
TABLE OF CONTENTS

CUMULATIVE TABLE OF VIRGINIA ADMINISTRATIVE CODE SECTIONS ADOPTED, AMENDED, OR REPEALED

Cumulative Table.....2109

PETITIONS FOR RULEMAKING

TITLE 12. HEALTH

DEPARTMENT OF HEALTH

Initial Agency Notice

Regulations for the Licensure of Hospitals in Virginia (12 VAC 5-410).....2112

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF ACCOUNTANCY

Agency Decision

Board of Accountancy Regulations (18 VAC 5-21).....2112

NOTICES OF INTENDED REGULATORY ACTION

TITLE 12. HEALTH

Department of Medical Assistance Services.....2113

TITLE 18. PROFESSIONAL AND OCCUPATIONAL REGULATION

Department of Health Professions.....2113

TITLE 22. SOCIAL SERVICES

State Board of Social Services.....2113

PROPOSED REGULATIONS

TITLE 9. ENVIRONMENT

STATE WATER CONTROL BOARD

Virginia Pollution Discharge Elimination System (VPDES) General Permit for Concentrated Animal Feeding Operations (adding 9 VAC 25-191-10 through 9 VAC 25-191-50).....2115

Virginia Pollution Abatement (VPA) General Permit Regulation for Animal Feeding Operations (amending 9 VAC 25-192-10, 9 VAC 25-192-20, 9 VAC 25-192-50, 9 VAC 25-192-60 and 9 VAC 25-192-70; repealing 9 VAC 25-192-30 and 9 VAC 25-192-40).....2130

Virginia Pollution Abatement General Permit Regulation for Poultry Waste Management (amending 9 VAC 25-630-10, 9 VAC 25-630-20, 9 VAC 25-630-30 and 9 VAC 25-630-50).....2141

TITLE 11. GAMING

VIRGINIA RACING COMMISSION

Advance Deposit Account Wagering (adding 11 VAC 10-45-10 through 11 VAC 10-45-70).....2149

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF HEALTH PROFESSIONS

Regulations Governing the Criteria for Certification of Dialysis Technicians (adding 18 VAC 75-40-10, 18 VAC 75-40-20 and 18 VAC 75-40-30).....2156

FINAL REGULATIONS

TITLE 1. ADMINISTRATION

DEPARTMENT OF HUMAN RESOURCE MANAGEMENT

Commonwealth of Virginia Health Benefits Program (amending 1 VAC 55-20-20, 1 VAC 55-20-30, 1 VAC 55-20-40, 1 VAC 55-20-60 through 1 VAC 55-20-90, 1 VAC 55-20-110, 1 VAC 55-20-130, 1 VAC 55-20-160, 1 VAC 55-20-210, 1 VAC 55-20-230 through 1 VAC 55-20-260, 1 VAC 55-20-280, 1 VAC 55-20-290, 1 VAC 55-20-300, 1 VAC 55-20-320 through 1 VAC 55-20-410, 1 VAC 55-20-430, 1 VAC 55-20-450 and 1 VAC 55-20-460; repealing 1 VAC 55-20-10, 1 VAC 55-20-50, 1 VAC 55-20-120 and 1 VAC 55-20-420).....2159

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF MEDICINE

Regulations Governing the Practice of Medicine, Osteopathy, Podiatry and Chiropractic (amending 18 VAC 85-20-22).....2164

BOARD OF NURSING

Regulations Governing the Practice of Nursing (amending 18 VAC 90-20-30).....2166

BOARD FOR PROFESSIONAL SOIL SCIENTISTS AND WETLAND PROFESSIONALS

Wetland Delineators Certification Regulations (adding 18 VAC 145-30-10 through 18 VAC 145-30-160).....2167

Table of Contents

TITLE 22. SOCIAL SERVICES

STATE BOARD OF SOCIAL SERVICES

Adult Protective Services (amending 22 VAC 40-740-10 through 22 VAC 40-740-60).2175

GENERAL NOTICES/ERRATA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Stream Condition Index for Virginia Noncoastal Streams.2179

Total Maximum Daily Load (TMDL) for Catoctin Creek2179

STATE CORPORATION COMMISSION

Bureau of Insurance - Administrative Letter 2004-32179

STATE LOTTERY DEPARTMENT

Director's Orders2182

VIRGINIA CODE COMMISSION

Notice to State Agencies2182

Forms for Filing Material for Publication in *The Virginia Register of Regulations*2182

CALENDAR OF EVENTS

EXECUTIVE

Open Meetings and Public Hearings2183

INDEPENDENT

Open Meetings and Public Hearings.....2201

LEGISLATIVE

Open Meetings and Public Hearings.....2202

CHRONOLOGICAL LIST

Open Meetings.....2202

Public Hearings.....2204

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 2004 VAC Supplement includes final regulations published through *Virginia Register* Volume 20, Issue 11, dated February 9, 2004). 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 2. Agriculture			
2 VAC 5-440-10 through 2 VAC 5-440-60	Amended	20:12 VA.R. 1471-1474	3/25/04
2 VAC 5-440-80	Repealed	20:12 VA.R. 1474	3/25/04
2 VAC 5-440-90	Repealed	20:12 VA.R. 1474	3/25/04
Title 4. Conservation and Natural Resources			
4 VAC 5-36-20	Amended	20:13 VA.R. 1604	4/7/04
4 VAC 5-36-50 through 4 VAC 5-36-150	Amended	20:13 VA.R. 1604-1621	4/7/04
4 VAC 5-36-170 through 4 VAC 5-36-210	Amended	20:13 VA.R. 1621-1632	4/7/04
4 VAC 5-36-220	Added	20:13 VA.R. 1632	4/7/04
4 VAC 20-20-50	Amended	20:14 VA.R. 1709	3/1/04
4 VAC 20-270-20	Amended	20:19 VA. R. 2058	5/1/04
4 VAC 20-270-30	Amended	20:19 VA. R. 2058	5/1/04
4 VAC 20-490-10 emer	Amended	20:18 VA.R. 2024	5/1/04-5/30/04
4 VAC 20-490-20 emer	Amended	20:18 VA.R. 2024	5/1/04-5/30/04
4 VAC 20-490-35 emer	Repealed	20:18 VA.R. 2024	5/1/04-5/30/04
4 VAC 20-490-40 emer	Amended	20:18 VA.R. 2024	5/1/04-5/30/04
4 VAC 20-490-45 emer	Repealed	20:18 VA.R. 2025	5/1/04-5/30/04
4 VAC 20-620-50	Amended	20:16 VA.R. 1863	3/26/04
4 VAC 20-620-60	Amended	20:16 VA.R. 1863	3/26/04
4 VAC 20-720-20	Amended	20:14 VA.R. 1710	3/1/04
4 VAC 20-720-40	Amended	20:14 VA.R. 1710	3/1/04
4 VAC 20-720-48 emer	Added	20:14 VA.R. 1714	3/1/04-3/31/04
4 VAC 20-720-50	Amended	20:14 VA.R. 1711	3/1/04
4 VAC 20-720-60	Amended	20:14 VA.R. 1711	3/1/04
4 VAC 20-720-80	Amended	20:14 VA.R. 1712	3/1/04
4 VAC 20-750-10	Amended	20:19 VA. R. 2058	5/1/04
4 VAC 20-750-20	Repealed	20:19 VA. R. 2059	5/1/04
4 VAC 20-750-30	Amended	20:19 VA. R. 2059	5/1/04
4 VAC 20-750-40	Amended	20:19 VA. R. 2059	5/1/04
4 VAC 20-910-45	Amended	20:16 VA.R. 1864	4/1/04
4 VAC 20-920-20	Amended	20:15 VA.R. 1778	3/5/04
4 VAC 20-920-40	Amended	20:15 VA.R. 1778	3/5/04
4 VAC 20-950-45	Amended	20:16 VA.R. 1864	4/1/04
4 VAC 20-1040-20	Amended	20:19 VA. R. 2060	5/1/04
4 VAC 25-31 (Forms)	Amended	20:15 VA.R. 1784-1792	--
4 VAC 25-130 (Forms)	Amended	20:19 VA. R. 2081-2083	--
Title 9. Environment			
9 VAC 5-20-21	Amended	20:12 VA.R. 1476	3/24/04
9 VAC 5-20-206 (Rev. G02)	Amended	20:12 VA.R. 1498	3/24/04
9 VAC 5-20-206 (Rev. C03)	Amended	20:12 VA.R. 1498	3/24/04
9 VAC 5-40-8640	Erratum	20:18 VA.R. 2027	--
9 VAC 5-40-240	Amended	20:12 VA.R. 1499	3/24/04
9 VAC 5-40-310	Erratum	20:15 VA.R. 1809	--
9 VAC 5-40-310	Amended	20:12 VA.R. 1499	3/24/04

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
9 VAC 5-40-3260	Amended	20:12 VA.R. 1479	3/24/04
9 VAC 5-40-5200	Amended	20:12 VA.R. 1500	3/24/04
9 VAC 5-40-5220	Amended	20:12 VA.R. 1501	3/24/04
9 VAC 5-40-5700 through 9 VAC 5-40-5770	Added	20:12 VA.R. 1480	3/24/04
9 VAC 5-40-6820 through 9 VAC 5-40-7230	Added	20:12 VA.R. 1480-1497	3/24/04
9 VAC 5-50-400	Amended	20:16 VA.R. 1865	6/1/04
9 VAC 5-50-405	Added	20:16 VA.R. 1865	6/1/04
9 VAC 5-50-410	Amended	20:16 VA.R. 1865	6/1/04
9 VAC 5-60-60	Amended	20:16 VA.R. 1871	6/1/04
9 VAC 5-60-65	Added	20:16 VA.R. 1871	6/1/04
9 VAC 5-60-90	Amended	20:16 VA.R. 1871	6/1/04
9 VAC 5-60-95	Added	20:16 VA.R. 1871	6/1/04
9 VAC 5-60-100	Amended	20:16 VA.R. 1872	6/1/04
9 VAC 5-60-120 through 9 VAC 5-60-180	Amended	20:16 VA.R. 1877-1889	7/1/04
9 VAC 5-91-20 emer	Amended	20:12 VA.R. 1507	1/28/04-1/27/05
9 VAC 5-91-160 emer	Amended	20:12 VA.R. 1513	1/28/04-1/27/05
9 VAC 5-91-180 emer	Amended	20:12 VA.R. 1513	1/28/04-1/27/05
9 VAC 5-91-750 emer	Amended	20:12 VA.R. 1515	1/28/04-1/27/05
9 VAC 5-91-760 emer	Amended	20:12 VA.R. 1515	1/28/04-1/27/05
9 VAC 5-140-550	Amended	20:12 VA.R. 1504	3/24/04
9 VAC 25-151-10	Amended	20:16 VA.R. 1889	7/1/04
9 VAC 25-151-40 through 9 VAC 25-151-370	Amended	20:16 VA.R. 1889-1890	7/1/04
9 VAC 25-151-65	Added	20:16 VA.R. 1889	7/1/04
9 VAC 25-180-10	Amended	20:16 VA.R. 1891	7/1/04
9 VAC 25-180-20	Amended	20:16 VA.R. 1891	7/1/04
9 VAC 25-180-40	Amended	20:16 VA.R. 1891	7/1/04
9 VAC 25-180-50	Amended	20:16 VA.R. 1891	7/1/04
9 VAC 25-180-55	Amended	20:16 VA.R. 1892	7/1/04
9 VAC 25-180-60	Amended	20:16 VA.R. 1892	7/1/04
9 VAC 25-180-65	Added	20:16 VA.R. 1893	7/1/04
9 VAC 25-180-70	Amended	20:16 VA.R. 1894	7/1/04
9 VAC 25-190-10	Amended	20:16 VA.R. 1906	7/1/04
9 VAC 25-190-20	Amended	20:16 VA.R. 1906	7/1/04
9 VAC 25-190-50	Amended	20:16 VA.R. 1906	7/1/04
9 VAC 25-190-60	Amended	20:16 VA.R. 1906	7/1/04
9 VAC 25-190-70	Amended	20:16 VA.R. 1906	7/1/04
9 VAC 25-580-10	Amended	20:12 VA.R. 1505	3/24/04
9 VAC 25-580-50	Amended	20:12 VA.R. 1505	3/24/04
9 VAC 25-580-130	Amended	20:12 VA.R. 1505	3/24/04
9 VAC 25-580-270	Amended	20:12 VA.R. 1505	3/24/04
9 VAC 25-580-290	Repealed	20:12 VA.R. 1505	3/24/04
9 VAC 25-580-320	Amended	20:12 VA.R. 1505	3/24/04
9 VAC 25-590-60	Erratum	20:17 VA.R. 1984	--
9 VAC 25-790	Erratum	20:12 VA.R. 1526	--
Title 10. Finance and Financial Institutions			
10 VAC 5-40-40	Added	20:14 VA.R. 1713	3/1/04
Title 12. Health			
12 VAC 30-40-235	Added	20:19 VA. R. 2060	8/1/04
12 VAC 30-50-140	Amended	20:19 VA. R. 2062	7/1/04
12 VAC 30-50-150	Amended	20:19 VA. R. 2063	7/1/04
12 VAC 30-50-180	Amended	20:19 VA. R. 2064	7/1/04
12 VAC 30-50-210 emer	Amended	20:19 VA. R. 2075	5/11/04-1/3/05
12 VAC 30-60-40	Amended	20:19 VA. R. 2067	7/1/04
12 VAC 30-60-320	Amended	20:19 VA. R. 2067	7/1/04
12 VAC 30-70-271	Amended	20:19 VA. R. 2068	7/1/04
12 VAC 30-80-20	Amended	20:19 VA. R. 2068	7/1/04

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 30-80-30	Amended	20:19 VA. R. 2064	7/1/04
12 VAC 30-80-200	Added	20:19 VA. R. 2071	7/1/04
12 VAC 30-90-264	Amended	20:19 VA. R. 2067	7/1/04
12 VAC 30-90-271	Amended	20:19 VA. R. 2067	7/1/04
12 VAC 30-130-620	Amended	20:19 VA. R. 2061	8/1/04
12 VAC 30-130-1000 emer	Amended	20:19 VA. R. 2077	5/11/04-1/3/05
12 VAC 30-141-500 emer	Amended	20:17 VA.R. 1974	6/1/04-5/31/05
Title 14. Insurance			
14 VAC 5-90-30	Erratum	20:17 VA.R. 1984	--
14 VAC 5-90-60	Erratum	20:17 VA.R. 1984	--
14 VAC 5-90-70	Erratum	20:17 VA.R. 1984	--
14 VAC 5-90-130	Erratum	20:17 VA.R. 1984	--
14 VAC 5-90-170	Erratum	20:17 VA.R. 1984	--
14 VAC 5-321-10 through 14 VAC 5-321-60	Added	20:16 VA.R. 1906-1909	7/1/04
Title 16. Labor and Employment			
16 VAC 25-85-1910.139	Repealed	20:19 VA. R. 2071	7/1/04
16 VAC 25-90-1910.401	Amended	20:19 VA. R. 2073	7/1/04
16 VAC 25-90-1910.402	Amended	20:19 VA. R. 2073	7/1/04
16 VAC 25-145-10 through 16 VAC 25-145-50	Added	20:12 VA.R. 1505-1506	4/1/04
16 VAC 25-90-1910, Appendix C of Subpart T of Part 1910	Added	20:19 VA. R. 2073	7/1/04
Title 18. Professional and Occupational Licensing			
18 VAC 41-40-10 through 18 VAC 41-40-260	Added	20:19 VA. R. 2074	7/1/04
18 VAC 62-20-10 through 18 VAC 62-20-180	Added	20:12 VA.R. 1515-1518	2/2/04-2/1/05
18 VAC 110-20-720	Amended	20:18 VA.R. 2021	7/1/04
18 VAC 120-10-100	Erratum	20:13 VA.R. 1644	--
Title 20. Public Utilities and Telecommunications			
20 VAC 5-309-15	Amended	20:15 VA.R. 1781	3/12/04
20 VAC 5-309-20	Amended	20:15 VA.R. 1781	3/12/04
20 VAC 5-309-40	Amended	20:15 VA.R. 1781	3/12/04
20 VAC 5-309-70	Amended	20:15 VA.R. 1782	3/12/04
20 VAC 5-309-110	Amended	20:15 VA.R. 1782	3/12/04
20 VAC 5-309-140	Amended	20:15 VA.R. 1783	3/12/04
Title 22. Social Services			
22 VAC 30-50-30	Amended	20:18 VA.R. 2022	6/18/04
22 VAC 40-190	Erratum	20:12 VA.R. 1526	--
22 VAC 40-191	Erratum	20:12 VA.R. 1526	--
Title 24. Transportation and Motor Vehicles			
24 VAC 30-380-10	Amended	20:13 VA.R. 1633	2/12/04

PETITIONS FOR RULEMAKING

TITLE 12. HEALTH

DEPARTMENT OF HEALTH

Initial Agency Notice

Title of Regulation: **12 VAC 5-410. Regulations for the Licensure of Hospitals in Virginia.**

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

Name of Petitioner: Virginia Council for periOperative Nurses (Ruth E. Vaiden).

Nature of Petitioner's Request: Amend 12 VAC 5-410-420 to require that a registered nurse, licensed by the Board of Nursing and qualified by education and experience in perioperative nursing, be present as a circulating nurse during surgical procedures.

Agency's Plan for Disposition of Request: To conduct a public comment period to determine the impact on patient care. A decision to grant or deny the petition will be based on analysis of the comments received and reviewed with the Board of Health at its Fall 2004 meeting.

Public comments may be submitted until 5 p.m. on July 5, 2004.

Agency Contact: Carrie Eddy, Senior Policy Analyst, Department of Health, Center for Quality Health Care Services, 3600 West Broad Street, Suite 216, Richmond, VA 23230, telephone (804) 367-2157, FAX (804) 367-2149, or e-mail carrie.eddy@vdh.virginia.gov.

VA.R. Doc. No. R04-164; Filed May 21, 2004, 10:58 a.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF ACCOUNTANCY

Agency Decision

Title of Regulation: **18 VAC 5-21. Board of Accountancy Regulations.**

Statutory Authority: §§ 54.1-4403 and 54.1-4409 of the Code of Virginia.

Name of Petitioner: W. Randolph Simmons.

Nature of Petitioner's Request: The petitioner is requesting the board to consider amending proposed regulations that will create a new designation of inactive status for CPAs in proposed new section 18 VAC 5-21-81. This proposed designation will cover the CPA who is not providing or offering to provide any services involving the application of accounting and auditing knowledge or experience, issuing reports on financial advisory or consulting services, preparing tax returns, or furnishing advice on tax matters for the public, an employer or other organization. If this situation exists for the CPA, then the CPA may "discontinue renewal of his license and may use

the designation CPA (Inactive) on business cards or letterhead." The petitioner is requesting to change the new designation from "CPA (Inactive)" to "CPA (Retired)."

Agency Decision: Request granted.

Statement of Reasons for Decision: With no public comment being submitted as a result of the petition's publication in the Virginia Register, the board, at its May 6, 2004, meeting, agreed to add the designation "CPA (Retired)," along with "CPA (Inactive)," to the language in its proposed new section 18 VAC 5-21-81.

Agency Contact: Nancy Taylor Feldman, Executive Director, Board of Accountancy, 3600 West Broad Street, Suite 696, Richmond, VA 23230-4916, telephone (804) 367-8505, FAX (804) 367-2174, or e-mail boa@boa.state.va.us.

VA.R. Doc. No. R04-115; Filed May 25, 2004, 3:46 p.m.

NOTICES OF INTENDED REGULATORY ACTION

Symbol Key

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

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 **12 VAC 30-141, Family Access to Medical Insurance Security Plan**. The purpose of the proposed action is to require prior authorization of drugs for noninstitutionalized FAMIS recipients receiving fee-for-service benefits when they exceed the established thresholds within the specified time frames. This program does not apply to FAMIS recipients enrolled4 in managed care organizations.

The agency does not intend to hold a public hearing on the proposed action 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 1, 2004, to Linda L. Nablo, Director, Child Health Insurance Programs, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Brian McCormick, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8856, FAX (804) 786-1680 or e-mail Brian.McCormick@dmas.virginia.gov.

VA.R. Doc. No. R04-142; Filed April 15, 2004, 2:27 p.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL REGULATION

DEPARTMENT 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 Department of Health Professions intends to consider amending regulations entitled **18 VAC 76-20, Regulations Governing the Prescription Monitoring Program**. The purpose of the proposed action is to consider amendments to requirements for the patient to sign a separate and distinct consent form for disclosure of drug information in the Prescription Monitoring Program (PMP) and for the physician to provide a copy of the signed release from the

patient to remove an unnecessary barrier to full utilization of the monitoring system.

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

Statutory Authority: Chapter 25.2 (§§ 54.1-2519 through 54.1-2525) of Title 54.1 of the Code of Virginia.

Public comments may be submitted until 5 p.m. on June 16, 2004.

Contact: Robert Nebiker, Director, Department of Health Professions, 6603 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9919, FAX (804) 662-9114 or e-mail robert.nebiker@dhp.virginia.gov.

VA.R. Doc. No. R04-146; Filed April 27, 2004, 12:22 p.m.

TITLE 22. SOCIAL SERVICES

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 repealing the following seven regulations entitled:

22 VAC 40-200, Foster Care - Guiding Principles

22 VAC 40-210, Foster Care - Assessing the Client's Service Needs

22 VAC 40-240, Nonagency Placement for Adoption - Consent

22 VAC 40-250, Agency Placement for Adoptions - AREVA

22 VAC 40-260, Agency Placement Adoptions - Subsidy

22 VAC 40-280, Nonagency Placements for Adoption - Adoptive Home Study

22 VAC 40-800, Family Based Social Services

The purpose of the proposed action is to repeal the current regulations listed above and replace them with one comprehensive new Permanency Services Regulation that will encompass the full range of services for providing a child with a safe, secure and stable situation in which to grow up. The subject matter of the current regulation will be included in the permanency services regulation.

The agency does not intend to hold a public hearing on the proposed regulations after publication.

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

Notices of Intended Regulatory Action

Public comments may be submitted until June 16, 2004.

Contact: Therese A. Wolf, Foster Care Policy Specialist, Department of Social Services, 7 N. 8th St., Richmond, VA 23219, telephone (804) 726-7522, FAX (804) 726-7499 or e-mail therese.wolf@dss.virginia.gov.

VA.R. Doc. Nos. R04-148, R04-149, R04-150, R04-151, R04-152, R04-153, R04-154; Filed April 27, 2004, 11:14 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 40-201, Permanency Services - Prevention, Foster Care, Adoption, and Independent Living**. The purpose of the proposed action is establish a new, comprehensive Permanency Services Regulation encompassing all services directly related to achieving and maintaining permanency for children in one location in the Virginia Administrative Code.

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

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

Public comments may be submitted until June 16, 2004.

Contact: Therese A. Wolf, Foster Care Policy Specialist, Department of Social Services, 7 N. 8th St., Richmond, VA 23219, telephone (804) 726-7522, FAX (804) 726-7499 or e-mail therese.wolf@dss.virginia.gov.

VA.R. Doc. No. R04-147; Filed April 27, 2004, 11:14 a.m.



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 WATER CONTROL BOARD

REGISTRAR'S NOTICE: The following regulations filed by the State Water Control Board are exempt from the Administrative Process Act in accordance with § 2.2-4006 A 9 of the Code of Virginia, which exempts general permits issued by the State Water Control Board pursuant to the State Water Control Law (§ 62.1-44.2 et seq.), Chapter 24 (§ 62.1-242 et seq.) of Title 62.1 and Chapter 25 (§ 62.1-254 et seq.) of Title 62.1 of the Code of Virginia if the board (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of § 2.2-4007 B, (ii) following the passage of 30 days from the publication of the Notice of Intended Regulatory Action, forms a technical advisory committee composed of relevant stakeholders, including potentially affected citizens groups, to assist in the development of the general permit, (iii) provides notice and receives oral and written comment as provided in § 2.2-4007 F, and (iv) conducts at least one public hearing on the proposed general permit.

Title of Regulation: **9 VAC 25-191. Virginia Pollution Discharge Elimination System (VPDES) General Permit for Concentrated Animal Feeding Operations (adding 9 VAC 25-191-10 through 9 VAC 25-191-50).**

Statutory Authority: §§ 62.1-44.15 and 62.1-44.17:1 of the Code of Virginia; 40 CFR Parts 9, 122, 123, and 412.

Public Hearing Dates:

July 20, 2004 - 2 p.m. (Harrisonburg)

July 21, 2004 - 10 a.m. (Glen Allen)

Public comments may be submitted until 5 p.m. on August 13, 2004.

(See Calendar of Events section for additional information)

Agency Contact: Jon G. Van Soestbergen, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4117, FAX (804) 698-4032, or e-mail jvansoest@deq.state.va.us.

Summary:

The purpose of the proposed action is to develop and adopt a general permit regulation to comply with the provisions of 40 CFR Parts 9, 122, 123, and 412 as published in the Federal Register, Volume 68, No. 29, dated February 12, 2003. The general permit regulation will govern the authorization to manage pollutants from concentrated animal feeding operations, including storage and land application of animal waste.

The State Water Control Board has the authority to administer the federal National Pollution Discharge Elimination System program within the Commonwealth, and

as such, the program is called the Virginia Pollution Discharge Elimination System (VPDES). Operations that meet the federal definition of Concentrated Animal Feeding Operation (CAFO) found in 40 CFR 122.23 must seek coverage under a NPDES permit. This action will result in the promulgation of a VPDES general permit that will allow those operations to obtain this type of permit. CAFOs are currently regulated in Virginia under the Virginia Pollution Abatement (VPA) permit regulation in 9 VAC 25-32, the VPA General Permit Regulation for CAFOs in 9 VAC 25-192, and the VPA General Permit Regulation for Poultry Waste Management in 9 VAC 25-630. Affected operations currently permitted under these regulations will be required to be permitted under this new VPDES general permit regulation.

CHAPTER 191.

VIRGINIA POLLUTION DISCHARGE ELIMINATION SYSTEM (VPDES) GENERAL PERMIT FOR CONCENTRATED ANIMAL FEEDING OPERATIONS.

9 VAC 25-191-10. Definitions.

The words and terms used in this regulation shall have the meanings defined in the State Water Control Law and 9 VAC 25-31 (VPDES Permit Regulation) unless the context clearly indicates otherwise, except that for the purposes of this regulation:

"Animal feeding operation" or "AFO" means a lot or facility (other than an aquatic animal production facility) where the following conditions are met:

- 1. Animals (other than aquatic animals) have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period, and*
- 2. Crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.*

Two or more animal feeding operations under common ownership are a single animal feeding operation for the purposes of determining the number of animals at an operation if they adjoin each other or if they use a common area or system for the disposal of wastes.

"Best Management Practices" or "BMPs" means structural improvements, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of surface waters. BMPs also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, or drainage from raw material storage.

"Concentrated animal feeding operation" or "CAFO" means an animal feeding operation that is defined as a "Large CAFO" or as a "Medium CAFO," or that is designated as a "Medium CAFO" or a "Small CAFO." Any AFO may be designated as a

Proposed Regulations

CAFO by the director in accordance with the provisions of 40 CFR 122.23 (April 14, 2003).

1. "Large CAFO." An AFO is defined as a Large CAFO if it stables or confines as many as or more than the numbers of animals specified in any of the following categories:

- a. 700 mature dairy cattle, whether milked or dry;
- b. 1,000 veal calves;
- c. 1,000 cattle other than mature dairy cows or veal calves. Cattle includes but is not limited to heifers, steers, bulls, and cow-calf pairs;
- d. 2,500 swine each weighing 55 pounds or more;
- e. 10,000 swine each weighing less than 55 pounds;
- f. 500 horses;
- g. 10,000 sheep or lambs;
- h. 55,000 turkeys;
- i. 30,000 laying hens or broilers, if the AFO uses a liquid manure handling system;
- j. 125,000 chickens (other than laying hens), if the AFO uses other than a liquid manure handling system;
- k. 82,000 laying hens, if the AFO uses other than a liquid manure handling system;
- l. 30,000 ducks, if the AFO uses other than a liquid manure handling system; or
- m. 5,000 ducks, if the AFO uses a liquid manure handling system.

2. "Medium CAFO." The term "Medium CAFO" includes any AFO that has the type and number of animals found within any of the ranges below and that has been defined or designated as a CAFO. An AFO is defined as a Medium CAFO if:

- a. The type and number of animals it stables or confines falls within any of the following ranges:
 - (1) 200 to 699 mature dairy cattle (whether milked or dry cows);
 - (2) 300 to 999 veal calves;
 - (3) 300 to 999 cattle other than mature dairy cows or veal calves. Cattle includes but is not limited to heifers, steers, bulls, and cow-calf pairs;
 - (4) 750 to 2,499 swine (each weighing 55 pounds or more);
 - (5) 3,000 to 9,999 swine (each weighing less than 55 pounds);
 - (6) 150 to 499 horses;
 - (7) 3,000 to 9,999 sheep or lambs;
 - (8) 16,500 to 54,999 turkeys;
 - (9) 9,000 to 29,999 laying hens or broilers, if the AFO uses a liquid manure handling system;

(10) 37,500 to 124,999 chickens (other than laying hens), if the AFO uses other than a liquid manure handling system;

(11) 25,000 to 81,999 laying hens, if the AFO uses other than a liquid manure handling system;

(12) 10,000 to 29,999 ducks, if the AFO uses other than a liquid manure handling system; or

(13) 1,500 to 4,999 ducks, if the AFO uses a liquid manure handling system; and

b. Either one of the following conditions are met:

(1) Pollutants are discharged into waters of the United States through a man-made ditch, flushing system, or other similar man-made device; or

(2) Pollutants are discharged directly into waters of the United States that originate outside of and pass over, across, or through the facility or otherwise come into direct contact with the animals confined in the operation.

The term "man-made" means constructed by man and used for the purpose of transporting wastes.

3. "Small CAFO." An AFO that is designated as a CAFO and is not a Medium CAFO.

"Director" means the Director of the Department of Environmental Quality, or his designee.

"Operator" means any owner or operator (individual, partnership, corporation, or association) of an AFO or CAFO in this state that is eligible to be certified under the provisions of this general permit.

"Permittee" means any operator (individual, partnership, corporation, or association) in the Commonwealth of Virginia that is certified to be covered under the provisions of this general permit.

"Process wastewater" means water directly or indirectly used in the operation of the AFO for any or all of the following: spillage or overflow from animal or poultry watering systems; washing, cleaning, or flushing pens, barns, manure pits, or other AFO facilities; direct contact swimming, washing, or spray cooling of animals; or dust control. Process wastewater also includes any water that comes into contact with any raw materials, products, or byproducts including manure, litter, feed, milk, eggs or bedding.

"Production area" means that part of an AFO that includes the animal confinement area, the manure storage area, the raw materials storage area, and the waste containment areas. The animal confinement area includes but is not limited to open lots, housed lots, feedlots, confinement houses, stall barns, free stall barns, milkrooms, milking centers, cowyards, barnyards, medication pens, walkers, animal walkways, and stables. The manure storage area includes but is not limited to lagoons, runoff ponds, storage sheds, stockpiles, under house or pit storages, liquid impoundments, static piles, and composting piles. The raw materials storage area includes but is not limited to feed silos, silage bunkers, and bedding materials. The waste containment area includes but is not

limited to settling basins, and areas within berms and diversions that separate uncontaminated storm water. Also included in the definition of production area is any egg washing or egg processing facility, and any area used in the storage, handling, treatment, or disposal of mortalities.

"Setback" means a specified distance from surface waters or potential conduits to surface waters where manure, litter, and process wastewater may not be land applied. Examples of conduits to surface waters include but are not limited to open tile line intake structures, sinkholes, and agricultural well heads.

"Storm water" means storm water runoff, snow melt runoff, and surface runoff and drainage.

"Vegetated buffer" means a permanent strip of dense perennial vegetation established parallel to the contours of and perpendicular to the dominant slope of the field for the purposes of slowing water runoff, enhancing water infiltration, and minimizing the risk of any potential nutrients or pollutants from leaving the field and reaching surface waters.

9 VAC 25-191-20. Purpose; delegation of authority; effective date of the permit.

A. This general permit regulation governs the pollutant management activities of animal wastes and process wastewater at concentrated animal feeding operations. These concentrated animal feeding operations may operate and maintain treatment works for waste storage, treatment or recycling and may perform land application of manure, litter, process wastewater, compost, biosolids, or sludges.

B. The director, or an authorized representative, may perform any act of the board provided under this regulation, except as limited by § 62.1-44.14 of the Code of Virginia.

C. This general permit will become effective on November 16, 2004, and will expire five years from the effective date.

9 VAC 25-191-30. Authorization to discharge.

A. Any owner or operator governed by this general permit is hereby authorized to discharge animal wastes and process wastewater at concentrated animal feeding operations to surface waters of the Commonwealth of Virginia provided that the owner submits a complete registration statement of 9 VAC 25-191-40 and receives notification of coverage by the board, and has complied with the following conditions:

1. The owner has not been required to obtain an individual permit according to 9 VAC 25-31;
2. The owner has filed any required permit fee;
3. The owner has complied or will comply with the effluent limitations and other requirements of 9 VAC 25-191-50;
4. The activities of the concentrated animal feeding operation shall not contravene the Water Quality Standards, as amended and adopted by the board, or any provision of the State Water Control Law. There shall be no point source discharge of manure, litter or process wastewater except in the case of a storm event greater than the 25-year, 24-hour storm, except that for swine, poultry, and veal calf operations constructed after April 14, 2003, in the case

of a storm event greater than the 100-year, 24-hour storm. Domestic sewage or industrial waste shall not be managed under this general permit;

5. Confined poultry feeding operations that use disposal pits for routine disposal of daily mortalities shall not be covered under this general permit. The use of a disposal pit by a permittee for routine disposal of daily poultry mortalities shall be considered a violation of this permit. This prohibition shall not apply to the emergency disposal of dead poultry done according to regulations adopted pursuant to § 3.1-726 or Chapter 14 (§ 10.1-1400 et seq.) of Title 10.1 of the Code of Virginia; and

6. Adjoining property notification.

a. The owner shall give notice of the registration statement to all owners or residents of property that adjoins the property on which the animal feeding operation will be located. Such notice shall include (i) the types and maximum number of animals that will be maintained at the facility and (ii) the address and phone number of the appropriate department regional office to which comments relevant to the permit may be submitted. This notice requirement is waived whenever registration is for the purpose of renewing coverage under a permit and no expansion is proposed and the department has not issued any special or consent order relating to violations under the existing permit. This notice is also waived for poultry operations except those that propose construction of new poultry growing houses after December 1, 2000.

b. Any person may submit written comments on the proposed operation to the department within 30 days of the date of the filing of the registration statement. If, on the basis of such written comments or his review, the director determines that the proposed operation will not be capable of complying with the provisions of the general permit, the director shall require the owner to obtain an individual permit for the operation. Any such determination by the director shall be made in writing and received by the owner not more than 45 days after the filing of the registration statement or, if in the director's sole discretion additional time is necessary to evaluate comments received from the public, not more than 60 days after the filing of the registration statement.

B. The owner shall not be authorized by this general permit to discharge to state waters specifically named in other board regulations or policies that prohibit such discharges.

C. Receipt of this general permit does not relieve any owner of the responsibility to comply with any other applicable federal, state or local statute, ordinance or regulation.

9 VAC 25-191-40. Registration statement.

A. In order to be covered under the general permit, the owner shall file a complete VPDES Concentrated Animal Feeding Operation General Permit registration statement. The registration statement shall include the following information:

1. The name, location, and mailing address of the facility;

Proposed Regulations

2. The latitude and longitude of the production area (entrance to production area);
3. The name, mailing address, and telephone number of the owner and operator;
4. The name and telephone number of a contact person other than the operator, if applicable;
5. The best time of day and day of the week to contact the operator or contact person;
6. If the facility has an existing VPA or VPDES permit, the permit number;
7. The method of mortality management;
8. A topographic map of the geographic area in which the CAFO is located showing the specific location of the production area;
9. Specific information about the maximum number of and type of animals, whether in open confinement or housed under roof (beef cattle, broilers, layers, swine weighing 55 pounds or more, swine weighing less than 55 pounds, mature dairy cows, dairy heifers, veal calves, sheep and lambs, horses, ducks, turkeys, other);
10. The type of containment and storage (anaerobic lagoon, roofed storage shed, storage ponds, underfloor pits, above ground storage tanks, below ground storage tanks, concrete pad, impervious soil pad, other) and total capacity for manure, litter, and process wastewater storage (tons/gallons);
11. The total number of acres under control of the applicant available for land application of manure, litter, or process wastewater;
12. Estimated amounts of manure, litter, and process wastewater generated per year (tons/gallons); and
13. Estimated amounts of poultry waste transferred to other persons per year (tons).

B. The applicant shall attach to the registration statement a copy of the letter from the Department of Conservation and Recreation certifying approval of the facility's nutrient management plan and a copy of the approved nutrient management plan.

C. The registration statement shall include the following certification: "I certify that notice of the registration statement has been given to all owners or residents of property that adjoins the property on which the confined animal feeding operation will be located. This notice included the types or numbers of animals that will be maintained at the facility and the address and phone number of the appropriate Department of Environmental Quality regional office to which comments relevant to the permit may be submitted. (The preceding certification is waived if the registration is for renewing coverage under a permit and no expansion of the operation is proposed and the department has not issued any special or consent order relating to violations under the existing permit. This notice is also waived for poultry operations except those that propose construction of new poultry growing houses after December 1, 2000.) I certify under penalty of law that all the

requirements of the board for the general permit are being met and that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations."

D. Where to submit. The registration statement shall be submitted to the DEQ Regional Office that serves the area where the concentrated animal feeding operation is located.

9 VAC 25-191-50. Contents of the general permit.

Any CAFO whose registration statement is accepted by the board will receive the following general permit and shall comply with the requirements therein and be subject to the VPDES Permit Regulation, 9 VAC 25-31.

General Permit No.: VAG01

Effective Date:

Expiration Date:

GENERAL PERMIT FOR CONCENTRATED ANIMAL
FEEDING OPERATIONS
AUTHORIZATION TO DISCHARGE UNDER THE
VIRGINIA POLLUTANT DISCHARGE ELIMINATION
SYSTEM
AND
THE VIRGINIA STATE WATER CONTROL LAW

In compliance with the provisions of the Clean Water Act, as amended, and pursuant to the State Water Control Law and regulations adopted pursuant thereto, owners of concentrated animal feeding operations are authorized to discharge to surface waters within the boundaries of the Commonwealth of Virginia, except those specifically named in board regulations or policies that prohibit such discharges.

The authorized discharge shall be in accordance with this cover page, Part I - Pollutant Management and Monitoring Requirements, Part II - Best Management Practices, Nutrient Management, and Special Conditions, and Part III - Conditions Applicable to All VPDES Permits, as set forth herein.

PART I
POLLUTANT MANAGEMENT AND MONITORING
REQUIREMENTS

A. Pollutant management authorization. During the period beginning with the date of coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to manage pollutants at the permitted site.

B. Monitoring requirements.

1. Ground water monitoring wells shall be installed at earthen liquid waste storage facilities constructed after November 17, 2004, to an elevation below the seasonal high water table or within one foot thereof. A minimum of

Proposed Regulations

one up gradient and one down gradient well shall be installed at each new earthen waste storage facility. Existing wells may be utilized to meet this requirement if properly located and constructed.

2. All facilities previously covered under a VPA permit that required ground water monitoring shall continue monitoring consistent with the requirements listed below regardless of where they are located relative to the seasonal high water table.

3. At facilities where ground water monitoring is required, the following conditions apply:

- a. One data set shall be collected from each well prior to any waste being placed in the storage facility.
- b. The static water level shall be measured prior to bailing well water for sampling.
- c. At least three well volumes of ground water shall be withdrawn immediately prior to sampling each monitoring well.

4. In accordance with subdivisions 2 and 3 of this subsection, the ground water shall be monitored by the permittee at the monitoring wells as specified below. Additional ground water monitoring may be required in the facility's approved nutrient management plan.

GROUND WATER MONITORING

PARAMETER	LIMITATIONS	UNITS	MONITORING REQUIREMENTS	
			Frequency	Sample Type
Static Water Level	NL	ft	1/3 years	Measured
Ammonia Nitrogen	NL	mg/1	1/3 years	Grab
Nitrate Nitrogen	NL	mg/1	1/3 years	Grab
pH	NL	SU	1/3 years	Grab
Conductivity	NL	umhos/cm	1/3 years	Grab

NL = No limit, this is a monitoring requirement only.

5. Soil at the land application sites shall be monitored as specified below. Additional soils monitoring may be required in the facility's approved nutrient management plan.

SOILS MONITORING

PARAMETER	LIMITATIONS	UNITS	MONITORING REQUIREMENTS	
			Frequency	Sample Type
pH	NL	SU	1/3 years	Composite
Phosphorus	NL	ppm or lbs/ac	1/3 years	Composite
Potash	NL	ppm or lbs/ac	1/3 years	Composite
Calcium	NL	ppm or lbs/ac	1/3 years	Composite
Magnesium	NL	ppm or lbs/ac	1/3 years	Composite

NL = No limit, this is a monitoring requirement only.
SU = Standard Units

6. Soil monitoring shall be conducted at a depth of between 0-6 inches, unless otherwise specified in the facility's approved nutrient management plan.

7. Waste shall be monitored as specified below. Additional waste monitoring may be required in the facility's approved nutrient management plan.

WASTE MONITORING

PARAMETERS	LIMITATIONS	UNITS	MONITORING REQUIREMENTS	
			Frequency	Sample Type
Total Kjeldahl Nitrogen	NL	*	1/year	Composite
Ammonia Nitrogen	NL	*	1/year	Composite
Total Phosphorus	NL	*	1/year	Composite
Total Potassium	NL	*	1/year	Composite
Calcium**	NL	*	1/year	Composite
Magnesium**	NL	*	1/year	Composite
Moisture Content	NL	%	1/year	Composite

NL = No limit, this is a monitoring requirement only.

* Parameters for waste may be reported as a percent, as lbs/ton or lbs/1000 gallons, or as ppm where appropriate.

** Calcium and magnesium monitoring not required for poultry waste.

8. Analysis of soil and waste shall be according to methods specified in the facility's approved nutrient management plan.

9. All monitoring data collected as required by this section and any additional monitoring data shall be maintained on site for a period of five years and shall be made available to department personnel upon request.

PART II

WASTE STORAGE FACILITY DESIGN, OPERATION, AND MAINTENANCE; RECORDKEEPING AND REPORTING; NUTRIENT MANAGEMENT; SPECIAL CONDITIONS

A. Waste storage facility design, operation and maintenance.

1. Any manure, litter, or process wastewater storage facility shall be designed and operated to (i) prevent point source discharges of pollutants to state waters except in the case of a storm event greater than the 25-year, 24-hour storm; or for swine, poultry, and veal calf operations constructed after April 14, 2003, in the case of a storm event greater than the 100-year, 24-hour storm, and (ii) provide adequate waste storage capacity to accommodate periods when the ground is frozen or saturated, periods when land application of nutrients should not occur due to limited or nonexistent crop nutrient uptake, and periods when physical limitations prohibit the land application of waste.

2. Waste storage facilities constructed after April 14, 2003, shall not be located on a 100-year floodplain, except that dry poultry waste storage facilities may be constructed on the 100-year floodplain, when the following conditions are met:

- a. When the poultry operation has no land outside the floodplain on which to construct the facility; and

Proposed Regulations

b. The facility is constructed so that the poultry waste is stored above the 100-year flood elevation or otherwise protected from floodwaters through the construction of berms or similar best management flood control structures.

New, expanded or replacement poultry growing houses that are constructed after December 1, 2000, shall not be located within a 100-year floodplain unless they are part of an existing, ongoing confined poultry feeding operation and are constructed so that the poultry and poultry litter are housed above the 100-year flood elevation or otherwise protected from floodwaters through construction of berms or similar best management flood control structures.

3. New earthen liquid waste storage facilities shall include a properly designed and installed liner. Such liner shall be either a synthetic liner of at least 20 mils thickness or a compacted soil liner of at least one-foot thickness with a maximum permeability rating of 0.0014 inches per hour. A licensed professional engineer, an employee of the Natural Resources Conservation Service of the United States Department of Agriculture with appropriate engineering approval authority, or an employee of a soil and water conservation district with appropriate engineering approval authority shall certify that the siting, design and construction of the waste storage facility comply with the requirements of this permit. This certification shall be maintained on site.

4. At earthen liquid waste storage facilities constructed below the seasonal high water table, the top surface of the waste shall be maintained at a level of at least two feet above the water table.

5. All liquid waste storage facilities shall maintain one foot of freeboard at all times, up to and including a 25-year, 24-hour storm. Liquid waste storage facilities at swine, poultry, and veal calf operations constructed after April 14, 2003, shall maintain one foot of freeboard at all times, up to and including a 100-year, 24-hour storm.

6. All equipment needed for the proper operation of the permitted facilities shall be maintained in good working order. The manufacturer's operating and maintenance manuals shall be retained for references to allow for timely maintenance and prompt repair of equipment when appropriate. The operator shall periodically inspect for leaks on equipment used for land application of manure, litter, or process wastewater.

7. All open surface liquid impoundments shall have a depth marker that clearly indicates the minimum capacity necessary to contain the runoff and direct precipitation of the 25-year, 24-hour rainfall event; or in the case of swine, poultry, and veal calf operations constructed after April 14, 2003, the runoff and direct precipitation from a 100-year, 24-hour rainfall event.

8. When any waste storage facility is no longer needed, the permittee shall close it in a manner that (i) minimizes the need for further maintenance and (ii) controls, minimizes or eliminates, to the extent necessary to protect human health and the environment, the post-closure escape of

uncontrolled leachate, surface runoff, or waste decomposition products to the ground water, surface water or the atmosphere. At closure, the permittee shall remove all waste from the waste storage facility. At waste storage facilities without permanent covers and impermeable ground barriers, all residual waste shall be removed from the surface below the stockpile when the waste is taken out of storage. Removed waste materials shall be utilized according to the nutrient management plan.

9. Poultry waste shall be stored according to the nutrient management plan and in a manner that prevents contact with surface water and ground water. Dry poultry waste that is stockpiled outside of the growing house for more than 14 days shall be kept in a facility that provides adequate storage.

Adequate storage shall, at a minimum, include the following:

a. Poultry waste shall be covered to protect it from precipitation and wind;

b. Storm water shall not run onto or under the stored poultry waste; and

c. A minimum of two feet separation distance shall be maintained to the seasonal high water table or an impermeable barrier shall be used under the stored poultry waste. All dry poultry waste storage facilities that use an impermeable barrier shall maintain a minimum of one foot separation between the seasonal high water table and the impermeable barrier. Seasonal high water table means that portion of the soil profile where a color change has occurred in the soil as a result of saturated soil conditions or where soil concretions have formed. Typical colors are gray mottlings, solid gray or black. The depth in the soil at which these conditions first occur is termed the seasonal high water table. Impermeable barriers shall be constructed of at least 12 inches of compacted clay, at least four inches of reinforced concrete, or another material of similar structural integrity that has a minimum permeability rating of 0.0014 inches per hour (1×10^{-6} centimeters per second).

10. Mortalities shall not be disposed of in any liquid manure or process wastewater system, and the permittee shall record methods of mortality management and practices used by the CAFO to prevent the discharge of pollutants to surface water. Confined poultry feeding operations that use disposal pits for routine disposal of daily mortalities shall not be covered under this general permit. The use of a disposal pit for routine disposal of daily poultry mortalities by a permittee shall be considered a violation of this permit. This prohibition does not apply to the emergency disposal of dead poultry done according to regulations adopted pursuant to § 3.1-726 or Chapter 14 (§ 10.1-1400 et seq.) of Title 10.1 of the Code of Virginia.

B. Recordkeeping and reporting.

1. The permittee shall maintain records documenting the following visual inspections:

a. Weekly inspections of all storm water diversion devices, runoff diversion structures, and devices

channelling contaminated storm water to any wastewater or manure storage structure;

b. Daily inspection of water lines, including drinking water or cooling water lines; and

c. Weekly inspections of the manure, litter, and process wastewater storage structures; the inspection shall record the level in liquid impoundments as indicated by a depth marker.

The permittee shall also document any actions taken to correct deficiencies found during the visual inspections; deficiencies not corrected within 30 days shall be accompanied by an explanation of the factors preventing immediate correction;

2. The permittee shall maintain records documenting the current design of any manure or litter storage structures, including volume for solids accumulation, design treatment volume, total design volume, and approximate number of days of storage capacity;

3. The permittee shall maintain records of the date, time, and estimated volume of any overflow from a waste or process wastewater storage structure;

4. Records shall be maintained to demonstrate:

a. What fields under the ownership or operational control of the CAFO received waste;

b. At what rate waste has been applied;

c. That the application schedule has been followed;

d. The method used to apply the waste;

e. What crops have been planted;

f. The weather conditions at the time of application and for 24 hours prior to and following application;

g. What nutrients from sources other than manure, litter or process wastewater have been applied to each field; and

h. The date or dates of manure application equipment inspection.

These records shall be maintained on site for a period of five years after recorded application is made and shall be made available to department personnel upon request.

5. The permittee shall submit an annual report to the director by February 15 of each year for the previous calendar year or part thereof since covered by this general permit. The annual report shall include:

a. The number and type of animals, whether in open confinement or housed under roof (beef cattle, broilers, layers, swine weighing 55 pounds or more, swine weighing less than 55 pounds, mature dairy cows, dairy heifers, veal calves, sheep and lambs, horses, ducks, turkeys, other);

b. Estimated amount of total manure, litter and process wastewater generated by the CAFO in the previous 12 months (tons/gallons);

c. Estimated amount of poultry waste transferred to other persons by the CAFO in the previous 12 months (tons);

d. Total number of acres for land application covered by the facility's approved nutrient management plan;

e. Total number of acres under control of the CAFO that were used for land application of manure, litter and process wastewater in the previous 12 months;

f. Summary of all manure, litter and process wastewater discharges from the production area that entered or could be expected to enter state waters in the previous 12 months, including date, time, and approximate volume; and

g. A statement indicating whether the current version of the CAFO's nutrient management plan was developed or approved by a certified nutrient management planner.

6. The permittee shall create, maintain for five years, and make available to the director, upon request, any records that will document the implementation and management of the minimum elements described below:

a. Ensure adequate storage of manure, litter, and process wastewater, including procedures to ensure proper operation and maintenance of the storage facilities;

b. Ensure proper management of mortalities (i.e., dead animals) to ensure that they are not disposed of in a liquid manure, storm water, or process wastewater storage or treatment system that is not specifically designed to treat animal mortalities;

c. Ensure that clean water is diverted, as appropriate, from the production area;

d. Prevent direct contact of confined animals with waters of the United States;

e. Ensure that chemicals and other contaminants handled on-site are not disposed of in any manure, litter, process wastewater, or storm water storage or treatment system unless specifically designed to treat such chemicals and other contaminants;

f. Identify appropriate site specific conservation practices to be implemented, including as appropriate buffers or equivalent practices, to control runoff of pollutants to waters of the United States;

g. Identify protocols for appropriate testing of manure, litter, process wastewater, and soil;

h. Establish protocols to land apply manure, litter or process wastewater in accordance with site specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the manure, litter or process wastewater.

C. Nutrient management.

1. All CAFO owners or operators shall develop and implement a nutrient management plan (NMP) approved by the Department of Conservation and Recreation that shall be maintained on site. All NMPs developed for poultry operations shall be developed with respect to existing state

Proposed Regulations

law and regulation. The NMP shall address the form, source, amount, timing, and method of application of nutrients on each field to achieve realistic production goals, while minimizing nitrogen and phosphorus loss to ground and surface waters. The NMP shall be enforceable through this permit. The NMP shall contain at a minimum the following information:

- a. Site map indicating the location of the waste storage facilities and the fields where waste will be applied, unless exempted in Part II D;
- b. Site evaluation and assessment of soil types and potential productivities;
- c. Nutrient management sampling including soil and waste monitoring;
- d. Storage and land area requirements;
- e. Calculation of waste application rates;
- f. Waste application schedules; and
- g. A plan for waste utilization in the event the operation is discontinued.

2. Buffer zones shall be maintained as follows:

- a. Distance from occupied dwellings not on the owner's property - 200 feet (unless the occupant of the dwelling signs a waiver of the buffer zone);
- b. Distance from water supply wells or springs -100 feet;
- c. Distance from surface water courses:
 - (1) 100 feet (without a vegetated buffer);
 - (2) 35-foot wide vegetated buffer; or
 - (3) Other site-specific conservation practices may be approved by the department that will provide pollutant reductions equivalent or better than the reductions that would be achieved by the 100-foot buffer, or 35-foot wide vegetated buffer.
- d. Distance from rock outcroppings (except limestone) - 25 feet;
- e. Distance from limestone outcroppings - 50 feet;
- f. Waste shall not be applied in such a manner that it would discharge to sinkholes that may exist in the area.

D. Special conditions.

1. Poultry waste may be transferred from a permitted poultry grower to another person or broker without the requirement for the identification of fields where such waste will be applied in the facility's approved nutrient management plan if the following conditions are met:

- a. When a poultry grower transfers to another person more than 10 tons of poultry waste in any 365-day period, the poultry grower shall provide that person a copy of the most recent nutrient analysis for the poultry waste and a fact sheet approved by the department, in consultation with the Department of Conservation and Recreation, that includes appropriate practices for proper storage and

management of the waste. The person receiving the waste shall provide the poultry grower his name and address and acknowledge in writing receipt of the waste, the nutrient analysis and the fact sheet. If the person receiving the waste is a poultry waste broker, then he shall also certify in writing that he will provide a copy of the nutrient analysis and fact sheet to each end user to whom he transfers poultry waste.

- b. When a poultry grower transfers to another person more than 10 tons of poultry waste in any 365-day period, the poultry grower shall keep a record of the amount of poultry waste received by the person, the date of the transaction, the nutrient content of the waste, the locality in which the recipient intends to utilize the waste (i.e., nearest town or city and zip code), the name of the stream or waterbody known to the recipient that is nearest to the waste utilization site, and the signed waste transfer acknowledgement. These records shall be maintained on site for five years after the transaction and shall be made available to department personnel upon request.

2. The permittee shall notify the department's regional office at least 14 days prior to:

- a. Animals being initially placed in the facility; or
- b. Utilization of any new waste storage facilities.

3. Each operator of a facility covered by this general permit shall have completed the training program offered or approved by the Department of Conservation and Recreation in the two years prior to submitting the registration statement for general permit coverage, or shall complete such training within one year after submitting the registration statement for general permit coverage. All operators shall complete the training program at least once every three years.

PART III

CONDITIONS APPLICABLE TO ALL VPDES PERMITS

A. Monitoring.

1. Samples and measurements taken as required by this permit shall be representative of the monitored activity.
2. Monitoring shall be conducted according to procedures approved under 40 CFR Part 136 (2001) or alternative methods approved by the U.S. Environmental Protection Agency, unless other procedures have been specified in this permit.
3. The permittee shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals that ensure accuracy of measurements.

B. Records.

1. Records of monitoring information shall include:
 - a. The date, exact place, and time of sampling or measurements;

- b. The individual or individuals who performed the sampling or measurements;
- c. The dates and times analyses were performed;
- d. The individual or individuals who performed the analyses;
- e. The analytical techniques or methods used; and
- f. The results of such analyses.

2. Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years, the permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the registration statement for this permit, for a period of at least three years from the date of the sample, measurement, report or request for coverage. This period of retention shall be extended automatically during the course of any unresolved litigation regarding the regulated activity or regarding control standards applicable to the permittee, or as requested by the board.

C. Reporting monitoring results.

- 1. The permittee shall submit the results of the monitoring required by this permit not later than the tenth day of the month after monitoring takes place, unless another reporting schedule is specified elsewhere in this permit. Monitoring results shall be submitted to the department's regional office.
- 2. Monitoring results shall be reported on a Discharge Monitoring Report (DMR) or on forms provided, approved or specified by the department.
- 3. If the permittee monitors any pollutant specifically addressed by this permit more frequently than required by this permit using test procedures approved under 40 CFR Part 136 (2001) or using other test procedures approved by the U.S. Environmental Protection Agency or using procedures specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or reporting form specified by the department.
- 4. Calculations for all limitations that require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in this permit.

D. Duty to provide information. The permittee shall furnish to the department, within a reasonable time, any information that the board may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The board may require the permittee to furnish, upon request, such plans, specifications, and other pertinent information as may be necessary to determine the effect of the wastes from his discharge on the quality of state waters, or such other information as may be necessary to accomplish the purposes of the State Water Control Law. The permittee shall also

furnish to the department upon request, copies of records required to be kept by this permit.

E. Compliance schedule reports. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.

F. Unauthorized discharges. Except in compliance with this permit, or another permit issued by the board, it shall be unlawful for any person to:

- 1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances; or
- 2. Otherwise alter the physical, chemical or biological properties of such state waters and make them detrimental to the public health, or to animal or aquatic life, or to the use of such waters for domestic or industrial consumption, or for recreation, or for other uses.

G. Reports of unauthorized discharges. Any permittee who discharges or causes or allows a discharge of sewage, industrial waste, other wastes or any noxious or deleterious substance into or upon state waters in violation of Part III F or who discharges or causes or allows a discharge that may reasonably be expected to enter state waters in violation of Part III F, shall notify the department of the discharge immediately upon discovery of the discharge, but in no case later than 24 hours after said discovery. A written report of the unauthorized discharge shall be submitted to the department within five days of discovery of the discharge. The written report shall contain:

- 1. A description of the nature and location of the discharge;
- 2. The cause of the discharge;
- 3. The date on which the discharge occurred;
- 4. The length of time that the discharge continued;
- 5. The volume of the discharge;
- 6. If the discharge is continuing, how long is it expected to continue;
- 7. If the discharge is continuing, what the expected total volume of the discharge will be; and
- 8. Any steps planned or taken to reduce, eliminate and prevent a recurrence of the present discharge or any future discharges not authorized by this permit.

Discharges reportable to the department under the immediate reporting requirements of other regulations are exempted from this requirement.

H. Reports of unusual or extraordinary discharges. If any unusual or extraordinary discharge including a bypass or upset should occur from a treatment works and the discharge enters or could be expected to enter state waters, the permittee shall promptly notify, in no case later than 24 hours, the department by telephone after the discovery of the discharge. This notification shall provide all available details of the incident, including any adverse effects on aquatic life and the known number of fish killed. The permittee shall

Proposed Regulations

reduce the report to writing and shall submit it to the department within five days of discovery of the discharge in accordance with Part III I 2. Unusual and extraordinary discharges include but are not limited to any discharge resulting from:

1. Unusual spillage of materials resulting directly or indirectly from processing operations;
2. Breakdown of processing or accessory equipment;
3. Failure or taking out of service some or all of the treatment works; and
4. Flooding or other acts of nature.

I. Reports of noncompliance. The permittee shall report any noncompliance that may adversely affect state waters or may endanger public health.

1. An oral report shall be provided within 24 hours from the time the permittee becomes aware of the circumstances. The following shall be included as information that shall be reported within 24 hours under this subdivision:

- a. Any unanticipated bypass; and
- b. Any upset that causes a discharge to surface waters.

2. A written report shall be submitted within five days and shall contain:

- a. A description of the noncompliance and its cause;
- b. The period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and
- c. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

The board may waive the written report on a case-by-case basis for reports of noncompliance under Part III I if the oral report has been received within 24 hours and no adverse impact on state waters has been reported.

3. The permittee shall report all instances of noncompliance not reported under Parts III I 1 or 2, in writing, at the time the next monitoring reports are submitted. The reports shall contain the information listed in Part III I 2.

NOTE: The immediate (within 24 hours) reports required in Parts III G, H and I may be made to the department's regional office. Reports may be made by telephone or by fax. For reports outside normal working hours, leave a message and this shall fulfill the immediate reporting requirement. For emergencies, the Virginia Department of Emergency Management maintains a 24-hour telephone service at 1-800-468-8892.

J. Notice of planned changes.

1. The permittee shall give notice to the department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

- a. The permittee plans alteration or addition to any building, structure, facility, or installation from which there

is or may be a discharge of pollutants, the construction of which commenced:

(1) After promulgation of standards of performance under § 306 of the Clean Water Act that are applicable to such source; or

(2) After proposal of standards of performance in accordance with § 306 of the Clean Water Act that are applicable to such source, but only if the standards are promulgated in accordance with § 306 within 120 days of their proposal;

b. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants that are subject neither to effluent limitations nor to notification requirements specified elsewhere in this permit; or

c. The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.

2. The permittee shall give advance notice to the department of any planned changes in the permitted facility or activity that may result in noncompliance with permit requirements.

K. Signatory requirements.

1. Registration statement. All registration statements shall be signed as follows:

a. For a corporation: by a responsible corporate officer. For the purpose of this subsection, a responsible corporate officer means (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation or (ii) the manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or

c. For a municipality, state, federal, or other public agency: by either a principal executive officer or ranking elected official. For purposes of this subsection, a

principal executive officer of a public agency includes (i) the chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

2. Reports, etc. All reports required by permits, and other information requested by the board shall be signed by a person described in Part III K 1, or by a duly authorized representative of that person. A person is a duly authorized representative only if:

a. The authorization is made in writing by a person described in Part III K 1;

b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company (a duly authorized representative may thus be either a named individual or any individual occupying a named position); and

c. The written authorization is submitted to the department.

3. Changes to authorization. If an authorization under Part III K 2 is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Part III K 2 shall be submitted to the department prior to or together with any reports, or information to be signed by an authorized representative.

4. Certification. Any person signing a document under Parts III K 1 or 2 shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

L. Duty to comply. The permittee shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the State Water Control Law and the Clean Water Act, except that noncompliance with certain provisions of this permit may constitute a violation of the State Water Control Law but not the Clean Water Act. Permit noncompliance is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

The permittee shall comply with effluent standards or prohibitions established under § 307(a) of the Clean Water Act for toxic pollutants and with standards for sewage sludge use or disposal established under § 405(d) of the Clean Water Act

within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if this permit has not yet been modified to incorporate the requirement.

M. Duty to reapply. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee shall submit a new registration statement at least 90 days before the expiration date of the existing permit, unless permission for a later date has been granted by the board. The board shall not grant permission for registration statements to be submitted later than the expiration date of the existing permit.

N. Effect of a permit. This permit does not convey any property rights in either real or personal property or any exclusive privileges, nor does it authorize any injury to private property or invasion of personal rights, or any infringement of federal, state or local law or regulations.

O. State law. Nothing in this permit shall be construed to preclude the institution of any legal action under, or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any other state law or regulation or under authority preserved by, § 510 of the Clean Water Act. Except as provided in permit conditions on "bypassing" (Part III U), and "upset" (Part III V), nothing in this permit shall be construed to relieve the permittee from civil and criminal penalties for noncompliance.

P. Oil and hazardous substance liability. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under §§ 62.1-44.34:14 through 62.1-44.34:23 of the State Water Control Law.

Q. Proper operation and maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) that are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes effective plant performance, adequate funding, adequate staffing, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems that are installed by the permittee only when the operation is necessary to achieve compliance with the conditions of this permit.

R. Disposal of solids or sludges. Solids, sludges or other pollutants removed in the course of treatment or management of pollutants shall be disposed of in a manner so as to prevent any pollutant from such materials from entering state waters.

S. Duty to mitigate. The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit that has a reasonable likelihood of adversely affecting human health or the environment.

T. Need to halt or reduce activity not a defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted

Proposed Regulations

activity in order to maintain compliance with the conditions of this permit.

U. Bypass.

1. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility. The permittee may allow any bypass to occur that does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Parts III U 2 and U 3.

2. Notice.

a. *Anticipated bypass.* If the permittee knows in advance of the need for a bypass, prior notice shall be submitted, if possible at least ten days before the date of the bypass.

b. *Unanticipated bypass.* The permittee shall submit notice of an unanticipated bypass as required in Part III I.

3. Prohibition of bypass.

a. Bypass is prohibited, and the board may take enforcement action against a permittee for bypass, unless:

(1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventive maintenance; and

(3) The permittee submitted notices as required under Part III U 2.

b. The board may approve an anticipated bypass, after considering its adverse effects, if the board determines that it will meet the three conditions listed above in Part III U 3 a.

V. Upset.

1. An upset constitutes an affirmative defense to an action brought for noncompliance with technology-based permit effluent limitations if the requirements of Part III V 2 are met. A determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is not a final administrative action subject to judicial review.

2. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence, that:

a. An upset occurred and that the permittee can identify the causes of the upset;

b. The permitted facility was at the time being properly operated;

c. The permittee submitted notice of the upset as required in Part III I; and

d. The permittee complied with any remedial measures required under Part III S.

3. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

W. *Inspection and entry.* The permittee shall allow the director or an authorized representative, upon presentation of credentials and other documents as may be required by law, to:

1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

4. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act and the State Water Control Law, any substances or parameters at any location.

For purposes of this subsection, the time for inspection shall be deemed reasonable during regular business hours, and whenever the facility is discharging. Nothing contained herein shall make an inspection unreasonable during an emergency.

X. *Permit actions.* Permits may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

Y. Transfer of permits.

1. Permits are not transferable to any person except after notice to the department. Except as provided in Part III Y 2, a permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued, or a minor modification made, to identify the new permittee and incorporate such other requirements as may be necessary under the State Water Control Law and the Clean Water Act.

2. As an alternative to transfers under Part III Y 1, this permit may be automatically transferred to a new permittee if:

a. The current permittee notifies the department at least two days in advance of the proposed transfer of the title to the facility or property;

b. The notice includes a written agreement between the existing and new permittees containing a specific date for

transfer of permit responsibility, coverage, and liability between them; and

c. The board does not notify the existing permittee and the proposed new permittee of its intent to modify or revoke and reissue the permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in Part III Y 2 b.

Z. Severability. The provisions of this permit are severable, and if any provision of this permit or the application of any provision of this permit to any circumstance is held invalid, the application of such provision to other circumstances and the remainder of this permit shall not be affected thereby.

FORMS

<p>NOTICE: The form used in administering 9 VAC 25-191, Virginia Pollution Discharge Elimination System (VPDES) General Permit for Concentrated Animal Feeding Operations, is listed and published below.</p>
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Virginia Pollution Discharge System General Permit Registration Statement for Concentrated Animal Feeding Operations.

Proposed Regulations

COMMONWEALTH of VIRGINIA
DEPARTMENT OF ENVIRONMENTAL QUALITY

VIRGINIA POLLUTION DISCHARGE SYSTEM
GENERAL PERMIT REGISTRATION STATEMENT
FOR CONCENTRATED ANIMAL FEEDING OPERATIONS

1. Facility Name: _____
Address: _____ City: _____ State: _____ Zip Code: _____
2. Provide latitude and longitude of the production area (entrance to production area):
Latitude _____ " _____ ' _____ " Longitude _____ " _____ ' _____ "
- 3a. Owner Name: _____
Address: _____ City: _____ State: _____ Zip Code: _____
Phone: _____
- 3b. Operator Name: _____
Address: _____ City: _____ State: _____ Zip Code: _____
Phone: _____
4. Facility Contact Person Other than Operator (if applicable): _____
Phone: _____
5. Best Time to Contact Operator or Contact Person (day and time): _____
6. If the facility has an existing VPA or VPDES permit number, provide number: _____
7. Identify the method of mortality management: _____
8. Topographic map attached (check one) Yes _____ No _____ (a topographic map of the geographic area in which the facility is located identifying the specific location of the production area must be attached)
9. Indicate the maximum number of the type(s) of animal which will be maintained at your facility:

Animal Type	Maximum Number
-----	-----
Mature Dairy Cows (whether milked or dry cows)	_____
Veal Calves	_____
Cattle other than Mature Dairy Cows or Veal Calves (includes but is not limited to heifers, steers, bulls, and cow-calf pairs)	_____
Swine weighing 55 pounds or more	_____
Swine weighing less than 55 pounds	_____
Horses	_____
Sheep or Lambs	_____
Turkeys	_____
Laying Hens or Broilers	_____
specify if liquid manure handling system (yes/no)	_____
Chickens (other than Laying Hens)	_____
specify if liquid manure handling system (yes/no)	_____
Ducks	_____
Other _____	_____
- 10a. Indicate the type(s) of containment and storage (anaerobic lagoon, roofed storage shed, storage ponds, underfloor pits, above ground storage tanks, below ground storage tanks, concrete pad, impervious soil pad, other (specify)
Type of containment: _____
- 10b. Total capacity for manure, litter, and process wastewater storage (tons and/or gallons): _____

11. Indicate the total number of acres under control of the applicant available for land application of manure, litter, or process wastewater: _____ acres
12. Estimate the amounts of manure, litter, and process wastewater generated per year (gallons/tons):
- | | <u>Amount</u> | <u>Units (gallons or tons)</u> |
|--------------------|---------------|--------------------------------|
| Manure | _____ | _____ |
| Litter | _____ | _____ |
| Process wastewater | _____ | _____ |
13. Estimate the amounts of poultry waste transferred to other persons per year in tons: _____
14. The owner of the pollutant management activities must attach to the Registration Statement a copy of the letter from the Department of Conservation and Recreation certifying approval of the Nutrient Management Plan and a copy of the approved Nutrient Management Plan.
15. **Certification:**

"I certify that notice of the registration statement has been given to all owners or residents of property that adjoins the property on which the concentrated animal feeding operation will be located. This notice included the types and numbers of animals which will be maintained at the facility and the address and phone number of the appropriate Department of Environmental Quality regional office to which comments relevant to the permit may be submitted. (The preceding certification is waived if the registration is for renewing coverage under a permit and no expansion of the operation is proposed and the Department has not issued any special consent order relating to violations under the existing permit. This notice is also waived for poultry operations except those that proposed construction of new poultry houses after December 1, 2000.) I certify under penalty of law that all the requirements of the board for the general permit are being met and that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations."

Print Name: _____ Title: _____

Signature: _____ Date: _____

Proposed Regulations

Title of Regulation: **9 VAC 25-192. Virginia Pollution Abatement (VPA) General Permit Regulation for Animal Feeding Operations (amending 9 VAC 25-192-10, 9 VAC 25-192-20, 9 VAC 25-192-50, 9 VAC 25-192-60 and 9 VAC 25-192-70; repealing 9 VAC 25-192-30 and 9 VAC 25-192-40).**

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

Public Hearing Dates:

July 20, 2004 - 2 p.m. (Harrisonburg)

July 21, 2004 - 10 a.m. (Glen Allen)

Public comments may be submitted until 5 p.m. on August 13, 2004.

(See Calendar of Events section for additional information)

Agency Contact: Jon G. Van Soestbergen, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4117, FAX (804) 698-4032, or e-mail jvansoest@deq.state.va.us.

Summary:

The purpose of the proposed action is to reissue the existing Virginia Pollution Abatement (VPA) General Permit for Confined Animal Feeding Operations. This action will also amend the regulation, where applicable, to reflect changes to 40 CFR Parts 9, 122, 123, and 412, as published in the Federal Register, Volume 68, No. 29, dated February 12, 2003. The current VPA general permit expires November 16, 2004. This VPA general permit regulation for animal feeding operations (9 VAC 25-192) governs the management of pollutants at concentrated animal feeding operations (CAFOs) with 300 or more animal units utilizing a liquid manure collection and storage system. A new general permit regulation, 9 VAC 25-191, is being proposed in accordance with § 62.1-44.17:1 of the Code of Virginia to regulate certain CAFOs under the Virginia Pollution Discharge Elimination System (VPDES) as required by the federal CAFO rule, which became effective April 14, 2003. 9 VAC 25-191 affects a subset of CAFOs currently regulated by 9 VAC 25-192. This action is being taken to amend 9 VAC 25-192 to exclude those CAFOs that will be regulated by 9 VAC 25-191, and to make it consistent with the requirements of the proposed regulation.

CHAPTER 192.

VIRGINIA POLLUTION ABATEMENT (VPA) GENERAL PERMIT REGULATION FOR ~~CONFINED~~ ANIMAL FEEDING OPERATIONS.

9 VAC 25-192-10. Definitions.

The words and terms used in this chapter shall have the meanings defined in the State Water Control Law (§ 62.1-44.2 et seq. of the Code of Virginia) and the Permit Regulation (~~9 VAC 25-30-10 et seq.~~ 9 VAC 25-32) unless the context clearly indicates otherwise, except that for the purposes of this chapter:

"~~Confined~~ Animal feeding operation" means a lot or facility; ~~together with any associated treatment works, (other than an~~

aquatic animal production facility) where both of the following conditions are met:

1. Animals (*other than aquatic animals*) have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period; and
2. Crops, vegetation, forage growth or post-harvest residues are not sustained *in the normal growing season* over any portion of the operation of the lot or facility.

Two or more animal feeding operations under common ownership are a single animal feeding operation for the purposes of determining the number of animals at an operation, if they adjoin each other, or if they use a common area or system for the disposal of wastes.

"Confined animal feeding operation," for the purposes of this regulation, has the same meaning as an "animal feeding operation."

"Department" means the Virginia Department of Environmental Quality.

"Director" means the Director of the Virginia Department of Environmental Quality or his designee.

"Operator" means any person who owns or operates an animal feeding operation.

"Permittee" means the owner whose ~~confined~~ animal feeding operation is covered under this general permit.

"Waste storage facility" means a waste holding pond or tank used to store manure prior to land application, or a lagoon or treatment facility used to digest or reduce the solids or nutrients.

"Vegetated buffer" means a permanent strip of dense perennial vegetation established parallel to the contours of and perpendicular to the dominant slope of the field for the purposes of slowing water runoff, enhancing water infiltration, and minimizing the risk of any potential nutrients or pollutants from leaving the field and reaching surface waters.

9 VAC 25-192-20. Purpose; delegation of authority; effective date of permit.

A. This general permit regulation governs the pollutant management activities of animal wastes at ~~confined~~ animal feeding operations *not covered by a Virginia Pollution Discharge Elimination System (VPDES) permit, and having 300 or more animal units utilizing a liquid manure collection and storage system. These ~~confined~~ animal feeding operations may operate and maintain treatment works for waste storage, treatment or recycle and may perform land application of manure, wastewater, compost, or sludges.*

B. *The Director of the Department of Environmental Quality, or his designee, may perform any act of the board provided under this chapter, except as limited by § 62.1-44.14 of the Code of Virginia.*

C. *This general permit will become effective on November 16, 2004. This general permit will expire 10 years from the effective date.*

9 VAC 25-192-30. Delegation of authority. (Repealed.)

~~The director, or his designee, may perform any act of the board provided under this chapter, except as limited by § 62.1-44.14 of the Code of Virginia.~~

9 VAC 25-192-40. Effective date of the permit. (Repealed.)

~~This general permit will become effective on November 16, 1994. This general permit was modified to comply with Chapters 805 and 863 of the 1998 Acts of the General Assembly. The effective date of the modification is December 1, 1998. This general permit will expire 10 years from the effective date. Any covered owner is authorized to manage pollutants, that are not point source discharges to state waters, under this general permit upon compliance with all the provisions of 9 VAC 25-192-60 and 9 VAC 25-192-60 and the receipt of this general permit.~~

9 VAC 25-192-50. Authorization to manage pollutants.

A. Any owner governed by this general permit is hereby authorized to manage pollutants at ~~confined~~ animal feeding operations provided that the owner files the registration statement of 9 VAC 25-192-60, complies with the requirements of 9 VAC 25-192-70, and provided that:

~~1. The owner shall not have been required to obtain an individual permit as may be required in the Permit Regulation. Currently permitted operations may submit a registration statement for operation under the general permit and be authorized under this general permit provided that the criteria of the general permit are met. The operator has not been required to obtain a VPDES permit or an individual permit according to 9 VAC 25-35-260 B;~~

~~2. The operation of the facilities of the owner animal feeding operation shall not contravene the Water Quality Standards, as amended and adopted by the board, or any provision of the State Water Control Law. There shall be no point source discharge of wastewater except in the case of a storm event greater than the 25-year, 24-hour storm. Domestic sewage or industrial waste shall not be managed under this general permit.~~

~~3. The owner of any proposed pollutant management activities or those which have not previously been issued a valid Virginia Pollution Abatement (VPA) permit or Industrial Waste No Discharge (IW-ND) Certificate Virginia Pollution Discharge Elimination System (VPDES) permit must attach to the registration statement a notification from the governing body of the county, city or town where the operation is located that the operation is consistent with all ordinances adopted pursuant to Chapter 22 (§ 15.2-2200 et seq.) of Title 15.2 of the Code of Virginia.~~

~~4. A Nutrient Management Plan (NMP) for the facility must be approved by The Department of Conservation and Recreation (DCR) must approve a nutrient management plan for the animal feeding operation prior to the submittal of the registration statement. The owner of the pollutant management activities operator shall attach to the registration statement a copy of the approved Nutrient Management Plan and a copy of the letter from the Department of Conservation and Recreation certifying~~

approval of the Nutrient Management Plan. *The operator shall implement the approved nutrient management plan.*

5. The owner operator shall give notice of the registration statement to all owners or residents of property that adjoins the property on which the ~~confined~~ animal feeding operation will be located. Such notice shall include (i) the types and maximum number of animals which will be maintained at the facility and (ii) the address and phone number of the appropriate department regional office to which comments relevant to the permit may be submitted. This notice requirement is waived whenever registration is for the purpose of renewing coverage under the permit and no expansion is proposed and the department has not issued any special or consent order relating to violations under the existing permit.

6. Each operator of a facility covered by this general permit ~~on July 1, 1999, shall, by January 1, 2000, complete~~ *shall have completed* the training program offered or approved by the Department of Conservation and Recreation. ~~Each operator of a facility permitted after July 1, 1999, in the two years prior to submitting the registration statement for general permit coverage, or shall complete such training within one year after the registration statement has been submitted for general permit coverage. Thereafter, All operators shall complete the training program at least once every three years.~~

B. Receipt of this general permit does not relieve any ~~owner~~ operator of the responsibility to comply with any other applicable federal, state or local statute, ordinance, or regulation.

9 VAC 25-192-60. Registration statement.

~~The owner~~ A. *In order to be covered under the general permit, the operator shall file a complete VPA General Permit Registration Statement for the management of pollutants at ~~confined~~ animal feeding operations in accordance with this chapter. The registration statement shall contain the following information:*

1. The animal feeding operation operator's name, mailing address and telephone number;

2. The location of the animal feeding operation;

3. The name and telephone number of a contact person other than the operator, if necessary;

4. The best time of day and day of the week to contact the operator or the contact person;

5. If the facility has an existing VPA permit number, the permit number;

6. The type or types of animals (dairy cattle, slaughter and feeder cattle, swine, other) and the maximum number and average weight of the type or types of animals to be maintained at the animal feeding operation;

~~Any owner proposing a new pollutant management activity shall file a complete registration statement. Any owner with an existing pollutant management activity covered by an~~

Proposed Regulations

~~individual VPA permit who is proposing to be covered by this general permit shall file a complete registration statement.~~

~~The required registration statement shall be in the following form:~~

COMMONWEALTH of VIRGINIA
DEPARTMENT OF ENVIRONMENTAL QUALITY
VIRGINIA POLLUTION ABATEMENT GENERAL PERMIT
REGISTRATION
STATEMENT FOR
CONFINED ANIMAL FEEDING OPERATIONS

~~1. Facility Name:~~

~~Address:~~

~~City: _____ State: _____ Zip Code: _____~~

~~2. Owner Name:~~

~~Address:~~

~~City: _____ State: _____ Zip Code: _____~~

~~3. Operator Name~~

~~Address~~

~~City: _____ State: _____ Zip Code: _____~~

~~Phone:~~

~~Facility Contact:~~

~~Phone:~~

~~Best Time to Contact (day time): _____~~

~~4. Does this facility have an existing VPA permit or IW ND Certificate?~~

~~Yes _____ No _____~~

~~If yes, list the existing VPA permit number or IW ND Certificate number: _____~~

~~5. Indicate the maximum number and average weight of the type(s) of animal which will be maintained at your facility:~~

Animal	Maximum	Average
Type	Number	Weight
_____	_____	_____
_____	_____	_____

_____	_____	_____
_____	_____	_____

~~Dairy Cattle _____~~

~~Slaughter and Feeder Cattle _____~~

~~Swine _____~~

~~Other _____~~

~~6. 7. The owner operator of any proposed pollutant management activities or those which have not previously been issued a valid VPA permit or IW ND Certificate Virginia Pollutant Discharge Elimination System (VPDES) permit must attach to the registration statement the notification from the governing body of the county, city or town where the operation is located that the operation is consistent with all ordinances adopted pursuant to Chapter 22 (§ 15.2-2200 et seq.) of Title 15.2 of the Code of Virginia;~~

~~7. The owner of the pollutant management activities must attach to the registration statement a copy of the letter from the Department of Conservation and Recreation certifying approval of the Nutrient Management Plan and a copy of the approved Nutrient Management Plan.~~

~~8. A copy of the nutrient management plan approved by the Department of Conservation and Recreation and a copy of the letter certifying approval of the plan; and~~

~~9. The following certification: "I certify that notice of the registration statement has been given to all owners or~~

residents of property that adjoins the property on which the ~~confined~~ animal feeding operation will be located. This notice included the types and numbers of animals which will be maintained at the facility and the address and phone number of the appropriate Department of Environmental Quality regional office to which comments relevant to the permit may be submitted. (The preceding certification is waived if the registration is for renewing coverage under the general permit and no expansion of the operation is proposed and the department has not issued any special or consent order relating to violations under the existing permit.) I certify under penalty of law that all the requirements of the board for the general permit are being met and that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations."

~~Print Name:~~

~~Title:~~

~~Signature: _____ Date: _____~~

~~B. The registration statement shall be signed in accordance with 9 VAC 25-32-50.~~

9 VAC 25-192-70. Contents of the general permit.

~~Any owner who submits a complete operator whose registration statement is accepted by the board will receive the following general permit and shall comply with the requirements therein and be subject to the VPA permit regulation, 9 VAC 25-32.~~

~~General Permit No.: VPG1~~

~~Effective Date:~~

~~Modification Date:~~

~~Expiration Date:~~

GENERAL PERMIT FOR POLLUTANT MANAGEMENT
ACTIVITIES FOR ~~CONFINED~~
ANIMAL FEEDING OPERATIONS
AUTHORIZATION TO MANAGE POLLUTANTS UNDER THE
VIRGINIA POLLUTION ABATEMENT PROGRAM AND THE
VIRGINIA STATE WATER CONTROL LAW

In compliance with the provisions of the State Water Control Law and State Water Control Board regulations adopted pursuant thereto, owners of ~~confined~~ animal feeding operations having 300 or more animal units utilizing a liquid manure collection and storage system are authorized to manage pollutants within the boundaries of the Commonwealth of Virginia, except where board regulations or policies prohibit such activities.

The authorized pollutant management activities shall be in accordance with the registration statement, supporting ~~data~~ documents submitted to the Department of Environmental

Proposed Regulations

Quality, Water Division, this cover page, Part I, Part II, and Part III, as set forth herein.

Part I

A. Pollutant management and monitoring requirements.

1. During the period beginning with the permit's effective date and lasting until the permit's expiration date, the permittee is authorized to manage pollutants at the ~~permitted site location or locations identified in the registration statement and the facility's approved nutrient management plan.~~

2. Groundwater monitoring wells shall be installed at ~~new~~ earthen liquid waste storage facilities constructed after November 17, 2004, to an elevation below the seasonal high water table or within one foot of it. *A minimum of one up gradient and one down gradient well shall be installed at each new earthen waste storage facility.* Existing wells may be utilized to meet this requirement if properly located and constructed.

3. All facilities previously covered under a VPA permit that required groundwater monitoring shall continue monitoring consistent with the requirements listed below regardless of where they are located relative to the seasonal high water table.

~~4. In accordance with A 2 and A 3 above, the groundwater shall be monitored by the permittee at the monitoring wells as specified below:~~

4. At facilities where groundwater monitoring is required, the following conditions apply:

a. One data set shall be collected from each well prior to any waste being placed in the storage facility.

b. The static water level shall be measured prior to bailing well water for sampling.

c. At least three well volumes of ground water shall be withdrawn immediately prior to sampling each monitoring well.

5. In accordance with subdivisions 2 and 3 of this subsection, the ground water shall be monitored by the permittee at the monitoring wells as specified below. Additional groundwater monitoring may be required in the facility's approved nutrient management plan.

GROUNDWATER MONITORING

PARAMETERS	LIMITATIONS	UNITS	MONITORING REQUIREMENTS	
			Frequency	Sample Type
Static Water Level	NL	ft	1/3 years	Measured
Ammonia Nitrogen	NL	mg/1	1/3 years	Grab
Nitrate Nitrogen	NL	mg/1	1/3 years	Grab
pH	NL	SU	1/3 years	Grab
Conductivity	NL	umhos/cm	1/3 years	Grab

NL = No limit, this is a monitoring requirement only.

~~5. Soil monitoring shall be performed as specified below along with any additional parameters specified in the approved Nutrient Management Plan.~~

~~6. The soils at the facility shall be monitored by the permittee as specified below:~~

6. Soil at the land application sites shall be monitored as specified below. Additional soils monitoring may be required in the facility's approved nutrient management plan.

SOILS MONITORING

PARAMETERS	LIMITATIONS	UNITS	MONITORING REQUIREMENTS	
			Frequency	Sample Type
pH	NL	SU	1/3 years	Composite
Phosphorus	NL	ppm or lbs/ac	1/3 years	Composite
Potash	NL	ppm or lbs/ac	1/3 years	Composite
Calcium	NL	ppm or lbs/ac	1/3 years	Composite
Magnesium	NL	ppm or lbs/ac	1/3 years	Composite
Nitrate	NL	ppm	1/3 years	Composite

NL = No limit, this is a monitoring requirement only.
SU = Standard Units

7. Soil monitoring ~~should~~ shall be conducted at a depth of between 0-6 inches, unless otherwise specified in the facility's approved nutrient management plan. ~~The Nitrate test is required at a soil depth of 0-12 inches on those sites planted in corn or small grains.~~

~~8. Waste monitoring shall be performed as specified below along with any additional parameters specified in the approved Nutrient Management Plan.~~

~~9. The waste at the facility shall be monitored by the permittee as specified below:~~

8. Waste shall be monitored as specified below. Additional waste monitoring may be required in the facility's approved nutrient management plan.

WASTE MONITORING

PARAMETERS	LIMITATIONS	UNITS	MONITORING REQUIREMENTS	
			Frequency	Sample Type
Total Kjeldahl Nitrogen	NL	*	1/year	Composite
Ammonia Nitrogen	NL	*	1/year	Composite
Total Phosphorus	NL	*	1/year	Composite
Total Potassium	NL	*	1/year	Composite
Calcium	NL	*	1/year	Composite
Magnesium	NL	*	1/year	Composite
Moisture Content	NL	%	1/year	Composite

NL = No limit, this is a monitoring requirement only.

*Parameters for waste may be reported as a percent, as lbs/ton or lbs/1000 gallons, or as ppm where appropriate.

Proposed Regulations

9. ~~Analysis of soil and waste shall be according to methods specified in the facility's approved nutrient management plan.~~

10. All monitoring data collected as required by ~~Part I-A this section and any additional monitoring shall be maintained on site in accordance with Part II-C for a period of five years and shall be made available to department personnel upon request.~~

11. ~~The following recommendations will assist the permittee in performing proper monitoring. The Department of Environmental Quality may be contacted for additional guidance on monitoring procedures.~~

~~a. A minimum of one up gradient and one down gradient well should be installed at each new earthen waste storage facility.~~

~~b. One data set should be collected from each well prior to any waste being placed in the storage facility.~~

~~c. The static water level should be measured prior to bailing well water for sampling.~~

~~d. At least three well volumes of groundwater should be withdrawn immediately prior to sampling each monitoring well.~~

~~e. Soil monitoring should be conducted at a depth of between 0-6 inches.~~

~~f. The nitrate test should be conducted at a soil depth of 0-12 inches on those sites planted in corn or small grains.~~

12. ~~The department encourages the permittee to conduct additional monitoring. All additional monitoring, if any, should be conducted under the oversight of the department. If the permittee conducts additional monitoring in response to a written request from another person, the permittee may request that the person making the request bear the cost of the additional monitoring.~~

B. Other requirements or special conditions.

1. ~~The~~ Any liquid manure collection and storage facility shall be designed and operated to (i) prevent point source discharges of pollutants to state waters except in the case of a storm event greater than the 25-year, 24-hour storm and (ii) provide adequate waste storage capacity to accommodate periods when the ground is frozen or saturated, periods when land application of nutrients should not occur due to limited or nonexistent crop nutrient uptake, and periods when physical limitations prohibit the land application of waste.

2. ~~New~~ Waste storage facilities *constructed after November 17, 2004*, shall not be located on a 100-year floodplain.

3. ~~New~~ Earthen waste storage facilities *constructed after November 17, 2004*, shall include a properly designed and installed liner. Such liner shall be either a synthetic liner of at least 20 mils thickness or a compacted soil liner of at least one foot thickness with a maximum permeability rating of 0.0014 inches per hour. A licensed professional engineer, an employee of the Natural Resources Conservation Service of the United States Department of

Agriculture with appropriate engineering approval authority, or an employee of a soil and water conservation district with appropriate engineering approval authority shall certify that the siting, design and construction of the waste storage facility comply with the requirements of this permit. This certification shall be maintained on site.

4. At earthen waste storage facilities constructed below the seasonal high water table, the top surface of the waste must be maintained at a level of at least two feet above the water table.

5. All *liquid* waste storage facilities shall maintain a *freeboard* of one foot of ~~freeboard~~ at all times, up to and including, *plus the runoff and direct precipitation from a 25-year, 24-hour storm event at all times.*

6. All equipment needed for the proper operation of the permitted facilities shall be maintained in good working order. The manufacturer's operating and maintenance manuals shall be retained for references to allow for timely maintenance and prompt repair of equipment when appropriate. *The operator shall periodically inspect for leaks on equipment used for land application of waste.*

7. The "Nutrient Management Plan" (NMP) approved by the Department of Conservation and Recreation (DCR) shall be implemented and maintained on site. *The NMP shall address the form, source, amount, timing, and method of application of nutrients on each field to achieve realistic production goals, while minimizing nitrogen and phosphorus loss to ground and surface waters.* The NMP shall be enforceable through this permit. The NMP shall contain at a minimum the following information:

- a. Site map indicating the location of the waste storage facilities and the fields where waste will be applied;
- b. Site evaluation and assessment of soil types and potential productivities;
- c. Nutrient management sampling including soil and waste monitoring;
- d. Storage and land area requirements;
- e. Calculation of waste application rates;
- f. Waste application schedules; and
- g. A plan for waste utilization in the event the operation is discontinued.

8. Buffer zones shall be maintained as follows:

- a. Distance from occupied dwellings *not on the owner's property*.....200 feet
(unless the occupant of the dwelling signs a waiver of the buffer zone)
- b. Distance from water supply wells or springs.....100 feet
- c. Distance from surface water courses
by surface application).....50 feet
(by subsurface application).....25 feet

- (1) 100 feet (without a vegetated buffer);
- (2) 35-foot wide vegetated buffer; or
- (3) Other site-specific conservation practices may be approved by the department that will provide pollutant reductions equivalent or better than the reductions that would be achieved by the 100-foot buffer, or 35-foot wide vegetated buffer.

- d. Distance from rock outcropping (except limestone).....25 feet
- e. Distance from limestone outcroppings.....50 feet
- f. Waste shall not be applied in such a manner that it would discharge to sinkholes that may exist in the area.

9. Records shall be maintained to demonstrate where and at what rate waste has been applied, that the application schedule has been followed, and what crops have been planted. These records shall be maintained on site for a period of five years after recorded application is made and shall be made available to department personnel upon request.

10. The permittee shall notify the department's regional office at least 14 days prior to: (i) animals being initially placed in the confined facility or (ii) utilization of any new waste storage facilities.

11. Each operator of a facility covered by this general permit ~~on July 1, 1999, shall, by January 1, 2000, complete~~ shall have completed the training program offered or approved by the Department of Conservation and Recreation. ~~Each operator of a facility permitted after July 1, 1999 in the two years prior to submitting the registration statement for general permit coverage, or shall complete such training within one year after the registration statement has been submitted for general permit coverage. Thereafter, All operators shall complete the training program at least once every three years.~~

Part II

A. Sampling and analysis methods.

- 1. Samples and measurements taken as required by this permit shall be representative of the volume and nature of the monitored activity.
- 2. Unless otherwise specified in this permit all sample preservation methods, maximum holding times and analysis methods for pollutants shall comply with requirements set forth in Guidelines Establishing Test Procedures for the Analysis of Pollutants (40 CFR 136 (1994 2001)).
- 3. The sampling and analysis program to demonstrate compliance with the permit shall at a minimum, conform to Part I of this permit.
- 4. The permittee shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals that will insure accuracy of measurements.

B. Recording of results. For each measurement or sample taken pursuant to the requirements of this permit, the permittee shall record the following information:

- 1. The date, exact place and time of sampling or measurements;
- 2. The persons who performed the sampling or measurements;
- 3. The dates analyses were performed;
- 4. The persons who performed each analysis;
- 5. The analytical techniques or methods used; and
- 6. The results of such analyses and measurements.

C. Records retention. All records and information resulting from the monitoring activities required by this permit, including all records of analyses performed and calibration and maintenance of instrumentation and recording from continuous monitoring instrumentation shall be retained on site for five years from the date of the sample, measurement or report. This period of retention shall be extended automatically during the course of any unresolved litigation regarding the regulated activity or regarding control standards applicable to the permittee, or as requested by the director.

D. Additional monitoring by permittee. If the permittee monitors any pollutant at the locations designated herein more frequently than required by this permit, using approved analytical methods as specified above, the results of such monitoring shall be included in the calculation and reporting of the values required in the project report. Such increased frequency shall also be reported.

E. Reporting requirements.

- 1. If, for any reason, the permittee does not comply with one or more limitations, standards, monitoring or management requirements specified in this permit, the permittee shall submit to the department at least the following information:
 - a. A description and cause of noncompliance;
 - b. The period of noncompliance, including exact dates and times or the anticipated time when the noncompliance will cease; and
 - c. Actions taken or to be taken to reduce, eliminate, and prevent recurrence of the noncompliance. Whenever such noncompliance may adversely affect state waters or may endanger public health, the permittee shall submit the above required information by oral report within 24 hours from the time the permittee becomes aware of the circumstances and by written report within five days. The director may waive the written report requirement on a case-by-case basis if the oral report has been received within 24 hours and no adverse impact on state waters has been reported.

2. The permittee shall report any unpermitted, unusual or extraordinary discharge which enters or could be expected to enter state waters. The permittee shall provide information, specified in Part II E 1 a through c, regarding each such discharge immediately, that is, as quickly as

Proposed Regulations

possible upon discovery, however, in no case later than 24 hours. A written submission covering these points shall be provided within five days of the time the permittee becomes aware of the circumstances covered by this paragraph. ~~If the department's regional office cannot be reached, the department maintains a 24-hour telephone service in Richmond (804 527 5200) to which the report required above is to be made.~~

NOTE: The immediate (within 24 hours) reports required in Parts II E 1 and 2 may be made to the department's regional office. Reports may be made by telephone or by fax. For reports outside normal working hours, a message shall fulfill the immediate reporting requirement. For emergencies, the Virginia Department of Emergency Management maintains a 24-hour telephone service at 1-800-468-8892.

F. Signatory requirements. Any registration statement or certification required by this permit shall be signed as follows:

1. For a corporation, by a responsible corporate official. For purposes of this section, a responsible corporate official means (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25,000,000 (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
2. For a municipality, state, federal or other public agency by either a principal executive officer or ranking elected official. (A principal executive officer of a federal, municipal, or state agency includes the chief executive officer of the agency or head executive officer having responsibility for the overall operation of a principal geographic unit of the agency.)
3. For a partnership or sole proprietorship, by a general partner or proprietor respectively.

Part III

A. Change in management of pollutants.

1. All pollutant management activities authorized by this permit shall be made in accordance with the terms and conditions of the permit. The permittee shall submit a new registration statement 30 days prior to all expansions, production increases, or process modifications, that will result in the management of new or increased pollutants. The management of any pollutant at a level greater than that identified and authorized by this permit, shall constitute a violation of the terms and conditions of this permit.
2. The permittee shall promptly provide written notice of the following:
 - a. Any new introduction of pollutant or pollutants, into treatment works or pollutant management activities which represents a significant increase in the management of pollutant or pollutants which may interfere with, pass through, or otherwise be incompatible with such works or

activities, from an establishment or treatment works, if such establishment, treatment works has the potential to discharge pollutants to state waters; and

b. Any substantial change, whether permanent or temporary, in the volume or character of pollutants being introduced into such treatment works by an establishment, treatment works, or pollutant management activity that was introducing pollutants into such treatment works at the time of issuance of the permit.

Such notice shall include information on: (i) the characteristics and quantity of pollutants to be introduced into or from such treatment works or pollutant management activities; (ii) any anticipated impact of such change in the quantity and characteristics of the pollutants to be managed at a pollutant management activity; and (iii) any additional information that may be required by the director.

B. Treatment works operation and quality control.

1. Design and operation of facilities or treatment works and disposal of all wastes shall be in accordance with the registration statement filed with the department. The permittee has the responsibility of designing and operating the facility in a reliable and consistent manner to meet the facility performance requirements in the permit. If facility deficiencies, design or operational, are identified in the future which could affect the facility performance or reliability, it is the responsibility of the permittee to correct such deficiencies.
2. All waste collection, control, treatment, management of pollutant activities and disposal facilities shall be operated in a manner consistent with the following:
 - a. At all times, all facilities and pollutant management activities shall be operated in a prudent and workmanlike manner.
 - b. The permittee shall provide an adequate operating staff to carry out the operation, maintenance and testing functions required to ensure compliance with the conditions of this permit.
 - c. Maintenance of treatment facilities or pollutant management activities shall be carried out in such a manner that the monitoring and limitation requirements are not violated.
 - d. Collected solids shall be stored and utilized as specified in the approved Nutrient Management Plan in such a manner as to prevent entry of those wastes (or runoff from the wastes) into state waters.

C. Adverse impact. The permittee shall take all feasible steps to minimize any adverse impact to state waters resulting from noncompliance with any limitation or limitations or conditions specified in this permit, and shall perform and report such accelerated or additional monitoring as is necessary to determine the nature and impact of the noncomplying limitation or limitations or conditions.

D. Duty to halt, reduce activity or to mitigate.

1. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

2. The permittee shall take all reasonable steps to minimize, correct or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

E. Structural stability. The structural stability of any of the units or parts of the facilities herein permitted is the sole responsibility of the permittee and the failure of such structural units or parts shall not relieve the permittee of the responsibility of complying with all terms and conditions of this permit.

F. Compliance with state law. Compliance with this permit during its term constitutes compliance with the State Water Control Law. Nothing in this permit shall be construed to preclude the institution of any legal action under, or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any other state law or regulation.

G. Property rights. The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations.

H. Severability. The provisions of this permit are severable.

I. Duty to reregister. If the permittee wishes to continue to operate under a general permit after the expiration date of this permit, the permittee must submit a new registration statement at least 30 days prior to the expiration date of this permit.

J. Right of entry. The permittee shall allow, or secure necessary authority to allow, authorized state representatives, upon the presentation of credentials:

1. To enter upon the permittee's premises on which the establishment, treatment works, pollutant management activities, or discharge or discharges is located or in which any records are required to be kept under the terms and conditions of this permit;

2. To have access to inspect and copy at reasonable times any records required to be kept under the terms and conditions of this permit;

3. To inspect at reasonable times any monitoring equipment or monitoring method required in this permit;

4. To sample at reasonable times any waste stream, process stream, raw material or by-product; and

5. To inspect at reasonable times any collection, treatment, or pollutant management activities required under this permit. For purposes of this section, the time for inspection shall be deemed reasonable during regular business hours, and whenever the facility is discharging or involved in managing pollutants. Nothing contained here shall make an inspection time unreasonable during an emergency.

K. Transferability of permits. This permit may be transferred to a new owner by a permittee if:

1. The current permittee notifies the department 30 days in advance of the proposed transfer of the title to the facility or property;

2. The notice to the department includes a written agreement between the existing and proposed new permittee containing a specific date of transfer of permit responsibility, coverage and liability between them; and

3. The department does not within the 30-day time period notify the existing permittee and the proposed permittee of the board's intent to modify or revoke and reissue the permit. Such a transferred permit shall, as of the date of the transfer, be as fully effective as if it had been issued directly to the new permittee.

L. Permit modification. The permit may be modified when any of the following developments occur:

1. When a change is made in the promulgated standards or regulations on which the permit was based; or

2. When the level of management of a pollutant, not limited in the permit, exceeds applicable Water Quality Standards or the level which can be achieved by technology-based treatment requirements appropriate to the permittee.

M. Permit termination. After public notice and opportunity for a hearing, the general permit may be terminated for cause.

N. When an individual permit may be required. The director may require any permittee authorized to manage pollutants under this permit to apply for and obtain an individual permit. Cases where an individual permit may be required include, but are not limited to, the following:

1. The pollutant management activities violate the terms or conditions of this permit;

2. When additions or alterations have been made to the affected facility which require the application of permit conditions that differ from those of the existing permit or are absent from it; and

3. When new information becomes available about the operation or pollutant management activities covered by this permit which were not available at permit issuance and would have justified the application of different permit conditions at the time of permit issuance.

This permit may be terminated as to an individual permittee for any of the reasons set forth above after appropriate notice and an opportunity for a hearing.

O. When an individual permit may be requested. Any permittee operating under this permit may request to be excluded from the coverage of this permit by applying for an individual permit. When an individual permit is issued to a permittee the applicability of this general permit to the individual permittee is automatically terminated on the effective date of the individual permit.

Proposed Regulations

P. Civil and criminal liability. Nothing in this permit shall be construed to relieve the permittee from civil and criminal penalties for noncompliance with the terms of this permit.

Q. Oil and hazardous substance liability. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under § 311 of the Clean Water Act or §§ 62.1-44.34:14 through 62.1-44.34:23 of the Code of Virginia.

R. Unauthorized discharge of pollutants. Except in compliance with this permit, it shall be unlawful for any permittee to:

1. Discharge into state waters sewage, industrial wastes, other wastes or any noxious or deleterious substances; or
2. Otherwise alter the physical, chemical or biological properties of such state waters and make them detrimental to the public health, or to animal or aquatic life, or to the uses of such waters for domestic or industrial consumption, or for recreation, or for other uses.

FORMS

NOTICE: The forms used in administering 9 VAC 25-192, Virginia Pollution Abatement (VPA) General Permit Regulation for Animal Feeding Operations, are listed and published below.

Virginia Pollution Abatement General Permit Registration Statement for Confined Animal Feeding Operations with instructions (rev. 2/99).

Local Government Ordinance Form (eff. 11/94).

COMMONWEALTH of VIRGINIA
DEPARTMENT OF ENVIRONMENTAL QUALITY

VIRGINIA POLLUTION ABATEMENT GENERAL PERMIT REGISTRATION STATEMENT
FOR CONFINED ANIMAL FEEDING OPERATIONS

04 MAY 24 AM 8:09

1. Facility Name: _____
Address: _____ City: _____ State: _____ Zip Code: _____
2. Owner Name: _____
Address: _____ City: _____ State: _____ Zip Code: _____
Phone: _____
3. Operator Name: _____
Address: _____ City: _____ State: _____ Zip Code: _____
Phone: _____
Facility Contact: _____
Phone: _____ Best Time to Contact (day time): _____
4. Does this facility have an existing VPA or VPDES Permit Number? Yes _____ No _____
If yes, list the existing VPA or VPDES Permit Number: _____
5. Indicate the maximum number and average weight of the type(s) of animal which will be maintained at your facility:

Animal Type	Maximum Number	Average Weight
Dairy Cattle	_____	_____
Slaughter and Feeder Cattle	_____	_____
Swine	_____	_____
Other _____	_____	_____

6. The owner of any proposed pollutant management activities or those which have not previously been issued a valid VPA or VPDES permit must attach to the Registration Statement the notification from the governing body of the county, city or town where the operation is located that the operation is consistent with all ordinances adopted pursuant to Chapter 22 (§ 15.2-2200 et seq.) of Title 15.2 of the Code of Virginia.
7. The owner of the pollutant management activities must attach to the Registration Statement a copy of the Nutrient Management Plan approved by the Department of Conservation and Recreation and a copy of the letter certifying approval of the plan.

8. **Certification:**

"I certify that notice of the registration statement has been given to all owners or residents of property that adjoins the property on which the animal feeding operation will be located. This notice included the types and numbers of animals which will be maintained at the facility and the address and phone number of the appropriate Department of Environmental Quality regional office to which comments relevant to the permit may be submitted. I certify under penalty of law that all the requirements of the Board for the general permit are being met and that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations."

Print Name: _____ Title: _____

Signature: _____ Date: _____

Proposed Regulations

INSTRUCTIONS

VPA GENERAL PERMIT REGISTRATION STATEMENT FOR CONFINED ANIMAL FEEDING OPERATIONS

General

A VPA General Permit Registration Statement must be submitted when an owner makes application to the Department of Environmental Quality for coverage under the VPA General Permit for Confined Animal Feeding Operations.

Section 1 Facility Information

Give the name of the animal feeding operation and enter its complete mailing address.

Section 2 Owner Information

Give the legal name of the person, firm, public organization, or any other entity that owns the facility or site described in this registration statement. The address of the owner may or may not be the same as the address of the facility. If they are the same, write "SAME AS ABOVE" in the appropriate spaces. Please include the owner's telephone number.

Section 3 Operator Information

Give the operator's name, mailing address and phone number. If these are the same as the owner information, write "SAME AS ABOVE" in the appropriate spaces. The operator is the person who manages daily activities at the site. Please also provide the name of a contact person, their phone number and the best time to make contact with them during regular working hours.

Section 4 Existing Permit Numbers

List the number of any expiring or currently effective permits issued to the animal feeding operation under the VPA or VPDES permit program.

Section 5 Animal Information

Indicate the maximum number and average weights of animals in each category that the operation will have at any one time.

Section 6 Local Government Ordinance Form (LGOF)

Every animal feeding operation seeking coverage under the general permit must provide notification that the operation is not in conflict with the local zoning and planning ordinances. This notification should be made on the LGOF which was provided with the Registration Statement and it must be signed by either the County Administrator, the City/Town Manager, the Mayor, or the Chairman of the Board of Supervisors. The LGOF form you submit must bear an original signature in ink, photocopies are not acceptable. Operations which have previously been issued a VPA permit or IW-ND certificate are not required to submit the LGOF because this issue was resolved during the earlier permit/certificate issuance. All operations which are applying for a permit for the first time must attach the LGOF to the Registration Statement.

Section 7 Nutrient Management Plan (NMP)

State law requires that every animal feeding operation seeking coverage under the VPA general permit have a Nutrient Management Plan. A copy of the operation's Nutrient Management Plan and a copy of the letter from the Virginia Department of Conservation and Recreation approving the operation's NMP must be attached to the Registration Statement.

Section 8 Certification

The Certification must bear an original signature in ink, photocopies are not acceptable. State statutes provide for severe penalties for submitting false information on this Registration Statement. State regulations require this Registration Statement to be signed as follows:

For a corporation: by a responsible corporate officer, which means: (i) president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions, or (ii) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

For a partnership or sole proprietorship: by a general partner or the proprietor; or

For a municipality, state, Federal, or other public facility: by either a principal executive officer or ranking elected official.

VA.R. Doc. No. R03-139; Filed May 24, 2004, 8:09 a.m.

* * * * *

Title of Regulation: **9 VAC 25-630. Virginia Pollution Abatement General Permit Regulation for Poultry Waste Management (amending 9 VAC 25-630-10, 9 VAC 25-630-20, 9 VAC 25-630-30 and 9 VAC 25-630-50).**

Statutory Authority: §§ 62.1-44.15 and 62.1-44.17:1.1 of the Code of Virginia.

Public Hearing Dates:

July 20, 2004 - 2 p.m. (Harrisonburg)

July 21, 2004 - 10 a.m. (Glen Allen)

Public comments may be submitted until 5 p.m. on August 13, 2004.

(See Calendar of Events section for additional information)

Agency Contact: Jon G. Van Soestbergen, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4117, FAX (804) 698-4032, or e-mail jvansoest@deq.state.va.us.

Summary:

The purpose of the proposed action is to amend the existing Virginia Pollution Abatement (VPA) General Permit for Poultry Waste Management, 9 VAC 25-630, where applicable, to reflect changes to 40 CFR Parts 9, 122, 123, and 412, as published in the Federal Register, Volume 68, No. 29, dated February 12, 2003. The current VPA general permit expires November 16, 2004. This general permit regulation governs the authority to manage pollutants from confined poultry feeding operations, including storage and land application of animal wastes. This VPA General Permit for Poultry Waste Management governs the management of poultry waste at confined poultry operations having 200 or more animal units. A new General Virginia Pollution Discharge Elimination System (VPDES) General Permit Regulation for Concentrated Animal Feeding Operations, 9 VAC 25-191 is being proposed in accordance with § 62.1-44.17:1 of the Code of Virginia to regulate concentrated animal feeding operations (CAFOs) under VPDES as required by the federal CAFO rule, which became effective April 14, 2003. The proposed regulation 9 VAC 25-191 will affect a subset of the poultry operations regulated by 9 VAC 25-630. This action is taken to amend 9 VAC 25-630 to exclude poultry operations that will be regulated under the proposed VPDES general permit regulation 9 VAC 25-191 and to make the requirements of the regulations consistent.

9 VAC 25-630-10. Definitions.

The words and terms used in this chapter shall have the meanings defined in the State Water Control Law (§ 62.1-44.2 et seq. of the Code of Virginia) and the VPA Permit Regulation (9 VAC 25-32-10 et seq.) unless the context clearly indicates otherwise, except that for the purposes of this chapter:

"Animal feeding operation" means a lot or facility (other than an aquatic animal production facility) where both of the following conditions are met:

1. Animals (other than aquatic animals) have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period; and

2. Crops, vegetation, forage growth or post-harvest residues are not sustained in the normal growing season over any portion of the operation of the lot or facility.

Two or more animal feeding operations under common ownership are a single animal feeding operation for the purpose of determining the number of animals at an operation if they adjoin each other or if they use a common area or system for the disposal of wastes.

"Confined animal feeding operation," for the purposes of this regulation, has the same meaning as an "animal feeding operation."

"Confined poultry feeding operation" means any confined animal feeding operation with 200 or more animal units of poultry. This equates to 20,000 chickens or 11,000 turkeys. These numbers are established regardless of animal age or sex.

"Department" means the Virginia Department of Environmental Quality.

"Director" means the Director of the Virginia Department of Environmental Quality or his designee.

"Nutrient management plan" or "NMP" means a plan developed or approved by the Department of Conservation and Recreation that requires proper storage, treatment and management of poultry waste, including dry litter, and limits accumulation of excess nutrients in soils and leaching or discharge of nutrients into state waters.

"Permittee" means the poultry grower whose confined poultry feeding operation is covered under the general permit.

"Poultry grower" means any person who owns or operates a confined poultry feeding operation.

"Poultry waste" means dry poultry litter and composted dead poultry.

"Poultry waste broker" means a person, other than the poultry grower, who possesses more than 10 tons of poultry waste in any 365-day period and who transfers some or all of the waste to other persons.

"Vegetated buffer" means a permanent strip of dense perennial vegetation established parallel to the contours of and perpendicular to the dominant slope of the field for the purposes of slowing water runoff, enhancing water infiltration, and minimizing the risk of any potential nutrients or pollutants from leaving the field and reaching surface waters.

9 VAC 25-630-20. Purpose; delegation of authority; effective date of permit.

A. This general permit regulation governs the management of poultry waste at confined poultry feeding operations ~~having 200 or more animal units not covered by a Virginia Pollution Discharge Elimination System (VPDES) permit.~~ It establishes requirements for proper nutrient management, waste storage, and waste tracking and accounting of poultry waste.

Proposed Regulations

B. The Director of the Department of Environmental Quality, or his designee, may perform any act of the board provided under this chapter, except as limited by § 62.1-44.14 of the Code of Virginia.

C. This general permit will become effective on December 1, 2000. This general permit will expire 10 years from the effective date.

9 VAC 25-630-30. Authorization to manage pollutants.

A. Any poultry grower governed by this general permit is hereby authorized to manage pollutants at confined poultry feeding operations provided that the poultry grower files the registration statement of 9 VAC 25-630-40, complies with the requirements of 9 VAC 25-630-50, and provided that:

1. The poultry grower has not been required to obtain a *Virginia Pollution Discharge Elimination System (VPDES) permit* or an individual permit according to 9 VAC 25-32-260 B;

2. The activities of the confined poultry feeding operation shall not contravene the Water Quality Standards, as amended and adopted by the board, or any provision of the State Water Control Law. There shall be no point source discharge of wastewater except in the case of a storm event greater than the 25-year, 24-hour storm. Domestic sewage or industrial waste shall not be managed under this general permit;

3. Confined poultry feeding operations that use disposal pits for routine disposal of daily mortalities shall not be covered under this general permit. The use of a disposal pit by a permittee for routine disposal of daily poultry mortalities shall be considered a violation of this permit. This prohibition shall not apply to the emergency disposal of dead poultry done according to regulations adopted pursuant to § 3.1-726 or Chapter 14 (§ 10.1-1400 et seq.) of Title 10.1 of the Code of Virginia;

4. The Department of Conservation and Recreation must approve a nutrient management plan for the confined poultry feeding operation prior to the submittal of the registration statement. The poultry grower shall attach to the registration statement a copy of the approved nutrient management plan and a copy of the letter from the Department of Conservation and Recreation certifying approval of the nutrient management plan. The poultry grower shall implement the approved nutrient management plan;

5. Adjoining property notification.

a. When a poultry grower files a general permit registration statement for a confined poultry feeding operation that proposes construction of poultry growing houses after December 1, 2000, the poultry grower shall also give notice to all owners or residents of property that adjoins the property on which the proposed confined poultry feeding operation will be located. Such notice shall include: (i) the types and maximum number of poultry which will be maintained at the facility and (ii) the address and phone number of the appropriate department regional office to which comments relevant to the permit may be submitted.

b. Any person may submit written comments on the proposed operation to the department within 30 days of the date of the filing of the registration statement. If, on the basis of such written comments or his review, the director determines that the proposed operation will not be capable of complying with the provisions of the general permit, the director shall require the owner to obtain an individual permit for the operation. Any such determination by the director shall be made in writing and received by the poultry grower not more than 45 days after the filing of the registration statement or, if in the director's sole discretion additional time is necessary to evaluate comments received from the public, not more than 60 days after the filing of the registration statement; and

6. Each poultry grower covered by this general permit shall complete the training program offered or approved by the Department of Conservation and Recreation within one year of filing the registration statement for general permit coverage.

B. Receipt of this general permit does not relieve any poultry grower of the responsibility to comply with any other applicable federal, state or local statute, ordinance or regulation.

9 VAC 25-630-50. Contents of the general permit.

Any poultry grower whose registration statement is accepted by the board will receive the following general permit and shall comply with the requirements therein and be subject to the VPA Permit Regulation, 9 VAC 25-32.

General Permit No. VPG2

Effective Date:

Modification Date:

Expiration Date:

GENERAL PERMIT FOR POULTRY WASTE MANAGEMENT AT CONFINED POULTRY FEEDING OPERATIONS

AUTHORIZATION TO MANAGE POLLUTANTS UNDER THE VIRGINIA POLLUTION ABATEMENT PROGRAM AND THE VIRGINIA STATE WATER CONTROL LAW

In compliance with the provisions of the State Water Control Law and State Water Control Board regulations adopted pursuant thereto, owners of confined poultry feeding operations having 200 or more animal units are authorized to manage pollutants within the boundaries of the Commonwealth of Virginia, except where board regulations or policies prohibit such activities.

The authorized pollutant management activities shall be in accordance with the registration statement and supporting documents submitted to the Department of Environmental Quality; , *this cover page*, and Part I - Pollutant Management and Monitoring Requirements and Part II - Conditions Applicable to All VPA Permits, as set forth herein.

PART I

POLLUTANT MANAGEMENT AND MONITORING REQUIREMENTS

A. Pollutant management authorization and monitoring requirements.

1. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to manage pollutants at the ~~location(s)~~ *location or locations* identified in the registration statement and the *facility's approved* nutrient management plan.

2. If poultry waste is land applied, it shall be applied at the rates specified in the *facility's approved* nutrient management plan.

3. Soil at the land application sites shall be monitored as specified below. Additional soils monitoring may be required in the *facility's approved* nutrient management plan.

SOILS MONITORING

PARAMETERS	LIMITATIONS	UNITS	MONITORING REQUIREMENTS	
			Frequency	Sample Type
pH	NL	SU	1/3 years	Composite
Phosphorus	NL	ppm or lbs/ac	1/3 years	Composite
Potash	NL	ppm or lbs/ac	1/3 years	Composite
Calcium	NL	ppm or lbs/ac	1/3 years	Composite
Magnesium	NL	ppm or lbs/ac	1/3 years	Composite

NL = No limit, this is a monitoring requirement only.
 SU = Standard Units

4. Poultry waste shall be monitored as specified below. Additional waste monitoring may be required in the *facility's approved* nutrient management plan.

WASTE MONITORING

PARAMETERS	LIMITATIONS	UNITS	MONITORING REQUIREMENTS	
			Frequency	Sample Type
Total Kjeldahl Nitrogen	NL	ppm *	1/3 years	Composite
Ammonia Nitrogen	NL	ppm *	1/3 years	Composite
Total Phosphorus	NL	ppm *	1/3 years	Composite
Total Potassium	NL	ppm *	1/3 years	Composite
Moisture Content	NL	%	1/3 years	Composite

NL = No limit, this is a monitoring requirement only.

* *Parameters for waste may be reported as a percent, as lbs/ton or lbs/1000 gallons, or as ppm where appropriate.*

5. Analysis of soil and waste shall be according to methods specified in ~~Reference Soil Test Methods for the Southern Region of the United States, Southern Cooperative Series Bulletin 289 (1983); or Reference Soil and Media Diagnostic Procedures for the Southern Region of the United States, Southern Cooperative Series Bulletin 374 (1992); or Laboratory Procedures, Virginia Tech Soil Testing and Plant Analysis Laboratory, Virginia Cooperative Extension, Publication 452-881 (1996). Copies of these publications are available for public review at the department's regional offices~~ *the facility's approved nutrient management plan.*

6. All monitoring data required by Part I A shall be maintained on site in accordance with Part II B. Reporting of results to the department is not required; however, the monitoring results shall be made available to department personnel upon request.

B. Other requirements or special conditions.

1. The confined poultry feeding operation shall be designed and operated to (i) prevent point source discharges of pollutants to state waters except in the case of a storm event greater than the 25-year, 24-hour storm and (ii) provide adequate waste storage capacity to accommodate periods when the ground is ice covered, snow covered or saturated, periods when land application of nutrients should not occur due to limited or nonexistent crop nutrient uptake, and periods when physical limitations prohibit the land application of waste.

2. Poultry waste shall be stored according to the nutrient management plan and in a manner that prevents contact with surface water and ground water. Poultry waste that is stockpiled outside of the growing house for more than 14 days shall be kept in a facility that provides adequate storage. Adequate storage shall, at a minimum, include the following:

a. Poultry waste shall be covered to protect it from precipitation and wind;

b. Storm water shall not run onto or under the stored poultry waste; and

c. A minimum of two feet separation distance to the seasonal high water table or an impermeable barrier shall be used under the stored poultry waste. All poultry waste storage facilities that use an impermeable barrier shall maintain a minimum of one foot separation between the seasonal high water table and the impermeable barrier. "Seasonal high water table" means that portion of the soil profile where a color change has occurred in the soil as a result of saturated soil conditions or where soil concretions have formed. Typical colors are gray mottlings, solid gray or black. The depth in the soil at which these conditions first occur is termed the seasonal high water table. Impermeable barriers must be constructed of at least 12 inches of compacted clay, at least four inches of reinforced concrete, or another material of similar structural integrity that has a minimum permeability rating of 0.0014 inches per hour (1X10⁻⁶ centimeters per second).

3. Poultry waste storage facilities constructed after December 1, 2000, shall not be located within a 100-year floodplain unless the poultry grower has no land outside the floodplain on which to construct the facility and the facility is constructed so that the poultry waste is stored above the 100-year flood elevation or otherwise protected from floodwaters through the construction of berms or similar best management flood control structures. New, expanded or replacement poultry growing houses that are constructed after December 1, 2000, shall not be located within a 100-year floodplain unless they are part of an existing, ongoing confined poultry feeding operation and are constructed so that the poultry and poultry litter are housed above the 100-

Proposed Regulations

year flood elevation or otherwise protected from floodwaters through construction of berms or similar best management flood control structures.

4. When a poultry grower transfers to another person more than 10 tons of poultry waste in any 365-day period, the poultry grower shall provide that person a copy of the most recent nutrient analysis for the poultry waste and a fact sheet approved by the department, in consultation with the Department of Conservation and Recreation, that includes appropriate practices for proper storage and management of the waste. The person receiving the waste shall provide the poultry grower his name and address and acknowledge in writing receipt of the waste, the nutrient analysis and the fact sheet. If the person receiving the waste is a poultry waste broker, then he shall also certify in writing that he will provide a copy of the nutrient analysis and fact sheet to each end user to whom he transfers poultry waste.

5. When a poultry grower transfers to another person more than 10 tons of poultry waste in any 365-day period, the poultry grower shall keep a record of the amount of poultry waste received by the person, the date of the transaction, the nutrient content of the waste, the locality in which the recipient intends to utilize the waste (i.e., nearest town or city and zip code), the name of the stream or waterbody known to the recipient that is nearest to the waste utilization site, and the signed waste transfer acknowledgement. These records shall be maintained on site for three years after the transaction and shall be made available to department personnel upon request.

6. Confined poultry feeding operations that use disposal pits for routine disposal of daily mortalities shall not be covered under this general permit. The use of a disposal pit for routine disposal of daily poultry mortalities by a permittee shall be considered a violation of this permit. This prohibition does not apply to the emergency disposal of dead poultry done according to regulations adopted pursuant to § 3.1-726 or Chapter 14 (§ 10.1-1400 et seq.) of Title 10.1 of the Code of Virginia.

7. The Nutrient Management Plan (NMP) approved by the Department of Conservation and Recreation shall be maintained on site. The NMP shall be implemented and is enforceable through this permit. The NMP shall contain at a minimum the following information:

- a. Site map indicating the location of the waste storage facilities and the fields where waste will be applied by the poultry grower;
- b. Site evaluation and assessment of soil types and potential productivities;
- c. Nutrient management sampling including soil and waste monitoring;
- d. Storage and land area requirements for the grower's poultry waste management activities;
- e. Calculation of waste application rates; and
- f. Waste application schedules.

8. When the poultry waste storage facility is no longer needed, the permittee shall close it in a manner that: (i) minimizes the need for further maintenance and (ii) controls, minimizes or eliminates, to the extent necessary to protect human health and the environment, the postclosure escape of uncontrolled leachate, surface runoff, or waste decomposition products to the ground water, surface water or the atmosphere. At closure, the permittee shall remove all poultry waste residue from the waste storage facility. At waste storage facilities without permanent covers and impermeable ground barriers, all residual poultry waste shall be removed from the surface below the stockpile when the poultry waste is taken out of storage. Removed waste materials shall be utilized according to the ~~nutrient management plan~~ *NMP*.

9. Nitrogen application rates contained in the NMP shall not exceed crop nutrient needs as determined by the Department of Conservation and Recreation. The application of poultry waste shall be managed to minimize runoff, leachate, and volatilization losses, and reduce adverse water quality impacts from nitrogen.

10. For all NMPs developed after October 1, 2001, phosphorus application rates shall not exceed the greater of crop nutrient needs or crop nutrient removal as determined by the Department of Conservation and Recreation. For all NMPs developed after December 31, 2005, phosphorus application rates shall be in accordance with the Department of Conservation and Recreation's regulatory criteria and standards in effect at the time the NMP is written. The application of poultry waste shall be managed to minimize runoff and leaching and reduce adverse water quality impacts from phosphorous.

11. The timing of land application of poultry waste shall be according to the schedule contained in the NMP, except that no waste may be applied to ice or snow covered ground or to soils that are saturated. Poultry waste may be applied to frozen ground within the NMP scheduled times only under the following conditions:

- a. Slopes are not greater than 6.0%;
- b. A minimum of a 200-foot vegetative or adequate crop residue buffer is maintained between the application area and all surface water courses;
- c. Only those soils characterized by USDA as "well drained" with good infiltration are used; and
- d. At least 60% uniform cover by vegetation or crop residue is present in order to reduce surface runoff and the potential for leaching of nutrients to ground water.

12. Buffer zones at waste application sites shall, at a minimum, be maintained as follows:

- a. Distance from occupied dwellings not on the permittee's property: 200 feet (unless the occupant of the dwelling signs a waiver of the buffer zone);
- b. Distance from water supply wells or springs: 100 feet;
- c. Distance from surface water courses: ~~50 feet (for surface application) or 25 feet (if by subsurface injection)~~

~~or same day soil incorporation~~; 100 feet (without a permanent vegetated buffer) or 35 feet (if a permanent vegetated buffer exists).

Other site-specific conservation practices may be approved by the department that will provide pollutant reductions equivalent or better than the reductions that would be achieved by the 100-foot buffer.

d. Distance from rock outcropping (except limestone): 25 feet;

e. Distance from limestone outcroppings: 50 feet; and

f. Waste shall not be applied in such a manner that it would discharge to sinkholes that may exist in the area.

13. Records shall be maintained to demonstrate where and at what rate waste has been applied, that the application schedule has been followed, and what crops have been planted. These records shall be maintained on site for a period of three years after recorded application is made and shall be made available to department personnel upon request.

14. Each poultry grower covered by this general permit shall complete the training program offered or approved by the Department of Conservation and Recreation within one year of filing the registration statement has been submitted for general permit coverage.

PART II CONDITIONS APPLICABLE TO ALL VPA PERMITS

A. Monitoring.

1. Samples and measurements taken as required by this permit shall be representative of the monitored activity.

2. Monitoring shall be conducted according to procedures listed under 40 CFR Part 136 unless other procedures have been specified in this permit.

3. The permittee shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals that will ensure accuracy of measurements.

B. Records.

1. Records of monitoring information shall include:

a. The date, exact place, and time of sampling or measurements;

b. The name of the individual(s) who performed the sampling or measurements;

c. The date(s) and time(s) analyses were performed;

d. The name of the individual(s) who performed the analyses;

e. The analytical techniques or methods used, with supporting information such as observations, readings, calculations and bench data; and

f. The results of such analyses.

2. The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit for a period of at least three years from the date of the sample, measurement, report or application. This period of retention may be extended by request of the board at any time.

C. Reporting monitoring results.

1. The permittee shall submit the results of the monitoring required by this permit not later than the 10th day of the month after the monitoring takes place, unless another reporting schedule is specified elsewhere in this permit. Monitoring results shall be submitted to the department's regional office.

2. Monitoring results shall be reported on forms provided or specified by the department.

3. If the permittee monitors the pollutant management activity, at a sampling location specified in this permit, for any pollutant more frequently than required by the permit using approved analytical methods, the permittee shall report the results of this monitoring on the monitoring report.

4. If the permittee monitors the pollutant management activity, at a sampling location specified in this permit, for any pollutant that is not required to be monitored by the permit, and uses approved analytical methods, the permittee shall report the results with the monitoring report.

5. Calculations for all limitations that require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in this permit.

D. Duty to provide information. The permittee shall furnish to the department, within a reasonable time, any information which the board may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the department, upon request, copies of records required to be kept by the permittee. Plans, specifications, maps, conceptual reports and other relevant information shall be submitted as requested by the board prior to commencing construction.

E. Compliance schedule reports. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.

F. Unauthorized discharges. Except in compliance with this permit, or another permit issued by the board, it shall be unlawful for any person to:

1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances; or

2. Otherwise alter the physical, chemical or biological properties of such state waters and make them detrimental to the public health, or to animal or aquatic life, or to the use

Proposed Regulations

of such waters for domestic or industrial consumption, or for recreation, or for other uses.

G. Reports of unauthorized discharges. Any permittee who discharges or causes or allows (i) a discharge of sewage, industrial waste, other wastes or any noxious or deleterious substance into or upon state waters in violation of Part II F or (ii) a discharge that may reasonably be expected to enter state waters in violation of Part II F shall notify the department of the discharge immediately upon discovery of the discharge, but in no case later than 24 hours after said discovery. A written report of the unauthorized discharge shall be submitted to the department within five days of discovery of the discharge. The written report shall contain:

1. A description of the nature and location of the discharge;
2. The cause of the discharge;
3. The date on which the discharge occurred;
4. The length of time that the discharge continued;
5. The volume of the discharge;
6. If the discharge is continuing, how long it is expected to continue;
7. If the discharge is continuing, what the expected total volume of the discharge will be; and
8. Any steps planned or taken to reduce, eliminate and prevent a recurrence of the present discharge or any future discharges not authorized by this permit.

Discharges reportable to the department under the immediate reporting requirements of other regulations are exempted from this requirement.

H. Reports of unusual or extraordinary discharges. If any unusual or extraordinary discharge including a bypass or upset should occur from a treatment works and the discharge enters or could be expected to enter state waters, the permittee shall promptly notify, in no case later than 24 hours, the department by telephone after the discovery of the discharge. This notification shall provide all available details of the incident, including any adverse effects on aquatic life and the known number of fish killed. The permittee shall reduce the report to writing and shall submit it to the department within five days of discovery of the discharge in accordance with Part II I 2. Unusual and extraordinary discharges include but are not limited to any discharge resulting from:

1. Unusual spillage of materials resulting directly or indirectly from processing operations;
2. Breakdown of processing or accessory equipment;
3. Failure or taking out of service some or all of the treatment works; and
4. Flooding or other acts of nature.

I. Reports of noncompliance. The permittee shall report any noncompliance which may adversely affect state waters or may endanger public health.

1. An oral report shall be provided within 24 hours from the time the permittee becomes aware of the circumstances. The following shall be included as information which shall be reported within 24 hours under this paragraph:

- a. Any unanticipated bypass; and
- b. Any upset which causes a discharge to surface waters.

2. A written report shall be submitted within five days and shall contain:

- a. A description of the noncompliance and its cause;
- b. The period of noncompliance, including exact dates and times, and, if the noncompliance has not been corrected, the anticipated time it is expected to continue; and
- c. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

The board may waive the written report on a case-by-case basis for reports of noncompliance under Part II I if the oral report has been received within 24 hours and no adverse impact on state waters has been reported.

3. The permittee shall report all instances of noncompliance not reported under Part II I 1 or 2 in writing at the time the next monitoring reports are submitted. The reports shall contain the information listed in Part II I 2.

NOTE: The immediate (within 24 hours) reports required in Parts II F, G and H may be made to the department's regional office. For reports outside normal working hours, leave a message and this shall fulfill the immediate reporting requirement. For emergencies, the Virginia Department of Emergency Services maintains a 24-hour telephone service at 1-800-468-8892.

J. Notice of planned changes.

1. The permittee shall give notice to the department as soon as possible of any planned physical alterations or additions to the design or operation of the pollutant management activity.
2. The permittee shall give at least 10 days advance notice to the department of any planned changes in the permitted facility or activity that may result in noncompliance with permit requirements.

K. Signatory requirements.

1. Applications. All permit applications shall be signed as follows:

- a. For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means: (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation or (ii) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second-quarter 1980 dollars), if authority to sign documents has

been assigned or delegated to the manager in accordance with corporate procedures;

b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or

c. For a municipality, state, federal, or other public agency: by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a public agency includes: (i) the chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

2. Reports, etc. All reports required by permits, and other information requested by the board shall be signed by a person described in Part II K 1, or by a duly authorized representative of that person. A person is a duly authorized representative only if:

a. The authorization is made in writing by a person described in Part II K 1;

b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, or a position of equivalent responsibility. A duly authorized representative may thus be either a named individual or any individual occupying a named position; and

c. The written authorization is submitted to the department.

3. Changes to authorization. If an authorization under Part II K 2 is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Part II K 2 shall be submitted to the department prior to or together with any reports, or information to be signed by an authorized representative.

4. Certification. Any person signing a document under Part II K 1 or 2 shall make the following certification: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

L. Duty to comply. The permittee shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the State Water Control Law. Permit noncompliance is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. Compliance with a permit during its term constitutes compliance, for purposes of enforcement, with the State Water Control Law.

M. Duty to reapply. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee shall apply for and obtain a new permit. All permittees with a currently effective permit shall submit a new application at least 180 days before the expiration date of the existing permit unless permission for a later date has been granted by the board. The board shall not grant permission for applications to be submitted later than the expiration date of the existing permit.

N. Effect of a permit. This permit does not convey any property rights in either real or personal property or any exclusive privileges, nor does it authorize any injury to private property or invasion of personal rights, or any infringement of federal, state or local law or regulations.

O. State law. Nothing in this permit shall be construed to preclude the institution of any legal action under, or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any other state law or regulation or under authority preserved by § 510 of the federal Clean Water Act. Except as provided in permit conditions on bypassing (Part II U), and upset (Part II V), nothing in this permit shall be construed to relieve the permittee from civil and criminal penalties for noncompliance.

P. Oil and hazardous substance liability. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under §§ 62.1-44.34:14 through 62.1-44.34:23 of the State Water Control Law.

Q. Proper operation and maintenance. The permittee shall be responsible for the proper operation and maintenance of all treatment works, systems and controls which are installed or used to achieve compliance with the conditions of this permit. Proper operation and maintenance includes effective plant performance, adequate funding, adequate staffing, and adequate laboratory and process controls, including appropriate quality assurance procedures.

R. Disposal of solids or sludges. Solids, sludges or other pollutants removed in the course of treatment or management of pollutants shall be disposed of in a manner so as to prevent any pollutant from such materials from entering state waters.

S. Duty to mitigate. The permittee shall take all reasonable steps to minimize or prevent any pollutant management activity in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

T. Need to halt or reduce activity not a defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

U. Bypass.

1. Prohibition. "Bypass" means intentional diversion of waste streams from any portion of a treatment works. A bypass of the treatment works is prohibited except as provided herein.

Proposed Regulations

2. Anticipated bypass. If the permittee knows in advance of the need for a bypass, he shall notify the department promptly at least 10 days prior to the bypass. After considering its adverse effects, the board may approve an anticipated bypass if:

a. The bypass will be unavoidable to prevent loss of human life, personal injury, or severe property damage. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. "Severe property damage" does not mean economic loss caused by delays in production; and

b. There are no feasible alternatives to bypass such as the use of auxiliary treatment facilities, retention of untreated waste, or maintenance during normal periods of equipment downtime. However, if bypass occurs during normal periods of equipment downtime or preventive maintenance and in the exercise of reasonable engineering judgment the permittee could have installed adequate backup equipment to prevent such bypass, this exclusion shall not apply as a defense.

3. Unplanned bypass. If an unplanned bypass occurs, the permittee shall notify the department as soon as possible, but in no case later than 24 hours, and shall take steps to halt the bypass as early as possible. This notification will be a condition for defense to an enforcement action that an unplanned bypass met the conditions in paragraphs U 2 a and b and in light of the information reasonably available to the permittee at the time of the bypass.

V. Upset. A permittee may claim an upset as an affirmative defense to an action brought for noncompliance. In any enforcement proceedings a permittee shall have the burden of proof to establish the occurrence of any upset. In order to establish an affirmative defense of upset, the permittee shall present properly signed, contemporaneous operating logs or other relevant evidence that shows:

1. That an upset occurred and that the cause can be identified;
2. That the permitted facility was at the time being operated efficiently and in compliance with proper operation and maintenance procedures;
3. That the 24-hour reporting requirements to the department were met; and
4. That the permittee took all reasonable steps to minimize or correct any adverse impact on state waters resulting from noncompliance with the permit.

W. Inspection and entry. Upon presentation of credentials, any duly authorized agent of the board may, at reasonable times and under reasonable circumstances:

1. Enter upon any permittee's property, public or private and have access to records required by this permit;
2. Have access to, inspect and copy any records that must be kept as part of permit conditions;

3. Inspect any facility's equipment (including monitoring and control equipment) practices or operations regulated or required under the permit; and

4. Sample or monitor any substances or parameters at any locations for the purpose of assuring permit compliance or as otherwise authorized by the State Water Control Law.

For purposes of this section, the time for inspection shall be deemed reasonable during regular business hours, and whenever the facility is involved in managing pollutants. Nothing contained herein shall make an inspection unreasonable during an emergency.

X. Permit actions. Permits may be modified, revoked and reissued, or terminated for cause upon the request of the permittee or interested persons, or upon the board's initiative. If a permittee files a request for a permit modification, revocation, or termination, or files a notification of planned changes, or anticipated noncompliance, the permit terms and conditions shall remain effective until the request is acted upon by the board. This provision shall not be used to extend the expiration date of the effective VPA permit.

Y. Transfer of permits.

1. Permits are not transferable to any person except after notice to the department. The board may require modification or revocation and reissuance of the permit to change the name of the permittee and to incorporate such other requirements as may be necessary. Except as provided in Part II Y 2, a permit may be transferred by the permittee to a new owner or operator only if the permit has been modified to reflect the transfer or has been revoked and reissued to the new owner or operator.

2. As an alternative to transfers under Part II Y 1, this permit shall be automatically transferred to a new permittee if:

- a. The current permittee notifies the department at least 30 days in advance of the proposed transfer of the title to the facility or property;
- b. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and
- c. The board does not, within the 30-day time period, notify the existing permittee and the proposed new permittee of its intent to modify or revoke and reissue the permit.

Z. Severability. The provisions of this permit are severable and, if any provision of this permit or the application of any provision of this permit to any circumstance is held invalid, the application of such provision to other circumstances and the remainder of this permit shall not be affected thereby.

VA.R. Doc. No. R03-179; Filed May 24, 2004, 8:09 a.m.

TITLE 11. GAMING

VIRGINIA RACING COMMISSION

Title of Regulation: 11 VAC 10-45. Advance Deposit Account Wagering (adding 11 VAC 10-45-10 through 11 VAC 10-45-70).

Statutory Authority: § 59.1-369 of the Code of Virginia.

Public Hearing Date: July 20, 2004 - 2 p.m.

Public comments may be submitted until 5 p.m. on August 13, 2004.

(See Calendar of Events section for additional information)

Agency Contact: Nick A. Christner, Regulatory Coordinator, Virginia Racing Commission, P.O. Box 208, 10700 Horsemen's Road, New Kent, VA 23124, telephone (804) 966-7408, FAX (804) 966-7422, e-mail christner@vrc.state.va.us.

Basis: The Virginia Racing Commission derives its statutory authority to promulgate regulations from the provisions of § 59.1-369 of the Code of Virginia. The Code states, in part, in subdivision 3, "The Commission shall promulgate regulations and conditions under which horse racing with pari-mutuel wagering shall be conducted in the Commonwealth, and all such other regulations it deems necessary and appropriate to effect the purposes of this chapter."

Further, subdivision 5 requires that the commission establish regulations that control account wagering conducted in the Commonwealth. These regulations, in part, set standards and procedures for issuing licenses to qualified entities and provisions for revenue collection.

Purpose: The regulation is intended to protect the wagering public, specifically those who utilize account-wagering companies to place wagers on horse racing. It is also intended to protect the horsemen and the Commonwealth from potential loss of revenue, which would not be realized without the recent legislation and the commission's regulation. The statute and the regulation are intended to regulate a business that previously occurred in the Commonwealth without regulatory oversight.

Substance: Companies operating account-wagering companies in Virginia are now required to meet standards and qualifications established by the commission, so that they may be licensed and monitored by the Commonwealth. This ensures that only those companies with the highest standards are permitted to conduct business in the Commonwealth. The regulations call for background investigations to be conducted as well as ongoing compliance audits, to ensure continuing integrity issues. Additionally, these regulations give the commission unlimited access to all books, records, memorandum or other relevant materials, for the purposes of avoiding ethical dilemmas.

Issues: The primary advantages to the horse racing industry and public are related to the knowledge that this new endeavor in the Commonwealth, advance deposit account wagering, is being monitored through regulation and controlled through licensure. The goal is to ensure that the

Commonwealth is aware of who is conducting this type of business and that they are accountable for their business actions.

This account wagering regulation will not have any negative impact or place any disadvantage upon the public in any way.

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. Section 59.1-369 of the Code of Virginia mandates that the Virginia Racing Commission promulgate regulations and conditions under which horse racing with pari-mutuel wagering be conducted in the Commonwealth. In addition, Chapter 682 of the 2003 Acts of Assembly amended the Code of Virginia to require that the Virginia Racing Commission promulgate regulations and conditions that regulate and control pari-mutuel wagering, permissible under the Interstate Horseracing Act, in which an individual may establish an account with an entity approved by the Virginia Racing Commission to place pari-mutuel wagers in person or electronically. Such regulations are to include (i) standards, qualifications, and procedures for the issuance of a license to such an entity, (ii) provisions regarding access to books, records, and memoranda and submission to investigations and audits, and (iii) provisions regarding the collection of revenues due to the Commonwealth from the placing of these wagers. With the exception of this method of pari-mutuel wagering, all other wagering on simulcast horseracing is to take place at a licensed racetrack or satellite facility.

The proposed regulation (i) establishes licensure requirements for individuals and entities conducting account wagering in Virginia, (ii) specifies operating and other requirements in order for licensees to maintain or renew their license, (iii) details the amount of the application fee, the licensure fee, and other fees to be charged by the Virginia Racing Commission (VRC), (iv) specifies the distribution of source market fees, (v) establishes penalties for violation of the regulation, and (vi) prohibits the use of any computers owned or leased by the Commonwealth or its subdivisions, by public elementary and secondary schools, and by public colleges and universities from being used for making pari-mutuel wagers.

The proposed regulation was adopted as an emergency regulation in 2003.

Estimated economic impact. Chapter 682 of the 2003 Acts of Assembly amended the Code of Virginia to require that the

Proposed Regulations

Virginia Racing Commission (VRC) promulgate regulations and conditions that regulate and control pari-mutuel wagering, permissible under the Interstate Horseracing Act, in which an individual may establish an account with an entity approved by the Virginia Racing Commission to place pari-mutuel wagers in person or electronically. This form of gambling is known as advance deposit account wagering. Prior to the amendment, advance deposit account wagering occurred in Virginia without any regulatory oversight. The amendment makes it illegal to conduct this type of wagering in Virginia without a license. Individuals will now be legally allowed to place bets by phone or via the Internet to licensed businesses in Virginia and in other states that specifically permit these activities.

The proposed regulation establishes licensure requirements for individuals and entities conducting advance deposit account wagering in Virginia, including the application and license renewal procedures. A nonrefundable application fee of \$5,000 is to be paid to VRC at the time of application. The applicant is to be billed for any costs in excess of \$5,000 incurred by VRC in reviewing the application. The application fee is intended to cover, among other things, the cost of a background investigation of the applicant (by VRC or by the Virginia State Police) and the cost of a review of the application by outside counsel. Licenses are to be valid for the calendar year in which they are issued and applications for renewal are to be received by VRC by 5 p.m. on December 1 of each year. In addition to the application fee, individuals and entities seeking a license or seeking to renew their license are required to pay an annual \$1,000 licensure fee. This fee is intended to cover any enforcement costs and the costs to review and monitor the activities of the licensee during the course of the year. Finally, VRC is to receive 0.5% of the gross handle from the source market area (which is the entire state for the purpose of this regulation), to be paid to VRC by the tenth day of each month.

The proposed regulation also specifies the distribution of source market fees. Source market fees are a percentage of the total amount of money bet in the source market area payable by the licensee to the racetrack and to the majority horsemen's association. The percentage is to be based on a contractual agreement between the various parties. In case of a single racetrack licensee, the account wagering licensee is required to distribute the source market fee to the racetrack on the tenth of each month and to the horsemen's association within 48 hours after receiving the money. The regulation also specifies the distribution of source market fees in case of more than one racetrack licensee (this provision is not currently applicable as Colonial Downs is the only licensed racetrack in Virginia). According to VRC, these requirements are similar to those applied in other states, such as California and Oregon, which allow advance deposit account wagering.

The proposed regulation also establishes operating and other requirements in order for licensees to maintain and renew their license. Operational requirements include submitting proof to VRC every six months that account holders will be guaranteed the full value of their accounts regardless of the activities of the licensee and other entities, ensuring that all employees working on behalf of the licensee are permitted or licensed by VRC, and submitting quarterly reports detailing all account wagering activity. Other requirements include

allowing wagers to be placed only on behalf of established account holders, administrative requirements dealing with opening and managing advance deposit wagering accounts, and recordkeeping requirements that allow VRC to review and monitor the activities of licensees. The proposed regulation also establishes penalties for violation of the regulation. Failure to comply with any of the requirements of the regulation or failure to get a license could result in the imposition of fines and suspensions and criminal or civil prosecution.

Finally, the proposed regulation prohibits the use of any computers owned or leased by the Commonwealth or its subdivisions, by public elementary and secondary schools, and by public colleges and universities from being used for making pari-mutuel wagers. This provision is required under the Code of Virginia.

The proposed regulation is likely to impose additional costs on businesses seeking to conduct advance deposit account wagering. These businesses will now be required to pay a nonrefundable application fee of \$5,000, any additional costs in excess of the \$5,000 incurred by VRC in reviewing the application, a license fee of \$1,000 for the issuance and renewal of licenses, a fee of 0.5% of the gross handle from the source market area to VRC, and a negotiated percentage of the gross handle from the source market area to the licensee racetrack (currently only Colonial Downs) and the recognized majority horsemen's association.

The nonrefundable application fee of \$5,000 was determined based on a \$3,000 estimate for outside counsel to review an application (charged at an hourly rate of \$120). Applications tend to be between 500 and 1,000 pages long. In addition, the application fee is to cover the cost of background investigations. According to VRC, the cost of background investigations varies greatly depending on the applicant, with some investigations costing over \$20,000. Any cost in excess of \$5,000 incurred by VRC in reviewing the application is to be covered by the applicant. VRC believes that the nonrefundable \$5,000 base fee is the minimum required to cover the cost of reviewing an application. It is also the minimum required to cover costs incurred by the agency when an application is withdrawn midway through the process. In addition to the application fee, applicants will be required to pay an annual license fee of \$1,000 in order to receive or renew a license. This fee is intended to cover the enforcement costs and the cost of reviewing and monitoring the activities of the licensee during the year. Only two other states, California and Oregon, currently allow advance deposit account wagering. According to VRC, neither of the two states charges an application fee. However, they do charge significantly higher annual license fees.

It should be noted that the proposed fee structure for the application fee could be designed in a more efficient manner. In order for VRC to charge applicants the exact cost to the agency in reviewing an application, it would be more appropriate for the agency to require applicants to make a \$5,000 deposit, rather than charging a \$5,000 nonrefundable fee. The cost to the agency to review the application, conduct background investigations, and have outside counsel review the application varies from applicant to applicant. These costs

could be charged against the \$5,000 deposit. Any deposit in excess of these costs could be returned to the applicant following the review. An economically efficient fee is one that charges an applicant the exact cost incurred by the agency in conducting the review. The proposed fee structure is efficient insofar that it allows the agency to charge applicants any costs in excess of \$5,000. However, it could be made even more efficient by allowing for the refund of any money in excess of the cost of the review.

The regulation also proposes to charge businesses conducting advance deposit wagering 0.5% of the gross handle, to be paid to VRC by the tenth day of each month. Revenue generated from the handle is to be deposited in the State Racing Operations Fund, with any excess revenue deposited in the general fund at the end of each fiscal year. According to VRC, the 0.5% handle is consistent with the license tax charged when wagering at Colonial Downs or a satellite facility and with similar regulations in other states. Applicants are also required to pay a certain percentage of the gross handle to the licensee racetrack and to the horsemen's association. VRC expects between 7% and 8% of the total handle to be divided between Colonial Downs and the horsemen's association.

According to VRC, Virginians are wagering approximately \$28 million a year. Of this, approximately 80% (or \$22.4 million) are through offshore accounts. There is a great deal of uncertainty in estimating the gross handle from the source market area that the proposed regulation will be successful in capturing. VRC expects the racetrack and the horsemen's association to get approximately \$150,000 each in the first year of operation under this regulation. Future revenues will depend on the number of businesses currently engaging in these activities that choose to become licensed in Virginia.

In addition to the above costs, the proposed regulation is also likely to produce economic benefits. By establishing licensing requirements, the proposed regulation will allow VRC to monitor businesses engaged in advance deposit account wagering and protect individuals utilizing these companies to place wagers from financial and other types of fraud. Businesses involved in advanced deposit account wagering have the potential to create a public hazard by conducting their activities in an improper or inappropriate manner. The aim of the proposed regulation is to enforce certain compulsory minimum standards of operation for such businesses and to reduce the risk to the public from their activities. Thus, the cost of applying for and obtaining a license can be viewed as part of the compliance cost incurred by these businesses to ensure that they do not create a public hazard. Prior to promulgation of the emergency regulation, these businesses were paying none of the costs associated with the risk posed to the public from their activities. This could potentially have resulted in unsuitable and undesirable individuals and entities entering the business. Charging fees that reflect the cost associated with reducing the risk to the public from the activities of these businesses to an acceptable level is likely to result in more efficient allocation of resources.

The net economic impact of the proposed application and licensure fees will depend on whether the fees being charged are commensurate with the risk posed to the public from the

activities of advance deposit account wagering businesses. If fees are commensurate with the risk, the proposed application and license fees are likely to lead to a more efficient allocation of resources and produce a positive net economic impact. However, if the fees being proposed are in excess of the cost of reducing the risk to the public, the proposed fees are likely to lead to a waste of resources and have negative economic impact. According to VRC, the fees being proposed are the minimum required to ensure that the risk to the public from the activities of these businesses is reduced to an acceptable level.

VRC is not aware of any problems with businesses that have been conducting advance deposit wagering prior to the promulgation of the emergency regulation. Thus, the extent of the risk to the public from such activities is unclear. By setting a minimum of \$5,000 for the application fee and \$1,000 for the issuance and renewal of a license, the proposed regulation could very well be charging applicants a fee that is in excess of the risk they pose to the public from their activities. As suggested earlier, a fee structure that allowed for the refund of any unused portion of the application and licensure fee would be more appropriate and would reduce the likelihood of the fees producing a negative economic impact.

In addition to the application and license fees, the proposed regulation also imposes additional costs on businesses conducting advance deposit account wagering in the form of payments of a percentage of the gross handle to VRC, the licensee racetrack, and the horsemen's association. The net economic impact of these payments will depend on whether the benefits to the licensee and to the public from these fees are greater than or less than the proposed costs. While any benefits associated with the application and license fee are in the form of a reduced risk to the public from advanced deposit account wagering, the benefit of paying a percentage of the gross handle to VRC, the licensee racetrack, and the horsemen's association is not readily apparent. While the 0.5% handle fee is necessary in order to ensure that advanced deposit account wagering does not receive a competitive advantage compared to other methods of wagering (a similar tax is charged when wagering in person at the racetrack or its satellite facilities), the benefits of such payments are not clear. Thus, the net economic impact of a percentage of the gross handle being paid to VRC, the licensee racetrack, and the horsemen's association will depend on whether the payment provides the licensee with any benefits (such as improved horseracing and other related services provided by the state, improved racing facilities, and better and more interesting races being run in Virginia) and whether any of these benefits are greater than or less than the additional cost to businesses conducting advance deposit account wagering.

Overall, the net economic impact of the proposed change will depend on whether the benefits of the proposed regulation to the public (in terms of reducing the risk to the public from these activities) and to the licensees themselves (in terms of better horseracing facilities, an improvement in the quality of races, etc.) are greater than or less than the additional cost to businesses conducting advance deposit account wagering. A precise estimate of the benefits of the proposed regulation to the public and to the licensee is not available at this time.

Proposed Regulations

Businesses and entities affected. The proposed regulation will affect all businesses and entities seeking to conduct advance deposit account wagering in Virginia. These businesses will now be required to obtain and maintain a license in order to be able to conduct these activities. The additional costs include a \$5,000 nonrefundable application fee, payment of any costs in excess of \$5,000 incurred by VRC in reviewing the application, a \$1,000 annual fee for the issuance and renewal of a license, payment of 0.5% of the gross handle from the source market area to VRC, and payment of a negotiated percentage of the gross handle from the source market area to the licensee racetrack and the recognized majority horsemen's association.

There are 28 businesses currently operating in the United States that conduct advance deposit wagering activities. VRC currently has applications pending from five of these businesses. The agency expects two or three more applications in the future.

Localities particularly affected. The proposed regulation will apply to all localities in the Commonwealth. However, it is not likely to impose any additional costs on localities.

Projected impact on employment. The proposed regulation is not likely to have a significant impact on employment. To the extent that the proposed regulation captures some of the gross handle from betting by Virginians, it could lead to a shift of employment toward horseracing-related activities.

Effects on the use and value of private property. Businesses conducting advanced deposit wagering activities will now incur additional licensing and other costs, lowering their asset value. However, by establishing standards of operations for such businesses, the proposed regulation could encourage more Virginians to use advance deposit account wagering, mitigating some of the negative impact on the asset value of businesses engaged in these activities. The proposed regulation is also likely to provide additional funds to the licensee racetrack (Colonial Downs) and to the horsemen's association, raising the asset value of these businesses.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Commission does not consider the fee charged for background investigations to be a significant issue. In nearly all cases, the expenses of the investigations exceed the amount charged by the Commission, as specified in the regulation.

Summary:

The proposed regulations provide definitions and interpret rules regarding advance deposit account wagering and details the application and operation process of an entity wishing to conduct an account-wagering business in the Commonwealth. The regulations also detail the fees associated with this business and the penalties for violation of the regulations. These regulations are proposed to satisfy the addition of subdivision 5 to § 59.1-369 of the Code of Virginia. This notice of the commission's intent to promulgate these rules was originally released as emergency regulation amendments to 11 VAC 10-20, which was published in the Virginia Register of Regulations, in Volume 19, Issue 26, on September 8, 2003.

CHAPTER 45. ADVANCE DEPOSIT ACCOUNT WAGERING.

11 VAC 10-45-10. Definitions.

The following definitions and interpretations shall apply to these rules unless otherwise indicated or the text otherwise requires:

"Account" means an account for account wagering with a specific identifiable record of deposits, wagers, and withdrawals established by an account holder and managed by the account-wagering licensee.

"Account holder" means an individual who successfully completed an application and for whom the account-wagering licensee has opened an account.

"Advance deposit account wagering" (hereafter account wagering) means a form of pari-mutuel wagering in which an individual may deposit money in an account with an account wagering licensee and then use the current balance to place pari-mutuel wagers in person or electronically.

"Account wagering center" means an actual location, equipment, and staff of an account wagering licensee or agents of the account wagering licensee involved in the management, servicing and operation of account wagering.

"Account wagering licensee" means an entity licensed by the commission to accept deposits and wagers, issue a receipt or other confirmation to the account holder evidencing such deposits and wagers, and transfer credits and debits to and from accounts.

"Applicant" means an individual who has submitted an application to establish an account with either (i) an account wagering licensee or (ii) a company applying for an account wagering license from the commission.

"Commission" means the Virginia Racing Commission.

"Confidential information" means:

- 1. The amount of money credited to, debited from, withdrawn from, or present in any particular account holder's account;*
- 2. The amount of money wagered by a particular account holder on any race or series of races;*
- 3. The account number and secure personal identification code of a particular account holder;*
- 4. The identities of particular entries on which the account holder is wagering or has wagered; and*
- 5. Unless otherwise authorized by the account holder, the name, address, and other information in the possession of the account wagering center and race meet licensee that would identify the account holder to anyone other than the commission or the account wagering licensee.*

"Credits" means all inflow of money to an account.

"Debits" means all outflow of money from an account.

"Deposit" means a payment of money by cash, check, money order, credit card, debit card, or electronic funds transfer made by an account holder to the account holder's account.

"Individual" means any natural person at least 18 years of age, but does not include any corporation, partnership, limited liability company, trust, estate or other legal entity.

"Other electronic media" means any electronic communication device or combination of devices including but not limited to personal computers, the Internet, private networks, interactive televisions and wireless communication technologies or other technologies approved by the commission.

"Principal residence address" means the street address identified by an applicant or a current account holder as that individual's residential address, as such address may be verified by the account wagering licensee.

"Proper identification" means a form of identification accepted in the normal course of business to establish that the person making a transaction is an account holder.

"Racetrack licensee" means any person holding a current unlimited license to own or operate a horse racetrack or satellite facility where pari-mutuel wagering is permitted.

"Secure personal identification code" means either a numeric or an alpha-numeric character code chosen by an account holder as a means by which the account wagering licensee may verify a wager or account transaction as authorized by the account holder.

"Source market fee" means the fee payable by the account wagering licensee pursuant to the terms and provisions of the contractual agreement among the prospective account wagering licensee, the racetrack licensee and the recognized majority horsemen's organizations.

"Source market fee area" means the Commonwealth of Virginia.

"Terms of agreement" means the agreement, approved by the commission, between an account wagering licensee and an account holder that includes but is not limited to the deposits, credits, debits, withdrawals and the opening and closing of accounts.

"Withdrawal" means a payment of money from an account by the account wagering licensee to the account holder when properly requested by the account holder.

"Withdrawal slip" means a form provided by the account wagering licensee for use by an account holder in withdrawing funds from an account.

11 VAC 10-45-20. Authorization to conduct account wagering.

A. No person shall conduct account wagering in the Commonwealth unless he has applied for and has been granted an account wagering license by the commission. No account wagering license shall be granted by the commission unless the applicant meets the criteria specified in § 59.1-369 of the Code of Virginia and these regulations.

B. An account wagering license shall be valid for the calendar year in which it is issued.

C. An application shall include, on a form prescribed by the commission, the names, addresses and telephone numbers of all officers and directors. It shall solicit the same information for an account wagering license, to the extent relevant, as required for an unlimited license as specified in 11 VAC 10-20-30 (Applicant's affidavit), 11 VAC 10-20-40 (Disclosure of ownership and control), 11 VAC 10-20-50 (Disclosure of character information), and subdivision 1 of 11 VAC 10-20-80 (Disclosure of financial resources) of the commission's regulations with the following modifications:

1. The first paragraph of the applicant's affidavit shall state that the application is made for a license to conduct account wagering in the Commonwealth;

2. The applicant must disclose any agreements or understandings that the applicant or any individual or entity identified pursuant to 11 VAC 10-20-40 has entered into with a person or persons other than the applicant regarding ownership or operation of the applicant and must provide copies of any such agreements or understandings with the application; and 3.

3. The disclosure of character information that is required by 11 VAC 10-20-50 must be made if the applicant, any individual or entity that owns a 5.0% or greater equity interest in the applicant, or any person or entity that will exercise any degree of management or control of the applicant has committed any of the acts or otherwise meets any of the criteria listed in 11 VAC 10-20-50. Nothing in this subsection shall require an applicant to include with its application copies of employment agreements unless requested by the commission.

D. As part of the application process, the license applicant also shall submit a detailed plan, including a detailed budget of the cost of implementation, of how its proposed account wagering system would operate including internal controls procedures. The commission may require changes in a proposed plan of operations as a condition of granting a request. No subsequent material changes in the system's operation may occur unless ordered by the commission or until approval is obtained from the commission after it receives a written request.

E. As part of the application process, the license applicant must provide a copy of the contractual agreement among the prospective account wagering licensee, the racetrack licensee, and representatives of the recognized majority horsemen's organizations. Included in such agreement shall be the agreed upon terms between the racetrack licensee and the recognized majority horsemen's organizations that details the distribution of retainage generated by account wagering within the source market fee area for each breed after the license fee to the commission has been paid.

F. The commission may conduct investigations or inspections or request additional information from the applicant for a license and its officers, directors, managers and equity holders, as applicable, holding 5.0% or more of the applicant's equity interest as it deems appropriate in determining if the applicant has the financial resources to conduct account wagering, and whether to allow the applicant to conduct account wagering.

Proposed Regulations

G. Before being granted its original account wagering license, and every six months thereafter, the account wagering licensee shall furnish the commission with proof that the account holders will be guaranteed the full value of their accounts regardless of the acts of the account wagering licensee or any other entity. If the proof offered to the commission is not acceptable to the commission, the commission may require the account wagering licensee to purchase a bond or other form of insurance guaranteeing that the account holders receive the full value of their accounts.

H. An application to renew an account wagering license for each succeeding calendar year is due in the offices of the commission by 5 p.m. on December 1 on a form prescribed by the commission.

11 VAC 10-45-30. Operations by account wagering licensee.

A. Before beginning operations in Virginia, the account wagering licensee must be qualified to do business in Virginia.

B. Any action that suspends or otherwise prohibits an account wagering licensee of the commission from operating in another state may be used as grounds for a suspension of its account wagering license in Virginia pursuant to § 59.1-385 C of the Code of Virginia.

C. All employees working on behalf of the account wagering licensee's account wagering center must either have a Virginia commission permit or be licensed, permitted or otherwise authorized by the state where the account wagering center is located.

D. Within 45 days following the end of each quarter, the account wagering licensee shall provide to the racetrack licensee a summary report detailing wagering processed through the account wagering system by Virginia residents wagering on both in-state and out-of-state races and non-Virginia residents wagering on Virginia races. The reports shall be subject to review by the commission.

E. Only individuals who have established accounts with an account wagering company licensed by the commission may wager through an account and that account must be with an account wagering company licensed in Virginia.

F. Opening an account.

1. An account wagering licensee shall require from an applicant the following information including, but not limited to:

- a. Name;
- b. Principal residence address;
- c. Telephone number;
- d. Social security number;
- e. Age; and
- f. Other information necessary for the account administration.

2. The information obtained from the applicant shall be verified by the account wagering licensee using means acceptable to the commission.

G. Administration of an account.

1. Each account holder's wagering account shall be administered in accordance with the terms of agreement, which have been approved by the commission, including but not limited to:

- a. Deposits;
- b. Credits to accounts;
- c. Debits to accounts;
- d. Withdrawals;
- e. Minimum deposit; and
- f. Fees, if any, per wager.

2. A person may not directly or indirectly act as an intermediary, transmitter or agent in the placing of wagers for an account holder. A person may not place a wager on behalf of an account holder. Only an account holder may place an account wager. Direct or indirect involvement as an intermediary, transmitter or agent in the placing of wagers includes a system, known as a transfer account or master account, whereby funds are deposited to one account from another account. This section does not prohibit use of credit or debit cards specifically approved by the account wagering center or the use of checks, money orders or negotiable orders of withdrawal.

3. An account wagering licensee shall maintain for at least one year all records of the opening and closing of accounts, wagers, earnings and withdrawals;

4. An account wagering licensee may close accounts for violation of its terms of agreement or other appropriate reasons;

5. An account wagering licensee may close wagering on any particular race or racetrack;

6. An account wagering licensee shall provide the account holder with appropriate identification materials and the terms of agreement; and,

7. The principal residence address provided in writing by the account holder at the time of application is deemed to be the proper address for the purposes of mailing checks, statements of account, account withdrawals, notices, or other appropriate correspondence. The mailing of checks or other correspondence to the address given by the account holder shall be at the sole risk of the account holder.

11 VAC 10-45-40. Account wagering licensee requirements.

A. An account wagering licensee shall conduct its operations with account holders in accordance with the terms of agreement, previously approved by the commission.

B. No employee or agent of the account wagering licensee shall divulge any confidential information related to the placing

of any wager or any confidential information related to the operation of the account wagering center, except:

1. To the account holder as required by these rules;
2. To the commission;
3. To the account wagering licensee and its affiliates;
4. To the racetrack licensee as required by the agreement between the account wagering licensee and the racetrack licensee; and
5. As otherwise required by state or federal law.

C. All wagering conversations, transactions or other wagering communications through the account wagering system, verbal or electronic, shall be recorded by means of the appropriate electronic media, and the tapes or other records of such communications shall be kept by the account wagering center for a period of one year. These tapes and other records shall be made available to commissioners, employees and designees of the commission on request.

D. The recording of the confirmation of the transaction, as reflected in the voice or data recording records, shall be deemed to be the actual wager, regardless of what was recorded by the pari-mutuel system.

E. An account wagering licensee shall not accept wagers if its transcribing system is not operable;

F. An account wagering license shall be administered in accordance with its terms of licensure and the previously approved terms of agreement; and

G. The commission may review and monitor the equipment, staff and records of an account wagering licensee and any of the transactions conducted by the account wagering licensee in regards to wagers made by account holders.

11 VAC 10-45-50. Fees.

A. Application for account wagering license.

1. A nonrefundable application fee of \$5,000 must be submitted with the application.
2. The applicant will be billed and shall be responsible for any costs involved in the background checks and review of the application in excess of \$5,000.

B. Annual fees.

1. An annual fee of \$1,000 shall be payable to the commission on issuance of the original license and thereafter on or before January 1 of each year. The licensee will be billed and shall be responsible for any costs in excess of \$1,000 associated with the review of the annual renewal application.
2. One-half percent (0.5%) of the gross total handle from the source market area shall be payable to the commission on the tenth day of each month for the previous month.

C. Distribution for source market fees - single racetrack licensee.

1. The account wagering licensee shall distribute source market fees, and host fees if applicable, to the racetrack licensee on the tenth of each month for the previous month.

2. The racetrack licensee shall distribute the horsemen's shares to the respective partners accounts within 48 hours after receipt from the account wagering licensee.

D. Distribution of source market fees - more than one racetrack licensee. If more than one racetrack licensee operates in Virginia, then the source market fees shall be distributed as follows:

1. All source market fees derived from account wagers placed by account holders with a principal residence address located within a 50-mile radius (the "50-mile radius") of any track or satellite wagering facility operated by a racetrack licensee shall be distributed to each such licensee;

2. All source market fees derived from account wagers placed by account holders with a principal residence address located outside any 50-mile radius shall be shared among the racetrack licensees in proportion to each licensee's respective capital expenditures on such licensee's track and satellite wagering facilities in Virginia.

3. If an overlap exists between two 50-mile radii, the racetrack licensee to first operate a track or satellite wagering facility in such area shall receive the source market fees from account wagers placed within the overlapping area.

11 VAC 10-45-60. Enforcement and penalties.

A. The commission shall have all of the rights, powers and remedies provided for in the Act to ensure compliance with these regulations, including, but not limited to, injunctive relief and the imposition of fines and suspensions.

B. Additionally, with respect to any entity that engages in account wagering in Virginia without a license issued by the commission, the commission may take such measures as it deems necessary, including referral to the appropriate regulatory and law-enforcement authorities for civil action or criminal prosecution.

11 VAC 10-45-70. Use of certain Commonwealth computers prohibited.

No pari-mutuel wager may be made on or with any computer owned or leased by the Commonwealth, or any of its subdivisions, or at any public elementary or secondary school, or any public college or university.

VA.R. Doc. No. R03-320; Filed May 26, 2004, 11:03 a.m.

Proposed Regulations

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF HEALTH PROFESSIONS

Title of Regulation: 18 VAC 75-40. Regulations Governing the Criteria for Certification of Dialysis Technicians (adding 18 VAC 75-40-10, 18 VAC 75-40-20 and 18 VAC 75-40-30).

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 Hearing Date: July 15, 2004 - 11 a.m.

Public comments may be submitted until August 13, 2004.
(See Calendar of Events section for additional information)

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

Basis: This regulation is being promulgated under the legal authority of § 54.1-2400 of the Code of Virginia, stating the powers and duties of health regulatory boards, and Chapter 27.01 (§ 54.1-2729.1 et seq.) of Title 54.1 of the Code of Virginia, which requires the board to promulgate regulations establishing criteria for practice as a dialysis care technician.

Purpose: The purpose of the new regulation is to approve the organization or organizations that can certify candidates with the appropriate competency and technical proficiency to perform as dialysis technicians. The intent of the legislation and the regulation that implements mandated certification was to protect persons who are receiving hemodialysis. If the technician providing patient care is not adequately prepared and trained as verified by nationally recognized certification, the patient may be at considerable risk for infection or improper treatment. The credentials set out in this regulation would establish a level of minimal competency as evidenced by a qualifying examination and certification. To the extent rules implementing certification criteria for dialysis care technicians will improve the qualifications and abilities of persons who provide dialysis services to a population of persons whose health is fragile or compromised, the regulations are necessary for the protection of the health and safety of the public.

Substance: The proposed regulatory action is intended to implement certain provisions of Chapter 995 of the 2003 Acts of the Assembly, which requires the board to approve a certifying body for dialysis care technicians. While Chapter 27.01 of Title 54.1 of the Code of Virginia provides only title protection, rather than licensure, certification or registration by a health regulatory board, the Drug Control Act (Chapter 34 of Title 54.1) limits the administration of drugs used in dialysis treatment to those persons who hold the protected titles. Therefore, practically speaking, it will be necessary for any individual, who is not a licensed health care professional, who seeks employment in a dialysis care facility to hold the certification specified in regulations adopted by the Board of Health Professions.

Issues: The primary advantage to the public is the assurance that dialysis technicians have minimal education and training as evidenced by national certification. Therefore, patients who enter a hemodialysis center will not have to wonder whether the technician has been adequately prepared to provide care. The only disadvantage to the public is that persons who have been employed as dialysis technicians prior to the effective date of the regulation will be deemed "certified," but that is a provision of the legislation and cannot be altered by regulation.

There are no advantages or disadvantages to the Commonwealth. Since this regulatory scheme offers only title protection, there will be no ongoing regulatory or disciplinary costs.

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. Chapter 995 of the 2003 Acts of Assembly amended the Code of Virginia to establish a definition and title protection for "dialysis care technicians" or "dialysis patient care technicians." This legislation further requires the Board of Health Professions (board) to approve in regulation certifications through specific organizations by which a person could use one of the restricted titles. In these proposed regulations the board lists the organization certifications deemed approved by the board. Only those who hold one of those titles are authorized in the Drug Control Act to possess and administer drugs used in dialysis treatments.

Estimated economic impact. While Chapter 27.01 of Title 54.1 of the Code of Virginia provides only title protection, rather than licensure, certification or registration by a health regulatory board, the Drug Control Act (Chapter 34 of Title 54.1) limits the administration of drugs used in dialysis treatment to those persons who hold the protected titles. Therefore, practically speaking, it will be necessary for any individual, who is not a licensed health care professional, who seeks employment in a dialysis care facility to hold the certification specified in regulations adopted by the Board of Health Professions.

The board proposes to specify that holding one of the following certifications will permit an individual to work under the title "dialysis care technician" or "dialysis patient care technician":

1. Certified Clinical Hemodialysis Technician (CCHT) by the Nephrology Nursing Certification Commission (NNCC);

2. Certified Hemodialysis Technician (CHT) by the Board of Nephrology Examiners Nursing and Technology (BONENT);
3. Certified in Clinical Nephrology Technology (CCNT) by the National Nephrology Certification Organization (NNCO); or
4. Certification or licensure as a dialysis technician or similar title by another jurisdiction in the United States provided the standards for certification or licensure or substantially equivalent to those in Virginia.

CCHT is the least costly of the above certifications in terms of fees and time.

According to Deborah Cote, RN CNN, Manager of University of Virginia Renal Services, the majority of technicians administering drugs in dialysis treatment in Virginia most likely did not possess certification prior to the enactment of Chapter 995 of the 2003 Acts of Assembly. In order to take the CCHT qualifying examination, candidates must: 1) possess a minimum of a high school diploma or GED, and 2) "have successfully completed a training program for hemodialysis patient care technicians that included both classroom instruction and supervised clinical experience."¹ Ms. Cote believes that just about all employed dialysis technicians will have had classroom instruction and supervised clinical experience provided by their employer (or elsewhere) that would enable them to qualify to take the CCHT examination.

The cost for the CCHT examination and initial certification is \$125. Certification lasts two years. In order to recertify technicians must have 2,000 hours of work experience and 20 hours of continuing education within the previous two years, and pay a \$50 fee. NNCC suggests, but does not require, that applicants obtain their contact hours from either the National Association of Nephrology Technicians/Technologists (NANT) or the American Nephrology Nurses' Association (ANNA). Continuing education costs \$15 per hour online via NANT.² The required 20 hours of continuing education required for CCHT would thus cost \$300 through NANT. ANNA offers online courses as well. The courses cost either \$30 or \$35 and vary in length.³ The required 20 hours of continuing education could be obtained from ANNA for \$275 through taking a variety of courses. Both NANT and ANNA require that course-takers pass a test demonstrating knowledge of the material presented. The University of Virginia Hospital provides continuing education for their dialysis technicians at no direct charge to the technicians.⁴ The provision of this continuing education does have a cost. The instructors' time and the space and equipment used for instruction all have value. These resources could potentially be used productively for other purposes.⁵ Dialysis technicians

earn on average approximately \$20,000 to \$25,000 per year.⁶ That converts to \$10 per hour to \$12.50 per hour, using a typical 2,000-hour work year. Assuming that the value of a technician's time is equal to her average hourly wage, then the cost for a dialysis technician to take 20 hours of continuing education every two years would be about \$475 to \$550.⁷

Improper care by dialysis technicians can result in increased probability of potentially fatal excess bleeding, severe infection, cardiac arrest, or congestive heart failure.⁸ Passing the qualifying examination for CCHT, CHT, or CCNT demonstrates that dialysis technicians possess knowledge that will enable them to minimize the probability of adverse health outcomes due to faulty care. Research is not available that estimates how much less the risk is for adverse health outcomes from care from a certified dialysis technician versus from an uncertified technician. In order to conduct such research, detailed data on both numerous certified and numerous uncertified dialysis technicians would be needed. Necessary data would include: 1) detailed medical histories for each technician's patients both before and after treatment, 2) the technician's education, the technician's gender, the technician's age, etc. Since this research has apparently not been conducted and would be beyond the scope of this report (even if data were available), the benefit of requiring certification cannot be accurately estimated at this time.

Businesses and entities affected. The proposed regulations affect dialysis technicians, the 119 dialysis facilities in Virginia, and their patients. According to the Department of Health Professions, the number of dialysis technicians per dialysis facility varies from one to 30.

Localities particularly affected. The proposed regulations affect all Virginia localities.

Projected impact on employment. The proposed amendments will make it more costly to be a dialysis technician who administers medication. It is possible that the increased cost may result in a small decrease in employment.

Effects on the use and value of private property. The demand for continuing education services will increase. The value of providers of continuing education services will increase commensurately. Dialysis technicians and potentially their employers will spend more on training.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Board of Health Professions concurs with the analysis of the Department of Planning and Budget for the proposed regulation, 18 VAC 75-40, Regulations Governing the Criteria for Certification of Dialysis Technicians.

Summary:

The proposed regulation establishes criteria for the use of the titles of dialysis patient care technician or dialysis care technician in conformance with Chapter 995 of the 2003 Acts of Assembly. The proposed regulation lists the board-

¹ Source: Nephrology Nursing Certification Commission website: <http://www.nncc-exam.org/>

² Source: National Association of Nephrology Technicians/Technologists website: <http://www.dialysistech.org/>

³ Source: American Nephrology Nurses' Association website: <http://www.annanurse.org/>

⁴ Source: Deborah Cote, RN CNN, Manager of University of Virginia Renal Services

⁵ Economists call this opportunity cost.

⁶ Source: Deborah Cote, RN CNN, Manager of University of Virginia Renal Services

⁷ Calculation: $\$275 + 20 \times \$10 = \$475$; $\$300 + 20 \times \$12.50 = \$550$

⁸ Source: Deborah Cote, RN CNN, Manager of University of Virginia Renal Services

Proposed Regulations

approved certification organizations through which a person may use one of the restricted titles.

CHAPTER 40.
REGULATIONS GOVERNING THE CRITERIA FOR
CERTIFICATION OF DIALYSIS TECHNICIANS.

18 VAC 75-40-10. Definitions.

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

"Board" means the Board of Health Professions.

"Dialysis patient care technician" or "dialysis care technician" means a person who has obtained certification from an organization approved by the board to provide, under the supervision of a licensed practitioner of medicine or a registered nurse, direct care to patients undergoing renal dialysis treatments in a Medicare-certified renal dialysis facility. Such direct care may include, but need not be limited to, the administration of heparin, topical needle site anesthetics, dialysis solutions, sterile normal saline solution, and blood volumizers in accordance with the order of a licensed physician, nurse practitioner or physician assistant.

18 VAC 75-40-20. General provisions; scope of practice.

A. In accordance with Chapter 27.01 (§ 54.1-2729.1 et seq.) of Title 54.1 of the Code of Virginia and this chapter, only those persons who hold certification from an entity approved by the board as prescribed in 18 VAC 75-40-30 shall:

1. Provide direct patient care in a Medicare-certified renal dialysis facility.
2. Administer medications in accordance with subsection O of § 54.1-3408 of the Code of Virginia.

B. Dialysis patient care technicians or dialysis care technicians shall practice only under the supervision of a licensed practitioner of medicine or a registered nurse.

C. Dialysis patient care technicians or dialysis care technicians shall administer medications only under the orders of a licensed physician, nurse practitioner, or physician assistant and under the direct and immediate supervision of a registered nurse.

D. Persons who do not hold such certification shall not hold the restricted titles or use any other title or term that implies a minimum level of education, training and competence. Unregulated persons shall only perform services relating to the technical elements of dialysis, such as equipment maintenance and preparation of dialyzers for reuse by the same patient.

18 VAC 75-40-30. Criteria for use of the titles of dialysis patient care technician or dialysis care technician.

In order to use the titles of dialysis patient care technician or dialysis care technician or administer medications in a Medicare-certified renal dialysis facility, a person shall hold one of the following certifications:

1. Certified Clinical Hemodialysis Technician (CCHT) by the Nephrology Nursing Certification Commission (NNCC);

2. Certified Hemodialysis Technician (CHT) by the Board of Nephrology Examiners Nursing and Technology (BONENT);

3. Certified in Clinical Nephrology Technology (CCNT) by the National Nephrology Certification Organization (NNCO); or

4. Certification or licensure as a dialysis technician or similar title by another jurisdiction in the United States provided the standards for certification or licensure are substantially equivalent to those in Virginia.

VA.R. Doc. No. R03-236; Filed May 26, 2004, 9:40 a.m.

FINAL REGULATIONS

For information concerning Final Regulations, see Information Page.

Symbol Key

Roman type indicates existing text of regulations. *Italic type* indicates new text. Language which has been stricken indicates text to be deleted. [Bracketed language] indicates a change from the proposed text of the regulation.

TITLE 1. ADMINISTRATION

DEPARTMENT OF HUMAN RESOURCE MANAGEMENT

Title of Regulation: 1 VAC 55-20. Commonwealth of Virginia Health Benefits Program (amending 1 VAC 55-20-20, 1 VAC 55-20-30, 1 VAC 55-20-40, 1 VAC 55-20-60 through 1 VAC 55-20-90, 1 VAC 55-20-110, 1 VAC 55-20-130, 1 VAC 55-20-160, 1 VAC 55-20-210, 1 VAC 55-20-230 through 1 VAC 55-20-260, 1 VAC 55-20-280, 1 VAC 55-20-290, 1 VAC 55-20-300, 1 VAC 55-20-320 through 1 VAC 55-20-410, 1 VAC 55-20-430, 1 VAC 55-20-450 and 1 VAC 55-20-460; repealing 1 VAC 55-20-10, 1 VAC 55-20-50, 1 VAC 55-20-120 and 1 VAC 55-20-420).

Statutory Authority: §§ 2.2-1204 and 2.2-2218 of the Code of Virginia.

Effective Date: July 16, 2004.

Agency Contact: Charles Reed, Associate Director, Department of Human Resource Management, 101 N. Fourteenth Street, Richmond, VA 23219, telephone (804) 786-3124, FAX (804) 371-0231, or e-mail creed@dhrm.state.va.us.

Summary:

The amendments (i) bring the regulation into compliance with legislation passed at the state and federal level; (ii) reduce the minimum number of hours per week from 40 to 32 that state employees must work in order to be eligible for health benefits; (iii) change the manner in which the state health benefits plans handle the discovery of a plan participant who is ineligible for coverage; (iv) reduce the maximum period from 90 to 60 days for which an employee who is reinstated can claim retroactive health benefits; (v) set standards that must be met by an independent health entity before it is selected by the state health benefits program to perform independent medical reviews of denied claims; and (vi) make housekeeping changes to provide consistency with current practice.

Substantive changes made since publication of the proposed regulation include:

- 1. Increasing from 90 days to 180 days the amount of time for the department to provide an initial adverse experience adjustment statement (1 VAC 55-20-160 D);*
- 2. Eliminating the provision that coverage will not be available to a new employee unless the employee is on the payroll for a minimum of 16 days (1 VAC 55-20-370 B);*
- 3. Changing the timeframe that an employee who is on military leave has to reenroll in the same plan of benefits*

that he was enrolled in prior to being placed into active service from six months to 30 days (1 VAC 55-20-380 F 3);

4. Removing the proposed language that would have prohibited employees of the state residing in another country and eligible for health coverage in that country from claiming state health benefits (1 VAC 55-20-380 F 4); and

5. Increasing from 31 days to 60 days the amount of time that nonannuitant survivors of state employees have to elect continued participation in the state health benefits plan (1 VAC 55-20-390 B 1).

Summary of Public Comments and Agency's Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the office of the Registrar of Regulations.

REGISTRAR'S NOTICE: The proposed regulation was adopted as published in 19:25 VA.R. 3666-3686 August 25, 2003, with the changes identified below. Pursuant to § 2.2-4031 A of the Code of Virginia, the adopted regulation is not published at length; however, the sections that have changed since publication of the proposed are set out.

1 VAC 55-20-10 through 1 VAC 55-20-70. [No change from proposed.]

1 VAC 55-20-80. Plan assets.

A. The assets of the health benefits program, together with all appropriations, contributions and other payments, shall be deposited in the employee health insurance ~~fund~~ fund(s) (the "~~fund~~ health insurance fund(s)") from which payments for claims, premiums or other contributions [,] cost containment and administrative expenses shall be withdrawn from time to time.

B. *The health insurance fund for state employees shall be maintained separate and apart from the health insurance fund for retirees of the state eligible for Medicare and from the health insurance fund for local employees. All such funds shall be maintained for the exclusive benefit of the employees participating currently in the respective health insurance plans.*

~~B-~~ C. The department may designate with the approval of the Department of the Treasury one or more insurance companies, banks or any such similar institution as a direct recipient of premiums or other contributions for part or all coverage under the health benefits program from local and state employers.

~~C-~~ D. The assets of the fund shall be held for the sole benefit of the employee health insurance fund and to that end, employees participating in the health benefits program.

Any interest on unused balances in the fund shall revert back to the credit of the fund. The State Treasurer shall charge reasonable fees to recover the actual costs of investing the assets held in the fund.

Final Regulations

1 VAC 55-20-90. Appeals.

A. The director of the department shall be the final arbiter of any disputes arising under this chapter. The director may not redelegate this authority other than to an independent hearing officer *except as provided under subsection C of this section.*

All disputes arising under this chapter shall be submitted to the department, which shall have the responsibility for interpreting and administering this chapter. All disputes shall be made in writing in such manner as may be reasonably required by the department and shall set forth the facts which the applicant believes to be sufficient to entitlement to relief hereunder. The department may adopt forms for such submissions in which case all appeals shall be filed on such forms.

B. Appeals not filed within the time frames established herein shall be ~~automatically~~ denied.

Requests for review of procurements under the provisions of the VPPA shall be filed within 10 days of the department's notice of intent to award a contract.

Requests for relief from local employers or state agencies with respect to any action of the department other than a procurement shall be filed within 30 days of the action grieving the applicant. Requests for relief from state or local employees with respect to any action of the department other than a procurement shall be filed within 60 days of the action grieving the employee.

C. Upon receipt by the department for a request for review under this section, it shall determine all facts which are necessary to establish the right of an applicant for relief. The department shall approve, deny or investigate any and all disputes arising hereunder. Upon request, the department will afford the applicant the right of a hearing with respect to any finding of fact or determination related to any claim under this section. In the event of an adverse decision by the department, the applicant shall be notified of such decision as hereinafter provided. *Reviews for treatment authorizations or medical claims that have been denied will be sent to an impartial health entity. The impartial health entity shall examine the final denial of claims or treatment authorizations to determine whether the decision is objective, clinically valid, and compatible with established principles of health care. The decision of the impartial health entity shall (i) be in writing, (ii) contain findings of fact as to the material issues in the case and the basis for those findings, and (iii) be final and binding if consistent with law and policy.*

D. The applicant shall be notified in writing of any adverse decision with respect to his claim within 90 days after its submission. The notice shall be written in a manner calculated to be understood by the applicant and shall include:

1. The specific reason or reasons for the denial;
2. Specific references to law, this chapter, contracts awarded pursuant to this chapter, or the Health Insurance Manual/Local Administrative Manual and related instructions on which the denial is based;
3. A description of any additional material or information necessary to the applicant to perfect the claim and an

explanation why such material or information is necessary; and

4. An explanation of the review process.

If special circumstances require an extension of time for processing an initial application, the department shall furnish written notice of the extension and the reason therefore to the applicant before the end of the initial 90-day period. In no event shall such extension exceed 90 days.

E. *Standards, credentials, and qualifications of the impartial health entity.*

1. *In order to qualify to perform either standard or expedited external reviews pursuant to this chapter or the Code of Virginia, an impartial health entity shall have and maintain written policies and procedures that govern all aspects of the standard and expedited external review processes that include, at a minimum, a quality assurance mechanism in place that ensures that:*

a. *External reviews are conducted within the specified time frames and required notices are provided in a timely manner;*

b. *[~~The selection of~~] Qualified and impartial clinical peer reviewers [are selected] to conduct external reviews on behalf of the impartial health entity and [~~suitable matching of~~] reviewers [are suitably matched] to specific cases; and*

c. *The confidentiality of medical records is maintained in accordance with the confidentiality and disclosure laws of the Commonwealth and/or the Health Insurance Portability and Accountability Act.*

2. *All clinical peer reviewers assigned by an impartial health entity to conduct external reviews shall be physicians or other appropriate health care providers who meet the following minimum qualifications:*

a. *Are expert in the treatment of the covered person's medical condition that is the subject of the external review;*

b. *Are knowledgeable about the recommended health care service or treatment through recent or current actual clinical experience treating patients with the same or similar medical conditions as the covered person's;*

c. *Hold a nonrestricted license in a state of the United States and, for physicians, a current certification by a recognized American medical specialty board in the area or areas appropriate to the subject of the external review; and*

d. *Have no history of disciplinary actions or sanctions, including loss of staff privileges or participation restrictions, that have been taken or are pending by any hospital, governmental agency or unit, or regulatory body that raise a substantial question as to the clinical peer reviewer's physical, mental or professional competence or moral character.*

3. *An impartial health entity shall not be affiliated with or a subsidiary of nor be owned or controlled by a health plan, a*

trade association of health plans, or a professional association of health care providers.

4. In determining whether an independent review organization or a clinical peer reviewer of the impartial health entity has a material, professional, familial or financial conflict of interest, the director may take into consideration situations where the characteristics of that relationship or connection are such that they are not materially sufficient to disqualify the impartial health entity or the clinical peer reviewer from conducting the external review.

1 VAC 55-20-110, 1 VAC 55-20-120, and 1 VAC 55-20-130. [No change from proposed.]

1 VAC 55-20-160. Establishing contribution rates and accounting for contributions and claims.

A. The department shall establish one or more pools for establishing contribution rates and for accounting for claims and contributions for state employees and participating local employers. The plan for local employers shall be rated separately from the plan established for state employees. There are hereby authorized pools based on geographic and demographic characteristics and employment relationships. Such pools may include but shall not be limited to:

1. Active state employees, including retirees under age 65 and not eligible for Medicare;
2. Active local employees (excluding separately rated employees of public school systems);
3. Active employees of public school systems;
4. Retired state employees over age 65 and retired state employees eligible for Medicare;
5. Retired local employees (excluding separately rated employees of public school systems);
6. Retired employees of public school systems; and
7. Active employees whose employer does not sponsor a health insurance plan.

Participating employers shall make applicable contributions to the employee health insurance fund.

B. Such contributions may take into account the characteristics of the group, such as the demographics of employees, inclusive of age, sex and dependent status of the employees of an employer; the geographic location of the employer or employees; claims experience of the employer; and the pool of the employers (for example, see subdivisions 1 through 6 of 1 VAC 55-20-160 A), ~~applied according to generally accepted actuarial practices~~. Additionally, any such contributions may further be determined by spreading large losses, as determined by the department, across pools. Further, the department reserves the right to recognize, in its sole discretion, the claims experience of groups of sufficient size, regardless of their pool, where future claim levels can be predicted with an acceptable degree of credibility. The application of this rule by the department shall be exercised in a uniform and consistent manner.

C. The contribution rate in the aggregate will be composed of two factors; first, the current contribution and second, the amortization of experience adjustments. The current contributions will reflect the anticipated incurred claims and administrative expenses for the period; an experience adjustment will reflect gains and losses determined in accordance with ~~generally accepted~~ *an actuarial practices estimate*. An experience adjustment will be part of the contributions for the succeeding year; however, the department may authorize the amortization of the experience adjustment for a period not to exceed three years.

D. The department will notify a terminating local employer of any adverse experience adjustment within ~~90 days~~ *[three calendar six-calendar]* months of the time the local employer terminates participation in the program. Further, the department reserves the right to modify the amount of the experience adjustment applicable to a terminating local employer for a period not to exceed 12 months from the end of the plan year in which such termination occurred. The experience adjustment shall be payable by the local employer in 12 equal monthly installments beginning 30 days after the date of notification by the department. In the event that a terminating local employer requests in writing an extension beyond a period of 12 months, the department may approve an extension up to 36 months provided the local employer agrees to pay interest at the statutory rate on any extended payments.

1 VAC 55-20-210. [No change from proposed.]

1 VAC 55-20-230. Entrance into the health benefits program.

A. Any local employer desiring to participate in the health benefits program shall complete an employer application provided by the department and execute an adoption agreement acknowledging the rights, duties and responsibilities of the department and the local employer.

As a condition of participation, the department may require the local employer to complete the application in its entirety and deliver it to the department no less than 120 days prior to the effective date of coverage under the health benefits program. The application shall include the designation of a local administrator and include a list of other individuals whose responsibilities may be such that the department may have cause to contact them.

The application of a local employer may be withdrawn without penalty any time within the first 30 days after the department's delivery of rates to the employer. A 15-day extension will be available upon written request by the employer. Thereafter, the department may levy a processing charge not to exceed \$500 to cover the cost of processing the application.

B. Except in unusual circumstances to be determined by the department, ~~neither evidence of insurability nor~~ the completion of any ~~[required]~~ waiting periods will *not* be required of employees of local employers joining the program at the time of a local employer's initial participation.

C. Local employers may include in the program their active employees, or their active employees and their retirees. Local employers may not elect to cover only retirees. *If the local*

Final Regulations

employer wishes to provide benefits to their Medicare-eligible retirees it must also provide coverage for non-Medicare retirees. The local employer's qualified beneficiaries qualified under the Comprehensive Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) or similar legislation may also participate in the program. Coverage will not be available to a new employee unless the employee is on the payroll a minimum of 16 calendar days.

1 VAC 55-20-240. Payment of contributions.

A. Contributions due. It is the sole responsibility of the local employer to remit local employer and local employee contributions to the department or its designee. The local employer is responsible for remitting such contributions for both active and, retired, and COBRA-participating employees. Health benefits program contributions are to be made monthly, in advance, and are due at the department on the first of each month. If the first day of the month falls on a weekend or holiday, the payment is due at the department on the first business day of the month.

B. Nonpayment of contributions. A 10-day grace period for the nonpayment of contributions is hereby provided. If the full and complete payment of contributions is not received by the 10th of the month, a notice will be sent to the local employer by the department or its designee. Additionally, there shall be imposed an interest penalty of 12% per annum of the outstanding balance unpaid as of the 10th.

In the event that payment is not received by the 20th of the month, the department shall place a notice of nonpayment of contributions in a newspaper of general circulation in the locality of the local employer notifying the employees of such local employer that claims incurred after the end of the current month will not be paid until all outstanding contributions and interest have been paid.

Furthermore, the department reserves the right to collect from a local employer the greater of the monthly contribution or any amounts incurred for claims during a period of nonpayment as well as any other costs related thereto.

C. Nonpayment as breach. The nonpayment of contributions by a local employer shall be considered constitute a breach of the adoption agreement and the local employer may be obligated to pay damages. In the event that the local employer terminates participation, such termination can only be prospective and the employer shall be obligated to pay the greater of past contributions or actual claims incurred during such period and any interest and damages that may be associated with such nonpayment.

D. Coverage and contribution period. ~~In the event a local employee should elect to enroll in the health benefits program in his first month of employment, such coverage shall begin on the first day of the month next following commencement of employment. Should a local employee commence employment on the first working day of the month and coverage is elected within that month, then such coverage shall commence on the local employee's date of hire or the first day of the month of hire, whichever is earlier but see 1 VAC 55-20-370 B. Except as noted here, coverage elections including those made by new employees are made on a~~

~~prospective basis, that is, effective the first of the month coinciding with or following the receipt of the election form. However, if an election form is received [by from] a new employee on the first business day of the month, coverage for the employee will commence on the first day of that month, (see 1 VAC 55-20-370). Coverage elections made for newborns, adoption or placement for adoptions are effective the date the child is born, adopted or placed for adoption, so long as the employee makes the coverage election within 31 days of the event. Coverage terminations are effective the end of the month following receipt of an election notice, except for terminations that are required by the plan. Coverage terminations required by the plan are effective the end of the month that the event takes place. Examples of coverage terminations required by the plan are such things as a divorce, termination of employment or a dependent child losing eligibility.~~

Contributions shall always be for full calendar months. Local employees who terminate employment within a calendar month shall have coverage through the end of the month in which they terminate. In the event that a terminating local employee becomes covered under an accident or health plan of another employer prior to the end of the month in which the local employee terminates, ~~the~~ this health benefits program shall be a secondary payor to the former local employee's new coverage.

1 VAC 55-20-250 through 1 VAC 55-20-360. [No change from proposed.]

1 VAC 55-20-370. Effective date of coverage.

A. General. Coverage and changes in coverage or membership are generally prospective, effective on the first day of the month following the month in which the enrollment ~~form~~ action is received by the department's designee.

B. Date coverage begins. Coverage begins on the first day of the first full month of employment ~~if the employee's enrollment form for coverage is received within 31 days of employment following the receipt of the employee's enrollment action.~~ Employees who begin work on the first working day of the month are considered employed effective the first of the month. ~~Thus, if an employee submits the completed enrollment action on or prior to the first working day of the month, coverage will be effective the first of the month in which employment commenced. [Coverage will not be available to the new employee unless the employee is on the payroll for a minimum of 16 calendar days. Employees who work less than 16 days will have any premiums refunded and any claims retracted.]~~

C. Exceptions. With prior approval from the department, coverage may be allowed to commence on an earlier date in limited circumstances when prior coverage is unavailable; for example, a new employee who has moved out of the service area of an HMO.

D. Eligibility changes. ~~In the event of an eligibility change as addressed under 1VAC55-20-350, coverage may be retroactive to the date of the event provided an enrollment form for the change is submitted to the department's designee within 31 days of the event.~~

1 VAC 55-20-380. Leaves of absence.

Note: This section addresses various aspects of employee leave and may or may not be applicable to a local employer.

A. Leave of absence with full pay. As long as an employee is still receiving full pay, health benefits coverage continues automatically with the employer making its contribution. Nothing special must be done to maintain coverage.

Local employers are not required to contribute toward coverage for any part-time employee granted any type of leave of absence.

B. Virginia Sickness and Disability Program, Long-Term Disability (VSDP-LTD)

1. Coverage with the employer contribution continues to the end of the month in which the LTD benefits begin, unless benefits begin on the first day of the month, in which case the employer contribution will end on the last day of the preceding month. Thereafter, employees may continue coverage by paying the entire cost of the coverage.

2. Employees receiving LTD benefits may enroll in the State Retiree Health Benefits Program upon service retirement regardless of whether they have maintained health coverage in the state program provided that the individuals have been continuously covered and have had no break in long-term disability benefits prior to service retirement. The LTD participant has 31 days from the date of retirement to enroll in the State Retiree Health Benefits Program. Coverage in the retiree group begins on the first day of the first full month of retirement.

B. C. Educational leave - full or partial pay. An official educational leave is a leave for educational reasons with partial or full pay maintained for the leave, not for work rendered. It is possible to maintain health coverage on an educational leave even when less than full pay is given provided that at least half pay is given. Coverage may continue for the duration of the leave up to 24 months.

G. D. Leave of absence without pay.

1. Coverage with the employer contribution continues to the end of the month in which the leave without pay begins provided the first day of the leave is after the first work day of the month. ~~If the person returns from leave the following month and works at least half of the workdays in the month, coverage will be continuous.~~ If the leave without pay begins on or before the first work day of the month, coverage with and the employer contribution ceases on the first last calendar day of ~~that~~ the previous month.

~~If the person returns from leave the following month and works at least half of the work days in the month, coverage will be continuous.~~

~~2. If the leave without pay extends beyond the end of the month when coverage would cease, it is possible for an employee to maintain coverage (except on a military leave). Arrangements to continue coverage must be made with the employer. Employees should contact their benefits administrator for more information.~~

~~3. 2. Employees who do not want to continue coverage will be asked to sign a waiver.~~

~~4. The conditions under which coverage may continue, the length of time coverage may extend while on leave without pay and whether the employer contribution continues are set forth in the Health Insurance Manual /Local Administrative Manual published by the department.~~

~~D. E. Changing coverage while on leave. Coverage changes may be made while on leave in the same manner that changes may be made while actively employed. The same procedures and rules apply.~~

An employee enrolled in an alternative health benefits plan who moves out of the plan's service area while on a leave of absence may change to another plan offered by the department in his new location by ~~filling~~ taking an enrollment form action within 31 days of the date of the move. ~~The employee may change back to an alternative health benefits plan within 31 days of returning to the plan's service area. A new enrollment form must be completed.~~

~~E. F. Returning from leave without pay.~~

1. Employees who have maintained coverage while on leave without pay. If the employee has maintained coverage while on leave, the employee's coverage in the health benefits program (with the employer making its contribution) will begin on the first of the month in which the employee returns to work if he works at least half of the working days in the month following the date the employee returns to full-time employment. However, if the return to work falls on the first day of the month then the employer contributions may begin immediately. It is not necessary for the employee to file take a new enrollment form action.

Employees may change from single to dual or family membership within 31 days of returning from leave without pay if the employee dropped dual or family membership during the leave or if there was a change in eligibility status qualifying mid-year event during the leave. A new enrollment form action must be filed taken. In the case of an eligibility status change a qualifying mid-year event, the effective date would follow the rule on initiating dual or family membership at the time of the particular eligibility status change qualifying mid-year event.

2. Employees who have not maintained coverage while on leave will be treated in the same manner as new employees, unless they have exercised their rights under the Family Medical Leave Act. If these rights are exercised, they will have all rights that are required by law.

a. It shall be necessary to file take a new enrollment form action to receive coverage. The enrollment form action shall indicate the date the employee returned to work as the date that the employee's continuous full-time employment commenced. If the employee remained continuously eligible, waiting periods must be credited accordingly. Family members will have to serve new waiting periods as prescribed in 1VAC55-20-420.

b. The employee has a choice of type of membership and plan.

Final Regulations

c. The usual deadlines for filing apply. Coverage begins according to the rules and procedures for new employees.

3. Employees returning from military leave for active service. Employees returning from military leave of [~~six months~~ 30 days] or more have the same choice of coverage as a new employee. If the employee returning from a military leave applies for coverage within 31 days of discharge, the coverage will begin on either the first day of the month of discharge or the first of the following month, whichever is necessary to effect continuous coverage. ~~If the employee chooses a plan with waiting periods, the employee should be given credit toward the waiting periods for the amount of time on military leave. Dependents also are credited if they were covered under the state program prior to the leave.~~

~~[4. Employees] returning from leave in a country with national health coverage [who reside outside of the United States will not be eligible for coverage under the state health benefits program if they are also eligible for national health care from the country in which they are residing. Upon the return to the United States these employees must apply for coverage within 31 days] of returning to the United States to have waiting periods credited and to have a choice of effective dates. The effective date for coverage will be the first of the month that the person returned to the United States or the first of the following month, whichever is necessary to effect continuous coverage.~~

~~[5. 4.]~~ Taking a second leave without pay. If an employee returns from a leave without pay and is employed full-time on every scheduled work day for at least one full calendar month before taking another leave without pay, the second leave will be treated as a new leave.

If there is less than one calendar month of full-time employment between leaves without pay, the leaves will be treated as one, regardless of the types of leave. The length of time that coverage may be continued will depend on the current type of leave.

1 VAC 55-20-390. Termination of coverage.

A. Coverage ends at the end of the month in which an employee terminates the employment relationship, otherwise loses group eligibility, or on the last day of the month for which premiums are paid.

B. Coverage ends on the date of a participant's death. Coverage for family members continues until the end of the month *following the month* in which the participant died.

1. A surviving beneficiary may enroll in the state retiree group if:

a. The dependent is eligible for an annuity under the VRS death-in-service provision;

b. The employee had submitted a disability retirement application naming the dependent under the survivor option before his death and the employee died prior to achieving the retirement date; or

c. The death was job related.

To continue coverage, the family member must apply within [~~31~~ 60] days of the date the coverage would otherwise end due to the death.

2. *Survivors of deceased employees who are not eligible for an annuity from VRS can nonetheless be covered under the State Health Benefits Program if they had coverage at the time the employee died. To continue coverage, the family member must apply within 60 days of the employee's death.*

C. In the event that an employee on leave without pay notifies the employer that he is terminating employment, coverage ends on the last day of the month in which the leave without pay ceases.

1 VAC 55-20-400 through 1 VAC 55-20-460. [No change from proposed.]

FORMS [No change from proposed.]

VA.R. Doc. No. R02-220; Filed May 26, 2004, 11:47 a.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF MEDICINE

Title of Regulation: **18 VAC 85-20. Regulations Governing the Practice of Medicine, Osteopathy, Podiatry and Chiropractic (amending 18 VAC 85-20-22).**

Statutory Authority: §§ 54.1-113 and 54.1-2400 of the Code of Virginia.

Effective Date: July 14, 2004.

Agency Contact: Elaine J. Yeatts, Agency 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.virginia.gov.

Summary:

The amendments increase the application fee and biennial renewal fee for licensure in medicine, osteopathy, podiatry, and chiropractic by \$77 per licensee and similarly increase other associated fees. This regulatory action will replace emergency regulations that have been in effect since July 15, 2003.

Summary of Public Comments and Agency's Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the office of the Registrar of Regulations.

REGISTRAR'S NOTICE: The proposed regulation was adopted as published in 20:7 VA.R. 637-640 December 15, 2003, with changes made to the forms associated with this regulation. However, a separate regulatory action amended 18 VAC 85-20-22 effective February 25, 2004 (20:10 VA.R. 1042 January 26, 2003). 18 VAC 85-20-22 as set out below

incorporates the amendments that became effective February 25, 2004.

18 VAC 85-20-22. Required fees.

A. Unless otherwise provided, fees established by the board shall not be refundable.

B. All examination fees shall be determined by and made payable as designated by the board.

C. The application fee for licensure in medicine, osteopathic medicine, and podiatry shall be ~~\$225~~ \$302, and the fee for licensure in chiropractic shall be ~~\$200~~ \$277. ~~The fee for board approval to sit for step 3 of the United States Medical Licensing Examination without subsequent licensure in Virginia shall be \$85.~~

D. The fee for a temporary authorization to practice medicine pursuant to § 54.1-2927 B (i) and (ii) of the Code of Virginia shall be \$25.

E. The application fee for a limited professorial or fellow license issued pursuant to 18 VAC 85-20-210 shall be \$55. The annual renewal fee shall be \$35. An additional fee for late renewal of licensure shall be \$15.

F. The application fee for a limited license to interns and residents pursuant to 18 VAC 85-20-220 shall be \$55. The annual renewal fee shall be \$35. An additional fee for late renewal of licensure shall be \$15.

G. The fee for a duplicate wall certificate shall be \$15; the fee for a duplicate license shall be \$5.

H. The fee for biennial renewal shall be ~~\$260~~ \$337 for licensure in medicine, osteopathic medicine and podiatry and ~~\$235~~ \$312 for licensure in chiropractic, due in *each even-numbered year in the licensee's birth month*. An additional fee for processing a late renewal application within one renewal cycle shall be ~~\$90~~ \$115 for licensure in medicine, osteopathic medicine and podiatry and ~~\$80~~ \$105 for licensure in chiropractic.

I. The fee for requesting reinstatement of licensure *or certification* pursuant to § ~~54.1-2921~~ 54.1-2408.2 of the Code of Virginia *or for requesting reinstatement after any petition to reinstate the certificate or license of any person has been denied* shall be \$2,000.

J. The fee for reinstatement of a license issued by the Board of Medicine pursuant to § 54.1-2904 of the Code of Virginia ~~which~~ *that* has expired for a period of two years or more shall be ~~\$305~~ \$382 for licensure in medicine, osteopathic medicine and podiatry and ~~\$290~~ \$367 for licensure in chiropractic in addition to the late fee for each year in which the license has been lapsed, not to exceed a total of four years. The fee shall be submitted with an application for licensure reinstatement.

K. The fee for a letter of verification of licensure to another jurisdiction shall be \$10, and the fee for certification of grades to another jurisdiction by the board shall be \$25. Fees shall be due and payable upon submitting a request for verification or certification to the board.

L. The fee for biennial renewal of an inactive license shall be ~~\$130~~ \$168, due in the licensee's birth month. An additional fee

for late renewal of licensure shall be ~~\$45~~ \$55 for each renewal cycle.

M. The fee for a returned check shall be \$25.

NOTICE: The forms used in administering 18 VAC 85-20, Regulations Governing the Practice of Medicine, Osteopathy, Podiatry and Chiropractic, 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 Department of Health Professions, 6603 West Broad Street, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

Instructions for Completing Application to Practice Medicine for Graduates of Approved Institutions (rev. ~~42/02~~ 7/03).

Instructions for Completing an Application to Practice Medicine for Graduates of Nonapproved Institutions (rev. ~~42/02~~ 7/03).

Instructions for Completing PMLEXIS Examination/License Application (rev. ~~9/04~~ 7/03).

~~Instructions~~ *Information* for Completing Chiropractic Endorsement Application (rev. ~~4/02~~ 7/03).

Instructions for Completing Podiatry Endorsement Application (rev. ~~4/03~~ 7/03).

Instructions for Completing Osteopathic ~~National Boards Endorsement~~ *Medicine Licensure* Application (rev. ~~4/02~~ 7/03).

Form A, Claims History Sheet (rev. 12/02).

Form B, Activity Questionnaire (rev. 12/02).

Form C, Clearance from Other State Boards (rev. 12/02).

Form E, Disciplinary Inquiry (rev. 12/02).

Application for a License to Practice Medicine and Surgery (rev. ~~42/02~~ 7/03).

Application for a License to Practice Osteopathic Medicine (rev. ~~42/02~~ 7/03).

Application for a License to Practice Podiatry (rev. ~~4/03~~ 7/03).

Application for a License to Practice Chiropractic (rev. 7/03).

Form H, Virginia Request for Podiatry Disciplinary Action (rev. 1/03).

Form I, National Board of Podiatric Medical Examiners Request for Scores on Part I and II (rev. 1/03).

Requirements and Instructions for an Intern/Resident License (rev. [~~4/03~~ 3/04]).

Intern/Resident, Form A, Memorandum from Associate Dean of Graduate Medical Education (rev. [~~4/03~~ 3/04]).

Intern/Resident, Form B, Certificate of Professional Education (rev. [~~42/02~~ 3/04]).

Application for a Temporary License for Intern/Resident Training Program (rev. [~~4/03~~ 3/04]).

Final Regulations

[*Form G, Intern Resident, Request for Status Report of ECFMG Certification (eff. 3/04).*]

Form H, Report of Clinical Rotations (rev. 12/02).

[*Transfer Request, Intern Resident (eff. 3/04).*]

Instructions for Completing an Application for a Limited License to Practice Medicine as a Full-time Faculty Member or as a Full-time Fellow (rev. 3/03).

Application for a Limited License to Practice Medicine as a Full-time Faculty Member or as a Full-time Fellow (rev. 2/03).

Form G, Request for Status Report of Educational Commission for Foreign Medical Graduates Certification (rev. 12/02).

Form L, Certificate of Professional Education (rev. 12/02).

Continued Competency Activity and Assessment Form (rev. 4/00).

Instructions for Reinstatement of Medicine and Surgery Licensure Application (rev. ~~4/03~~ 7/03).

Application for Reinstatement of License to Practice Medicine (rev. ~~4/03~~ 7/03).

Form A, MD Reinstatement, Claims History Sheet (rev. 1/03).

Form B, MD Reinstatement, Activity Questionnaire Form (rev. 1/03).

Form C, MD Reinstatement, State Questionnaire Form (rev. 1/03).

MD Reinstatement, Disciplinary Inquiries to Federation of State Medical Boards (rev. 1/03).

Instructions for Reinstatement of Osteopathy Licensure Application (rev. ~~3/03~~ 7/03).

Application for Reinstatement of License to Practice Osteopathy (rev. ~~3/03~~ 7/03).

Form A, Osteopathy Reinstatement, Claims History (rev. 3/03).

Instructions for Reinstatement of Chiropractic Licensure Application (rev. ~~3/03~~ 7/03).

Application for Reinstatement of License to Practice ~~Chiropractic~~ as a *Chiropractor* (rev. ~~3/03~~ 7/03).

Instructions for Reinstatement of Podiatry Licensure Application (rev. ~~4/03~~ 7/03).

Application for Reinstatement of License to Practice Podiatry (rev. ~~4/03~~ 7/03).

Application for Reinstatement of License to Practice Medicine/Osteopathy After Petition for Reinstatement Denied or License Revoked (rev. 3/03).

Application for Reinstatement of License to Practice Medicine/Osteopathy (rev. 2/03).

Application for Reinstatement of License to Practice Chiropractic (rev. 3/03).

Renewal Notice and Application, 0101 Medicine and Surgery (rev. ~~42/02~~ 7/03).

Renewal Notice and Application, 0102 Osteopathy and Surgery (rev. ~~42/02~~ 7/03).

Renewal Notice and Application, 0103 Podiatry (rev. ~~42/02~~ 7/03).

Renewal Notice and Application, 0104 Chiropractic (rev. ~~42/02~~ 7/03).

Renewal Notice and Application, 0108 Naturopath (rev. 12/02).

Renewal Notice and Application, 0109 University and Limited License (rev. 12/02).

Renewal Notice and Application, 0116 Interns and Residents (rev. 12/02).

Application for Registration for Volunteer Practice (eff. 12/02).

Sponsor Certification for Volunteer Registration (eff. 1/03).

Guidelines for Completing the Practitioner Profile Questionnaire (rev. 12/02).

Practitioner's Help Section (rev. 11/02).

Practitioner Questionnaire (rev. 11/02).

VA.R. Doc. No. R03-264; Filed May 26, 2004, 9:42 a.m.

BOARD OF NURSING

Title of Regulation: 18 VAC 90-20. Regulations Governing the Practice of Nursing (amending 18 VAC 90-20-30).

Statutory Authority: §§ 54.1-113 and 54.1-2400 of the Code of Virginia.

Effective Date: July 14, 2004.

Agency Contact: Elaine J. Yeatts, Agency Regulatory Coordinator, Department of Health Professions, 6603 W. Broad St., Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114, or e-mail elaine.yeatts@dhp.virginia.gov.

Summary:

Fees related to application for and renewal of licensure as a registered nurse or a licensed practical nurse are increased to provide sufficient funding for an increased disciplinary caseload related to mandated reporting of misconduct and to offset the decrease in revenue related to Virginia's entry into the Nurse Licensure Compact in January 2005. Both initiatives result from legislation passed by the 2003 Session of the General Assembly. The biennial renewal fee will increase from \$70 to \$95 and other fees associated with the renewal fee will increase accordingly.

Summary of Public Comments and Agency's Response: No public comments were received by the promulgating agency.

REGISTRAR'S NOTICE: The proposed regulation was adopted as published in 20:7 VA.R. 641-645 December 15, 2003, without change. Pursuant to § 2.2-4031 A of the Code of Virginia, the adopted regulation is not set out.

VA.R. Doc. No. R03-260; Filed May 26, 2004, 9:38 a.m.

BOARD FOR PROFESSIONAL SOIL SCIENTISTS AND WETLAND PROFESSIONALS

Title of Regulation: 18 VAC 145-30. Wetland Delineators Certification Regulations (adding 18 VAC 145-30-10 through 18 VAC 145-30-160).

Statutory Authority: §§ 54.1-201 and 54.1-2203 of the Code of Virginia.

Effective Date: July 14, 2004.

Agency Contact: Mark N. Courtney, Executive Director, Department of Professional and Occupational Regulations, 3600 West Broad Street, Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475, or e-mail SoilScientist@dpor.virginia.gov.

Summary:

The regulations implement Chapter 784 of the 2002 Acts of Assembly, which established certification standards for wetlands professionals. The regulations establish (i) requirements for entry, renewal, and reinstatement; (ii) minimum standards for certification; (iii) standards of conduct and practice; (iv) grounds for disciplinary actions; and (v) fees.

The substantive changes made to the proposed regulation (i) clarify the experience requirements in 18 VAC 145-30-50; (ii) increase the number of delineations that have been reviewed from 10 to 30 for individuals applying pursuant to 18 VAC 145-30-40 A 1 or 2 and include the requirement that the review be performed as an employee of a federal, state or local governmental body that is authorized to review or approve such delineations and that a portion of the reviews must include field verifications; (iv) reduce the required length of the course in state and federal wetland delineation methods from 40 hours to 32 hours (18 VAC 145-30-60 B); (v) require an examination candidate to notify the department in writing if he is unable to take the examination at the scheduled time; and (vi) include a provision from § 54.1-2206 B of the Code of Virginia (effective July 1, 2004) that was inadvertently omitted through which an applicant could gain a certificate without examination (18 VAC 145-30-80).

Other nonsubstantive clarifying changes were made.

Summary of Public Comments and Agency's Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the office of the Registrar of Regulations.

CHAPTER 30. REGULATIONS GOVERNING CERTIFIED PROFESSIONAL WETLAND DELINEATORS.

PART I. GENERAL.

18 VAC 145-30-10. Definitions.

All terms defined in Chapter 22 (§ 54.1-2200 et seq.) of Title 54.1 of the Code of Virginia are incorporated in this chapter.

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

"Tidal wetlands" means those wetlands defined by § 28.2-1300 of the Code of Virginia.

"Nontidal wetlands" means wetlands except those defined by § 28.2-1300 of the Code of Virginia.

PART II. ENTRY.

18 VAC 145-30-20. Qualifications for certification.

Applicants for certification shall meet the requirements specified in Chapter 22 (§ 54.1-2200 et seq.) of Title 54.1 of the Code of Virginia, as amended, and this chapter.

18 VAC 145-30-30. Receipt of application.

The date the completely documented application and fee are received in the board's office shall determine if the application has been received by the established deadline.

18 VAC 145-30-40. Qualification for examination.

A. In order to qualify for the examination, an applicant shall provide three written references that comply with subsection B of this section and satisfy one of the following criteria:

1. Hold a bachelor's degree from an accredited institution of higher education in a wetland science, biology, biological engineering, civil and environmental engineering, ecology, soil science, geology, hydrology or any similar biological, physical, natural science or environmental engineering curriculum that has been approved by the board; have successfully completed a course of instruction in state and federal wetland delineation methods that has been approved by the board; and have at least four years of experience in wetland delineation [, which meets the requirements of subdivision 1 or 2 of 18 VAC 145-30-50,] under the supervision of a certified professional wetland delineator, the quality of which demonstrates to the board that the applicant is competent to practice as a certified professional wetland delineator;

2. Have a record of at least six years of experience in wetland delineation [, which meets the requirements of subdivision 1 or 2 of 18 VAC 145-30-50,] under the supervision of a certified professional wetland delineator, the quality of which demonstrates to the board that the applicant is competent to practice as a certified professional wetland delineator; or

Final Regulations

3. Have a record of at least four years of experience in wetland science research or as a teacher of wetlands curriculum in an accredited institution of higher education, [which meets the requirements of subdivision 3 of 18 VAC 145-30-50, and] the quality of which demonstrates to the board that the applicant is competent to practice as a certified professional wetland delineator.

B. Every applicant shall provide three written references, on a form provided by the board, from wetland professionals with at least one from a certified professional wetland delineator. Individuals who provide references shall not be related to the applicant and shall have known the applicant for at least one year. Individuals who provide references may not also verify experience, including research or teaching experience.

C. Notwithstanding the requirements of subsections A and B of this section, the requirement for a reference from and supervision by a certified professional wetland delineator shall be waived provided a complete application is received by the board on or before June 30, 2006.

18 VAC 145-30-50. Qualifying experience in wetland delineation.

An applicant shall demonstrate experience in one of the following areas:

1. For those individuals applying pursuant to the provisions of 18 VAC 145-30-40 A 1 or A 2, the experience in wetland delineation must be as a wetland professional and include the preparation of no less than 10 [~~reports~~ delineations], which must be no more than 10 years old at the time of receipt by the board office, delineating wetlands in accordance with applicable state and federal regulations that include the proper identification of vegetation, soil and hydrology indicators. At least six of the 10 [~~reports~~ delineations] must be for nontidal wetlands. [~~At least three of the reports must have confirmation letters from the applicable state or federal regulatory body certifying that they are correct~~];

2. For those individuals applying pursuant to the provisions of 18 VAC 145-30-40 A 1 or A 2, the experience in wetland delineation must be as a wetland professional and include the inspection, review or confirmation of no less than [~~40 reports~~ 30 delineations as an employee of a federal, state or local governmental body that is authorized to review or approve such delineations], which must be no more than 10 years old at the time of receipt by the board office, delineating wetlands in accordance with applicable state and federal regulations that include the proper identification of vegetation, soil and hydrology indicators. [Such experience must include the performance of field verifications of a portion of those wetland delineations that were inspected, reviewed or confirmed.] At least six of the [~~40 reports~~ 30 delineations] must be for nontidal wetlands [~~;~~] or

3. For those individuals applying pursuant to the provisions of 18 VAC 145-30-40 A 3, the experience as a wetland science researcher must include the preparation of a minimum of three field studies focused on wetland delineation practice and issues, [which includes the proper

identification of vegetation, soil and hydrology indicators,] and the experience as a teacher of wetlands curriculum must have been acquired in an accredited institution of higher education as a field or laboratory instructor of quarter or semester length classes for a minimum of six semester hours, or equivalent, within the past 10 years prior to the receipt of the application by the board office [, and the curriculum must have included the proper identification of vegetation, soil and hydrology indicators].

18 VAC 145-30-60. Course requirements.

The education required pursuant to 18 VAC 145-30-40 A 1 must include the following:

1. For a bachelors degree in any similar biological, physical, natural science or environmental engineering curriculum to be approved by the board, it shall, at a minimum, contain the following:

a. Fifteen semester hours, or equivalent, in biological sciences including courses such as general biology, botany or zoology; general ecology; plant, animal, aquatic or wetlands ecology; invertebrate zoology; taxonomy; marine science; fisheries biology; plant physiology, plant taxonomy, plant pathology, plant morphology; relevant environmental sciences, and similar courses;

b. Fifteen semester hours, or equivalent, in physical sciences including courses in soils, chemistry, hydrology, physics, geology, sedimentology, oceanography, coastal processes, environmental engineering, and similar courses; and

c. Six semester hours, or equivalent, in quantitative sciences including courses in math, computer sciences, basic statistics, [~~popular~~ population] dynamics, experimental statistics, and similar courses.

2. The applicant must have successfully completed a course of instruction, of a minimum of [~~40~~ 32] hours, in state and federal wetland delineation methods that includes the proper identification of vegetation, soil and hydrology indicators and a field component.

18 VAC 145-30-70. Examination.

A. Once approved by the board, an applicant shall be eligible to sit for a board-approved examination.

B. An applicant must meet all eligibility requirements as of the date the completely documented application and fee is received by the board's office. For examination candidates, the completely documented application and fee must be received by the board's office at least 90 days prior to the examination.

C. A candidate approved to take an examination shall do so within one year of the date of approval or submit a new application and fee in accordance with these regulations. If an applicant should not pass the board-approved examination within one year of being approved, the applicant shall be required to submit a new application and fee in accordance with this chapter in order to take the examination.

[D. A candidate who is unable to take the examination at the time scheduled must notify the department in writing prior to the date of the examination; such a candidate will be rescheduled for the next examination without an additional fee. Failure to so notify the department will result in forfeiture of the examination or reexamination fee.

E. Candidates will be notified of passing or failing the examination.]

18 VAC 145-30-80. Waiver from examination.

An applicant [~~may~~ shall] be granted a Virginia certificate without examination, provided that:

1. The applicant holds an unexpired professional wetland delineator certificate or equivalent issued on the basis of equivalent requirements for certification in Virginia, by a regulatory body of another state, territory or possession of the United States [or has been provisionally certified under the U.S. Army Corps of Engineers Wetland Delineator Certification Program of 1993] and is not, nor has been, the subject of any disciplinary proceeding before such regulatory body, and such other regulatory body recognizes the certificates issued by this board [~~shall have the requirement for the examination waived,~~] provided all other requirements of Chapter 22 (§ 54.1-2200 et seq.) of Title 54.1 of the Code of Virginia [;] and this chapter are satisfied; or

2. Applicants who submit a complete application so that it is received by the board on or before June 30, 2006, and are found to be qualified pursuant to § 54.1-2206 B of the Code of Virginia ([~~as it becomes~~] effective July 1, 2004) [~~shall have the requirement for the examination waived,~~] provided all other requirements of Chapter 22 (§ 54.1-2200 et seq.) of Title 54.1 of the Code of Virginia and this chapter are satisfied.

PART III.
FEES, RENEWAL AND REINSTATEMENT
REQUIREMENTS.

18 VAC 145-30-90. Fees.

All fees required by the board are nonrefundable and shall not be prorated.

Fee Type	Amount
Application	\$300
Renewal fee	\$260
Late renewal fee	\$25
Reinstatement fee	\$300
[Examination fee	\$150]

18 VAC 145-30-100. Expiration.

Certificates issued under this chapter shall expire two years from the last day of the month in which they were issued, as indicated on the certificate.

18 VAC 145-30-110. Renewal.

A. The department shall [~~may~~ send] a renewal notice to the certificate holder at the last known address of record at least

30 days prior to expiration. Failure to receive this notice does not relieve the certificate holder from the requirement to renew the certificate. If the certificate holder fails to receive the renewal notice, a copy of the certificate shall be submitted with the required fee in lieu of the renewal notice.

B. If the renewal fee is not received by the department within 30 calendar days following the expiration date noted on the certificate, a late renewal fee of \$25 shall be required in addition to the regular renewal fee. If the certificate is renewed after 30 days from the expiration date and prior to 180 days of the expiration date, the effective date of the renewal shall be the original renewal date. No certificate may be renewed more than 180 days following the date of expiration noted on the certificate.

C. The date a fee is received by the department or its agent shall determine whether a late renewal fee or the requirement for reinstatement or reapplication is applicable.

D. A certificate suspended by board order shall not be renewed until the period of suspension has ended and all terms and conditions of the board's order have been met. Individuals renewing certificates within 30 days after the suspension is lifted will not be required to pay a late fee.

18 VAC 145-30-120. Reinstatement.

A. If the renewal fee and late renewal fee are not received by the department within 180 days following the expiration date noted on the certificate, the certificate holder shall no longer be considered a certificate holder and will be required to apply for certificate reinstatement. The applicant shall meet the current eligibility standards for certification as a Virginia certified professional wetland delineator. The board may require examination or reexamination. The fee for reinstatement shall include the regular renewal fee plus the reinstatement fee.

B. If the reinstatement application and fee are not received by the department within one year following the expiration date noted on the certificate, the applicant shall apply as a new applicant and shall meet all current entry requirements as may be required by the board.

18 VAC 145-30-130. Denial of application or renewal.

The board may, in its discretion, refuse to grant, renew or reinstate a certificate of any person for any of the reasons specified in Chapters 1, 2 or 22 of Title 54.1 of the Code of Virginia and this chapter including, but not limited to, Part IV (18 VAC 145-30-140 et seq.) of this chapter.

PART IV.
STANDARDS OF PRACTICE AND CONDUCT.

18 VAC 145-30-140. Standards of practice and conduct.

A Virginia certified professional wetland delineator:

1. Shall not submit any false statements, make any misrepresentations or fail to disclose any facts requested concerning any application for certification or recertification.

2. Shall not engage in any fraud, deceit or misrepresentation in advertising, in soliciting or in providing professional services.

Final Regulations

FORMS

3. Shall not knowingly sign any plans, drawings, blueprints, surveys, reports, specifications, maps or other documents not prepared or reviewed and approved by the certificate holder.

Professional Wetland Delineator Certification Application, [34WDGCERT 3402CERT, (Rev. 7/04)].

4. Shall not knowingly represent a client or employer on a project on which the certificate holder represents or has represented another client or employer without making full disclosure thereof.

Experience Log, [34WDDEXP 3402EXP, (Rev. 7/04)].

5. Shall express a professional opinion only when it is founded on adequate knowledge of established facts at issue and based on a background of technical competence in the subject matter.

Reference Form, [34WDREF 3402REF, (Rev. 7/04)].

6. Shall not knowingly misrepresent factual information in expressing a professional opinion.

7. Shall immediately notify the client or employer and the appropriate regulatory agency if the certificate holder's professional judgment is overruled and not adhered to when advising appropriate parties of any circumstances of a substantial threat to the public health, safety, or welfare.

8. Shall exercise reasonable care when rendering professional services and shall apply the technical knowledge, skill and terminology ordinarily applied by practicing wetland professionals.

9. Shall sign and date all plans, drawings, blueprints, surveys, reports, specifications, maps or other documents prepared or reviewed and approved by the certificate holder. The certified wetland professional delineator shall also indicate that he is a Virginia Certified Wetland Professional Delineator on all plans, drawings, blueprints, surveys, reports, specifications, maps or other documents prepared or reviewed and approved by the certificate holder and include his certificate number.

18 VAC 145-30-150. Grounds for suspension, revocation or other disciplinary action.

The board has the power to fine any certificate holder, and to suspend or revoke any certificate issued under the provisions of Chapter 22 (§ 54.1-2200 et seq.) of Title 54.1 of the Code of Virginia, and the regulations of the board, where the certificate holder has been found to have violated or cooperated with others in violating any provision of Chapters 1, 2 or 22 of Title 54.1 of the Code of Virginia, or any regulation of the board.

18 VAC 145-30-160. Change of address.

A certificate holder shall keep the department informed of his current mailing address. Change of address shall be reported to the department in writing within 30 calendar days of the change.

NOTICE: The forms used in administering 18 VAC 145-30, Wetland Delineators Certification Regulations, are listed and published below.

Final Regulations

9. Do you hold an unexpired professional wetland delineator certificate or its equivalent issued by a regulatory body of another state, territory or possession of the United States?

No

Yes If yes, please complete the following table. You are also required to submit an original Certification of Licensure/Letter of Good Standing*, dated within the last 60 days, from each state, territory or possession of the United States.

State	License, Certification or Registration Number	Expiration Date

* Certifications/Letters must include: 1) the license/certification/registration number; 2) the initial date of licensure; 3) the expiration date of the license or renewal fees; 4) the means of obtaining licensure (i.e., exam, reciprocity, etc.) and the minimum requirements that were met to qualify for licensure; 5) all closed disciplinary actions resulting in violations or undetermined findings; and 6) an original authorized signature and board/department seal.

10. Which of the following education/experience requirements are you using to qualify for certification? Select only one.

Bachelor's degree from an accredited institution of higher education in a wetland science or other related curriculum (see 18 VAC 145-30-40.A.1 in the *Board for Professional Soil Scientists and Wetland Professionals Regulations*); successful completion of a course of instruction in state and federal wetland delineation methods (see 18 VAC 145-30-60.B); and at least four years of experience in wetland delineation *;

◆ A certified/official transcript or other notarized document verifying the completion of the required courses (18 VAC 145-30-60) and/or degrees must be submitted to the Board for Professional Soil Scientists and Wetland Professionals.

Six or more years of experience in wetland delineation *; or

Four or more years of experience in wetland science research or as a teacher of wetlands curriculum in an accredited institution of higher education. *

* Please complete and attach an Experience Log, documenting your experience in wetland delineation, the quality of which must demonstrate to the Board that you are competent to practice as a certified professional wetland delineator. The wetland delineation experience must meet the requirements in 18 VAC 145-30-50 of the *Board for Professional Soil Scientists and Wetland Professionals Regulations*.

11. Do you hold an expired professional wetland delineator certificate or its equivalent issued by a regulatory body of another state, territory or possession of the United States?

No

Yes If yes, please complete the following table. You are also required to submit an original Certification of Licensure/Letter of Good Standing*, dated within the last 60 days, from each regulatory body.

State	License, Certification or Registration Number	Expiration Date

* Certifications/Letters must include: 1) the license/certification/registration number; 2) the initial date of licensure; 3) the expiration date of the license or renewal fees; 4) the means of obtaining licensure (i.e., exam, reciprocity, etc.) and the minimum requirements that were met to qualify for licensure; 5) all closed disciplinary actions resulting in violations or undetermined findings; and 6) an original authorized signature and board/department seal.

12. Have you ever been subject to a disciplinary action imposed by any (including Virginia) local, state or national regulatory body?

No

Yes If yes, please provide a certified copy of the final order, decree, or case decision by a court or regulatory agency with lawful authority to issue such order, decree, or case decision.

13. Have you ever been convicted in any jurisdiction of any felony or misdemeanor? Any guilty plea or plea of nolo contendere must be disclosed on this application. Do not disclose violations that were adjudicated as a minor in the juvenile court system.

No

Yes If yes, list the felony and/or misdemeanor conviction(s). Attach your original criminal history record and any other information you wish to have considered with this application (i.e., information on the status of incarceration, parole, or probation; reference letters; documentation of rehabilitation; etc.). If necessary, you may attach a separate sheet of paper.

Original criminal history records may be obtained by contacting the state police in the jurisdiction in which you were convicted. Virginia residents must complete a criminal history record request form in the presence of a notary public and mail it to the Department of State Police, Central Criminal Records Exchange, Post Office Box 27472, Midlothian, Virginia 23261-7472.

14. I, the undersigned, certify that the foregoing statements and answers are true, and I have not suppressed any information that might affect the Board's decision to approve this application. I will notify the Department if I am subject to any disciplinary action or convicted of any felony or misdemeanor charges (in any jurisdiction) prior to receiving the requested certification. I also certify that I understand, and have complied with, all the laws of Virginia related to professional soil scientist certification under the provisions of Title 54.1, Chapter 22 of the Code of Virginia and the Virginia Board for Professional Soil Scientists and Wetland Professionals Regulations.

Signature _____ Date _____

Notarization

In the State of _____, City/County of _____, subscribed and sworn before me,

the undersigned Notary Public in and for the City/County aforesaid this _____, day of _____,

My commission expires the _____, day of _____.

Affix official seal here.

Signature of Notary Public

* State law requires every applicant for a license, certificate, registration, or other authorization to engage in a business, trade, profession, or occupation issued by the Commonwealth to provide a social security number or a control number issued by the Virginia Department of Motor Vehicles.

TITLE 22. SOCIAL SERVICES

STATE BOARD OF SOCIAL SERVICES

Title of Regulation: 22 VAC 40-740. **Adult Protective Services (amending 22 VAC 40-740-10 through 22 VAC 40-740-60).**

Statutory Authority: §§ 63.2-217 and 63.2-1605 of the Code of Virginia.

Effective Date: August 1, 2004.

Agency Contact: Cindy Lee, Adult Services Programs Consultant, Division of Family Services, Department of Social Services, 7 North Eighth St., Richmond, VA 23219, telephone (804) 726-7535, FAX (804) 726-7895, or e-mail cindy.lee@dss.virginia.gov.

Summary:

The amendments update regulations used by local departments of social services for investigating reports and protecting health, safety and welfare of the elderly and adults. The changes are primarily technical in nature to make the regulation consistent with the Code of Virginia and current policy, update names of agencies, and delete obsolete terms.

Summary of Public Comments and Agency's Response: No public comments were received by the promulgating agency.

REGISTRAR'S NOTICE: The proposed regulation was adopted as published 20:10 VA.R. 1004-1009 January 26, 2004, with the changes identified below. Pursuant to § 2.2-4031 A of the Code of Virginia, the adopted regulation is not published at length; however, the sections that have changed since publication of the proposed are set out.

22 VAC 40-740-10. Definitions.

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

"Abuse" means the willful infliction of physical pain, injury or mental anguish or unreasonable confinement.

"Adult" means any person in the Commonwealth who is abused, neglected, or exploited, or is at risk of being abused, neglected, or exploited; and is 18 years of age or older and incapacitated, or is 60 years of age and older.

"Adult protective services" means services provided or arranged by the local department of [~~public welfare or~~] social services which are necessary to prevent abuse, neglect, or exploitation of an adult. These services consist of the identification, receipt, and investigation of complaints and reports of adult abuse, neglect, and exploitation for incapacitated persons 18 years of age and over and persons 60 years of age and over. This service also includes the provision of social casework and group work in an attempt to

stabilize the situation. If appropriate and available, adult protective services may include the provision of or arranging for home based care, transportation, sheltered employment, adult day care, meal service, legal proceedings, placement and other activities to protect the adult.

~~"Committee" means a person who has been legally invested with the authority, and charged with the duty of managing the estate or making decisions to promote the well being of a person who has been determined by the circuit court to be totally incapable of taking care of his person or handling and managing his estate because of mental illness or mental retardation. A committee shall be appointed only if the court finds that the person's inability to care for himself or handle and manage his affairs is total.~~

"Conservator" means a person appointed by the court who is responsible for managing the estate and financial affairs of an incapacitated person, and where the context plainly indicates, includes a "limited conservator" or a "temporary conservator."

"Department" means the Virginia Department of Social Services.

"Director" means the director or his delegated representative of the department of ~~public welfare or~~ social services of the city or county in which the person resides or is found.

"Emergency" means that an adult is living in conditions which present a clear and substantial risk of death or immediate and serious physical harm to himself or others.

"Exploitation" means the illegal use of an incapacitated adult or his resources for another's profit or advantage. This includes acquiring a person's resources through the use of that person's mental or physical incapacity; the disposition of the incapacitated person's property by a second party to the advantage of the second party and to the detriment of the incapacitated person; misuse of funds; acquiring an advantage through threats to withhold needed support or care unless certain conditions are met; persuading an incapacitated adult to perform services including sexual acts to which the adult lacks the capacity to consent.

"Guardian" means a person who has been legally invested with the authority and charged with the duty of taking care of the person and managing his property and protecting the rights of the person who has been declared by the circuit court to be incapacitated and incapable of administering his own affairs. The powers and duties of the guardian are defined by the court and are limited to matters within the areas where the person in need of a guardian has been determined to be incapacitated.

"Guardian ad litem" means an attorney appointed by the court to represent the interest of the person for whom a guardian or committee is requested. On the hearing of the petition for appointment of a guardian or committee, the guardian ad litem advocates for the person who is the subject of the hearing, and his duties are usually concluded when the case is decided.

"Incapacitated person" means any adult who is impaired by reason of mental illness, mental retardation, physical illness or disability, or other causes to the extent that the adult lacks sufficient understanding or capacity to make, communicate or

Final Regulations

carry out reasonable decisions concerning his or her well-being. This definition is for the purpose of establishing an adult's eligibility for adult protective services and such adult may or may not have been found incapacitated through court procedures.

"Involuntary protective services" means those services authorized by the court for an adult who has been determined to need protective services and who has been adjudicated incapacitated and lacking the capacity to consent to receive the needed protective services.

"Lacks capacity to consent" means a preliminary judgment of a local department of social services social worker that an adult is unable to consent to receive needed services for reasons that relate to emotional or psychiatric problems, mental retardation, developmental delay, or other reasons which impair the adult's ability to recognize a substantial risk of death or immediate and serious harm to himself. The lack of capacity to consent may be either permanent or temporary. The worker must make a preliminary judgment that the adult lacks capacity to consent before petitioning the court for authorization to provide protective services on an emergency basis pursuant to § ~~63.1-55.6~~ 63.2-1609 of the Code of Virginia.

"Legally incapacitated" means that the person has been adjudicated incapacitated by a circuit court because of a mental or physical condition which renders him, either wholly or partially, incapable of taking care of himself or his estate.

"Legally incompetent" means a person who has been adjudicated incompetent by a circuit court because of a mental condition which renders him incapable of taking care of his person or managing his estate.

"Legitimate interest" means that a public or private agency or the representative of such an agency has a need for client specific information which is maintained by a local department of social services as a result of an adult protective services report or investigation. The information is needed in order to fulfill a recognized agency function which can reasonably be expected to serve the best interest of the client adult who is the subject of the information. Agencies ~~who~~ that may have a legitimate interest in such information are specified in 22 VAC 40-730-50 B.

"Local ~~agency~~ department" means any local department of social services ~~welfare~~ in the Commonwealth of Virginia.

"Mandated reporters" means those persons who are required pursuant to § ~~63.1-55.3~~ 63.2-1606 of the Code of Virginia, to report to the local department of social services when such persons have reason to suspect that an adult is abused, neglected, or exploited. Persons required to make such reports include any person licensed to practice medicine or any of the healing arts, any hospital resident or intern, any person employed in the nursing profession, any person employed by a public or private agency or facility and working with adults, any person providing full-time or part-time care to adults for pay on a regularly scheduled basis, any person employed as a social worker, any mental health professional, and any law-enforcement officer.

"Mental anguish" means a state of emotional pain or distress resulting from activity (verbal or behavioral) of a perpetrator. The intent of the activity is to threaten or intimidate, to cause sorrow or fear, to humiliate or ridicule. There must be evidence that it is the perpetrator's activity which has caused the adult's feelings of pain or distress.

"Neglect" means that an adult is living under such circumstances that he is not able to provide for himself or is not being provided such services as are necessary to maintain his physical and mental health and that the failure to receive such necessary services impairs or threatens to impair his well-being. Neglect includes the failure of a caregiver, or some other responsible person, to provide for basic needs to maintain the adult's physical and mental health and well-being; and it includes the adult's neglect of self. Neglect includes:

1. The lack of clothing considered necessary to protect a person's health;
2. The lack of food necessary to prevent physical injury or to maintain life, including failure to receive appropriate food when persons have conditions requiring special diets;
3. Shelter which is not structurally safe; has rodents or other infestations which may result in serious health problems; does not have a safe and accessible water supply, heat source or sewage disposal. Adequate shelter for a person will depend on the impairments of an individual person; however, the person must be protected from the elements which would seriously endanger his health (rain, cold, heat) and result in serious illness or debilitating conditions;
4. Inadequate supervision by a caregiver (paid or unpaid) who has been designated to provide the supervision necessary to protect the safety and well-being of adults in his care;
5. The failure of persons who are responsible for caregiving to seek needed medical care or to follow medically prescribed treatment for an adult, or the adult has failed to obtain such care for himself. The needed medical care is believed to be of such a nature as to result in physical or mental injury or illness if it is not provided; and
6. An adult who is self-neglecting by not meeting his own basic needs due to mental or physical impairments. Basic needs refer to such things as food, clothing, shelter, health or medical care.

"Report" means an allegation by any person, to a local department of social services, that an adult is in need of protective services. The term "report" shall refer to both reports and complaints of abuse, neglect, and exploitation of adults.

"Unreasonable confinement" means the use of restraints (physical or chemical), isolation, or any other means of confinement without medical orders, when there is no emergency and for reasons other than the adult's safety or well-being, or the safety of others.

"Voluntary protective services" means those services given to an adult who, after investigation, is determined to be in need

of protective services and consents to receiving the services so as to mitigate the risk of abuse, neglect, or exploitation.

22 VAC 40-740-20, 22 VAC 40-740-30, and 22 VAC 40-740-40. [No change from proposed.]

22 VAC 40-740-50. Disclosure of adult protective services information.

A. This chapter describes the protection of confidential information including a description of when such information must be disclosed, when such disclosure of the information is at the discretion of the local ~~agency~~ *department*, what information may be disclosed, and the procedure for disclosing the information.

B. ~~Agencies~~ *Departments* that have a legitimate interest in confidential information:

1. Department service staff (~~central and regional offices~~) have legitimate interest and shall have regular access to adult protective services records maintained by *the local agencies department*.
2. The following agencies have statutory or investigatory authority, and they have a legitimate interest in confidential information when such information is reasonably necessary for the fulfillment of their statutory or regulatory responsibilities and is consistent with the best interest of the adult who is the subject of the information:
 - a. Department of Mental Health, Mental Retardation and Substance Abuse Services, ~~Office of Human Rights~~;
 - b. ~~Department for Rights of the Disabled~~; *Virginia Office for Protection and Advocacy*;
 - c. Attorney General's Office, Medicaid Fraud Control Program;
 - d. Department for the Aging, ~~Office of the State Long Term Care Ombudsman~~;
 - e. Department of Health, ~~Division of Licensure and Certification including the Center for Quality Health Care Services and Consumer Protection~~;
 - f. Department of Medical Assistance Services;
 - g. Department of Health Professions;
 - h. Department for the ~~Visually Handicapped Blind and Vision Impaired~~; ~~and~~
 - i. Department of Social Services, *including the Division of Licensing Programs*; ~~and~~
 - j. *The Office of the State Long-Term Care Ombudsman*.

~~2. Public/private service providing~~ 3. *Other public and private agencies including community services boards, area agencies on aging, family service agencies, and local health departments and others may have legitimate interest in confidential information.*

C. Local ~~agencies~~ *departments* may release information to the following persons when the local ~~agency~~ *department* has determined the person making the request has legitimate

interest and the release of information is in the best interest of the adult:

1. Representatives of agencies requesting disclosure when the agency has legitimate interest as identified in [~~22 VAC 40-740-50 subsection~~] B [~~1, 2, and 3 of this section~~];
2. Police or other law-enforcement officials who are investigating adult abuse, neglect, or exploitation;
3. A physician who is treating an adult whom he reasonably suspects is abused, neglected, or exploited;
4. The adult's legally appointed guardian;
5. A guardian ad litem who has been appointed for an adult who is the subject of an adult protective services report;
6. A family member who is responsible for the welfare of an adult who is the subject of an adult protective services report;
7. An attorney representing a local ~~agency~~ *department* in an adult protective services case; or
8. The Social Security Administration.

D. Local [~~agencies~~ *departments*] are required to disclose information under the following circumstances:

1. When disclosure is ordered by a court;
2. When a person has made an adult protective services report and an investigation has determined the report to be unfounded, the person who made the report shall be notified of the finding pursuant to § ~~63.1-55.4~~ 63.2-104 of the Code of Virginia; or
3. When a request for access to information is made pursuant to the ~~Privacy Protection Act, § 2.1-382~~ *Government Data Collection and Dissemination Practices Act, § 2.2-3800* of the Code of Virginia.

E. Any or all of the following specific information may be disclosed at the discretion of the local [~~agency~~ *department*] to agencies or persons specified in subsection C of this section:

1. Name, address, age, race, sex of the adult who is the subject of the request for information;
2. Name, address, age, race, sex of the person who perpetrated the abuse, neglect, or exploitation;
3. Description of the incident or incidents of abuse, neglect, or exploitation;
4. Description of medical problems;
5. Disposition of the adult protective services report; or
6. The protective service needs of the adult.

F. Agencies or persons who receive confidential information pursuant to subdivisions 1 through 8 of subsection C of this section shall provide the following assurances to the local ~~agency~~ *department*:

1. The purposes for which information is requested is related to the adult protective services goal for the client;

Final Regulations

2. The information will be used only for the purpose for which it is made available; and

3. The information will be held confidential by the ~~agency~~ *department* or individual receiving the information except to the extent that disclosure is required by law.

G. Methods of obtaining assurances. Any one of the following methods may be used to obtain assurances required in subsection F of this section:

~~1. The use of form 032-01-040/2;~~

~~2.~~ 1. Agreements between local ~~agencies~~ *departments* and other community service providing agencies which provide blanket assurances required in subsection F of this section for all adult protective services cases; *or*

~~3.~~ 2. State level agreements which provide blanket assurances required in subsection F of this section for all adult protective services cases; ~~or.~~

~~4. The use of form 032-02-702.~~

H. Notification that information has been disclosed. When information has been disclosed pursuant to this chapter, notice of the disclosure shall be given to the person who is the subject of the information or to his legally appointed guardian. If the client has given permission to release the information ~~via form 032-01-040/2~~, further notification is unnecessary.

22 VAC 40-740-60. [No change from proposed.]

FORMS [No change from proposed.]

VA.R. Doc. No. R03-112; Filed May 26, 2004, 10:22 a.m.



GENERAL NOTICES/ERRATA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Stream Condition Index for Virginia Noncoastal Streams

In an effort to assist the Department of Environmental Quality (DEQ) in updating the current biological monitoring program in Virginia to reflect recent advances in bioassessment methods described at <http://www.epa.gov/owow/monitoring/rbp>, the U.S. Environmental Protection Agency funded their contractor Tetra Tech Inc. to prepare a report recommending a method for evaluating the environmental health of freshwater noncoastal streams in Virginia. Tetra Tech has produced a final report titled "A Stream Condition Index for Virginia Non-Coastal Streams" that is currently undergoing evaluation and testing by DEQ. Electronic and photocopies are available through the DEQ contact listed below. An electronic version of the report can be e-mailed upon request at no cost to the requestor; however, there is a charge for photocopy or diskette versions. This document will also be available on or before June 14, 2004, at <http://www.virginia.gov/watermonitoring/bio.html>.

This notice is intended to provide the general public an opportunity for written comment on the contents of this report. Written comments may be submitted until 4 p.m. on September 13, 2004, to Jean Gregory, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240 or by FAX at (804) 698-4116 or e-mail to jwgregory@deq.state.va.us. For more detailed information, please contact Ms. Gregory at (804) 698-4113 or toll free at 1-800-592-5842.

Tetra Tech used benthic macroinvertebrate data collected by DEQ biologists from reference sites between 1994 and 2000 in the development of this report. Benthic macroinvertebrates are organisms such as insects, crustaceans, snails or worms that live on the bottom of streams and rivers that are large enough to be seen with the naked eye. Because they are extremely sensitive to pollutants, they often respond to changes in water quality caused by the introduction of various contaminants into a water body from point or nonpoint source pollution. The report recommends using a set of eight different measurements (metrics) to calculate a single numerical score, the Virginia Stream Condition Index (VA-SCI), with a value between 1 and 100. This VA-SCI would be used to determine impairments to aquatic life uses in Virginia waters and would be applicable to most of the Wadeable freshwater streams and rivers west of the coastal plain.

DEQ has requested the assistance of members of the Academic Advisory Committee's (AAC) Subcommittee on Biological Monitoring to review this report and the final recommendations concerning the scoring of the VA-SCI.

Total Maximum Daily Load (TMDL) for Catoctin Creek

The Department of Environmental Quality (DEQ) and the Department of Conservation and Recreation (DCR) seek written and oral comments from interested persons on the

development of an Implementation Plan (IP) for the Total Maximum Daily Load (TMDL) for fecal coliform bacteria on a 35-mile segment of Catoctin Creek, including 10.5 miles of the North Fork, all of the South Fork (17 miles), and 7.5 miles of the mainstem. A TMDL for the Catoctin Creek bacteria impairments was approved by EPA on May 31, 2002, and is available on DEQ's website at <http://www.deq.state.va.us/tmdlrpts.html>. The Catoctin Creek impairments are located in Loudoun County.

Section 62.1-44.19:7 C of the Code of Virginia requires the development of an IP for approved TMDLs. The IP should provide measurable goals and the date of expected achievement of water quality objectives. The IP should also include the corrective actions needed and their associated costs, benefits and environmental impacts.

The final public meeting on the development of the IP for the Catoctin Creek fecal coliform bacteria TMDL will be held on Thursday, June 24, 2004, at 7 p.m. in the Old School at 40222 Fairfax Street (off Route 665) in Waterford, Virginia.

The public comment period will end on July 23, 2004. A fact sheet on the development of an IP for the TMDL for fecal coliform bacteria on Catoctin Creek is available upon request. Questions or information requests should be addressed to Kate Bennett. Written comments and inquiries should include the name, address, and telephone number of the person submitting the comments and should be sent to Ms. Kate Bennett, Department of Environmental Quality, 13901 Crown Court, Woodbridge, VA 22193, telephone (703) 583-3896, FAX (703) 583-3841, or e-mail kebennett@deq.state.va.us.

STATE CORPORATION COMMISSION

Bureau of Insurance

April 30, 2004

Administrative Letter 2004-3

TO: ALL ENTITIES WITH AUTHORITY TO APPOINT AGENTS IN VIRGINIA, AND OTHER INTERESTED PARTIES

RE: PROCEDURAL CHANGES, ADMINISTRATIVE CHANGES AND CLARIFICATIONS REGARDING AGENT LICENSING AND THE BUREAU'S AGENT LICENSING SECTION

The purpose of this Administrative Letter is to provide information concerning a number of procedural and administrative changes in the area of agents licensing and the Bureau's Agents Licensing Section.

Please distribute to the appropriate personnel within your company, and notify your appointed agents of these changes.

APPOINTMENTS

- Effective August 1, 2004, the Bureau will discontinue printing the wallet-sized Acknowledgement of Appointment cards. Instead, the acknowledgment of

General Notices/Errata

appointment will be printed on 8½" X 11" paper and sent to the agent's home address. If the agent does not receive an acknowledgment of appointment from the Bureau within forty-five days from the date of execution of the first insurance application submitted to the company, he or she should immediately discontinue any soliciting of insurance on behalf of that company until such acknowledgment is received.

- Companies wishing to verify that the appointment has been recorded and acknowledged by the Bureau may do so as follows:
 - For appointments submitted on paper, check the Daily Appointment List that is produced and mailed to the company on the day following recordation of one or more appointments. Companies are also notified of appointments that have not been recorded (along with the reason) by means of the Daily Appointment Rejection List, which is also mailed on the day following rejection of one or more appointments.
 - For appointments submitted electronically, the company should receive from its vendor a file showing the appointments acknowledged and rejected. If you do file electronically, it is imperative that you review the report provided from the vendor's file, because you will not receive verification from the Bureau regarding electronically filed appointments. It is your responsibility to research any errors that appear in your file and resubmit the correct transaction for the processing of the appointment. Please remember that filing electronically does not mean that the process is immediate. There could be a delay of three or more business days in processing your file depending upon when you submit the information to your vendor and when the file is actually submitted to the NAIC.
 - Companies may verify the appointment status by using the Bureau's Interactive Voice Response (IVR) system. Instructions for using IVR may be found at <http://www.state.va.us/scc/division/boi/webpages/boiivr.htm>.
- Between now and January 1, 2005, we encourage companies to file appointments electronically. If you are not currently doing so and would like to start, you may view a list of vendors that provide the electronic filing at http://www.licenseregistry.com/authorized_bus_partners.htm.
- **Effective January 1, 2005, all companies will be required to file appointments electronically for all producers, with the exception of resident producers that decline to utilize their social security number as their license number. In those instances where Virginia resident agents have elected to utilize a DMV-assigned identification number as their license number, the appointment must be filed on paper, because the NAIC system will not recognize the DMV-assigned number and therefore such appointments will have to be processed manually. While Virginia and the other states are working through the NAIC**

and NIPR toward adopting a unique identifying national producer number, until such number is universally accepted, Virginia is unable to utilize any number other than the social security number for electronic appointments.

- Whether filing electronically or on paper, do not send a letter to the producer indicating that they are appointed with your company until the acknowledgment of appointment has been verified with the Bureau. We have had a number of instances where an agent has misunderstood a letter from an insurer, indicating that the appointment had been submitted to the Bureau, as a letter confirming that the appointment was in effect. For the protection of your agents, we urge companies not to confuse agents in this manner.
- We have a number of instances where agents (whether newly licensed or after having lost their last supporting appointment) wait until the end of the 6 month period before seeking an appointment to keep the license from terminating by operation of law. We remind you that the appointment must be **received by the Bureau**, either on paper or electronically, **and processed prior to the end of the 6 month period.**
- With the growing use of electronic appointments, we have decided to discontinue the requirement for companies to provide us with and keep updated a list of those authorized to appoint agents on their behalf. Therefore, it is no longer necessary for the company to submit an updated list to the Bureau.
- Companies are responsible for paying the appointment processing fee for all appointments processed, regardless of whether the appointment is acknowledged or rejected. It is, therefore, in each company's financial interest to check your records **prior to** submitting an appointment to be sure that the producer holds the proper authority and that the producer is not already appointed with your company

APPOINTMENT CANCELLATIONS

- Paper appointment cancellation forms submitted to the Bureau should be verified for cancellation of the appointment by checking the Daily Appointment Cancellation List or rejection of appointment cancellation by checking the Daily Appointment Cancellation Rejection List. Companies may verify appointment status by using the Bureau's Interactive Voice Response (IVR) system. Instructions for using the IVR may be found at <http://www.state.va.us/scc/division/boi/webpages/boiivr.htm>.
- Between now and January 1, 2005, we encourage companies to file cancellations electronically. If you are not currently doing so and would like to start, you may view a list of vendors that provide the electronic filing at http://www.licenseregistry.com/authorized_bus_partners.htm.
- **Effective January 1, 2005, all companies will be required to file cancellations electronically.**

- **In addition to electronic appointment termination, if you terminate a producer for cause, you must also send a letter to the Bureau documenting the reason for the termination.**
- If you do file electronically, it is imperative that you review the report provided from the vendor's file, because you will not receive verification from the Bureau regarding electronically filed cancellations. It is your responsibility to research any errors that appear in your file and resubmit the correct transaction for the processing of the cancellation. Please remember that filing electronically does not mean that the process is immediate. There could be a delay of three or more business days in processing your file depending upon when you submit the information to your vendor and when the file is actually submitted to the NAIC.

CERTIFICATIONS

- A certification letter is automatically generated and sent to the producer when a new license is issued. If you require a file copy of the certification, you should obtain it from the producer.
- We remind companies again that a certification is a far better means of proof of licensing than is a copy of the producer's license. Because Virginia licenses are perpetual, the license itself does not show recent activity, such as renewal. On the other hand, a certification shows current licenses held, status, CE compliance where applicable, and current address information.
- While proof of home state licensing is still required for issuance of a nonresident license, we will now accept a Producer Database (PDB) printout dated within 90 days in lieu of a formal certification letter for nonresident applicants.

SUSPENDED COMPANIES

- If your company's status changes from active to suspended, the agents currently appointed with your company will be sent a letter informing them of the company status change and a copy of the Order issued. These appointments are considered active until they are terminated by the company. The company will be responsible for any outstanding or future quarterly and renewal fees, and any penalties owed to the Bureau.

MERGED COMPANIES

- When two companies merge, all active appointments are automatically transferred from the non-surviving company to the surviving company. The surviving company must submit cancellation forms prior to the merger for any producers it does not wish to be appointed with the surviving company.

QUARTERLY BILLING AND RENEWAL PROCESS

- All billings are sent to the company's billing address on file with the Bureau. You must keep your billing address updated. The Agents Licensing Section sends an acknowledgment when the address is updated. Our processing time for updating billing addresses is 5-7

working days. If you have not received an acknowledgment for an address change within this timeframe, you need to contact the Bureau immediately.

- The due dates for the quarterly and renewal billings remain the same. The dates are as follows:
 - Quarter ending 6/30 - due on 8/10;
 - Quarter ending 9/30 - due on 11/10;
 - Quarter ending 12/31 - due on 2/10;
 - Quarter ending 3/31 - due on 5/10.

If the payment is received after the due date, there will be a **\$50 per calendar day penalty imposed for each day the payment is late**. The penalty is calculated after the payment is received so do not include the penalty with your payment of appointment fees.

- The Bureau would prefer that all remittances be paid through the lockbox at Wachovia, P.O. Box 26366, Richmond, Virginia 23260-6366. Please do not submit any checks to the Bureau or to the lockbox without some type of documentation attached.

PAYMENT OF COMMISSION

- A company is allowed to pay a producer renewal or deferred commission or compensation as long as the producer was licensed and appointed at the time of the transaction for which these commissions were earned.

CONTINUING EDUCATION

- Contact Experior Assessments, LLC regarding continuing education. You may contact them by calling 800-482-2366 or you may visit their website at <http://www.experioronline.com/vace.htm>. Please note that their mailing address has changed to 1260 Energy Lane, St. Paul, MN 55108. Do not send Certificates of Course Completion or Nonresident Proof of Compliance Forms to the Bureau of Insurance. They must be submitted to Experior Assessments. As a reminder, Nonresident Proof of Compliance Forms for the 2003-2004 biennium should not be submitted to Experior prior to July 1, 2004.

ADDRESS CHANGES

- All notifications for change of residence address must be signed by the producer. (Sending notification to Experior Assessments, LLC via CE Certifications does NOT cause the address to be changed at the Bureau.) The Bureau sends all correspondence to the producer's residence address.

RETURNED CHECKS

- There is a \$25 penalty for each returned check. If the returned check is for a license application, the license is administratively terminated. In order for the producer to obtain any license, the penalty and the license application fee must be paid.

Questions regarding the content of this letter should be directed to the Bureau's Agents Licensing Section at (804) 371-9631.

General Notices/Errata

/s/ Alfred W. Gross
Commissioner of Insurance

STATE LOTTERY DEPARTMENT

Director's Orders

The following Director's Orders of the State Lottery Department were filed with the Virginia Registrar of Regulations on May 14, 2004. The orders may be viewed at the State Lottery Department, 900 E. Main Street, Richmond, Virginia, or at the office of the Registrar of Regulations, 910 Capitol Street, 2nd Floor, Richmond, Virginia.

Final Rules for Game Operation:

Director's Order Number Seventeen (04)

Virginia's Instant Game Lottery 587; "Casino Action," (effective 5/11/04)

Director's Order Number Eighteen (04)

Virginia's Instant Game Lottery 601; "5 Times The Money," (effective 5/11/04)

Director's Order Number Nineteen (04)

Virginia's Instant Game Lottery 592; "Friday Night Poker," (effective 5/11/04)

Director's Order Number Twenty (04)

Virginia's Instant Game Lottery 603; "24 Karat Cash," (effective 5/11/04)

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
RESPONSE TO PETITION FOR RULEMAKING-RR13
FAST-TRACK RULEMAKING ACTION-RR14

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

COMMONWEALTH COUNCIL ON AGING

June 17, 2004 - 9 a.m. -- Open Meeting

Department for the Aging, 1600 Forest Avenue, Suite 102, Richmond, Virginia.♿ (Interpreter for the deaf provided upon request)

A regular business meeting of the Public Relations Committee. Public comments are welcome.

Contact: Robin Brannon, Communications Director, Department for the Aging, 1600 Forest Ave., Suite 102, Richmond, VA 23229, telephone (804) 662-9323.

June 17, 2004 - 10 a.m. -- Open Meeting

Department for the Aging, 1600 Forest Avenue, Suite 102, Richmond, Virginia.♿ (Interpreter for the deaf provided upon request)

A regular business meeting of the council. Public comments are welcome.

Contact: Marsha Mucha, Department for the Aging, 1600 Forest Ave., Suite 102, Richmond, VA 23229, telephone (804) 662-9312.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Virginia Cotton Board

† **July 20, 2004 - 9 a.m.** -- Open Meeting

Tidewater Agriculture Research and Extension Center, 6321 Holland Road, Suffolk, Virginia.♿

A meeting 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 consider 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 Gail Moody Milteer 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 Egg Board

† **June 25, 2004 - 10:30 a.m.** -- Open Meeting

Hotel Roanoke and Conference Center, 110 Shenandoah Avenue, Roanoke, Virginia.♿ (Interpreter for the deaf provided upon request)

A meeting to review the contractual agreement for education, promotion and research with the Virginia Egg Council. Financial statements, audits, and educational/promotional programs will be reviewed. A research project being conducted at Virginia Tech will be reviewed at that time. Plans for FY 2004-2005 will be presented and approved by the board.

Contact: Cecilia Glembocki, Executive Director, Virginia Egg Board, 911 Saddleback Court, McLean, VA 22102, telephone (703) 790-1984, FAX (703) 821-6748, e-mail virginiaeggcouncil@erols.com.

Virginia Marine Products Board

† **June 23, 2004 - 6 p.m.** -- Open Meeting

Tommy's Restaurant, 729 Main Street, Reedville, Virginia.♿

The board will meet to approve the minutes of the previous board meeting and the finance report. In addition, upcoming and past trade shows, festivals, industry tours, calendar sales, cooperative programs with the Virginia Department of Agriculture and Consumer Services and croaker exports will be discussed. 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

Calendar of Events

contact Shirley Estes at least five days before the meeting date so that suitable arrangements can be made.

Contact: Shirley Estes, Executive Director, Virginia Marine Products Board, 554 Denbigh Blvd., Suite B, Newport News, Va., telephone (757) 874-3474, FAX (757) 886-0671.

Virginia Plant Pollination Advisory Board

† **June 23, 2004 - 10 a.m.** -- Open Meeting
Washington Building, 1100 Bank Street, 2nd Floor Boardroom, Richmond, Virginia. 

At the annual meeting, the board will discuss research, education, methods of improvement in apicultural practices and promotion projects to ensure Virginia agriculture a reliable supply of pollinators. 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 Keith R. Tignor at least five days before the meeting date so that suitable arrangements can be made.

Contact: Keith R. Tignor, Board Secretary, Virginia Plant Pollination Advisory Board, 1100 Bank St., Room 703, Richmond, VA 23219, telephone (804) 786-3515, FAX (804) 371-7793, (800) 828-1120/TTY , e-mail ktignor@vdacs.state.va.us.

Virginia Small Grains Board

July 21, 2004 - 8 a.m. -- Open Meeting
Double Tree Hotel, Richmond Airport, 5501 Eubank Road, Richmond, Virginia. 

The board will review FY 2003-04 project reports and will receive and approve the 2004-05 project proposals. Minutes from the last board meeting and a current financial statement will be heard and approved. 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 for any appropriate accommodation.

Contact: Philip T. Hickman, Program Director, Department of Agriculture and Consumer Services, 1100 Bank St., Room 1005, Richmond, VA 23219, telephone (804) 371-6157, FAX (804) 371-7786.

Virginia Winegrowers Advisory Board

† **June 14, 2004 - 10 a.m.** -- Open Meeting
Virginia Farm Bureau Federation, 12580 West Creek Parkway, Richmond, Virginia. 

The advisory board minutes from the previous board meeting will be read and approved and the financial statement will be presented. The board will hear from the ABC Board and the viticulture, enology, marketing, and tourism committees. The board will also discuss the grant proposals presented at the April 20 meeting. 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 Mary Davis-Barton at least five days before the meeting date so that suitable arrangements can be made.

Contact: Mary Davis-Barton, Program Manager, 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

June 29, 2004 - 9:30 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room C, Richmond, Virginia. 

A regular board 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.

ALCOHOLIC BEVERAGE CONTROL BOARD

June 21, 2004 - 9 a.m. -- Open Meeting
July 6, 2004 - 9 a.m. -- Open Meeting
July 19, 2004 - 9 a.m. -- Open Meeting
August 2, 2004 - 9 a.m. -- Open Meeting
August 16, 2004 - 9 a.m. -- Open Meeting
August 30, 2004 - 9 a.m. -- Open Meeting
† **September 13, 2004 - 9 a.m.** -- Open Meeting
Department of Alcoholic Beverage Control, 2901 Hermitage Road, Richmond, Virginia. 

A meeting of the executive staff 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, 2901 Hermitage Rd., Richmond, VA 23220, telephone (804) 213-4409, FAX (804) 213-4411, (804) 213-4687/TTY , e-mail wccolen@abc.state.va.us.

ALZHEIMER'S DISEASE AND RELATED DISORDERS COMMISSION

NOTE: CHANGE IN MEETING DATE

June 21, 2004 - 10 a.m. -- Open Meeting
Ratcliffe Building, 1602 Rolling Hills Drive, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A business meeting.

Contact: Janet L. Honeycutt, Director of Grant Operations, Department for the Aging, 1600 Forest Ave., Suite 102, Richmond, VA 23229, telephone (804) 662-9333, FAX (804) 662-9354, toll-free (800) 554-3402, (804) 662-9333/TTY , e-mail jlhoneycutt@vdh.virginia.gov.

ART AND ARCHITECTURAL REVIEW BOARD

July 2, 2004 - 10 a.m. -- Open Meeting
August 6, 2004 - 10 a.m. -- Open Meeting
† September 3, 2004 - 10 a.m. -- Open Meeting
Science Museum of Virginia, 2500 West Broad Street,
Richmond, Virginia. 

A monthly meeting to review projects submitted by state agencies. Art and Architectural Review Board submittal forms and submittal instructions can be downloaded by visiting the DGS forms at www.dgs.state.va.us. Request Submittal Form #DGS-30-905 or DGS Submittal Instructions Form #DGS-30-906.

Contact: Richard L. Ford, AIA Chairman, 101 Shockoe Slip, 3rd Floor, Richmond, VA 23219, telephone (804) 648-5040, FAX (804) 225-0329, toll free (804) 786-6152, or e-mail rford@comarchs.com.

VIRGINIA BOARD FOR ASBESTOS, LEAD, AND HOME INSPECTORS

† June 28, 2004 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, 4th Floor, Room 453, Richmond,
Virginia. 

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 19, 2004 - 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, Executive 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.

BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

August 19, 2004 - 9:30 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street,
5th Floor, Richmond Virginia.  (Interpreter for the deaf provided upon request)

A quarterly business meeting to include regulatory and disciplinary matters as may be presented on the agenda. Public comment will be received at the beginning of the meeting.

Contact: Elizabeth Young, Executive Director, Board of Audiology and Speech-Language Pathology, Alcoa Building, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712,

telephone (804) 662-9111, FAX (804) 662-9523, (804) 662-7197/TTY , e-mail elizabeth.young@dhp.virginia.gov.

VIRGINIA AVIATION BOARD

June 15, 2004 - 1 p.m. -- Open Meeting
Richmond International Airport, CRAC Conference Room, Ivor Massey Building, Richmond, Virginia. 

A meeting of the Aviation Compatible Land Use Committee to discuss compatible land use at Virginia airports.

Contact: Carolyn Toth, Administrative Assistant and Office Manager, Virginia Aviation Board, 5702 Gulfstream Rd., Richmond, VA 23250, telephone (804) 236-3637, FAX (804) 236-3635, e-mail carolyn.toth@doav.virginia.gov.

June 15, 2004 - 3 p.m. -- Open Meeting
June 16, 2004 - 9 a.m. -- Open Meeting
Richmond International Airport, CRAC Conference Room, Ivor Massey Building, Richmond, Virginia. 

A regular bimonthly meeting. Applications for state funding will be presented to the board and other matters of interest to the Virginia aviation community. Individuals with disabilities should contact Carolyn Toth 10 days prior to the meeting if assistance is needed.

Contact: Carolyn Toth, Administrative Assistant and Office Manager, Virginia Aviation Board, 5702 Gulfstream Rd., Richmond, VA 23250, telephone (804) 236-3637, FAX (804) 236-3635, e-mail carolyn.toth@doav.virginia.gov.

BOARD FOR BARBERS AND COSMETOLOGY

June 14, 2004 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. 

A general business meeting including consideration of regulatory issues as may be presented on the agenda. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Public comment will be heard at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: William H. Ferguson, II, Executive Director, Board for Barbers and Cosmetology, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-6295, (804) 367-9753/TTY , e-mail barberscosmo@dpor.virginia.gov.

June 14, 2004 - 9:30 a.m. -- Open Meeting
June 29, 2004 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, 4th Floor, Room 453, Richmond,
Virginia. 

An informal fact-finding conference.

Calendar of Events

Contact: William H. Ferguson, II, Assistant Director, Board for Barbers and Cosmetology, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8575, FAX (804) 367-2474, (804) 367-9753/TTY ☎, e-mail barbercosmo@dpor.virginia.gov.

CEMETERY BOARD

† **June 14, 2004 - 1 p.m.** -- Open Meeting

† **June 15, 2004 - 1 p.m.** -- Open Meeting

July 9, 2004 - 9 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Room 453, Richmond, Virginia. ♿

An informal fact-finding conference.

Contact: Karen W. O'Neal, Regulatory Programs Coordinator, Cemetery Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8537, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail Karen.O'Neal@dpor.virginia.gov.

June 15, 2004 - 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, Cemetery Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8537, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail Karen.O'Neal@dpor.virginia.gov.

CHARITABLE GAMING BOARD

NOTE: CHANGE IN MEETING DATE AND LOCATION

June 15, 2004 - 10 a.m. -- Open Meeting

Science Museum of Virginia, 2500 West Broad Street, RF&P Forum Room, Richmond, Virginia. ♿

† **September 14, 2004 - 10 a.m.** -- Open Meeting

Science Museum of Virginia, 2500 West Broad Street, Discovery Room, Richmond, Virginia. ♿

A general meeting. An agenda will be posted on the agency website.

Contact: Frances C. Jones, Office Manager, Charitable Gaming Board, 101 N. 14th St., 17th Floor, Richmond, VA 23219, telephone (804) 786-3014, FAX (804) 786-1079, e-mail Frances.Jones@dgc.virginia.gov.

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

June 21, 2004 - 10 a.m. -- Open Meeting

Chesapeake Bay Local Assistance Department, James Monroe Building, 101 North 14th Street, Conference Room B, Lobby Level, Richmond, Virginia. ♿

The board will conduct general business, including review of compliance by various local Chesapeake Bay Preservation Area programs. The board will be conducting informal

conferences with respect to those localities that failed to meet the board's May 15, 2004, deadline established at the March 22, 2004, board meeting and will have been notified of such failure. Public comment will be taken.

Contact: Christine W. Edwards, Business Manager, Chesapeake Bay Local Assistance Department, James Monroe Bldg., 101 N. 14th St., 17th Floor, Richmond, VA 23219, telephone (804) 225-3443, FAX (804) 225-3447, toll-free (800) 243-7229, (804) 225-3440/TTY ☎, e-mail christine.edwards@cblad.virginia.gov.

STATE CHILD FATALITY REVIEW TEAM

July 13, 2004 - 10 a.m. -- Open Meeting

Office of the Chief Medical Examiner, 400 East Jackson Street, Richmond, Virginia. ♿

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, Manager, Fatality Review and Surveillance Programs, Department of Health, 400 East Jackson St., Richmond, VA 23219, telephone (804) 786-6047, FAX (804) 371-8595, toll-free (800) 447-1708, e-mail Virginia.Powell@vdh.virginia.gov.

COMPENSATION BOARD

NOTE: CHANGE IN MEETING DATE

† **June 23, 2004 - 11 a.m.** -- Open Meeting

† **July 21, 2004 - 11 a.m.** -- Open Meeting

Compensation Board, 202 North 9th Street, 10th Floor, Richmond, Virginia. ♿

A monthly board meeting.

Contact: Cindy Waddell, Administrative Staff Assistant, Compensation Board, P.O. Box 710, Richmond, VA 23218, telephone (804) 786-0786, FAX (804) 371-0235, e-mail cindy.waddell@scb.virginia.gov.

COMMONWEALTH COMPETITION COUNCIL

† **July 1, 2004 - 10 a.m.** -- Open Meeting

Location to be announced. ♿ (Interpreter for the deaf provided upon request)

A strategic planning session. The date and time of the meeting are subject to change.

Contact: Peggy Robertson, Acting Executive Director, Commonwealth Competition Council, 805 E. Broad St., Room 113, Richmond, VA 23219, telephone (804) 786-0240, FAX (804) 786-1594, e-mail peggy.robertson@ccc.virginia.gov.

DEPARTMENT OF CONSERVATION AND RECREATION

June 15, 2004 - 6:30 p.m. -- Open Meeting
Williamsburg Regional Library, 7770 Croaker Road, Community Room, Williamsburg, Virginia.

The York River 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: Robert S. Munson, Environmental Program Manager, Department of Conservation and Recreation, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-6140, FAX (804) 371-7899, e-mail rsmunson@dcr.state.va.us.

June 17, 2004 - 10 a.m. -- Open Meeting
Department of Forestry, 900 Natural Resources Drive, 1st Floor Conference Room, Charlottesville, Virginia. ♿

A meeting of the Nutrient Management Regulation Technical Advisory Committee to assist the department in considering revisions to Nutrient Management Training and Certification Regulations.

Contact: David C. Dowling, Policy and Planning Manager, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-2291, FAX (804) 786-6141, e-mail ddowling@dcr.state.va.us.

June 22, 2004 - 7 p.m. -- Open Meeting
Cedar Crest Conference Center, Twin Lakes State Park, 788 Twin Lakes Road, Green Bay, Virginia. ♿

A meeting regarding the Twin Lakes State Park master plan to review and adopt recommended draft planning concepts, which include plan components and future developments.

Contact: Anne L. Reeder, Park Manager, 788 Twin Lakes Road, Green Bay, VA 23942, telephone (434) 392-3435, FAX (434) 392-9406, e-mail alreeder@dcr.state.va.us.

June 29, 2004 - 6:30 p.m. -- Open Meeting
Williamsburg Regional Library, 7770 Croaker Road, Community Room, Williamsburg, Virginia.

A meeting to discuss input from the June 15 public meeting and future park development as the committee continues work on development of a new York River State Park master plan.

Contact: Robert S. Munson, Environmental Program Manager, Department of Conservation and Recreation, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-6140, FAX (804) 371-7899, e-mail rsmunson@dcr.state.va.us.

July 27, 2004 - 6:30 p.m. -- Open Meeting
Williamsburg Regional Library, 7770 Croaker Road, Community Room, Williamsburg, Virginia.

A meeting of the York River State Park Master Plan Advisory Committee to continue work on development of a new park master plan.

Contact: Robert Munson, Environmental Program Manager, Department of Conservation and Recreation, 203 Governor

St., Suite 326, Richmond, VA 23219, telephone (804) 786-6140, FAX (804) 371-7899, e-mail rsmunson@dcr.state.va.us.

August 4, 2004 - 7 p.m. -- Open Meeting
Westmoreland State Park, Conference Center, 1650 State Park Road, Montross, Virginia.

The Westmoreland 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: Bill Conkle, Park Planner, Department of Conservation and Recreation, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-5492, FAX (804) 371-7899, e-mail bconkle@dcr.state.va.us.

BOARD FOR CONTRACTORS

June 15, 2004 - 9 a.m. -- Open Meeting
June 16, 2004 - 9 a.m. -- Open Meeting
June 22, 2004 - 9 a.m. -- Canceled
† June 24, 2004 - 9 a.m. -- Open Meeting
June 29, 2004 - 9 a.m. -- Open Meeting
† July 1, 2004 - 2:30 p.m. -- Open Meeting
† July 6, 2004 - 2 p.m. -- Open Meeting
† July 13, 2004 - 9 a.m. -- Open Meeting
† July 15, 2004 - 9 a.m. -- Open Meeting
July 27, 2004 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. ♿
(Interpreter for the deaf provided upon request)

Informal fact-finding conferences.

Contact: Eric L. Olson, Executive 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.virginia.gov.

† July 1, 2004 - 10 a.m. -- Open Meeting
August 11, 2004 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ♿

A meeting of the Tradesman and Education Committee to conduct committee business. The department fully complies with the Americans with Disabilities Act.

Contact: Eric L. Olson, Executive 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.

July 6, 2004 - 9 a.m. -- Open Meeting
August 24, 2004 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

A regular scheduled 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. The

Calendar of Events

department fully complies with the Americans with Disabilities Act.

Contact: Eric L. Olson, Executive 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.virginia.gov.

BOARD OF CORRECTIONAL EDUCATION

† **June 25, 2004 - 10 a.m.** -- Open Meeting
James Monroe Building, 101 North 14th Street, 7th Floor, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting to discuss general business.

Contact: Patty Ennis, Board Clerk, Board of Correctional Education, 101 N. 14th St., 7th Floor, Richmond, VA 23219, telephone (804) 225-3314, FAX (804) 786-7642, (804) 371-8647/TTY ☎, e-mail paennis@dce.state.va.us.

BOARD OF COUNSELING

August 26, 2004 - 10 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, Board Room 1, Richmond, Virginia. ♿

A meeting of the Credential Review Committee to review applicants' credentials for licensure.

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.virginia.gov.

August 27, 2004 - 9:30 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 1, Richmond, Virginia. ♿

A business 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.virginia.gov.

CRIMINAL JUSTICE SERVICES BOARD

† **September 9, 2004 - 11 a.m.** -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, 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.

BOARD OF DENTISTRY

† **June 18, 2004 - 9 a.m.** -- Open Meeting
† **July 30, 2004 - 9 a.m.** -- Open Meeting
† **September 10, 2004 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 1, Richmond, Virginia. ♿

A meeting to discuss regular board business. There will be a public comment period at the start of the meeting.

Contact: Sandra Reen, Executive Director, Board of Dentistry, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9906, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail sandra.reen@dhp.virginia.gov.

DESIGN-BUILD/CONSTRUCTION MANAGEMENT REVIEW BOARD

June 17, 2004 - 11 a.m. -- Open Meeting
July 15, 2004 - 11 a.m. -- Open Meeting
August 19, 2004 - 11 a.m. -- Open Meeting
Department of General Services, Eighth Street Office Building, 3rd Floor, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A monthly meeting to review requests submitted by localities to use design-build or construction management type contracts. Contact the Division of Engineering and Building to confirm the meeting.

Contact: Rhonda M. Bishton, Administrative Assistant, Department of General Services, 805 E. Broad Street, Room 101, Richmond, VA 23219, telephone (804) 786-3263, FAX (804) 371-7934, (804) 786-6152/☎, or e-mail rbishton@dgs.state.va.us.

BOARD OF EDUCATION

June 23, 2004 - 9 a.m. -- Open Meeting
July 28, 2004 - 9 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, Senate Room B, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular business meeting of the board. 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. Persons who wish to speak or who require the services of an interpreter for the deaf should contact the agency at least 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.

July 15, 2004 - 8:30 a.m. -- Open Meeting

July 16, 2004 - 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.

DEPARTMENT OF ENVIRONMENTAL QUALITY

June 16, 2004 - 7 p.m. -- Open Meeting

Old Forestville School, 51 Quicksburg Road, Forestville, Virginia. 

The final public meeting on the development of the implementation plan for the Holmans Creek fecal coliform bacteria and sediment TMDL. The public notice will appear in the Virginia Register of Regulations on May 31, 2004, and the comment period closes on July 16, 2004.

Contact: Robert Brent, Department of Environmental Quality, P.O. Box 3000, Harrisonburg, VA 22801, telephone (540) 574-7848, FAX (540) 574-7878, e-mail rbrent@deq.state.va.us.

† July 20, 2004 - 9 a.m. -- Open Meeting

Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, 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, FAX (804) 698-4032, e-mail mamassie@deq.state.va.us.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

† September 7, 2004 - 9 a.m. -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 

A quarterly business meeting to include regulatory and disciplinary matters as may be presented on the agenda. Public comment will be received at the beginning of the meeting.

Contact: Elizabeth Young, Executive Director, Board of Funeral Directors and Embalmers, Alcoa Bldg., 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.virginia.gov.

BOARD OF GAME AND INLAND FISHERIES

† June 16, 2004 - 7 p.m. -- Open Meeting

Department of Game and Inland Fisheries, 4000 West Broad Street, Richmond Virginia.  (Interpreter for the deaf provided upon request)

A meeting to discuss and receive public comments regarding season lengths and bag limits for the 2004-2005 hunting seasons for dove, woodcock, snipe, rail, September Canada goose, and teal hunting seasons. DGIF Wildlife Division staff will discuss federal frameworks and staff's recommendations for seasons and bag limits for these species. All interested citizens are invited to attend. A summary of the results of this public hearing will be presented to the Virginia Board of Game and Inland Fisheries for its scheduled June 25, 2004, meeting. At the June 25 meeting the board will hold another public hearing, after which it intends to set 2004-2005 hunting seasons and bag limits for the above species.

Contact: Phil Smith, Policy Analyst, Department of Game and Inland Fisheries, 4016 W. Broad St., Richmond VA 23230, telephone (804) 367-1000, FAX (804) 367-0488, e-mail regcomments@dgif.state.va.us.

June 25, 2004 - 9 a.m. -- Open Meeting

Department of Game and Inland Fisheries, 4000 West Broad Street, Richmond Virginia.  (Interpreter for the deaf provided upon request)

A meeting to review and approve fiscal year 2004-2005 operating and capital budgets for the Department of Game and Inland Fisheries. The board will also receive staff's recommendations for webless migratory game bird and September Canada goose seasons and bag limits, solicit and hear comments from the public in a public hearing, at which time any interested citizen present shall be heard, and then adopt 2004-2005 seasons and bag limits for those species based on frameworks provided by the U.S. Fish and Wildlife Service. The board intends to consider for final adoption amendments proposed on March 25, 2004, to regulations governing the validation of game check tags for bear, deer, and turkey taken during lawful hunting, the checking of such game animals, and the description of an automated system that may be used for reporting the harvest of the animals. A public comment period on the proposed regulation amendments opened March 25 and will close June 25, 2004; to ensure that the board has adequate opportunity to review written comments, however, comments should be received by the Department of Game and Inland Fisheries no later than June 18, 2004. The board will receive staff's recommendations regarding final adoption of amendments, and it then will determine whether the amendments proposed on March 25 will be adopted as final regulations. The board reserves the right to adopt final amendments that may be either more liberal or more

Calendar of Events

stringent than the regulations currently in effect or the regulation amendments proposed at the March 25, 2004, meeting, as necessary for the proper management of wildlife resources. In a separate regulatory action the board intends to propose amending the definition of "blind" in 4 VAC 15-260, Game: Waterfowl and Waterfowl Blinds, to conform to a definition enacted into the Code of Virginia in 2004. Under board procedures, regulatory actions occur over two sequential board meetings; in this instance staff may recommend that the board delegates to the Director of the Department of Game and Inland Fisheries the authority to adopt the amendment after publication of the proposal in the Virginia Register of Regulations, on the Internet, and in newspapers, and after the completion of a 30-day public comment period on the proposed regulation amendment to commence June 25, 2004, without further action by the board. The board may also discuss general and administrative issues, hold a closed session at some time during the meeting, and elect to hold a dinner Thursday evening, June 24, or after the meeting on Friday, June 25, at a location and time to be determined.

Contact: Phil Smith, Policy Analyst, Department of Game and Inland Fisheries, 4016 W. Broad St., Richmond VA 23230, telephone (804) 367-1000, FAX (804) 367-0488, e-mail dgifweb@dgif.state.va.us.

BOARD FOR GEOLOGY

July 21, 2004 - 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, Executive Director, Board for Geology, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8507, FAX (804) 367-6128, (804) 367-9753/TTY , e-mail geology@dpor.state.va.us.

STATE BOARD OF HEALTH

July 22, 2004 - 9 a.m. -- Open Meeting
The Place at Innsbrook, 4036 Cox Road, Glen Allen,
Virginia. 

A quarterly board meeting. The meeting will continue on July 23, 2004.

Contact: Margot Fritts, Policy Analyst, Office of Health Policy, Department of Health, 109 Governor St., 10th Floor, Richmond, VA 23219, telephone (804) 864-7428, FAX (804) 864-7440, e-mail margot.fritts@vdh.virginia.gov.

DEPARTMENT OF HEALTH

Hemophilia Advisory Board

June 29, 2004 - 8 a.m. -- Open Meeting
Powers-Taylor Building, 13 South 13th Street, 8th Floor,
Richmond, Virginia.  (Interpreter for the deaf provided upon request)

The agenda for this annual meeting will include an update for the Virginia Bleeding Disorders Program, Standards of Care for Hemophilia Services, Outreach to Underserved Adults with Bleeding Disorders, and an update from the Department of Medical Assistance Services on Medicaid issues.

Contact: Jan Kuhn, Program Coordinator, Department of Health, VCU Station, PO Box 980461, Richmond, VA 23298, telephone (804) 827-3306, FAX (804) 692-0291, toll-free (866) 228-2516, e-mail jgkuhn@hsc.vcu.edu.

BOARD OF HEALTH PROFESSIONS

† July 15, 2004 - 11 a.m. -- Public Hearing
Department of Health Professions, 6603 West Broad Street,
5th Floor, Conference Room 1, Richmond, Virginia.

† August 13, 2004 - 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 Board of Health Professions intends to adopt regulations entitled **18 VAC 75-40, Regulations Governing the Criteria for Certification of Dialysis Technicians**. The purpose of the proposed action is to establish the criteria for certification as a dialysis technician.

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

Public comments may be submitted until August 13, 2004, to Elizabeth A. Carter, Ph.D., Executive Director, Board of Health Professions, 6603 West Broad Street, Richmond, VA 23230.

Contact: Elaine J. Yeatts, Agency Regulatory Coordinator, Department of Health Professions, 6603 W. Broad St., Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or email Elaine.yeatts@dhp.virginia.gov.

DEPARTMENT OF HEALTH PROFESSIONS

August 20, 2004 - 9 a.m. -- Open Meeting
Department of Health Professions, Alcoa Building, 6603 West
Broad Street, 5th Floor, Conference Room 3, Richmond,
Virginia. 

A meeting of the Intervention Program Committee for the Health Practitioners' Intervention Program (HPIP).

Contact: Donna P. Whitney, Intervention Program Manager, Department of Health Professions, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9424, FAX (804) 662-7358, e-mail donna.whitney@dhp.virginia.gov.

BOARD FOR HEARING AID SPECIALISTS

July 12, 2004 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. 

A general business meeting including consideration of regulatory issues as may be presented on the agenda. The meeting is open to the public; however, a portion of the

board's business may be discussed in closed session. Public comment will be heard at the beginning of the meeting. 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: William H. Ferguson, II, Executive Director, Board for Hearing Aid Specialists, 3600 West Broad Street, Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-6295, (804) 367-9753/TTY ☎, e-mail hearingaidspec@dpor.virginia.gov.

VIRGINIA HIGHER EDUCATION TUITION TRUST FUND

† **June 21, 2004 - 10 a.m.** -- Open Meeting
James Monroe Building, 101 North 14th Street, 5th Floor, Richmond, Virginia. ♿

A meeting of the Actuarial Committee of the Virginia College Savings Plan Board.

Contact: Lee Hall, Special Projects Assistant, Virginia Higher Education Tuition Trust Fund, James Monroe Bldg., 101 N. 14th St., 5th Floor, Richmond, VA 23219, telephone (804) 786-3605, FAX (804) 786-2453, toll-free (800) 567-0540, e-mail mlhall7@cs.com.

DEPARTMENT OF HISTORIC RESOURCES

Historic Resources State Review Board and Board of Historic Resources

June 16, 2004 - 10 a.m. -- Open Meeting
Kensington Court Apartments, Meeting Room, 2900 Kensington Avenue, Richmond, Virginia. ♿

A quarterly meeting. The State Review Board will consider proposed nominations for National Register of Historic Places designation and the Historic Resources Board will consider proposed nominations for Virginia Landmarks Register designation, proposed historic highway markers and proposed historic preservation easements. Quarterly meetings occur in March, June, September and December.

Contact: Marc C. Wagner, National Register Manager, Department of Historic Resources, 2801 Kensington Ave., Richmond, VA 23221, telephone (804) 367-2323, FAX (804) 367-2391, (804) 367-2386/TTY ☎, e-mail Marc.Wagner@dhr.virginia.gov.

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

June 16, 2004 - 10 a.m. -- Canceled
Department of Housing and Community Development, 501 North 2nd Street, Richmond, Virginia. ♿

A public hearing on the proposed Virginia Enterprise Zone Program regulations has been canceled.

Contact: Stephen W. Calhoun, Regulatory Coordinator, Department of Housing and Community Development, The Jackson Center, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7000, FAX (804) 371-7090, (804) 371-7089/TTY ☎, e-mail steve.calhoun@dhcd.virginia.gov.

† **August 27, 2004 - 10 a.m.** -- Open Meeting
Department of Housing and Community Development, 501 North 2nd Street, Richmond, Virginia. ♿

A regular business meeting of the board.

Contact: Stephen W. Calhoun, Regulatory Coordinator, Department of Housing and Community Development, The Jackson Center, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7000, FAX (804) 371-7090, (804) 371-7089/TTY ☎, e-mail steve.calhoun@dhcd.virginia.gov.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

State Building Code Technical Review Board

June 18, 2004 - 10 a.m. -- Open Meeting
Department of Housing and Community Development, 501 North 2nd Street, Richmond, Virginia ♿ (Interpreter for the deaf provided upon request)

A meeting to hear appeals under Virginia's building and fire regulations and formulate recommendations to the Board of Housing and Community Development for future changes to those regulations.

Contact: Vernon W. Hodge, Secretary to the Review Board, Department of Housing and Community Development, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7150.

VIRGINIA INFORMATION TECHNOLOGIES AGENCY

Wireless E-911 Service Board

July 14, 2004 - 9 a.m. -- Open Meeting
110 South 7th Street, 3rd Floor Conference Room, Richmond, Virginia. ♿

A meeting of the Wireless E-911 Service Board Subcommittee. A request will be made to hold the meeting in closed session.

Contact: Steve Marzolf, Public Safety Communications Coordinator, Virginia Information Technologies Agency, 110 S. 7th St., Richmond, VA, telephone (804) 371-0015, FAX (804) 786-4177, e-mail steve.marzolf@vita.virginia.gov.

July 14, 2004 - 10 a.m. -- Open Meeting
110 South 7th Street, 3rd Floor Conference Room, Richmond, Virginia. ♿

A regular meeting.

Contact: Steve Marzolf, Public Safety Communications Coordinator, Virginia Information Technologies Agency, 110 S. 7th St., Richmond, VA, telephone (804) 371-0015, FAX (804) 786-4177, e-mail steve.marzolf@vita.virginia.gov.

Calendar of Events

VIRGINIA INTERAGENCY COORDINATING COUNCIL

† **September 8, 2004 - 9:30 a.m.** -- Open Meeting
Henrico Area Mental Health, 10299 Woodman Road, Glen Allen, Virginia.  (Interpreter for the deaf provided upon request)

A quarterly meeting to advise and assist the Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services, as lead agency for Part C (of IDEA), early intervention for infants and toddlers with disabilities and their families. Discussion focuses on issues related to Virginia's implementation of the Part C program.

Contact: LaKeisha White, Part C Office Specialist, Department of Mental Health, Mental Retardation and Substance Abuse Services, Early Intervention, 9th Floor, P.O. Box 1797, Richmond, VA 23218-1797, telephone (804) 786-3710, FAX (804) 371-7959.

JAMESTOWN-YORKTOWN FOUNDATION

August 4, 2004 - 2 p.m. -- Open Meeting
McGuireWoods, One James Center, 901 East Cary Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular meeting of the Executive Committee of the Jamestown 2007 Steering Committee.

Contact: Stacy Ruckman, Administrative Office Manager, Jamestown-Yorktown Foundation, P.O. Box 1607, Williamsburg, VA 23187, telephone (757) 253-4253, FAX (757) 253-5299, (757) 253-5110/TTY , e-mail sruckman@jyf.state.va.us.

DEPARTMENT OF LABOR AND INDUSTRY

Virginia Migrant and Seasonal Farmworkers Board

July 28, 2004 - 10 a.m. -- Open Meeting
State Capitol, House Room 2, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular quarterly meeting.

Contact: Betty B. Jenkins, Board Administrator, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 786-2391, FAX (804) 371-6524, (804) 786-2376/TTY , e-mail bbj@doli.state.va.us.

THE LIBRARY BOARD

June 14, 2004 - 10:30 a.m. -- Open Meeting
The Library of Virginia, 800 East Broad Street, Richmond, Virginia. 

A meeting to discuss matters pertaining to the Library of Virginia and The Library Board. Committees of the board will meet as follows:

8:15-9:15 a.m. - Public Library Development Committee, Publications and Educational Services Committee, Records Management Committee

9:30-10:30 a.m. - Archival and Information Services Committee, Collection Management Services Committee, Legislative and Finance Committee

10:30 a.m. - Library board meeting

Contact: Jean H. Taylor, Executive Secretary Senior, The Library of Virginia, 800 E. Broad St., Richmond, Virginia 23219-8000, telephone (804) 692-3535, FAX (804) 692-3594, (804) 692-3976/TTY , e-mail jtaylor@lva.lib.va.us.

COMMISSION ON LOCAL GOVERNMENT

† **June 16, 2004 - 10:30 a.m.** -- Open Meeting
† **June 17, 2004 - 8:30 a.m.** -- Open Meeting
† **June 17, 2004 - 7 p.m.** -- Open Meeting
† **June 18, 2004 - 8:30 a.m.** -- Open Meeting
Southwest Virginia Higher Education Center, Exit. 14 on Interstate 81, One Partnership Circle, Grand Hall, Abingdon, Virginia.  (Interpreter for the deaf provided upon request)

Public presentations regarding the Leonard, L.P., et al., City of Bristol-Washington County annexation action.

Contact: Ted McCormack, Associate Director, Commission on Local Government, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 786-6508, FAX (804) 371-7090, (804) 828-1120/TTY , e-mail ted.mccormack@dhcd.virginia.gov.

LONGWOOD UNIVERSITY

† **June 17, 2004 - 10:30 a.m.** -- Open Meeting
† **June 18, 2004 - 9 a.m.** -- Open Meeting
Ames Hull Springs Farm, 3430 Mt. Holly Road, Montross, Virginia.

A meeting to conduct routine board business.

Contact: Jeanne Hayden, Administrative Staff Assistant, Longwood University, 201 High St., Farmville, VA 23909, telephone (434) 395-2004, e-mail jhayden@longwood.edu.

VIRGINIA MANUFACTURED HOUSING BOARD

† **June 17, 2004 - 10 a.m.** -- Open Meeting
The Jackson Center, 501 North 2nd Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular meeting to receive and act on claims to the Transaction Recovery Fund, handle complaints filed against licensees, and carry out other administrative functions of the board under the Manufactured Housing Licensing and Transaction Recovery Fund Regulations.

Contact: Curtis L. Mclver, 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 Curtis.Mclver@dhcd.virginia.gov.

MARINE RESOURCES COMMISSION

June 22, 2004 - 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: Jane McCroskey, Commission Secretary, Marine
Resources Commission, 2600 Washington Ave., 3rd Floor,
Newport News, VA 23607, telephone (757) 247-2248, FAX
(757) 247-8101, toll-free (800) 541-4646, (757) 247-2292/TTY
, e-mail jmccroskey@mrc.state.va.us.

BOARD OF MEDICAL ASSISTANCE SERVICES

July 13, 2004 - 10 a.m. -- Open Meeting
† **September 14, 2004 - 10 a.m.** -- Open Meeting
Department of Medical Assistance Services, 600 East Broad
Street, 13th Floor Conference Room, Richmond, Virginia. 

A quarterly 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
nancy.malczewski@dmas.virginia.gov.

July 15, 2004 - 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-
90, Methods and Standards for Establishing Payment
Rates for Long-Term Care**. The purpose of the proposed
action is to require a minimum holding period by the
individual or small-chain owner and seller of a nursing
facility in order for the sale to result in the reimbursement of
capital costs, after the sale, under the full fair rental value
methodology.

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

Public comments may be submitted until July 15, 2004.

Contact: N. Stanley Fields, Director, Division of Cost
Settlement, Department of Medical Assistance Services, 600
East Broad Street, Richmond, VA 23219, telephone (804)
786-5590, FAX (804) 786-1680 or e-mail
Stanley.Fields@dmas.virginia.gov.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

June 22, 2004 - 10 a.m. -- Open Meeting
Department of Medical Assistance Services, 600 East Broad
Street, Board Room, Richmond, Virginia. 

A meeting of the PDL Implementation Advisory Group.

Contact: Adrienne Fegans, Program Operations
Administrator, Department of Medical Assistance Services,
600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone
(804) 786-4112, FAX (804) 371-4981, (800) 343-0634/TTY ,
e-mail adrienne.fegans@dmas.virginia.gov.

June 22, 2004 - 10:30 a.m. -- Open Meeting
Alexandria Library, 5005 Duke Street, Alexandria, Virginia.

A meeting of the Medicaid Managed Care Case Managers
to ensure continuity of care to managed care individuals by
establishing and maintaining productive communication
between Medicaid providers, case managers, client
advocates, outreach workers, and the Medicaid contracted
managed care organizations.

Contact: Queen B. Green, Health Care Services Division,
Department of Medical Assistance Services, 600 E. Broad St.,
Suite 1300, Richmond, VA 23219, telephone (804) 225-4789,
(800) 343-0634/TTY , e-mail
Queen.Green@dmas.virginia.gov.

July 21, 2004 - 1 p.m. -- Open Meeting
Department of Medical Assistance Services, 600 East Broad
Street, 13th Floor Board Room, Richmond, Virginia. 

A meeting of the Medicaid Transportation Advisory
Committee to discuss issues and concerns about Medicaid
transportation with the committee and the community.

Contact: Donna Garrett, Administrative Assistant,
Department of Medical Assistance Services, 600 E. Broad St.,
Suite 1300, Richmond, VA 23219, telephone (804) 786-0194,
FAX (804) 786-5799, (800) 343-0634/TTY , e-mail
donna.garrett@dmas.virginia.gov.

August 17, 2004 - 1 p.m. -- Open Meeting
Department of Medical Assistance Services, 600 East Broad
Street, 13th Floor Board Room, Richmond, Virginia. 

A meeting of the Pharmacy Liaison Committee to discuss
current pharmacy issues and programs.

Contact: Javier Menendez, RPh, Pharmacy Manager,
Department of Medical Assistance Services, 600 E. Broad St.,
Suite 1300 Richmond, VA 23219, telephone (804) 786-2196,
(800) 343-0634/TTY , e-mail jmenendez@dmas.state.va.us.

Drug Utilization Review Board

August 5, 2004 - 2 p.m. -- Open Meeting
Department of Medical Assistance Services, 600 East Broad
Street, 13th Floor Board Room, Richmond, Virginia. 

A quarterly meeting to review new drugs on the market and
discuss current drug utilization policy.

Contact: Javier Menendez, Pharmacy Manager, Department
of Medical Assistance Services, 600 E. Broad St., Suite 1300,
Richmond, VA 23219, telephone (804) 786-2196, (800) 343-
0634/TTY , e-mail jmenende@dmas.state.va.us.

† **August 23, 2004 - 9 a.m.** -- Open Meeting
Department of Medical Assistance Services, 600 East Broad
Street, 13th Floor, Board Room, Richmond, Virginia. 

Annual review of Phase I PDL drug classes.

Calendar of Events

Contact: Adrienne Fegans, Program Operations Administrator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-4112, FAX (804) 371-4981, (800) 343-0634/TTY ☎, e-mail adrienne.fegans@dmas.virginia.gov.

BOARD OF MEDICINE

June 24, 2004 - 8 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 2, Richmond, Virginia.

A regular board meeting to consider regulatory and disciplinary matters as may be presented on the agenda. Public comment on agenda items will be received at the beginning of the meeting.

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail william.harp@dhp.virginia.gov.

June 24, 2004 - 1 p.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 3, Richmond, Virginia.

The Credentials Committee will meet to consider applicants for licensure matters of the board. Public comment will be received at the beginning of the meeting.

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail william.harp@dhp.virginia.gov.

† **June 24, 2004 - 1 p.m.** -- Open Meeting

† **June 25, 2004 - 8 a.m.** -- Open Meeting

† **June 26, 2004 - 8 a.m.** -- Open Meeting

Alcoa Building, Department of Health Professions, 6603 West Broad Street, Richmond, Virginia. ♿

The board will convene formal/informal conferences 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 board may review cases with other staff for case disposition including consideration of consent orders for settlement. The board will meet in open and closed sessions pursuant to the Code of Virginia. Public comment will not be received.

Contact: Peggy Sadler/Renee Dixon, Staff, Board of Medicine, 6603 West Broad Street, Richmond, VA, telephone (804) 662-7332, FAX (804) 662-9517, (804) 662-7197/TTY ☎, e-mail peggy.sadler@dhp.virginia.gov.

June 30, 2004 - 9 a.m. -- Open Meeting

† **July 28, 2004 - 9 a.m.** -- Open Meeting

Holiday Inn Select, 2801 Plank Road, Fredericksburg, Virginia.

July 14, 2004 - 9:15 a.m. -- Open Meeting

Williamsburg Marriott, 50 Kingsmill Road, Williamsburg, Virginia.

An informal conference committee 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. 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.virginia.gov.

July 16, 2004 - 8:30 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 2, Richmond, Virginia.

The Legislative Committee will consider regulatory matters as may be presented on the agenda. Public comment will be received at the beginning of the meeting.

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail william.harp@dhp.virginia.gov.

August 13, 2004 - 8 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 2, Richmond, Virginia.

The Executive Committee will consider regulatory and disciplinary matters as may be presented on the agenda. Public comment will be received at the beginning of the meeting.

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail william.harp@dhp.virginia.gov.

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

† **June 18, 2004 - 10 a.m.** -- Open Meeting

† **July 1, 2004 - 10 a.m.** -- Open Meeting

Virginia Housing Development Authority, 601 Belvidere Street, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting of the Olmstead Oversight Advisory Committee.

Contact: Viktoria Glenn, Administrative Assistant, Department of Rehabilitative Services, 8004 Franklin Farms Dr., P.O. Box K-300, Richmond, VA. 23288, telephone (804) 662-7069, e-mail glennvh@drs.state.va.us.

June 22, 2004 - 1 p.m. -- Open Meeting

† **August 24, 2004 - 1 p.m.** -- Open Meeting

Virginia Housing and Development Authority, 601 Belvidere Street, Richmond, Virginia. ♿

A meeting of the Olmstead Initiative Community Integration Implementation Team.

Contact: Viktoria Glenn, Administrative Assistant, Department of Rehabilitative Services, 8004 Franklin Farms Dr., P.O. Box K-300, Richmond, VA 23288, telephone (804) 662-7069, FAX (804) 662-7662, e-mail glennvh@drs.state.va.us.

VIRGINIA COMMISSION ON MILITARY BASES

† **July 16, 2004 - 10 a.m.** -- Open Meeting
Naval District Washington West Area Dahlgren, 17320 Dahlgren Road, Warfare Systems Lab Building 1510, 1st Street Conference Room 1, Second Floor, Dahlgren, Virginia. 

The meeting will be held on base. All attendees must enter through the Main Gate.

Contact: Cynthia H. Arrington, Communications Manager, Virginia Commission on Military Bases, P.O. Box 798, Richmond, VA 23218, telephone (804) 225-3743, FAX (804) 786-1121, e-mail carrington@YesVirginia.org.

STATE MILK COMMISSION

† **August 25, 2004 - 10:30 a.m.** -- Open Meeting
Department of Forestry, Office Building, 900 Natural Resources Drive, Room 2063, Charlottesville, Virginia

A regular meeting 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 meeting 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, Washington Bldg., 1100 Bank St., Suite 1019, Richmond, VA 23218, 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

† **June 15, 2004 - 9 a.m.** -- Open Meeting
Virginia Highlands Community College, Southwest Virginia Higher Education Center, VHCC Drive (Route 372), Abingdon, Virginia.  (Interpreter for the deaf provided upon request)

A regularly scheduled meeting to hear petitions for pooling, location exception and disbursement. Special accommodations for those in need will be made available upon request. Special requests should be made to the DGO at least one week prior to the meeting.

Contact: Bob Wilson, Division Director, Department of Mines, Minerals and Energy, 230 Charwood Dr., Abingdon, VA 24212, telephone (276) 676-5423, (800) 828-1120/TTY , e-mail bob.wilson@dmme.virginia.gov.

VIRGINIA MUSEUM OF FINE ARTS

June 17, 2004 - Noon -- Open Meeting
Virginia Museum of Fine Arts, 200 North Boulevard, Auditorium, Richmond, Virginia. 

A meeting for staff to update the Executive/Finance Committee. Public comment will not be received.

Contact: Suzanne Broyles, Secretary of the Museum, Virginia Museum of Fine Arts, 200 N. Boulevard, Richmond, VA 23220-4007, telephone (804) 340-1503, FAX (804) 340-1502, (804) 340-1401/TTY , e-mail sbroyles@vmfa.state.va.us.

VIRGINIA MUSEUM OF NATURAL HISTORY

† **June 21, 2004 - Noon** -- Open Meeting
Virginia Museum of Natural History, 1001 Douglas Avenue, Martinsville, Virginia. 

A meeting to discuss the management and direction of the museum.

Contact: Cindy Rorrer, Director's 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

June 15, 2004 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia. 

June 16, 2004 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Conference Room 1, 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/or 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 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY , e-mail nursebd@dhp.virginia.gov.

July 19, 2004 - 9 a.m. -- Open Meeting
July 21, 2004 - 9 a.m. -- Open Meeting
July 22, 2004 - 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: Jay P. Douglas, R.N., M.S.M., C.S.A.C., 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.virginia.gov.

Calendar of Events

July 20, 2004 - 9 a.m. -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 2, 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.virginia.gov.

† September 9, 2004 - 9:30 a.m. -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 

A meeting of the Nursing Practice Committee to discuss nursing practice issues.

Contact: Jay P. Douglas, Executive Director, Board of Nursing, 6603 W. Broad Street, 5th Floor, Richmond, VA 23230, telephone (804) 662-9909, FAX (804) 662-9512, e-mail nursebd@dhp.state.va.us.

JOINT BOARDS OF NURSING AND MEDICINE

June 23, 2004 - 9 a.m. -- Open Meeting

August 25, 2004 - 9 a.m. -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 

A meeting of the Joint Boards of Nursing and Medicine.

Contact: Jay P. Douglas, R.N., M.S.M., C.S.A.C., Executive Director, Board of Nursing, 6603 W. Broad Street, 5th Floor, Richmond, VA 23230, telephone (804) 662-9909, FAX (804) 662-9512, e-mail nursebd@dhp.virginia.gov.

OLD DOMINION UNIVERSITY

June 15, 2004 - 1 p.m. -- Open Meeting

Webb University Center, Old Dominion University, Norfolk, Virginia. 

A quarterly meeting of the governing board of the institution to discuss business of the board and the institution as determined by the Rector and the President.

Contact: Donna Meeks, Executive Secretary to the Board of Visitors, Old Dominion University, 204 Koch Hall, Norfolk, VA 23529, telephone (757) 683-3072, FAX (757) 683-5679, e-mail dmeeks@odu.edu.

BOARD FOR OPTICIANS

July 9, 2004 - 9:30 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 

A general business meeting including consideration of regulatory issues as may be presented on the agenda. The

meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Public comment will be heard at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: William H. Ferguson, II, Executive Director, Board for Opticians, 3600 W. Broad St. Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-6295, (804) 367-9753/TTY , e-mail opticians@dpor.virginia.gov.

BOARD OF OPTOMETRY

June 17, 2004 - 8:30 a.m. -- Open Meeting

Department of Health Professions, 6603 West Broad Street, Alcoa Building, 5th Floor, Conference Room 3, Richmond, Virginia. 

The Therapeutic Pharmaceutical Agents Formulary Committee will meet to develop amendments to the Therapeutic Pharmaceutical Regulations (18 VAC 105-30) relating to the TPA formulary, in keeping with the requirements of HB 856 (Chapter 744 of the 2004 Acts of Assembly). 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) 662-7098, (804) 662-7197/TTY , e-mail elizabeth.carter@dhp.virginia.gov.

VIRGINIA OUTDOORS FOUNDATION

June 16, 2004 - 9 a.m. -- Open Meeting

Noel C. Taylor Municipal Building, 215 Church Avenue, SW, Roanoke City Council's Conference Room, 4th Floor, Roanoke, Virginia.  (Interpreter for the deaf provided upon request)

Quarterly meeting of the trustees to review and accept easement proposals. A public comment period will follow lunch.

Contact: Tamara A. Vance, Executive Director, Virginia Outdoors Foundation, 302 Royal Lane, Blacksburg, VA 24060, telephone (540) 951-2822, FAX (540) 951-2695, e-mail achisholm@vofonline.org.

VIRGINIA BOARD FOR PEOPLE WITH DISABILITIES

June 14, 2004 - 10 a.m. -- Open Meeting

202 North 9th Street, 9th Floor, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

An Executive Committee meeting.

Contact: Sandra Smalls, Executive Assistant, 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, (804) 786-0016/TTY ☎, e-mail smallsse@vbpd.state.va.us.

June 15, 2004 - 9 a.m. -- Open Meeting

Location to be determined. ♿ (Interpreter for the deaf provided upon request)

A quarterly board meeting.

Contact: Sandra Smalls, Executive Assistant, 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, (804) 786-0016/TTY ☎, e-mail smallsse@vbpd.state.va.us.

BOARD OF PHARMACY

June 17, 2004 - 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 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.

BOARD OF PHYSICAL THERAPY

June 18, 2004 - 10 a.m. -- Open Meeting

July 16, 2004 - 1 p.m. -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. ♿

A meeting to hear possible violations of the laws and regulations governing the practice of physical therapy.

Contact: Elizabeth Young, Executive Director, Board of Physical Therapy, 6603 W. Broad St., Richmond, VA 23230-1712, telephone (804) 662-9924, FAX (804) 662-9523, (804) 662-7197/TTY ☎, e-mail elizabeth.young@dhp.state.va.us.

July 16, 2004 - 9 a.m. -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. ♿

A quarterly business meeting to include regulatory and disciplinary matters as may be presented on the agenda. Public comment will be received at the beginning of the meeting.

Contact: Elizabeth Young, Executive Director, Board of Physical Therapy, Alcoa Bldg., 6603 West Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9924, FAX (804) 662-9523, (804) 662-7197/TTY ☎, e-mail elizabeth.young@dhp.virginia.gov.

POLYGRAPH EXAMINERS ADVISORY BOARD

† **September 2, 2004 - 10 a.m.** -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ♿

A meeting to conduct board business. The board fully complies with the Americans with Disabilities Act.

Contact: Eric Olson, Executive Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2785, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail olson@dpor.state.va.us.

BOARD OF PSYCHOLOGY

June 22, 2004 - 9 a.m. -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. ♿

Informal Conference Committees will meet pursuant to § 2.2-4019 of the Code of Virginia. The committees will meet in open and closed sessions.

Contact: Evelyn B. Brown, Executive Director, Board of Psychology, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9913, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail evelyn.brown@dhp.virginia.gov.

July 13, 2004 - 9:30 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 Psychology, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9913, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail evelyn.brown@dhp.virginia.gov.

VIRGINIA PUBLIC BROADCASTING BOARD

† **June 28, 2004 - 11 a.m.** -- Open Meeting

WETA, 2775 South Quincy Street, Room 621, Arlington, Virginia. ♿

A meeting of the Ed/Tech subcommittee.

Contact: Shannon Rainey, Research Assistant, Secretary of Administration, 202 N. 9th St., Richmond, VA 23219, telephone (804) 786-1201, FAX (804) 371-0038.

VIRGINIA RACING COMMISSION

† **July 20, 2004 - 2 p.m.** -- Public Hearing

New Kent County Administrators Office, 12007 Courthouse Circle, Board Room, New Kent, Virginia

† **August 13, 2004** - 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 Virginia Racing Commission intends to promulgate regulations entitled **11 VAC 10-45, Advance Deposit Account Wagering**. The purpose of the

Calendar of Events

proposed action is to establish licensure requirements for individuals and entities conducting advance deposit account wagering in Virginia, including the application and license renewal procedures.

Statutory Authority: § 59.1-369 of the Code of Virginia.

Contact: Nick A. Christner, Regulatory Coordinator, Virginia Racing Commission, P.O. Box 208, 10700 Horsemen's Rd., New Kent, VA 23124, telephone (804) 966-7408, FAX (804) 966-7422, e-mail christner@vrc.state.va.us.

REAL ESTATE APPRAISER BOARD

June 16, 2004 - 10 a.m. -- Open Meeting

June 30, 2004 - 10 a.m. -- Open Meeting

† July 1, 2004 - 1 p.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Room 453, Richmond, Virginia. 

An informal fact-finding conference.

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 Karen.O'Neal@dpor.virginia.gov.

August 17, 2004 - 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, 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 Karen.O'Neal@dpor.virginia.gov.

REAL ESTATE BOARD

† July 6, 2004 - 9 a.m. -- Open Meeting

† July 7, 2004 - 9 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Room 453, Richmond, Virginia. 

An informal fact-finding conference.

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 Karen.O'Neal@dpor.virginia.gov.

DEPARTMENT OF REHABILITATIVE SERVICES

Commonwealth Neurotrauma Initiative Advisory Board

NOTE: CHANGE IN MEETING DATE

June 25, 2004 - 9:30 a.m. -- Open Meeting

Department for the Deaf and Hard of Hearing, 1602 Rolling Hills Drive, 2nd Floor Conference Room, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular meeting.

Contact: Kristie Chamberlain, CNI Program Specialist, Department of Rehabilitative Services, 8004 Franklin Farms Dr., Box K300, Richmond, VA 23288-0300, telephone (804) 662-7154, FAX (804) 662-7154, toll-free (800) 552-5019, (804) 464-9950/TTY , e-mail chambekl@drs.state.va.us.

SEWAGE HANDLING AND DISPOSAL APPEAL REVIEW BOARD

† August 11, 2004 - 10 a.m. -- Open Meeting

General Assembly Building, 9th and Broad Streets, Senate Room B, Richmond, Virginia. 

A meeting to hear appeals of health department denials of septic tank permits.

Contact: Susan Sherertz, Secretary to the Board, Sewage Handling and Disposal Appeal Review Board, 109 Governor St., 5th Floor, Richmond, VA 23219, telephone (804) 864-7464, FAX (804) 864-7475, e-mail susan.sherertz@vdh.virginia.gov.

VIRGINIA SMALL BUSINESS FINANCING AUTHORITY

June 16, 2004 - Noon -- Open Meeting

Department of Business Assistance, 707 East Main Street, 3rd Floor Board Room, Richmond, Virginia. 

A meeting to review applications for loans submitted to the authority for approval and to discuss general business of the board. Meeting time is subject to change depending upon the board's agenda.

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, toll-free (866) 248-8814, e-mail scott.parsons@dba.virginia.gov.

STATE BOARD OF SOCIAL SERVICES

† June 16, 2004 - 9 a.m. -- Open Meeting

† June 17, 2004 - 9 a.m. -- Open Meeting

Department of Social Services, 99 Ninth Street, Lynchburg, Virginia. 

A regular bimonthly meeting. Action items being presented to the board are available on the Department of Social

Services website at
http://dss.state.va.us/geninfo/state_board/

Contact: L. Richard Martin, Jr., Policy and Planning Manager, Department of Social Services, Office of Legislative and Regulatory Affairs, 7 N. 8th St., Room 5214, Richmond, VA 23219, telephone (804) 726-7902, FAX (804) 726-7906, (800) 828-1120/TTY, e-mail richard.martin@dss.virginia.gov.

DEPARTMENT OF SOCIAL SERVICES

Family and Children's Trust Fund

June 16, 2004 - 2 p.m. -- Open Meeting
Department of Social Services, 7 North 8th Street, Richmond, Virginia.

An Executive Committee meeting of the Family and Children's Trust Fund Board of Trustees to review recommendations from board committees for FY 2005 budget.

Contact: Nan McKenney, Executive Director, Department of Social Services, 7 N. 8th St., Richmond, VA 23219, telephone (804) 726-7604, FAX (804) 726-7015.

DEPARTMENT OF TAXATION

State Land Evaluation Advisory Council

† **August 3, 2004 - 11 a.m.** -- Open Meeting
† **September 7, 2004 - 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: H. Keith Mawyer, Property Tax Manager, Department of Taxation, 2220 W. Broad St., Richmond, VA 23220, telephone (804) 367-8020, FAX (804) 367-8662, e-mail kmawyer@tax.state.va.us.

COMMONWEALTH TRANSPORTATION BOARD

June 17, 2004 - 9 a.m. -- Open Meeting
VDOT Central Auditorium, 1221 East Broad Street, Richmond, Virginia.

A work session, open to the public, of the CTB, VDOT and DRPT staff providing updates on projects, policy development, budgets and pending action items. A public comment period will not be provided at the work session.

Contact: Katherine Tracy, Assistant Secretary of the Commonwealth Transportation Board, Policy Division, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-3090, FAX (804) 225-4700, e-mail Katherine.Tracy@virginiadot.org.

June 17, 2004 - 10:30 a.m. -- Open Meeting
VDOT Central Auditorium, 1221 East Broad Street, Richmond, Virginia.

A meeting to vote on action items presented regarding bids, conveyances, budgets, the Six-Year Improvement Program and any other matter requiring board approval. Public comments will be received at the outset of the meeting with remarks to be limited to five minutes. Groups are requested to select a spokesperson. The board reserves the right to amend these conditions. Committee meetings, which are open to the public, may be held upon call of the chairman, and will be posted separately.

Contact: Katherine Tracy, Assistant Secretary of the Commonwealth Transportation Board, Policy Division, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-3090, FAX (804) 225-4700, e-mail Katherine.Tracy@virginiadot.org.

July 2, 2004 - 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 Commonwealth Transportation Board intends to repeal regulations entitled **24 VAC 30-90, Subdivision Street Requirements** and adopt regulations entitled **24 VAC 30-91, Subdivision Street Requirements**. The purpose of the proposed action is to repeal the existing regulation and promulgate a new one under the same title due to extensive changes to the regulation. Revised items include (i) clarified text to improve comprehensibility and usefulness; (ii) updated obsolete titles and work unit names; (iii) separated geometric standards from regulatory requirements; (iv) updated list of documents incorporated by reference; and (v) assessment of impact of technical issues on the regulations (definition of roles, design processes, speed limits, rights-of-way, sidewalks, flexibility of standards, street signage, traffic calming, surety and maintenance fees, utilities, etc.).

Statutory Authority: §§ 33.2-12, 33.1-69, 33.1-198 and 33.1-229 of the Code of Virginia.

Contact: Kenneth M. Smith, Transportation Engineering Program Supervisor, Local Assistance Division, Department of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-2576, FAX (804) 786-2603 or e-mail Ken.Smith@VirginiaDOT.org.

DEPARTMENT OF VETERANS SERVICES

June 21, 2004 - 1:30 p.m. -- Open Meeting
Virginia Veterans Care Center, 4550 Shenandoah Avenue, N.W., Roanoke, Virginia.

A Joint Leadership Council meeting.

Contact: Trenea Nibbs, General Administrative Coordinator, Department of Veterans Services, Pocahontas Bldg., 900 E. Main St., Ground Floor, West Wing, Richmond, VA 23219, telephone (804) 786-0286, FAX (804) 786-0302, e-mail trenea.nibbs@dvs.virginia.gov.

Calendar of Events

VIRGINIA WASTE MANAGEMENT BOARD

June 18, 2004 - 9:30 a.m. -- Open Meeting
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. 

A regular board meeting. The agenda will be posted at least 10 days prior to the 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 cmberndt@deq.state.va.us.

STATE WATER CONTROL BOARD

June 15, 2004 - 10 a.m. -- Open Meeting

July 6, 2004 - 10 a.m. -- Open Meeting

August 3, 2004 - 10 a.m. -- Open Meeting

Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. 

A meeting of the advisory committee assisting in the development of amendments to the State Water Control Board Nutrient Enriched Waters Policy.

Contact: John M. Kennedy, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4312, FAX (804) 698-4116, e-mail jmkennedy@deq.state.va.us.

† **June 16, 2004 - 10 a.m.** -- Open Meeting

† **July 14, 2004 - 10 a.m.** -- Open Meeting

† **August 11, 2004 - 10 a.m.** -- Open Meeting

Department of Environmental Quality, 629 East Main Street, Richmond, Virginia. 

A meeting of the technical advisory committee assisting the department in the reissuance of the general VPDES permit for domestic sewage discharges of less than or equal to 1,000 gallons per day.

Contact: Lily Choi, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4054, FAX (804) 698-4032, e-mail ychoi@deq.state.va.us.

† **June 16, 2004 - 10 a.m.** -- Open Meeting

Department of Environmental Quality Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. 

A meeting of the advisory committee established to assist in the development of the reissuance of the VPDES General Permit for Seafood Processing Facilities regulation.

Contact: Michael Gregory, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4065, FAX (804) 698-4032, e-mail mbgregory@deq.state.va.us.

June 17, 2004 - 9:30 a.m. -- Open Meeting

August 31, 2004 - 9:30 a.m. -- Open Meeting

General Assembly Building, 9th and Broad Streets, House Room C, Richmond, Virginia. 

A regular board 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 cmberndt@deq.state.va.us.

† **July 20, 2004 - 2 p.m.** -- Public Hearing

Department of Environmental Quality, Valley Regional Office, 4411 Early Road, Harrisonburg, Virginia.

† **July 21, 2004 - 10 a.m.** -- Public Hearing

Department of Environmental Quality Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. 

† **August 13, 2004** - 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 Water Control Board intends to amend regulations entitled **9 VAC 25-191, Virginia Pollutant Discharge Elimination System (VPDES) General Permit for Concentrated Animal Feeding Operations**. The purpose of the proposed action is to develop and adopt a general permit regulation to comply with the requirements set forth in 40 CFR Parts 9, 122, 123, and 412, as published in the Federal Register, Volume 68, No. 29, dated February 12, 2003. This general permit regulation will govern the authorization to manage pollutants from concentrated animal feeding operations, including storage and land application of animal waste.

Statutory Authority: §§ 62.1-44.15 and 62.1-44.17:1 of the Code of Virginia.

Contact: Jon G. Van Soestbergen, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4117, FAX (804) 698-4032 or e-mail jvansoest@deq.state.va.us.

† **July 20, 2004 - 2 p.m.** -- Public Hearing

Department of Environmental Quality, Valley Regional Office, 4411 Early Road, Harrisonburg, Virginia.

† **July 21, 2004 - 10 a.m.** -- Public Hearing

Department of Environmental Quality Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. 

† **August 13, 2004** - 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 Water Control Board intends to amend regulations entitled **9 VAC 25-192, Virginia Pollutant Abatement (VPA) General Permit Regulation for Animal Feeding Operations**. The purpose of the proposed action is to reissue the existing Virginia Pollution Abatement General Permit for Confined Animal Feeding Operations that governs the authorization to manage pollutants from confined animal feeding operations, including storage and land application of animal waste. This action is not related to implementation of the federal CAFO rule.

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

Contact: Jon G. Van Soestbergen, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4117, FAX (804) 698-4032 or e-mail jvansoest@deq.state.va.us.

† **July 20, 2004 - 2 p.m.** -- Public Hearing
Department of Environmental Quality Valley Regional Office,
4411 Early Road, Harrisonburg, Virginia.

† **July 21, 2004 - 10 a.m.** -- Public Hearing
Department of Environmental Quality Piedmont Regional
Office, 4949-A Cox Road, Glen Allen, Virginia. 

† **August 13, 2004** - 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 Water Control Board intends to amend regulations entitled **9 VAC 25-630, Virginia Pollutant Abatement General Permit for Poultry Waste Management**. The purpose of the proposed action is to amend the VPA general permit for poultry waste management, where applicable, to reflect changes to 40 CFR Parts 9, 122, 123, and 412, as published in the Federal Register on February 12, 2003.

Statutory Authority: §§ 62.1-44.15 and 62.1-44.17:1.1 of the Code of Virginia.

Contact: Jon G. Van Soestbergen, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4117, FAX (804) 698-4032 or e-mail jvansoest@deq.state.va.us.

BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

June 22, 2004 - 8:30 a.m. -- Open Meeting
† **September 14, 2004 - 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, Executive Director, Board for Waterworks and Wastewater Works Operators, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8507, FAX (804) 367-6128, (804) 367-9753/TTY , e-mail waterwasteoper@dpor.virginia.gov.

VIRGINIA WORKFORCE COUNCIL

June 15, 2004 - 9:30 a.m. -- Open Meeting
Holiday Inn University, 1901 Emmet Street, Charlottesville,
Virginia. (Interpreter for the deaf provided upon request)

A business meeting. Public comment will be scheduled and limited to five minutes per person. A written copy of comments is required.

Contact: Gail Robinson, Workforce Council Liaison, Virginia Employment Commission, 703 E. Main St., Room 121, Richmond, VA 23219, telephone (804) 225-3070, FAX (804) 225-2190, toll-free (800) 828-1120, e-mail grobinson@vec.state.va.us.

INDEPENDENT

STATE LOTTERY BOARD

June 22, 2004 - 9:30 a.m. -- Open Meeting
Virginia Lottery, 900 East Main Street, 13th Floor, Richmond,
Virginia. 

A regular meeting to conduct routine business. There will be an opportunity for public comment shortly after the meeting is convened.

Contact: Frank S. Ferguson, Director, Legislative and Regulatory Affairs, State Lottery Department, 900 E. Main St., Richmond, VA 23219, telephone (804) 692-7901, FAX (804) 692-7905, e-mail fferguson@valottery.state.va.us.

VIRGINIA RETIREMENT SYSTEM

† **August 18, 2004 - TBD** -- Open Meeting
† **August 19, 2004 - TBD** -- Open Meeting
To be determined at a later date. 

Please note that the time and location of the Board of Trustees Annual Retreat will be determined at a later date.

Contact: LaShaunda B. King, Executive Assistant, Virginia Retirement System, 1200 E. Main St., Richmond, VA 23219, telephone (804) 649-8059, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY , e-mail lking@vrs.state.va.us.

August 18, 2004 - 11 a.m. -- Open Meeting
Virginia Retirement System Investment Department, Bank of America Building, 1111 East Main Street, Richmond, Virginia. 

The following committees will meet:

- 11 a.m. - Investment Advisory Committee
- 2:30 p.m. - Benefits and Actuarial Committee
- 4 p.m. - Administration and Personnel Committee
- 4 p.m. - Audit and Compliance Committee

Contact: Phyllis Henderson, Administrative Assistant, Virginia Retirement System, 1111 E. Main St., Richmond, VA 23219, telephone (804) 697-6675, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY , e-mail phenderson@vrs.state.va.us.

August 19, 2004 - 9 a.m. -- Open Meeting
Virginia Retirement System Headquarters Building, 1200 East Main Street, Richmond, Virginia. 

A regular meeting of the Board of Trustees. No public comment will be received at the meeting.

Calendar of Events

Contact: LaShaunda B. King, Executive Assistant, Virginia Retirement System, 1200 E. Main St., Richmond, VA 23219, telephone (804) 649-8059, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY ☎, e-mail lking@vrs.state.va.us.

LEGISLATIVE

VIRGINIA CODE COMMISSION

June 16, 2004 - 10 a.m. -- CANCELED

NOTE: CHANGE IN MEETING DATE

† **July 14, 2004 - 1:30 p.m.** -- Open Meeting

† **July 15, 2004 - 9:30 a.m.** -- Open Meeting

August 18, 2004 - 10 a.m. -- Open Meeting

General Assembly Building, 910 Capitol Street, 6th Floor, Speaker's Conference Room, Richmond, Virginia. ♿

A meeting to continue with the revisions of Titles 1, 3.1 and 37.1 and to conduct any other business that may come before the commission. A brief public comment period is scheduled at the end of the meeting.

Contact: Jane Chaffin, Registrar of Regulations, Virginia Code Commission, General Assembly Bldg., 910 Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591, FAX (804) 692-0625, e-mail jchaffin@leg.state.va.us.

PUBLIC DEFENDER COMMISSION

June 17, 2004 - 2 p.m. -- Open Meeting
Cavalier Hotel, Virginia Beach, Virginia. ♿

A meeting to discuss official business.

Contact: Lori E. Hoover, Public Defender Commission, 701 E. Franklin St., Suite 1416, Richmond, VA 23219, telephone (804) 225-3297, FAX (804) 371-8326, (800) 828-1120/TTY ☎, e-mail lhoover@pdcmail.state.va.us.

CHRONOLOGICAL LIST

OPEN MEETINGS

June 14

† Agriculture and Consumer Services, Department of
- Virginia Winegrowers Advisory Board
Barbers and Cosmetology, Board for
† Cemetery Board
Library Board, The
People with Disabilities, Virginia Board for

June 15

Aviation Board, Virginia
Cemetery Board
Charitable Gaming Board
Conservation and Recreation, Department of
Contractors, Board for
† Mines, Minerals and Energy, Department of
- Virginia Gas and Oil Board
Nursing, Board of

Old Dominion University
People with Disabilities, Virginia Board for
Water Control Board, State
Workforce Council, Virginia

June 16

Aviation Board, Virginia
Contractors, Board for
Environmental Quality, Department of
† Game and Inland Fishers, Board of
Historic Resources, Department of
- State Review Board and Board of Historic Resources
† Local Government, Commission on
Nursing, Board of
Outdoors Foundation, Virginia
Real Estate Appraiser Board
Small Business Financing Authority, Virginia
Social Services, Department of
- Family and Children's Trust Fund
† Social Services, State Board of
† Water Control Board, State

June 17

Aging, Commonwealth Council on
Conservation and Recreation, Department of
Design-Build/Construction Management Review Board
† Local Government, Commission on
† Longwood University
† Manufactured Housing Board, Virginia
Museum of Fine Arts, Virginia
Optometry, Board of
Pharmacy, Board of
Public Defender Commission
† Social Services, State Board of
Transportation Board, Commonwealth
Water Control Board, State

June 18

† Dentistry, Board of
Housing and Community Development, Department of
- State Building Code Technical Review Board
† Local Government, Commission on
† Longwood University
† Mental Health, Mental Retardation and Substance Abuse
Services, Department of
Physical Therapy, Board of
Waste Management Board, Virginia

June 21

Alcoholic Beverage Control Board
Alzheimer's Disease and Related Disorders Commission
Chesapeake Bay Local Assistance Board
† Higher Education Tuition Trust Fund, Virginia
† Museum of Natural History, Virginia
Veterans Services, Department of

June 22

Conservation and Recreation, Department of
Lottery Board, State
Marine Resources Commission
Medical Assistance Services, Department of
Mental Health, Mental Retardation and Substance Abuse
Services, Department of
Psychology, Board of
Waterworks and Wastewater Works Operators, Board for

June 23

† Agriculture and Consumer Services, Department of

- Virginia Marine Products Board
- Virginia Plant Pollination Advisory Board
- † Compensation Board
- Education, Board of
- Nursing and Medicine, Joint Boards of

June 24

- † Contractors, Board for
- † Medicine, Board of

June 25

- † Agriculture and Consumer Services, Department of
 - Virginia Egg Board
- † Correctional Education, Board of
- Game and Inland Fisheries, Board of
- † Medicine, Board of
- Rehabilitative Services, Department of
 - Commonwealth Neurotrauma Initiative Trust Fund Advisory Board

June 26

- † Medicine, Board of

June 28

- † Asbestos, Lead, and Home Inspectors, Virginia Board for
- † Public Broadcasting Board, Virginia

June 29

- Air Pollution Control Board, State
- Barbers and Cosmetology, Board for
- Conservation and Recreation, Department of
- Contractors, Board for
- Health, Department of
 - Hemophilia Advisory Board

June 30

- Medicine, Board of
- Real Estate Appraiser Board

July 1

- † Competition Council, Commonwealth
- † Contractors, Board for
- † Mental Health, Mental Retardation and Substance Abuse Services, Department of
- † Real Estate Appraiser Board

July 2

- Art and Architectural Review Board

July 6

- Alcoholic Beverage Control Board
- † Contractors, Board for
- † Real Estate Board
- Water Control Board, State

July 7

- † Real Estate Board

July 9

- Cemetery Board
- Opticians, Board for

July 12

- Hearing Aid Specialists, Board for

July 13

- Child Fatality Review Team, State
- † Contractors, Board for
- Medical Assistance Services, Board of
- Psychology, Board of

July 14

- † Code Commission, Virginia
- Information Technologies Agency, Virginia
 - Wireless E-911 Service Board
- Medicine, Board of

- † Water Control Board, State

July 15

- † Code Commission, Virginia
- † Contractors, Board for
- Design-Build/Construction Management Review Board
- Education, Board of

July 16

- Education, Board of
- Medicine, Board of
- † Military Bases, Virginia Commission on
- Physical Therapy, Board of

July 19

- Alcoholic Beverage Control Board
- Nursing, Board of

July 20

- † Agriculture and Consumer Services, Department of
 - Virginia Cotton Board
- † Environmental Quality, Department of
- Nursing, Board of

July 21

- Agriculture and Consumer Services, Department of
 - Virginia Small Grains Board
- † Compensation Board
- Geology, Board for
- Medical Assistance Services, Department of
 - Medicaid Transportation Advisory Committee
- Nursing, Board of

July 22

- Health, Board of
- Nursing, Board of

July 27

- Conservation and Recreation, Department of
- Contractors, Board for

July 28

- Education, Board of
- Labor and Industry, Department of
 - Virginia Migrant and Seasonal Farmworkers Board
- † Medicine, Board of

July 30

- † Dentistry, Board of

August 2

- Alcoholic Beverage Control Board

August 3

- † Taxation, Department of
- Water Control Board, State

August 4

- Conservation and Recreation, Department of
- Jamestown-Yorktown Foundation

August 5

- Medical Assistance Services, Department of
 - Drug Utilization Review Board

August 6

- Art and Architectural Review Board

August 11

- Contractors, Board for
- † Sewage Handling and Disposal Appeal Review Board
- † Water Control Board, State

August 13

- Medicine, Board of

August 16

- Alcoholic Beverage Control Board

Calendar of Events

August 17

Medical Assistance Services, Department of
- Pharmacy Liaison Committee
Real Estate Appraiser Board

August 18

Code Commission, Virginia
Retirement System, Virginia

August 19

Asbestos, Lead and Home Inspectors, Virginia Board for
Audiology and Speech-Language Pathology, Board of
Design-Build/Construction Management Review Board
Retirement System, Virginia

August 20

Health Professions, Department of

August 23

† Medical Assistance Services, Department of
- Drug Utilization Review Board

August 24

Contractors, Board for
† Mental Health, Mental Retardation and Substance Abuse
Services, Department of

August 25

† Milk Commission, State
Nursing and Medicine, Joint Boards of

August 26

Counseling, Board of

August 27

Counseling, Board of
† Housing and Community Development, Board of

August 30

Alcoholic Beverage Control Board

August 31

Water Control Board, State

September 2

† Polygraph Examiners Advisory Board

September 3

† Art and Architectural Review Board

September 7

† Funeral Directors and Embalmers, Board of
† Taxation, Department of

September 8

† Mental Health, Mental Retardation and Substance Abuse
Services, Department of

September 9

† Criminal Justice Services Board
† Nursing, Board of

September 10

† Dentistry, Board of

September 13

† Alcoholic Beverage Control Board

September 14

† Charitable Gaming Board
† Medical Assistance Services, Board of
† Waterworks and Wastewater Works Operators, Board for

PUBLIC HEARINGS

July 15

† Health Professions, Board of

July 20

† Racing Commission, Virginia
† Water Control Board, State

July 21

† Water Control Board, State