Cleaned parts shall be drained at least 15 seconds or until dripping ceases, whichever is longer. Parts having cavities or blind holes shall be tipped or rotated while the part is draining. During the draining, tipping or rotating, the parts shall be positioned so that solvent drains directly back to the cold cleaning machine.

c. Flushing of parts using a flexible hose or other flushing device shall be performed only within the freeboard area of the cold cleaning machine. The solvent spray shall be a solid fluid stream, not an atomized or shower spray.

d. The owner shall ensure that when the cover is open the cold cleaning machine is not exposed to drafts greater than 40 meters per minute (132 feet per minute), as measured between 1 and 2 meters (3.3 and 6.6 feet) upwind and at the same elevation as the tank lip.

e. Sponges, fabric, wood, leather, paper products and other absorbent materials shall not be cleaned in the cold cleaning machine.

f. When a pump-agitated solvent bath is used, the agitator shall be operated to produce a rolling motion of the solvent with no observable splashing of the solvent against the tank walls or the parts being cleaned. Air agitated solvent baths may not be used.

g. Spills during solvent transfer and use of the cold cleaning machine shall be cleaned up immediately, and the wipe rags or other sorbent material shall be immediately stored in covered containers for disposal or recycling.

h. Work area fans shall be located and positioned so that they do not blow across the opening of the degreaser unit.

i. The owner shall ensure that the solvent level does not exceed the fill line.

4. No person shall use, sell, or offer for sale for use in a cold cleaning machine any solvent with a vapor pressure of 1.0 millimeters of mercury (mm Hg) or greater, measured at 20°C (68°F) containing volatile organic compounds.

5. Any person who sells or offers for sale any solvent containing volatile organic compounds for use in a cold cleaning machine shall provide to the purchaser the following written information:

a. The name and address of the solvent supplier.

b. The type of solvent including the product or vendor identification number.

c. The vapor pressure of the solvent measured in mm Hg at 20°C (68°F).

6. A person who operates a cold cleaning machine shall maintain for not less than two years and shall provide to the board, on request, the information specified in subdivision A 5 of this section. An invoice, bill of sale, certificate that corresponds to a number of sales, Material Safety Data Sheet (MSDS), or other appropriate documentation acceptable to the board may be used to comply with this section.

B. No owner or other person shall use or permit the use of a batch vapor cleaning machine that processes metal parts unless the machine complies with this article.

1. Batch vapor cleaning machines shall be equipped with:

a. Either a fully enclosed design or a working and downtime mode cover that completely covers the cleaning machine openings when in place, is free of cracks, holes and other defects, and can be readily opened or closed without disturbing the vapor zone. If the

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solvent cleaning machine opening is greater than 10 square feet, the cover shall be powered. If a lip exhaust is used, the closed cover shall be below the level of the lip exhaust.

b. Sides that result in a freeboard ratio greater than or equal to 0.75.

c. A safety switch (thermostat and condenser flow switch) that shuts off the sump heat if the coolant is not circulating.

d. A vapor up control switch that shuts off the spray pump if vapor is not present.

e. An automated parts handling system that moves the parts or parts baskets at a speed of 11 feet (3.4 meters) per minute or less when the parts are entering or exiting the vapor zone. If the parts basket or parts being cleaned occupy more than 50% of the solvent/air interface area, the speed of the parts basket or parts shall not exceed three feet per minute.

f. A device that shuts off the sump heat if the sump liquid solvent level drops to the sump heater coils.

g. A vapor level control device that shuts off the sump heat if the vapor level in the vapor cleaning machine rises above the height of the primary condenser.

h. Each vapor cleaning machine shall have a primary condenser.

i. Each vapor cleaning machine that uses a lip exhaust shall be designed and operated to route all collected solvent vapors through a properly operated and maintained carbon adsorber such that the concentration of organic solvent in the exhaust does not exceed 100 parts per million.

j. A permanent, conspicuous label summarizing the operating requirements found in subdivision B 4 of this section.

2. In addition to the requirements of subdivision B 1 of this section, the owner of a batch vapor cleaning machine with a solvent/air interface area of 13 square feet or less shall implement one of the following options:

a. A working mode cover, freeboard ratio of 1.0, and superheated vapor.

b. A freeboard refrigeration device operated to ensure that the chilled air blanket temperature is no greater than 30% of the solvent's boiling point and superheated vapor.

c. A working mode cover and a freeboard refrigeration device operated to ensure that the chilled air blanket temperature is no greater than 30% of the solvent's boiling point.

d. Reduced room draft, freeboard ratio of 1.0 and superheated vapor;

e. A freeboard refrigeration device operated to ensure that the chilled air blanket temperature is no greater than 30% of the solvent's boiling point and reduced room draft.

f. A freeboard refrigeration device operated to ensure that the chilled air blanket temperature is no greater than 30% of the solvent's boiling point and a freeboard ratio of 1.0.

g. A freeboard refrigeration device operated to ensure that the chilled air blanket temperature is no greater than 30% of the solvent's boiling point and dwell. Dwell shall be not less than 35% of the dwell time determined for the part or parts.

h. Reduced room draft, dwell and a freeboard ratio of 1.0.

i. A freeboard refrigeration device operated to ensure that the chilled air blanket temperature is no greater than 30% of the solvent's boiling point and a carbon adsorber that reduces solvent emissions in the exhaust to a level not to exceed 100 ppm at any time.

j. A freeboard ratio of 1.0, superheated vapor and a carbon adsorber that reduces solvent emissions in the exhaust to a level not to exceed 100 ppm at any time.

3. In addition to the requirements of subdivision B 1 of this section, the owner of a batch vapor cleaning machine with a solvent/air interface area of greater than 13 square feet shall use one of the following devices or strategies:

a. A freeboard refrigeration device operated to ensure that the chilled air blanket temperature is no greater than 30% of the solvent's boiling point, a freeboard ratio of 1.0 and superheated vapor.

b. Dwell, a freeboard refrigeration device operated to ensure that the chilled air blanket temperature is no greater than 30% of the solvent's boiling point, and reduced room draft. Dwell shall be not less than 35% of the dwell time determined for the part or parts.

c. A working mode cover and a freeboard refrigeration device operated to ensure that the chilled air blanket temperature is no greater than 30% of the solvent's boiling point and superheated vapor.

d. Reduced room draft, freeboard ratio of 1.0 and superheated vapor.

e. A freeboard refrigeration device operated to ensure that the chilled air blanket temperature is no greater than 30% of the solvent's boiling point, reduced room draft and superheated vapor.

f. A freeboard refrigeration device operated to ensure that the chilled air blanket temperature is no greater than 30% of the solvent's boiling point, reduced room draft and a freeboard ratio of 1.0.

g. A freeboard refrigeration device operated to ensure that the chilled air blanket temperature is no greater than 30% of the solvent's boiling point, superheated vapor, and a carbon adsorber which reduces solvent emissions in the exhaust to a level not to exceed 100 ppm at any time.

4. Batch vapor cleaning machines shall be operated in accordance with the following procedures:

a. Waste solvent, still bottoms and sump bottoms shall be collected and stored in closed containers. The closed containers may contain a device that allows pressure relief, but does not allow liquid solvent to drain from the container.

b. Cleaned parts shall be drained at least 15 seconds or until dripping ceases, whichever is longer. Parts having cavities or blind holes shall be tipped or rotated while the part is draining. A superheated vapor system shall be an acceptable alternate technology.

c. Parts baskets or parts shall not be removed from the batch vapor cleaning machine until dripping has ceased.

d. Flushing or spraying of parts using a flexible hose or other flushing device shall be performed within the vapor zone of the batch vapor cleaning machine or within a section of the machine that is not exposed to the ambient air. The solvent spray shall be a solid fluid stream, not an atomized or shower spray.

e. When the cover is open, the batch vapor cleaning machine shall not be exposed to drafts greater than 40 meters per minute (132 feet per minute), as measured between 1 and 2 meters (3.3 and 6.6 feet) upwind and at the same elevation as the tank lip.

f. Sponges, fabric, wood, leather, paper products and other absorbent materials shall not be cleaned in the batch vapor cleaning machine.

g. Spills during solvent transfer and use of the batch vapor cleaning machine shall be cleaned up immediately or the machine shall be shut down. Wipe rags or other sorbent material shall be immediately stored in covered containers for disposal or recycling.

h. Work area fans shall be located and positioned so that they do not blow across the opening of the batch vapor cleaning machine.

i. During startup of the batch vapor cleaning machine, the primary condenser shall be turned on before the sump heater.

j. During shutdown of the batch vapor cleaning machine, the sump heater shall be turned off and the solvent vapor layer allowed to collapse before the primary condenser is turned off.

k. When solvent is added to or drained from the batch vapor cleaning machine, the solvent shall be transferred using threaded or other leakproof couplings and the end of the pipe in the solvent sump shall be located beneath the liquid solvent surface.

l. The working and downtime covers shall be closed at all times except during parts entry and exit from the machine, during maintenance of the machine when the solvent has been removed, and during addition of solvent to the machine.

m. If a lip exhaust is used on the open top vapor degreaser, the ventilation rate shall not exceed 20

$m^3/min/m^2$ ($65 ft^3/min/ft^2$) of degreaser open area, unless a higher rate is necessary to meet OSHA requirements.

C. No owner or other person shall use or permit the use of an in-line vapor cleaning machine unless the machine complies with this article.

1. In-line vapor cleaning machines shall be equipped with:

a. Either a fully enclosed design or a working and downtime mode cover that completely covers the cleaning machine openings when in place, is free of cracks, holes and other defects, and can be readily opened or closed without disturbing the vapor zone.

b. A switch (thermostat and condenser flow switch) that shuts off the sump heat if the coolant is not circulating.

c. Sides that result in a freeboard ratio greater than or equal to 0.75.

d. A vapor up control switch.

e. An automated parts handling system that moves the parts or parts baskets at a speed of 11 feet (3.4 meters) per minute or less when the parts are entering or exiting the vapor zone. If the parts basket or parts being cleaned occupy more than 50% of the solvent/air interface area, the speed of the parts basket or parts shall not exceed three feet per minute.

f. A device that shuts off the sump heat if the sump liquid solvent level drops to the sump heater coils.

g. A vapor level control device that shuts off the sump heat if the vapor level in the vapor cleaning machine rises above the height of the primary condenser.

h. A permanent, conspicuous label summarizing these operating requirements.

i. A primary condenser.

j. Each machine that uses a lip exhaust shall be designed and operated to route all collected solvent vapors through a properly operated and maintained carbon adsorber such that the concentration of organic solvent in the exhaust does not exceed 100 parts per million.

2. In addition to the requirements of subdivision C 1 of this section, the owner of an in-line vapor cleaning machine shall use one of the following devices or strategies:

a. A freeboard ratio of 1.0 and superheated vapor.

b. A freeboard refrigeration device operated to ensure that the chilled air blanket temperature is no greater than 30% of the solvent's boiling point and a freeboard ratio of 1.0.

c. Dwell and a freeboard refrigeration device operated to ensure that the chilled air blanket temperature is no greater than 30% of the solvent's boiling point. Dwell shall be not less than 35% of the dwell time determined for the part or parts.

d. Dwell and a carbon adsorber that reduces solvent emissions in the exhaust to a level not to exceed 100

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ppm at any time. Dwell shall be not less than 35% of the dwell time determined for the part or parts.

3. In-line vapor cleaning machines shall be operated in accordance with the following procedures:

a. Waste solvent, still bottoms, and sump bottoms shall be collected and stored in closed containers. The closed containers may contain a device that allows pressure relief, but does not allow liquid solvent to drain from the container.

b. Parts shall be oriented so that the solvent drains freely from the parts. Cleaned parts shall be drained at least 15 seconds or until dripping ceases, whichever is longer. Parts having cavities or blind holes shall be tipped or rotated while the part is draining.

c. Parts baskets or parts shall not be removed from the in-line vapor cleaning machine until dripping has ceased.

d. Flushing or spraying of parts using a flexible hose or other flushing device shall be performed within the vapor zone of the in-line vapor cleaning machine or within a section of the machine that is not exposed to the ambient air. The solvent spray shall be a solid fluid stream, not an atomized or shower spray.

e. Sponges, fabric, wood, leather, paper products and other absorbent materials shall not be cleaned in the in-line vapor cleaning machine.

f. Spills during solvent transfer and use of the in-line vapor cleaning machine shall be cleaned up immediately, and the wipe rags or other sorbent material shall be immediately stored in covered containers for disposal or recycling.

g. Use no workplace fans near the degreaser opening, and ensure that exhaust ventilation does not exceed 20 m³/min/m² of degreaser opening, unless a higher rate is necessary to meet OSHA requirements.

h. During startup of the in-line vapor cleaning machine the primary condenser shall be turned on before the sump heater.

i. During shutdown of the in-line vapor cleaning machine, the sump heater shall be turned off and the solvent vapor layer allowed to collapse before the primary condenser is turned off.

j. Spraying operations shall be done in the vapor zone or within a section of the machine that is not exposed to the ambient air.

k. When solvent is added to or drained from the in-line vapor cleaning machine, the solvent shall be transferred using threaded or other leakproof couplings and the end of the pipe in the solvent sump shall be located beneath the liquid solvent surface.

l. Minimize openings during operation so that entrances and exits silhouette workloads with an average clearance between the parts and the edge of the degreaser opening of less than 10 cm (4 in) or less than 10% of the width of the opening.

D. No owner or other person shall use or permit the use of an airless cleaning machine or air-tight cleaning machine that processes metal parts unless the machine complies with this article.

1. The owner of each machine shall maintain a log of solvent additions and deletions for each machine including the weight of solvent contained in activated carbon or other sorbent material used to control emissions from the cleaning machine.

2. The owner of each machine shall demonstrate that the emissions from each machine, on a three-month rolling average, are equal to or less than the allowable limit determined by the use of Table 4-47A or the following equation if the volume of the cleaning machine exceeds 2.95 cubic meters:

$$EL = 330 (\text{vol})^{0.6}$$

where:

EL = the three-month rolling average monthly emission limit (kilograms/month)

vol = the cleaning capacity of machine (cubic meters)

Table 4-47A
Emission Limits for Cleaning Machines Without a Solvent/Air Interface

Cleaning capacity (cubic meters)	3-Month rolling average monthly emission limit (kilograms/month)	Cleaning capacity (cubic meters)	3-Month rolling average monthly emission limit (kilograms/month)	Cleaning capacity (cubic meters)	3-Month rolling average monthly emission limit (kilograms/month)
0.00	0	1.00	330	2.00	500
0.05	55	1.05	340	2.05	508
0.10	83	1.10	349	2.10	515
0.15	106	1.15	359	2.15	522
0.20	126	1.20	368	2.20	530
0.25	144	1.25	377	2.25	537
0.30	160	1.30	386	2.30	544
0.35	176	1.35	395	2.35	551
0.40	190	1.40	404	2.40	558
0.45	204	1.45	412	2.45	565

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0.50	218	1.50	421	2.50	572
0.55	231	1.55	429	2.55	579
0.60	243	1.60	438	2.60	585
0.65	255	1.65	446	2.65	592
0.70	266	1.70	454	2.70	599
0.75	278	1.75	462	2.75	605
0.80	289	1.80	470	2.80	612
0.85	299	1.85	477	2.85	619
0.90	310	1.90	485	2.90	625
0.95	320	1.95	493	2.95	632

3. The owner of each machine shall operate the machine in conformance with the manufacturer's instructions and good air pollution control practices.

4. The owner of each machine equipped with a solvent adsorber shall measure and record the concentration of solvent in the exhaust of the carbon adsorber weekly with a colorimetric detector tube designed to measure a concentration of 100 ppm by volume of solvent to air at an accuracy of " 25 ppm by volume. This test shall be conducted while the solvent cleaning machine is in the working mode and is venting to the adsorber.

5. The owner of each machine equipped with a solvent adsorber shall maintain and operate the machine and adsorber system so that emissions from the adsorber exhaust do not exceed 100 ppm by volume measured while the solvent cleaning machine is in the working mode and is venting to the adsorber.

6. The machine shall be equipped with a permanent, conspicuous label summarizing the operating requirements in subdivision 7 of this subsection.

7. Airless cleaning machines and air-tight cleaning machines shall be operated in accordance with the following procedures:

a. Waste solvent, still bottoms, and sump bottoms shall be collected and stored in closed containers. The closed containers may contain a device that allows pressure relief, but does not allow liquid solvent to drain from the container.

b. Parts shall be oriented so that the solvent drains freely from the parts. Cleaned parts shall be drained at least 15 seconds or until dripping ceases, whichever is longer. Parts having cavities or blind holes shall be tipped or rotated while the part is draining.

c. Parts baskets or parts shall not be removed from the in-line vapor cleaning machine until dripping has ceased.

d. Sponges, fabric, wood, leather, paper products and other absorbent materials shall not be cleaned in the airless cleaning machines and air-tight cleaning machines.

e. Spills during solvent transfer and use of the airless cleaning machines and air-tight cleaning machines shall

be cleaned up immediately, and the wipe rags or other sorbent material shall be immediately stored in covered containers for disposal or recycling.

f. Work area fans shall be located and positioned so that they do not blow across the airless cleaning machine and air-tight cleaning machine.

g. Spraying operations shall be done in the vapor zone or within a section of the machine that is not exposed to the ambient air.

h. When solvent is added to or drained from the airless cleaning machine and air-tight cleaning machine, the solvent shall be transferred using threaded or other leakproof couplings and the end of the pipe in the solvent sump shall be located beneath the liquid solvent surface.

E. As an alternative to complying with the provisions of subsections B through D of this section the owner of a solvent cleaning machine may demonstrate compliance with subdivision 1 or 2 of this subsection. The owner shall maintain records sufficient to demonstrate compliance. The records shall include, at a minimum, the quantity of solvent added to and removed from the solvent cleaning machine, the dates of the addition and removal and shall be maintained for not less than two years.

1. If the cleaning machine has a solvent/air interface, the owner shall:

a. Maintain a log of solvent additions and removals for each solvent cleaning machine.

b. Ensure that emissions from each solvent cleaning machine are equal to or less than the applicable emission limit presented in Table 4-47B.

Table 4-47B

Emission Limits for Batch Vapor and In-Line Solvent Cleaning Machines With a Solvent/Air Interface

Solvent cleaning machine	3-month rolling average monthly emission limit	
	kg/m ² /month	lb/ft ² /month
Batch vapor solvent cleaning machines	150	30.7

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Existing in-line solvent cleaning machines 153 31.3

New in-line solvent cleaning machines 99 20.2

2. If the cleaning machine is a batch vapor cleaning machine and does not have a solvent/air interface, the owner shall:

a. Maintain a log of solvent additions and deletions for each solvent cleaning machine.

b. Ensure that the emissions from each solvent cleaning machine are equal to or less than the appropriate limits as described in subdivisions 3 and 4 of this subsection. Each owner of a batch vapor or in-line cleaning machine complying with this section shall demonstrate compliance with the applicable three-month rolling average monthly emission limit on a monthly basis.

3. For cleaning machines with a cleaning capacity that is less than or equal to 2.95 cubic meters, the emission limit shall be determined using Table 4-47A or the equation in subdivision 4 of this subsection. If the table is used and the cleaning capacity of the cleaning machine falls between two cleaning capacity sizes, then the lower of the two emission limits applies.

4. For cleaning machines with a cleaning capacity that is greater than 2.95 cubic meters, the emission limit shall be determined using the following equation:

$$EL = 330 (\text{vol})^{0.6}$$

where:

EL = the three-month rolling average monthly emission limit (kilograms/month)

vol = the cleaning capacity of machine (cubic meters)

5. Each owner of a batch vapor or in-line solvent cleaning machine complying with this subsection shall demonstrate compliance with the applicable three-month rolling average monthly emission limit on a monthly basis. If the applicable three-month rolling average emission limit is not met, an exceedance has occurred. All exceedances shall be reported to the board within 30 days of the determination of the exceedance.

F. The owner of a batch vapor or in-line solvent cleaning machine complying with subsection E shall maintain records and determine compliance with the applicable provisions in accordance with the following.

1. On the first operating day of every month ensure that the solvent cleaning machine system contains only clean liquid solvent. This includes, but is not limited to, fresh unused solvent, recycled solvent and used solvent that has been cleaned of soils. A fill line shall be indicated during the first month the measurements are made. The solvent level within the machine shall be returned to the same fill-line each month, immediately prior to calculating monthly emissions as specified in subdivision 2 of this subsection.

The solvent cleaning machine does not have to be emptied and filled with fresh unused solvent prior to the calculations.

2. Using the records of all solvent additions and deletions for the previous monthly reporting period, determine solvent emissions (E) using one of the following equations:

For cleaning machines with a solvent/air interface:

$$E = \frac{SA - LSR - SSR}{AREA}$$

where:

E = the total halogenated hazardous air pollutant (HAP) solvent emissions from the solvent cleaning machine during the most recent monthly reporting period (kilograms of solvent per square meter of solvent/air interface area per month)

SA = the total amount of halogenated HAP liquid solvent added to the solvent cleaning machine during the most recent monthly reporting period (kilograms of solvent per month)

LSR = the total amount of halogenated HAP liquid solvent removed from the solvent cleaning machine during the most recent monthly reporting period (kilograms of solvent per month)

SSR = the total amount of halogenated HAP solvent removed from the solvent cleaning machine in solid waste during the most recent monthly reporting period (kilograms of solvent per month) determined from tests conducted using EPA Reference Method 25d or by engineering calculations included in the compliance report

Area = the solvent/air interface area of the solvent cleaning machine (square meters)

For cleaning machines without a solvent/air interface:

$$E = SA - LSR - SSR$$

where:

E = the total halogenated HAP solvent emissions from the solvent cleaning machine during the most recent monthly reporting period i, (kilograms of solvent per month)

SA = the total amount of halogenated HAP liquid solvent added to the solvent cleaning machine during the most recent monthly reporting period (kilograms of solvent per month)

LSR = the total amount of halogenated HAP liquid solvent removed from the solvent cleaning machine during the most recent monthly reporting period (kilograms of solvent per month)

SSR = the total amount of halogenated HAP solvent removed from the solvent cleaning machine in solid waste during the most recent monthly reporting period (kilograms of solvent per month) determined from tests conducted using EPA reference method 25d or by engineering calculations included in the compliance report

3. Determine the monthly rolling average, EA, for the three-month period ending with the most recent reporting period using one of the following equations:

For cleaning machines with a solvent/air interface:

$$EA = \frac{\sum_{j=1}^3 E}{3}$$

where:

EA = the average halogenated HAP solvent emissions over the preceding three-monthly reporting periods (kilograms of solvent per square meter of solvent/air interface area per month)

E = halogenated HAP solvent emissions for each month (j) for the most recent three-monthly reporting periods (kilograms of solvent per square meter of solvent/air interface area)

j=1 = the most recent monthly reporting period

j=2 = the monthly reporting period immediately prior to j=1

j=3 = the monthly reporting period immediately prior to j=2

For cleaning machines without a solvent/air interface:

$$EA = \frac{\sum_{j=1}^3 E}{3}$$

where:

EA = the average halogenated HAP solvent emissions over the preceding three monthly reporting periods (kilograms of solvent per month)

E = halogenated HAP solvent emissions for each month (j) for the most recent three monthly reporting periods (kilograms of solvent per month)

j=1 = the most recent monthly reporting period

j=2 = the monthly reporting period immediately prior to j=1

j=3 = the monthly reporting period immediately prior to j=2

G. The owner of a solvent cleaning machine subject to the provisions of subsections B through D of this section shall conduct monitoring and recordkeeping as follows.

1. If a freeboard refrigeration device is used to comply with these standards, the owner shall use a thermometer or thermocouple to measure the temperature at the center of the air blanket during the idling mode. Measurements and recordings shall be made weekly.

2. If a superheated vapor system is used to comply with these standards, the owner shall use a thermometer or thermocouple to measure the temperature at the center of the superheated solvent vapor zone while the solvent cleaning machine is in the idling mode. Measurements and recordings shall be made weekly.

3. If a cover (working-mode, downtime-mode, or idling-mode cover) is used to comply with these standards, the owner shall conduct a visual inspection to determine if the

cover is opening and closing properly, completely covers the cleaning machine openings when closed, and is free of cracks, holes, and other defects. Observations and recordings shall be made weekly.

4. If dwell is used, the owner shall determine the actual dwell time by measuring the period of time that parts are held within the freeboard area of the solvent cleaning machine after cleaning. Observations and recordings shall be made monthly.

5. The owner shall determine the hoist speed by measuring the time it takes for the hoist to travel a measured distance. The speed is equal to the distance in meters divided by the time in minutes (meters per minute). Measurements and recordings shall be made monthly.

6. The owner of a batch vapor or in-line solvent cleaning machine complying using reduced room draft, maintained by controlling room parameters (i.e., redirecting fans, closing doors and windows, etc.), shall conduct monitoring and record the results as follows.

a. Initially measure the windspeed within six inches above the top of the freeboard area of the solvent cleaning machine in accordance with the following:

(1) Determine the direction of the wind current by slowly rotating a velometer or similar device until the maximum speed is located.

(2) Orient a velometer in the direction of the wind current at each of the four corners of the machine.

(3) Record the reading for each corner.

(4) Average the values obtained at each corner and record the average wind speed.

b. Record the room parameters established during the initial compliance test to achieve the reduced room draft.

c. Quarterly monitoring of the windspeed in accordance with subdivision 6 a of this subsection.

d. Weekly monitoring of the room parameters as specified in subdivision 6 b of this subsection.

7. If an enclosure (full or partial) is used to achieve reduced room draft, the owner shall conduct an initial monitoring test and, thereafter, monthly monitoring tests of the windspeed within the enclosure by slowly rotating a velometer inside the entrance to the enclosure until the maximum speed is located and record the maximum wind speed. The owner shall also conduct a monthly visual inspection of the enclosure to determine if it is free of cracks, holes and other defects.

8. The owner of a machine using a carbon adsorber to comply with this section shall measure and record the concentration of halogenated HAP solvent in the exhaust of the carbon adsorber weekly with a colorimetric detector tube. This test shall be conducted while the solvent cleaning machine is in the working mode and is venting to the carbon adsorber. The exhaust concentration shall be determined using a colorimetric detector tube designed to measure a

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concentration of 100 parts per million by volume of solvent in air to an accuracy of plus or minus 25 parts per million by volume. The concentration shall be determined through a sampling port for monitoring within the exhaust outlet that is easily accessible and located at least eight stack or duct diameters downstream and two stack or duct diameters upstream from any flow disturbance such as a bend, expansion, contraction, or outlet, and downstream from no other inlet.

9 VAC 5-40-6850. Standard for visible emissions.

The provisions of Article 1 (9 VAC 5-40-60 et seq.) of 9 VAC 5 Chapter 40 (Emission Standards for Visible Emissions and Fugitive Dust/Emissions, Rule 4-1) do not apply.

9 VAC 5-40-6860. Standard for fugitive dust/emissions.

The provisions of Article 1 (9 VAC 5-40-60 et seq.) of 9 VAC 5 Chapter 40 (Emission Standards for Visible Emissions and Fugitive Dust/Emissions, Rule 4-1) apply.

9 VAC 5-40-6870. Standard for odor.

The provisions of Article 2 (9 VAC 5-40-130 et seq.) of 9 VAC 5 Chapter 40 (Emission Standards for Odor, Rule 4-2) apply.

9 VAC 5-40-6880. Standard for toxic pollutants.

The provisions of Article 4 (9 VAC 5-60-200 et seq.) of 9 VAC 5 Chapter 60 (Emission Standards for Toxic Pollutants from Existing Sources, Rule 6-4) apply.

9 VAC 5-40-6890. Compliance.

The provisions of subsections B, D, F, and J of 9 VAC 5-40-20 (Compliance) apply. The other provisions of 9 VAC 5-40-20 do not apply.

9 VAC 5-40-6900. Compliance schedules.

Affected persons shall comply with the provisions of this article as expeditiously as possible but in no case later than January 1, 2005.

9 VAC 5-40-6910. Test methods and procedures.

The provisions of 9 VAC 5-40-30 (Emission testing) apply.

9 VAC 5-40-6920. Monitoring.

The provisions of 9 VAC 5-40-40 (Monitoring) apply.

9 VAC 5-40-6930. Notification, records and reporting.

The provisions of 9 VAC 5-40-50 (Notification, records and reporting) apply.

9 VAC 5-40-6940. Registration.

The provisions of 9 VAC 5-20-160 (Registration) apply.

9 VAC 5-40-6950. Facility and control equipment maintenance or malfunction.

The provisions of 9 VAC 5-20-180 (Facility and control equipment maintenance or malfunction) apply.

9 VAC 5-40-6960. Permits.

A permit may be required prior to beginning any of the activities specified below if the provisions of 9 VAC 5 Chapter 50 (9 VAC 5-50) and 9 VAC 5 Chapter 80 (9 VAC 5-80) apply. Owners contemplating such action should review those provisions and contact the appropriate regional office for guidance on whether those provisions apply.

1. Construction of a facility.
2. Reconstruction (replacement of more than half) of a facility.
3. Modification (any physical change to equipment) of a facility.
4. Relocation of a facility.
5. Reactivation (restart-up) of a facility.
6. Operation of a facility.

Article 48.

Emission Standards for Mobile Equipment Repair and Refinishing Operations in the Northern Virginia Volatile Organic Compound Emission Control Area (Rule 4-48).

9 VAC 5-40-6970. Applicability and designation of affected facility.

A. Except as provided in subsection C of this section, the affected facility to which the provisions of this article apply is each mobile equipment repair and refinishing operation. Certain provisions also apply to each person providing or selling affected coatings.

B. The provisions of this article apply only to sources and persons in the Northern Virginia volatile organic compounds emissions control area designated in 9 VAC 5-20-206.

C. The provisions of this article do not apply under any of the following circumstances:

1. The mobile equipment repair and refinishing operation is subject to Article 28 (9 VAC 5-40-3860 et seq.) of 9 VAC 5 Chapter 40 (Emission Standards for Automobile and Light Duty Truck Coating Application Systems).
2. The mobile equipment repair and refinishing operation is subject to Article 34 (9 VAC 5-40-4760 et seq.) of 9 VAC 5 Chapter 40 (Emission Standards for Miscellaneous Metal Parts and Products Coating Application Systems).
3. The person applying the coatings does not receive compensation for the application of the coatings.

9 VAC 5-40-6980. Definitions.

A. For the purpose of applying this article in the context of the Regulations for the Control and Abatement of Air Pollution and related uses, the words or terms shall have the meanings given them in subsection C of this section.

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

C. Terms defined.

“Airless spray” means a spray coating method in which the coating is atomized by forcing it through a small nozzle opening at high pressure. The coating is not mixed with air before exiting from the nozzle opening.

“Antique motor vehicle” means a motor vehicle, but not a reproduction thereof, manufactured more than 25 years prior to the current year that has been maintained in or restored to a condition that is substantially in conformance with manufacturer specifications.

“Automotive elastomeric coating” means a coating designed for application over surfaces of flexible mobile equipment and mobile equipment components, such as elastomeric bumpers.

“Automotive impact-resistant coating” means a coating designed to resist chipping caused by road debris.

“Automotive jambing clearcoat” means a fast-drying, ready-to-spray clearcoat applied to surfaces such as door jambs and trunk and hood edges to allow for quick closure.

“Automotive lacquer” means a thermoplastic coating applied directly to bare metal surfaces of mobile equipment and mobile equipment components that dries primarily by solvent evaporation and that is resoluble in its original solvent.

“Automotive low-gloss coating” means a coating that exhibits a gloss reading less than or equal to 25 on a 60° glossmeter.

“Automotive multicolored topcoat” means a topcoat that exhibits more than one color, is packaged in a single container, and camouflages surface defects on areas of heavy use, such as cargo beds and other surfaces of trucks and other utility vehicles.

“Automotive pretreatment” means a primer that contains a minimum of 0.5% acid, by weight, that is applied directly to bare metal surfaces of mobile equipment and mobile equipment components to provide corrosion resistance and to promote adhesion of subsequent coatings.

“Automotive primer-sealer” means a coating applied to mobile equipment and mobile equipment components prior to the application of a topcoat for the purpose of providing corrosion resistance, promoting adhesion of subsequent coatings, promoting color uniformity, and promoting the ability of the undercoat to resist penetration by the topcoat.

“Automotive primer-surfacer” means a coating applied to mobile equipment and mobile equipment components prior to the application of topcoat for the purpose of filling surface imperfections in the substrate, providing corrosion resistance, or promoting adhesion of subsequent coatings.

“Automotive specialty coating” means coatings including, but not limited to, elastomeric coatings, adhesion promoters, low gloss coatings, bright metal trim repair coatings, jambing clearcoats, impact resistant coatings, rubberized asphaltic underbody coatings, uniform finish blenders, weld-through primers applied to automotive surfaces and lacquer topcoats applied to a classic motor vehicle or to an antique motor vehicle.

“Automotive topcoat” means a coating or series of coatings applied over an automotive primer-surfacer, automotive

primer-sealer or existing finish on the surface of mobile equipment and mobile equipment components for the purpose of protection or beautification.

“Automotive touch up repair” means the application of automotive topcoat finish materials to cover minor finishing imperfections equal to or less than one inch in diameter.

“Classic motor vehicle” means a motor vehicle, but not a reproduction thereof, manufactured at least 15 years prior to the current year that has been maintained in or restored to a condition that is substantially in conformity with manufacturer specifications and appearance.

“Mobile equipment” means equipment that may be driven or is capable of being driven on a roadway including, but not limited to, automobiles; trucks, truck cabs, truck bodies and truck trailers; buses; motorcycles; utility bodies; camper shells; mobile cranes; bulldozers; street cleaners; golf carts; ground support vehicles, used in support of aircraft activities at airports; and farm equipment.

“Mobile equipment repair and refinishing operation” means any facility that applies automotive pretreatment, automotive primer-surface, automotive primer-sealer, automotive topcoat, or automotive specialty or color matched coatings to mobile equipment or mobile equipment components.

9 VAC 5-40-6990. Standard for volatile organic compounds.

A. No owner or other person shall cause or permit the discharge into the atmosphere from any mobile equipment repair and refinishing operation coating any volatile organic compounds (VOC) in excess of the limits specified in Table 4-48A.

Table 4-48A.
Allowable Content of VOCs in Mobile Equipment Repair and Refinishing Coatings
(as applied)

Weight of VOC per Volume of Coating (minus water and non-VOC solvents)

Coating Type	Limit	
	Pounds per gallon	Grams per Liter
Automotive pretreatment primer	6.5	780
Automotive primer-surfacer	4.8	575
Automotive primer-sealer	4.6	550
Automotive topcoat:		
single stage-topcoat	5.0	600
2 stage basecoat/ clearcoat	5.0	600
3 or 4-stage basecoat/ clearcoat	5.2	625
Automotive Multi-colored Topcoat	5.7	680
Automotive specialty	7.0	840

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B. Achievement of the emission standard in subsection A of this section by use of the methods in 9 VAC 5-40-6990 will be acceptable to the board.

1. The mass of VOC per combined volume of VOC and coating solids, less water and exempt compounds shall be calculated by the following equation:

$$\text{VOC} = \frac{(W_V - W_W - W_{ec})}{(V - V_W - V_{ec})}$$

where:

VOC = VOC content in grams per liter (g/l) of coating less water and non-VOC solvents,

W_V = Mass of total volatiles, in grams;

W_W = Mass of water, in grams;

W_{ec} = Mass of exempt compounds, in grams;

V = Volume of coating, in liters;

V_W = Volume of water, in liters; and

V_{ec} = Volume of exempt compounds, in liters.

To convert from grams per liter to pounds per gallon (lb/gal), multiply the result (VOC content) by 8.345×10^{-3} (lb/gal/g/l).

2. The VOC content of a multi-stage topcoat shall be calculated by the following equation:

$$\text{VOC}_{\text{multi}} = \frac{\text{VOC}_{bc} + \sum_{i=0}^M \text{VOC}_{mci} + 2(\text{VOC}_{cc})}{M + 3}$$

where:

$\text{VOC}_{\text{multi}}$ = VOC content of multistage topcoat, g/l

VOC_{bc} = VOC content of basecoat, g/l

VOC_{mci} = VOC content of the midcoat(s), g/l

VOC_{cc} = VOC content of the clear coat, g/l

M = number of midcoats

C. A person subject to the provisions of this section shall use one or more of the following application techniques to apply any finish material listed in Table 4-48A:

1. Flow/curtain coating;
2. Dip coating;
3. Roller coating;
4. Brush coating;
5. Cotton-tipped swab application;
6. Electrodeposition coating;
7. High volume low pressure (HVLP) spraying;
8. Electrostatic spray;
9. Airless spray; or

10. Other coating application methods that the person has demonstrated and the board has determined achieve emission reductions equivalent to HVLP or electrostatic spray application methods.

D. The following activities are exempt from the application equipment requirements listed in subsections E and F of this section:

1. The use of airbrush application methods for stenciling, lettering, and other identification markings;
2. The application of coatings sold in nonrefillable aerosol containers; and
3. The application of automotive touch-up repair finish materials.

E. Spray guns used to apply mobile equipment repair and refinishing coatings shall be cleaned by one of the following:

1. An enclosed spray gun cleaning system that is kept closed when not in use;
2. Unatomized discharge of solvent into a paint waste container that is kept closed when not in use;
3. Disassembly of the spray gun and cleaning in a vat that is kept closed when not in use; or
4. Atomized spray into a paint waste container that is fitted with a device designed to capture atomized solvent emissions.

F. The owner of a facility subject to the provisions of this article shall implement the following housekeeping and pollution prevention and training measures:

1. Fresh and used coatings, solvent, and cleaning solvents, shall be stored in nonabsorbent, nonleaking containers. The containers shall be kept closed at all times except when filling or emptying;
2. Cloth and paper, or other absorbent applicators, moistened with coatings, solvents, or cleaning solvents, shall be stored in closed, nonabsorbent, nonleaking containers;
3. Handling and transfer procedures shall minimize spills during the transfer of coatings, solvents, and cleaning solvents; and
4. Ensure that a person who applies mobile equipment repair and refinishing coatings has completed training in the proper use and handling of the mobile equipment repair and refinishing coatings, solvents and waste products in order to minimize the emission of air contaminants and to comply with this section.

9 VAC 5-40-7000. Standard for visible emissions.

The provisions of Article 1 (9 VAC 5-40-60 et seq.) of 9 VAC 5 Chapter 40 (Emission Standards for Visible Emissions and Fugitive Dust/Emissions, Rule 4-1) do not apply.

9 VAC 5-40-7010. Standard for fugitive dust/emissions.

The provisions of Article 1 (9 VAC 5-40-60 et seq.) of 9 VAC 5 Chapter 40 (Emission Standards for Visible Emissions and Fugitive Dust/Emissions, Rule 4-1) apply.

9 VAC 5-40-7020. Standard for odor.

The provisions of Article 2 (9 VAC 5-40-130 et seq.) of 9 VAC 5 Chapter 40 (Emission Standards for Odor, Rule 4-2) apply.

9 VAC 5-40-7030. Standard for toxic pollutants.

The provisions of Article 4 (9 VAC 5-60-200 et seq.) of 9 VAC 5 Chapter 60 (Emission Standards for Toxic Pollutants from Existing Sources, Rule 6-4) apply.

9 VAC 5-40-7040. Compliance.

The provisions of subsections B, D, F, and J of 9 VAC 5-40-20 (Compliance) apply. The other provisions of 9 VAC 5-40-20 do not apply.

9 VAC 5-40-7050. Compliance schedule.

Affected persons shall comply with the provisions of this article as expeditiously as possible but in no case later than January 1, 2005.

9 VAC 5-40-7060. Test methods and procedures.

The provisions of 9 VAC 5-40-30 (Emission testing) apply.

9 VAC 5-40-7070. Monitoring.

The provisions of 9 VAC 5-40-40 (Monitoring) apply.

9 VAC 5-40-7080. Notification, records and reporting.

The provisions of 9 VAC 5-40-50 (Notification, records and reporting) apply.

9 VAC 5-40-7090. Registration.

The provisions of 9 VAC 5-20-160 (Registration) apply.

9 VAC 5-40-7100. Facility and control equipment maintenance or malfunction.

The provisions of 9 VAC 5-20-180 (Facility and control equipment maintenance or malfunction) apply.

9 VAC 5-40-7110. Permits.

A permit may be required prior to beginning any of the activities specified below if the provisions of 9 VAC 5 Chapter 50 (9 VAC 5-50) and 9 VAC 5 Chapter 80 (9 VAC 5-80) apply. Owners contemplating such action should review those provisions and contact the appropriate regional office for guidance on whether those provisions apply.

1. Construction of a facility.
2. Reconstruction (replacement of more than half) of a facility.
3. Modification (any physical change to equipment) of a facility.
4. Relocation of a facility.
5. Reactivation (restart-up) of a facility.

6. Operation of a facility.

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Emission Standards for Architectural and Industrial Maintenance Coatings in the Northern Virginia Volatile Organic Compound Emissions Control Area (Rule 4-49).

9 VAC 5-40-7120. Applicability.

A. Except as provided in subsection C of this section, the provisions of this article apply to any person who supplies, sells, offers for sale, or manufactures any architectural coating for use, as well as any person who applies or solicits the application of any architectural coating.

B. The provisions of this article apply only to sources and persons in the Northern Virginia volatile organic compound emissions control area designated in 9 VAC 5-20-206.

C. The provisions of this article do not apply to:

1. Any architectural coating that is sold or manufactured for use exclusively outside of the Northern Virginia Volatile Organic Compounds Emission Control Area or for shipment to other manufacturers for reformulation or repackaging.
2. Any aerosol coating product.
3. Any architectural coating that is sold in a container with a volume of one liter (1.057 quart) or less.

9 VAC 5-40-7130. Definitions.

A. For the purpose of applying this article in the context of the Regulations for the Control and Abatement of Air Pollution and related uses, the words or terms shall have the meanings given them in subsection C of this section.

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

C. Terms defined.

“Adhesive” means any chemical substance that is applied for the purpose of bonding two surfaces together other than by mechanical means.

“Aerosol coating product” means a pressurized coating product containing pigments or resins that dispenses product ingredients by means of a propellant, and is packaged in a disposable can for hand-held application, or for use in specialized equipment for ground traffic/marketing applications.

“Antenna coating” means a coating labeled and formulated exclusively for application to equipment and associated structural appurtenances that are used to receive or transmit electromagnetic signals.

“Antifouling coating” means a coating labeled and formulated for application to submerged stationary structures and their appurtenances to prevent or reduce the attachment of marine or freshwater biological organisms. To qualify as an antifouling coating, the coating shall be registered with both the U.S. EPA under the Federal Insecticide, Fungicide and Rodenticide Act (7 USC § 136 et seq.) and with the Pesticide Control Board under the provisions of the Virginia Pesticide Control Act

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(Chapter 14.1 (§ 3.1-249.27 et seq.) of Title 3.1 of the Code of Virginia).

“Appurtenance” means any accessory to a stationary structure coated at the site of installation, whether installed or detached, including but not limited to bathroom and kitchen fixtures; cabinets; concrete forms; doors; elevators; fences; hand railings; heating equipment, air conditioning equipment, and other fixed mechanical equipment or stationary tools; lampposts; partitions pipes and piping systems; rain gutters and downspouts; stairways; fixed ladders; catwalks and fire escapes; and window screens.

“Architectural coating” means a coating to be applied to stationary structures or the appurtenances at the site of installation, to portable buildings at the site of installation, to pavements, or to curbs. Coatings applied in shop applications or to nonstationary structures such as airplanes, ships, boats, railcars, and automobiles, and adhesives are not considered architectural coatings for the purposes of this article.

“Bitumens” means black or brown materials including, but not limited to, asphalt, tar, pitch, and asphaltite that are soluble in carbon disulfide, consist mainly of hydrocarbons, and are obtained from natural deposits or as residues from the distillation of crude petroleum or coal.

“Bituminous roof coating” means a coating that incorporates bitumens that is labeled and formulated exclusively for roofing.

“Bituminous roof primer” means a primer that incorporates bitumens that is labeled and formulated exclusively for roofing.

“Bond breaker” means a coating labeled and formulated for application between layers of concrete to prevent a freshly poured top layer of concrete from bonding to the layer over which it is poured.

“Clear brushing lacquers” means clear wood finishes, excluding clear lacquer sanding sealers, formulated with nitrocellulose or synthetic resins to dry by solvent evaporation without chemical reaction and to provide a solid, protective film, that are intended exclusively for application by brush and that are labeled as specified in subdivision 5 of 9 VAC 5-40-7150.

“Clear wood coatings” means clear and semi-transparent coatings, including lacquers and varnishes, applied to wood substrates to provide a transparent or translucent solid film.

“Coating” means a material applied onto or impregnated into a substrate for protective, decorative, or functional purposes. Such materials include, but are not limited to, paints, varnishes, sealers, and stains.

“Colorant” means a concentrated pigment dispersion in water, solvent, or binder that is added to an architectural coating after packaging in sale units to produce the desired color.

“Concrete curing compound” means a coating labeled and formulated for application to freshly poured concrete to retard the evaporation of water.

“Dry fog coating” means a coating labeled and formulated only for spray application such that overspray droplets dry before

subsequent contact with incidental surfaces in the vicinity of the surface coating activity.

“Exempt compound” means a compound identified as exempt under the definition of Volatile Organic Compound (VOC) in 9 VAC 5-10-20. An exempt compound's content of a coating shall be determined by Reference Method 24 or South Coast Air Quality Management District (SCAQMD) Method for Determination of Exempt Compounds, incorporated by reference in 9 VAC 5-20-21.

“Faux finishing coating” means a coating labeled and formulated as a stain or a glaze to create artistic effects including, but not limited to, dirt, old age, smoke damage, and simulated marble and wood grain.

“Fire-resistive coating” means an opaque coating labeled and formulated to protect the structural integrity by increasing the fire endurance of interior or exterior steel and other structural materials, that has been fire tested and rated by a testing agency and approved by building code officials for use in bringing assemblies of structural materials into compliance with federal, state, and local building code requirements. The fire-resistive coating shall be tested in accordance with American Society for Testing and Materials (ASTM) Standard Test Method for Fire Tests of Building Construction Materials, incorporated by reference in 9 VAC 5-20-21.

“Fire-retardant coating” means a coating labeled and formulated to retard ignition and flame spread, that has been fire tested and rated by a testing agency approved by building code officials for use in bringing building and construction materials into compliance with federal, state, and local building code requirements. The fire-retardant coating shall be tested in accordance with ASTM Standard Test Method for Surface Burning Characteristics of Building Construction Materials, incorporated by reference in 9 VAC 5-20-21.

“Flat coating” means a coating that is not defined under any other definition in this article and that registers gloss less than 15 on an 85-degree meter or less than five on a 60-degree meter according to ASTM Standard Test Method for Specular Gloss, incorporated by reference in 9 VAC 5-20-21.

“Floor coating” means an opaque coating that is labeled and formulated for application to flooring, including, but not limited to, decks, porches, steps, and other horizontal surfaces, that may be subjected to foot traffic.

“Flow coating” means a coating labeled and formulated exclusively for use by electric power companies or their subcontractors to maintain the protective coating systems present on utility transformer units.

“Form-release compound” means a coating labeled and formulated for application to a concrete form to prevent the freshly poured concrete from bonding to the form. The form may consist of wood, metal, or some material other than concrete.

“Graphic arts coating or sign paint” means a coating labeled and formulated for hand-application by artists using brush or roller techniques to indoor and outdoor signs (excluding structural components) and murals including letter enamels, poster colors, copy blockers, and bulletin enamels.

“High-temperature coating” means a high-performance coating labeled and formulated for application to substrates exposed continuously or intermittently to temperatures above 204°C (400°F).

“Industrial maintenance coating” means a high-performance architectural coating, including primers, sealers, undercoaters, intermediate coats, and topcoats, formulated for application to substrates exposed to one or more of the following extreme environmental conditions, and labeled as specified in subdivision 4 of 9 VAC 5-40-7150:

1. Immersion in water, wastewater, or chemical solutions (aqueous and nonaqueous solutions), or chronic exposures of interior surfaces to moisture condensation;
2. Acute or chronic exposure to corrosive, caustic, or acidic agents, or to chemicals, chemical fumes, or chemical mixtures or solutions;
3. Repeated exposure to temperatures above 121°C (250°F);
4. Repeated (frequent) heavy abrasion, including mechanical wear and repeated (frequent) scrubbing with industrial solvents, cleansers, or scouring agents; or
5. Exterior exposure of metal structures and structural components.

“Lacquer” means a clear or opaque wood coating, including clear lacquer sanding sealers, formulated with cellulosic or synthetic resins to dry by evaporation without chemical reaction and to provide a solid, protective film.

“Low-solids coating” means a coating containing 0.12 kilogram or less of solids per liter (one pound or less of solids per gallon) of coating material.

“Magnesite cement coating” means a coating labeled and formulated for application to magnesite cement decking to protect the magnesite cement substrate from erosion by water.

“Mastic texture coating” means a coating labeled and formulated to cover holes and minor cracks and to conceal surface irregularities, and is applied in a single coat of at least 10 mils (0.010 inch) dry film thickness.

“Metallic pigmented coating” means a coating containing at least 48 grams of elemental metallic pigment per liter of coating as applied (0.4 pounds per gallon), when tested in accordance with South Coast Air Quality Air Management District (SCAQMD) Method for Determination of Weight Percent Elemental Metal in Coatings by X-Ray Diffraction, incorporated by reference in 9 VAC 5-20-21.

“Multi-color coating” means a coating that is packaged in a single container and that exhibits more than one color when applied in a single coat.

“Nonflat coating” means a coating that is not defined under any other definition in this article and that registers a gloss of 15 or greater on an 85-degree meter and five or greater on a 60-degree meter according to ASTM Standard Test Method

for Specular Gloss, incorporated by reference in 9 VAC 5-20-21.

“Nonflat high-gloss coating” means a nonflat coating that registers a gloss of 70 or above on a 60-degree meter according to ASTM Standard Test Method for Specular Gloss, incorporated by reference in 9 VAC 5-20-21.

“Nonindustrial use” means any use of architectural coatings except in the construction or maintenance of any of the following: facilities used in the manufacturing of goods and commodities; transportation infrastructure, including highways, bridges, airports and railroads; facilities used in mining activities, including petroleum extraction; and utilities infrastructure, including power generation and distribution, and water treatment and distribution systems.

“Post-consumer coating” means a finished coating that would have been disposed of in a landfill, having completed its usefulness to a consumer, and does not include manufacturing wastes.

“Pre-treatment wash primer” means a primer that contains a minimum of 0.5 acid, by weight, when tested in accordance with ASTM Standard Test Method for Acidity in Volatile Solvents and Chemical Intermediates Used in Paint, Varnish, Lacquer and Related Products, incorporated by reference in 9 VAC 5-20-21, that is labeled and formulated for application directly to bare metal surfaces to provide corrosion resistance and to promote adhesion of subsequent topcoats.

“Primer” means a coating labeled and formulated for application to a substrate to provide a firm bind between the substrate and subsequent coats.

“Quick-dry enamel” means a nonflat coating that is labeled as specified in subdivision 8 of 9 VAC 5-40-7150 and that is formulated to have the following characteristics:

1. Is capable of being applied directly from the container under normal conditions with ambient temperatures between 16°C and 27°C (60°F and 80°F);
2. When tested in accordance with ASTM Standard Methods for Drying, Curing, or Film Formation of Organic Coatings at Room Temperature, incorporated by reference in 9 VAC 5-20-21, sets to touch in two hours or less, is tack-free in four hours or less, and dries hard in eight hours or less by the mechanical test method; and
3. Has a dried film gloss of 70 or above on a 60-degree meter.

“Quick-dry primer sealer and undercoater” means a primer, sealer, or undercoater that is dry to the touch in 30 minutes and can be recoated in two hours when tested in accordance with ASTM Standard Methods for Drying, Curing, or Film Formation of Organic Coatings at Room Temperature, incorporated by reference in 9 VAC 5-20-21.

“Recycled coating” means an architectural coating formulated such that not less than 50% of the total weight consists of secondary and post-consumer coating, with not less than 10% of the total weight consisting of post-consumer coating.

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“Residence” means areas where people reside or lodge, including, but not limited to, single and multiple family dwellings, condominiums, mobile homes, apartment complexes, motels, and hotels.

“Roof coating” means a nonbituminous coating labeled and formulated exclusively for application to roofs for the primary purpose of preventing penetration of the substrate by water or reflecting heat and ultraviolet radiation. Metallic pigmented roof coatings, which qualify as metallic pigmented coatings, shall not be considered in this category, but shall be considered to be in the metallic pigmented coatings category.

“Rust-preventive coating” means a coating formulated exclusively for nonindustrial use to prevent the corrosion of metal surfaces and labeled as specified in subdivision 6 of 9 VAC 5-40-7150.

“Sanding sealer” means a clear or semi-transparent wood coating labeled and formulated for application to bare wood to seal the wood and to provide a coat that can be abraded to create a smooth surface for subsequent applications of coatings. A sanding sealer that also meets the definition of a lacquer is not included in this category, but it is included in the lacquer category.

“Sealer” means a coating labeled and formulated for application to a substrate for one or more of the following purposes: to prevent subsequent coatings from being absorbed by the substrate, or to prevent harm to subsequent coatings by materials in the substrate.

“Secondary coating (rework)” means a fragment of a finished coating or a finished coating from a manufacturing process that has converted resources into a commodity of real economic value, but does not include excess virgin resources of the manufacturing process.

“Shellac” means a clear or opaque coating formulated solely with the resinous secretions of the lac beetle (*Lacifer lacca*), thinned with alcohol, and formulated to dry by evaporation without a chemical reaction.

“Shop application” means the application of a coating to a product or a component of a product in or on the premises of a factory or a shop as part of a manufacturing, production, or repairing process (e.g., original equipment manufacturing coatings).

“Solicit” means to require for use or to specify, by written or oral contract.

“Specialty primer, sealer, and undercoater” means a coating labeled as specified in subdivision 7 of 9 VAC 5-40-7150 and that is formulated for application to a substrate to seal fire, smoke or water damage; to condition excessively chalky surfaces; or to block stains. An excessively chalky surface is one that is defined as having a chalk rating of four or less as determined by ASTM Standard Test Methods for Evaluating the Degree of Chalking of Exterior Paint Films, incorporated by reference in 9 VAC 5-20-21.

“Stain” means a clear, semi-transparent, or opaque coating labeled and formulated to change the color of a surface but not conceal the grain pattern or texture.

“Swimming pool coating” means a coating labeled and formulated to coat the interior of swimming pools and to resist swimming pool chemicals.

“Swimming pool repair and maintenance coating” means a rubber-based coating labeled and formulated to be used over existing rubber-based coatings for the repair and maintenance of swimming pools.

“Temperature-indicator safety coating” means a coating labeled and formulated as a color-changing indicator coating for the purpose of monitoring the temperature and safety of the substrate, underlying piping, or underlying equipment, and for application to substrates exposed continuously or intermittently to temperatures above 204°C (400°F).

“Tint base” means an architectural coating to which colorant is added after packaging in sale units to produce a desired color.

“Traffic marking coating” means a coating labeled and formulated for marking and striping streets, highways, or other traffic surfaces including, but not limited to, curbs, berets, driveways, parking lots, sidewalks, and airport runways.

“Undercoater” means a coating labeled and formulated to provide a smooth surface for subsequent coatings.

“Varnish” means a clear or semitransparent wood coating, excluding lacquers and shellacs, formulated to dry by chemical reaction on exposure to air. Varnishes may contain small amounts of pigment to color a surface, or to control the fetal sheen or gloss of the finish.

“VOC content” means the weight of VOC per volume of coating, calculated according to the procedures specified in 9 VAC 5-40-7220 B.

“Waterproofing sealer” means a coating labeled and formulated for application to a porous substrate for the primary purpose of preventing the penetration of water.

“Waterproofing concrete/masonry sealer” means a clear or pigmented film-forming coating that is labeled and formulated for sealing concrete and masonry to provide resistance against water, alkalis, acids, ultraviolet light, and staining.

“Wood preservative” means a coating labeled and formulated to protect exposed wood from decay or insect attack that is registered with both the U.S. EPA under the Federal Insecticide, Fungicide, and Rodenticide Act (7 USC § 136 et seq.) and with the Pesticide Control Board under the provisions of the Virginia Pesticide Control Act (Chapter 14. 1 (§ 3.1-249.27 et seq.) of the Code of Virginia).

9 VAC 5-40-7140. Standard for volatile organic compounds.

A. Except as provided in this section, no person shall (i) manufacture, blend, or repackage for sale, (ii) supply, sell, or offer for sale, or (iii) solicit for application or apply any architectural coating with a VOC content in excess of the corresponding limit specified in Table 4-49A.

B. If anywhere on the container of any architectural coating, or any label or sticker affixed to the container, or in any sales, advertising, or technical literature supplied by a manufacturer

or any person acting on behalf of a manufacturer, any representation is made that indicates that the coating meets the definition of or is recommended for use for more than one of the coating categories listed in Table 4-49A, then the most restrictive VOC content limit shall apply. This provision does not apply to the following coating categories:

- Lacquer coatings (including lacquer sanding sealers);
- Metallic pigmented coatings;
- Shellacs;
- Fire-retardant coatings;
- Pretreatment wash primers;
- Industrial maintenance coatings;
- Low-solids coatings;
- Wood preservatives;
- High-temperature coatings;
- Temperature-indicator safety coatings;
- Antenna coatings;
- Antifouling coatings;
- Flow coatings;
- Bituminous roof primers; and
- Specialty primers, sealers, and undercoaters.

Table 4-49A.
VOC Content Limits for Architectural Coatings

Limits are expressed in grams of VOC per liter¹ of coating thinned to the manufacturer's maximum recommendation, excluding the volume of any water, exempt compounds, or colorant added to tint bases. "Manufacturers maximum recommendation" means the maximum recommendation for thinning that is indicated on the label or lid of the coating container.

Coating Category	VOC Content Limit
Flat Coatings	100
Nonflat Coatings	150
Nonflat High Gloss Coatings	250
Specialty Coatings	
Antenna Coatings	530
Antifouling Coatings	400
Bituminous Roof Coatings	300
Bituminous Roof Primers	350
Bond Breakers	350
Clear Wood Coatings	
• Clear Brushing Lacquers	680
• Lacquers (including lacquer sanding sealers)	550
• Sanding Sealers (other than lacquer sanding sealers)	350
• Varnishes	350
Concrete Curing Compounds	350
Dry Fog Coatings	400
Faux Finishing Coatings	350

Fire-Resistive Coatings	350
Fire-Retardant Coatings	
• Clear	650
• Opaque	350
Floor Coatings	250
Flow Coatings	420
Form-Release Compounds	250
Graphic Arts Coatings (Sign Paints)	500
High-Temperature Coatings	420
Industrial Maintenance Coatings	340
Low-Solids Coatings	120
Magnesite Cement Coatings	450
Mastic Texture Coatings	300
Metallic Pigmented Coatings	500
Multi-Color Coatings	250
Pre-Treatment Wash Primers	420
Primers, Sealers, and Undercoaters	200
Quick-Dry Enamels	250
Quick-Dry Primers, Sealers and Undercoaters	200
Recycled Coatings	250
Roof Coatings	250
Rust Preventative Coatings	400
Shellacs	
• Clear	730
• Opaque	550
Specialty Primers, Sealers, and Undercoaters	350
Stains	250
Swimming Pool Coatings	340
Swimming Pool Repair and Maintenance Coatings	340
Temperature-Indicator Safety Coatings	550
Traffic Marking Coatings	150
Waterproofing Sealers	250
Waterproofing Concrete/Masonry Sealers	400
Wood Preservatives	350

¹ Conversion factor: one pound of VOC per gallon (U.S.) = 119.95 grams per liter.

C. A coating manufactured prior to January 1, 2005, may be sold, supplied, or offered for sale until December 31, 2007. In addition, a coating manufactured before January 1, 2005, may be applied at any time, both before and after January 1, 2005, so long as the coating complied with the standards in effect at the time the coating was manufactured. This subsection does not apply to any coating that does not display the date or date code required by subdivision 1 of 9 VAC 5-40-7150.

D. All architectural coating containers used to apply the contents therein to a surface directly from the container by

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pouring, siphoning, brushing, rolling, padding, ragging, or other means, shall be closed when not in use. These architectural coatings containers include, but are not limited to, drums, buckets, cans, pails, trays, or other application containers. Containers of any VOC-containing materials used for thinning and cleanup shall also be closed when not in use.

E. No person who applies or solicits the application of any architectural coating shall apply a coating that is thinned to exceed the applicable VOC limit specified in Table 4-49A.

F. No person shall apply or solicit the application of any rust preventive coating for industrial use, unless such a rust preventive coating complies with the industrial maintenance coating VOC limit specified in Table 4-49A.

G. For any coating that does not meet any of the definitions for the specialty coatings categories listed in Table 4-49A, the VOC content limit shall be determined by classifying the coating as a flat coating or a nonflat coating, based on its gloss, as defined in 9 VAC 5-40-7130 C, and the corresponding flat or nonflat coating limit shall apply.

H. Notwithstanding the provisions of subsection A of this section, up to 10% by volume of VOC may be added to a lacquer to avoid blushing of the finish during days with relative humidity greater than 70% and temperature below 65°F, at the time of application, provided that the coating contains acetone and no more than 550 grams of VOC per liter of coating, less water and exempt compounds, prior to the addition of VOC.

9 VAC 5-40-7150. Container labeling requirements.

Each manufacturer of any architectural coatings subject to this article shall display the information listed in subdivisions 1 through 8 of this section on the coating container (or label) in which the coating is sold or distributed.

1. The date the coating was manufactured, or a date code representing the date, shall be indicated on the label, lid, or bottom of the container. If the manufacturer uses a date code for any coating, the manufacturer shall file an explanation of each code with the board.

2. A statement of the manufacturer's recommendation regarding thinning of the coating shall be indicated on the label or lid of the container. This requirement does not apply to the thinning of architectural coatings with water. If thinning of the coating prior to use is not necessary, the recommendation shall specify that the coating is to be applied without thinning.

3. Each container of any coating subject to this article shall display either the maximum or the actual VOC content of the coating, as supplied, including the maximum thinning as recommended by the manufacturer. VOC content shall be displayed in grams of VOC per liter of coating. VOC content displayed shall be calculated using product formulation data, or shall be determined using the test methods in 9 VAC 5-40-7220 C. The equations in 9 VAC 5-40-7220 B shall be used to calculate VOC content.

4. In addition to the information specified in subdivisions 1, 2, and 3 of this section, each manufacturer of any industrial maintenance coating subject to this article shall display on

the label or the lid of the container in which the coating is sold or distributed one or more of the descriptions listed in a, b, and c of this subdivision.

a. "For industrial use only."

b. "For professional use only."

c. "Not for residential use" or "Not intended for residential use."

5. The labels of all clear brushing lacquers shall prominently display the statements "For brush application only," and "This product shall not be thinned or sprayed."

6. The labels of all rust preventive coatings shall prominently display the statement "For Metal Substrates Only."

7. The labels of all specialty primers, sealers, and undercoaters shall prominently display one or more of the descriptions listed in a through e of this subdivision.

a. For blocking stains.

b. For fire-damaged substrates.

c. For smoke-damaged substrates.

d. For water-damaged substrates.

e. For excessively chalky substrates.

8. The labels of all quick dry enamels shall prominently display the words "Quick Dry" and the dry hard time.

9. The labels of all nonflat high-gloss coatings shall prominently display the words "High Gloss."

9 VAC 5-40-7160. Standard for visible emissions.

The provisions of Article 1 (9 VAC 5-40-60 et seq.) of 9 VAC 5 Chapter 40 (Emission Standards for Visible Emissions and Fugitive Dust/Emissions, Rule 4-1) do not apply.

9 VAC 5-40-7170. Standard for fugitive dust/emissions.

The provisions of Article 1 (9 VAC 5-40-60 et seq.) of 9 VAC 5 Chapter 40 (Emission Standards for Visible Emissions and Fugitive Dust/Emissions, Rule 4-1) apply.

9 VAC 5-40-7180. Standard for odor.

The provisions of Article 2 (9 VAC 5-40-130 et seq.) of 9 VAC 5 Chapter 40 (Emission Standards for Odor, Rule 4-2) apply.

9 VAC 5-40-7190. Standard for toxic pollutants.

The provisions of Article 4 (9 VAC 5-60-200 et seq.) of 9 VAC 5 Chapter 60 (Emission Standards for Toxic Pollutants from Existing Sources, Rule 6-4) do not apply.

9 VAC 5-40-7200. Compliance.

The provisions of subsections B, D, F, and J of 9 VAC 5-40-20 (Compliance) apply. The other provisions of 9 VAC 5-40-20 do not apply.

9 VAC 5-40-7210. Compliance schedules.

Affected persons shall comply with the provisions of this article as expeditiously as possible but in no case later than January 1, 2005.

9 VAC 5-40-7220. Test methods and procedures.

A. The provisions of subsection G of 9 VAC 5-40-30 (Emission testing) apply. The other provisions of 9 VAC 5-40-30 do not apply.

B. For the purpose of determining compliance with the VOC content limits in Table 4-49A, the VOC content of a coating shall be determined by using the procedures described in subdivision 1 or 2 of this subsection, as appropriate. The VOC content of a tint base shall be determined without colorant that is added after the tint base is manufactured.

1. With the exception of low solids coatings, determine the VOC content in grams of VOC per liter of coating thinned to the manufacturer's maximum recommendation, excluding the volume of any water and exempt compounds. Determine the VOC content using equation 1 as follows:

$$\text{Equation 1: VOC Content} = \frac{(Ws - Ww - Wec)}{(Vm - Vw - Vec)}$$

Where:

- VOC content = grams of VOC per liter of coating
- Ws = weight of volatiles, in grams
- Ww = weight of water, in grams
- Wec = weight of exempt compounds, in grams
- Vm = volume of coating, in liters
- Vw = volume of water, in liters
- Vec = volume of exempt compounds, in liters

2. For low solids coatings, determine the VOC content in units of grams of VOC per liter of coating thinned to the manufacturer's maximum recommendation, including the volume of any water and exempt compounds. Determine the VOC content using equation 2 as follows:

$$\text{Equation 2: VOC Content (ls)} = \frac{(Ws - Ww - Wec)}{(Vm)}$$

Where:

- VOC Content (ls) = the VOC content of a low solids coating in grams per liter of coating
- Ws = weight of volatiles, in grams
- Ww = weight of water, in grams
- Wec = weight of exempt compounds, in grams
- Vm = volume of coating, in liters

C. To determine the physical properties of a coating in order to perform the calculations in subsection B, the reference method for VOC content is Reference Method 24, incorporated by reference in 9 VAC 5-20-21. The exempt compounds content shall be determined by SCAQMD Method for Determination of Exempt Compounds, incorporated by reference in 9 VAC 5-20-21. To determine the VOC content of a coating, the manufacturer may use Reference Method 24, formulation data, or any other reasonable means for predicting that the coating has been formulated as intended (e.g. quality

assurance checks, recordkeeping). However, if there are any inconsistencies between the results of a Reference Method 24 test and any other means for determining VOC content, the Reference Method 24 results will govern. The board may require the manufacturer to conduct a Reference Method 24 analysis.

D. The following test methods are incorporated by reference in 9 VAC 5-20-21, and shall be used to test coatings subject to the provisions of this article:

1. The flame spread index of a fire-retardant coating shall be determined by ASTM Standard Test Method for Surface Burning Characteristics of Building Materials (see section 2, Fire-Retardant Coating).
2. The fire-resistance rating of a fire-resistive coating shall be determined by ASTM Standard Test Methods for Fire Tests of Building Construction Materials (see section 2, Fire-Resistive Coating).
3. The gloss of a coating shall be determined by ASTM Standard Test Method for Specular Gloss (see section 2, Flat Coating, Nonflat Coating, Nonflat - High-Gloss Coating, and Quick Dry Enamel).
4. The metallic content of a coating shall be determined by SCAQMD Method for Determination of Weight Percent Elemental Metal in Coatings by X-Ray Diffraction (see section 2, Metallic Pigmented Coating).
5. The acid content of a coating shall be determined by ASTM Method Standard Test Method for Acidity in Volatile Solvents and Chemical Intermediates Used in Paint, Varnish, Lacquer and Related Products (see section 2, Pre-Treatment Wash Primer).
6. The set-to-touch, dry-hard, dry-to-touch and dry-to-recoat times of a coating shall be determined by ASTM Standard Methods for Drying, Curing, or Film Formation of Organic Coatings at Room Temperature (see section 2, Quick-Dry Enamel and Quick-Dry Primer, Sealer, and Undercoater). The tack-free time of a quick-dry enamel coating shall be determined by the Mechanical Test Method of ASTM Standard Methods for Drying, Curing, or Film Formation of Organic Coatings at Room Temperature.
7. The chalkiness of a surface shall be determined using ASTM Standard Test Methods for Evaluating the Degree of Chalking of Exterior Paint Films (see section 2, Specialty Primer, Sealer, and Undercoater).
8. Exempt compounds that are cyclic, branched, or linear, completely methylated siloxanes shall be analyzed as exempt compounds for compliance with section 6 by Bay Area Quality Management District (BAAQMD) Method for Determination of Volatile Methylsiloxanes in Solvent-Based Coatings, Inks, and Related Materials (see section 2, Volatile Organic Compounds).
9. The exempt compound parachlorobenzotrifluoride shall be analyzed as an exempt compound for compliance with 9 VAC 5-40-7220 by BAAQMD Method for Determination of Volatile Organic Compounds in Solvent-Based Coatings and Related Materials Containing

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Parachlorobenzotrifluoride (see section 2, Volatile Organic Compound, and 9 VAC 5-40-7220 C).

10. The content of compounds exempt under Reference Method 24 shall be analyzed by SCAQMD Method for Determination of Exempt Compounds, Laboratory Methods of Analysis for Enforcement Samples (see section 2, Volatile Organic Compound, and 9 VAC 5-40-7220 C).

11. The VOC content of a coating shall be determined by Reference Method 24 (see 9 VAC 5-40-7220 C).

12. The VOC content of coatings may be analyzed by either Reference Method 24 or SCAQMD Method for Determination of Exempt Compounds, Laboratory Methods of Analysis for Enforcement Samples (see 9 VAC 5-40-7220 C).

13. The VOC content of methacrylate multicomponent coatings used as traffic marking coatings shall be analyzed by the procedures in 40 CFR Part 59, subpart D, appendix A, Determination of Volatile Matter Content of Methacrylate Multicomponent Coatings Used as Traffic Marking Coatings.

14. Analysis of methacrylate multicomponent coatings used as traffic marking coatings shall be conducted according to a modification of Reference Method 24.

9 VAC 5-40-7230. Notification, records and reporting.

A. The provisions of subsections D, E, F, and H of 9 VAC 5-40-50 (Notification, records and reporting) apply. The other provisions of 9 VAC 5-40-50 do not apply.

B. Each manufacturer of clear brushing lacquers shall, on or before April 1 of each calendar year beginning in the year 2005, submit an annual report to the board. The report shall specify the number of gallons of clear brushing lacquers sold during the preceding calendar year, and shall describe the method used by the manufacturer to calculate sales.

C. Each manufacturer of rust preventive coatings shall, on or before April 1 of each calendar year beginning in the year 2005, submit an annual report to the board. The report shall specify the number of gallons of rust preventive coatings sold during the preceding calendar year, and shall describe the method used by the manufacturer to calculate sales.

D. Each manufacturer of specialty primers, sealers, and undercoaters shall, on or before April 1 of each calendar year beginning in the year 2005, submit an annual report to the board. The report shall specify the number of gallons of specialty primers, sealers, and undercoaters sold during the preceding calendar year, and shall describe the method used by the manufacturer to calculate sales.

E. For each architectural coating that contains perchloroethylene or methylene chloride, the manufacturer shall, on or before April 1 of each calendar year beginning with the year 2005, report to the board the following information for products sold during the preceding year:

1. The product brand name and a copy of the product label with the legible usage instructions;

2. The product category listed in Table 4-49A to which the coating belongs;

3. The total sales during the calendar year to the nearest gallon;

4. The volume percent, to the nearest 0.10%, of perchloroethylene and methylene chloride in the coating.

F. Manufacturers of recycled coatings shall submit a letter to the board certifying their status as a Recycled Paint Manufacturer. The manufacturer shall, on or before April 1 of each calendar year beginning with the year 2005, submit an annual report to the board. The report shall include, for all recycled coatings, the total number of gallons distributed during the preceding year, and shall describe the method used by the manufacturer to calculate distribution.

G. Each manufacturer of bituminous roof coatings or bituminous roof primers shall, on or before April 1 of each calendar year beginning with the year 2005, submit an annual report to the board. The report shall specify the number of gallons of bituminous roof coatings or bituminous roof primers sold during the preceding calendar year, and shall describe the method used by the manufacturer to calculate sales.

VA.R. Doc. No. R02-295; Filed June 25, 2003, 9:13 a.m.

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Title of Regulation: **9 VAC 5-140. Regulation for Emissions Trading (Rev. H02) (amending 9 VAC 5-140-550).**

Statutory Authority: §§ 10.1-1308 and 10.1-1322.3 of the Code of Virginia; §§ 108, 109, 110 and 302 of the Clean Air Act and 40 CFR Part 51.

Public Hearing Date: August 20, 2003 - 10 a.m.

Public comments may be submitted until 5 p.m. on September 12, 2003.

(See Calendar of Events section for additional information)

Agency Contact: Mary E. Major, Environmental Program Manager, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4423, FAX (804) 698-4510, or e-mail memajor@deq.state.va.us.

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

Purpose: The purpose of the regulation is to establish general provisions addressing applicability, permitting, allowance allocation, excess emissions, monitoring, and opt-in provisions to create a Virginia NO_x Budget Trading Program as a means of mitigating the interstate transport of ozone and nitrogen oxides in order to protect public health and welfare. The purpose of the amendment being made is to correct an EPA identified deficiency in the banking provisions of the NO_x Budget Trading Program regulation with regard to the start date for flow control.

Substance: The amendment to 9 VAC 5-140-550 changes the flow control date from 2006 to 2005.

Issues: Public: The primary advantage to the public of implementing the proposed amendment is avoiding a formal finding of disapproval by the EPA of the Commonwealth's NO_x SIP submittal.

The primary disadvantage of not implementing the proposed amendment is that a final disapproval of the NO_x SIP submittal could result in federal sanctions including the loss of federal highway funding and sewage treatment plant funding.

Department: The advantages and disadvantages for the department are the same as for the public; however, in addition to federal funding sanctions, other possible sanctions include federal implementation of a significant portion of the Commonwealth's air quality program.

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

Public Participation: The department is seeking comment on the proposed regulation and the costs and benefits of the proposal. The department is also seeking comment on the impacts of the proposed regulation on farm and forest lands.

Fiscal Impact: Approximately 80 large NO_x emissions units, both electric generating units and nonelectric generating units, are subject to the NO_x SIP. However, only the sources that have banked any NO_x allowances will be affected by flow control.

1. Costs to affected entities. Currently, the price of a ton of NO_x, i.e., one NO_x allowance, is worth approximately \$4,000 (the value fluctuates daily much like stock prices). Sources that purchase allowances at that price could be subject to a flow control mandate in 2005 that could render the value of that NO_x allowance to \$2,000. If flow control were triggered, the source would need to surrender banked credits at a rate of 2:1. Since it is impossible to know how many sources have banked allowances or whether they would use them if flow control were instituted or if weather conditions will necessitate that flow control be triggered, it is impossible for the department to make any reasonable estimate as to these costs. EPA has stated, however, that it is unlikely that flow control will ever be implemented (63 FR 57473, Oct 27 and 65 FR 2718, January 18, 2000).

2. Costs to localities. The projected cost of the regulation to localities is not expected to be beyond that of other affected entities and is addressed in paragraph 1 above.

3. Costs to agency. EPA will determine if flow control is triggered and will be responsible for the implementation. It is not expected that the regulation will result in any cost to the department beyond that currently in the budget. The sources of department funds to carry out this regulation are the general fund and the federal trust (grant money provided by the U.S. Environmental Protection Agency under § 105 of the federal Clean Air Act or permit fees charged to affected entities under the permit program). The activities are budgeted under the following program (code)/subprogram (code): (i) Environmental and Resource Management (5120000)/Air Quality Stationary Source Permitting (5122000) and Air Quality Stationary Source Compliance Inspection (5122100)

and (ii) Environmental Research and Planning (5130000)/Air Quality Research and Planning (5130700). The costs are expected to be ongoing.

4. Benefits. The date change will provide for an earlier implementation of flow control should conditions warrant it. This in turn will result in additional protection of public health if weather conditions necessitate the implementation of flow control.

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 § 2.2-4007 H of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007 H 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 proposal makes a small but potentially significant change to the existing regulation, which establishes a capped allowance trading program for nitrogen oxide emissions from larger sources in Virginia. The underlying regulation is relatively simple to explain.

The U.S. Environmental Protection Agency (EPA), under its authority to implement the federal Clean Air Act established caps on the tonnage of nitrogen oxide (NO_x) emissions from large stationary sources and from mobile sources during the summer. This rule is intended to reduce the formation of ground-level ozone during the summer months. With EPA's approval, the states subject to this rule implemented their caps by allocating emission allowances (at one ton of NO_x per allowance) to existing sources¹. Sources may emit NO_x up to the number of allowances owned. Sources choosing to emit fewer tons than allowances owned may sell the excess. Sources choosing to emit more tons of NO_x than allowances owned may purchase additional allowances from those willing to sell. In addition, any allowances not used in the first year they are available may be banked for use in later ozone seasons. There are two key advantages of this type of arrangement. First, compared to the rate-based regulations that they replace, capped allowance trading systems provide significantly greater certainty of achieving the environmental quality limits established by the law. Second, by providing firms with much greater compliance flexibility, allowance trading programs result in lower costs of compliance. One potential problem with a trading program as described here is that emissions may become more concentrated either in one

¹ With a few allowances reserved for new sources in the electrical generation sector.

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locality or in one period of time than would occur with the traditional rate-based standards.²

To prevent this from happening, the regulation includes two backup protections. First, all existing air quality standards limiting ground-level ozone and other local standards remain in effect. So, a source is not allowed to violate local air quality by using allowances. Second, to prevent the concentration of emissions on particularly hot summer days when the demand for fossil fuel combustion is high, the use of banked allowances is limited by a mechanism known as 'flow control.' The flow control provision states that whenever the number of banked allowances reaches 10% or more of the total number of allowances in the budget for a given ozone season, then any banked allowances used during this period are only worth half a ton rather than a ton of NO_x.

This represents a very rough way of limiting the size of the bank. Once the number of banked allowances gets close to the 10% level, the value of banking allowances falls, possibly by as much as half. This greatly reduces the incentive that firms have to bank further allowances.

In the original version of this regulation, Virginia chose to postpone the implementation of the flow control provisions until 2006, since 2007 is the first ozone season when the state must demonstrate full compliance with the new budget requirements. The EPA objected to the 2006 date since the allowance market begins in 2004, and there is a possibility that the number of allowances banked could exceed the 10% level in 2005. Virginia must change its rule to satisfy EPA requirements or the state would stand to lose substantial amounts of federal funds.

Estimated economic impact. Whether this change in the emission trading program will have any significant economic impact depends on whether flow control restrictions will likely be binding in the second year of the program. If it is not expected that 10% of the allowances will be banked in the first year of the program, then the expected impact of the change in the Virginia flow control date from 2006 to 2005 is essentially zero.

The story is much more complicated if flow control can be expected to be binding. First of all, if flow control is binding for 2005, that means that at least 10% of allowances were not used for compliance purposes in the 2004 ozone season. This would happen if, on average, firms held 10% of their allowances over from the 2004 season. Why might they do this? Suppose that demand for electricity and process heat is low in 2004 due to a slow economy, but everyone anticipates that things will pick up in the next year or two. Then, the demand for NO_x allowances will increase with demand for fossil fuel combustion. This will increase the price of NO_x allowances relative to this year's price. Normally, this would encourage firms to hold allowances to profit from their higher value in later years.

However, each firm knows that, if their demand is slack due to a slack economy, then demand for fossil fuel combustion by others will also be low. Thus, each firm knows that there is a substantial likelihood that enough allowances will be held over to trigger flow control. The likelihood of having banked allowances subject to flow control reduces the value of holding allowances, giving firms increased incentive to sell their excess allowances. This reduces the current price and increases future prices. Thus, if there is any substantial likelihood that flow control will be triggered, most firms will probably choose to sell their allowances at a discount rather than hold them over.

Suppose, then, that Virginia could delay the advent of flow control provisions for a year. If flow control were to be triggered in that year and Virginia were the only state to delay implementing flow control language, then Virginia firms would benefit because they could sell their banked allowances as having much the same value as nonbanked allowances (at least for that one year). This is very unlikely to happen because, should EPA allow Virginia to use the 2006 year, then other states would certainly follow suit. Thus, we would likely see a situation where many or all of the states in the program would have a flow control free year. A year of flow control free banking would make banking relatively more attractive in that year alone. Unfortunately, it would also increase the likelihood of hitting the flow control trigger in the third year of the program.

All of the complications of the previous paragraphs make it very difficult to work out the economic impact on Virginia of EPA's requirement that the state use the 2005 date for implementing flow control. What we do know is that, in a smoothly functioning market for allowances, banking is generally not going to be a particularly good investment. In slow economic times, one might expect a capital gain from holding allowances for better economic times when the demand for allowances is higher. However, this investment is made very risky by the flow control provisions. Firms will usually be better off, selling their excess in one year and buying any extras they need in later years. A doubling of prices would be needed to make flow controlled allowances a good investment for the next year. But the prospect of large increases in allowance prices would also induce a large amount of over-control by firms with some flexibility to reduce emissions during the ozone season. This, in turn, would prevent prices from rising enough to make lots of banking worthwhile.³

Given the preceding discussion, it is unlikely that the implementation of flow control in 2005 rather than 2006 will make a significant difference for Virginia's economy.

Businesses and entities affected. Approximately 80 large sources of NO_x emissions are affected by this regulation.

² It is important to point out that the opposite may also be true. It may easily be the case, depending on a number of technical and economic factors, that rate-based regulations could result in greater concentrations than market-based regulations.

³ Some very significant banking of allowances has occurred in the Ozone Transport Commission NO_x market. This banking is due to the phased-in nature of the emission reductions. The price increase from Phase 2 (\$1,000) to Phase 3 (\$4,000-\$5,000) justified banking even under progressive flow control. No such phased reductions are included under this regulation.

Localities particularly affected. This regulation does not have a disproportionate impact on any particular localities.

Projected impact on employment. The change in the year of application for progressive flow control is not expected to have any significant impact on employment.

Effects on the use and value of private property. The circumstances under which this regulation might affect the use and value of private property are rather unlikely. Thus no significant impact is expected.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The department has reviewed the economic impact analysis prepared by the Department of Planning and Budget and has no comment.

Summary:

The proposed amendment changes the flow control date in 9 VAC 5-140-550 (banking provisions) from 2006 to 2005.

9 VAC 5-140-550. Banking.

A. NO_x allowances may be banked for future use or transfer in a compliance account, an overdraft account, or a general account, as follows:

1. Any NO_x allowance that is held in a compliance account, an overdraft account, or a general account will remain in such account unless and until the NO_x allowance is deducted or transferred under 9 VAC 5-140-310, 9 VAC 5-140-540, 9 VAC 5-140-560, Article 7 (9 VAC 5-140-600 et seq.) of this part, or Article 9 (9 VAC 5-140-800 et seq.) of this part.

2. The administrator will designate, as a "banked" NO_x allowance, any NO_x allowance that remains in a compliance account, an overdraft account, or a general account after the administrator has made all deductions for a given control period from the compliance account or overdraft account pursuant to 9 VAC 5-140-540 (except deductions pursuant to 9 VAC 5-140-540 D 2), and that was allocated for that control period or a control period in a prior year.

B. Each year starting in ~~2006~~ 2005, after the administrator has completed the designation of banked NO_x allowances under subdivision A 2 of this section and before May 1 of the year, the administrator will determine the extent to which banked NO_x allowances may be used for compliance in the control period for the current year, as follows:

1. The administrator will determine the total number of banked NO_x allowances held in compliance accounts, overdraft accounts, or general accounts.

2. If the total number of banked NO_x allowances determined, under subdivision 1 of this subsection, to be held in compliance accounts, overdraft accounts, or general accounts is less than or equal to 10% of the sum of the state trading program budgets for the control period for the states in which NO_x Budget units are located, any banked NO_x allowance may be deducted for compliance in accordance with 9 VAC 5-140-540.

3. If the total number of banked NO_x allowances determined, under subdivision 1 of this subsection, to be held in compliance accounts, overdraft accounts, or general accounts exceeds 10% of the sum of the state trading program budgets for the control period for the states in which NO_x Budget units are located, any banked allowance may be deducted for compliance in accordance with 9 VAC 5-140-540, except as follows:

a. The administrator will determine the following ratio: 0.10 multiplied by the sum of the state trading program budgets for the control period for the states in which NO_x Budget units are located and divided by the total number of banked NO_x allowances determined, under subdivision 1 of this subsection, to be held in compliance accounts, overdraft accounts, or general accounts.

b. The administrator will multiply the number of banked NO_x allowances in each compliance account or overdraft account by the ratio determined in subdivision 3 a of this subsection. The resulting product is the number of banked NO_x allowances in the account that may be deducted for compliance in accordance with 9 VAC 5-140-540. Any banked NO_x allowances in excess of the resulting product may be deducted for compliance in accordance with 9 VAC 5-140-540, except that, if such NO_x allowances are used to make a deduction, two such NO_x allowances shall be deducted for each deduction of one NO_x allowance required under 9 VAC 5-140-540.

VA.R. Doc. No. R03-102; Filed June 24, 2003, 11:46 a.m.

TITLE 16. LABOR AND EMPLOYMENT

DEPARTMENT OF LABOR AND INDUSTRY

Safety and Health Codes Board

Title of Regulation: **16 VAC 25-145. Safety Standards for Fall Protection in Steel Erection, Construction Industry (adding 16 VAC 25-145-10 through 16 VAC 25-145-50).**

Statutory Authority: § 40.1-22 of the Code of Virginia.

Public Hearing Date: August 12, 2003 - 10 a.m.

Public comments may be submitted until September 12, 2003.

(See Calendar of Events section for additional information)

Agency Contact: Regina P. Cobb, Agency Management Analyst Sr., Department of Labor and Industry, Powers-Taylor Building, 13 S. Thirteenth Street, Richmond, VA 23219, telephone (804) 786-0610, FAX (804) 786-8418, or e-mail rlc@doli.state.va.us.

Basis: The Safety and Health Codes Board is authorized by § 40.1-22 of the Code of Virginia "...to adopt, alter, amend, or repeal rules and regulations to further, protect and promote the safety and health of employees in places of employment over which it has jurisdiction and to effect compliance with the Federal Occupational Safety and Health Act of 1970...as may

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be necessary to carry out its functions established under this title. In making such rules and regulations to protect the occupational safety and health of employees, the Board shall adopt the standard which most adequately assures, to the extent feasible, on the basis of the best available evidence that no employee will suffer material impairment of health or functional capacity. However, such standards shall be at least as stringent as the standards promulgated by the Federal Occupational Safety and Health Act of 1970 (P.L. 91-596). In addition to the attainment of the highest degree of health and safety protection for the employee, other considerations shall be the latest available scientific data in the field, the feasibility of the standards, and experience gained under this and other health and safety laws.”

At its October 18, 2001, meeting, the Safety and Health Codes Board adopted the new federal OSHA Safety Standards for Steel Erection (published in the Federal Register at 66 FR 5195 and 66 FR 37137) as 16 VAC 25-175-1926.750 through 16 VAC 25-175-1926.761 and the amended 16 VAC 25-175-1926.700 covering Fall Protection. However, upon the recommendation of the department, paragraphs (a), (b) and (c) of § 1926.760 of the federal rule were not adopted. After considering the department’s request to continue its administrative policy of enforcement, the board voted to direct the department to begin a rulemaking to administratively codify VOSH’s enforcement policy.

Purpose: Federal OSHA recently revised its Subpart R of the Construction Industry Standards dealing with fall protection during steel erection. Within Subpart R, paragraph (a) of 29 CFR 1926.760 of the federal OSHA standard requires conventional fall protection at more than 15 feet, except for connectors and leading edge decking workers. Paragraph (b) of 29 CFR 1926.760 requires each connector be protected from fall hazards of two stories or 30 feet, be trained and be provided a personal fall arrest system at heights more than 15 feet and up to 30 feet. Paragraph (c) of 29 CFR 1926.760 allows for controlled decking zones (CDZ) over 15 feet and up to 30 feet for initial decking installers and protection from fall hazards for employees on leading edges of more than 30 feet. The above federal requirements of paragraphs (a), (b) and (c) of 29 CFR 1926.760 were not adopted by the Virginia Safety and Health Codes Board.

Since October 1994, VOSH has investigated at least 18 fatal construction accidents involving falls of less than 15 feet. Although none of these accidents involved any steel erectors, they tragically demonstrate the existence of a fatal hazard with falls less than 15 feet. The large majority of the accidents involved fatal head injuries, where the use of personal fall arrest systems, guard rails, safety nets, or working from an elevated work platform would have prevented the victim’s head from hitting the ground. The board had determined that the proposed regulatory action is essential to protect worker health and safety from falls in construction at these lower heights. The existing federal OSHA regulation would not provide any protection for workers operating at such heights.

The proposed lower fall heights for requiring fall protection will also bring Virginia into closer compliance with the nonfederal height requirements for fall protection in steel erection

enforced by neighboring states of North Carolina (6 feet) and Maryland (10 feet).

Substance: This proposed regulatory action would result in no change to the existing requirements for steel erection. The adoption will place in regulatory form the existing VOSH administrative policy to insure worker protection at or above 10 feet. The board had determined that the proposed regulatory action is essential to protect worker health and safety from falls in construction at lower heights. The existing federal OSHA regulation would not provide any protection for workers operating at such heights.

This rulemaking will place in regulatory form the current VOSH administrative policy whereby VOSH regulations 16 VAC 25-175-1926.28(a) and 16 VAC 25-175-1926.105(a), are used to require steel erection employers to provide protection for steel erection workers from falls at or above 10 feet.

A singular exception to the use of 16 VAC 25-175-1926.28(a) and 16 VAC 25-175-1926.105(a) in steel erection is for employees working as “connectors.” A “connector” is defined in 16 VAC 25-175-1926.751 as “...an employee who, working with hoisting equipment, is placing and connecting structural members and/or components.”

Controlled decking zones would be prohibited.

Issues: There are no advantages or disadvantages to the regulated community, the public or the department. The requirements of the proposed regulation have been enforced by the department as an administrative policy for more than 15 years. As the proposed amendment reflects current agency policy, no potential issues are anticipated that may need to be addressed during the process.

Fiscal Impact: The proposed regulation would have no fiscal impact on employers, employees, or the agency as it does not modify current employee safeguards or impose additional costs on employers. The proposed fall protection requirements in the proposal are currently enforced by VOSH administratively.

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 § 2.2-4007 H of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007 H 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 General Assembly mandates in § 40.1-22 of the Code of Virginia that the Safety and Health Codes Commission adopt, alter, amend, or repeal rules and regulations to further protect and promote the safety and health of employees in places of employment over which

it has jurisdiction and to effect compliance with the federal Occupational Safety and Health Act (OSHA), and as may be necessary to carry out its functions.

The proposed regulation establishes safety standards for fall protection for workers on steel erections. It sets forth requirements to protect workers from the hazards associated with steel erection activities involved in the construction, alteration, and/or repair of single and multi-story buildings, bridges, and other structures where steel erection occurs.

Estimated economic impact. The proposed regulation establishes safety standards and requirements deemed necessary to protect steel erection workers from falls. In October 2001, the Safety and Health Codes Commission adopted the new federal OSHA safety standards for steel erections. However, when promulgating the proposed regulation, the commission decided not to adopt certain aspects of the federal standards.

First, the proposed regulation requires protection for steel erection workers from falls from a height of 10 feet or more above a lower level. Federal regulations require fall protection from falls from a height of 15 feet or more above a lower level. The federal 15-foot requirement was deemed inadequate based on the Virginia Occupational Safety and Health (VOSH) program's investigation of at least 18 fatal construction accidents involving falls of less than 15 feet. While none of these accidents occurred on steel erectors, they served to demonstrate the potentially fatal hazards of falls of less than 15 feet.

Second, the proposed regulation allows for an exception to the requirements of this regulation for employees working as connectors. A connector is defined as an employee who, working with hoisting equipment, places and connects structural members and/or components. The exception was made based on the VOSH program's determination that during the interval when structural members and/or components are in the air being hoisted into position for assembly, a greater hazard exists if connectors are tied and not given the freedom to move in order to avoid swinging steel.

Third, the proposed regulation specifically prohibits the use of controlled decking zones. Under federal OSHA regulations, a controlled decking zone is defined as an area with controlled access where certain work may take place without the use of guardrail systems, personal fall arrest systems, fall restraint systems, or safety net systems. The proposed regulation does not allow for the creation of controlled decking zones and requires fall protection be provided during all decking operations.

The proposed regulation is not likely to have a significant economic impact. The safety standards and requirements being proposed are currently enforced administratively under the VOSH program. VOSH regulations dealing with the use of personal protective equipment and safety nets in construction have been used to enforce safety standards for steel erection workers for over 15 years. The proposed regulation codifies those standards. As the regulation does not affect current practice, it is not likely to impose additional costs on

employees (in terms of reducing safety) or employers (in terms of applying new standards) operating in the construction industry and using steel erections. In fact, to the extent that the regulation codifies current administrative policy and improves the implementation and enforcement of existing safety standards and requirements for steel erections, it is likely to have a positive economic impact.

Businesses and entities affected. The regulation codifies current administrative policy and proposes no substantive changes. It is not likely to impose any additional costs on employees (in terms of safety) and employers (in terms of additional standards) operating in the construction industry and using steel erections. To the extent the regulation codifies and clearly lays out current policy, it will make it easier for employers and employees to comply with existing safety standards.

Localities particularly affected. The proposed regulation will affect all localities in the Commonwealth.

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

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

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

The Department of Labor and Industry and the Safety and Health Codes Board concur with the economic impact analysis of the Department of Planning and Budget for the proposed Safety Standards for Fall Protection in Steel Erection, Construction Industry, 16 VAC 25-145.

Summary:

The proposed regulation requires steel erection employers to provide protection for steel erection workers from falls at or above 10 feet. The single exception to the requirement is for employees working as "connectors." Controlled decking zones (CDZs) are prohibited.

CHAPTER 145.

SAFETY STANDARDS FOR FALL PROTECTION IN STEEL ERECTION, CONSTRUCTION INDUSTRY.

16 VAC 25-145-10. Application of regulation.

Notwithstanding any other provisions to the contrary relating to fall protection and controlled decking zones (CDZ) in the regulation of steel erection in 16 VAC 25-175-1926.500; 16 VAC 25-175-1926.751 through 16 VAC 25-175-1926.759; 16 VAC 25-175-1926.761; and Appendix D to Subpart R - Illustrations of the Use of Controlled Decking Zones (CDZs): Nonmandatory guidelines for complying with § 1926.760(c)(3); the provisions of 16 VAC 25-145 shall take precedence.

16 VAC 25-145-20. General requirements.

A. Except as provided by subsection C of this section, each employee engaged in a steel erection activity who is on a walking/working surface with an unprotected side or edge of 10 feet or more above a lower level shall be protected from fall

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hazards by guardrail systems, safety net systems, personal fall arrest systems, positioning device systems or fall restraint systems.

B. Perimeter safety cables. On multistory structures, perimeter safety cables shall be installed at the final interior and exterior perimeters of the floors as soon as the metal decking has been installed.

C. Connectors and employees working in leading edge decking operations shall be protected from fall hazards as provided in 16 VAC 25-145-30 and 16 VAC 25-145-40 respectively.

16 VAC 25-145-30. Connectors.

Each connector shall:

1. Be protected in accordance with 16 VAC 25-145-20 from fall hazards of 10 feet or more above a lower level; except when structural members are being lifted for connection, when it is considered by the connector to be a greater hazard to utilize fall protection in accordance with 16 VAC 25-145-20 than to have freedom of movement to avoid accidental or inadvertent contact with structural members being hoisted to be placed and connected into position;
2. Have completed connector training in accordance with 16 VAC 25-175-1926.761; and
3. Be provided, at heights at or above 10 and up to 30 feet above a lower level, with a personal fall arrest system, positioning device system or fall restraint system and wear the equipment necessary to be able to be tied off; or be provided with other means of protection from fall hazards in accordance with 16 VAC 25-145-20 A.

16 VAC 25-145-40. Decking.

A. The use of controlled decking zones is prohibited.

B. Each employee working at the leading edge of decking operations shall be protected in accordance with 16 VAC 25-145-20 A from fall hazards of 10 feet or more above a lower level.

C. Access to the leading edge of decking operations shall be limited to only those employees engaged in leading edge work.

D. The boundaries of a leading edge decking operation shall be designated and clearly marked. The operation shall not be more than 90 feet (27.4 m) wide and 90 feet (27.4 m) deep from any leading edge. The operation shall be marked by the use of control lines or the equivalent. Examples of acceptable procedures for demarcating can be found in 16 VAC 25-175-1926.750 through 16 VAC 25-175-1926.761 (Subpart R) Appendix A.

E. Each employee working in a leading edge decking operation shall have completed training in accordance with 16 VAC 25-175-1926.761.

F. Unsecured decking shall not exceed 3,000 square feet (914.4 m²).

G. Safety deck attachments shall be performed from the leading edge back to the control line and shall have at least two attachments for each metal decking panel.

H. Final deck attachments and installation of shear connectors shall not be performed in areas where leading edge decking operations are being conducted.

16 VAC 25-145-50. Illustration of the use of control lines to demarcate leading edge decking operations: nonmandatory guidelines for complying with 16 VAC 25-145-40 D.

A. When used to control access to areas where leading edge and initial securement of metal deck and other operations connected with leading edge work are taking place, the work area is defined by a control line or by any other means that restricts access.

1. A control line is erected not less than 6 feet (1.8 m) nor more than 90 feet (27.4 m) from the leading edge;
2. Control lines extend along the entire length of the unprotected or leading edge and are approximately parallel to the unprotected or leading edge; and
3. Control lines are connected on each side to a guardrail system, wall, stanchion or other suitable anchorage.

B. Control lines consist of ropes, wires, tapes, or equivalent materials, and supporting stanchions as follows:

1. Each line is rigged and supported in such a way that its lowest point (including sag) is not less than 39 inches (1.0 m) from the walking/working surface and its highest point is not more than 45 inches (1.3 m) from the walking/working surface.
2. Each line has a minimum breaking strength of 200 pounds (90.8 kg).

VA.R. Doc. No. R02-257; Filed June 18, 2003, 10:56 a.m.

TITLE 22. SOCIAL SERVICES

STATE BOARD OF SOCIAL SERVICES

Title of Regulations: **22 VAC 40-190. Regulation for Criminal Record Checks for Child Welfare Agencies (repealing 22 VAC 40-190-10 through 22 VAC 40-190-70).**

22 VAC 40-191. Background Checks for Child Welfare Agencies (adding 22 VAC 40-191-10 through 22 VAC 40-191-150).

Statutory Authority: §§ 63.2-217, 63.2-1704, 63.2-1720, 63.2-1721, 63.2-1722, 63.2-1723, 63.2-1724, and 63.2-1727 of the Code of Virginia.

Public Hearing Date: N/A

Public comments may be submitted until September 12, 2003.

(See Calendar of Events section for additional information)

Agency Contact: Wenda Singer, Program Consultant, Department of Social Services, 730 East Broad Street,

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Basis: Section 63.2-217 of the Code of Virginia requires the State Board of Social Services to adopt regulations that are necessary or desirable to carry out the purpose of Title 63.2 of the Code of Virginia. The board has the statutory authority to promulgate this regulation based on §§ 63.2-1704, 63.2-1719, 63.2-1720, 63.2-1721, 63.2-1722, 63.2-1723, 63.2-1724, and 63.2-1727. These sections establish background checks and set prohibitions if a person is found to have certain criminal convictions or has ever been the subject of a founded complaint of child abuse or neglect. The regulation is necessary to implement the required statutory provisions.

Section 63.2-1704 of the Code of Virginia applies to voluntary registration of family day homes. Section 63.2-1719 of the Code of Virginia provides definitions for all entities covered by Chapter 17 – Licensure. Section 63.2-1720 of the Code of Virginia applies to compensated employment and use of volunteers. Section 63.2-1721 applies to background checks upon application for licensure or registration and to background checks of foster or adoptive parents approved by child-placing agencies and family day homes approved by family day systems. Section 63.2-1722 of the Code of Virginia applies to revocations and denial of renewal. Section 63.2-1723 applies to the waiver of certain criminal convictions. Section 63.2-1724 applies to record checks by unlicensed child day centers. Section 63.2-1727 of the Code of Virginia applies to the prohibition of sex offenders or child abusers from operating or residing in family day homes.

Purpose: The major purpose of the replacement regulation is to incorporate relevant changes in the Code of Virginia since 1995. The other major purpose is to strengthen the regulation by addressing issues that have been raised during the past several years, and by reorganizing and adding sections to make it more functional. The changes protect the health, safety and welfare of children by strengthening background check requirements for individuals who are associated with a child care setting.

Substance: The primary statutory changes reflected in the proposed regulation are:

1. Expanding the list of crimes that are barriers to operating, working or volunteering at a child welfare agency;
2. Including prior adult convictions and certain juvenile convictions and adjudications of delinquency as offenses;
3. Deleting §18.2-60 as a barrier crime and adding § 18.2-59 as a barrier crime;
4. Making consistent for all child welfare agencies the disqualification for other felonies that are not barrier crimes, unless five years have elapsed since conviction;
5. Clarifying that manslaughter is a barrier crime;
6. Mandating the search of the child abuse central registry;
7. Adding a founded complaint of child abuse or neglect as a prohibition to (i) operating or residing in a family day home, (ii) licensure, (iii) registration, (iv) approval, (v)

employment, (vi) volunteering, or (vii) being an applicant or agent;

8. Requiring that a person denied approval or employment due to a founded complaint of child abuse or neglect be given a copy of the report;

9. Establishing a waiver of disqualification due to certain criminal convictions, as identified in § 63.2-1723 (eligibility and application requirements, change in waiver application fee, review criteria, decision process, modification requirements, public notification requirements);

10. Introducing the phrase “background checks” to mean sworn statement or affirmation, criminal history record check, and search of the central registry;

11. Introducing and defining the term “offense”;

12. Clarifying that family day homes approved by family day systems and foster and adoptive homes approved by child-placing agencies, and religious exempt child day centers are subject to the provisions of Article 3 (§ 63.2-1719 et seq.) of Chapter 17 of Title 63.2 of the Code of Virginia (Background Checks);

13. Limiting volunteers required to obtain background checks to those who will be alone with any child in the performance of their duties;

14. Limiting employees required to obtain background checks to those involved in the day-to-day operation of such agency or who are alone with, in control of, or supervising one or more children;

15. Clarifying that background checks requirements of those children’s residential facilities, previously referred to as child-caring institutions, are now found in another section of the Code of Virginia;

16. Deleting the requirement that board members, upon application for licensure or registration, must obtain background checks unless the board member functions in another capacity that requires the checks;

17. Clarifying that only the applicants of child welfare agencies and those persons who are agents at the time of application must have the background checks completed prior to being involved in the day-to-day operations of the child welfare agency or being alone with, in control of, or supervising one or more of the children;

18. Changing the time period for obtaining criminal history record check records and central registry findings from 21 to within 30 days;

19. Clarifying that there is no penalty if the child welfare agency has applied for a background check timely and it has not been obtained due to administrative delay.

Other changes include additions that further explain the background checks process. Among these are:

1. Having a separate regulation for licensed child day centers;

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2. Adding sections describing who is not covered by the regulation; explaining requirements for satisfactory background checks; explaining the consequences of unsatisfactory background checks findings; describing the waiver of criminal conviction; identifying who may apply for a waiver; explaining how to apply for a waiver; describing the waiver evaluation criteria; describing the process for modifying, revoking, and terminating waivers; and explaining the waiver public notification requirements;

3. Requiring all adults residing in family day homes, licensed independent foster homes, foster homes approved by child-placing agencies, and homes of applicants to be adoptive parents approved by child-placing agencies (until the adoption is final) to furnish background checks; and

4. Requiring all persons 14 years of age and older to request a search of the central registry if residing in family day homes, licensed independent foster homes, foster homes approved by child-placing agencies, and homes of applicants to be adoptive parents approved by child-placing agencies (until the adoption is final) to furnish central registry findings.

There are also content changes that reflect current practice or are responsive to questions from the public and facilities. These include, but are not limited to:

1. Allowing satisfactory background checks for contract employees to be accepted if dated less than six months prior to when the contract agencies begin to provide services at facilities;

2. Accepting a copy of the central registry finding;

3. Providing that a background check remains valid at a facility as long as no more than 12 months have passed from when the person began a leave of absence, was terminated from employment from the facility, or was transferred to a center owned and operated by the same employer or entity;

4. Allowing a person who leaves a facility to take the criminal history record report or central registry finding, if the report or finding is less than 91 days old, and if the facility keeps a copy of any report that was taken and writes on the copy of the report that it is a copy;

5. Requiring background checks every three years for a volunteer, employee and person living in a regulated home. Exception: A volunteer, employee, or person living in a voluntarily registered family day home must obtain background checks every two years;

6. Clarifying that the department or registering, approving, or other licensing authority has the right to revoke or deny licensure, registration, or approval based on background checks results or failure to obtain background checks;

7. Explaining that an employee or volunteer may continue to work or provide services if the criminal history record request or request for search of the central registry was submitted within seven calendar days of the person beginning employment or volunteer service, but the report is not returned within 30 calendar days;

8. Providing that the department or registering, approving, or other licensing authority may require a new background check relevant to a suspicion of a barrier crime conviction, a felony conviction, or a founded complaint of child abuse and neglect;

9. Allowing satisfactory background check reports for contract employees and substitute staff from temporary agencies to be viewed, accepted, and copies maintained;

10. Permitting the department to release information about disqualifying backgrounds to facilities that are covered by this regulation; and

11. Informing the person that a search of the central registry and criminal history record is being requested.

Issues: The public is expected to benefit from this regulation. The requirements that reflect the statutory changes and the other requirements offer protection for children who receive state regulated child day care during a portion of the day. The facilities covered by the regulation will have increased flexibility to shift staff and use contract staff without obtaining repeat background checks, but all persons will be required to resubmit checks every three years to assure availability of updated background information. Facilities and regulatory staff will benefit because the requirements are clearer and include all of the parties required to comply with the regulation.

The department sees no disadvantage to the public or the Commonwealth.

Fiscal Impact: There are no projected additional costs to the state to implement and enforce the proposed regulation. The regulation applies to licensed family day homes, licensed family day systems, family day homes approved by family day systems, licensed child-placing agencies, licensed independent foster homes, foster and adoptive homes approved by child-placing agencies, voluntarily registered family day homes, and religious exempt child day centers. In addition, the waiver of criminal convictions applies to licensed child day centers.

The \$5 cost for search of the central registry is required by law and has been in effect since July 1998. The costs of repeat checks for affected parties, the deletion of categories of people required to obtain checks, and the increased flexibility to accept existing satisfactory background checks results are anticipated to balance each other out, with no aggregate fiscal impact on facilities.

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 § 2.2-4007 H of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007 H 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. Pursuant to changes in the Code of Virginia, the proposed regulations (i) exempt certain persons working, volunteering at child welfare agencies, or operating one, from background check requirements, (ii) require child protection services central registry check as a part of the background check process, (iii) expand the list of barrier crimes for employment, and (iv) change the time frame to receive background checks from 21 days to 30 days. In addition to these, the proposed nonstatutory changes include (v) requiring repeat background checks every three years, (vi) establishing limited background check requirements for those teenagers living in family day homes, (vii) allowing child welfare agencies to accept background checks dated less than six months from when contract employees begin providing services at facilities, and (viii) allowing persons to take background check findings with them and use them for another application within 90 days.

Estimated economic impact. The proposed regulations will replace current background check regulations (22 VAC 40-190) for child welfare agencies. The child welfare agencies subject to the proposed regulations include licensed and voluntarily registered family day homes, child-placing agencies and foster and adoptive homes approved by child-placing agencies, family day systems and family day homes approved by family day systems, adults and certain teenagers living in family day or foster or adoptive homes, and religious exempt child day centers. The number of these facilities in the Commonwealth is about 4,200. The personnel working at these facilities come in supervised or unsupervised contact with up to 98,000 children depending on their job functions.

Required background checks are: a sworn statement or affirmation, a criminal history check conducted by the State Police, and a search of the child protective services central registry for child abuse and neglect. The main purpose of the background check requirement is to reduce potential risk of harm to children by the personnel working or volunteering at these facilities or being in a supervisory relationship alone with children. The rationale is that persons with certain criminal convictions and founded findings of child abuse and neglect are more likely to harm children than other persons without such backgrounds, and background checks would probably increase protection of these children. Although the objective of background checks is clear, there is no available study assessing potential risks. Thus, the significance and types of risks that may be present, as well as the success of background checks in reducing potential risks, are not well known. However, despite the little knowledge available in this area, it is standard practice to require some form of background checks for the employees and volunteers at these types of facilities nationwide.

Some of the changes between the proposed and current regulations are mandated by the changes in the Code of Virginia. The General Assembly made several changes to background check requirements since 1995. The proposed regulations incorporate these statutory changes. Since these statutory changes are in effect for several years, no immediate

economic impact is expected. Pursuant to § 63.2-1720 of the Code of Virginia, one of the changes provides background check exemptions for certain employee and volunteer positions at child welfare agencies. This affects approximately 2,570 employees and 6,530 volunteers who are not alone with, in control of, or supervising children. Additionally, background checks are no longer required for approximately 4,950 board members of child welfare agencies. Each background check includes a child protective services check and a criminal history check which cost \$5 and \$15, respectively. The fiscal effect of these exemptions is about a \$281,000 reduction in background check costs per year. Fees for background checks may be paid by the facility or by the individual. Thus, both facilities and individuals benefit from this change in terms of averted background check costs. The reduction in the background check requests also reduces revenues collected by the State Police to conduct the criminal history checks and by the Department of Social Services (DSS) to conduct child protective services central registry checks. In addition to the fiscal effect, the facilities and individuals probably experience additional cost savings in administrative time and possibly other expenses associated with managing and obtaining background checks. It is also possible that some of the board members, employees, and volunteers may have a disqualifying record, but may be able to obtain a position with child welfare agencies, as they are not required to obtain background checks. This proposed change benefits these individuals because they could not otherwise work for these facilities.

On the other hand, the background check exemptions may introduce some additional costs in terms of greater potential risk of harm to children at the child welfare agencies. Although the risks to children may be higher, it is worthwhile to note that these individuals are not in direct contact with the children and therefore the change in the potential risks may be insignificant. There is no available data however to assess the change in the level of protection afforded to these children.

The statutory changes also mandate the search of the central registry since 1998 to determine if the person has ever been the subject of a founded complaint of child abuse and neglect in Virginia. It is estimated that this change probably affects 5,060 persons annually in family day homes, child placing agencies, and religious exempt centers plus an unknown number of adoptive and foster homes. Since each child registry check costs \$5, the fiscal effects of this change include about a \$25,300 increase per year in costs excluding adoptive and foster homes and an equivalent increase in DSS central registry check revenues. There are probably additional administrative costs of conducting these central registry checks. Some of the providers, personnel, or volunteers may be disqualified and may incur significant economic losses. On the other hand, with the child protective services central registry check, the child welfare agencies are able to find out about the child abuse and neglect history of applicants and may be able to reduce risk of harm to children by screening these activities.

Pursuant to § 63.2-1719 of the Code of Virginia, another significant change is expanding the list of crimes that are barriers to operating, working, or volunteering at a child

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welfare agency. The list of barrier crimes is expanded to include manslaughter, malicious wounding by mob, assault and bodily wounding, car jacking, extortion by threat, felony stalking, arson, burglary, any felony violation related to possession or use of a machine gun, use of a sawed-off shotgun in a crime of violence, possession of child pornography, electronic facilitation of pornography, employing or permitting a minor to assist in obscenity and related offenses, delivery of drugs to prisoners, escape from jail, felonies by prisoners, and an equivalent offense in another state. People with a criminal background including these offenses are disqualified from employment with or volunteering for child welfare agencies. In addition, if the providers, current employees, or volunteers discovered to have history of these offenses during the proposed three-year repeat checks (discussed later in this report), their license, employment, or voluntary activity will be terminated as current employees are not grandfathered from the expanded list of crimes. Thus, the proposed expansion of barrier crimes not only affects future candidates but also current providers, employees, and volunteers. The likely economic effects of this change are a potentially higher turnover rate among providers, employees, and volunteers and possibly an increase in labor costs of operating a child welfare agency and a potential decrease in risk of harm to children. Given the lack of data, none of these effects could be quantified.

Also, pursuant to § 63.2-1720 of the Code of Virginia, the timeframe to receive background checks is increased from 21 days to 30 days. Prior to this change, if a child welfare agency did not receive background checks within 21 days, they were found noncompliant during visits by licensing inspectors and had to develop an action plan to address the noncompliance. Increasing the timeframe to 30 days reduces the incidence of being found noncompliant and probably provides some administrative cost savings to the agencies as well as to DSS. However, this change allows new employees or volunteers to be in contact with children for an additional 9 days without having to have the background checks and has the potential to increase the risk of harm.

In addition to these, a nonstatutory change will establish repeat background check requirements every three years for providers, employees, volunteers, and any others required to obtain checks and every two years for voluntarily registered family day homes. Currently, background checks are conducted once at the beginning employment/volunteer service and repeated if a person's status changes. It is estimated that repeat background checks will be conducted on approximately 8,606 providers, employees, and volunteers working at child welfare agencies annually. Annual fiscal costs of these criminal background checks and child registry checks on child welfare providers, employees, and job applicants are expected to be about \$172,120. DSS and the State Police will see an increase in their background checks revenues. In addition to the fiscal effect, providers and employees will probably experience an increase in administrative time and possibly other expenses associated with managing and obtaining background checks. It is also possible that some of the employees and volunteers will be found to have a disqualifying offense or finding since after their initial date of employment. These individuals will lose their provider,

employee, or volunteer status. Thus, perhaps a reduction in potential risk of harm to children at the child welfare agencies may be expected. However, there is no available information on the number of employees who may be discovered to have a disqualifying record during the repeat checks and there is no available data to assess the potential increase in the level of protection afforded to children.

Additionally, the proposed changes will add a new child protective services check requirement for 14-year old to 18-year old teenagers living in approximately 1,300 voluntarily registered family day homes and homes approved by family day systems. DSS estimates that 325 additional persons will be required to obtain a child protective services check because of this requirement. Thus, the fiscal effect of this change is an additional \$1,625 on family day homes or other approved homes. If a teenager is found to have a disqualifying record on the child protective services central registry, the family day home, foster, or adoptive home will no longer be able to provide care and will likely incur significant economic losses. There is also possible increase in administrative costs on these child welfare agencies and potential reduction in risk of harm to other children staying at the same facilities.

The proposed changes will also allow child welfare facilities to accept satisfactory background checks dated less than six months before independent contract employees or contract employees hired by contract agencies begin providing services at facilities. This change will allow the use of background checks for contract workers up to six months rather than requiring a new check every time they contract with a new facility. DSS estimates that approximately 450 contract employees may be affected by this change providing about \$9,000 cost savings to the facilities, contractors, or contract employees. Similar to the other changes, there is likely to be a reduction in administrative costs to these facilities, contractors, or contract employees and a corresponding reduction in background check revenues of DSS and the State Police. There may also be a change in the potential risk of harm to children as the facilities will not be informed about the most recent disqualifying activities of these 450 employees at the time of employment.

Finally, the proposed regulations will allow persons to take background check findings with them and use them for another application within 90 days. This requirement is estimated to affect approximately 200 people from religious exempt centers, family day homes, and child placing agencies and estimated to provide approximately \$2,000 in fiscal cost savings. An equal amount of reduction in revenues of the State Police and DSS would follow. In addition to the fiscal impact, savings in administrative costs are expected. On the other hand, those people who committed a disqualifying offense during the 90-day period will be able to obtain employment and may increase potential risk of harm to children.

Businesses and entities affected. The proposed regulations apply to approximately 3,200 family day homes and systems, 70 child placing agencies, 900 religious exempt child day centers, and an unknown number of licensed foster and

adoptive homes. These facilities may be serving up to 98,000 children in Virginia.

Localities particularly affected. The proposed regulations apply throughout the Commonwealth.

Projected impact on employment. In general, exempting persons from background check requirements will probably increase the pool of eligible employees while other changes such as expanding the list of barrier crimes or establishing repeat background checks will reduce the same pool or increase turnover. However, the net effect on employment is not known due to lack of data.

Effects on the use and value of private property. The proposed regulations may have some effect on the profitability of privately owned child welfare agencies through changes in background check costs and administrative costs. Some requirements are expected to provide cost savings while others are expected to increase costs to specific facilities or groups of facilities. The changes in profitability of the for-profit family day systems or child placing agencies will most likely be reflected in their value. However, since it is not known which effect will dominate, an overall conclusion cannot be drawn.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Department of Social Services concurs with the economic impact analysis prepared by the Department of Planning and Budget.

Summary:

The proposed action will repeal 22 VAC 40-190 and adopt 22 VAC 40-191. This proposed regulation incorporates relevant Code of Virginia changes from 1995 to the present time, including recodification of Title 63.1 of the Code of Virginia during the 2002 session of the General Assembly. It adds sections, reorganizes content, uses more descriptive headings, and increases use of the active voice to increase clarity of the regulation. It responds to questions and comments about background checks and incorporates a response to questions raised during review of a previous proposed regulation with the same VAC chapter number that was subsequently withdrawn.

Pursuant to changes in the Code of Virginia, the proposed regulations (i) exempt certain persons working or volunteering at child welfare agencies, or operating one, from background check requirements, (ii) require a child protection services central registry check as a part of the background check process, (iii) expand the list of barrier crimes for employment, and (iv) change the time frame to receive background checks from 21 days to 30 days.

In addition, the proposed nonstatutory changes include (i) requiring repeat background checks every three years, (ii) establishing limited background check requirements for those teenagers living in family day homes, (iii) allowing child welfare agencies to accept background checks dated less than six months from when contract employees begin providing services at facilities, and (iv) allowing persons to take background check findings with them and use them for another application within 90 days.

CHAPTER 191. BACKGROUND CHECKS FOR CHILD WELFARE AGENCIES.

22 VAC 40-191-10. Defining words and phrases.

The following words and terms have these meanings when used in reference to this regulation:

"Agent" means a person who acts on behalf of, or is an employee or volunteer with, a child welfare agency.

"Applicant" means the person or persons applying for approval as a (i) licensed family day home; (ii) licensed family day system; (iii) licensed child-placing agency; (iv) licensed independent foster home; (v) voluntarily registered family day home; (vi) family day home approved by a licensed family day system; (vii) foster and adoptive home approved by a licensed child-placing agency; or (viii) religious exempt child day center. In the case of a sole proprietorship, the applicant is the individual owner. In the case of a partnership, the applicants are all the partners. If the applicant is a corporation, limited liability company, public agency or similar entity, the applicant must designate at least one individual who must comply with the applicant's obligation on its behalf.

"Approved" means having obtained the status of approval through the process required in Minimum Requirements for Family Day-Care Systems (22 VAC-40-180) or Minimum Standards for Child-Placing Agencies (22 VAC 40-130). Approved facilities are (i) family day homes approved by licensed family day systems and (ii) foster and adoptive homes approved by licensed child-placing agencies.

"Background checks" means a sworn statement or affirmation, a criminal history record report, and a child protective services central registry check.

"Barrier crime" means a conviction identified at § 63.2-1719 in the Code of Virginia. The convictions, and Code of Virginia references, are: murder or manslaughter as set out in Article 1 (§ 18.2-30 et seq.), malicious wounding by mob as set out in § 18.2-41, abduction as set out in subsection A of § 18.2-47, abduction for immoral purposes as set out in § 18.2-48, assault and bodily woundings as set out in Article 4 (§ 18.2-51 et seq.), robbery as set out in § 18.2-58, carjacking as set out in § 18.2-58.1, extortion by threat as set out in § 18.2-59, felony stalking as set out in § 18.2-60.3, sexual assault as set out in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, arson as set out in Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2, burglary as set out in Article 2 (§ 18.2-89 et seq.) of Chapter 5 of Title 18.2, any felony violation relating to possession or distribution of drugs as set out in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, drive-by shooting as set out in § 18.2-286.1, use of a machine gun in a crime of violence as set out in § 18.2-289, aggressive use of a machine gun as set out in § 18.2-290, use of a sawed-off shotgun in a crime of violence as set out in subsection A of § 18.2-300, failure to secure medical attention for an injured child as set out in § 18.2-314, pandering as set out in § 18.2-355, crimes against nature involving children as set out in § 18.2-361, incest as set out in § 18.2-366, taking indecent liberties with children as set out in § 18.2-370 or § 18.2-370.1, abuse and neglect of children as set out in § 18.2-371.1,

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obscenity offenses as set out in § 18.2-374.1, possession of child pornography as set out in § 18.2-374.1:1, electronic facilitation of pornography as set out in § 18.2-374.3, abuse and neglect of incapacitated adults as set out in § 18.2-369, employing or permitting a minor to assist in an act constituting an offense under Article 5 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2 as set out in § 18.2-379, delivery of drugs to prisoners as set out in § 18.2-474.1, escape from jail as set out in § 18.2-477, felonies by prisoners as set out in § 53.1-203; or an equivalent offense in another state.

“Board” means State Board of Social Services.

“Central registry” means the record of founded complaints of child abuse and neglect maintained by the Department of Social Services.

“Central registry finding” means the record of founded complaints of child abuse and neglect for an individual.

“Central Criminal Records Exchange” or “CCRE” means the information system containing conviction data of crimes committed in Virginia. The system is maintained by the Department of State Police.

“Child day program” means a regularly operating service arrangement for children where, during the absence of a parent or guardian, a person or organization has agreed to assume responsibility for the supervision, protection, and well-being of a child under the age of 13 for less than a 24-hour period.

“Child-placing agency” means any person or agency licensed to place children in foster homes, adoptive homes or independent living arrangements pursuant to § 63.2-1819 of the Code of Virginia or a local board that places children in foster homes or adoptive homes pursuant to §§ 63.2-900, 63.2-903 and 63.2-1221 of the Code of Virginia. Officers, employees, or agents of the Commonwealth, or any locality acting within the scope of its authority as such, who serve as or maintain a child-placing agency, are not required to be licensed.

“Child welfare agency” means a child day center, child-placing agency, children’s residential facility, family day home, family day system, or independent foster home. For purposes of this regulation, the requirements for child welfare agencies also apply to foster or adoptive homes requesting approval or with approval by child-placing agencies and foster homes requesting approval or with approval by family day systems.

“Commissioner” means the Commissioner of the Virginia Department of Social Services or his designee.

“Contract agency” means an entity with which the facility or a parent has an agreement to provide services to a child or children while attending the facility.

“Contract employee” means a person with whom the facility or a parent has an agreement to provide services to a child or children while attending the facility.

“Contracting organization” means an agency that has been designated by the Department of Social Services to administer the voluntary registration program for family day homes.

“Criminal history record check” means the process the Department of State Police uses to generate a criminal record report on a person.

“Criminal history record report” means either the criminal record clearance or the criminal history record issued by the Central Criminal Records Exchange, Department of State Police. The report identifies convictions within the Commonwealth.

“Department” means the Department of Social Services.

“Department representative” means an employee of the department who carries out regulatory duties or an agency acting as an authorized agent of the department carrying out approval functions. Licensed family day systems have authority to approve family day homes. Licensed child-placing agencies have authority to approve foster and adoptive parents.

“Disqualifying background” means (i) having been the subject of a founded complaint of child abuse or neglect even if his record has been purged from the Child Abuse and Neglect Central Registry system, (ii) a barrier crime conviction, or (iii) any other felony not included in the definition of “barrier crime,” unless five years have elapsed since the conviction. For the purpose of this regulation, no person is considered to be the subject of a founded complaint of child abuse or neglect until a decision upholding the finding has been rendered by the hearing officer after the administrative hearing, provided the person complies with the requirements for requesting an administrative hearing. No person is considered to be the subject of a founded complaint of child abuse or neglect if the child abuse or neglect finding is overturned by an administrative hearing or a subsequent court decision.

“Employee” means a person hired by a facility or with whom the facility has an employment agreement. A provider assistant in a family day home is considered an employee in this chapter.

“Facility” means (i) a licensed family day home; (ii) a licensed family day system; (iii) a licensed child-placing agency; (iv) a licensed independent foster home; (v) a voluntarily registered family day home; (vi) a family day home approved by a licensed family day system; (vii) a foster and adoptive home approved by a licensed child-placing agency; (viii) a religious exempt child day center; and (ix) an applicant seeking a waiver in order to establish one of the above listed entities.

“Family day home” means a child day program offered in the residence of the provider or the home of any of the children in care for one through 12 children under the age of 13, exclusive of the provider’s own children and any children who reside in the home, when at least one child receives care for compensation. The provider of a licensed or registered family day home must disclose to the parents or guardians of children in their care the percentage of time per week that persons other than the provider will care for the children. Family day homes serving six through 12 children, exclusive of the provider’s own children and any children who reside in the home, must be licensed. However, no family day home shall care for more than four children under the age of two,

including the provider's own children and any children who reside in the home, unless the family day home is licensed or voluntarily registered. However, a family day home where the children in care are all grandchildren of the provider is not required to be licensed.

"Family day system" means any person who approves family day homes as members of its system; who refers children to available family day homes in that system; and who, through contractual arrangement, may provide central administrative functions including, but not limited to, training of operators of member homes; technical assistance and consultation to operators of member homes; inspection, supervision, monitoring, and evaluation of member homes; and referral of children to available health and social services.

"Good character and reputation" means that the person (i) maintains business, professional, family, and community relationships that are characterized by honesty, fairness, truthfulness and dependability and (ii) has a history or pattern of behavior that demonstrates that the person is suitable and able to care for, guide, supervise, and protect children.

"Independent foster home" means a private family home in which any child, other than a child by birth or adoption of such person, resides as a member of the household and has been placed there independently of a child-placing agency except (i) a home in which are received only children related by birth or adoption of the person who maintains such home and children of personal friends of such person and (ii) a home that receives a child or children committed under the provisions of subdivision A 4 of § 16.1-278.2, subdivision 6 of § 16.1-278.4 or subdivision A 13 of § 16.1-278.8 of the Code of Virginia.

"Involved in the day-to-day operations" means:

1. In a supervisory or management position, making daily decisions regarding the operation of the facility;
2. Counted by the facility for purposes of staff-to-children ratios;
3. Providing casework services for a child-placing agency;
4. Employed by a licensed family day system as a home visitor; or
5. Having access to child- and client-related records or to facility personnel records.

"Licensed" means having met the requirements of and obtained licensure as a licensed family day-care system, licensed independent foster home, licensed private child-placing agency, or licensed family day home.

"Local agency" means local department of social services.

"May" means has permission.

"Must" means the action is a requirement.

"Must not" means the action is prohibited.

"Offense" means a (i) conviction of a barrier crime, (ii) conviction of any other felony not included in the definition of barrier crime unless five years have elapsed since conviction,

or (iii) founded complaint of child abuse or neglect within or outside the Commonwealth. Convictions include prior adult convictions and juvenile convictions or adjudications of delinquency based on a crime that would be a felony if committed by an adult within or outside the Commonwealth.

"Other felony" means conviction for any felony in the last five years that is not a barrier crime felony.

"Parent-volunteer" means someone supervising, without pay, a group of children that includes the parent-volunteer's own child in a program that operates no more than four hours per day, provided that the parent-volunteer works under the direct supervision of a person who has received a clearance pursuant to § 63.2-1720 or § 63.2-1724 of the Code of Virginia.

"Registered" means having obtained the status of registration through the process required in Voluntary Registration of Family Day Homes – Requirements for Providers (22 VAC 40-180).

"Registered family day home" means any family day home that has met the standards for voluntary registration for such homes pursuant to regulations adopted by the board and that has obtained a certificate of registration from the commissioner.

"Religious exempt center" means an unlicensed child day center operated or conducted under the auspices of a religious institution that has filed with the commissioner a satisfactory annual statement of intent to operate a child day center and other information as specified in § 63.2-1716 of the Code of Virginia and has a letter of exemption from the commissioner.

"Search of central registry" means the process the Virginia Department of Social Services' Child Protective Services Unit uses to generate a central registry report on a person.

"Sex offense felony for family day homes" means conviction of a felony in violation of §§ 18.2-48, 18.2-61, 18.2-63, 18.2-64.1, 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-67.5, 18.2-355, 18.2-361, 18.2-366, 18.2-369, 18.2-370, 18.2-370.1, 18.2-371.1 or § 18.2-374.1 that prohibits a sex offender or founded child abuser from residing in a family day home, whether or not the home is regulated or subject to regulation. The descriptions of the Code of Virginia sections are abduction; actual or attempted rape; carnal knowledge of a child between 13 and 15 years of age; carnal knowledge of a juvenile under the purview of the Juvenile and Domestic Relations District Court, or juvenile committed to the custody of the State Department of Juvenile Justice; actual or attempted forcible sodomy or object sexual penetration; aggravated sexual battery; attempted sexual battery; taking or detaining a person or consenting to the taking of a person for prostitution or unlawful sexual intercourse; crimes against nature; incest; abuse and neglect of incapacitated adults; taking indecent liberties with children; abuse and neglect of children; indecent liberties by a person in a custodial or supervisory relationship; and production, publication, sale, possession with intent to distribute, financing, etc. of sexually explicit items.

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“Sworn statement or affirmation” means a statement completed by a person attesting to whether he has ever been (i) convicted of or the subject of pending charges of any crime within or outside the Commonwealth or an equivalent offense outside the Commonwealth or (ii) the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth. Additionally for family day homes, the provider affirms if he, or any person known to the provider who resides in the home, has a sex offense conviction or is the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth. Any person making a false statement regarding any such offense shall be guilty of a Class 1 misdemeanor pursuant to §§ 63.2-1720 and 63.2-1721 of the Code of Virginia.

“22 VAC” means Chapter 22 of the Virginia Administrative Code. This is the social services chapter.

“Volunteer” means a person who provides services without pay and who is alone with a child or children in performance of his duties.

22 VAC 40-191-20. Describing background checks.

A. The background checks covered by this regulation are:

1. Sworn statement or affirmation;
2. Criminal history record check; and
3. Central registry search.

The provisions for background checks are in §§ 63.2-1704, 63.2-1720, 63.2-1721, 63.2-1722, 63.2-1724, and 63.2-1727 of the Code of Virginia. Provisions for enforcement of background check regulations and other licensing, registration, and approval standards are in Chapter 17 (§ 63.2-1700 et seq.) of Title 63.2 of the Code of Virginia.

B. The sworn statement or affirmation is a written document in which a person must disclose any criminal conviction and any pending criminal charges within or outside Virginia.

1. For the purposes of this regulation, conviction includes any juvenile conviction or determination of delinquency if the offense involved would be a felony if committed by an adult within or outside Virginia.
2. The person must also disclose any instance of being the subject of a founded complaint of child abuse or neglect within or outside Virginia.
3. The person must use either the model form prepared by the department or use a self-created form that includes all of the information that appears on the model form.

The department provides the model sworn statement or affirmation form on its website. Requesters are permitted to submit copies of the form. The person who signs the sworn statement or affirmation affirms the truth of the statement.

C. The criminal history record check is the process of the Department of State Police to generate a criminal record report on a person. The report must be either the criminal record clearance or the criminal history record. The criminal record clearance shows whether the person is guilty of:

1. A barrier crime, as defined in § 63.2-1719 of the Code of Virginia; and/or
2. Any other felony not included in the definition of barrier crime unless five years have elapsed since the conviction.

The criminal history record report shows all convictions.

The person must use the form and process of the Central Criminal Records Exchange (CCRE) of the Department of State Police for this check.

The Department of State Police provides original criminal history record check forms to facilities upon receipt of request. The Department of State Police also provides website access to this form for facilities that are noncriminal justice inquiry interface users. The CCRE verifies criminal history record reports.

D. The search of the central registry is a check to determine if the person has ever been the subject of a founded complaint of child abuse or neglect in Virginia. The person must use the form and process of the Child Protective Services (CPS) Unit of the department.

The department provides the central registry request form on its website. Requesters are permitted to submit copies of this form. The CPS Unit verifies child protective services central registry check findings.

The department and registering and approval agencies provide copies of all forms in application packets.

22 VAC 40-191-30. Identifying the facilities that are not covered by this regulation.

A. Licensed child day centers; certified preschools or nursery schools operated by accredited private schools that are accredited in accordance with § 63.2-1715 of the Code of Virginia; children’s residential facilities; and family day homes that are not required to be licensed, registered, or approved are not covered by this regulation.

Exception: The waiver requirements found in 22 VAC 40-191-90 through 22 VAC 40-191-150 do apply to licensed child day centers. All other background checks requirements for licensed child day centers are in 22 VAC 15-50.

B. Background check requirements for certified preschool or nursery school programs operated by accredited private schools are at § 63.2-1717 of the Code of Virginia.

C. Background check requirements for children’s residential facilities, including child-caring institutions, are in 22 VAC 42-10 and in § 63.2-1726 of the Code of Virginia.

D. Background check requirements for child day centers or family day homes that are not licensed, registered, approved, or exempt from licensure and receive federal, state or local child care funds are at § 63.2-1725 of the Code of Virginia.

22 VAC 40-191-40. Identifying who is covered by this regulation.

A. This regulation applies to:

1. Licensed family day homes;

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- 2. Licensed family day systems;
- 3. Family day homes approved by family day systems;
- 4. Licensed child-placing agencies;
- 5. Licensed independent foster homes;
- 6. Foster and adoptive homes approved by child-placing agencies;

- 7. Voluntarily registered family day homes; and
- 8. Religious exempt child day centers.

B. Background checks are required at the time of initial application.

- 1. These background checks are required at the time of application for licensure, registration, or approval:

<i>Who</i>	<i>What</i>	<i>When</i>
<i>Any applicant</i>	<i>Sworn statement or affirmation, search of central registry, and criminal history record check</i>	<i>Upon application for licensure or registration as a child welfare agency</i>
<i>Any agent at the time of application who is or will be involved in the day-to-day operations of the child welfare agency or who is or will be alone with, in control of, or supervising one or more of the children</i>	<i>Same</i>	<i>Same</i>
<i>Any other adult living in the home of an applicant for licensure or registration as a family day home, or any existing employee or volunteer</i>	<i>Same</i>	<i>Upon application for licensure or registration as a family day home</i>
<i>Prospective foster or adoptive parent</i>	<i>Same</i>	<i>Upon request for approval by child-placing agency</i>
<i>Operator of family day home requesting approval by family day system</i>	<i>Same</i>	<i>Upon request for approval by family day system</i>
<i>Any other adult residing in the family day home requesting approval and any employee or volunteer of a family day home</i>	<i>Same</i>	<i>Upon request by operator for approval by family day system</i>

Specific information related to persons aged 14 to 18 is found in subdivisions C 4 and 5 of this section.

- 2. These background checks are required at the time of initial application for religious exemption status:

<i>Who</i>	<i>What</i>	<i>When</i>
<i>Any person who will be expected to be alone with one or more children enrolled in a religious exempt child day center except a parent-volunteer, as defined in this regulation</i>	<i>Documentary evidence of sworn statement or affirmation, search of the central registry, and criminal history record check</i>	<i>With the written request for religious exemption status</i>

C. Background checks are required after the initial licensure, registration, approval, or receipt of religious exemption status.

- 1. These background checks are required after initial licensure, registration, or approval:

<i>Who</i>	<i>What</i>	<i>When</i>
<i>New person designated as applicant, licensee, registrant, approved individual, or agent who is or will be involved in the day-to-day operations of the facility or who is or will be alone with, in control of, or supervising one or more of the children</i>	<i>Sworn statement or affirmation</i>	<i>Whenever an applicant, licensee, approved individual, or registrant changes</i>

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	<i>Search of central registry and criminal history record check</i>	<i>Before the end of 30 days after the change</i>
<i>Any employee of a licensed, registered, and approved facility who is involved in the day-to-day operations or who is alone with, in control of, or supervising one or more children</i>	<i>Sworn statement or affirmation</i>	<i>Prior to first day of employment at the facility</i>
	<i>Search of central registry and criminal history record check</i>	<i>Before 30 days of employment at the facility ends</i>
<i>Any applicant, licensee, approved individual, agent, employee, volunteer, and person living in the home who is required to have background checks</i>	<i>Sworn statement or affirmation, search of central registry and criminal history record check</i>	<i>Before three years since the dates of the last sworn statement or affirmation, most recent central registry finding and most recent criminal history record check report</i>
<i>Voluntary registration provider, provider assistant, substitute provider, if any, and any adult residing in the home</i>	<i>Sworn statement or affirmation, search of central registry and criminal history record check</i>	<i>90 days before the date of application for renewal of the current certificate of registration (The application for renewal must be received by the contracting organization no later than 45 days before the expiration of the current certificate of registration.)</i>
<i>Volunteer at licensed, registered, or approved facility who will be alone with any child in the performance of duties, excluding a parent-volunteer for children attending a licensed, registered, or approved program</i>	<i>Sworn statement or affirmation</i>	<i>Prior to first day of service at the facility</i>
	<i>Search of central registry and criminal history record check</i>	<i>Before 30 days of service at the facility elapses</i>
<i>Foster parent or other adult member of the household</i>	<i>Search of central registry</i>	<i>If child-placing agency staff believe it is necessary</i>

2. These background checks are required after receipt of the initial religious exemption status letter.

Annually, prior to the expiration date in the current exemption letter, the religious exempt child day center must file with the department documentary evidence that the center is in compliance with the following:

<i>Who</i>	<i>What</i>	<i>When</i>
<i>Prospective employee, volunteer, or any other person who is expected to be alone with one or more children enrolled in the religious exempt child day center except a parent-volunteer</i>	<i>Sworn statement or affirmation</i>	<i>Before employment or commencement of service at the facility</i>
	<i>Search of central registry and criminal history record clearance check, as requested by the individual</i>	<i>Within 30 days of employment or commencement of service</i>
<i>Employee, volunteer, or any other person who is expected to be alone with one or more children enrolled in the</i>	<i>Sworn statement or affirmation, search of central registry and</i>	<i>Before three years since the dates of the last sworn statement or affirmation, most recent central</i>

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<i>religious exempt child day center except a parent-volunteer</i>	<i>criminal history record check</i>	<i>registry finding and most recent criminal history record check report</i>
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3. Background checks are required for independent contract employees and employees hired by a contract agency.

If a licensed, registered, or approved facility uses independent contract employees or contract employees hired by a contract agency who will be involved in the day-to-day operations of the facility or who will be alone with, in control of, or supervising one or more children, the facility must:

- a. Obtain background checks according to the above requirements for employees, or view the original required background checks maintained by the contract employee or contract agency;
- b. Accept all satisfactory background checks dated less than six months before independent contract employees or contract employees hired by contract agencies begin providing services at facilities; and
- c. Make copies, and keep them at the licensed, registered, or approved facilities. Staff must write on the copies of the criminal record reports that they are photocopies of originals that facility staff verified.

4. A person 18 years of age and older must have background checks:

Who	What	When
<i>Person living in: The home of an applicant*, The home of a licensed or registered family day home provider, A foster home approved by a licensed child-placing agency, An independent foster home, or An adoptive home approved by a licensed child-placing agency, until the adoption is final</i>	<i>Sworn statement or affirmation</i>	<i>When person age 18 years or older begins residing in the home or when a person in the home becomes 18 years old</i>
<i>Person living in: The home of an applicant*, The home of a licensed or registered family day home provider, A foster home approved by a licensed child-placing agency, An independent foster home, or An adoptive home approved by a licensed child-placing agency, until the adoption is final</i>	<i>Search of central registry and criminal history record check, as requested by the individual</i>	<i>Within 30 days of an 18-year-old beginning to reside in the home or a person in the home becoming 18 years old</i>
<i>* Note: This does not apply to applicants for family day systems, licensed child-placing agencies, and religious child day centers.</i>		

5. A person 14 years of age and older must have a search of the central registry:

Who	What	When
<i>Person living in: An applicant's home, Home of a licensed or registered family day home provider, A foster home approved by a licensed child-placing agency, An independent foster home, or An adoptive home approved by a licensed child-placing agency, until the adoption is final</i>	<i>Child protective services central registry check</i>	<i>Within 30 days of a 14-year-old beginning to reside in the home or a person in the home becoming 14 years old</i>

6. A facility must not accept a required criminal history record report or a central registry finding from an applicant, licensee, registrant, or other person required to obtain background checks that is dated more than 90 days prior to the date of employment, volunteering, residing in the home, or approving a family day home or foster or adoptive home.

Exception: See provisions for contracting agencies at subdivision C 3 of this section.

7. The department must not accept a required criminal history record report or a central registry finding from an applicant, licensee, registrant, or person who signs the

statement of intent to operate a religious exempt center that is dated more than 90 days prior to date of licensure, registration, approval or exemption, or from the date when the person designated as the applicant or licensee changes.

8. The background checks remain valid at the facility if no more than 12 consecutive months have passed from when a person (i) began a leave of absence from that facility; (ii) was terminated from employment at that facility; or (iii) was transferred to a facility owned and operated by the same employer or entity, unless there is a conviction or founded complaint of child abuse and neglect during that period.

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22 VAC 40-191-50. Explaining requirements for satisfactory background checks.

A. The department and registering and approving authorities must require documentation of satisfactory background checks for applicants, agents, employees, volunteers, and others living in family day homes as specified in 22 VAC 40-191-40.

1. A satisfactory sworn statement or affirmation is:

a. A fully completed original that states that the person:

(1) Does not have a criminal conviction that is a barrier crime or is any felony conviction within the last five years; and

(2) Is not the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth; and

b. When there is no other knowledge that the individual has an unsatisfactory background.

Criminal convictions include prior adult convictions and juvenile convictions or adjudications of delinquency based on a crime that would be a felony if committed by an adult within or outside the Commonwealth. Convictions also include convictions in other states that are equivalent to those specified in this section.

2. A satisfactory central registry finding is one in which:

a. A copy of the department's child protective services check form is returned to the requesting agency or state or local Department of Social Services indicating that, as of the date on the reply, the individual whose name was searched is not identified in the Central Registry of Founded Child Abuse/Neglect Investigations as an involved caregiver with a founded disposition of child abuse/neglect; and

b. There is no other knowledge that the individual has a founded disposition in Virginia or elsewhere.

3. A satisfactory criminal history record check report is one in which:

a. An original hard copy or Internet inquiry reply from the Department of State Police is returned to the agency, individual or authorized agent making the request with:

(1) No convictions indicated; or

(2) Convictions indicated, but no barrier crimes or other felony convictions in the last five years; and

b. There is no other knowledge that the individual has a barrier crime, or other felony conviction in the past five years, in Virginia or elsewhere.

The facility must have viewed an original criminal history record report maintained by a contract employee or contract agency that is dated less than six months before the independent contract employee or contract employee is hired by a contract agency begins providing services at the facility. (See also 22 VAC 40-191-90.)

A child-placing agency may approve as an adoptive parent an applicant convicted of not more than one misdemeanor of assault and battery, as defined in § 18.2-57 of the Code of Virginia, not involving abuse, neglect or moral turpitude, provided 10 years have elapsed following the conviction.

B. Background checks results are not open ended.

1. When a minor living in a family day home turns 18, the operator is responsible for making sure that the 18-year-old complies with all background check requirements for adults. (22 VAC 40-191-40 C 4)

2. Operators must submit new background checks as part of the renewal application packages of registered family day homes. Background checks are required every three years for all other persons required to have background checks. (See 22 VAC 40-191-40 C.)

3. If a person leaves a facility and the criminal history record report or central registry check finding is less than 91 days old, the person must be permitted to take the report or reports with him. The facility must keep a copy of any report a person takes and write on it that it is a copy, and that the original of any criminal history record report was verified.

4. A background check remains valid at a facility if no more than 12 consecutive months have passed from when a person:

a. Began a leave of absence from that facility;

b. Was terminated from employment at that facility; or

c. Was transferred to a center owned and operated by the same employer or entity.

5. The facility, department, or registering or approving authority may require a new background check relevant to this suspicion if there is reason to suspect that a person who has submitted acceptable background checks, as required by this regulation, has:

a. A barrier crime conviction in Virginia or elsewhere;

b. A felony conviction that is not for a barrier crime within the last five years in Virginia or elsewhere; or

c. A founded complaint of child abuse and neglect in Virginia or elsewhere.

6. When the facility, department, or registering or approving authority chooses to require a new background check:

a. The facility, department, or registering or approving authority may allow the person to continue the same relationship with the child welfare agency until the child care provider or licensing, registering, or approval authority receives the new Virginia background check information or equivalent documentation from another state; or

b. If there is reason to suspect that a person has a barrier crime conviction, a felony conviction in the last five years, or has a founded complaint of child abuse and neglect, the facility, department, or registering or approving authority may require that the person not be alone with

children, even if the documentation is not Virginia background check information or equivalent information from another state.

C. *Waivers of some criminal convictions are possible. Refer to 22 VAC 40-191-90 through 22 VAC 40-191-130 for an explanation of the waiver.*

22 VAC 40-191-60. Explaining consequences of unsatisfactory background checks results.

A. *Applicants are denied licensure, registration or approval when there are unsatisfactory background checks results for:*

1. *Applicants as a child welfare agency;*
2. *Agents at the time of application who are or will be involved in the day-to-day operations of the child welfare agency or who are or will be alone with, in control of, or supervising one or more of the children;*
3. *Any other adult, or any child aged 14 or older, living in the home of an applicant for licensure or registration as a family day home with an unsatisfactory central registry finding;*
4. *Any other adult, or any child aged 14 or older, living in a foster home, or in the home of adoptive parents, until the adoption is final with an unsatisfactory central registry finding;*
5. *Prospective foster or adoptive parents approved by child-placing agencies; and*
6. *Prospective family day home operators and family members seeking approval by family day systems.*

B. *An employee or volunteer of a licensed or registered child welfare agency or of a family day home approved by a family day system must not be employed or provide volunteer service until the agency or home has the person's completed sworn statement or affirmation.*

C. *An employee or volunteer of a licensed or registered child welfare agency, or of a family day home approved by a family day system, must be denied continued employment or volunteer service if:*

1. *The licensed or registered child welfare agency or family day system does not have an original criminal history record report within 30 days of employment or volunteer service; or*
2. *The licensed or registered child welfare agency or family day system does not have a central registry finding within 30 days of employment or volunteer service.*

D. *An employee may continue to work, provide service, or live in a licensed, registered, or approved family day home if the facility has documentation that the criminal history record request, or the request for search of the central registry, was submitted within seven calendar days of the person being employed or volunteering, but the report is not returned within 30 calendar days. If a requested report was sent within seven calendar days but was not returned within 30 calendar days, the requester must contact within four working days:*

1. *The Central Criminal Records Exchange of the Department of State Police; or*

2. *The Child Protective Services Unit of the department.*

If the request was not received, the requestor must submit another request within five working days after the contact.

This provision also applies to someone beginning to live in a family day home after licensure, registration or approval is given or a child who becomes 18 years of age. It also applies to a child protective services central registry check for a person who becomes 14 years of age.

E. *If the department or a local agency becomes aware that a person covered by this regulation has a disqualifying background, the department or local agency may release this information to facilities that are covered by this regulation. Those facilities must not further disseminate this information.*

This provision also applies to a new adult beginning to live in a family day home or a child living in a family day home who becomes 18 years of age after licensure, registration or approval is given. It also applies to a child protective services central registry clearance for a person who becomes 14 years of age.

F. *Licensed, registered, or approved facilities must inform compensated employees and volunteers that the facilities are requesting child protective services registry checks and criminal history record reports for them.*

G. *A facility may choose to request a national criminal background check, instead of the criminal history record check, for employees and volunteers. The facility must adhere to Department of State Police requirements for obtaining fingerprints, in accordance with § 19.2-392.02 of the Code of Virginia. The department, family day system, and child-placing agency will accept a national criminal background check result of "qualified" from the Department of State Police. If the screening result is "disqualified," the facility must obtain a satisfactory criminal history record check from the Central Criminal Record Exchange for the person if:*

1. *The facility wishes to employ the person or approve the person as a volunteer; or*
2. *The entity wishes the department to issue a license or registration; or*
3. *The facility wishes a family day system or child-placing agency to issue an approval.*

The facility may also require a background check from another state per the provisions in subdivision B 5 of 22 VAC 40-191-50.

A facility that does not comply with this regulation may have its licensure, registration, approval, or religious exempt status revoked or denied. If a facility has knowledge that a person required to have a background check has an offense, and this person has neither a waiver nor an exception per 22 VAC 40-191-50 C, and the facility refuses to separate the person from employment, service, or residence in a family day home, then licensure, registration, or approval must be revoked or denied.

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22 VAC 40-191-70. Keeping background check records.

A. A facility must keep background check records at the location where the person is an applicant, agent, employee, contract employee, volunteer, other adult in the home, or is any other adult who is involved in the day-to-day operations of the facility or who is alone with, in control of, or supervising one or more children.

1. If a facility is among two or more owned by the same entity, the background check records may be kept at corporate headquarters or at the facility and must be made available to the department representative upon request.

2. If a facility is not the primary work place for a person, the facility may keep copies on site, if there is:

a. Documentation of the place where original background check records are kept; and

b. Copies of the sworn disclosure statement or affirmation, criminal history record report with a statement that the facility designee has viewed and verified the original, and the child protective services central registry check form must be kept on site.

B. Contracting organizations and voluntarily registered family day homes certified eligible for registration by contracting organizations must keep background check records.

1. The contracting organization must keep:

a. The original criminal history record report and sworn statement or affirmation for the voluntarily registered provider;

b. The original or a copy of the central registry findings; and

c. A copy of the criminal history record report and central registry findings for all provider assistants, substitute providers, and central registry findings for persons aged 14 and older residing in the home.

2. The voluntarily registered family day home provider must keep:

a. The original criminal history record report and sworn statement of affirmation for any provider assistant, substitute provider, and any adult residing in the home; and

b. The original or a copy of the central registry finding for any provider assistant, substitute provider or any person aged 14 and older residing in the home; and

c. Copies of the provider's own background check records.

C. Family day systems and family day homes approved by family day systems must keep background check records. The requestor identified on the form must keep the original criminal history record check result and the original or copy of the child protective services central registry finding, and the other party keeps copies. The family day system must keep the original sworn disclosure statement or affirmation.

D. A voluntarily registered family day home must keep all background check information for two years after a person required to provide background check terminates his duties with a facility or no longer resides in the home. All other facilities must keep all background check information for one year after a person required to provide background checks terminates his duties with a facility or no longer resides in the home.

E. The sworn statement or affirmation, criminal history record report, and central registry finding must be kept in locked files. Applicants and agents, and their designees, are the only facility staff who may have access to these documents. The board president must have access to these documents.

F. If a person is denied licensure, registration, or approval, or is denied employment or volunteer service because of information on a sworn statement or affirmation, a central registry finding, or criminal history record report, the facility must provide a copy of the documentation to the person. A facility must also release a copy of the information when the subject of the information requests it. Further dissemination of the background check information is prohibited other than to the commissioner's representative or a federal or state authority or court in order to comply with an express requirement in the law for that dissemination. (See the provisions at 22 VAC 40-191-60 E.)

22 VAC 40-191-80. Describing the waiver of criminal conviction.

The waiver of criminal conviction is the department's canceling the consequences of an unsatisfactory criminal history record check only for specific convictions.

22 VAC 40-191-90. Identifying who may apply for a waiver.

A. Any person who wants to operate or to volunteer or work at a facility covered by this regulation, but who is disqualified because of a criminal conviction, or a criminal conviction in the background check of any other adult living in a family day home governed by this regulation, may apply in writing to the commissioner of the department for a waiver.

The requirements found in 22 VAC 40-191-100 through 22 VAC 40-191-170 also apply to licensed child day care centers.

B. A person may apply for a waiver if:

1. A nonbarrier crime felony conviction occurred less than five years previously; or

2. Any other adult living in the home of a family day home applicant or provider has been convicted of not more than one misdemeanor offense of assault and battery or assault and battery against a family or household member. (See §§ 18.2-57 and 18.2-57.2 of the Code of Virginia.) The other adult must not be an assistant or substitute provider. See 22 VAC 40-191-50 A for an exception that applies to prospective adoptive parents.

C. Except as provided in 22 VAC 40-191-50 A, no person guilty of a barrier crime may operate or volunteer or work at a

licensed child care center or facility governed by this regulation.

22 VAC 40-191-100. Explaining waiver application requirements.

The person requests a waiver application package from the licensing office that serves the area where the person with the disqualifying background check lives or wants to operate or volunteer or work at a facility covered by this regulation. The person sends the completed application and a waiver application fee made out to "Treasurer of Virginia" to the licensing office. The commissioner establishes the fee. It is identified in the application package.

Exception: A person wishing to operate a voluntarily registered family day home requests a waiver application from either the contracting organization or the voluntary registration consultant in the Division of Licensing Programs of the department. The person sends the completed application and application fee to the voluntary registration consultant in the Division of Licensing Programs.

The commissioner acknowledges, in writing, receipt of the application and notifies the requester and the sponsor whether the request appears to be complete.

22 VAC 40-191-110. Describing the contents of a waiver application.

A. The waiver application is a personally prepared application.

B. The waiver application must be submitted in typewritten form and must include:

1. A statement that the request was solely and personally prepared by the requester, or other adult living in a family day home, as applicable, and has not been edited or changed by anyone else. Exception: the document may be typed by another person;
2. A statement that the requester understands that the waiver will be available for inspection by the public and that the facility will provide a copy of the waiver to every parent and guardian if the waiver is granted;
3. A statement that the requester understands that information in the waiver application package will be made available by the commissioner to any person upon request if the waiver is granted;
4. Personal and employment information;
5. If the request is for a family day home, all members of the household and their relationship to the requester;
6. A factual account of the crime of the person with the disqualifying conviction;
7. The current status and history with justice systems of the person with the disqualifying conviction;
8. Other information the person with the disqualifying background wants the commissioner to consider in evaluating the waiver request;
9. An explanation of why the waiver should be granted; and

10. Seven attachments:

- a. A nonrefundable check, made payable to the "Treasurer of Virginia," for waiver application processing;
- b. For the person with the disqualifying conviction:
 - (1) A "Current Employment and Employment History Form";
 - (2) A copy of the current sworn statement or affirmation;
 - (3) A copy of the current criminal history record report;
 - (4) A copy of all necessary documents verifying the person's statements regarding past and current involvement with adult or juvenile justice systems within or outside the Commonwealth;
 - (5) At least four references by disinterested individuals who will vouch for the "good moral character and reputation" of the person with the disqualifying conviction;
 - (6) The Sponsoring Agency Statement; and
 - (7) A notarized signature page.

B. If the waiver application is for another adult living in a family day home, the department conducts a home study to:

1. Assess the safety of children placed in the home; and
2. Determine that the offender is now a person of good moral character and reputation.

22 VAC 40-191-120. Describing the waiver evaluation criteria.

A. The commissioner may delegate all aspects of processing and evaluating waiver requests, provided that responsibility for making the final decision may not be delegated below the level of a division director.

The final decision is based on the following:

1. The content of the waiver application package;
2. The nature of the conviction or convictions and relevance to decision criteria;
3. The extent and pattern of criminal history or child abuse and neglect, including the person's age when the act occurred and how long ago the act occurred; and
4. In the case of prospective foster parents for a licensed child-placing agency, a review of the criminal record requirements of the Safe Families and Adoption Act of 1997 (42 USC § 1305) to determine if this federal law would permit a waiver.

B. The applicant may be required to provide additional information that is reasonable and necessary to evaluate the application.

C. The commissioner may interview the applicant or other persons sufficient to verify and evaluate the information in the application package.

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D. The commissioner may grant a waiver if the commissioner determines that:

1. The person is now of good moral character and reputation; and
2. The waiver would not adversely affect the safety and well-being of children in the person's care.

E. The commissioner will consider a waiver application abandoned, and close the file, when:

1. More than 60 days have passed since the commissioner advised the requester and the sponsoring agency that the waiver application was incomplete, or since the commissioner requested additional information that was reasonably necessary to evaluate the application; and
2. The commissioner informs the requester by certified mail that the waiver application would be considered abandoned unless the requester provides the requested information within 15 days.

F. Waiver decisions are not appealable.

22 VAC 40-191-130. Describing the waiver decision notification process.

The commissioner notifies the requester, or other adult if applicable, and the sponsor of his approval or denial in writing by certified mail.

Any approved waiver is for a specific person and a specific facility and must include:

1. Name of individual;
2. Name of facility;
3. Effective dates;
4. Terms, conditions, and stipulations, if any;
5. Criminal conviction for which the waiver was granted;
6. Date of criminal conviction;
7. Relevant court and location;
8. Sentence served; and
9. Signature of commissioner, or designee, and date.

22 VAC 40-191-140. Modifying, revoking, and terminating waivers.

A. The person and the sponsoring agency may request a modification of any of the terms, conditions, or stipulations of a waiver.

B. The commissioner may revoke a waiver if, after investigation, he determines that:

1. The waiver application contained false, deceptive, or misleading information;

2. The terms, conditions, or stipulations of a waiver have been violated; or

3. New or expanded information becomes known about the person that would change the previous determination made about the person's character, reputation, or suitability to work with or be in proximity to children.

C. If a waiver is revoked, the commissioner informs the person and the sponsoring agency, in writing by certified mail, of the reasons for the revocation.

D. A waiver automatically expires when:

1. The person terminates the approved arrangement with the sponsoring facility;
2. Five years have passed from the last date of a conviction for the felony or felonies for which the waiver was granted; or
3. The other adult living in a family day home was the reason for the waiver and the other adult no longer lives in the home.

22 VAC 40-191-150. Explaining the waiver public notification requirements.

A. Notification about waivers is conducted in accordance with agency policy.

B. The facility must post in a conspicuous place on the premises any waiver granted by the department. The facility must notify in writing every parent and guardian of the children in its care of any waiver granted for its operators, employees, volunteers, or adult family members living in the home. This notification includes parents and guardians whose child is placed with a foster parent or whose child is to be placed with an adoptive family. This notification also includes parents and guardians who, in the future, enroll children.

C. Any facility whose operator's, staff's or volunteer's disqualification has been waived by the commissioner must post a copy of the waiver in a conspicuous place on the premises. In addition, any family day home with an adult who has had a disqualification waived by the commissioner must post a copy of the waiver in a conspicuous place on the premises.

NOTICE: The forms used in administering 22 VAC 40-191, Background Checks for Child Welfare Agencies, are listed below.

FORMS

Name Search Request Form for Criminal History Record and/or Sex Offender and Crimes Against Minors Registry Search, SP-230 (rev. 7/99).

Virginia Department of Social Services/Child Protective Services Request for Search of the Central Registry and Release of Information Form, 032-02-151/5 (eff. 2/02).

SP-230 (Rev. 7-1-99)

**NAME SEARCH REQUEST FORM FOR
CRIMINAL HISTORY RECORD AND/OR
SEX OFFENDER AND CRIMES AGAINST MINORS REGISTRY SEARCH**

PLEASE FOLLOW INSTRUCTIONS ON REVERSE SIDE OF FORM TO ENSURE REQUEST CAN BE PROCESSED
PERSONAL CHECKS NOT ACCEPTED

I. CHECK METHOD OF PAYMENT

- State Police Charge Account # _____
- Paid \$_____ Total Enclosed
- MasterCard  Account Number: _____
- Visa  Expiration Date: _____
- American Express 
- Signature of Cardholder: _____

II. Select type name search(es) requested:

- Criminal History Record..... \$15.00 \$8.00 *NONPROFIT ORGANIZATION/VOLUNTEER
- Sex Offender & Crimes Against Minors Registry..... \$15.00 \$8.00
- Criminal History Record and Sex Offender & Crimes Against Minors Registry... \$20.00 \$16.00

*To be entitled to reduced price, services must be on volunteer basis for a non-profit organization with a federal tax exempt number. Attach documentation to form which supports volunteering status and include organization's name, address and tax exempt identification number.

III. Print Clearly Name to be Searched:

Last Name First Middle Maiden Sex Race Date of Birth (mm/dd/yy)

_____ / _____ / _____

Complete Address _____ Social Security Number _____

City _____ State _____ Zip code _____

I certify I am entitled by law to receive the requested record, and the record provided shall be used only for the screening of current or prospective employees or volunteers. I understand that further dissemination of Criminal history Records or their use for purposes not authorized by law is prohibited and constitutes a violation punishable as a class 1 or 2 misdemeanor.

IV. Agency, Individual Or Agent Making Request:

MAIL REPLY TO:

NAME		
STREET/RFD		
CITY	STATE	ZIP CODE

Complete only for Criminal History Search

V. Purpose of Search

- Child Day Care
- Adult Day Care or Adult Care Residence
- Nursing Home or Home Health
- Foster Care
- Domestic Adoption
- International Adoption
- Other (Specify) _____

Date of Request _____ Signature of Person Making Request _____ Printed Name _____

VI. Complete for Sex Offender & Crimes Against Registry Search (See instructions for explanations)

Check appropriate block to describe the purpose for the Sex Offender & Crimes Against Minors Registry Search:

- Employment Child or Adult Care Volunteer Services Child Protection
- Public Protection Child Minding Day Care

(DO NOT WRITE IN THIS SPACE, CCRE USE ONLY)

RESPONSE(S) BASED ON COMPARISON OF REQUESTER FURNISHED INFORMATION AGAINST A MASTER ADULT NAME INDEX FILE MAINTAINED IN THE CENTRAL CRIMINAL RECORDS EXCHANGE ONLY.

RESULTS OF NAME SEARCH:

*NO CONVICTION DATA NO CRIMINAL RECORD *NO SEX OFFENDER REGISTRATION

*DOES NOT PRECLUDE THE EXISTENCE OF RECORD EXISTING UNDER DIFFERENT NAME DATA THAN FURNISHED BY THE REQUESTER

Date: _____ By: CCRE/

Proposed Regulations

Instructions for completing the Criminal History Record/Sex Offender and Crimes Against Minors Registry Request Form

Please read the following General Instructions

- Section I:** Method of Payment: Certified Check, Money Order, Company/Business check, Mastercard, Visa, or American Express. For charge account: Record charge account number issued by State Police.
- Section II:** Check type of name search(es) requested.
- Section III:** Type or print CLEARLY the full name (last, first, middle [no initials] and maiden if applicable), sex, race, date of birth, and complete address of person whose name is to be searched against the master criminal name file and/or the Sex Offender and Crimes Against Minors Registry.
- Section IV:** Agency, Individual or Authorized Agent Making Request: Your agency identification serves as the mailing label for the State Police to return the search results, therefore, type or print CLEARLY. This information is also reviewed to ensure requestor is statutorily entitled to use this form to request a criminal record name search.
- Section V:** Purpose of Search: Check the appropriate box to reflect the purpose of the search.
- Dissemination of criminal history records are processed in accordance with Section 19.2-389 of the Code governing the program for which the search is requested. For adult programs, criminal history record dissemination includes convictions of specific barrier crimes.
- Sections VI:** Sex Offenders and Crimes Against Minors Registry Search
- Section 19.2-390.1(B) of the Code of Virginia requires the requester to provide a statement of the reason(s) for the request, therefore, please check the appropriate block. The results of this search will indicate if an individual is registered for conviction(s) listed below, including substantially similar out-of-state conviction as a nonresident of the Commonwealth enrolled in school, employed and/or a vocation.

I. Sexually Violent Offenses

Abduction for immoral purposes	18.2-48(ii)
Rape	18.2-61
Forcible Sodomy	18.2-67.1
Object Sexual Penetration	18.2-67.2
Aggravated Sexual Battery	18.2-67.3
Attempt rape, forcible sodomy, object sexual penetration	18.2-67.5A

2. *Sexual Offenses

Abduction	18.2-47(A) **
Abduction of any child under 16 for purposes of concubinage or prostitution	18.2-48(iii)
Carnal knowledge of child between 13-15	18.2-63
Carnal knowledge of certain minors	18.2-64.1
Marital Sexual Battery	18.2-67.2:1
Sexual Battery (3 or more convictions)	18.2-67.4
Aggravated Sexual Battery	18.2-67.5B
Attempt Aggravated Sexual Battery	18.2-67.5B
Attempt Sexual Battery (3 or more convictions)	18.2-67.5C
Entering dwelling house etc. with intent to rape	18.2-90
Crimes against nature	18.2-361.B**
Adultery & fornication by person forbidden to marry	18.2-366.B**
Taking indecent liberties with children	18.2-370
Taking indecent liberties with child by person in custodial or supervisory relationship	18.2-370.1
Production, publication, sale, possession with intent to distribute	18.2-374.1B1**
Chapter 117(18 U.S.C. 2421 et seq.) of Title 18 of The United States Code***	

- * Note: Pursuant to 19.2-298.1 (para. 2) two convictions within a ten year period of any of the sexual offenses listed in VI.2, provided the individual has been at liberty between convictions, requires registration as a sexually violent offender.
- ** Conviction under this section gives rise to registration requirements ONLY IF the victim was a minor, physically helpless, or mentally incapacitated as defined in Section 18.2-67.10.
- *** Individuals, including juveniles convicted of interstate transportation of another individual(s) for the purpose of engaging in any sexual activity

Mailing Instructions

Mail to: DEPARTMENT OF STATE POLICE
CENTRAL CRIMINAL RECORDS EXCHANGE
P.O. BOX 85076
RICHMOND, VIRGINIA 23261-5076

ALLOW THIRTY DAYS FOR PROCESSING

**VIRGINIA DEPARTMENT OF SOCIAL SERVICES/CHILD PROTECTIVE SERVICES
REQUEST FOR SEARCH OF THE CENTRAL REGISTRY
AND RELEASE OF INFORMATION FORM**

INSTRUCTIONS:

1. Type or **print** legibly in **ink**. Indicate N/A if not applicable. **INCOMPLETE FORMS WILL BE RETURNED.**
2. Submit a separate form for each individual whose name is to be searched.
3. Provide proof of identify and sign Part III in the presence of a Notary Public.
4. **Enclose \$5.00 money order, company check/business check or cashier's check payable to: Virginia Department of Social Services (unless waived). DO NOT SEND CASH NO PERSONAL CHECKS**
5. Return the completed form and fee to:

**Child Protective Services Central Registry Search
Virginia Department of Social Services
730 East Broad Street, Second Floor
Richmond, Virginia 23219-1849**
6. Search results disseminated beyond the requesting agency/individual named below is not considered official.

Part I: TO BE COMPLETED BY REQUESTING AGENCY/INDIVIDUAL

Name of Requesting Agency or Individual: _____ Agency Code _____

Address: _____

Street City State ZIP
Attention Telephone # () _____

Purpose Foster Parent ___ Adoptive Parent ___ Babysitter/Family Day Care ___ Day Care Center ___
of Search: School Personnel ___ Institutional Employee ___ Other Employment ___
Custody Evaluation ___ CASA ___ Volunteer ___ Other ___ (Explain) _____

Part II: TO BE COMPLETED IN FULL, BY INDIVIDUAL WHOSE NAME IS BEING SEARCHED

Identifying Information: _____
LAST NAME FIRST FULL MIDDLE MAIDEN/BIRTH NAME

SEX RACE BIRTHDATE LAST NAMES FROM PREVIOUS MARRIAGES Social Security #: _____

All other names by which individual has been known: _____
(Nicknames, Previous Married Names)

Current Address: _____
STREET CITY STATE ZIP

Prior Addresses and Dates: _____
STREET CITY STATE ZIP DATES

STREET CITY STATE ZIP DATES

Current Spouse: _____
LAST NAME FIRST FULL MIDDLE MAIDEN SEX RACE BIRTHDATE

Previous Spouse: _____
LAST NAME FIRST FULL MIDDLE MAIDEN SEX RACE BIRTHDATE

Full Names of all Children (Include Adult children, step, foster and children not living with you. Attach additional paper if needed).

LAST FIRST FULL MIDDLE SEX RACE BIRTHDATE LAST FIRST FULL MIDDLE SEX RACE BIRTHDATE

LAST FIRST FULL MIDDLE SEX RACE BIRTHDATE LAST FIRST FULL MIDDLE SEX RACE BIRTHDATE

LAST FIRST FULL MIDDLE SEX RACE BIRTHDATE LAST FIRST FULL MIDDLE SEX RACE BIRTHDATE

Proposed Regulations

Part III: CERTIFICATION AND CONSENT FOR RELEASE OF INFORMATION

I hereby certify that the information contained on this form is true, correct and complete to the best of my knowledge. Pursuant to Section 2.1-382 of the *Code of Virginia*, I authorize the release of personal information regarding me which has been maintained by either the Virginia Department of Social Services or any local department of social services which is related to any disposition of Founded Child Abuse/Neglect in which I am identified as responsible for such abuse/neglect. I have provided proof of my identity to the Notary Public prior to signing this in his/her presence.

Signature

CERTIFICATE OF ACKNOWLEDGEMENT OF INDIVIDUAL

City/County of _____

Commonwealth/State of _____

Acknowledged before me this _____ day of _____, 20____

Notary Public Signature

My Commission Expires: _____

CENTRAL REGISTRY FINDINGS

1. ____ We are unable to determine at this time if the individual for whom a search has been requested is listed in the Central Registry. This form should be returned with the following questions answered:

Worker: _____ Date: _____

2. ____ Based on information provided by local departments of Social Services, we have determined that _____ is listed in the Central Registry of Founded Child Abuse/Neglect Investigations with a **FOUNDED** disposition of child abuse/neglect. For more detailed information, contact the _____ Department of Social Services at:

Street _____ City _____ State _____ ZIP _____ Telephone Number _____
in reference to **Child Protective Service Case/File/Referral #:** _____

3. ____ As of this date, the individual whose name was being searched is NOT identified in the Central Registry of Founded Child Abuse/Neglect Investigations as an involved caretaker with a Founded disposition of child abuse/neglect.

Signature of worker completing search: _____ Date: _____

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 change from the proposed text of the regulation.

TITLE 12. HEALTH

STATE BOARD OF HEALTH

REGISTRAR'S NOTICE: The following regulatory action is exempt from the Administrative Process Act in accordance with § 2.2-4006 A 4 a of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved. The State Board of Health will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 12 VAC 5-120. Regulations for Testing Children for Elevated Blood-Lead Levels (amending 12 VAC 5-120-50).

Statutory Authority: § 32.1-46.1 of the Code of Virginia.

Effective Date: August 13, 2003.

Summary:

The amendment changes a key provision from providing that children "should" be tested to children "shall" be tested for elevated blood-lead levels under the specified conditions. The amendment conforms the regulation with Chapter 463 of the 2003 Acts of Assembly.

Agency Contact: Susan Tlusty, Department of Health, 1500 East Main Street, Richmond, VA 23219, telephone (804) 371-0478, FAX (804) 692-0184 or e-mail stlusty@vdh.state.va.us.

12 VAC 5-120-50. Risk factors requiring testing.

A health care provider ~~should~~ shall test any child for elevated blood-lead level, or have such a child tested, if the provider determines, in the exercise of medical discretion, that such testing is warranted, and that the child meets one or more of the following criteria:

1. Eligible for or receiving benefits from Medicaid or the Special Supplemental Nutrition Program for Women, Infants and Children (WIC);
2. Living in a high-risk zip code area;
3. Living in or regularly visiting a house or child care facility built before 1950;
4. Living in or regularly visiting a house, apartment, dwelling or other structure, or a child care facility built before 1978, with peeling or chipping paint or with recent (within the last six months), ongoing, or planned renovations;
5. Living in or regularly visiting a house, apartment, dwelling or other structure in which one or more persons have elevated blood-lead levels;

6. Living with an adult whose job or hobby involves exposure to lead as described in Preventing Lead Poisoning in Young Children (CDC, 1991);

7. Living near an active lead smelter, battery recycling plant, or other industry likely to release lead;

8. The child's parent or guardian requests the child's blood be tested due to any suspected exposure; or

9. A health care provider recommends the child's blood be tested due to any suspected exposure.

The Department of Health will maintain a list of high-risk zip code areas in Virginia.

VA.R. Doc. No. R03-239; Filed June 24, 2003, 10:59 a.m.

* * * * *

REGISTRAR'S NOTICE: The following regulatory action is exempt from the Administrative Process Act in accordance with § 2.2-4006 A 4 c of the Code of Virginia, which excludes regulations that are necessary to meet the requirements of federal law or regulations provided such regulations do not differ materially from those required by federal law or regulation. The State Board of Health will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 12 VAC 5-200. Regulations Governing Eligibility Standards and Charges for Health Care Services to Individuals (amending 12 VAC 5-200-10).

Statutory Authority: § 32.1-11 of the Code of Virginia.

Effective Date: August 13, 2003.

Summary:

The amendments allow discounted charges for persons receiving health care in local health departments who have incomes equal to or greater than 200% but less than 250% of the federal poverty level (with adjustments for Northern Virginia).

Agency Contact: Douglas R. Harris, Adjudication Officer, Department of Health, 1500 East Main Street, Suite 227, Richmond, VA 23219, telephone (804) 786-3554, FAX (804) 786-6776 or e-mail dharris@vdh.state.va.us.

12 VAC 5-200-10. Definitions.

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

"*Applicant*" means the person requesting health care services for himself or on whose behalf a request is made.

"*Board*" means the State Board of Health. The Board of Health is the policy board of the state Department of Health.

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"Child" means any biological or adopted child, and any child placed for adoption or foster care unless otherwise treated as a separate unit by these regulations.

"Commissioner" means the Commissioner of Health. The commissioner is the chief executive officer of the state Department of Health. The commissioner has the authority to act for the Board of Health when it is not in session.

"Department" means the state Department of Health and includes central office, health districts, and local health departments.

"Eligibility determination" means the process of obtaining required information regarding family size, income, and other related data in order to establish charges to the applicant.

"Family" or *"family unit"* means the applicant and other such household members who together constitute one economic unit. The economic unit shall include the constellation of persons among whom legal responsibilities of support exist; or an individual, even if otherwise within such a constellation, if he independently receives subsistence funds in his own right. The economic unit shall count in its income any contributions to the unit from persons not necessarily living with the constellation.

Parent includes a biological, adoptive, or step parent.

A woman who is pregnant may be counted as a multiple beneficiary when the pregnancy has been verified by a physician or a nurse practitioner working under the supervision of a physician.

A husband and wife who have been separated and are not living together, and who are not dependent on each other for support shall be considered separate family units.

"Flat rate charges" means charges for specified services which are to be charged to all clients regardless of income and with no eligibility determination.

"Gross income" means total cash receipts before taxes from all sources. These include money wages and salaries before any deductions, but do not include food or rent in lieu of wages. These receipts include net receipts from nonfarm or farm self-employment (e.g., receipts from own business or farm expenses) income, plus any depreciation shown on income tax forms. They include regular payments from social security or railroad retirement, unemployment and workers' compensation, strike benefits from union funds, veterans' benefits, training stipends, alimony, child support, and military family allotments or other regular support from an absent family member or someone not living in the household; private pensions, government employee pensions (including military retirement pay), and regular insurance or annuity payments; and income from dividends, interest, net rental income, net royalties, or periodic receipts from estates or trusts, lump sum settlements, and net gambling or lottery winnings.

"Gross income" does not include the value of food stamps, WIC checks, fuel assistance payments, housing assistance, money borrowed, tax refunds, gifts, withdrawal of bank deposits from earned income, earnings of minor children, money received from the sale of property, general relief from

the Department of Social Services, or college or university scholarships, grants, fellowships, and assistantships.

"Income scales" means scales based on individual or family gross income. They shall be based on the official poverty guidelines updated annually by the U.S. Department of Health and Human Services in accordance with §§ 652 and 6763(2) of the Omnibus Reconciliation Act of 1981 (Public Law 97-35). There shall be two income scales: one for Northern Virginia and one for the remainder of the Commonwealth as follows:

Income Level A - those clients with incomes up to and including 100% of the poverty income guidelines will qualify as Income Level A clients, except for Northern Virginia where the Income Level A will be up to and including 110% of the federal poverty income guidelines will qualify as Income Level A clients.

Income Level B - those clients with incomes above 100% and no more than 110% of the poverty guidelines will qualify as Income Level B clients, except for Northern Virginia where the Income Level B will be above 110% and no more than 133.3% of the federal poverty income guidelines.

Income Level C - those clients with incomes above 110% and no more than 133.3% of the poverty income guidelines will qualify as Income Level C clients, except for Northern Virginia where the Income Level C will be above 133.3% and no more than 166.6% of the federal poverty income guidelines.

Income Level D - those clients with incomes above 133.3% and no more than 166.6% of the poverty income guidelines will qualify as Income Level D clients, except for Northern Virginia where the Income Level D will be above 166.6% and no more than 200% of the federal poverty income guidelines.

Income Level E - those clients with incomes above 166.6% and less than 200% of the poverty income guidelines will qualify as Income Level E clients, except for Northern Virginia where the Income Level E will be above 200% and less than 233.3% of the federal poverty income guidelines.

Income Level F - those clients with incomes equal to or above 200% and less than 250% of the poverty level income guidelines will qualify as Income Level F clients, except for Northern Virginia where ~~all clients with incomes~~ *Income Level F will be equal to or above 233.3% and less than 266.6%* of the federal poverty income guidelines ~~will qualify as Income Level F clients.~~

Income Level G - those clients with incomes equal to or above 250% of the poverty level guidelines will qualify as Income Level G clients, except for Northern Virginia where income level G will be equal to or above 266.6% of the federal poverty income guidelines.

"Legally responsible" means the biological or adoptive parent(s), or those parents whose parentage has been admitted by affidavit or by order of the court.

"Medically indigent" means applicants whose individual or family gross income is defined at Income Level A.

"Minor" means a person less than 18 years of age whose parents are responsible for his care. A minor will be

considered a separate family unit when married or not living with any relative or deemed an adult.

A minor shall be deemed an adult for the purposes of consenting to:

1. Medical or health services needed to determine the presence of or to treat venereal disease or any infectious or contagious disease which the State Board of Health requires to be reported.
2. Medical and health services required for birth control, pregnancy, or family planning except for the purposes of sexual sterilization.

"Nonchargeable services" means the health services which the department has determined will be provided without charge and without an eligibility determination to all citizens regardless of income. There is no charge for WIC services, but WIC services do require an eligibility determination.

"Northern Virginia" means the area which includes the cities of Alexandria, Fairfax, Falls Church, Manassas, Manassas Park, and the counties of Arlington, Fairfax, Loudoun, and Prince William.

VA.R. Doc. No. R03-230; Filed June 11, 2003, 4:24 p.m.

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TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF VETERINARY MEDICINE

Title of Regulation: 18 VAC 150-20. Regulations Governing the Practice of Veterinary Medicine (adding 18 VAC 150-20-135).

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

Effective Date: August 13, 2003.

Agency Contact: Elaine J. Yeatts, Agency Regulatory Coordinator, Department of Health Professions, 6603 W. Broad Street, Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.state.va.us.

Summary:

The amendments establish registration requirements for voluntary veterinary practice by out-of-state licensees.

Summary of Public Comments and Agency's Response: No public comments were received by the promulgating agency.

18 VAC 150-20-135. Voluntary practice by out-of-state practitioners.

Any veterinarian who seeks registration to practice on a voluntary basis under the auspices of a publicly supported all volunteer, nonprofit organization with no paid employees that sponsors the provision of health care to populations of underserved people throughout the world shall:

1. *File a complete application for registration on a form provided by the board at least 15 days prior to engaging in such practice. An incomplete application will not be considered;*

2. *Provide a complete record of professional licensure in each state in which he has held a license and a copy of every current license;*

3. *Provide the name of the nonprofit organization, the dates and location of the voluntary provision of services;*

4. *Pay a registration fee of \$10; and*

5. *Provide a notarized statement from a representative of the nonprofit organization attesting to its compliance with provisions of subdivision 4 of § 54.1-3801 of the Code of Virginia.*

NOTICE: The forms used in administering 18 VAC 150-20, Regulations Governing the Practice of Veterinary Medicine, are not being published due to the large number; however, the name of each form is listed below. The forms are available for public inspection at the Board of Veterinary Medicine, 6603 W. Broad Street, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

FORMS

Licensure Procedure for Veterinarians (rev. 10/02)

Application for a License to Practice Veterinary Medicine (rev. 10/02).

Instructions to the Veterinary Technician Applicant (rev. 10/02).

Application for a License to Practice Veterinary Technology (rev. 10/02).

Applicant Instructions for New, Upgrading to Full Service, or Change of Location Inspections (eff. 10/02).

Application for Veterinary Establishment Permit (rev. 7/02).

Application for Reinstatement (rev. 10/02).

Renewal Notice and Application - 0301 (rev. 7/02).

Renewal Notice and Application - 0302 (rev. 7/02).

Licensure Verification - Veterinarian (rev. 11/02).

Licensure Verification - Veterinary Technician (rev. 11/02).

Application for Registration for Volunteer Practice (eff. 12/02).

Sponsor Certification for Volunteer Registration (eff. [~~12/02~~ 1/03]).

VA.R. Doc. No. R02-292; Filed June 25, 2003, 12:18 p.m.

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Final Regulations

TITLE 22. SOCIAL SERVICES

STATE BOARD OF SOCIAL SERVICES

REGISTRAR'S NOTICE: The following regulatory action is exempt from the Administrative Process Act in accordance with § 2.2-4006 A 4 a of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved. The State Board of Social Services will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 22 VAC 40-90. Regulation for Criminal Record Checks for Assisted Living Facilities and Adult Day Care Centers (amending 22 VAC 40-90-10).

Statutory Authority: §§ 63.2-1732 and 63.2-1733 of the Code of Virginia.

Effective Date: September 19, 2003.

Summary:

The amendment eliminates the barrier crime of extortion by threat as set out in § 18.2-59 of the Code of Virginia and replaces it with threats of death or bodily injury as set out in § 18.2-60 of the Code of Virginia.

Agency Contact: Judy McGreal, Program Development Consultant, Department of Social Services, Division of Licensing Programs, 730 East Broad Street, Richmond, VA 23219, telephone (804) 692-1792, FAX (804) 692-2370 or e-mail jzm7@dss.state.va.us.

22 VAC 40-90-10. Definitions.

The following words and terms when used in conjunction with this chapter shall have the following meanings:

"Barrier crimes" means certain crimes that automatically bar individuals convicted of same from employment at a licensed assisted living facility or adult day care center. These crimes, as specified by § 63.2-1719 of the Code of Virginia, are murder or manslaughter as set out in Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2; malicious wounding by mob as set out in § 18.2-41; abduction as set out in subsection A of § 18.2-47; abduction for immoral purposes as set out in § 18.2-48; assaults and bodily woundings as set out in Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title 18.2; robbery as set out in § 18.2-58; carjacking as set out in § 18.2-58.1; ~~extortion by threat as set out in § 18.2-59~~ *threats of death or bodily injury as set out in § 18.2-60*; felony stalking as set out in § 18.2-60.3; sexual assault as set out in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2; arson as set out in Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2; drive-by shooting as set out in § 18.2-286.1; use of a machine gun in a crime of violence as set out in § 18.2-289; aggressive use of a machine gun as set out in § 18.2-290; use of a sawed-off shotgun in a crime of violence as set out in subsection A of § 18.2-300; pandering as set out in § 18.2-355; crimes against nature involving children as set out in § 18.2-361; incest as set out in § 18.2-366; taking indecent liberties with children as set

out in § 18.2-370 or § 18.2-370.1; abuse and neglect of children as set out in § 18.2-371.1; failure to secure medical attention for an injured child as set out in § 18.2-314; obscenity offenses as set out in § 18.2-374.1; possession of child pornography as set out in § 18.2-374.1.1; electronic facilitation of pornography as set out in § 18.2-374.3; abuse and neglect of incapacitated adults as set out in § 18.2-369; employing or permitting a minor to assist in an act constituting an offense under Article 5 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2 as set out in § 18.2-379; delivery of drugs to prisoners as set out in § 18.2-474.1; escape from jail as set out in § 18.2-477; felonies by prisoners as set out in § 53.1-203; or an equivalent offense in another state. Applicants convicted of one misdemeanor barrier crime not involving abuse or neglect or moral turpitude may be hired provided five years has elapsed since the conviction.

"Central Criminal Records Exchange" means the information system containing conviction data of those crimes committed in Virginia, maintained by the Department of State Police, through which the criminal history record request form is processed.

"Criminal history record request" means the Department of State Police form used to authorize the State Police to generate a criminal record report on an individual.

"Criminal record report" means either the criminal record clearance or the criminal history record issued by the Central Criminal Records Exchange, Department of State Police. The criminal record clearance provides conviction data only related to barrier crimes; the criminal history record discloses all known conviction data.

"Employee" means compensated personnel working at a facility regardless of role, service, age, function or duration of employment at the facility. Employee also includes those individuals hired through a contract to provide services for the facility.

"Facility" means an assisted living facility or adult day care center subject to licensure by the Department of Social Services.

"Sworn disclosure statement" means a document to be completed, signed, and submitted for employment. The document discloses the employment applicant's criminal convictions and pending criminal charges that occurred within or outside the Commonwealth of Virginia. This is required as specified in § 63.2-1720 of the Code of Virginia

VA.R. Doc. No. R03-233; Filed June 20, 2003, 9:16 a.m.



TITLE 24. TRANSPORTATION

COMMONWEALTH TRANSPORTATION BOARD

REGISTRAR'S NOTICE: The following regulatory action is exempt from the Administrative Process Act in accordance with § 2.2-4006 A 4 a of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved. The Commonwealth Transportation Board will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: **24 VAC 30-480. Arterial Networks (REPEALED.)**

Statutory Authority: §§ 33.1-26 through 33.1-30 (Repealed) of the Code of Virginia.

Effective Date: August 13, 2003.

Summary:

Chapter 302 of the 2003 Acts of Assembly repealed §§ 33.1-26 through 33.1-30 of the Code of Virginia, Chapter 620 of the Acts of Assembly of 1983, and Chapter 504 of the Acts of Assembly 1985, all of which dealt with the Arterial Network. As of July 1, 2003, this regulation's statutory authority expires and the Commonwealth Transportation Board will be unable to enforce this regulation; therefore, this regulation is being repealed.

Agency Contact: David L. Roberts, Policy and Planning Specialist II, Department of Transportation, 1401 East Broad Street, Richmond, VA, telephone (804) 786-3620, FAX (804) 225-4700 or email David.Roberts@VirginiaDOT.org.

VA.R. Doc. No. R03-240; Filed June 24, 2003, 9:57 a.m.



EMERGENCY REGULATIONS

TITLE 12. HEALTH

STATE BOARD OF HEALTH

Title of Regulation: **12 VAC 5-90. Regulations for Disease Reporting and Control (amending 12 VAC 5-90-80).**

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

Effective Dates: June 24, 2003, through June 23, 2004.

Preamble:

The emergency regulation is necessary due to an imminent threat to public health. The first cases of monkeypox ever diagnosed in the United States have occurred in May and June of this year. The emergency action amends 12 VAC 5-90-80, the reportable disease list from the Regulations for Disease Reporting and Control, to add "Monkeypox" to the list, thereby making this a reportable condition in Virginia and allowing the Virginia Department of Health to track and respond to cases that occur in the Commonwealth.

Agency Contact: Diane Woolard, Director, Division of Surveillance and Investigation, Department of Health, 1500 E. Main Street, Suite 113, Richmond, VA 23219, telephone (804) 786-6615, e-mail dwoolard@vdh.state.va.us.

12 VAC 5-90-80. Reportable disease list.

A. The board declares the following named diseases, toxic effects, and conditions to be reportable by the persons enumerated in 12 VAC 5-90-90. Conditions identified by an asterisk (*) require rapid communication as defined in subsection B of this section:

- Acquired Immunodeficiency Syndrome (AIDS)
- Amebiasis
- *Anthrax
- Arboviral infections (e.g., EEE, LAC, SLE, WNV)
- *Botulism
- Brucellosis
- Campylobacter infection
- Chancroid
- Chickenpox
- Chlamydia trachomatis infections
- *Cholera
- Creutzfeld-Jakob disease if < 55 years of age
- Cryptosporidiosis
- Cyclosporiasis
- *Diphtheria
- Ehrlichiosis
- Escherichia coli O157:H7 and other enterohemorrhagic E. coli infections
- Giardiasis
- Gonorrhea
- Granuloma inguinale
- *Haemophilus influenzae infection, invasive
- Hantavirus pulmonary syndrome
- Hemolytic uremic syndrome (HUS)
- *Hepatitis A (IgM +)
- Hepatitis B:
 - Acute disease (IgM +)
 - HBsAg positive pregnant women

- Hepatitis C (acute and chronic)
- Hepatitis, other acute viral
- Human immunodeficiency virus (HIV) infection
- Influenza
- Kawasaki syndrome
- Lead-elevated blood levels
- Legionellosis
- Leprosy (Hansen disease)
- Listeriosis
- Lyme disease
- Lymphogranuloma venereum
- Malaria
- *Measles (Rubeola)
- *Monkeypox
- *Meningococcal infection
- Mumps
- Ophthalmia neonatorum
- *Outbreaks, all (including foodborne, nosocomial, occupational, toxic substance-related, waterborne, and other outbreaks)
- *Pertussis (Whooping cough)
- *Plague
- *Poliomyelitis
- *Psittacosis
- Q fever
- *Rabies, human and animal
- Rabies treatment, post-exposure
- Rocky Mountain spotted fever
- Rubella (German measles), including congenital rubella syndrome
- Salmonellosis
- *Severe acute respiratory syndrome (SARS) (see emergency regulation effective April 24, 2003 through April 23, 2004, published in 19:18 VA.R. 2737-2738 May 19, 2003)
- Shigellosis
- Smallpox
- Streptococcal disease, Group A, invasive
- Streptococcus pneumoniae, invasive in <5 years of age
- Syphilis (report *primary and *secondary syphilis by rapid means)
- Tetanus
- Toxic shock syndrome
- Toxic substance-related illness
- Trichinosis (Trichinellosis)
- *Tuberculosis disease
- Tuberculosis infection in children ages <4 years (Mantoux tuberculin skin test reaction \geq 10 mm)
- Tularemia
- Typhoid fever
- Typhus
- Unusual occurrence of disease of public health concern
- *Vaccinia, disease or adverse event (see emergency regulation effective February 11, 2003 through February 10, 2004 published in 19:13 VA.R. 1971-1972 March 10, 2003)
- Vancomycin-resistant Staphylococcus aureus
- Vibrio infection
- Viral hemorrhagic fever
- *Yellow Fever

B. Reportable diseases requiring rapid communication. Certain of the diseases in the list of reportable diseases, because of their extremely contagious nature or their potential for greater harm, or both, require immediate identification and control. Reporting of persons confirmed or suspected of having these diseases, listed below and identified by asterisks in subsection A of this section and 12 VAC 5-90-90 B, shall be made within 24 hours by the most rapid means available, preferably that of telecommunication (e.g., telephone, telephone transmitted facsimile, telegraph, teletype, etc.) to the local health director or other professional employee of the department:

- Anthrax
- Botulism
- Cholera
- Diphtheria
- Haemophilus influenza infection, invasive
- Hepatitis A
- Measles (Rubeola)
- Meningococcal infection
- Monkeypox*
- Outbreaks, all
- Pertussis
- Plague
- Poliomyelitis
- Psittacosis
- Rabies in man and animals
- Severe acute respiratory syndrome (SARS) (see emergency regulation effective April 24, 2003 through April 23, 2004 published in 19:18 VA.R. 2737-2738 May 19, 2003)
- Syphilis, primary and secondary
- Tuberculosis disease
- Vaccinia, disease or adverse event (see emergency regulation effective February 11, 2003 through February 10, 2004 published in 19:13 VA.R. 1971-1972 March 10, 2003)
- Yellow Fever

C. Diseases to be reported by number of cases. The following disease in the list of reportable diseases shall be reported as number-of-cases only:

Influenza (by type, if available)

D. Human immunodeficiency virus (HIV) infection. Every physician practicing in this Commonwealth shall report to the local health department any patient of his who has tested positive for human immunodeficiency virus (HIV). Every person in charge of a medical care facility shall report the occurrence in or admission to the facility of a patient with HIV infection unless there is evidence that the occurrence has been reported by a physician. When such a report is made, it shall include the information required in 12 VAC 5-90-90 A. Only individuals who have laboratory results which indicate the presence of HIV antigen, nucleic acid, or antibodies (such as at least two enzyme-linked immunosorbent assays (done in duplicate at the same time or singly at different times), and a supplemental test such as the western blot or by rapid tests with confirmation) are considered to have HIV infection.

E. Toxic substance-related diseases or illnesses. All toxic substance-related diseases or illnesses, including pesticide

and heavy metal poisoning or illness or disease resulting from exposure to an occupational dust or fiber or radioactive substance, shall be reported.

If such disease or illness is verified or suspected and presents an emergency or a serious threat to public health or safety, the report of such disease or illness shall be by rapid communication as in subsection B of this section.

F. Outbreaks. The occurrence of outbreaks or clusters of any illness which may represent a group expression of an illness which may be of public health concern shall be reported to the local health department by the most rapid means available.

G. Unusual or ill-defined diseases or emerging or reemerging pathogens. Unusual or emerging conditions of public health concern shall be reported to the local health department by the most rapid means available. In addition, the commissioner or his designee may establish temporary surveillance systems for diseases or conditions that are not on the list of reportable diseases. Such surveillance may be established to identify cases (delineate the magnitude of the situation), to identify the mode of transmission and risk factors for the disease, and to identify and implement appropriate action to protect public health. Any person reporting information at the request of the department for special surveillance or other epidemiological studies shall be immune from liability as provided by § 32.1-38 of the Code of Virginia.

H. Contact tracing. When notified about a disease specified in subsection A of this section, the local health department shall perform contact tracing for HIV infection, infectious syphilis, and tuberculosis and may perform contact tracing for the other diseases if deemed necessary to protect the public health. The local health director shall have the responsibility to accomplish contact tracing by either having patients inform their potential contacts directly or through obtaining pertinent information such as names, descriptions, and addresses to enable the health department staff to inform the contacts. All contacts of HIV infection shall be afforded the opportunity for appropriate counseling, testing, and individual face-to-face disclosure of their test results. In no case shall names of informants or infected persons be revealed to contacts by the health department. All information obtained shall be kept strictly confidential.

/s/ Mark R. Warner
Governor
Date: June 20, 2003

VA.R. Doc. No. R03-238; Filed June 24, 2003, 11:01 a.m.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Title of Regulation: 12 VAC 30-40. Eligibility Conditions and Requirements (amending 12 VAC 30-40-220 and 12 VAC 30-40-345).

Statutory Authority: §§ 32.1-324 and 32.1-325 and Item 325 N of Chapter 1042 of the 2003 Acts of Assembly.

Effective Dates: July 1, 2003, through June 30, 2004.

Emergency Regulations

Agency Contact: Patricia A. Sykes, Manager, Policy Division, Department of Medical Assistance Services, 600 E. Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 786-7959, FAX (804) 786-1680, or e-mail psykes@dmass.state.va.us.

Preamble:

This regulatory action qualifies as an emergency pursuant to the authority of § 2.2-4011 of the Code of Virginia because it is responding to a change in the Virginia Appropriation Act that must be effective within 280 days from the date of enactment of the Appropriation Act (Chapter 1042 of the 2003 Acts of Assembly, Item 325 N) and this regulatory action is not otherwise exempt under the provisions of § 2.2-4006 of the Code of Virginia. This regulatory action proposes to amend the State Plan for Medical Assistance Services so that the Medically Needy Income limits and the Standards of Assistance Income limits remain at their current level through the fiscal year ending June 30, 2004.

This action is intended to be applicable to payments for services in State Fiscal Year 2004 only. Since this is the time period in which this emergency regulation will be effective, there is no need for DMAS to continue regulating the issue contained in this emergency regulation past the effective period permitted by this emergency action. Therefore, DMAS is not seeking approval of a Notice of Intended Regulatory Action in conformance to § 2.2-4007.

The sections of the State Plan for Medical Assistance that are affected by this action are Income Eligibility Levels and Eligibility under § 1931 of the Act (12 VAC 30-40-220 and 12 VAC 30-40-345, respectively).

The 2000 Appropriation Act (Chapter 1073, Item 319W) directed that the Medically Needy Income limits were to be increased annually to reflect increases in the Consumer Price Index (CPI) beginning July 1, 2001.

The 2003 Appropriation Act (Item 325 N) directed DMAS to amend the State Plan for Medical Assistance Services to freeze the Medically Needy Income limits at their current level through the fiscal year ending June 30, 2004. By federal law, the Medically Needy Income limits may not exceed 133-1/3% of the income limits set for the AFDC program. Therefore, to ensure continued federal financial participation, any changes in the Medically Needy Income limits must also be made in the Standards of Assistance listed in the State Plan for families who are eligible for Medicaid because they meet the requirements of the AFDC plan (see §§ 1902(a)(10)(C), 1902(a)(17) and 1931 of the Social Security Act and 42 CFR 435.811 and 42 CFR 435.1007).

12 VAC 30-40-220. Income eligibility levels.

A. Mandatory categorically needy.

1. AFDC-related groups other than poverty level pregnant women and infants.

Family Size Need Standard Payment Standard Maximum Payment Amounts

See Table 1 See Table 2

STANDARDS OF ASSISTANCE

(Increased annually by the increase in the Consumer Price Index; however, for the Fiscal Year 2004, the income limit shall not be increased by the Consumer Price Index and shall remain at the Fiscal Year 2003 level.)

GROUP I

Size of Assistance Unit	Table 1 (100%)	Table 2 (90%)
1	\$151.11	\$135.58
2	237.01	214.24
3	305.32	274.27
4	370.53	333.27
5	436.77	393.30
6	489.55	441.94
7	553.72	498.87
8	623.07	559.93
9	679.99	611.68
10	743.13	669.64
Each person above 10	63.13	57.96

MAXIMUM REIMBURSABLE PAYMENT \$403

GROUP II

Size of Assistance Unit	Table 1 (100%)	Table 2 (90%)
1	\$180.09	\$162.49
2	265.99	239.08
3	333.27	301.18
4	399.51	359.14
5	472.99	423.35
6	526.81	474.03
7	589.95	529.92
8	658.26	592.02
9	716.22	644.80
10	780.39	701.73
Each person above 10	63.13	57.96

MAXIMUM REIMBURSABLE PAYMENT \$435

GROUP III

Size of Assistance Unit	Table 1 (100%)	Table 2 (90%)
1	\$251.50	\$227.70
2	338.44	304.29
3	406.75	366.39
4	472.99	424.35
5	560.97	505.08
6	613.75	552.69
7	677.92	610.65
8	745.23	672.75
9	806.26	725.53
10	868.33	781.42
Each person above 10	63.13	57.96

MAXIMUM REIMBURSABLE PAYMENT \$518

Emergency Regulations

2. Pregnant women and infants under 1902(a)(10)(i)(IV) of the Act:

Effective April 1, 1990, based on 133% of the official federal income poverty level.

3. Children under § 1902(a)(10)(i)(VI) of the Act (children who have attained age 1 but have not attained age 6), the income eligibility level is 133% of the federal poverty level (as revised annually in the Federal Register) for the size family involved.

4. For children under § 1902(a)(10)(i)(VII) of the Act (children who were born after September 30, 1983, and have attained age 6 but have not attained age 19), the income eligibility level is 100% of the federal poverty level (as revised annually in the Federal Register) for the size family involved.

B. Treatment of COLA for groups with income related to federal poverty level.

1. If an individual receives a Title II benefit, any amount attributable to the most recent increase in the monthly insurance benefit as a result of a Title II COLA is not counted as income during a "transition period" beginning with January, when the Title II benefit for December is received, and ending with the last day of the month following the month of publication of the revised annual federal poverty level.

2. For individuals with Title II income, the revised poverty levels are not effective until the first day of the month following the end of the transition period.

3. For individuals not receiving Title II income, the revised poverty levels are effective no later than the beginning of the month following the date of publication.

C. Qualified Medicare beneficiaries with incomes related to federal poverty level. The levels for determining income eligibility for groups of qualified Medicare beneficiaries under the provisions of § 1905(p)(2)(A) of the Act are as follows:

Section 1902(f) states which as of January 1, 1987, used income standards more restrictive than SSI. (VA did not apply a more restrictive income standard as of January 1, 1987.)

Based on the following percentage of the official federal income poverty level:

- Effective Jan. 1, 1989: 85%
- Effective Jan. 1, 1990: 90% (no more than 100)
- Effective Jan. 1, 1991: 100% (no more than 100)
- Effective Jan. 1, 1992: 100%

D. Aged and disabled individuals described in § 1902(m)(1) of the Act; Level for determining income eligibility for aged and disabled persons described in § 1902(m)(1) of the Act is 80% of the official federal income poverty level (as revised annually in the Federal Register) for the size family involved.

E. Income levels—medically needy. (Increased annually by the increase in the Consumer Price Index but no higher than the level permitted to claim federal financial participation; however, for the Fiscal Year 2004, the income limit shall not

be increased by the Consumer Price Index and shall remain at the Fiscal Year 2003 level.)

1. The following income levels are applicable to all groups, urban and rural.

2. The agency has methods for excluding from its claim for FFP payments made on behalf of individuals whose income exceeds these limits.

Family Size	Net income level protected for maintenance for 12 months			Amount by which Column 2 exceeds limits specified in 42 CFR 435.1007 ¹
	Group I	Group II	Group III	
1	\$2,691.00	\$3,105.00	\$4,036.50	\$0
2	\$3,519.00	\$3,824.00	\$4,867.00	\$0
3	\$4,036.50	\$4,450.50	\$5,485.50	\$0
4	\$4,554.00	\$4,968.00	\$6,003.00	\$0
5	\$5,071.50	\$5,485.50	\$6,520.50	\$0
6	\$5,589.00	\$6,003.00	\$7,038.00	\$0
7	\$6,106.50	\$6,520.50	\$7,555.50	\$0
8	\$6,727.50	\$7,141.50	\$8,073.00	\$0
9	\$7,348.50	\$7,762.50	\$8,797.50	\$0
10	\$8,073.00	\$8,487.00	\$9,418.50	\$0
For each additional person, add:	\$695.52	\$695.52	\$695.52	\$0

¹As authorized in § 4718 of OBRA '90.

GROUPING OF LOCALITIES

GROUP I

Counties	
Accomack	King George
Alleghany	King and Queen
Amelia	King William
Amherst	Lancaster
Appomattox	Lee
Bath	Louisa
Bedford	Lunenburg
Bland	Madison
Botetourt	Matthews
Brunswick	Mecklenburg
Buchanan	Middlesex
Buckingham	Nelson
Campbell	New Kent
Caroline	Northampton
Carroll	Northumberland
Charles City	Nottoway
Charlotte	Orange
Clarke	Page
Craig	Patrick
Culpeper	Pittsylvania
Cumberland	Powhatan
Dickenson	Prince Edward
Dinwiddie	Prince George
Essex	Pulaski
Fauquier	Rappahannock
Floyd	Richmond
Fluvanna	Rockbridge
Franklin	Russell
Frederick	Scott
Giles	Shenandoah

Emergency Regulations

Gloucester	Smyth
Goochland	Southampton
Grayson	Spotsylvania
Greene	Stafford
Greensville	Surry
Halifax	Sussex
Hanover	Tazewell
Henry	Washington
Highland	Westmoreland
Isle of Wight	Wise
James City	Wythe
	York

Cities

Bristol
Buena Vista
Clifton Forge
Danville
Emporia

GROUP II

Counties	
Albemarle	Loudoun
Augusta	Roanoke
Chesterfield	Rockingham
Henrico	Warren

Cities	
Chesapeake	Portsmouth
Covington	Radford
Harrisonburg	Richmond
Hopewell	Roanoke
Lexington	Salem
Lynchburg	Staunton
Martinsville	Virginia Beach
Newport News	Williamsburg
Norfolk	Winchester
Petersburg	

GROUP III

Counties	
Arlington	Montgomery
Fairfax	Prince William

Cities	
Alexandria	Fredericksburg
Charlottesville	Hampton
Colonial Heights	Manassas
Fairfax	Manassas Park
Falls Church	Waynesboro

12 VAC 30-40-345. Eligibility under § 1931 of the Act.

A. The state covers low-income families and children under § 1931 of the Act as follows:

AFDC children age 18 who are full-time students in a secondary school or in the equivalent level of vocational or technical training.

B. In determining eligibility for Medicaid, the agency uses the AFDC standards and methodologies in effect as of July 16, 1996, without modification, for individuals who do not receive TANF benefits.

C. In determining eligibility for Medicaid, the agency uses the AFDC standards and methodologies in effect as of July 16, 1996, with the following modifications.

1. The agency applies higher income standards than those in effect as of July 16, 1996, increased by no more than the percentage increases in the CPI- μ since July 16, 1996. The agency increases the July 16, 1996, income standards shown in 12 VAC 30-40-220 by the annual increase in the CPI beginning July 1, 2001. *However, for the Fiscal Year 2004, the income limit shall not be increased by the Consumer Price Index and shall remain at the Fiscal Year 2003 level.*

2. The agency uses less restrictive income or resource methodologies than those in effect as of July 16, 1996. Any applicant or recipient may have or establish one savings or investment account not to exceed \$5,000 if the applicant or recipient designates that the account is reserved for purposes related to self-sufficiency. Any funds deposited in the account and any interest earned on or appreciation in the value of the funds shall be exempt when determining eligibility for as long as the funds and interest on or appreciation in value of remain in the account. Any amounts withdrawn and used for purposes related to self-sufficiency shall be exempt. For purposes of this section, "purposes related to self-sufficiency" shall include, but is not limited to, paying for tuition, books and incidental expenses at any elementary, secondary or vocational school or any college or university; making down payment on a primary residence; or establishing a commercial operation that is owned by a member of the Medicaid assistance unit. The income or resource methodologies that the less restrictive methodologies replace are as follows:

a. Resources. Any individual or family applying for or receiving assistance may have or establish one interest-bearing savings or investment account per assistance unit not to exceed \$5,000 at a financial institution if the applicant or recipient designates that the account is reserved for one of the following purposes: (i) paying for tuition, books, and incidental expenses at any elementary, secondary or vocational school or any college or university; (ii) making down payment on a primary residence; or (iii) business incubation. Any funds deposited in the account shall be exempt when determining eligibility for medical assistance for so long as the funds and interest remain on deposit in the account. Any amounts withdrawn and used for any of the purposes stated in this section shall be exempt. For purposes of this section, "business incubation" shall mean the initial establishment of a commercial operation that is owned by a member of the Medicaid assistance unit. The net worth of any business owned by a member of the assistance unit shall be exempt from consideration as long as the net worth of the business is less than \$5,000.

b. Income. Any interest or appreciation earned on one interest-bearing savings account per medical assistance unit not to exceed \$5,000 at a financial institution, if the applicant or recipient designates that the account is reserved for the purpose of paying for tuition, books, and

incidental expenses at any elementary, secondary or vocational school or any college or university, or for making down payment on a primary residence or for business incubation, shall be exempt when determining eligibility for medical assistance for as long as the funds and interest remain on deposit in the account. For purposes of this section, "business incubation" means the initial establishment of a commercial operation owned by a member of the Medicaid assistance unit.

D. The agency continues to apply the following waivers of the provisions of Part A of Title IV in effect as of July 16, 1996, or submitted prior to August 22, 1996, and approved by the secretary on or before July 1, 1997. For individuals who receive TANF benefits and meet the requirements of Virginia's § 1115 waiver for the Virginia Independence Program, the agency continues to apply the following waivers of the provisions of Part A of Title IV in effect as of July 16, 1996, or submitted prior to August 22, 1996, and approved by the secretary on or before July 1, 1997. The waiver contains the following more liberal income disregards:

1. Earned income will be disregarded so long as the earnings plus the AFDC benefits are equal to or less than 100% of the Federal Income Poverty Guidelines. For any month in which earnings plus the AFDC standard of payment for the family size exceed the Federal Poverty Income Guidelines for a family of the same size, earned income above 100% of the Federal Poverty Income Guidelines shall be counted.
2. One automobile valued at \$7,500.

These waivers will apply only to TANF cash assistance recipients. These waivers will be continued only for as long as eligibility for TANF was established under the welfare reform demonstration project for which these waivers were originally approved.

/s/ Mark R. Warner
Governor
Date: June 6, 2003

VA.R. Doc. No. R03-229; Filed June 13, 2003, 12:38 p.m.

* * * * *

Title of Regulation: 12 VAC 30-70. **Methods and Standards for Establishing Payment Rates; Inpatient Hospital Care (amending 12 VAC 30-70-271 and 12 VAC 30-70-391).**

Statutory Authority: §§ 32.1-324 and 32.1-325 and Items 325 000 and 325 XXX of Chapter 1042 of the 2003 Acts of Assembly.

Effective Dates: July 1, 2003, through June 30, 2004.

Agency Contact: Scott Crawford, Director, Division of Reimbursement, Department of Medical Assistance Services, 600 E. Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 786-3639, FAX (804) 786-1680, or e-mail scrawford@dmas.state.va.us.

Preamble:

This regulatory action qualifies as an emergency pursuant to the authority of § 2.2-4011 of the Code of Virginia because it is responding to a change in the Virginia Appropriation Act that must be effective within 280 days from the date of enactment of the Appropriation Act (Chapter 1942 of the 2003 Acts of Assembly, Item 325 000 and Item 325 XXX, respectively). This regulatory action is not otherwise exempt under the provisions of § 2.2-4006 of the Code of Virginia. Since DMAS intends to continue regulating the issue contained in this emergency regulation past the effective period permitted by this emergency action, it is also requesting approval of its Notice of Intended Regulatory Action in conformance to § 2.2-4007 of the Code of Virginia.

The regulatory action proposes to amend the reimbursement methodology for inpatient hospitals, effective July 1, 2003, with two separate changes: (i) inpatient capital costs are to be paid at 80% of allowable cost; (ii) reimbursement rates for freestanding psychiatric hospitals are to remain unchanged for FY 2004.

Limit Inpatient Hospital Capital Costs to 80% of Costs. Provisions for reimbursement of hospital inpatient capital costs are contained in 12 VAC 30-70-271. Currently hospitals are paid the actual allowable cost of capital. The proposed amendment would add language providing that starting July 1, 2003, hospitals, excluding state teaching hospitals, would be paid 80% of allowable capital costs. Provisions in 12 VAC 30-70-271 C and 12 VAC 30-70-70 E provide for the recapture of previously paid depreciation upon sale of a hospital. The proposed amendment would eliminate this language.

Freestanding Psychiatric Hospital Rates Unchanged. Provisions in 12 VAC 30-70-391 provide for rebasing of hospital rates at least every three years. In compliance with this, DMAS has calculated rebased hospital rates to be effective July 1, 2003. The proposed amendment would add language providing that freestanding psychiatric hospitals' rates would not be rebased for SFY 2004, but would continue to be based on the previous base year.

12 VAC 30-70-271. Payment for capital costs.

A. Inpatient capital costs shall continue to be paid determined on an allowable cost basis and settled at the hospital's fiscal year end. Allowable cost shall be determined following the methodology described in Supplement 3 (12 VAC 30-70-10 through 12 VAC 30-70-130). Capital costs of Type One hospitals shall continue to be settled at 100% of allowable cost. For services beginning July 1, 2003, capital costs of Type Two hospitals shall be settled at 80% of allowable cost. For hospitals with fiscal years that do not begin on July 1, 2003, inpatient capital costs for the fiscal year in progress on that date shall be apportioned between the time period before and the time period after that date based on the number of calendar months before and after that date. Capital costs apportioned before that date shall be settled at 100% of allowable cost, and those after at 80% of allowable cost.

B. The exception to the policy in subsection A of this section is that the hospital specific rate per day for services in

Emergency Regulations

freestanding psychiatric facilities licensed as hospitals, as determined in 12 VAC 30-70-321 B, shall be an all-inclusive payment for operating and capital costs. *Effective July 1, 2003, the capital portion of the rate per day shall be based on 80% of the average capital cost per day of freestanding psychiatric facilities licensed as hospitals.*

~~C. Until prospective payment for capital costs is implemented, the provisions of 12 VAC 30-70-70 regarding recapture of depreciation shall remain in effect.~~

12 VAC 30-70-391. Recalibration and rebasing policy.

A. The department recognizes that claims experience or modifications in federal policies may require adjustment to the DRG payment system policies provided in this part. The state agency shall recalibrate (evaluate and adjust the DRG relative weights and hospital case-mix indices) and rebase (review and update the base year standardized operating costs per case and the base year standardized operating costs per day) the DRG payment system at least every three years. Recalibration and rebasing shall be done in consultation with the Medicaid Hospital Payment Policy Advisory Council noted in 12 VAC 30-70-490. When rebasing is carried out, if new rates are not calculated before their required effective date, hospitals required to file cost reports and freestanding psychiatric facilities licensed as hospitals shall be settled at the new rates, for discharges on and after the effective date of those rates, at the time the hospitals' cost reports for the year in which the rates become effective are settled.

B. Effective from July 1, 2003, through June 30, 2004, although most hospital rates will be based on the 2001 base year, rates for freestanding psychiatric facilities licensed as hospitals shall continue to be based on the 1998 base year. That is, the rebasing of rates effective in SFY 2004, shall be effective for all hospitals except freestanding psychiatric facilities licensed as hospitals.

/s/ Mark R. Warner
Governor
Date: June 6, 2003

VA.R. Doc. No. R03-228; Filed June 13, 2003, 12:40 p.m.

* * * * *

Title of Regulation: 12 VAC 30-90. Methods and Standards for Establishing Payment Rates for Long-Term Care (adding 12 VAC 30-90-41.2).

Statutory Authority: §§ 32.1-324 and 32.1-325 and Item 325 MMM of Chapter 1042 of the 2003 Acts of Assembly.

Effective Dates: July 1, 2003, through June 30, 2004.

Agency Contact: Scott Crawford, Director, Division of Reimbursement, Department of Medical Assistance Services, 600 E. Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 786-3639, FAX (804) 786-1680, or e-mail scrawford@dmas.state.va.us.

Preamble:

This regulatory action qualifies as an emergency pursuant to the authority of § 2.2-4011 of the Code of Virginia because it is responding to a change in the Virginia

Appropriation Act that must be effective within 280 days from the date of enactment of the Appropriation Act (Chapter 1042 of the 2003 Acts of Assembly, Item 325 MMM of the Code of Virginia) and this regulatory action is not otherwise exempt under the provisions of § 2.2-4006 of the Code of Virginia.

This action is intended to be applicable to payments for services in State Fiscal Year 2004 (SFY 2004) only. Since this is the time period in which this emergency regulation will be effective, there is no need for DMAS to continue regulating the issue contained in this emergency regulation past the effective period permitted by this emergency action. Therefore, DMAS is not seeking approval of a Notice of Intended Regulatory Action in conformance to § 2.2-4007 of the Code of Virginia.

The section of the State Plan for Medical Assistance affected by this action is Methods and Standards for Establishing Payment Rates-Long Term Care (12 VAC 30-90-41).

Nursing facility prospective operating ceilings (direct and indirect) and prospective operating rates are adjusted for inflation. The allowance for inflation is based upon the percentage of change in the moving average of the percentage change of the Virginia-Specific Nursing Home Input Price Index, updated quarterly, published by DRI-WEFA, Incorporated (formerly, Standard and Poor's DRI).

The 2003 Acts of Assembly of Item 325 MMM directed the Department of Medical Assistance Services (DMAS) to amend the State Plan in regard to the calculation of direct and indirect care nursing home rate inflation adjustments for SFY 2004. This item directs DMAS to calculate the direct care inflation adjustment provided to nursing facilities effective on July 1, 2003, through June 30, 2004, in a manner to ensure that the increase in payments does not exceed \$8,768,125 of general funds and \$8,813,838 in nongeneral funds. This represents an inflation adjustment of approximately 5.1%.

The indirect care inflation adjustments provided to nursing facilities effective on July 1, 2003, through June 30, 2004, shall be calculated in a manner to ensure that the increase in payments does not exceed \$2,325,094 of general funds and \$2,337,216 of nongeneral funds in SFY 2004. This represents an inflation adjustment of approximately 1.53%.

The proposed methodology will make an estimate, based on existing nursing facility rates and forecasts of patient volume, of the inflation factor that will expend \$8,768,125 of general funds and \$8,813,838 of nongeneral funds for direct care and \$2,325,094 of general funds and \$2,337,216 of nongeneral funds for indirect care payments. This inflation factor will be used to set rates for SFY 2004. The actual increase in expenditures will be slightly more or less than the amount appropriated, based on the difference between the forecasted and actual patient volume in SFY 2004.

12 VAC 30-90-41.2. Limits on application of inflation factor to indirect and direct care costs.

A. Effective on and after July 1, 2003, and for only State Fiscal Year 2004, the adjustment for inflation of nursing facility direct

care rates and ceilings as referenced at 12 VAC 30-90-41 B shall be calculated in a manner to ensure that the increase in payments does not exceed \$8,768,125 in general funds and \$8,813,838 in nongeneral funds.

B. Effective on and after July 1, 2003, and for only State Fiscal Year 2004, the adjustment for inflation of nursing facility indirect care rates and ceilings as referenced at 12 VAC 30-90-41 B shall be calculated in a manner to ensure that the increase in payments does not exceed \$2,325,094 in general funds and \$2,337,216 in nongeneral funds.

C. The provisions of this section shall supersede, for the duration of this emergency regulation, the applicable provisions in 12 VAC 30-90-41.

/s/ Mark R. Warner
Governor
Date: June 6, 2003

VA.R. Doc. No. R03-227; Filed June 13, 2003, 3:32 p.m.

GENERAL NOTICES/ERRATA

STATE CORPORATION COMMISSION

Bureau of Insurance

Administrative Letter 2003-6

June 9, 2003

TO: All insurers Licensed in Virginia to Write Life Insurance, Credit Life Insurance, Accident and Sickness Insurance, Credit Accident and Sickness Insurance, Annuities, Variable Annuities, Variable Life Insurance, Modified Guaranteed Annuities, and All Carriers Licensed in Virginia as Health Maintenance Organizations, Health Services Plans, Legal Service Plans or Dental or Optometric Services Plans

**RE: Adverse Underwriting Decision Notices
§ 38.2-610 of the Code of Virginia**

The purpose of this letter is to provide clarification to carriers of the expectations of the Bureau of Insurance (the Bureau) concerning Adverse Underwriting Decisions and Adverse Underwriting Decision (AUD) Notices. It recently came to the Bureau's attention that there are life and health carriers operating in Virginia who are neglecting to furnish AUD notices in certain circumstances where this important source of information and consumer protection is warranted. It is the Bureau's position that, in addition to the clear-cut situations for which all carriers appear to understand the requirements relating to adverse underwriting decisions and notices, AUD notices are necessary in at least the following additional situations, which were identified either through recent investigations of consumer complaints or through market conduct examinations. While this list is certainly not all-inclusive, it highlights some of the more common areas of confusion or misunderstanding of Virginia's requirements concerning AUD notices.

- When an application file is closed because the applicant, his or her physician, or any other individual or entity furnishing information relating to the applicant's insurance application, fails to furnish requested information, such closure is considered a *declination of coverage*. The definition of Adverse Underwriting Decision, in § 38.2-602 1 a of the Code of Virginia, includes a *declination of insurance coverage*. Therefore, because the closure of an application file resulting from lack of information, failure to respond to requests for information, or any other related situation is considered an Adverse Underwriting Decision, the AUD notice must be furnished. Similarly, because file closures for lack of information are declinations, the Bureau requires these closed files to be included in any sample populations of declined cases when requested for market conduct examination purposes.
- Any offer of coverage (1) at a premium rate higher than that applied for; (2) at a reduced benefit level from that applied for; or (3) with exceptions, exclusions or benefits other than as applied, involves an Adverse Underwriting Decision. Therefore, in any of these three situations, an

AUD notice must be furnished. The Bureau acknowledges that § 38.2-602 1 e of the Code of Virginia refers to "higher than *standard*" rates. The Bureau maintains, however, that this phrase, when taken in combination with the remainder of the subsection, qualifies the offer of any premium rate in excess of that originally applied for as an Adverse Underwriting Decision, regardless of the initial classification of the rate. Apart from the statutory justification for the requirement that an AUD notice be furnished, we believe it is clearly in the consumer's best interest to be informed of the basis for an underwriting decision affecting his or her premiums or benefits. The average consumer may not know of the premium classification in his or her original application, but he or she generally does know when an increased rate is offered upon finalization of the underwriting process.

- When declinations are based upon eligibility requirements clearly addressed in policy forms filed with and approved by the Bureau, such declinations are specifically excepted from the definition of an Adverse Underwriting Decision. While the statutory AUD notice is therefore not required in these cases, the insurance institution is obligated by law to provide the applicant with the reasons for the action taken, pursuant to § 38.2-602 2 of the Code of Virginia. It should be emphasized, however, that this exception to the AUD notice requirement is applicable **ONLY** when the declination is based upon a lawful provision included within the approved policy form.
- The Bureau's Administrative Letter 1981-15 included a prototype AUD notice for life and health carriers. We strongly encourage carriers to review this letter and the prototype notice to ensure that notices used in Virginia include *all* the necessary information. Many carriers have omitted important facts relating to the applicant's rights concerning the adverse underwriting decision, the correction, amendment or deletion of information in his or her file, and/or the time-frames for requesting information relating to the adverse underwriting decision. The Bureau will continue to pursue disciplinary actions against carriers that use incomplete AUD notices as well as those that do not provide notices when required.

Questions regarding this letter may be addressed **IN WRITING** to: John A. Mardigian, Supervisor, Consumer Services Section, Life and Health Division, Bureau of Insurance, P.O. Box 1157, Richmond, Virginia, FAX: 804-371-9944.

/s/ Alfred W. Gross
Commissioner of Insurance

STATE WATER CONTROL BOARD

Proposed Consent Special Order Chester Development Associates, L.L.C.

The State Water Control Board proposes to issue a consent special order to Chester Development Associates, L.L.C. to resolve certain alleged violations of environmental laws and

regulations that occurred at the commercial/residential development known as Chester Village Green located in Chesterfield County, Virginia. The proposed order requires that Chester Development Associates, L.L.C. pay a civil charge to address noncompliance with the VWP permit issued for this project.

On behalf of the State Water Control Board, the Department of Environmental Quality will receive for 30 days from the date of publication of this notice written comments relating to the proposed consent special order. Comments should be addressed to Cynthia Akers, Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, VA 23060; or sent to the email address of ecakers@deq.state.va.us. All comments received by email must include the name, address and phone number of the commenter. A copy of the order may be obtained in person or by mail from the above office.

Proposed Consent Special Order The Hanover Group L.L.C.

The State Water Control Board proposes to issue a consent special order to The Hanover Group L.L.C. to resolve certain alleged violations of environmental laws and regulations occurring at the residential subdivision known as the Bluffs at Bell Creek and a commercial/retail/light industrial park known as Bell Creek Park located in Hanover County, Virginia. The proposed order requires that The Hanover Group preserve the on-site forested wetlands and upland buffer as required; submit a master plan depicting phases of construction and areas of preservation; submit proof of recordation of the written protection for the areas of preservation; and the payment of a civil charge.

On behalf of the State Water Control Board, the Department of Environmental Quality will receive for 30 days from the date of publication of this notice written comments relating to the proposed consent special order. Comments should be addressed to Cynthia Akers, Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, VA 23060; or sent to the email address of ecakers@deq.state.va.us. All comments received by email must include the name, address and phone number of the commenter. A copy of the order may be obtained in person or by mail from the above office.

Proposed Consent Special Order Amendment Sanville Utilities Corporation

The State Water Control Board (SWCB) proposes to issue a Consent Special Order Amendment (CSOA) to Sanville Utilities Corporation, Henry County Public Service Authority, Receiver, regarding compliance with the Permit Regulation, 9 VAC 25-31-10 et seq., at the Fairway Acres Sewage Treatment Plant and the Westwood Lagoon. On behalf of the SWCB, the department will consider written comments relating to this order for 30 days after the date of publication of this notice. Comments should be addressed to: Robert Steele, DEQ - West Central Regional Office, 3019 Peters Creek Road, NW, Roanoke, VA 24019.

The final CSOA may be examined at the department during regular business hours. It may also be viewed or downloaded from the DEQ homepage at www.deq.state.va.us/info. Copies are available from Mr. Steele at the address above or by calling him at (540) 562-6777.

Proposed Special Order Town of Pocahontas Wastewater Treatment Plant

The State Water Control Board proposes to take an enforcement action against the above listed facility. Under the terms of the proposed special order, the owner of this facility has agreed to be bound by the terms and conditions of a schedule of compliance contained in the appendix of the order. The requirements contained in the order bring the facility into compliance with state law and protects water quality.

On behalf of the State Water Control Board, the Department of Environmental Quality will receive comments relating to the special order for 30 days after the date of publication of this notice. Comments should be addressed to Dallas Sizemore, Department of Environmental Quality, Southwest regional Office, P.O. Box 1688, Abingdon, VA 24212 and should refer to the consent special order. Comments can also be sent by e-mail to: drsizemore@deq.state.va.us. Comments received must include the name, address and phone number of the commenter, and all comments must be received before the end of the comment period.

The proposed order may be examined at the Department of Environmental Quality, 355 Deadmore Street, Abingdon, VA. A copy of the order may be obtained in person or by mail from the above office.

Proposed Special Order Wolfden Dairy Farm

The State Water Control Board proposes to take an enforcement action against the above listed facility. Under the terms of the proposed special order, the owner of this facility has agreed to be bound by the terms and conditions of a schedule of compliance contained in the appendix of the order. The requirements contained in the order bring the facility into compliance with state law and protects water quality.

On behalf of the State Water Control Board, the Department of Environmental Quality will receive comments relating to the special order for 30 days after the date of publication of this notice. Comments should be addressed to Dallas Sizemore, Department of Environmental Quality, Southwest Regional Office, P.O. Box 1688, Abingdon, VA 24212 and should refer to the consent special order. Comments can also be sent by e-mail to: drsizemore@deq.state.va.us. Comments received must include the name, address and phone number of the commenter, and all comments must be received before the end of the comment period.

The proposed order may be examined at the Department of Environmental Quality, 355 Deadmore Street, Abingdon, VA.

General Notices/Errata

A copy of the order may be obtained in person or by mail from the above office.

DEPARTMENT OF HEALTH

Maternal and Child Health Block Grant Application

Title V of the Social Security Act provides funds to states in the form of a block grant. The purpose of this funding is to improve the health of all women of childbearing age, infants, children and adolescents. States are required to do the following:

- Provide and assure mothers and children (in particular those with low income or with limited availability of health services) access to quality maternal and child health services;
- Reduce infant mortality and otherwise promote the health of mothers, infants and children through preventive and primary care services;
- Provide rehabilitation services for blind and disabled individuals under the age of 16 receiving benefits under Title XVI (Supplemental Security Income Program), when not provided under Title XIX (Medicaid); and
- Provide and promote family-centered, community-based, coordinated care including care coordination services, for children with special health care needs and to help develop community-based systems of services for such children and their families.

For additional information on the Maternal and Child Health Bureau and the Title V Block Grant visit the following website: www.mchb.hrsa.gov. In order to receive these block grant funds, each state submits an application to the federal government.

The Office of Family Health Services, Virginia Department of Health is in the process of preparing an application for the upcoming year. The department is asking for input from consumers, health care providers, and others who are interested in the health of women, infants, children, adolescents, and their families. In particular, the department is interested in suggestions on how it can better address the following priority needs:

1. Improve data systems, analysis and reporting capacity to ensure meaningful and quality surveillance of maternal and child health populations and health outcomes for use in the development of programs and policy.
2. Reduce racial and ethnic minority disparities in health status.
3. Reduce childhood obesity.
4. Increase quality health services through promotion of standards of care, such as Bright Futures, assessment of health outcomes and other infrastructure-based activities.
5. Improve access to quality health services through promotion of early enrollment in prenatal care, establishing

medical homes and enrollment of eligible persons in Medicaid and FAMIS.

6. Improve identification of at-risk populations and assure linkage with prevention, early intervention and family support services.

7. Reduce mortality and morbidity from injury and violence.

8. Reduce dental disease among children and adolescents. When providing suggestions, these are some of the questions to consider:

- What are the major health needs of mothers, infants, children, and adolescents in your community?
- What would further improve health care and make it easier to access?
- What barriers or gaps could be overcome through better coordination?
- How can Virginia best use the Title V Block Grant and other funds to promote the health of women, infants, children, adolescents, children with special health care needs and their families?

Comments should be received by July 10, 2003. The completed application will be available upon request after July 15, 2003. Contact the Office of Family Health Services with comments or questions:

Office of Family Health Services, Virginia Department of Health, 1500 E. Main Street, Suite 104, Richmond, VA 23219, FAX (804) 692-0184, e-mail jhicks@vdh.state.va.us.

Contact: Janice Hicks, Senior Policy Analyst, Department of Health, Office of Family Health Services, 1500 E. Main Street, Room 104, Richmond, VA 23219, telephone (804) 371-0478, FAX (804) 786-4942, or e-mail jhicks@vdh.state.va.us.

ERRATA

STATE CORPORATION COMMISSION

Title of Regulation: **14 VAC 5-71. Rules Governing Viatical Settlement Providers and Viatical Settlement Brokers.**

Publication: 19:20 VA.R. 2968-2979 June 16, 2003.

Correction to proposed regulation:

Due to a printing error, 14 VAC 5-71-70, 14 VAC 5-71-80, 14 VAC 5071-90, 14 VAC 5-71-91, and 14 VAC 5-71-92 were incorrectly published. Replace these sections with the following:

14 VAC 5-71-70. Reporting requirements.

A. On or before March 1 of each calendar year, each viatical settlement provider licensed in this Commonwealth shall file an annual ~~statement~~ *report* of all viatical settlement transactions where the viator *or an insured* is a resident of this Commonwealth, ~~and a separate annual statement of all viatical settlement transactions for all states in the aggregate,~~ on a form ~~prescribed by the commission~~ containing the

following information, for the previous calendar year, 4. for each life insurance policy or certificate viaticated of the viatical settlements contracted during the reporting period:

- a. 1. Date of the viatical settlement contract;
- 2. Viator's state of residence at time of the contract;
- b. 3. Life expectancy of the viator insured at the time of the contract, in months;
- 4. Whether the insured was determined to be (i) terminally ill or chronically ill or (ii) neither at the time of the contract;
- c. 5. Face amount of the policy at the time of the contract;
- d. Outstanding policy loans (if any);
- 6. Net death benefit viaticated;
- 7. Cash surrender value of the policy at time of the contract;
- 8. Accelerated death benefit available from the policy; and
- e. Amount 9. Viator's compensation (amount paid by the viatical settlement provider to the viator to viaticate the policy; and).
- f. If the viator has died:
 - (1) Date of death; and
 - (2) Total insurance premiums paid by the viatical settlement provider to maintain the policy or certificate in force;
- 2. Breakdown of applications received, accepted and rejected, by disease category of insured person with a catastrophic or life-threatening illness or condition;
- 3. Breakdown of policies or certificates viaticated by issuer and policy type;
- 4. Number of secondary market vs. primary market transactions;
- 5. Portfolio size; and
- 6. Amount of outside borrowings.

~~B. On or before March 1 of each calendar year, each viatical settlement broker licensed in this Commonwealth shall file an annual statement on a form prescribed by the commission containing the following information for each life insurance policy or certificate viaticated during the previous calendar year:~~

- 1. Date of the viatical settlement contract;
- 2. Life expectancy of the viator at the time of the contract;
- 3. Face amount of the policy at the time of the contract;
- 4. Amount paid by the viatical settlement provider to the viator to viaticate the policy; and
- 5. Commission paid by the viatical settlement provider to the viatical settlement broker.

B. In compliance with § 38.2-6011 E of the Code of Virginia, each viatical settlement provider shall certify annually to the commission the implementation of anti-fraud initiatives

reasonably calculated to detect, prosecute, and prevent fraudulent viatical settlement acts. The required annual certification shall be filed on or before March 1 of each year that the viatical settlement provider is licensed in this Commonwealth. For persons licensed initially on or after July 1, 2003, pursuant to 14 VAC 5-71-31 or Chapter 60 (§ 38.2-6000 et seq.) of Title 38.2 of the Code of Virginia, the initial certification shall be filed within 60 days of initial licensure.

C. A viatical settlement provider shall report to the commission material changes in information filed with the commission at licensure, pursuant to 14 VAC 5-71-31 J 1, concerning the licensee's identity.

1. As used in this subsection, "material changes" means a change (i) in the name of the licensee, (ii) in the business or residence address of the licensee, (iii) in the identity, designation or official responsibilities of any director, officer, or other person who is authorized to act for or on behalf of the licensee, or (iv) in affiliation that results in any person acquiring a 10% or greater interest in the licensee or in an affiliate of the licensee.

2. A change resulting in the election or appointment of a new director or officer or in the designation of any partner, officer, member or employee that is to be authorized to act on behalf of the provider shall be reported on a form of biographical affidavit developed by the NAIC unless a more specific form is prescribed by the commission.

3. Notices of material changes required by this section shall be filed with the commission within 30 calendar days of the change.

D. A licensed viatical settlement provider convicted of a felony shall report to the commission within 30 calendar days of the conviction the facts and circumstances regarding the conviction.

E. The annual report required by subsection A of this section shall be filed with the Bureau of Insurance, marked to the attention of the Life and Health Market Regulation Division. The reports required by subsections B, C and D of this section shall be filed with the Bureau of Insurance, marked to the attention of the Financial Regulation Division.

14 VAC 5-71-80. Annual notification and modification of application and annual statement forms. (Repealed.)

~~The Bureau of Insurance may modify the information requirements of the application and annual statement forms as necessary. Any such modifications shall be provided to all persons described in 14 VAC 5-71-10, in the form of an administrative letter sent by regular mail to each person's mailing address as shown in the records of the Bureau of Insurance. Failure by a person to receive such notice shall not be cause for exemption or grounds for noncompliance with the reporting requirements set forth in 14 VAC 5-71-70.~~

14 VAC 5-71-90. General rules.

A. With respect to policies containing a provision for double or additional indemnity for accidental death, the additional payment shall remain payable to the beneficiary last named by the viator prior to entering into the viatical settlement contract, or to such other beneficiary, other than the viatical

General Notices/Errata

settlement provider, as the viator may thereafter designate, or, in the absence of a designation, to the estate of the viator.

B. Payment of the proceeds of a viatical settlement pursuant to ~~§ 38.2-5705-G~~ 38.2-6008 D of the Code of Virginia shall be by means of wire transfer to the account designated by the viator or by certified check or cashier's check made payable to the viator or his designee.

C. Payment of the proceeds pursuant to a viatical settlement shall be made in a lump sum. ~~Retention of a~~ except where the viatical settlement provider has purchased an annuity issued by an insurance company licensed in this Commonwealth, and the insurance company agrees to make payments directly to the viator or the viator's beneficiary. No portion of the proceeds shall be retained by the viatical settlement provider or, escrow agent is not permissible, or other person without the written consent of the viator.

~~D. A viatical settlement provider or viatical settlement broker shall not discriminate in the making of viatical settlements on the basis of race, age, sex, national origin, creed, religion, occupation, marital or family status or sexual orientation, or discriminate between viators with dependents and without dependents.~~

~~E. A viatical settlement provider or viatical settlement broker shall not pay or offer to pay any finder's fee, commission or other compensation to any viator's physician, attorney, accountant or other person providing medical, legal or financial planning services to the viator, or to any other person acting as an agent of the viator with respect to the viatical settlement.~~

~~F.D. Contacts for the purpose of determining the health status of the viator by the viatical settlement provider or viatical settlement broker or insured after the viatical settlement has occurred shall be limited, in the aggregate, to once every three months for viators a person with a life expectancy of more than one year and to no more than one per month for viators a person with a life expectancy of one year or less. Such contacts shall be made only by a licensee under this chapter. The viatical settlement provider or viatical settlement broker shall explain the procedure for these contacts at the time the viatical settlement contract is entered into. If contact will be or is made by both the viatical settlement broker and the viatical settlement provider, both the viatical settlement broker and the viatical settlement provider shall have and maintain a system that tracks aggregate contacts.~~

~~G. Viatical settlement providers and viatical settlement brokers shall not solicit investors who could influence the treatment of the illness of the viators whose coverage would be the subject of the investment.~~

~~H. Viatical settlement providers and viatical settlement brokers shall adhere to the following advertising standards:~~

~~1. Advertising shall be truthful and not misleading by fact or implication.~~

~~2. If the advertiser emphasizes the speed with which the viatication will occur, the advertising must disclose the average time frame from completed application to the date of offer and from the date of the contract to receipt of the funds by the viator.~~

~~3. If the advertising emphasizes the dollar amounts available to viators, the advertising shall disclose the average purchase price as a percent of face value obtained by viators contracting with the advertiser during the immediately preceding six months.~~

~~E. If a viatical settlement provider enters into a viatical settlement that allows the viator to retain an interest in the policy, the viatical settlement contract shall contain the following provisions:~~

~~1. A provision that the viatical settlement provider will effect the transfer of the amount of the death benefit only to the extent or portion of the amount viaticated. Benefits in excess of the amount viaticated shall be paid directly to the viator's beneficiary by the insurance company;~~

~~2. A provision that the viatical settlement provider will, upon acknowledgment of the perfection of the transfer, either:~~

~~a. Advise the insured, in writing, that the insurance company has confirmed the viator's interest in the policy, or~~

~~b. Send the insured a copy of the instrument sent from the insurance company to the viatical settlement provider that acknowledges the viator's interest in the policy; and~~

~~3. A provision that apportions the premiums to be paid by the viatical settlement provider and the viator, provided that the contract provides premium payment terms and nonforfeiture options no less favorable, on a proportional basis, than those included in the policy.~~

~~F. In all cases where the insured is a minor child, disclosures to and permission of a parent or legal guardian satisfy the requirements of Chapter 60 (§ 38.2-6000 et seq.) of Title 38.2 of the Code of Virginia and the provisions of this chapter.~~

~~G. The requirements of this section supplement the general rules set forth in § 38.2-6008 of the Code of Virginia.~~

14 VAC 5-71-91. Advertising.

A. As used in this section, "advertising" means any written, electronic or printed communication or any communication by means of recorded telephone messages or transmitted on radio, television, the Internet or similar communications media, including film strips, motion pictures and videos, published, disseminated, circulated or placed before the public, directly or indirectly, for the purpose of creating an interest in or inducing a person to sell a life insurance policy pursuant to a viatical settlement contract.

B. Pursuant to § 38.2-6003 B of the Code of Virginia, the commission may require the submission at any time of advertising material used or intended for use in this Commonwealth. The Bureau of Insurance will provide notification of the requirements, if any, for the filing and/or approval of advertising material by administrative letter. Failure of a person to receive or review such notification shall not be cause for exemption or grounds for noncompliance with any such requirements.

C. Every licensee under this chapter shall establish and at all times maintain a system of control over the method of dissemination, content, and form of all advertisements

pursuant to a viatical settlement contract. All the advertising, regardless of by whom created, designed, or presented, shall be the responsibility of the licensee. Each licensee under this chapter shall maintain at its home or principal office a complete file containing a specimen copy of every advertisement, as described in subsection A of this section, disseminated in this Commonwealth with a notation indicating the manner and extent of distribution and a copy of the viatical settlement contract referred to in such advertisement. The file shall be subject to inspection by the commission. All the advertisements shall be maintained in the file for the longer of (i) a period of five years or (ii) until the filing of the next regular report of examination of the licensee. A licensee under this chapter who, after notice and hearing, is found to have violated any provision of this chapter or a cease and desist order issued by the commission with respect to any provision of this chapter shall be punished in accordance with the provisions of Chapter 5 (§ 38.2-500 et seq.) of Title 38.2 of the Code of Virginia.

14 VAC 5-71-92. Prohibited practices.

A. A viatical settlement provider or viatical settlement broker that provides patient identifying information to any person or entity other than the person's life insurer shall obtain from that person a signed affirmation that the person or entity will not further divulge the information without procuring the express, written consent of the insured for the disclosure. Notwithstanding the foregoing, if a viatical settlement provider or viatical settlement broker is served with a subpoena and, therefore, compelled to produce records containing patient identifying information, it shall notify the viator and the insured in writing at their last known addresses within five business days after receiving notice of the subpoena.

B. A viatical settlement broker shall not, without the written agreement of the viator obtained prior to performing any services in connection with a viatical settlement, seek or obtain any compensation from the viator.

C. A viatical settlement provider or viatical settlement broker shall not discriminate in the making or soliciting of viatical settlements on the basis of race, age, sex, national origin, creed, religion, occupation, marital or family status or sexual orientation, or discriminate between viators with dependents and without dependents.

D. A viatical settlement provider or viatical settlement broker shall not pay or offer to pay any finder's fee, commission or other compensation to any viator's physician, attorney, accountant or other person providing medical, legal or financial planning services to the viator, or to any other person acting as an agent of the viator, other than a viatical settlement broker, with respect to the viatical settlement.

E. Viatical settlement providers and viatical settlement brokers shall not knowingly solicit purchasers who may have treated or have been asked to treat the illness, or who could influence the treatment of the illness, of the viators whose coverage would be the subject of investment in or purchase of a viaticated policy.

Title of Regulation: 21 VAC 5-120. Virginia Trademark and Service Mark Act.

Publication: 19:20 VA.R. 2979-2981 June 16, 2003.

Correction to proposed regulation:

Due to a printing error, 21 VAC 5-120 was incorrectly published. Replace the regulation with the following:

STATE CORPORATION COMMISSION

REGISTRAR'S NOTICE: The State Corporation Commission is exempt from the Administrative Process Act in accordance with § 2.2-4002 A 2 of the Code of Virginia, which exempts courts, any agency of the Supreme Court, and any agency that by the Constitution is expressly granted any of the powers of a court of record.

Title of Regulation: 21 VAC 5-120. Virginia Trademark and Service Mark Act (amending 21 VAC 5-120-50).

Statutory Authority: §§ 12.1-13 and 59.1-92.19 of the Code of Virginia.

Public Hearing Date: Upon Request

Public comments may be submitted until July 11, 2003

Agency Contact: William Rhea Shelton, Chief of Registration, Division of Securities and Retail Franchising, P.O. Box 1197, Richmond, VA 23218, telephone (804) 371-9610, FAX (804) 371-9911, or e-mail rshelton@scc.state.va.us.

Summary:

The proposed amendments (i) clarify for trademark and service mark applicants what is meant by "final refusal" for purposes of an application to register and (ii) eliminate the unnecessary parenthetical language that was included in the old rules and refer to specific statutory provisions that were within those parentheses.

AT RICHMOND, MAY 27, 2003

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. SEC-2003-00027

Ex Parte: In the matter of

Adopting a Revision to the Rules

Governing Trademarks and Service Marks

ORDER TO TAKE NOTICE

Section 12.1-13 of the Code of Virginia provides that the State Corporation Commission ("Commission") shall have the power to promulgate rules and regulations in the enforcement and administration of all laws within its jurisdiction, and § 59.1-92.19 of the Trademark and Service Mark Act ("Trademark Act"), § 59.1-92.1 et seq. of the Code of Virginia, provides that the Commission may issue any rules and regulations necessary or appropriate for the administration and enforcement of the Trademark Act.

General Notices/Errata

The rules and regulations issued by the Commission pursuant to § 59.1-92.19 of the Trademark Act are set forth in Title 21 of the Virginia Administrative Code.

The Division of Securities and Retail Franchising ("Division") has submitted to the Commission a proposed revision to Chapter 120 of Title 21 of the Virginia Administrative Code entitled "Rules Governing Trademarks and Service Marks," which amend the rule at 21 VAC 5-120-50.

The proposed revision clarifies the process for determining when an application for a trademark or a service mark is finally refused.

The Division has recommended to the Commission that the proposed revision should be considered for adoption with an effective date of September 1, 2003.

The Division also has recommended to the Commission that a hearing should be held, if requested by the commenters, to consider the proposed revisions, and the Commission is of the opinion that a hearing should be held, if requested, to consider the proposed revision.

THEREFORE, IT IS ORDERED THAT:

(1) The proposed revision to Trademark Rule 21 VAC 5-120-50 is attached hereto and made a part hereof.

(2) All interested persons TAKE NOTICE that the Commission shall conduct a hearing, if necessary, in the Commission's Courtroom, 2nd Floor, Tyler Building, 1300 East Main Street, Richmond, Virginia 23219 at 10:00 a.m. on July 24, 2003, to consider the adoption of the revisions proposed by the Division with an effective date of September 1, 2003.

(3) On or before July 11, 2003, any person desiring to comment in support of or in opposition to the proposed revisions shall file such comments in writing with the Clerk of the Commission, Document Control Center, P.O. Box 2118, Richmond, Virginia 23218.

(4) On or before July 11, 2003, any person intending to appear and be heard at the hearing on the proposed revisions shall file written notice of his intention to do so, which notice shall include his comments in support of or in opposition to the proposed revisions, with the Clerk of the Commission at the address set forth in the preceding paragraph.

(5) All filings made under paragraph (3) or (4) shall contain a reference to Case No. SEC-2003-00027.

(6) AN ATTESTED COPY hereof, together with a copy of the proposed revision, shall be sent by the Clerk of the Commission to the Division in care of William Rhea Shelton, Section Chief, who forthwith shall give further notice of the proposed adoption of the revision to the rules by mailing a copy of this Order, together with the attached proposed revision, to all trademarks and service marks registered by the Commission in the Commonwealth of Virginia.

(7) The Commission's Division of Information Resources forthwith shall cause a copy of this Order, together with the attached proposed revision, to be forwarded to the Virginia

Registrar of Regulations for appropriate publication in the Virginia Register of Regulations.

(8) On or before May 30, 2003, the Commission's Division of Information Resources shall make available this Order and the attached proposed revisions on the Commission's website, <http://www.state.va.us/scc/caseinfo/orders.htm>.

21 VAC 5-120-50. Application for registration.

A. Application for registration of a mark shall be filed with the division on and in full compliance with forms prescribed by the State Corporation Commission and shall include all information required by such forms.

B. An application shall be deemed incomplete for purposes of applying for registration unless the following executed forms, fee and information are submitted:

1. Executed and notarized Form TM 1, Application for Registration of a Trademark or Service Mark.

2. The registration fee in the amount of \$30 per classification requested. The check ~~must~~ shall be made payable to the Treasurer of Virginia.

3. A specimen of the mark as used by the applicant (~~see definition of "use" as defined in § 59.1-92.2 of the Act~~).

4. An exhibit of the mark.

5. Classification of the mark (~~see Classification of goods and services~~, as defined in 21 VAC 5-120-100).

6. Any other information the State Corporation Commission may require.

C. Pursuant to § 59.1-92.6 of the Act, the director of the division shall make all final registration decisions. Pursuant to § 59.1-92.5 E of the Act, once the staff has made its final determination to refuse to register a mark, an applicant may file a written request with the director for a review of the staff's decision. If the director determines that a registration should be refused, the application is considered finally refused pursuant to § 59.1-92.5 E of the Code of Virginia. The applicant shall be notified of the basis for the final refusal. The final refusal may be reviewed in accordance with the commission's Rules of Practice and Procedure, 5 VAC 5-20.

VA.R. Doc. No. R03-215; Filed May 28, 2003, 10:31 a.m.

VIRGINIA CODE COMMISSION

Notice to State Agencies

Mailing Address: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219, FAX (804) 692-0625.

Forms for Filing Material for Publication in *The Virginia Register of Regulations*

All agencies are required to use the appropriate forms when furnishing material 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://register.state.va.us>.

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
PETITION FOR RULEMAKING - RR13

CALENDAR OF EVENTS

Symbol Key

- † Indicates entries since last publication of the *Virginia Register*
♿ Location accessible to persons with disabilities
☎ Teletype (TTY)/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. If you are unable to find a meeting notice for an organization in which you are interested, please check the Commonwealth Calendar at www.vipnet.org or contact the organization directly.

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) 698-1500 or Senate Information and Constituent Services at (804) 698-7410 or (804) 698-7419/TTY☎, or visit the General Assembly web site's Legislative Information System (<http://leg1.state.va.us/lis.htm>) and select "Meetings."

VIRGINIA CODE COMMISSION

EXECUTIVE

BOARD OF ACCOUNTANCY

† **July 30, 2003 - 10 a.m.** -- Open Meeting
Holiday Inn-Richmond, 6531 West Broad Street, Richmond, Virginia.♿ (Interpreter for the deaf provided upon request)

A meeting to discuss regulatory review and other matters requiring board action.

Contact: Nancy Taylor Feldman, Executive Director, Board of Accountancy, 3600 W. Broad St., Suite 696, Richmond, VA 23230-4916, telephone (804) 367-8505, FAX (804) 367-2174, (804) 367-9753/TTY☎, e-mail boa@boa.state.va.us.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

NOTE: EXTENSION OF PUBLIC COMMENT PERIOD
August 1, 2003 - Public comments may be submitted until 5 p.m. on this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Agriculture and Consumer Services intends to amend regulations entitled: **2 VAC 5-360. Regulations for the Enforcement of the Virginia Commercial Feed Act.** The purpose of the proposed action is to amend the current regulation to incorporate the changes made to the commercial feed industry standards by the Association of American Feed Control Officials in the last decade and statutory changes made to Virginia's Commercial Feed Law in 1994.

Statutory Authority: § 3.1-828.4 of the Code of Virginia.

Contact: J. Alan Rogers, Program Manager, Department of Agriculture and Consumer Services, 1100 Bank St., Room 402, Richmond, VA 23219, telephone (804) 786-2476, FAX (804) 371-1571 or e-mail jrogers@vdacs.state.va.us.

NOTE: EXTENSION OF PUBLIC COMMENT PERIOD

August 1, 2003 - Public comments may be submitted until 5 p.m. on this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Agriculture and Consumer Services intends to amend regulations entitled: **2 VAC 5-440. Rules and Regulations for Enforcement of the Virginia Pest Law - Cotton Boll Weevil Quarantine.**

The purpose of the proposed regulatory action is to amend the regulation to (i) establish the fixed date of July 1 as the official reporting and payment date for acreage assessment, (ii) reduce penalties assessed on farm operators for the late payment or nonpayment of fees from \$10 to \$5.00 per acre, and (iii) eliminate the mandate for destruction of the cotton crop for nonpayment of fees and assessments by farm operators.

Statutory Authority: § 3.1-188.23 of the Code of Virginia.

Contact: Frank M. Fulgham, Program Manager, Department of Agriculture and Consumer Services, 1100 Bank St., Room 703, Richmond, VA 23219, telephone (804) 786-3515, FAX (804) 371-7793 or e-mail ffulgham@vdacs.state.va.us.

NOTE: EXTENSION OF PUBLIC COMMENT PERIOD

August 5, 2003 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Agriculture and Consumer Services intends to amend regulations entitled: **2 VAC 5-320. Rules and Regulations for the Enforcement of the Endangered Plant and Insect Species Act.** The purpose of the proposed action is to review the regulation for effectiveness and continued need, including the following: amending the regulation to (i) remove the currently named plants that are no longer considered globally rare and (ii) add those threatened or endangered plant and insect species that are considered rare both globally and in Virginia.

Statutory Authority: § 3.1-1025 of the Code of Virginia.

Contact: Frank M. Fulgham, Program Manager, Department of Agriculture and Consumer Services, 1100 Bank St., Room 703, Richmond, VA 23219, telephone (804) 786-3515, FAX (804) 371-7793 or e-mail ffulgham@vdacs.state.va.us.

* * * * *

NOTE: EXTENSION OF PUBLIC COMMENT PERIOD

September 2, 2003 - Public comments may be submitted until 5 p.m. on this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Agriculture and Consumer Services intends to amend regulations entitled: **2 VAC 5-20. Standards for Classification of Real Estate as Devoted to Agricultural Use and to Horticultural Use under the Virginia Land Use Assessment Law.** The purpose of the proposed action is to review the regulation for effectiveness and continued need, including amending the regulation to satisfy the statutory amendment made by Chapter 705 of the 2001 Acts of Assembly. Under that provision, localities are authorized to waive, with respect to real estate devoted to the production of crops that require more than two years from initial planting until commercially feasible harvesting, any requirement contained in the regulation that requires the real estate to have been used for a particular purpose for a minimum length of time before qualifying as real estate devoted to agricultural or horticultural use. The Commissioner of Agriculture and Consumer Services is to promulgate regulations to carry out the provisions of the act.

Statutory Authority: § 58.1-3230 of the Code of Virginia; Chapter 705 of the 2001 Acts of Assembly.

Contact: Lawrence H. Redford, Regulatory Coordinator, Department of Agriculture and Consumer Services, 1100 Bank St., Room 211, Richmond, VA 23219, telephone (804) 371-8067, FAX (804) 371-2945, or e-mail lredford@vdacs.state.va.us.

Virginia Cotton Board

† **August 21, 2003 - 2 p.m.** -- Open Meeting
Tidewater Agriculture Research and Extension Center, 6321 Holland Road, Suffolk, Virginia. 

The board will meet to approve minutes of the last meeting. In addition, the board will review financial reports and the status of current projects and contracts, discuss priorities for future funding initiatives, and take up any other business that may come before the board. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact the person identified in this notice at least five days before the meeting date so that suitable arrangements can be made.

Contact: Gail Moody Milteer, Program Director, Virginia Cotton Board, 1100 Armory Dr., Suite 120, Franklin, VA 23851, telephone (757) 569-1100, FAX (757) 562-6104.

Virginia Horse Industry Board

August 25, 2003 - 10 a.m. -- Open Meeting
Virginia Department of Forestry, 900 Natural Resources Drive, 2nd Floor Meeting Room, Charlottesville, Virginia. 

The board will review the minutes of the last meeting, its current financial status, and on-going projects. The board will also discuss promotional plans and activities for FY 2003-2004. 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 accommodation in order to participate at the meeting should contact Andrea S. Heid at least five days before the meeting date so that suitable arrangements can be made.

Contact: Andrea S. Heid, Equine Marketing Specialist/Program Manager, Department of Agriculture and Consumer Services, 1100 Bank St., 9th Floor, Richmond, VA 23219, telephone (804) 786-5842, FAX (804) 786-3122.

Pesticide Control Board

July 17, 2003 - 9 a.m. -- Open Meeting
Department of Agriculture and Consumer Services, Washington Building, 1100 Bank Street, 2nd Floor, Board Room, Richmond, Virginia. 

A meeting to discuss general business matters requiring board action. Portions of the meeting may be held in closed session pursuant to § 2.2-3711 of the Code of Virginia. The board will consider amendments to 2 VAC 20-40, Regulations Governing Licensing of Pesticide Business under Authority of Virginia Pesticide Control Act. 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 accommodation in order to participate at the meeting should contact Dr. Marvin Lawson at least five days before the meeting date so that suitable arrangements can be made.

Contact: Dr. Marvin Lawson, Director, Division of Consumer Protection, Department of Agriculture and Consumer Services, Washington Bldg., 1100 Bank St., Richmond, VA 23219, telephone (804) 786-3534, FAX (804) 371-8598, e-mail mlawson@vdacs.state.va.us.

Virginia Pork Industry Board

July 25, 2003 - 3 p.m. -- Open Meeting
Mountain Lake Hotel, Mountain Lake, Virginia. 

The board will approve promotion, research, and education projects/grants. It will elect officers and select a National Pork Producers delegate. Body (Pork Act) candidates will also be elected and the general business of the board will be conducted. 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 accommodation in order to participate at the meeting should contact John H. Parker at least five days before the meeting date so that suitable arrangements can be made.

Contact: John H. Parker, Program Director, Department of Agriculture and Consumer Services, 1100 Bank St., 9th Floor,

Calendar of Events

Richmond, VA 23219, telephone (804) 786-7092, FAX (804) 371-7786.

Virginia Small Grains Board

July 24, 2003 - 8 a.m. -- Open Meeting
Richmond Airport Hilton, 4700 South Laburnum Avenue,
Richmond, Virginia. 

The board will review FY 2002-03 project reports and will receive 2003-04 project proposals. Minutes from the last board meeting and a current financial statement will be heard and approved, if appropriate. Additionally, action will be taken on any other new business that comes before the group. 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 accommodation in order to participate at the meeting should contact the person identified in this notice at least five days before the meeting date so that suitable arrangements can be made.

Contact: Philip T. Hickman, Program Director, Department of Agriculture and Consumer Services, 1100 Bank St., Room 905, Richmond, VA 23219, telephone (804) 371-6157, FAX (804) 371-7786.

Virginia Soybean Board

† August 8, 2003 - 1 p.m. -- Open Meeting
Corbin Hall, 2936 Corbin Hall Drive, Waterview, Virginia. 

The board will discuss checkoff revenues and the financial status of the board following the end of the fiscal year ending June 30, 2003, and will hear and approve the minutes of the March 6, 2003, meeting. Reports will be heard from the Chairman, United Soybean Board representatives, and from other committees. 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 accommodation in order to participate at the meeting should contact the person identified in this notice at least five days before the meeting date so that suitable arrangements can be made.

Contact: Philip T. Hickman, Program Director, Department of Agriculture and Consumer Services, 1100 Bank St., Room 906, Richmond, VA 23219, telephone (804) 371-6157, FAX (804) 371-7786, e-mail phickman@vdacs.state.va.us.

Virginia Winegrowers Advisory Board

† July 15, 2003 - 10 a.m. -- Open Meeting
Washington Building, 1100 Bank Street, Second Floor Board Room, Richmond, Virginia. 

The Advisory Board meeting will begin with the election of a board chairman and vice chairman. Agenda items will include committee reports, a report from a representative of the Alcoholic Beverage Control Board, hearing and approval of the minutes of the last board meeting, and presentation of the board's financial statement. 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 accommodation in order to participate at the meeting

should contact the person identified in this notice at least five days before the meeting date so that suitable arrangements can be made.

Contact: Mary Davis-Barton, Board Secretary, Department of Agriculture and Consumer Services, 1100 Bank St., 9th Floor, Richmond, VA 23219, telephone (804) 371-7685, FAX (804) 786-3122, e-mail mdavis-barton@vdacs.state.va.us.

STATE AIR POLLUTION CONTROL BOARD

† August 20, 2003 - 10 a.m. -- Public Hearing
Department of Environmental Quality, 629 East Main Street,
Richmond, Virginia.

September 12, 2003 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Air Pollution Control Board intends to amend regulations entitled **9 VAC 5-140, Regulation for Emission Trading**. The purpose of the proposed action is to correct an EPA-identified deficiency in the banking provisions of the No_x Budget Trading Program regulation with regard to the state date for flow control.

Statutory Authority: §§ 10.1-1308 and 10.1-1322.3 of the Code of Virginia.

Contact: Mary E. Major, Environmental Program Manager, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4423, FAX (804) 698-4510 or e-mail memajor@deq.state.va.us.

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† August 26, 2003 - 9 a.m. -- Public Hearing
Department of Environmental Quality, Tidewater Regional Office, 5636 Southern Boulevard, Virginia Beach, Virginia.

September 12, 2003 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Air Pollution Control Board intends to amend regulations entitled **9 VAC 5-20, General Provisions (Rev. G02)**. The purpose of the proposed action is enlarge the scope of the Hampton Roads Emissions Control Area.

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

Contact: Kathleen R. Sands, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4413, FAX (804) 698-4510 or e-mail krsands@deq.state.va.us.

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† August 26, 2003 - 9 a.m. -- Public Hearing
Department of Environmental Quality, Tidewater Regional Office, 5636 Southern Boulevard, Virginia Beach, Virginia.

† August 26, 2003 - 1:30 p.m. -- Public Hearing
Department of Environmental Quality, 4411 Early Road,
Harrisonburg, Virginia.

September 12, 2003 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Air Pollution Control Board intends to amend regulations entitled **9 VAC 5-20, General Provisions, and 9 VAC 5-40, Existing Stationary Sources (Rev. C03)**. The purpose of the proposed action is enlarge the scope of volatile organic compound (VOC) emissions control areas in order to include potential new ozone nonattainment areas. This action is being taken to implement a program established by the U.S. Environmental Protection Agency (EPA) for areas potentially designated as nonattainment under the eight-hour ozone standard. This program establishes such areas to avoid the nonattainment designation through early reduction credits.

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

Contact: Karen G. Sabasteanski, Policy Analyst, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4426, FAX (804) 698-4510 or e-mail kgsabastea@deq.state.va.us.

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† **August 26, 2003 - 9 a.m.** -- Public Hearing
Department of Environmental Quality, Fredericksburg Satellite Office, 806 Westwood Office Park, Conference Room, Fredericksburg, Virginia.

September 12, 2003 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Air Pollution Control Board intends to amend regulations entitled **9 VAC 5-20, General Provisions, and 9 VAC 5-40, Existing Stationary Sources (Rev. C02)**. The purpose of the proposed action is to achieve necessary VOC emissions reductions to stay within the budget limit in order to safeguard federal approval of transportation projects in Northern Virginia.

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

Contact: Kathleen R. Sands, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4413, FAX (804) 698-4510 or e-mail krsands@deq.state.va.us.

ALCOHOLIC BEVERAGE CONTROL BOARD

July 14, 2003 - 9 a.m. -- Open Meeting

July 28, 2003 - 9 a.m. -- Open Meeting

August 11, 2003 - 9 a.m. -- Open Meeting

August 25, 2003 - 9 a.m. -- Open Meeting

September 8, 2003 - 9 a.m. -- Open Meeting

September 22, 2003 - 9 a.m. -- Open Meeting

† **October 14, 2003 - 9 a.m.** -- Open Meeting
Department of Alcoholic Beverage Control, 2901 Hermitage Road, Richmond, Virginia. 

A meeting to receive and discuss reports and activities from staff members. Other matters are not yet determined.

Contact: W. Curtis Coleburn, III, Secretary to the Board, Alcoholic Beverage Control Board, P.O. Box 27491, Richmond, VA 23261, telephone (804) 213-4409, FAX (804) 213-4442, e-mail wccolen@abc.state.va.us.

BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS, CERTIFIED INTERIOR DESIGNERS AND LANDSCAPE ARCHITECTS

† **July 30, 2003 - 9 a.m.** -- Open Meeting
Department of Professional and Occupational Regulations, 3600 West Broad Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting of the Architects Section to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to this meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail APELSCIDLA@dpor.state.va.us.

† **August 5, 2003 - 9 a.m.** -- Open Meeting
Department of Professional and Occupational Regulations, 3600 West Broad Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting of the Professional Engineers Section to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to this meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail APELSCIDLA@dpor.state.va.us.

† **August 6, 2003 - 9 a.m.** -- Open Meeting
Department of Professional and Occupational Regulations, 3600 West Broad Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting of the Land Surveyors Section to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services

Calendar of Events

should contact the department at least 10 days prior to this meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail APELSCIDLA@dpor.state.va.us.

† **August 5, 2003 - 9 a.m.** -- Open Meeting

† **September 10, 2003 - 9 a.m.** -- Open Meeting

Department of Professional and Occupational Regulations, 3600 West Broad Street, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to this meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail APELSCIDLA@dpor.state.va.us.

† **August 7, 2003 - 9 a.m.** -- Open Meeting

Department of Professional and Occupational Regulations, 3600 West Broad Street, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting of the Landscape Architects Section to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in Closed Session. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to this meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail APELSCIDLA@dpor.state.va.us.

† **August 14, 2003 - 9 a.m.** -- Open Meeting

Department of Professional and Occupational Regulations, 3600 West Broad Street, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting of the Certified Interior Designers Section to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Persons desiring to participate

in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to this meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail APELSCIDLA@dpor.state.va.us.

ART AND ARCHITECTURAL REVIEW BOARD

August 1, 2003 - 10 a.m. -- Open Meeting

September 5, 2003 - 10 a.m. -- Open Meeting

† **October 3, 2003 - 10 a.m.** -- Open Meeting

Science Museum of Virginia, 2500 West Broad Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A monthly meeting to review projects submitted by state agencies. AARB submittal forms and submittal instructions can be downloaded by visiting the DGS forms center at www.dgs.state.va.us. Request Submittal Form # DGS-30-905 or Submittal Instructions form # DGS-30-906.

Contact: Richard L. Ford, AIA, Chairman, Art and Architectural Review Board, 1011 E. Main Street, #221, Richmond, VA 23219, telephone (804) 643-1977, FAX (804) 643-1981, (804) 786-6152/TTY ☎, e-mail rlfiaia@aol.com.

VIRGINIA BOARD FOR ASBESTOS, LEAD, AND HOME INSPECTORS

† **July 16, 2003 - 10 a.m.** -- Open Meeting

July 23, 2003 - 11 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ♿

A meeting to conduct an informal fact-finding conference.

Contact: David Dick, Assistant Director, Virginia Board for Asbestos, Lead, and Home Inspectors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail asbestos@dpor.state.va.us.

August 27, 2003 - 9 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ♿

A meeting to conduct board business.

Contact: David Dick, Assistant Director, Virginia Board for Asbestos, Lead, and Home Inspectors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8507, FAX (804) 367-6128, (804) 367-9753/TTY ☎, e-mail asbestos@dpor.state.va.us.

COMPREHENSIVE SERVICES FOR AT-RISK YOUTH AND FAMILIES

State Executive Council

July 30, 2003 - 9 a.m. -- Open Meeting

August 27, 2003 - 9 a.m. -- Open Meeting

September 24, 2003 - 9 a.m. -- Open Meeting

Department of Social Services, 730 East Broad Street, Lower Level Room 3, Richmond, Virginia. 

A monthly council meeting. For traveling directions, please call (804) 692-1100.

Contact: Alan G. Saunders, Director, Office of Comprehensive Services, 1604 Santa Rosa Rd., Richmond, VA 23229, telephone (804) 662-9815, FAX (804) 662-9831, e-mail ags992@central.dss.state.va.us.

BOARD FOR BRANCH PILOTS

† **July 31, 2003 - 8:30 a.m.** -- Open Meeting

Virginia Pilot Association, 3329 Shore Drive, Virginia Beach, Virginia. 

A meeting to conduct examinations. Persons desiring to participate in the meeting and requiring special accommodations or interpretive 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, Executive Director, Board for Branch Pilots, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail branchpilots@dpor.state.va.us.

† **August 1, 2003 - 9:30 a.m.** -- Open Meeting

Virginia Port Authority, 600 World Trade Center, Board Room, Norfolk, Virginia. 

A meeting to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. 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, Executive Director, Board for Branch Pilots, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail branchpilots@dpor.state.va.us.

CEMETERY BOARD

August 13, 2003 - 9 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

A meeting to conduct board business.

Contact: Karen W. O'Neal, Regulatory Programs Coordinator, Department of Professional and Occupational

Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8537, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail oneal@dpor.state.va.us.

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

† **July 16, 2003 - 10 a.m.** -- Open Meeting

Chesapeake Bay Local Assistance Department, James Monroe Building, 101 North 14th Street, 17th Floor, Conference Room, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

The purpose of this meeting is for the Policy Committee to consider endorsement to the full board of new agency guidance pertaining to (i) definitions of the terms "water body with perennial flow" and "contiguous" (as the latter term applies to nontidal wetlands to be included in locally designated Resource Protection Areas); (ii) protocols for determining the presence of perennial flow through site-specific investigations; and (iii) mapping of local Chesapeake Bay Preservation Areas. The committee will also be provided with an update pertaining to the status of guidance entitled "Riparian Buffers Guidance Manual." Public comment will be taken.

Contact: Carolyn J. Elliott, Administrative Assistant, Chesapeake Bay Local Assistance Board, James Monroe Bldg., 101 N. 14th St., 17th Floor, Richmond, VA 23219, telephone (804) 371-7505, FAX (804) 225-3447, toll-free (800) 243-7229, (800) 243-7229/TTY , e-mail celliott@cblad.state.va.us.

† **August 4, 2003 - 10 a.m.** -- Open Meeting

James Monroe Building, 101 North 14th Street, Main Level, Conference Room, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

The purpose of this meeting is for the board to consider approving new agency guidance pertaining to (i) definitions of the terms "water body with perennial flow" and "contiguous" (as the latter term applies to nontidal wetlands to be included in locally designated Resource Protection Areas); (ii) protocols for determining the presence of perennial flow through site-specific investigations; and (iii) mapping of local Chesapeake Bay Preservation Areas. The board will also be provided with an update pertaining to the status of guidance entitled "Riparian Buffers Guidance Manual." Public comment will be taken.

Contact: Carolyn J. Elliott, Administrative Assistant, Chesapeake Bay Local Assistance Board, James Monroe Bldg., 101 N. 14th St., 17th Floor, Richmond, VA 23219, telephone (804) 371-7505, FAX (804) 225-3447, toll-free (800) 243-7229, (800) 243-7229/TTY , e-mail celliott@cblad.state.va.us.

STATE CHILD FATALITY REVIEW TEAM

September 12, 2003 - 10 a.m. -- Open Meeting

Office of the Chief Medical Examiner, 400 East Jackson Street, Richmond, Virginia. 

Calendar of Events

The business portion of the State Child Fatality Review Team meeting, from 10 a.m. to 10:30 a.m., is open to the public. At the conclusion of the open meeting, the team will go into closed session for confidential case review.

Contact: Virginia Powell, Coordinator, State Child Fatality Review Team, 400 East Jackson St., Richmond, VA 23219, telephone (804) 786-6047, FAX (804) 371-8595, toll-free (800) 447-1708, e-mail vpowell@vdh.state.va.us.

STATE BOARD FOR COMMUNITY COLLEGES

July 16, 2003 - 1:30 p.m. -- Open Meeting
Virginia Community College System, James Monroe Building, 101 North 14th Street, 15th Floor, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

Meetings of the Academic and Student Affairs Committee, the Audit Committee, and the Budget and Finance Committee. Meetings of the Facilities and the Personnel Committees will be held at 3 p.m. on July 16, and at 4:30 p.m. a meeting of the Executive Committee will take place.

Contact: D. Susan Hayden, Director of Public Relations, State Board for Community Colleges, VCCS, 101 N. 14th St., 15th Floor, Richmond, VA 23219, telephone (804) 819-4961, FAX (804) 819-4768, (804) 371-8504/TTY 

July 17, 2003 - 9 a.m. -- Open Meeting
James Monroe Building, Godwin-Hamel Board Room, 101 North 14th Street, 15th Floor, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular meeting. Public comment may be received at the beginning of the meeting upon notification at least five working days prior to the meeting.

Contact: D. Susan Hayden, Director of Public Relations, State Board for Community Colleges, VCCS, 101 N. 14th St., 15th Floor, Richmond, VA, telephone (804) 819-4961, FAX (804) 819-4768, (804) 371-8504/TTY 

COMPENSATION BOARD

July 23, 2003 - 11 a.m. -- Open Meeting
Compensation Board, 202 North 9th Street, 10th Floor, Richmond, Virginia. 

A monthly board meeting.

Contact: Cindy P. Waddell, Administrative Staff Assistant, Compensation Board, P.O. Box 710, Richmond, VA 23218, telephone (804) 786-0786, FAX (804) 371-0235, e-mail cwaddell@scb.state.va.us.

DEPARTMENT OF CONSERVATION AND RECREATION

July 14, 2003 - 6:30 p.m. -- Open Meeting
Jackson Elementary School Cafeteria, 4424 Fort Chiswell Road (U.S. Route 52), Austinville, Virginia.  (Interpreter for the deaf provided upon request)

A meeting of the New River Trail State Park Advisory Committee to discuss the master plan for the New River Trail State Park.

Contact: Robert Munson, Environmental Program Planner, Department of Conservation and Recreation, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-6140, FAX (804) 786-6141, e-mail rmunson@dcr.state.va.us.

July 15, 2003 - 3:30 p.m. -- Open Meeting
Fairy Stone State Park, 967 Fairystone Lake Drive, Fayerdale Hall, Stuart, Virginia.  (Interpreter for the deaf provided upon request)

The Fairy Stone State Park Master Plan Advisory Committee will continue work on the master plan.

Contact: Robert Munson, Environmental Program Planner, Department of Conservation and Recreation, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-6140, FAX (804) 786-6141, e-mail rmunson@dcr.state.va.us.

July 15, 2003 - 6:30 p.m. -- Open Meeting
Rugby Rescue Squad Building, 53 Rugby Road, Mouth of Wilson, Virginia.  (Interpreter for the deaf provided upon request)

The Grayson Highlands State Park master planning process will be explained, and public input will be received on the draft park mission statement and draft goals and objectives.

Contact: Derral Jones, Planning Bureau Manager, Department of Conservation and Recreation, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-9042, FAX (804) 371-7899, e-mail djones@dcr.state.va.us.

July 21, 2003 - 6:30 p.m. -- Open Meeting
Wytheville Community College, Grayson Hall Commons, 1000 East Main Street, Wytheville, Virginia.  (Interpreter for the deaf provided upon request)

The New River Trail State Park Master Plan Advisory Committee will receive comment from the public.

Contact: Robert Munson, Environmental Program Planner, Department of Conservation and Recreation, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-6140, FAX (804) 786-6141, e-mail rmunson@dcr.state.va.us.

July 22, 2003 - 6:30 p.m. -- Open Meeting
Fairy Stone State Park, 967 Fairystone Lake Drive, Fayerdale Hall, Stuart, Virginia.  (Interpreter for the deaf provided upon request)

The Fairy Stone State Park Advisory Committee will hear comment from the public regarding the Fairy Stone Park master plan.

Contact: Robert Munson, Environmental Program Planner, Department of Conservation and Recreation, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-6140, FAX (804) 786-6141, e-mail rmunson@dcr.state.va.us, homepage <http://www.state.va.us/dcr>.

† **July 28, 2003 - 7 p.m.** -- Open Meeting
Ferlazzo Building, 15941 Donald Curtis Drive, Auditorium, Woodbridge, Virginia. 

The Leesylvania State Park master planning process will be explained, and public input will be received on the draft park mission statement and draft goals and objectives.

Contact: Derral Jones, Planning Bureau Manager, Department of Conservation and Recreation, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-9042, FAX (804) 371-7899, e-mail djones@dcr.state.va.us.

† **July 29, 2003 - 6:30 p.m.** -- Open Meeting
Eastern Shore Virginia Community College, Melfa, Virginia. 

An Eastern Shore tributary strategy kick-off meeting. Staff from Virginia's natural resource agencies are meeting with stakeholders in each of Virginia's Chesapeake Bay river basins to discuss the revision of new nutrient and sediment reduction strategies for each basin.

Contact: Ernie Brown, DCR Environmental Manager, Department of Conservation and Recreation, Chowan/Albemarle Coastal Watershed Office, 1548 Holland Rd., Suffolk, VA 23219, telephone (757) 925-2468, FAX (757) 925-2388, e-mail ebrown@dcr.state.va.us.

† **August 7, 2003 - 9:30 a.m.** -- Open Meeting
Hampton Roads Planning District Commission, Chesapeake, Virginia. 

A Lower James tributary strategy kick-off meeting. Staff from Virginia's natural resource agencies are meeting with stakeholders in each of Virginia's Chesapeake Bay river basins to discuss the revision of new nutrient and sediment reduction strategies for each basin.

Contact: Ernie Brown, Environmental Manager, Department of Conservation and Recreation, DCR Chowan/Albemarle Coastal Watershed Office, 1548 Holland Rd., Suffolk, VA 23434, telephone (757) 925-2468, FAX (757) 925-2388, e-mail ebrown@dcr.state.va.us.

Virginia Cave Board

† **September 13, 2003 - 1 p.m.** -- Open Meeting
Radford, Virginia. 

Committee meetings will begin at 11 a.m. The board meeting will begin at 1 p.m.

Contact: Larry Smith, Natural Area Protection Manager, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 371-6205, FAX (804) 371-2674, e-mail lsmith@dcr.state.va.us.

Virginia Soil and Water Conservation Board

NOTE: CHANGE IN MEETING DATE AND LOCATION

July 17, 2003 - 9:30 a.m. -- Open Meeting
Natural Resources Conservation Service, 1606 Santa Rosa Road, Suite 209, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular business meeting.

Contact: Leon E. App, Acting Deputy Director, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-6124, FAX (804) 786-6141, e-mail leonapp@dcr.state.va.us.

BOARD FOR CONTRACTORS

July 15, 2003 - 9 a.m. -- Canceled
July 22, 2003 - 9 a.m. -- Open Meeting
July 29, 2003 - 9 a.m. -- Open Meeting
† **August 5, 2003 - 9 a.m.** -- Open Meeting
August 6, 2003 - 1:30 p.m. -- Open Meeting
August 12, 2003 - 9 a.m. -- Open Meeting
August 26, 2003 - 9 a.m. -- Open Meeting
September 9, 2003 - 9 a.m. -- Open Meeting
September 30, 2003 - 9 a.m. -- Open Meeting
† **October 14, 2003 - 9 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

Informal fact-finding conferences. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at 804-367-0946 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: Earlyne Perkins, Legal Assistant, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0946, FAX (804) 367-0194, (804) 367-9753/TTY , e-mail perkins@dpor.state.va.us.

August 5, 2003 - 9 a.m. -- Open Meeting
August 6, 2003 - 1:30 p.m. -- Open Meeting
September 16, 2003 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

Informal fact-finding conferences for the Contractor Recovery Fund. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at 804-367-0946 at least 10 days prior to this meeting so that suitable arrangements can be made for appropriate accommodations. The department fully complies with the Americans with Disabilities Act.

Contact: Victoria S. Traylor, Legal Assistant, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8561, FAX (804) 367-0194, (804) 367-9753/TTY , e-mail perkins@dpor.state.va.us.

August 20, 2003 - 9 a.m. -- Open Meeting
† **October 8, 2003 - 9 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 

A regular meeting to address policy and procedural issues, review and render decisions on applications for contractors' licenses, and review and render case decisions on matured complaints against licensees. The meeting is open to the public; however, a portion of the board's business may be conducted in closed session.

Calendar of Events

Contact: Eric L. Olson, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2785, FAX (804) 367-2474, (804) 367-9753/TTY ☎, e-mail contractors@dpor.state.va.us.

August 6, 2003 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ♿

A regular meeting of the Tradesman/Education Committee to consider items of interest relating to the Tradesmen, Backflow Workers, Education and other appropriate matters relating to Tradesmen and the Board for Contractors.

Contact: Eric L. Olson, Assistant Director, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2785, FAX (804) 367-2474, (804) 367-9753/TTY ☎, e-mail contractors@dpor.state.va.us.

BOARD OF CORRECTIONS

July 15, 2003 - 10 a.m. -- Open Meeting
Department of Corrections, 6900 Atmore Drive, Board Room, Richmond, Virginia. ♿

A meeting of the Liaison Committee to discuss correctional matters that may be presented to the board.

Contact: Barbara Woodhouse, Administrative Staff Assistant, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3124, FAX (804) 674-3509, e-mail woodhousebl@vadoc.state.va.us.

July 15, 2003 - 1 p.m. -- Open Meeting
Department of Corrections, 6900 Atmore Drive, Board Room, Richmond, Virginia. ♿

A meeting of the Correctional Services/Policy Regulations Committee to discuss correctional services and policy/regulation matters that may be presented to the full board.

Contact: Barbara Woodhouse, Administrative Staff Assistant, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3124, FAX (804) 674-3509, e-mail woodhousebl@vadoc.state.va.us

July 16, 2003 - 9:30 a.m. -- Open Meeting
Department of Corrections, 6900 Atmore Drive, Board Room, Richmond, Virginia. ♿

A meeting of the Administration Committee to discuss correctional matters that may be presented to the full board.

Contact: Barbara Woodhouse, Administrative Staff Assistant, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3124, FAX (804) 674-3509, e-mail woodhousebl@vadoc.state.va.us.

July 16, 2003 - 10 a.m. -- Open Meeting
Department of Corrections, 6900 Atmore Drive, Board Room, Richmond, Virginia. ♿

A meeting of the full board.

Contact: Barbara Woodhouse, Administrative Staff Assistant, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3124, FAX (804) 674-3509, e-mail woodhousebl@vadoc.state.va.us.

BOARD OF COUNSELING

† **August 21, 2003 - 10 a.m.** -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. ♿

The Credentials Committee will meet to review and discuss applicant credentials and hold an informal conference pursuant to § 2.2-4019 of the Code of Virginia. The committee will meet in open and closed sessions.

Contact: Joyce D. Williams, Administrative Assistant, Board of Counseling, 6603 W. Broad St., 6th Floor, Richmond, VA 23230, telephone (804) 662-9912, FAX (804) 662-7250, (804) 662-7197/TTY ☎, e-mail coun@dhp.state.va.us.

† **August 22, 2003 - 10 a.m.** -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. ♿

A business meeting to include reports from standing committees and any other disciplinary or regulatory matters as may be presented on the agenda. Public comment will be received at the beginning of the meeting

Contact: Evelyn B. Brown, Executive Director, Board of Counseling, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9912, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail evelyn.brown@dhp.state.va.us.

CRIMINAL JUSTICE SERVICES BOARD

Private Security Services Advisory Board

July 17, 2003 - 10 a.m. -- Open Meeting
Harrisonburg Four Points Sheraton, 1400 East Market Street, Harrisonburg, Virginia.

A general business meeting.

Contact: Judith Kirkendall, Regulatory Coordinator, Department of Criminal Justice Services, Eighth St. Office Bldg., 805 E. Broad St., 10th Floor Richmond, VA 23219, telephone (804) 786-8003, FAX (804) 786-0410, e-mail jkirkendall@dcjs.state.va.us.

DEPARTMENT FOR THE DEAF AND HARD-OF-HEARING

† **August 6, 2003 - 10 a.m.** -- Open Meeting
Department for the Deaf and Hard-of-Hearing, 1602 Rolling Hills Drive, Suite 203, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular meeting.

Contact: Leslie Hutcheson Prince, Policy and Planning Manager, Department for the Deaf and Hard-of-Hearing, 1602 Rolling Hills Dr., Suite 203, Richmond, VA 23229, telephone (804) 662-9703, FAX (804) 662-9718, toll-free (800) 552-7917, (804) 662-9502/TTY ☎, e-mail princetonh@ddhh.state.va.us.

BOARD OF DENTISTRY

July 18, 2003 - 9:30 a.m. -- Open Meeting
† **July 25, 2003 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Room 1, Richmond, Virginia. 🗿

An informal hearing of a Special Conference Committee. Public comment will not be received.

Contact: JeAnne Marshall, Administrative Assistant, Board of Dentistry, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9906, FAX (804) 662-7246, (804) 662-7197/TTY ☎, e-mail JeAnne.Marshall@dhp.state.va.us.

DESIGN-BUILD/CONSTRUCTION MANAGEMENT REVIEW BOARD

July 17, 2003 - 11 a.m. -- Open Meeting
August 21, 2003 - 11 a.m. -- Open Meeting
September 18, 2003 - 11 a.m. -- Open Meeting
Department of General Services, 8th Street Office Building, 3rd Floor, Richmond, Virginia. 🗿 (Interpreter for the deaf provided upon request)

A meeting to review requests submitted by localities to use design-build or construction management type contracts. Contact the Division of Engineering and Buildings to confirm the meeting. Board rules and regulations can be obtained online at www.dgs.state.va.us under the DGS Forms, Form # DGS-30-904.

Contact: Freddie M. Adcock, Administrative Assistant, Department of General Services, 805 E. Broad St., Room 101, Richmond, VA 23219, telephone (804) 786-3263, FAX (804) 371-7934, (804) 786-6152/TTY ☎, e-mail fadcock@dgs.state.va.us.

BOARD OF EDUCATION

July 18, 2003 - 8:30 a.m. -- Open Meeting
Radisson Hotel Historic Richmond, 301 West Franklin Street, Richmond, Virginia. 🗿 (Interpreter for the deaf provided upon request)

A meeting of the State Special Education Advisory Committee. The public is urged to confirm arrangements prior to each meeting by viewing the Department of Education's public meeting calendar at <http://www.pen.k12.va.us/VDOE/meetings.html>. This site will contain the latest information on the meeting arrangements and will note any last minute changes in time or location. Please note that persons requesting the services of an interpreter for the deaf are asked to do so at

least 72 hours in advance so that the appropriate arrangements may be made.

Contact: Dr. Margaret N. Roberts, Office of Policy and Public Affairs, Department of Education, P.O. Box 2120, 101 N. 14th St., 25th Floor, Richmond, VA 23219, telephone (804) 225-2540, FAX (804) 225-2524, e-mail mroberts@mail.vak12ed.edu.

July 23, 2003 - 9 a.m. -- Open Meeting
September 17, 2003 - 9 a.m. -- Open Meeting
Richmond area; location to be determined.

A regular business meeting of the board. Persons who wish to speak or who require the services of an interpreter for the deaf should contact the agency 72 hours in advance. Public comment will be received.

Contact: Dr. Margaret N. Roberts, Office of Policy and Public Affairs, Department of Education, P.O. Box 2120, James Monroe Bldg., 101 N. 14th St., 25th Floor, Richmond, VA 23219, telephone (804) 225-2540, FAX (804) 225-2524, e-mail mroberts@mail.vak12ed.edu.

LOCAL EMERGENCY PLANNING COMMITTEE - CITY OF ROANOKE

July 23, 2003 - 9 a.m. -- Open Meeting
American Red Cross, 352 Church Avenue, S.W., Roanoke, Virginia.

A meeting to provide information on training and development, present educational programs, and to discuss other business matters. The committee encourages the interaction between local government and industry.

Contact: Michael Lewis, Roanoke County Fire/EMS, 3568 Peters Creek Rd., Roanoke, VA 24019, telephone (540) 772-2043, FAX (540) 561-8108.

DEPARTMENT OF ENVIRONMENTAL QUALITY

July 14, 2003 - 9 a.m. -- Open Meeting
August 18, 2003 - 9 a.m. -- Open Meeting
September 11, 2003 - 9 a.m. -- Open Meeting
September 29, 2003 - 9 a.m. -- Open Meeting
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. 🗿

A meeting of the Water Policy Technical Advisory Committee (WP-TAC) working on a preliminary water resources plan and local and regional water supply regulations. Prior work of the WP-TAC resulted in SB 1221 (2003), which was passed by the General Assembly and signed by the Governor on March 24, 2003. This legislation will provide part of the structure for the work of the WP-TAC through the rest of the year. In addition, the work of the WP-TAC will be informed by work that was conducted during the fall of 2002.

Contact: Scott W. Kudlas, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4456, FAX (804) 698-4346, e-mail swkudlas@deq.state.va.us.

Calendar of Events

July 15, 2003 - 9 a.m. -- Open Meeting

Department of Environmental Quality, 629 East Main Street, Richmond, Virginia. ☎

A regular meeting of the Ground Water Protection Steering Committee.

Contact: Mary Ann Massie, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4042, e-mail mamassie@deq.state.va.us.

July 22, 2003 - 7 p.m. -- Open Meeting

Northumberland County Courts Building, 39 Judicial Place, Heathsville, Virginia. ☎

The first public meeting on the development of the fecal coliform TMDL for the Coan River and 3 segments of the Little Wicomico River in Northumberland County. The public comment period will begin on July 22, 2003 and end on August 20, 2003.

Contact: Chester Bigelow, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4554, FAX (804) 698-4116, e-mail ccbigelow@deq.state.va.us.

† July 24, 2003 - 10 a.m. -- Open Meeting

Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. ☎

A meeting of the Limited Impact Development Task Force charged with (i) developing a certification process for low impact development techniques in achieving quantifiable pollution prevention or abatement results, (ii) developing such other guidance for local governments and the general public as necessary to promote a more complete understanding of the most effective use of low impact development techniques, (iii) recommending changes to existing statutes and regulations to facilitate the use of low impact development techniques, and (iv) developing a model ordinance for use by local governments. For purposes of this section, "low impact development" means a site-specific system of design and development techniques that can serve as an effective, low-cost alternative to existing stormwater and water quality control methods and that will reduce the creation of storm runoff and pollution and potentially reduce the need to treat or mitigate water pollution.

Contact: Kathy Frahm, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4376, FAX (804) 698-4346, e-mail krfrahm@deq.state.va.us.

† July 29, 2003 - 9 a.m. -- Open Meeting

† August 21, 2003 - 9 a.m. -- Open Meeting

† September 5, 2003 - 10 a.m. -- Open Meeting

Department of Environmental Quality, 629 East Main Street, Richmond, Virginia. ☎

A meeting of the Natural Resources Funding Commission. The commission was established in response to recommendations for the Governor's Natural Resources Summit.

Contact: Scott Reed, Department of Environmental Quality, Office of the Secretary of Natural Resources, Ninth Street

Office Building, 7th Floor, Richmond, VA 23219, telephone (804) 786-0044, e-mail fsreed@gov.state.va.us.

August 11, 2003 - 4:30 p.m. -- Open Meeting

Department of Environmental Quality, 629 East Main Street, First Floor Conference Room, Richmond, Virginia. ☎

Pursuant to the federal Coastal Zone Management Act, a public meeting will be conducted as part of the National Oceanic and Atmospheric Administration's evaluation of the Virginia Coastal Resources Management Program. Virginia's coastal resources are managed by a network of state agencies coordinated by the Virginia Department of Environmental Quality. The purpose of this meeting is to receive public comments regarding the operation of the Virginia Coastal Resources Management Program from November 1999 to the present. For more information about the program and this federal evaluation, visit <http://www.deq.state.va.us/coastal/>. Written comments are also encouraged and will be accepted until August 25. Please direct written comments to Ralph Cantral, Chief, National Policy and Evaluation Division, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East West Highway, 10th Floor, Silver Spring, Maryland 20910.

Contact: Laura McKay, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4323, e-mail lbmckay@deq.state.va.us.

Litter Control and Recycling Fund Advisory Board

August 13, 2003 - 10:30 a.m. -- Open Meeting

Department of Environmental Quality, 629 East Main Street, Richmond, Virginia. ☎

A regular meeting.

Contact: G. Steven Coe, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4029, FAX (804) 698-4424, e-mail gscocoe@deq.state.va.us.

Recycling Markets Development Council

August 20, 2003 - 10 a.m. -- Open Meeting

Henrico Training Center, 7701 East Parham Road, Richmond, Virginia. ☎

A regular meeting.

Contact: G. Steven Coe, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4029, FAX (804) 698-4224, e-mail gscocoe@deq.state.va.us.

FAIR HOUSING BOARD

† July 23, 2003 - 8:15 a.m. -- Open Meeting

† July 24, 2003 - 9 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

To participate in training with the Fair Housing Board.

Contact: Karen W. O'Neal, Regulatory Programs Coordinator, Real Estate Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8537, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail oneal@dpor.state.va.us.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

September 9, 2003 - 1 p.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia. ♿

A meeting to hear possible violations of the laws and regulations governing the practice of funeral service.

Contact: Elizabeth Young, Executive Director, Board of Funeral Directors and Embalmers, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9907, FAX (804) 662-9523, (804) 662-7197/TTY ☎, e-mail elizabeth.young@dhp.state.va.us.

BOARD FOR GEOLOGY

July 29, 2003 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ♿

A meeting to conduct board business.

Contact: David E. Dick, Assistant Director, Board for Geology, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595, FAX (804) 367-6128, (804) 367-9753/TTY ☎, e-mail geology@dpor.state.va.us.

GEORGE MASON UNIVERSITY

† **August 20, 2003 - 9 a.m.** -- Open Meeting
Airlie Conference Center, East Room, Warrenton, Virginia.

September 24, 2003 - 9 a.m. -- Open Meeting
George Mason University, Mason Hall, Fairfax, Virginia. ♿

A meeting of the Board of Visitors. The agenda will be published 10 days prior to the meeting.

Contact: Mary Roper, Secretary, pro tem, George Mason University, MSN 3A1, George Mason University, 4400 University Dr., Fairfax, VA 22030, telephone (703) 993-8703, (703) 993-8707/TTY ☎, e-mail mroper@gmu.edu.

OFFICE OF THE GOVERNOR

July 18, 2003 - 10 a.m. -- Open Meeting

July 28, 2003 - 10 a.m. -- Open Meeting

August 15, 2003 - 10 a.m. -- Open Meeting

September 9, 2003 - 10 a.m. -- Open Meeting

September 23, 2003 - 10 a.m. -- Open Meeting
Meeting location to be announced. ♿

A meeting of the Urban Policy Task Force.

Contact: Kelly Spraker, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1902.

STATE BOARD OF HEALTH

July 25, 2003 - 9 a.m. -- Open Meeting

Department of Health, Main Street Station, 1500 East Main Street, 3rd Floor Conference Room, Richmond, Virginia. ♿

A general business and working meeting.

Contact: Rene Cabral-Daniels, Director, Office of Health Policy, Department of Health, 1500 E. Main St., Richmond, VA 23219, telephone (804) 786-3561.

DEPARTMENT OF HEALTH

Emergency Medical Services Advisory Board

August 8, 2003 - 1 p.m. -- Open Meeting

The Place at Innsbrook, 4036-C Cox Road, Glen Allen, Virginia. ♿

A regular quarterly meeting.

Contact: Gary R. Brown, Director, Department of Health, 1538 E. Parham Rd., Richmond, VA 23228, telephone (804) 371-3500, FAX (804) 371-3543, toll-free (800) 523-6019, e-mail gbrown@vdh.state.va.us.

Sewage Handling and Disposal Advisory Committee

August 21, 2003 - 10 a.m. -- Open Meeting

Department of Health, 1500 East Main Street, Room 115, Richmond, Virginia.

A meeting to discuss regulations, new technologies and new products to recommend for approval to the State Health Commissioner for use in Virginia.

Contact: Donald J. Alexander, Division Director, Department of Health, 1500 E. Main St., Room 115, Richmond, VA 23219, telephone (804) 225-4030, FAX (804) 225-4003, e-mail dalexander@vdh.state.va.us.

DEPARTMENT OF HEALTH PROFESSIONS

August 15, 2003 - 9 a.m. -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. ♿

A bimonthly meeting of the Intervention Program Committee for the Health Practitioners' Intervention Program.

Contact: Donna P. Whitney, Intervention Program Manager, Department of Health Professions, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-9424, FAX (804) 662-7358, e-mail donna.whitney@dhp.state.va.us.

Calendar of Events

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

July 15, 2003 - 9 a.m. -- Open Meeting
Linden Row Inn, First and Franklin Streets, Richmond, Virginia.

This is a work session only; no formal actions will be taken at this meeting.

Contact: Lee Ann Rung, State Council of Higher Education for Virginia, 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-2602, FAX (804) 371-7911, e-mail lrung@schev.edu.

July 16, 2003 - 8:30 a.m. -- Open Meeting
State Council of Higher Education for Virginia, James Monroe Building, 101 North 14th Street, 9th Floor, Main Conference Room, Richmond, Virginia.

Agenda materials will be available on the website approximately one week prior to the meeting at www.schev.edu. A public comment period will be allocated on the meeting agenda. To be scheduled, those interested in making public comment should contact the person listed below no later than 5 p.m. three business days prior to the meeting date. At the time of the request, the speaker's name, address and topic must be provided. Each speaker will be given up to three minutes to address SCHEV. Speakers are asked to submit a written copy of their remarks at the time of comment. All meeting times are approximate and may vary slightly. Some committee meetings may be held in a different conference room than listed above.

Contact: Lee Ann Rung, State Council of Higher Education for Virginia, 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-2602, FAX (804) 371-7911, e-mail lrung@schev.edu.

July 16, 2003 - 7 p.m. -- Open Meeting
Linden Row Inn, First and Franklin Streets, Richmond, Virginia.

A meeting of the executive committee. Agenda materials may be found on the website approximately one week prior to the meeting at www.schev.edu.

Contact: Lee Ann Rung, State Council of Higher Education for Virginia, 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-2602, FAX (804) 371-7911, e-mail lrung@schev.edu.

VIRGINIA HIGHER EDUCATION TUITION TRUST FUND

† July 17, 2003 - 2:30 p.m. -- Open Meeting
James Monroe Building, 101 North 14th Street, Virginia College Savings Plan Board Room, 5th Floor, Richmond, Virginia.

A meeting of the Actuarial Committee to review actuarial assumptions.

Contact: Vivian Shields, Deputy Director of Finance, Accounting, Virginia Higher Education Tuition Trust Fund,

P.O. Box 607, Richmond VA 23218, telephone (804) 786-4768, FAX (804) 786-2453, toll-free (888) 567-0540, (804) 786-2766/TTY ☎, e-mail vshields@virginia529.com.

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

July 24, 2003 - 3 p.m. -- Public Hearing
Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, Virginia. ♿

A public hearing on proposed amendments to the authority's Rules and Regulations-General Provisions for Programs of the Authority and Rules and Regulations for Single Family Mortgage Loans to Persons and Families of Low and Moderate Income that will (i) provide that one person or multiple persons are eligible to be a borrower or borrowers of a single family loan if such person or all such persons satisfy the criteria and requirements in the rules and regulations, (ii) delete the requirement that multiple borrowers be related by blood, marriage or adoption or by legal custodial relationship and (iii) make conforming changes throughout the rules and regulations to reflect the preceding revisions to the authority's eligibility guidelines.

Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 S. Belvidere St., Richmond, VA 23220, telephone (804) 343-5540, FAX (804) 783-6701, toll-free (800) 968-7837, (804) 783-6705/TTY ☎, e-mail judson.mckellar@vhda.com.

† July 25, 2003 - 11 a.m. -- Open Meeting
Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, Virginia. ♿

The annual meeting of the Board of Commissioners of the Virginia Housing Development Authority. The Board of Commissioners will elect a Chairman and Vice Chairman, will review and, if appropriate, approve the minutes from the prior meeting; may consider for approval and ratification mortgage loan commitments under its various programs; will consider for approval proposed amendments to the Authority's regulations entitled Rules and Regulations-General Provisions for Programs of the Virginia Housing Development Authority and Rules and Regulations for Single Family Mortgage Loans to Persons and Families of Low and Moderate Income; will review the Authority's operations for prior months; and consider such other matters and take such other actions as they may deem appropriate. Various committees of the Board of Commissioners, including the Programs Committee, the Audit/Operations Committee, and the Committee of the Whole, may also meet during the day preceding the meeting and before or after the meeting and consider matters within their purview. The planned agenda of the meeting will be available at the offices of the Authority one week prior to the date of the meeting. The annual meeting of the shareholders and board of directors of Housing for Virginia, Inc., a corporation wholly owned by the Authority, will be held following the meeting of the Authority's Board of Commissioners.

Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 South Belvidere St.,

Richmond, VA 23220, telephone (804) 343-5540, FAX (804) 783-6701, toll-free (800) 968-7837, (804) 783-6705/TTY ☎, e-mail judson.mckellar@vhda.com.

VIRGINIA INFORMATION TECHNOLOGIES AGENCY

VGIN Advisory Board

September 4, 2003 - 1:30 p.m. -- Open Meeting
Richmond Plaza Building, 110 South 7th Street, 3rd Floor Training Room, Richmond, Virginia. ♿

A regular board meeting.

Contact: Bill Shinar, VGIN Coordinator, Department of Technology Planning, 110 S. 7th Street, Suite 135, Richmond, VA 23219, telephone (804) 786-8175, FAX (804) 371-2795, e-mail bshinar@vgin.state.va.us.

Wireless E-911 Services Board

September 10, 2003 - 9 a.m. -- Open Meeting
Richmond Plaza Building, 110 South 7th Street, 3rd Floor Conference Room, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting of the CMRS subcommittee in closed session.

Contact: Steven Marzolf, Public Safety Communications Coordinator, Department of Technology Planning, 110 South 7th Street, Richmond, VA 23219, telephone (804) 371-0015, e-mail smarzolf@ntp.state.va.us.

September 10, 2003 - 10 a.m. -- Open Meeting
Richmond Plaza Building, 110 South 7th Street, 3rd Floor Conference Room, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular monthly meeting of the full board.

Contact: Steven Marzolf, Public Safety Communications Coordinator, Department of Technology Planning, 110 South 7th Street, Richmond, VA 23219, telephone (804) 371-0015, e-mail smarzolf@ntp.state.va.us.

JAMESTOWN-YORKTOWN FOUNDATION

August 6, 2003 - 2 p.m. -- Open Meeting
September 10, 2003 - Noon -- Open Meeting
Location to be determined. ♿ (Interpreter for the deaf provided upon request)

A meeting of the Jamestown 2007 Steering Committee's Executive Committee. Public comment will not be heard.

Contact: Stacey Ruckman, Jamestown 2007 Executive Assistant, Jamestown-Yorktown Foundation, P.O. Box 1607, Williamsburg, VA 23187, telephone (757) 253-4659, FAX (757) 253-5299, toll-free (888) 593-4682, (757) 253-7236/TTY ☎, e-mail sruckman@jyf.state.va.us.

STATE BOARD OF JUVENILE JUSTICE

NOTE: CHANGE IN MEETING DATE AND LOCATION
July 16, 2003 - 9 a.m. -- Open Meeting
Cedar Lodge Training Facility, 1701 Old Bon Air Road, Bon Air, Virginia. ♿

The meeting of the committees of the Board for Secure Services and Nonsecure Services will meet at 9 a.m. to receive certification audit reports. The full board will meet at 10 a.m. to take certification action on the audited programs.

Contact: Donald Carignan, Regulatory Coordinator, State Board of Juvenile Justice, 700 Centre, 700 E. Franklin St., 4th Floor, Richmond, VA 23219, telephone (804) 371-0743, FAX (804) 371-0773, e-mail carigndr@djj.va.state.us.

DEPARTMENT OF LABOR AND INDUSTRY

Safety and Health Codes Board

† **August 12, 2003 - 10 a.m.** -- Public Hearing
Tyler Building, 1300 East Main Street, Courtroom B, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

September 12, 2003 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Safety and Health Codes Board intends to adopt regulations entitled **16 VAC 25-145, Safety Standards for Fall Protection in Steel Erection, Construction Industry**. The purpose of the proposed action is to establish in regulation the current VOSH administrative policy regarding fall protection for steel erection workers from falls at or above 10 feet.

Statutory Authority: § 40.1-22 of the Code of Virginia.

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, (804) 786-2376/TTY ☎, e-mail rlc@doli.state.va.us.

Virginia Migrant and Seasonal Farmworkers Board

† **July 16, 2003 - 9 a.m.** -- Open Meeting
Eastern Shore Community College, Lecture Hall, Melfa, Virginia ♿ (Interpreter for the deaf provided upon request)

A regular quarterly meeting of the board.

Contact: Betty B. Jenkins, Board Administrator, Department of Labor and Industry, Powers-Taylor Building, 13 S. 13th St., Richmond, VA 23219, telephone (804) 786-2291, FAX (804) 371-6524, (804) 786-2376/TTY ☎, e-mail bbj@doli.state.va.us.

Calendar of Events

COMMISSION ON LOCAL GOVERNMENT

† **July 28, 2003 - 10:30 a.m.** -- Open Meeting
Elkton Fireman's Activities Building, 414 South Eastside Highway, Elkton, Virginia. (Interpreter for the deaf provided upon request)

Public presentations regarding the proposed Town of Elkton - Rockingham County agreement defining annexation rights.

Contact: Ted McCormack, Associate Director, Commission on Local Government, Department of Housing and Community Development, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 786-6508, FAX (804) 371-7090, (800) 828-1120/TTY, e-mail tmccormack@dhcd.state.va.us.

† **July 28, 2003 - 7 p.m.** -- Public Hearing
Elkton Fireman's Activities Building, 414 South Eastside Highway, Elkton, Virginia. (Interpreter for the deaf provided upon request)

Public hearing regarding the proposed Town of Elkton - Rockingham County agreement defining annexation rights.

Contact: Ted McCormack, Associate Director, Commission on Local Government, Department of Housing and Community Development, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 786-6508, FAX (804) 371-7090, (800) 828-1120/TTY, e-mail tmccormack@dhcd.state.va.us.

VIRGINIA MANUFACTURED HOUSING BOARD

† **July 16, 2003 - 10 a.m.** -- Open Meeting
The Jackson Center, 501 North Second Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular meeting to address complaints and claims against licensees, review claims to the Manufactured Housing Transaction Recovery Fund, and carry out other administrative duties under the Manufactured Housing Licensing and Transaction Recovery Fund Regulations.

Contact: Curtis L. McIver, State Building Code Administrator, Virginia Manufactured Housing Board, State Building Code Administrative Office, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7160, FAX (804) 371-7092, (804) 371-7089/TTY, e-mail cmciver@dhcd.state.va.us.

MARINE RESOURCES COMMISSION

July 22, 2003 - 9:30 a.m. -- Open Meeting
August 26, 2003 - 9:30 a.m. -- Open Meeting
Marine Resources Commission, 2600 Washington Avenue, 4th Floor, Newport News, Virginia. (Interpreter for the deaf provided upon request)

A monthly commission meeting.

Contact: Kathy Leonard, Executive Secretary, Marine Resources Commission, 2600 Washington Ave., 3rd Floor, Newport News, VA 23607, telephone (757) 247-2120, FAX (757) 247-8101, toll-free (800) 541-4646, (757) 247-2292/TTY, e-mail kleonard@mrc.state.va.us.

BOARD OF MEDICAL ASSISTANCE SERVICES

September 9, 2003 - 10 a.m. -- Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia.

A regular meeting.

Contact: Nancy Malczewski, Board Liaison, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-8096, FAX (804) 371-4981, (800) 343-0634/TTY, e-mail nmalczew@dmass.state.va.us.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

August 1, 2003 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Medical Assistance Services intends to amend regulations entitled: **12 VAC 30-40. Eligibility Requirements**. The purpose of the proposed action is to simplify Medicaid eligibility requirements for counting income.

Statutory Authority: §§ 32.1-324 and 32.1-325 of the Code of Virginia.

Public comments may be submitted until August 1, 2003, to Patricia Sykes, Manager, Division of Policy, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7959, FAX (804) 786-1680, or e-mail vsimmons@dmass.state.va.us.

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August 15, 2003 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Medical Assistance Services intends to amend regulations entitled: **12 VAC 30-50, Amount, Duration, and Scope of Medical and Remedial Services; 12 VAC 30-60, Standards Established and Methods Used to Assure High Quality of Care; and 12 VAC 30-130, Amount Duration, and Scope of Selected Services**. The purpose of the proposed action is to improve the delivery of community mental health and regulatory requirements.

Statutory Authority: §§ 32.1-324 and 32.1-325 of the Code of Virginia.

Public comments may be submitted until August 15, 2003, to Katherine Hancock, Analyst, Division of Policy, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St.,

Suite 1300, Richmond, VA 23219, telephone (804) 786-7959, FAX (804) 786-1680, or e-mail vsimmons@dmas.state.va.us.

Medicaid Physician Advisory Committee

July 15, 2003 - 4 p.m. -- Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia. 

Discussion of physician issues within Medicaid.

Contact: Chris Schroeder, Meeting Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-0552, FAX (804) 371-4981, (800) 343-0634/TTY , e-mail cschroed@dmas.state.va.us.

BOARD OF MEDICINE

Informal Conference Committee

July 16, 2003 - 9 a.m. -- Open Meeting
† **September 17, 2003 - 9 a.m.** -- Open Meeting
Williamsburg Marriott, 50 Kingsmill Road, Williamsburg, Virginia.

† **July 23, 2003 - 9:15 a.m.** -- Open Meeting
July 31, 2003 - 9 a.m. -- Open Meeting
† **August 1, 2003 - 1 p.m.** -- Open Meeting
† **August 6, 2003 - 8:45 a.m.** -- Open Meeting
† **September 3, 2003 - 9 a.m.** -- Open Meeting
† **September 17, 2003 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6603 West Broad Street, Richmond, Virginia.

† **August 28, 2003 - 9 a.m.** -- Open Meeting
Holiday Inn Select, 2801 Plank Road, Fredericksburg, Virginia.

A meeting to 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 the Code of Virginia. Public comment will not be received.

Contact: Peggy Sadler or Renee Dixon, Staff, Department of Health Professions, 6603 W. Broad St., Richmond, VA 23230, telephone (804) 662-7332, FAX (804) 662-9517, (804) 662-7197/TTY , e-mail Peggy.Sadler@dhp.state.va.us.

STATE MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES BOARD

July 17, 2003 - 6:30 p.m. -- Public Hearing
Dumbarton Area Library, 6800 Staples Mill Road, Richmond, Virginia. (Interpreter for the deaf provided upon request)

August 15, 2003 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Mental Health, Mental Retardation and Substance Abuse Services Board intends

to amend regulations entitled **12 VAC 35-180, Regulations to Assure the Protection of Participants in Human Research**. The purpose of the proposed action is to comply with changes to the Code of Virginia and to be consistent with applicable federal requirements, including privacy requirements pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

Statutory Authority: §§ 37.1-10 and 37.1-24.01 of the Code of Virginia.

Contact: Mary Nash Shawver, Planning Coordinator, Office of Substance Abuse Services, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218, telephone (804) 786-0825, FAX (804) 786-4320, e-mail mshawver@dmhmrsas.state.va.us.

July 31, 2003 - 1 p.m. -- Open Meeting
August 1, 2003 - 9 a.m. -- Open Meeting
Hanover Community Services Board, 12300 Washington Highway, Ashland, Virginia.  (Interpreter for the deaf provided upon request)

A quarterly meeting of the board.

Contact: Marlene Butler, State Board Secretary, State Mental Health, Mental Retardation and Substance Abuse Services Board, Jefferson Bldg., 1220 Bank St., 13th Floor, Richmond, VA 23219, telephone (804) 786-7945, FAX (804) 372-2308, e-mail mbutler@dmhmrsas.state.va.us.

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

† **July 14, 2003 - 10 a.m.** -- Open Meeting
Virginia Department for the Aging, 1600 Forest Avenue, Preston Building, Suite 102, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

† **July 21, 2003 - 10 a.m.** -- Open Meeting
Department of Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

† **July 28, 2003 - 1 p.m.** -- Open Meeting
Henrico County Training Center, 7701 East Parham Road, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

The Steering Committee of the Olmstead Task Force will meet.

Contact: Fran M. Sadler, Administrative Specialist, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218, telephone (804) 786-8019, FAX (804) 786-9248, (804) 371-8977/TTY , e-mail fsadler@dmhmrsas.state.va.us.

STATE MILK COMMISSION

August 13, 2003 - 10:30 a.m. -- Open Meeting
Motley's Dairy Inc., 4740 Payneton Road, Chatham, Virginia.

Calendar of Events

A regular meeting of the commission to consider industry issues, distributor licensing, base transfers, and reports from staff. The commission offers anyone in attendance an opportunity to speak at the conclusion of the agenda. Those persons requiring special accommodations should notify the agency contact at least five working days prior to the meeting date so that suitable arrangements can be made.

Contact: Edward C. Wilson, Jr., Deputy Administrator, State Milk Commission, Ninth St. Office Bldg., 202 N. Ninth St., Room 915, Richmond, VA 23219, telephone (804) 786-2013, FAX (804) 786-3779, e-mail ewilson@smc.state.va.us.

DEPARTMENT OF MINES, MINERALS AND ENERGY

Virginia Gas and Oil Board

† July 15, 2003 - 9 a.m. -- Open Meeting

Virginia Highlands Community College, Southwest Virginia Higher Education Center, Abingdon, Virginia.  (Interpreter for the deaf provided upon request)

The board will conduct its regularly scheduled meeting to consider petitions filed by applicants. The public may address the board on individual items as they are called for hearing. Information concerning the docket items can be viewed from 8 a.m. to 5 p.m. Monday through Friday at the office of the Department of Mines, Minerals and Energy, Division of Gas and Oil, 230 Charwood Drive, Abingdon, Virginia. All questions should be directed to the Division of Gas and Oil by telephoning 276-676-5423. Special accommodations for the disabled will be made available at the hearing on request. Anyone needing special accommodations for the July hearing should contact the Department of Mines, Minerals and Energy, Division of Gas and Oil at 276-676-5423 or call the Virginia Relay Center at 1-800-828-1120/TTY by July 8, 2003.

Contact: Bob Wilson, Division Director, Department of Mines, Minerals and Energy, P.O. Box 1416 Abingdon, VA 24212, telephone (276) 676-5423, (800) 828-1120/TTY , e-mail bxw@mme.state.va.us.

MOTOR VEHICLE DEALER BOARD

July 14, 2003- 8:30 a.m. -- Open Meeting

Department of Motor Vehicles, 2300 West Broad Street, Room 702, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

Committees will meet as follows:

- Dealer Practices Committee - 8:30 a.m.
- Licensing Committee - Immediately following Dealer Practices Committee.
- Advertising Committee - 9:30 a.m.. or immediately after Licensing Committee.
- Transaction Recovery Fund Committee - Immediately following Advertising Committee.
- Franchise Law Committee - To be scheduled as needed.

The full board will meet at 1 p.m. Meetings may begin later, but not earlier than scheduled. Meeting end times are

approximate. Any person who needs any accommodation in order to participate in the meeting should contact the board at least 10 days before the meeting so that suitable arrangements can be made.

Contact: Alice R. Weedon, Administrative Assistant, Motor Vehicle Dealer Board, 2201 W. Broad St., Suite 104, Richmond, VA 23220, telephone (804) 367-1100, FAX (804) 367-1053, toll-free (877) 270-0203, e-mail dboard@mvb.state.va.us.

VIRGINIA MUSEUM OF FINE ARTS

July 30, 2003 - 10 a.m. -- Open Meeting

Virginia Museum of Fine Arts, CEO Parlor, 2800 Grove Avenue, Richmond, Virginia. 

A meeting for staff to update the Museum Expansion Committee. Public comment will not be received.

Contact: Suzanne Broyles, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221, telephone (804) 340-1503, FAX (804) 340-1502, (804) 340-1401/TTY , e-mail sbroyles@vmfa.state.va.us.

September 4, 2003 - 8 a.m. -- Open Meeting

† October 7, 2003 - 8 a.m. -- Open Meeting

Virginia Museum of Fine Arts, 2800 Grove Avenue, Main Lobby, Conference Room, Richmond, Virginia. 

A monthly meeting of the Executive Committee. Public comment will not be received.

Contact: Suzanne Broyles, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221, telephone (804) 340-1503, FAX (804) 340-1502, (804) 340-1401/TTY , e-mail sbroyles@vmfa.state.va.us.

VIRGINIA MUSEUM OF NATURAL HISTORY

† August 15, 2003 - 3 p.m. -- Open Meeting

Virginia Museum of Natural History, 1001 Douglas Avenue, Martinsville, Virginia 

† September 15, 2003 - 10 a.m. -- Open Meeting

LeClair Ryan Consulting, 1010 First Union Building, 213 South Jefferson Avenue, Roanoke, Virginia. 

A meeting of the executive committee to discuss the management and direction of the museum.

Contact: Cindy Rorrer, Administrative Assistant, Virginia Museum of Natural History, 1001 Douglas Ave., Martinsville, VA 24112, telephone (276) 666-8616, FAX (276) 632-6487, (276) 666-8638/TTY , e-mail crorrer@vmnh.net.

BOARD OF NURSING

July 14, 2003 - 9 a.m. -- Open Meeting

July 16, 2003 - 9 a.m. -- Open Meeting

July 17, 2003 - 9 a.m. -- Open Meeting

September 22, 2003 - 9 a.m. -- Open Meeting

September 24, 2003 - 9 a.m. -- Open Meeting

September 25, 2003 - 9 a.m. -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. 

A panel of the board will conduct formal hearings with licensees or certificate holders. Public comment will not be received.

Contact: Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY , e-mail nursebd@dhp.state.va.us.

July 15, 2003 - 9 a.m. -- Open Meeting

September 23, 2003 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, Board Room 2, 5th Floor, Richmond, Virginia. 

A general business meeting including committee reports, consideration of regulatory action, and disciplinary case decisions as presented on the agenda. Public comment will be received at 11 a.m.

Contact: Jay P. Douglas, R.N., Executive Director, Board of Nursing, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY , e-mail jay.douglas@dhp.state.va.us.

July 29, 2003 - 9 a.m. -- Open Meeting

August 11, 2003 - 9 a.m. -- Open Meeting

August 12, 2003 - 9 a.m. -- Open Meeting

August 14, 2003 - 9 a.m. -- Open Meeting

August 19, 2003 - 9 a.m. -- Open Meeting

August 26, 2003 - 9 a.m. -- Open Meeting

† **October 7, 2003 - 9 a.m.** -- Open Meeting

† **October 8, 2003 - 9 a.m.** -- Open Meeting

† **October 14, 2003 - 9 a.m.** -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia. 

A Special Conference Committee, comprised of two or three members of the Virginia Board of Nursing, will conduct informal conferences with licensees and certificate holders. Public comment will not be received.

Contact: Jay P. Douglas, R.N., M.S.M., C.S.A.C., Executive Director, Board of Nursing, 6603 West Broad Street, 5th Floor, Richmond, VA 23230, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY , e-mail nursebd@dhp.state.va.us.

BOARD OF NURSING HOME ADMINISTRATORS

July 23, 2003 - 9 a.m. -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Room 1, Richmond, Virginia. 

The board will meet to discuss regular board business. There will be a public comment period at the beginning of the meeting.

Contact: JeAnne Marshall, Administrative Assistant, Board of Nursing Home Administrators, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-7457, FAX

(804) 662-7246, (804) 662-7197/TTY , e-mail JeAnne.Marshall@dhp.state.va.us.

July 23, 2003 - 1 p.m. -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Room 1, Richmond, Virginia. 

A Special Conference Committee to conduct an informal hearing. No public comment will be received.

Contact: JeAnne M. Marshall, Administrative Assistant, Board of Nursing Home Administrators, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-7457, FAX (804) 662-7246, (804) 662-7197/TTY , e-mail JeAnne.Marshall@dhp.state.va.us.

BOARD OF OPTOMETRY

July 18, 2003 - 8:30 a.m. -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia. 

Special conference hearings. This is a public meeting; however, public comment will not be received.

Contact: Elizabeth Carter, Ph.D., Executive Director, Board of Optometry, 6603 W. Broad St., 5th Floor, Richmond, Virginia 23230, telephone (804) 662-9910, FAX (804) 662-7098, e-mail elizabeth.carter@dhp.state.va.us.

July 18, 2003 - Noon -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia. 

A meeting to review legislative proposals, review and establish protocol for issuance of Confidential Consent Agreements (CCA), update on federal legislation to regulate noncorrective contact lenses, and elect officers. Public comment will be received at the beginning of the meeting.

Contact: Elizabeth A. Carter, Ph.D., Executive Director, Board of Optometry, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9910, FAX (804) 662-9504, (804) 662-7197/TTY , e-mail elizabeth.carter@dhp.state.va.us.

VIRGINIA BOARD FOR PEOPLE WITH DISABILITIES

† **August 6, 2003 - 11 a.m.** -- Open Meeting

Virginia Board for People with Disabilities, 202 North 9th Street, 9th Floor, Conference Room, Richmond, Virginia. 

A meeting of the executive committee to update the state plan.

Contact: Sandra Smalls, Assistant to the Director, Virginia Board for People with Disabilities, 202 N. 9th St., 9th Floor, Richmond, VA, telephone (804) 786-9368, FAX (804) 786-1118, toll-free (800) 846-4464, e-mail smallsse@vbpd.state.va.us.

BOARD OF PHARMACY

† **July 22, 2003 - 9 a.m.** -- Open Meeting

† **July 31, 2003 - 9 a.m.** -- Open Meeting

Calendar of Events

Department of Health Professions, 6603 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia. 

A Special Conference Committee will discuss disciplinary matters. Public comments will not be received.

Contact: Elizabeth Scott Russell, Executive Director, Board of Pharmacy, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-9911, FAX (804) 662-9313.

POLYGRAPH EXAMINERS ADVISORY BOARD

July 31, 2003 - 10 a.m. -- Open Meeting

September 18, 2003 - 10 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 

A meeting to conduct board business. The department fully complies with the Americans with Disabilities Act.

Contact: Eric Olson, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2785, FAX (804) 367-2474, (804) 367-9753/TTY , e-mail olson@dpor.state.va.us.

BOARD OF PSYCHOLOGY

July 28, 2003 - 9 a.m. -- Open Meeting

Department of Health Professions, Alcoa Building, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 

A regular board meeting.

Contact: Diana Pollick, Administrative Assistant, Department of Health Professions, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9913, FAX (804) 662-7250, (804) 662-7197/TTY , e-mail Diana.Pollick@dhp.state.va.us.

July 28, 2003 - 10:30 a.m. -- Open Meeting

Department of Health Professions, Alcoa Building, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 

A formal hearing.

Contact: Diana Pollick, Administrative Assistant, Department of Health Professions, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9913, FAX (804) 662-7250, (804) 662-7197/TTY , e-mail Diana.Pollick@dhp.state.va.us.

VIRGINIA PUBLIC GUARDIAN AND CONSERVATOR ADVISORY BOARD

September 25, 2003 - 10 a.m. -- Open Meeting

1600 Forest Avenue, Suite 102, Richmond, Virginia. 

A regular quarterly meeting.

Contact: Terry Raney, Guardianship Coordinator, Department for the Aging, 1600 Forest Ave., Suite 102, Richmond, VA 23229, telephone (804) 662-7049, FAX (804) 662-9354, toll-free (800) 552-3402, (804) 662-9333/TTY , e-mail traney@vdh.stat.va.us.

REAL ESTATE APPRAISER BOARD

† July 17, 2003 - 9 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

A meeting to conduct informal fact-finding conferences.

Contact: Karen W. O'Neal, Regulatory Programs Coordinator, Real Estate Appraiser Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8537, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail oneal@dpor.state.va.us.

August 26, 2003 - 10 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

A meeting to conduct board business.

Contact: Karen W. O'Neal, Regulatory Programs Coordinator, Real Estate Appraiser Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8537, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail oneal@dpor.state.va.us.

REAL ESTATE BOARD

July 16, 2003 - 4 p.m. -- Open Meeting

September 3, 2003 - 4 p.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

A meeting of the Education Committee to review education applications.

Contact: Karen W. O'Neal, Regulatory Programs Coordinator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8537, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail oneal@dpor.state.va.us.

July 17, 2003 - 8:30 a.m. -- Open Meeting

September 4, 2003 - 8:30 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

A meeting to review fair housing cases.

Contact: Karen W. O'Neal, Regulatory Programs Coordinator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8537, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail oneal@dpor.state.va.us.

July 17, 2003 - 9 a.m. -- Open Meeting

September 4, 2003 - 9 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

A meeting to conduct board business.

Contact: Karen W. O'Neal, Regulatory Programs Coordinator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8537, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail oneal@dpor.state.va.us.

July 31, 2003 - 8:30 a.m. -- Open Meeting
September 17, 2003 - 9 a.m. -- Open Meeting
September 18, 2003 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia.  (Interpreter for
the deaf provided upon request)

A meeting to conduct informal fact-finding conferences. 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: Debbie Amaker, Legal Assistant, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8582, FAX (804) 367-0194, (804) 367-9753/TTY , e-mail amaker@dpor.state.va.us.

VIRGINIA RESOURCES AUTHORITY

August 5, 2003 - 9 a.m. -- Open Meeting
Virginia Resources Authority, Eighth and Main Building, 707 East Main Street, 2nd Floor, Richmond, Virginia. 

A regular meeting of the Board of Directors to (i) review and, if appropriate, approve the minutes from the most recent monthly meeting; (ii) review the authority's operations for the prior month; (iii) review applications for loans submitted to the authority for approval; (iv) consider loan commitments for approval and ratification under its various programs; (v) approve the issuance of any bonds; (vi) review the results of any bond sales; and (vii) consider such other matters and take such other actions as it may deem appropriate. Various committees of the Board of Directors may also meet immediately before or after the regular meeting and consider matters within their purview. The planned agenda of the meeting and any committee meetings will be available at the offices of the authority one week prior to the date of the meeting. Any person who needs any accommodation in order to participate in the meeting should contact the authority at least 10 days before the meeting so that suitable arrangements can be made.

Contact: Bonnie R. C. McRae, Executive Assistant, Virginia Resources Authority, 707 E. Main St., Richmond, VA 23219, telephone (804) 644-3100, FAX (804) 644-3109, e-mail bmcrac@vra.state.va.us.

SEWAGE HANDLING AND DISPOSAL APPEAL REVIEW BOARD

† **August 13, 2003 - 10 a.m.** -- Open Meeting
General Assembly Building, 9th and Broad Streets, Senate Room B, Richmond, Virginia. 

The Sewage Handling and Disposal Appeal Review Board will meet to hear appeals of the Department of Health's denials of septic tank permits.

Contact: Susan C. Sherertz, Secretary to the Board, Sewage Handling and Disposal Appeal Review Board, 1500 E. Main St., Room 115, Richmond, VA 23219, telephone (804) 371-4236, FAX (804) 225-4003, e-mail ssherertz@vdh.state.va.us.

VIRGINIA SMALL BUSINESS FINANCING AUTHORITY

† **July 22, 2003 - 11 a.m.** -- Open Meeting
Department of Business Assistance, 707 East Main Street, 3rd Floor, Richmond, Virginia. 

A meeting to review applications for loans submitted to the authority for approval and general business of the board. Meeting time is subject to change depending upon the agenda of the board.

Contact: Scott E. Parsons, Executive Director, Department of Business Assistance, P.O. Box 446, Richmond, VA 23218-0446, telephone (804) 371-8256, FAX (804) 225-3384, e-mail sparsons@dba.state.va.us.

STATE BOARD OF SOCIAL SERVICES

August 1, 2003 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Social Services intends to amend regulations entitled **22 VAC 40-250, Agency Placement Adoptions -- AREVA**. The purpose of the proposed action is to amend the regulation to make it consistent with a related adoption regulation, 22 VAC 40-260, Subsidy. Amendments also extend the time for local agencies to register children in AREVA and delete references to obsolete terms.

Statutory Authority: §§ 63.2-217 and 63.2-900 of the Code of Virginia.

Contact: Karen Clark, Adoption Program Consultant, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1251, FAX (804) 692-1284 or e-mail kac900@dss.state.va.us.

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August 1, 2003 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Social Services intends to amend regulations entitled **22 VAC 40-260, Agency Placement Adoptions -- Subsidy**. The purpose of the proposed action is to amend the regulation to more accurately reflect the current population of children waiting for adoptive placement, delete obsolete terms, and improve overall clarity. An appeals provision will be added to replace 22 VAC 40-270, which is being repealed.

Statutory Authority: §§ 63.2-217 and 63.2-900 of the Code of Virginia.

Contact: Karen Clark, Adoption Program Consultant, Department of Social Services, 730 E. Broad St., Richmond,

Calendar of Events

VA 23219, telephone (804) 692-1251, FAX (804) 692-1284 or e-mail kac900@dss.state.va.us.

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August 1, 2003 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Social Services intends to amend regulations entitled **22 VAC 40-270, Agency Placement Adoptions -- Appeals**. The purpose of the proposed action is to repeal the regulation. Appeal provisions will be added to another regulation, 22 VAC 40-260, Agency Placement Adoptions - Subsidy.

Statutory Authority: §§ 63.2-217 and 63.2-900 of the Code of Virginia.

Contact: Karen Clark, Adoption Program Consultant, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1251, FAX (804) 692-1284 or e-mail kac900@dss.state.va.us.

† **August 20, 2003 - 9 a.m.** -- Open Meeting

† **August 21, 2003 - 9 a.m.** -- Open Meeting

Radisson Hotel-Hampton, 700 Settlers Landing Road, Hampton, Virginia. 

A regular meeting. Public comment will begin at 1:30 p.m.

Contact: Pat Rengnerth, Board Liaison, State Board of Social Services, Division of Legislative Affairs, 730 E. Broad St., Room 930, Richmond, VA 23219-1849, telephone (804) 692-1826, FAX (804) 692-1962, (800) 828-1120/TTY , e-mail pvr2@email1.dss.state.va.us.

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September 12, 2003 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 that the State Board of Social Services intends to repeal regulations entitled **22 VAC 40-190, Regulation for Criminal Record Checks for Child Welfare Agencies**. The purpose of the proposed action is to repeal the current regulation for criminal record checks in order to promulgate a new regulation to establish sworn statement or affirmation, search of the central registry, and criminal history record check, in compliance with the Code of Virginia.

Statutory Authority: §§ 63.2-217, 63.2-1704, 63.2-1720, 63.2-1721, 63.2-1722, 63.2-1724, and 63.2-1727 of the Code of Virginia.

Contact: Wenda Singer, Program Consultant, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-2201, FAX (804) 692-2370 or e-mail wxs@dss.state.va.us.

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September 12, 2003 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 that the State Board of Social Services intends to repeal regulations entitled **22 VAC 40-191, Background Checks for Child Welfare Agencies**. The purpose of the proposed action is to establish background checks for child welfare agencies, in compliance with the Code of Virginia. Background checks are sworn statement or affirmation, search of the central registry, and criminal history record check.

Statutory Authority: §§ 63.2-217, 63.2-1704, 63.2-1720, 63.2-1721, 63.2-1722, 63.2-1724, and 63.2-1727 of the Code of Virginia.

Contact: Wenda Singer, Program Consultant, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-2201, FAX (804) 692-2370 or e-mail wxs@dss.state.va.us.

DEPARTMENT OF SOCIAL SERVICES

NOTE: CHANGE IN MEETING DATE AND LOCATION

July 25, 2003 - 5 p.m. -- Open Meeting

July 26, 2003 - 9 a.m. -- Open Meeting

† **October 10, 2003 - 10 a.m.** -- Open Meeting

Charlottesville, Virginia.

A quarterly meeting of the Virginia Commission on National and Community Services.

Contact: Felicia Jones, Administrative Assistant, Department of Social Services, 730 E. Broad St., 8th Floor, Richmond, VA 23219, telephone (804) 692-1998, FAX (804) 692-1999, toll-free (800) 638-3839, e-mail fuj900@email1.dss.state.va.us.

BOARD OF SOCIAL WORK

July 25, 2003 - 10 a.m. -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 4th Floor, Conference Room 4, Richmond, Virginia. 

Regulatory review and regular board business.

Contact: Evelyn B. Brown, Executive Director, Board of Social Work, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9914, FAX (804) 662-7250, (804) 662-7197/TTY , e-mail evelyn.brown@dhp.state.va.us.

† **July 24, 2003 - 12:30 p.m.** -- Open Meeting

July 25, 2003 - 11 a.m. -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia. 

The Board of Social Work will convene to hear possible violations of the laws and regulations governing the practice of social work.

Contact: Evelyn B. Brown, Executive Director, Board of Social Work, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9914, FAX (804) 662-7250, (804) 662-7197/TTY , e-mail evelyn.brown@dhp.state.va.us.

September 19, 2003 - 10 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street,
5th Floor, Board Room 1, Richmond, Virginia. 

A general business meeting to include consideration of regulatory, legislative and disciplinary matters as may be presented on the agenda. Public comment will be received at the beginning of the meeting

Contact: Arnice Covington, Administrative Assistant, Board of Social Work, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9914, FAX (804) 662-7250, (804) 662-7197/TTY , e-mail arnice.covington@dhp.state.va.us.

BOARD FOR PROFESSIONAL SOIL SCIENTISTS AND WETLAND PROFESSIONALS

† **July 16, 2003 - 10 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to this meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Executive Director, Board for Professional Soil Scientists and Wetland Professionals, 3600 W. Broad St. Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail soilscientist@dpor.state.va.us.

DEPARTMENT OF TAXATION

† **August 7, 2003 - 11 a.m.** -- Open Meeting
† **September 18, 2003 - 11 a.m.** -- Open Meeting
Department of Taxation, 2220 West Broad Street, Richmond,
Virginia. 

A meeting of the State Land Evaluation Advisory Council to adopt suggested ranges of values for agricultural, horticultural, forest and open-space land use and the use-value assessment program.

Contact: Keith Mawyer, Property Tax Manager, Department of Taxation, 2220 W. Broad St., Richmond, VA 23220, telephone (804) 367-8020.

COUNCIL ON TECHNOLOGY SERVICES

July 17, 2003 - 3 p.m. -- Open Meeting
August 21, 2003 - 3 p.m. -- Open Meeting
September 18, 2003 - 3 p.m. -- Open Meeting
Department of Rehabilitative Services, 8004 Franklin Farms Drive, Lee Building, Rooms 101, 103, and 105, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular monthly meeting of the Security Workgroup. Agenda and more details can be found at www.cots.state.va.us.

Contact: Jenny Hunter, COTS Executive Director, Council on Technology Services, 110 S. 7th St., Suite 135, Richmond, VA 23219, telephone (804) 786-9579, FAX (804) 786-9584, e-mail jhunter@gov.state.va.us.

August 7, 2003 - 2 p.m. -- Open Meeting
September 4, 2003 - 2 p.m. -- Open Meeting
† **October 2, 2003 - 2 p.m.** -- Open Meeting
Department of Information Technology, 110 South 7th Street, 3rd Floor, Executive Conference Room, Richmond, Virginia.

A regular monthly meeting of the Executive Committee. Agenda and meeting information available at www.cots.state.va.us.

Contact: Jenny Hunter, COTS Executive Director, Council on Technology Services, Department of Technology Planning, 110 S. 7th St., Richmond, VA 23219, telephone (804) 786-9579, FAX (804) 786-9584, e-mail jhunter@gov.state.va.us.

August 13, 2003 - 9:30 a.m. -- Open Meeting
September 10, 2003 - 9:30 a.m. -- Open Meeting
† **October 8, 2003 - 9:30 a.m.** -- Open Meeting
Department of Motor Vehicles, 2300 West Broad Street, 7th Floor, Executive Conference Room, Richmond, Virginia. 

A regular monthly meeting of the Change Management Workgroup. Agenda and details available at www.cots.state.va.us.

Contact: Jenny Hunter, COTS Executive Director, Council on Technology Services, 110 S. 7th St., Suite 135, Richmond, VA 23219, telephone (804) 786-9579, FAX (804) 786-9584, e-mail jhunter@gov.state.va.us.

COMMONWEALTH TRANSPORTATION BOARD

July 16, 2003 - 2 p.m. -- Open Meeting
August 20, 2003 - 2 p.m. -- Open Meeting
Department of Transportation, 1221 East Broad Street, Auditorium, Richmond, Virginia. 

A work session of the Commonwealth Transportation Board and the Department of Transportation staff.

Contact: Sandra M. Mills, Assistant Legislative Coordinator, Commonwealth Transportation Board, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 225-4701, FAX (804) 225-4700, e-mail Sandee.Mills@VirginiaDOT.org.

July 17, 2003 - 9 a.m. -- Open Meeting
August 21, 2003 - 9 a.m. -- Open Meeting
Department of Transportation, 1221 East Broad Street, Auditorium, Richmond, Virginia. 

A monthly meeting 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

Calendar of Events

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 VDOT Public Affairs at (804) 786-2715 for schedule.

Contact: Sandra M. Mills, Agency Regulatory Coordinator, Commonwealth Transportation Board, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 225-4701, FAX (804) 225-4700, e-mail Sandee.Mills@VirginiaDOT.org.

TREASURY BOARD

July 16, 2003 - 9 a.m. -- Open Meeting

August 20, 2003 - 9 a.m. -- Open Meeting

September 17, 2003 - 9 a.m. -- Open Meeting

James Monroe Building, 101 North 14th Street, 3rd Floor, Treasury Board Room, Richmond, Virginia. 

A regular meeting.

Contact: Melissa Mayes, Treasury Board Secretary, Department of the Treasury, 101 N. 14th St., 3rd Floor, Treasury Board Room, Richmond, VA 23219, telephone (804) 371-6011, FAX (804) 225-3187, e-mail melissa.mayes@trs.state.va.us.

DEPARTMENT OF THE TREASURY

Virginia Public Building Authority

† **July 15, 2003 - 11 a.m.** -- Open Meeting

Treasury Board Room, 101 North 14th Street, 3rd Floor, Richmond, Virginia. 

A meeting to review the results of the sale of the Authority's Public Facilities Revenue and Refunding Bonds, Series 2003A; to discuss and consider approval of the proposed issuance of an additional series of refunding bonds; and to conduct interviews to select a financial advisor for the authority.

Contact: Richard T. Byrne II, Public Finance Analyst, Department of the Treasury, 101 N. 14th St., 3rd Floor, Richmond, Virginia 23218-1879, telephone (804) 225-4931, FAX (804) 225-3187, e-mail rick.byrne@trs.state.va.us.

BOARD OF VETERINARY MEDICINE

August 14, 2003 - 9 a.m. -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia. 

A Special Conference Committee will conduct informal hearings (disciplinary hearings). These are public meetings, but public comment will not be received.

Contact: Terri H. Behr, Administrative Assistant, Board of Veterinary Medicine, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-9915, FAX (804) 662-7098, (804) 662-7197/TTY , e-mail terri.behr@dhp.state.va.us

VIRGINIA WAR MEMORIAL FOUNDATION

September 19, 2003 - Noon -- Open Meeting

Virginia War Memorial, 621 South Belvidere Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular quarterly meeting of the Board of Trustees to include the election of officers.

Contact: Jon C. Hatfield, Executive Director, Virginia War Memorial Foundation, 621 S. Belvidere St., Richmond, VA 23220, telephone (804) 786-2060, FAX (804) 786-6652, e-mail jhatfield@vawarmemorial.state.va.us.

VIRGINIA WASTE MANAGEMENT BOARD

July 25, 2003 - 9:30 a.m. -- Open Meeting

General Assembly Building, 9th and Broad Streets, House Room C, Richmond, Virginia. 

A regular meeting.

Contact: Cindy Berndt, Regulatory Coordinator, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4378, FAX (804) 698-4346, e-mail cmb Berndt@deq.state.va.us.

BOARD FOR WASTE MANAGEMENT FACILITY OPERATORS

July 22, 2003 - 10 a.m. -- Open Meeting

Virginia Department of Professional and Occupational Regulation, 3600 West Broad Street, Fifth Floor, Richmond, Virginia. 

A meeting to conduct board business and to consider proposing amendments to the Virginia Board for Waste Management Facility Operators Regulations (18 VAC 155-20).

Contact: David E. Dick, Executive Director, Board for Waste Management Facility Operators, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail wastemgt@dpor.state.va.us.

STATE WATER CONTROL BOARD

July 15, 2003 - 6 p.m. -- Open Meeting

Department of Environmental Quality, West Central Regional Office, 3019 Peters Creek Road, Roanoke, Virginia. 

One of two public meetings to receive comment on four notices of intent to amend the water quality standards by designating various waters as outstanding state resource waters. The notices of intent appear in this issue of the Virginia Register of Regulations. The public comment period will close on July 25, 2003.

Contact: Jean W. Gregory, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4113, FAX (804) 698-4522, e-mail jwggregory@deq.state.va.us.

July 17, 2003 - 2 p.m. -- Open Meeting
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. 

A public meeting to receive comments on the State Water Control Board's notice of intent to adopt a regulation concerning water supply planning. The NOIRA will be published in the Virginia Register and the comment period will begin on June 16, 2003. The comment period will end on July 21, 2003. In addition to the meeting contact below, interested persons can also contact Terry Wagner at 804-698-4043.

Contact: Scott Kudlas, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4456, FAX (804) 698-4346, e-mail swkudlas@deq.state.va.us.

† July 17, 2003 - 7 p.m. -- Public Hearing
Warrenton Community Center, 430 East Shirley Avenue, Warrenton, Virginia. 

A public hearing to receive comments on the proposed reissuance, plant expansion and outfall relocation for the Fauquier County Water and Sanitation Authority's Vint Hill Farms Station wastewater treatment plant. The facility is located in Warrenton. The public comment period closes on August 4, 2003.

Contact: Jeff S. Talbott, Department of Environmental Quality, 13901 Crown Court, Woodbridge, VA 22193, telephone (703) 583-3902, FAX (703) 583-3841, e-mail jstalbott@deq.state.va.us.

BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

September 9, 2003 - 8:30 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 

A meeting to conduct board business.

Contact: David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595, FAX (804) 367-6128, (804) 367-9753/TTY , e-mail waterwasteoper@dpor.state.va.us.

INDEPENDENT

VIRGINIA RETIREMENT SYSTEM

NOTE: CHANGE IN MEETING TIME

July 22, 2003 - 10 a.m. -- Open Meeting
VRS Headquarters Building, 1200 East Main Street, Richmond, Virginia. 

The meeting of the Optional Retirement Plan Advisory Committee. No public comment will be received at the meeting.

Contact: LaShaunda B. King, Administrative Secretary, Virginia Retirement System, 1200 E. Main St., Richmond, VA

23218, telephone (804) 344-3124, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY , e-mail lking@vrs.state.va.us.

August 20, 2003 - 11 a.m. -- Open Meeting
Bank of America Building, 1111 East Main Street, 4th Floor, Conference Room, Richmond, Virginia. 

A regular meeting of the Investment Advisory Committee. No public comment will be received.

Contact: Darla K. Glazier, Office Manager, Virginia Retirement System, P.O. Box 2500, Richmond, VA 23218, telephone (804) 649-8059, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY , e-mail dkestner@vrs.state.va.us.

August 20, 2003 - 3 p.m. -- Open Meeting
VRS Headquarters, 1200 East Main Street, Richmond, Virginia. 

The following committees will meet:

- 3 p.m. - Administration and Personnel Committee
- 3 p.m. - Benefits and Actuarial Committee
- 4 p.m. - Audit and Compliance Committee

Contact: Darla K. Glazier, Office Manager, Virginia Retirement System, P.O. Box 2500, Richmond, VA 23218, telephone (804) 649-8059, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY , e-mail dkestner@vrs.state.va.us.

NOTE: CHANGE IN MEETING TIME

August 21, 2003 - 9 a.m. -- Open Meeting
VRS Headquarters, 1200 East Main Street, Richmond, Virginia. 

A regular meeting of the Board of Trustees. No public comment will be received.

Contact: Darla K. Glazier, Office Manager, Virginia Retirement System, P.O. Box 2500, Richmond, VA 23218, telephone (804) 649-8059, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY , e-mail dkestner@vrs.state.va.us.

LEGISLATIVE

VIRGINIA CODE COMMISSION

August 20, 2003 - 10 a.m. -- Open Meeting
September 17, 2003 - 10 a.m. -- Open Meeting
General Assembly Bldg., 9th and Broad Streets, 6th Floor, Speaker's Conference Room, Richmond, Virginia. 
(Interpreter for the deaf provided upon request)

A meeting to discuss the recodifications of Titles 1, 3.1 and 37.1. A brief public comment period will be provided at the end of the meeting.

Contact: Jane Chaffin, Registrar of Regulations, Virginia Code Commission, General Assembly Bldg., 2nd Floor, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591, FAX (804) 692-0625, e-mail jchaffin@leg.state.va.us.

Calendar of Events

JOINT COMMISSION ON TECHNOLOGY AND SCIENCE

July 22, 2003 - 9:30 a.m. -- Open Meeting

September 3, 2003 - 1:30 p.m. -- Open Meeting

† October 8, 2003 - 1:30 p.m. -- Open Meeting

General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. 

A meeting of the JCOTS Advisory Committee on Integrated Government.

Contact: Eric Link, Staff Attorney, Joint Commission on Technology and Science, General Assembly Bldg., 2nd Floor, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591, FAX (804) 371-0169, e-mail elink@leg.state.va.us.

August 6, 2003 - 1:30 p.m. -- Open Meeting

September 17, 2003 - 1:30 p.m. -- Open Meeting

General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. 

A meeting of the JCOTS Advisory Committee on the Hard Sciences.

Contact: Eric Link, Staff Attorney, Joint Commission on Technology and Science, General Assembly Bldg., 2nd Floor, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591, FAX (804) 371-0169, e-mail elink@leg.state.va.us.

August 5, 2003 - 9:30 a.m. -- Open Meeting

September 16, 2003 - 9:30 a.m. -- Open Meeting

Location to be determined.

A meeting of the JCOTS Advisory Committee on Consumer Protection.

Contact: Mitchell Goldstein, Director, Joint Commission on Technology and Science, General Assembly Bldg., 2nd Floor, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

August 19, 2003 - 10 a.m. -- Open Meeting

Video conference; location to be determined.

A meeting to discuss homeland security.

Contact: Mitchell Goldstein, Director, Joint Commission on Technology and Science, General Assembly Bldg., 2nd Floor, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

September 2, 2003 - 9:30 a.m. -- Open Meeting

General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. 

† October 7, 2003 - 9:30 a.m. -- Open Meeting

Location to be determined.

A meeting of the JCOTS Cyberlaw Advisory Committee. The meeting will also be teleconferenced at 510 Cumberland Street, Suite 308, Bristol, Virginia.

Contact: Mitchell Goldstein, Director, Joint Commission on Technology and Science, General Assembly Bldg., 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591, e-mail jcots@leg.state.va.us.

CHRONOLOGICAL LIST

OPEN MEETINGS

July 14

Alcoholic Beverage Control Board
Conservation and Recreation, Department of
Environmental Quality, Department of
- Water Policy Technical Advisory Committee
† Mental Health, Mental Retardation and Substance
Services, Department of
- Olmstead Task Force
Motor Vehicle Dealer Board
- Advertising Committee
- Dealer Practices Committee
- Licensing Committee
- Transaction Recovery Fund Committee
Nursing, Board of

July 15

† Agriculture and Consumer Services, Department of
- Virginia Winegrowers Advisory Board
Conservation and Recreation, Department of
Corrections, Board of
- Correctional Services/Policy and Regulations Committee
- Liaison Committee
Environmental Quality, Department of
- Ground Water Protection Steering Committee
Higher Education for Virginia, State Council of
Medical Assistance Services, Department of
- Medicaid Physician Advisory Committee
† Mines, Minerals and Energy, Department of
- Virginia Gas and Oil Board
Nursing, Board of
† Treasury, Department of the
- Virginia Public Building Authority
Water Control Board, State

July 16

† Asbestos, Lead, and Home Inspectors, Virginia Board for
† Chesapeake Bay Local Assistance Board
- Policy Committee
Community Colleges, State Board for
- Academic and Student Affairs Committee
- Audit Committee
- Budget and Finance Committee
- Facilities Committee
- Personnel Committee
Corrections, Board of
- Administration Committee
Higher Education for Virginia, State Council of
- Executive Committee
Juvenile Justice, State Board of
† Labor and Industry, Department of
- Virginia Migrant and Seasonal Farmworkers Board
† Manufactured Housing Board, Virginia
Medicine, Board of
- Informal Conference Committee
Nursing, Board of
Real Estate Board
- Education Committee

Professional Soil Scientists and Wetland Professionals,
Board for
Transportation Board, Commonwealth
Treasury Board

July 17

Agriculture and Consumer Services, Department of
- Pesticide Control Board
Community Colleges, State Board for
Conservation and Recreation, Department of
- Virginia Soil and Water Conservation Board
Criminal Justice Services Board
- Private Security Services Advisory Board
Design-Build/Construction Management Review Board
† Higher Education Tuition Trust Fund, Virginia
- Actuarial Committee
Nursing, Board of
† Real Estate Appraiser Board
Real Estate Board
Technology Services, Council on
- Security Workgroup
Transportation Board, Commonwealth
Water Control Board, State

July 18

Dentistry, Board of
- Special Conference Committee
Education, Board of
- State Special Education Advisory Committee
Governor, Office of the
- Urban Policy Task Force
Optometry, Board of
- Special Conference Committee

July 21

Conservation and Recreation, Department of
† Mental Health, Mental Retardation and Substance
Services, Department of
- Olmstead Task Force

July 22

Conservation and Recreation, Department of
Contractors, Board for
Environmental Quality, Department of
Marine Resources Commission
† Pharmacy, Board of
- Special Conference Committee
Retirement System, Virginia
- Optional Retirement Plan Advisory Committee
† Small Business Financing Authority, Virginia
Technology and Science, Joint Commission on
- Advisory Committee on Integrated Government
Waste Management Facility Operators, Board for

July 23

Asbestos, Lead, and Home Inspectors, Virginia Board for
Compensation Board
Education, Board of
Emergency Planning Committee, Local
- City of Roanoke
† Fair Housing Board
† Medicine, Board of
- Informal Conference Committee
Nursing Home Administrators, Board of
- Special Conference Committee
† Real Estate Board

July 24

Agriculture and Consumer Services, Department of
- Virginia Small Grains Board
† Environmental Quality, Department of
† Fair Housing Board
† Real Estate Board
† Social Work, Board of

July 25

Agriculture and Consumer Services, Department of
- Virginia Pork Industry Board
† Dentistry, Board of
- Special Conference Committee
Health, State Board of
† Housing Development Authority, Virginia
Social Services, Department of
- Virginia Commission on National and Community
Services
Social Work, Board of
Waste Management Board, Virginia

July 26

Social Services, Department of
- Virginia Commission on National and Community
Services

July 28

Alcoholic Beverage Control Board
† Conservation and Recreation, Department of
Governor, Office of the
- Urban Policy Task Force
† Local Government, Commission on
† Mental Health, Mental Retardation and Substance
Services, Department of
- Olmstead Task Force
Psychology, Board of

July 29

† Conservation and Recreation, Department of
Contractors, Board for
† Environmental Quality, Department of
- Natural Resources Funding Commission
Geology, Board for
Nursing, Board of
- Special Conference Committee

July 30

† Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers and Landscape Architects
- Architects Section
† Accountancy, Board of
- State Executive Council
At-Risk Youth and Families, Comprehensive Services for
Museum of Fine Arts, Virginia
- Expansion Committee

July 31

† Branch Pilots, Board for
Medicine, Board of
- Informal Conference Committee
Mental Health, Mental Retardation and Substance Abuse
Services Board, State
† Pharmacy, Board of
- Special Conference Committee
Polygraph Examiners Advisory Board
Real Estate Board

August 1

Art and Architectural Review Board
† Branch Pilots, Board for

Calendar of Events

- † Medicine, Board of
- Informal Conference Committee
Mental Health, Mental Retardation and Substance Abuse
Services Board, State
- August 4**
† Chesapeake Bay Local Assistance Board
- August 5**
† Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers and Landscape Architects,
Board for
- Professional Engineers Section
† Contractors, Board for
Resources Authority, Virginia
- Board of Directors
Technology and Science, Joint Commission on
- Advisory Committee on Consumer Protection
- August 6**
† Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers and Landscape Architects,
Board for
- Land Surveyors Section
Contractors, Board for
- Tradesman and Education Committee
† Deaf and Hard-of-Hearing, Department for the
Jamestown-Yorktown Foundation
- Steering Committee
† Medicine, Board of
- Informal Conference Committee
† People with Disabilities, Virginia Board for
- Executive Committee
Technology and Science, Joint Commission on
- Advisory Committee on the Hard Sciences
- August 7**
† Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers and Landscape Architects,
Board for
- Landscape Architects Section
† Conservation and Recreation, Department of
† Taxation, Department of
- State Land Evaluation Advisory Council
Technology Services, Council on
- Executive Committee
- August 8**
† Agriculture and Consumer Services, Department of
- Virginia Soybean Board
Health, Department of
- Emergency Medical Services Advisory Board
- August 11**
Alcoholic Beverage Control Board
Environmental Quality, Department of
Nursing, Board of
- Special Conference Committee
- August 12**
Contractors, Board for
Nursing, Board of
- Special Conference Committee
- August 13**
Cemetery Board
Environmental Quality, Department of
- Litter Control and Recycling Fund Advisory Board
Milk Commission, State
† Sewage Handling and Disposal Appeal Review Board
- Technology Services, Council on
- Change Management Workgroup
- August 14**
† Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers and Landscape Architects,
Board for
- Certified Interior Designers Section
Nursing, Board of
- Special Conference Committee
Veterinary Medicine, Board of
- Special Conference Committee
- August 15**
Governor, Office of the
- Urban Policy Task Force
Health Professions, Department of
- Intervention Program Committee
† Museum of Natural History, Virginia
- Executive Committee
- August 18**
Environmental Quality, Department of
- Water Policy Technical Advisory Committee
- August 19**
Nursing, Board of
- Special Conference Committee
Technology and Science, Joint Commission on
- Advisory Committee on Homeland Security
- August 20**
Code Commission, Virginia
Contractors, Board for
Environmental Quality, Department of
- Recycling Markets Development Council
† George Mason University
Retirement System, Virginia
- Administration and Personnel Committee
- Audit and Compliance Committee
- Benefits and Actuarial Committee
- Investment Advisory Committee
† Social Services, State Board of
Transportation Board, Commonwealth
Treasury Board
- August 21**
† Agriculture and Consumer Services, Department of
- Virginia Cotton Board
† Counseling, Board of
- Credentials Committee
Design-Build/Construction Management Review Board
† Environmental Quality, Department of
- Natural Resources Funding Committee
Health, Department of
- Sewage Handling and Disposal Advisory Committee
† Social Services, State Board of
Technology Services, Council on
- Security Workgroup
Retirement System, Virginia
- Board of Trustees
Transportation Board, Commonwealth
- August 22**
† Counseling, Board of
- August 25**
Agriculture and Consumer Services, Department of
- Virginia Horse Industry Board
Alcoholic Beverage Control Board

August 26

Contractors, Board for
Marine Resources Commission
Nursing, Board of
- Special Conference Committee
Real Estate Appraiser Board

August 27

Asbestos, Lead, and Home Inspectors, Virginia Board for
At-Risk Youth and Families, Comprehensive Services for
- State Executive Council

August 28

† Medicine, Board of
- Informal Conference Committee

September 2

Technology and Science, Joint Commission on
- Advisory Committee on Cyberlaw

September 3

† Medicine, Board of
- Informal Conference Committee
Real Estate Board
- Education Committee
Technology and Science, Joint Commission on
- Advisory Committee on Integrated Government

September 4

Museum of Fine Arts, Virginia
- Executive Committee
Real Estate Board
Information Technologies Agency, Virginia
- VGIN Advisory Board
Technology Services, Council on
- Executive Committee

September 5

Art and Architectural Review Board
† Environmental Quality, Department of
- Natural Resources

September 8

Alcoholic Beverage Control Board

September 9

Contractors, Board for
Funeral Directors and Embalmers, Board of
Governor, Office of the
- Urban Policy Task Force
Medical Assistance Services, Board of
Waterworks and Wastewater Works Operators, Board for

September 10

† Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers and Landscape Architects,
Board for
Jamestown-Yorktown Foundation
- Steering Committee
Information Technologies Agency, Virginia
- Wireless E-911 Services Board
Technology Services, Council on
- Change Management Workgroup

September 11

Environmental Quality, Department of
- Water Policy Technical Advisory Committee

September 12

Child Fatality Review Team, State

September 13

† Conservation and Recreation, Department of
- Virginia Cave Board

September 15

† Museum of Natural History, Virginia
- Executive Committee

September 16

Contractors, Board for
Technology and Science, Joint Commission on
- Advisory Committee on Consumer Protection

September 17

Code Commission, Virginia
Education, Board of
† Medicine, Board of
- Informal Conference Committee
Real Estate Board
Technology and Science, Joint Commission on
- Advisory Committee on the Hard Sciences
Treasury Board

September 18

Design-Build/Construction Management Review Board
Polygraph Examiners Advisory Board
Real Estate Board
† Taxation, Department of
- State Land Evaluation Advisory Council
Technology Services, Council on

September 19

Social Work, Board of
War Memorial Foundation, Virginia
- Security Workgroup

September 22

Alcoholic Beverage Control Board
Nursing, Board of

September 23

Governor, Office of the
- Urban Policy Task Force
Nursing, Board of

September 24

At-Risk Youth and Families, Comprehensive Services for
- State Executive Council
George Mason University
Nursing, Board of

September 25

Nursing, Board of
Public Guardian and Conservator Advisory Board, Virginia

September 29

Environmental Quality, Department of
- Water Policy Technical Advisory Committee

September 30

Contractors, Board for

October 2

† Technology Services, Council on
- Executive Committee

October 3

† Art and Architectural Review Board

October 7

† Museum of Fine Arts, Virginia
- Executive Committee
† Nursing, Board of
- Special Conference Committee
† Technology and Science, Joint Commission on
- Advisory Committee on Cyberlaw

Calendar of Events

October 8

- † Contractors, Board for
- † Nursing, Board of
 - Special Conference Committee
- † Technology Services, Council on
 - Change Management Workgroup
- † Technology and Science, Joint Commission on
 - Advisory Committee on Integrated Government

October 10

- † Social Services, Department of
 - Virginia Commission on National and Community Service

October 14

- † Alcoholic Beverage Control Board
- † Contractors, Board for
- † Nursing, Board of
 - Special Conference Committee

PUBLIC HEARINGS

July 17

- Mental Health, Mental Retardation and Substance Services Board, State
- † Water Control Board, State

July 24

- Housing Development Authority, Virginia

July 28

- † Local Government, Commission on

August 12

- † Labor and Industry, Department of
 - Safety and Health Codes Board

August 20

- † Air Pollution Control Board, State

August 26

- † Air Pollution Control Board, State