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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
Title 1. Administration			
1 VAC 55-30-10 through 1 VAC 55-30-90 emer	Added	21:19 VA.R. 2599-2602	5/16/05-5/15/06
Title 3. Alcoholic Beverages			
3 VAC 5-30-10	Amended	21:19 VA.R. 2530	6/29/05
3 VAC 5-30-30	Amended	21:19 VA.R. 2531	6/29/05
3 VAC 5-30-60	Amended	21:19 VA.R. 2532	6/29/05
3 VAC 5-30-70	Amended	21:19 VA.R. 2533	6/29/05
3 VAC 5-40-20	Amended	21:19 VA.R. 2533	6/29/05
3 VAC 5-40-20	Amended	21:19 VA.R. 2533	6/29/05
3 VAC 5-40-40	Amended	21:19 VA.R. 2533	6/29/05
3 VAC 5-40-50	Amended	21:19 VA.R. 2533	6/29/05
3 VAC 5-40-50	Amended	21:19 VA.R. 2533	6/29/05
3 VAC 5-70-220	Added	21:19 VA.R. 2533	6/29/05
Title 4. Conservation and Natural Resources			
4 VAC 20-110-20	Amended	21:21 VA.R. 2900	6/1/05
4 VAC 20-170-10 emer	Amended	21:16 VA.R. 2219	4/1/05-4/30/05
4 VAC 20-170-30 emer	Amended	21:16 VA.R. 2219	4/1/05-4/30/05
4 VAC 20-170-30	Amended	21:18 VA.R. 2372	5/1/05
4 VAC 20-252-50	Amended	21:13 VA.R. 1824	2/2/05
4 VAC 20-252-55	Amended	21:13 VA.R. 1824	2/2/05
4 VAC 20-252-130	Amended	21:13 VA.R. 1825	2/2/05
4 VAC 20-252-135 emer	Added	21:16 VA.R. 2219	4/1/05-4/30/05
4 VAC 20-252-135	Added	21:18 VA.R. 2372	5/1/05
4 VAC 20-252-150	Amended	21:13 VA.R. 1825	2/2/05
4 VAC 20-252-160	Amended	21:13 VA.R. 1826	2/2/05
4 VAC 20-320-20 emer	Amended	21:16 VA.R. 2220	4/1/05-4/30/05
4 VAC 20-320-20	Amended	21:18 VA.R. 2373	5/1/05
4 VAC 20-320-65 emer	Added	21:16 VA.R. 2220	4/1/05-4/30/05
4 VAC 20-320-65	Added	21:18 VA.R. 2373	5/1/05
4 VAC 20-430-10 emer	Amended	21:16 VA.R. 2220	4/1/05-4/30/05
4 VAC 20-430-10	Amended	21:18 VA.R. 2373	5/1/05
4 VAC 20-430-15 emer	Amended	21:16 VA.R. 2220	4/1/05-4/30/05
4 VAC 20-430-15	Amended	21:18 VA.R. 2373	5/1/05
4 VAC 20-430-65 emer	Added	21:16 VA.R. 2220	4/1/05-4/30/05
4 VAC 20-430-65	Added	21:18 VA.R. 2373	5/1/05
4 VAC 20-450-30	Amended	21:13 VA.R. 1827	2/2/05
4 VAC 20-620-20	Amended	21:21 VA.R. 2900	6/1/05
4 VAC 20-620-40	Amended	21:14 VA.R. 1992	3/1/05
4 VAC 20-620-50	Amended	21:14 VA.R. 1993	3/1/05
4 VAC 20-620-60	Amended	21:14 VA.R. 1993	3/1/05
4 VAC 20-620-70	Amended	21:14 VA.R. 1994	3/1/05
4 VAC 20-720-10 emer	Amended	21:12 VA.R. 1563	2/1/05-2/28/05
4 VAC 20-720-20 emer	Amended	21:12 VA.R. 1563	2/1/05-2/28/05
4 VAC 20-720-20	Amended	21:14 VA.R. 1994	3/1/05
4 VAC 20-720-40 emer	Amended	21:12 VA.R. 1564	2/1/05-2/28/05

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
4 VAC 20-720-40	Amended	21:14 VA.R. 1995	3/1/05
4 VAC 20-720-49 emer	Added	21:14 VA.R. 2016	3/1/05-3/9/05
4 VAC 20-720-50 emer	Amended	21:12 VA.R. 1564	2/1/05-2/28/05
4 VAC 20-720-50	Amended	21:14 VA.R. 1995	3/1/05
4 VAC 20-720-60 emer	Amended	21:12 VA.R. 1565	2/1/05-2/28/05
4 VAC 20-720-110 emer	Amended	21:12 VA.R. 1565	2/1/05-2/28/05
4 VAC 20-910	Erratum	21:20 VA.R. 2736	--
4 VAC 20-910-45	Amended	21:13 VA.R. 1827	2/2/05
4 VAC 20-910-45	Amended	21:21 VA.R. 2901	6/1/05
4 VAC 20-920-45	Added	21:8 VA.R. 914	12/1/04
4 VAC 20-950-45	Amended	21:16 VA.R. 2191	4/1/05
4 VAC 20-950-48	Amended	21:13 VA.R. 1828	2/2/05
4 VAC 20-1065-10 through 4 VAC 20-1065-40	Added	21:12 VA.R. 1523	2/1/05
4 VAC 20-1080-10 through 4 VAC 20-1080-50 emer	Added	21:16 VA.R. 2221	4/1/05-4/30/05
4 VAC 20-1080-10 through 4 VAC 20-1080-50	Added	21:18 VA.R. 2374	5/1/05
Title 6. Criminal Justice and Corrections			
6 VAC 20-130-60	Amended	21:16 VA.R. 2192	5/18/05
6 VAC 20-180-10 through 6 VAC 20-180-50	Amended	21:14 VA.R. 1996-1998	4/20/05
6 VAC 20-180-60	Added	21:14 VA.R. 1998	4/20/05
6 VAC 20-250-10 through 6 VAC 20-250-360 emer	Added	21:21 VA.R. 2914-2925	7/1/05-6/30/06
6 VAC 35-140-10	Amended	21:19 VA.R. 2534	7/1/05
6 VAC 35-140-20	Amended	21:19 VA.R. 2536	7/1/05
6 VAC 35-140-22	Added	21:19 VA.R. 2536	7/1/05
6 VAC 35-140-23	Added	21:19 VA.R. 2536	7/1/05
6 VAC 35-140-24	Added	21:19 VA.R. 2536	7/1/05
6 VAC 35-140-30	Amended	21:19 VA.R. 2536	7/1/05
6 VAC 35-140-40	Amended	21:19 VA.R. 2536	7/1/05
6 VAC 35-140-45	Added	21:19 VA.R. 2536	7/1/05
6 VAC 35-140-50 through 6 VAC 35-140-90	Amended	21:19 VA.R. 2536	7/1/05
6 VAC 35-140-110 through 6 VAC 35-140-140	Amended	21:19 VA.R. 2537	7/1/05
6 VAC 35-140-170 through 6 VAC 35-140-190	Amended	21:19 VA.R. 2537	7/1/05
6 VAC 35-140-192	Added	21:19 VA.R. 2537	7/1/05
6 VAC 35-140-200 through 6 VAC 35-140-230	Amended	21:19 VA.R. 2537	7/1/05
6 VAC 35-140-250 through 6 VAC 35-140-270	Amended	21:19 VA.R. 2537	7/1/05
6 VAC 35-140-275	Added	21:19 VA.R. 2537	7/1/05
6 VAC 35-140-280	Amended	21:19 VA.R. 2537	7/1/05
6 VAC 35-140-290	Amended	21:19 VA.R. 2538	7/1/05
6 VAC 35-140-295	Added	21:19 VA.R. 2538	7/1/05
6 VAC 35-140-300 through 6 VAC 35-140-350	Amended	21:19 VA.R. 2538	7/1/05
6 VAC 35-140-385 through 6 VAC 35-140-389	Added	21:19 VA.R. 2538	7/1/05
6 VAC 35-140-400	Amended	21:19 VA.R. 2538	7/1/05
6 VAC 35-140-430 through 6 VAC 35-140-500	Amended	21:19 VA.R. 2538	7/1/05
6 VAC 35-140-510	Repealed	21:19 VA.R. 2538	7/1/05
6 VAC 35-140-530	Amended	21:19 VA.R. 2538	7/1/05
6 VAC 35-140-540	Amended	21:19 VA.R. 2538	7/1/05
6 VAC 35-140-545	Added	21:19 VA.R. 2538	7/1/05
6 VAC 35-140-550 through 610	Amended	21:19 VA.R. 2538-2540	7/1/05
6 VAC 35-140-615	Added	21:19 VA.R. 2540	7/1/05
6 VAC 35-140-620	Amended	21:19 VA.R. 2540	7/1/05
6 VAC 35-140-630	Amended	21:19 VA.R. 2540	7/1/05
6 VAC 35-140-660	Amended	21:19 VA.R. 2540	7/1/05
6 VAC 35-140-670	Amended	21:19 VA.R. 2540	7/1/05
6 VAC 35-140-680	Amended	21:19 VA.R. 2540	7/1/05
6 VAC 35-140-685	Added	21:19 VA.R. 2540	7/1/05
6 VAC 35-140-690	Amended	21:19 VA.R. 2540	7/1/05
6 VAC 35-140-700	Amended	21:19 VA.R. 2540	7/1/05

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6 VAC 35-140-701 through 6 VAC 35-140-709	Added	21:19 VA.R. 2540	7/1/05
6 VAC 35-140-711 through 6 VAC 35-140-715	Added	21:19 VA.R. 2540	7/1/05
6 VAC 35-140-730 through 6 VAC 35-140-770	Amended	21:19 VA.R. 2540	7/1/05
Title 8. Education			
8 VAC 20-21-580	Amended	21:15 VA.R. 2111	5/5/05
8 VAC 20-90-10	Amended	21:14 VA.R. 1999	5/2/05
8 VAC 20-90-30	Amended	21:14 VA.R. 2000	5/2/05
8 VAC 20-90-40	Amended	21:14 VA.R. 2003	5/2/05
8 VAC 20-90-70	Amended	21:14 VA.R. 2003	5/2/05
8 VAC 20-210-10	Erratum	21:13 VA.R. 1941	--
8 VAC 20-520-5 emer	Added	21:14 VA.R. 2016	3/1/05-2/28/06
8 VAC 20-520-10 emer	Repealed	21:14 VA.R. 2017	3/1/05-2/28/06
8 VAC 20-520-20 through 8 VAC 20-520-60 emer	Added	21:14 VA.R. 2017-2018	3/1/05-2/28/06
8 VAC 20-680-10	Added	21:12 VA.R. 1559	5/9/05
8 VAC 20-680-20	Added	21:12 VA.R. 1559	5/9/05
8 VAC 20-690-10 through 8 VAC 20-690-50	Added	21:12 VA.R. 1525	3/29/05
8 VAC 20-700-10 through 8 VAC 20-700-50 (emer)	Added	21:13 VA.R. 1928-1929	2/16/05-2/15/06
Title 9. Environment			
9 VAC 5-10-20	Amended	21:15 VA.R. 2112	5/4/05
9 VAC 5-20-204	Amended	21:15 VA.R. 2119	5/4/05
9 VAC 5-40-6620	Amended	21:15 VA.R. 2120	5/4/05
9 VAC 5-40-7260	Erratum	21:13 VA.R. 1941	--
9 VAC 5-40-7270	Erratum	21:13 VA.R. 1941	--
9 VAC 5-50-260	Amended	21:19 VA.R. 2577	8/29/05
9 VAC 5-60-92	Added	21:19 VA.R. 2577	8/29/05
9 VAC 5-80-1100	Amended	21:19 VA.R. 2577	8/29/05
9 VAC 5-80-1110	Amended	21:19 VA.R. 2578	8/29/05
9 VAC 5-80-1120	Amended	21:19 VA.R. 2583	8/29/05
9 VAC 5-80-1140	Amended	21:19 VA.R. 2584	8/29/05
9 VAC 5-80-1160	Amended	21:19 VA.R. 2584	8/29/05
9 VAC 5-80-1170	Amended	21:19 VA.R. 2584	8/29/05
9 VAC 5-80-1280	Amended	21:19 VA.R. 2585	8/29/05
9 VAC 5-80-1290	Amended	21:19 VA.R. 2586	8/29/05
9 VAC 5-80-1300	Amended	21:19 VA.R. 2586	8/29/05
9 VAC 5-80-1320	Amended	21:19 VA.R. 2587	8/29/05
9 VAC 5-91-20	Amended	21:19 VA.R. 2541	6/29/05
9 VAC 5-91-160	Amended	21:19 VA.R. 2547	6/29/05
9 VAC 5-91-180	Amended	21:19 VA.R. 2547	6/29/05
9 VAC 5-91-740	Amended	21:19 VA.R. 2548	6/29/05
9 VAC 5-91-741	Added	21:19 VA.R. 2548	6/29/05
9 VAC 5-91-742	Added	21:19 VA.R. 2548	6/29/05
9 VAC 5-91-743	Added	21:19 VA.R. 2548	6/29/05
9 VAC 5-91-750	Amended	21:19 VA.R. 2548	6/29/05
9 VAC 5-91-760	Amended	21:19 VA.R. 2548	6/29/05
9 VAC 20-20-20	Amended	21:20 VA.R. 2668	7/13/05
9 VAC 20-20-40	Amended	21:20 VA.R. 2668	7/13/05
9 VAC 20-20-60	Amended	21:20 VA.R. 2668	7/13/05
9 VAC 20-20-80	Amended	21:20 VA.R. 2669	7/13/05
9 VAC 20-20-100	Amended	21:20 VA.R. 2669	7/13/05
9 VAC 20-20-110 through 9 VAC 20-20-150	Amended	21:20 VA.R. 2669	7/13/05
9 VAC 20-20-160	Added	21:20 VA.R. 2669	7/13/05
9 VAC 20-30-30	Amended	21:20 VA.R. 2670	7/13/05
9 VAC 20-30-50	Amended	21:20 VA.R. 2670	7/13/05
9 VAC 20-30-70 through 9 VAC 20-30-120	Amended	21:20 VA.R. 2670	7/13/05
9 VAC 20-30-130	Added	21:20 VA.R. 2671	7/13/05
9 VAC 20-40-20	Amended	21:20 VA.R. 2671	7/13/05

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
9 VAC 20-40-40 through 9 VAC 20-40-150	Amended	21:20 VA.R. 2671-2680	7/13/05
9 VAC 20-40-160	Added	21:20 VA.R. 2680	7/13/05
9 VAC 20-50-20	Amended	21:20 VA.R. 2680	7/13/05
9 VAC 20-50-40 through 9 VAC 20-50-100	Amended	21:20 VA.R. 2680-2693	7/13/05
9 VAC 20-50-110	Added	21:20 VA.R. 2693	7/13/05
9 VAC 20-70-290	Amended	21:20 VA.R. 2693	7/13/05
9 VAC 20-80 (Forms)	Amended	21:13 VA.R. 1930	--
9 VAC 20-130 (Forms)	Amended	21:13 VA.R. 1930	--
9 VAC 25-31-10	Erratum	21:13 VA.R. 1941	--
9 VAC 25-31-100	Erratum	21:14 VA.R. 2022	--
9 VAC 25-31-120	Erratum	21:13 VA.R. 1941	--
9 VAC 25-260-5	Amended	21:18 VA.R. 2375	*
9 VAC 25-260-10	Amended	21:18 VA.R. 2375	*
9 VAC 25-260-50	Amended	21:18 VA.R. 2377	*
9 VAC 25-260-185	Added	21:18 VA.R. 2377	*
9 VAC 25-260-186	Added	21:18 VA.R. 2379	*
9 VAC 25-260-350	Amended	21:18 VA.R. 2379	*
9 VAC 25-720-50	Amended	21:12 VA.R. 1526	3/23/05
9 VAC 25-720-60	Amended	21:17 VA.R. 2302	6/1/05
9 VAC 25-720-80	Amended	21:12 VA.R. 1527	3/23/05
9 VAC 25-720-80	Amended	21:17 VA.R. 2302	6/1/05
9 VAC 25-720-90	Amended	21:12 VA.R. 1527	3/23/05
9 VAC 25-720-100	Amended	21:17 VA.R. 2303	6/1/05
9 VAC 25-720-130	Amended	21:12 VA.R. 1528	3/23/05
9 VAC 25-720-130	Amended	21:17 VA.R. 2303	6/1/05
Title 11. Gaming			
11 VAC 10-180-10	Amended	21:16 VA.R. 2197	5/18/05
11 VAC 10-180-20	Amended	21:16 VA.R. 2193	3/31/03
11 VAC 10-180-20	Amended	21:16 VA.R. 2198	5/18/05
11 VAC 10-180-30	Repealed	21:16 VA.R. 2199	5/18/05
11 VAC 10-180-40	Repealed	21:16 VA.R. 2200	5/18/05
11 VAC 10-180-50	Repealed	21:16 VA.R. 2200	5/18/05
11 VAC 10-180-60	Amended	21:16 VA.R. 2194	3/31/03
11 VAC 10-180-60 through 11 VAC 10-180-90	Amended	21:16 VA.R. 2202-2207	5/18/05
11 VAC 10-180-80	Amended	21:16 VA.R. 2196	3/31/03
11 VAC 10-180-85	Added	21:16 VA.R. 2206	5/18/05
11 VAC 10-180-90	Amended	21:16 VA.R. 2197	3/31/03
11 VAC 10-180-100	Added	21:16 VA.R. 2207	5/18/05
11 VAC 10-180-110	Added	21:16 VA.R. 2207	5/18/05
Title 12. Health			
12 VAC 5-410-10	Amended	21:12 VA.R. 1561	5/9/05
12 VAC 5-590-10	Amended	21:13 VA.R. 1829	4/6/05
12 VAC 5-590-140	Amended	21:16 VA.R. 2209	5/18/05
12 VAC 5-590-150	Amended	21:16 VA.R. 2212	5/18/05
12 VAC 5-590-370	Amended	21:13 VA.R. 1835	4/6/05
12 VAC 5-590-410	Amended	21:13 VA.R. 1860	4/6/05
12 VAC 5-590-420	Amended	21:13 VA.R. 1863	4/6/05
12 VAC 5-590-500	Amended	21:13 VA.R. 1879	4/6/05
12 VAC 5-590-530	Amended	21:13 VA.R. 1880	4/6/05
12 VAC 5-590-540	Amended	21:13 VA.R. 1886	4/6/05
12 VAC 5-590-550	Amended	21:13 VA.R. 1890	4/6/05
12 VAC 5-590, Appendix L	Amended	21:13 VA.R. 1891	4/6/05
12 VAC 5-590, Appendix M	Amended	21:13 VA.R. 1897	4/6/05

* Upon filing a notice of EPA approval with the Registrar of Regulations.

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 5-590, Appendix O	Amended	21:13 VA.R. 1901	4/6/05
12 VAC 30-40-290	Amended	21:15 VA.R. 2128	6/20/05
12 VAC 30-40-300	Amended	21:15 VA.R. 2130	6/20/05
12 VAC 30-50-490 emer	Amended	21:12 VA.R. 1566	2/1/05-1/31/06
12 VAC 30-50-520 emer	Amended	21:20 VA.R. 2715	5/27/05-5/26/06
12 VAC 30-60-40 emer	Amended	21:20 VA.R. 2716	7/1/05-6/30/06
12 VAC 30-60-70	Amended	21:19 VA.R. 2592	8/15/05
12 VAC 30-60-350 emer	Amended	21:20 VA.R. 2717	7/1/05-6/30/06
12 VAC 30-70-291 emer	Amended	21:20 VA.R. 2720	5/12/05-5/11/06
12 VAC 30-70-301	Amended	21:14 VA.R. 2014	6/6/05
12 VAC 30-70-331	Amended	21:20 VA.R. 2696	7/14/05
12 VAC 30-80-40	Amended	21:15 VA.R. 2121	7/1/05
12 VAC 30-90-41	Amended	21:15 VA.R. 2136	7/1/05
12 VAC 30-90-41 emer	Amended	21:20 VA.R. 2717	7/1/05-6/30/06
12 VAC 30-120-10 through 12 VAC 30-120-60 emer	Repealed	21:12 VA.R. 1601	2/1/05-1/31/06
12 VAC 30-120-380 emer	Amended	21:20 VA.R. 2721	7/1/05-6/30/06
12 VAC 30-120-490 through 12 VAC 30-120-550 emer	Repealed	21:12 VA.R. 1601	2/1/05-1/31/06
12 VAC 30-120-700 emer	Amended	21:12 VA.R. 1568	2/1/05-1/31/06
12 VAC 30-120-710 emer	Amended	21:12 VA.R. 1572	2/1/05-1/31/06
12 VAC 30-120-720 emer	Amended	21:12 VA.R. 1572	2/1/05-1/31/06
12 VAC 30-120-730 emer	Amended	21:12 VA.R. 1576	2/1/05-1/31/06
12 VAC 30-120-740 emer	Amended	21:12 VA.R. 1578	2/1/05-1/31/06
12 VAC 30-120-750 emer	Amended	21:12 VA.R. 1579	2/1/05-1/31/06
12 VAC 30-120-752 emer	Amended	21:12 VA.R. 1580	2/1/05-1/31/06
12 VAC 30-120-753 emer	Amended	21:12 VA.R. 1582	2/1/05-1/31/06
12 VAC 30-120-754 emer	Amended	21:12 VA.R. 1583	2/1/05-1/31/06
12 VAC 30-120-756 emer	Amended	21:12 VA.R. 1584	2/1/05-1/31/06
12 VAC 30-120-758 emer	Amended	21:12 VA.R. 1585	2/1/05-1/31/06
12 VAC 30-120-760 emer	Amended	21:12 VA.R. 1586	2/1/05-1/31/06
12 VAC 30-120-762 emer	Amended	21:12 VA.R. 1586	2/1/05-1/31/06
12 VAC 30-120-764 emer	Amended	21:12 VA.R. 1587	2/1/05-1/31/06
12 VAC 30-120-766 emer	Amended	21:12 VA.R. 1588	2/1/05-1/31/06
12 VAC 30-120-768 emer	Amended	21:12 VA.R. 1590	2/1/05-1/31/06
12 VAC 30-120-770 emer	Amended	21:12 VA.R. 1592	2/1/05-1/31/06
12 VAC 30-120-772 emer	Amended	21:12 VA.R. 1596	2/1/05-1/31/06
12 VAC 30-120-774 emer	Amended	21:12 VA.R. 1597	2/1/05-1/31/06
12 VAC 30-120-776 emer	Amended	21:12 VA.R. 1598	2/1/05-1/31/06
12 VAC 30-120-780 emer	Repealed	21:12 VA.R. 1600	2/1/05-1/31/06
12 VAC 30-120-790 emer	Repealed	21:12 VA.R. 1601	2/1/05-1/31/06
12 VAC 30-120-900 through 12 VAC 30-120-990 emer	Added	21:12 VA.R. 1601-1619	2/1/05-1/31/06
12 VAC 30-141-200 emer	Amended	21:20 VA.R. 2721	7/1/05-6/30/06
12 VAC 30-141-500	Amended	21:19 VA.R. 2549	6/29/05
Title 13. Housing			
13 VAC 5-63-110	Erratum	21:14 VA.R. 2021	--
Title 15. Judicial			
15 VAC 5-50-10 through 15 VAC 5-50-210	Repealed	21:17 VA.R. 2304	4/13/05
15 VAC 5-60-10 through 15 VAC 5-60-240	Repealed	21:17 VA.R. 2304	4/13/05
Title 16. Labor and Employment			
16 VAC 25-90-1910.142	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-90-1910.151	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-90-1910.268	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-90-1910.1001	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-90-1910.1003	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-90-1910.1017	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-90-1910.1018	Amended	21:21 VA.R. 2901	8/15/05

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
16 VAC 25-90-1910.1025	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-90-1910.1027	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-90-1910.1028	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-90-1910.1029	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-90-1910.1043	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-90-1910.1044	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-90-1910.1045	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-90-1910.1047	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-90-1910.1048	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-90-1910.1051	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-100-1915.1001	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-175-1926.60	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-175-1926.62	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-175-1926.1101	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-175-1926.1127	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-175-1926.60	Amended	21:21 VA.R. 2903	8/15/05
Title 18. Professional and Occupational Licensing			
18 VAC 30-20-290	Added	21:21 VA.R. 2904	7/27/05
18 VAC 50-22-100	Amended	21:20 VA.R. 2696	8/1/05
18 VAC 50-22-140	Amended	21:20 VA.R. 2697	8/1/05
18 VAC 50-22-170	Amended	21:20 VA.R. 2697	8/1/05
18 VAC 50-22-250	Amended	21:20 VA.R. 2697	8/1/05
18 VAC 50-30-90	Amended	21:20 VA.R. 2698	8/1/05
18 VAC 50-30-120	Amended	21:20 VA.R. 2698	8/1/05
18 VAC 50-30-130	Amended	21:20 VA.R. 2699	8/1/05
18 VAC 60-20-10	Amended	21:19 VA.R. 2551	6/29/05
18 VAC 60-20-16	Amended	21:19 VA.R. 2551	6/29/05
18 VAC 60-20-17	Added	21:19 VA.R. 2550	6/29/05
18 VAC 60-20-20	Amended	21:19 VA.R. 2551	6/29/05
18 VAC 60-20-20	Amended	21:19 VA.R. 2555	6/29/05
18 VAC 60-20-50 through 18 VAC 60-20-90	Amended	21:19 VA.R. 2551-2552	6/29/05
18 VAC 60-20-91	Added	21:19 VA.R. 2555	6/29/05
18 VAC 60-20-105	Amended	21:19 VA.R. 2552	6/29/05
18 VAC 60-20-106	Added	21:19 VA.R. 2552	6/29/05
18 VAC 60-20-107	Added	21:19 VA.R. 2552	6/29/05
18 VAC 60-20-110	Amended	21:19 VA.R. 2552	6/29/05
18 VAC 60-20-120	Amended	21:19 VA.R. 2553	6/29/05
18 VAC 60-20-130	Repealed	21:19 VA.R. 2554	6/29/05
18 VAC 60-20-135	Added	21:19 VA.R. 2554	6/29/05
18 VAC 60-20-190	Amended	21:19 VA.R. 2554	6/29/05
18 VAC 60-20-195	Amended	21:19 VA.R. 2554	6/29/05
18 VAC 62-20-10 through 18 VAC 62-20-180	Added	21:20 VA.R. 2700-2706	7/15/05
18 VAC 65-20-15	Added	21:18 VA.R. 2380	6/15/05
18 VAC 75-40-10	Added	21:16 VA.R. 2215	5/18/05
18 VAC 75-40-20	Added	21:16 VA.R. 2215	5/18/05
18 VAC 75-40-30	Added	21:16 VA.R. 2215	5/18/05
18 VAC 76-20-60	Amended	21:19 VA.R. 2556	6/29/05
18 VAC 76-40-10	Amended	21:19 VA.R. 2596	8/15/05
18 VAC 85-15-10	Added	21:21 VA.R. 2905	7/27/05
18 VAC 85-15-20	Added	21:21 VA.R. 2905	7/27/05
18 VAC 85-15-30	Added	21:21 VA.R. 2905	7/27/05
18 VAC 85-20-30	Amended	21:20 VA.R. 2707	7/13/05
18 VAC 85-20-100	Amended	21:20 VA.R. 2707	7/13/05
18 VAC 85-20-330	Amended	21:19 VA.R. 2597	8/15/05
18 VAC 90-15-10	Added	21:21 VA.R. 2905	7/27/05
18 VAC 90-15-20	Added	21:21 VA.R. 2905	7/27/05

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 90-15-30	Added	21:21 VA.R. 2905	7/27/05
18 VAC 90-20-10	Amended	21:21 VA.R. 2906	7/27/05
18 VAC 90-20-181	Added	21:21 VA.R. 2907	7/27/05
18 VAC 90-20-182	Added	21:21 VA.R. 2907	7/27/05
18 VAC 90-20-183	Added	21:21 VA.R. 2907	7/27/05
18 VAC 90-20-230	Amended	21:20 VA.R. 2708	7/13/05
18 VAC 90-20-280	Amended	21:21 VA.R. 2907	7/27/05
18 VAC 90-20-300	Amended	21:21 VA.R. 2907	7/27/05
18 VAC 90-30-80	Amended	21:21 VA.R. 2910	7/27/05
18 VAC 90-30-100	Amended	21:21 VA.R. 2910	7/27/05
18 VAC 90-30-110	Amended	21:21 VA.R. 2910	7/27/05
18 VAC 90-30-120	Amended	21:21 VA.R. 2909	7/27/05
18 VAC 95-10-10	Amended	21:18 VA.R. 2380	7/1/05
18 VAC 95-10-20	Amended	21:18 VA.R. 2380	7/1/05
18 VAC 95-20-10	Amended	21:18 VA.R. 2381	7/1/05
18 VAC 95-20-471	Added	21:19 VA.R. 2557	6/29/05
18 VAC 100-20-53	Added	21:20 VA.R. 2709	8/1/05
18 VAC 100-20-54	Amended	21:20 VA.R. 2708	8/1/05
18 VAC 100-20-81	Amended	21:20 VA.R. 2709	8/1/05
18 VAC 105-20-41	Added	21:18 VA.R. 2382	6/15/05
18 VAC 110-20-15	Added	21:15 VA.R. 2122	5/4/05
18 VAC 112-20-26	Added	21:19 VA.R. 2557	6/29/05
18 VAC 120-40-50	Amended	21:20 VA.R. 2712	8/1/05
18 VAC 125-15-10	Added	21:20 VA.R. 2712	7/13/05
18 VAC 125-15-20	Added	21:20 VA.R. 2712	7/13/05
18 VAC 125-15-30	Added	21:20 VA.R. 2712	7/13/05
18 VAC 140-20-171	Added	21:21 VA.R. 2913	7/27/05
18 VAC 150-20-15	Added	21:21 VA.R. 2913	7/27/05
Title 19. Public Safety			
19 VAC 30-70-210	Amended	21:18 VA.R. 2382	4/15/05
Title 20. Public Utilities and Telecommunications			
20 VAC 5-315 (Forms)	Amended	21:19 VA.R. 2603	--
20 VAC 5-315-20	Amended	21:18 VA.R. 2387	4/26/05
20 VAC 5-315-30	Amended	21:18 VA.R. 2388	4/26/05
20 VAC 5-315-40	Amended	21:18 VA.R. 2388	4/26/05
20 VAC 5-315-90	Repealed	21:18 VA.R. 2389	4/26/05
Title 22. Social Services			
22 VAC 15-30-10	Amended	21:12 VA.R. 1528	6/1/05
22 VAC 15-30-30	Amended	21:12 VA.R. 1532	6/1/05
22 VAC 15-30-50	Amended	21:12 VA.R. 1532	6/1/05
22 VAC 15-30-70	Amended	21:12 VA.R. 1533	6/1/05
22 VAC 15-30-80	Amended	21:12 VA.R. 1533	6/1/05
22 VAC 15-30-90	Amended	21:12 VA.R. 1533	6/1/05
22 VAC 15-30-110	Amended	21:12 VA.R. 1534	6/1/05
22 VAC 15-30-140	Amended	21:12 VA.R. 1534	6/1/05
22 VAC 15-30-150	Amended	21:12 VA.R. 1534	6/1/05
22 VAC 15-30-160	Amended	21:12 VA.R. 1534	6/1/05
22 VAC 15-30-180	Amended	21:12 VA.R. 1535	6/1/05
22 VAC 15-30-190	Amended	21:12 VA.R. 1535	6/1/05
22 VAC 15-30-200	Amended	21:12 VA.R. 1536	6/1/05
22 VAC 15-30-200	Erratum	21:13 VA.R. 1941	--
22 VAC 15-30-230	Amended	21:12 VA.R. 1536	6/1/05
22 VAC 15-30-250	Amended	21:12 VA.R. 1537	6/1/05
22 VAC 15-30-260	Amended	21:12 VA.R. 1537	6/1/05
22 VAC 15-30-290	Amended	21:12 VA.R. 1538	6/1/05

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
22 VAC 15-30-310 through 22 VAC 15-30-390	Amended	21:12 VA.R. 1538-1542	6/1/05
22 VAC 15-30-410	Amended	21:12 VA.R. 1542	6/1/05
22 VAC 15-30-430	Amended	21:12 VA.R. 1543	6/1/05
22 VAC 15-30-440	Amended	21:12 VA.R. 1543	6/1/05
22 VAC 15-30-451	Amended	21:12 VA.R. 1545	6/1/05
22 VAC 15-30-461	Amended	21:12 VA.R. 1545	6/1/05
22 VAC 15-30-471	Amended	21:12 VA.R. 1545	6/1/05
22 VAC 15-30-490	Amended	21:12 VA.R. 1546	6/1/05
22 VAC 15-30-500	Amended	21:12 VA.R. 1547	6/1/05
22 VAC 15-30-510	Amended	21:12 VA.R. 1547	6/1/05
22 VAC 15-30-520	Amended	21:12 VA.R. 1548	6/1/05
22 VAC 15-30-540 through 22 VAC 15-30-670	Amended	21:12 VA.R. 1548-1556	6/1/05
22 VAC 15-30-575	Erratum	21:13 VA.R. 1941	--
22 VAC 15-30-585	Added	21:12 VA.R. 1550	6/1/05
22 VAC 15-51-50	Amended	21:20 VA.R. 2713	7/13/05
22 VAC 30-40-10	Amended	21:16 VA.R. 2215	5/18/05
22 VAC 30-40-70	Amended	21:16 VA.R. 2217	5/18/05
22 VAC 30-40-130	Amended	21:16 VA.R. 2218	5/18/05
22 VAC 30-40-140	Amended	21:16 VA.R. 2218	5/18/05
22 VAC 30-40-150	Amended	21:16 VA.R. 2218	5/18/05
22 VAC 40-90-10 through 22 VAC 40-90-60	Amended	21:18 VA.R. 2393	7/1/05
22 VAC 40-90-70	Added	21:18 VA.R. 2395	7/1/05
22 VAC 40-170-10	Amended	21:19 VA.R. 2558	8/1/05
22 VAC 40-170-20	Repealed	21:19 VA.R. 2559	8/1/05
22 VAC 40-170-30 through 22 VAC 40-170-210	Amended	21:19 VA.R. 2560-2567	8/1/05
22 VAC 40-170-230	Amended	21:19 VA.R. 2567	8/1/05
22 VAC 40-191-40	Amended	21:18 VA.R. 2395	7/1/05
22 VAC 40-191-50	Amended	21:18 VA.R. 2399	7/1/05
22 VAC 40-191-90	Amended	21:18 VA.R. 2400	7/1/05
22 VAC 40-660-10 through 22 VAC 40-660-100	Repealed	21:19 VA.R. 2568	8/1/05
22 VAC 40-661-10 through 22 VAC 40-661-90	Added	21:19 VA.R. 2568-2572	8/1/05
Title 24. Transportation and Motor Vehicles			
24 VAC 30-41-30	Amended	21:13 VA.R. 1911	4/6/05
24 VAC 30-41-50	Amended	21:13 VA.R. 1913	4/6/05
24 VAC 30-41-110	Amended	21:13 VA.R. 1913	4/6/05
24 VAC 30-41-190	Amended	21:13 VA.R. 1914	4/6/05
24 VAC 30-41-210	Amended	21:13 VA.R. 1915	4/6/05
24 VAC 30-41-220	Amended	21:13 VA.R. 1916	4/6/05
24 VAC 30-41-230	Amended	21:13 VA.R. 1916	4/6/05
24 VAC 30-41-250	Amended	21:13 VA.R. 1917	4/6/05
24 VAC 30-41-280	Amended	21:13 VA.R. 1917	4/6/05
24 VAC 30-41-290	Amended	21:13 VA.R. 1918	4/6/05
24 VAC 30-41-300	Amended	21:13 VA.R. 1918	4/6/05
24 VAC 30-41-310	Amended	21:13 VA.R. 1918	4/6/05
24 VAC 30-41-320	Amended	21:13 VA.R. 1919	4/6/05
24 VAC 30-41-350	Amended	21:13 VA.R. 1920	4/6/05
24 VAC 30-41-430	Amended	21:13 VA.R. 1920	4/6/05
24 VAC 30-41-500	Amended	21:13 VA.R. 1921	4/6/05
24 VAC 30-41-510	Amended	21:13 VA.R. 1921	4/6/05
24 VAC 30-41-520	Amended	21:13 VA.R. 1921	4/6/05
24 VAC 30-41-530	Amended	21:13 VA.R. 1922	4/6/05
24 VAC 30-41-580	Amended	21:13 VA.R. 1922	4/6/05
24 VAC 30-41-650	Amended	21:13 VA.R. 1923	4/6/05
24 VAC 30-41-660	Amended	21:13 VA.R. 1923	4/6/05
24 VAC 30-41-680	Amended	21:13 VA.R. 1923	4/6/05
24 VAC 30-91-10	Erratum	21:12 VA.R. 1776	--

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
24 VAC 30-91-110	Erratum	21:12 VA.R. 1776	--
24 VAC 30-91-130	Erratum	21:12 VA.R. 1776	--
24 VAC 30-620-10	Amended	21:15 VA.R. 2123	5/22/05
24 VAC 30-620-30	Amended	21:15 VA.R. 2123	5/22/05

NOTICES OF INTENDED REGULATORY ACTION

Symbol Key

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

TITLE 6. CRIMINAL JUSTICE AND CORRECTIONS

CRIMINAL JUSTICE SERVICES BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Criminal Justice Services Board intends to consider amending regulations entitled **6 VAC 20-50, Rules Relating to Compulsory Minimum Training Standards for Jailors or Custodial Officers, Courthouse and Courtroom Security Officers and Process Service Officers**. The purpose of the proposed action is to update minimum training standards to be consistent with performance expectations based on an updated job task analysis.

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

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

Public comments may be submitted until July 13, 2005.

Contact: Judith Kirkendall, Job Task Analysis Administrator, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-8003, FAX (804) 786-0410 or e-mail judith.kirkendall@dcjs.virginia.gov.

VA.R. Doc. No. R05-208; Filed May 20, 2005, 11:10 a.m.

TITLE 9. ENVIRONMENT

STATE AIR POLLUTION CONTROL BOARD

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Air Pollution Control Board intends to consider amending regulations entitled **9 VAC 5-140, Regulations for Emissions Trading (Rev. E05)**. The purpose of the proposed action is to establish requirements to reduce SO_x and NO_x emissions in order to eliminate their significant contribution to nonattainment or interference with maintenance of the national ambient air quality standards in downwind states and to protect Virginia's air quality and its natural resources.

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

Public participation: The department is soliciting comments on the (i) intended regulatory action, to include ideas to assist the department in the development of the proposal, (ii) impacts of the proposed regulation on farm and forest land preservation, and (iii) costs and benefits of the alternatives stated in this notice or other alternatives. All comments must be received by the department by 5 p.m. on August 10, 2005, in order to be

considered. It is preferred that all comments be provided in writing to the department, along with any supporting documents or exhibits; however, oral comments will be accepted at the meeting. Comments may be submitted by mail, facsimile transmission, e-mail, or by personal appearance at the meeting, but must be submitted to Mary E. Major, Environmental Program Manager, Office of Air Regulatory Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia, 23240 (e-mail: memajor@deq.virginia.gov) (fax number: 804-698-4510). Comments by facsimile transmission will be accepted only if followed by receipt of the signed original within one week. Comments by e-mail will be accepted only if the name, address and phone number of the commenter are included. All testimony, exhibits and documents received are a matter of public record. Only comments (i) related to the information specified in this notice and (ii) provided in accordance with the procedures specified in this notice will be given consideration in the development of the proposed regulation amendments.

A public meeting will be held by the department to receive comments on and to discuss the intended action. Information on the date, time, and place of the meeting is published in the Calendar of Events section of the *Virginia Register*. Unlike a public hearing, which is intended only to receive testimony, this meeting is being held to discuss and exchange ideas and information relative to regulation development.

Participatory approach: Subject to the stipulations noted below, the department will form an ad hoc advisory group to assist in the development of the regulation. To be on the group, notify the agency contact in writing by 5 p.m. on July 22, 2005, and provide name, address, phone number and the organization represented (if any). Notification of the composition of the ad hoc advisory group will be sent to all applicants. To be on the group, attendance at the public meeting is encouraged. The primary function of the group is to develop recommended regulation amendments for department consideration through the collaborative approach of regulatory negotiation and consensus. At its discretion, the department may dispense with the use of an ad hoc advisory group if it receives less than five applications. Multiapplications from a single company, organization, group or other entity count as one for purposes of making the decision specified in the preceding sentence.

Statutory Authority: §§ 10.1-1308 and 10.1-1322.3 of the Code of Virginia; Clean Air Act (§§ 108, 109, 110 and 302); 40 CFR Part 51.

Public comments may be submitted until August 10, 2005.

Contact: Mary E. Major, Environmental Program Manager, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4423, FAX (804) 698-4510 or e-mail mlmajor@deq.virginia.gov.

VA.R. Doc. No. R05-230; Filed June 21, 2005, 4:08 p.m.

Notices of Intended Regulatory Action

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Air Pollution Control Board intends to consider amending regulations entitled **9 VAC 5-140, Regulations for Emissions Trading (Rev. F05)**. The purpose of the proposed action is to establish requirements to control mercury emissions in order to reduce the regional deposition of mercury.

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

Public participation: The department is soliciting comments on the (i) intended regulatory action, to include ideas to assist the department in the development of the proposal, (ii) impacts of the proposed regulation on farm and forest land preservation, and (iii) costs and benefits of the alternatives stated in this notice or other alternatives. All comments must be received by the department by 5 p.m. on August 10, 2005, in order to be considered. It is preferred that all comments be provided in writing to the department, along with any supporting documents or exhibits; however, oral comments will be accepted at the meeting. Comments may be submitted by mail, facsimile transmission, e-mail, or by personal appearance at the meeting, but must be submitted to Mary E. Major, Environmental Program Manager, Office of Air Regulatory Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia, 23240 (e-mail: memajor@deq.virginia.gov) (fax number: 804-698-4510). Comments by facsimile transmission will be accepted only if followed by receipt of the signed original within one week. Comments by e-mail will be accepted only if the name, address and phone number of the commenter are included. All testimony, exhibits and documents received are a matter of public record. Only comments (i) related to the information specified in this notice and (ii) provided in accordance with the procedures specified in this notice will be given consideration in the development of the proposed regulation amendments.

A public meeting will be held by the department to receive comments on and to discuss the intended action. Information on the date, time, and place of the meeting is published in the Calendar of Events section of the Virginia Register. Unlike a public hearing, which is intended only to receive testimony, this meeting is being held to discuss and exchange ideas and information relative to regulation development.

Participatory approach: Subject to the stipulations noted below, the department will form an ad hoc advisory group to assist in the development of the regulation. To be on the group, notify the agency contact in writing by 5 p.m. on July 22, 2005, and provide name, address, phone number and the organization represented (if any). Notification of the composition of the ad hoc advisory group will be sent to all applicants. To be on the group, attendance at the public meeting is encouraged. The primary function of the group is to develop recommended regulation amendments for department consideration through the collaborative approach of regulatory negotiation and consensus. At its discretion, the department may dispense with the use of an ad hoc advisory group if it receives less than five applications. Multiapplications from a single company, organization, group

or other entity count as one for purposes of making the decision specified in the preceding sentence.

Statutory Authority: §§ 10.1-1308 and 10.1-1322.3 of the Code of Virginia; Clean Air Act (§§ 108, 109, 110 and 302); 40 CFR Part 51.

Public comments may be submitted until August 10, 2005.

Contact: Mary E. Major, Environmental Program Manager, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4423, FAX (804) 698-4510 or e-mail mlmajor@deq.virginia.gov.

VA.R. Doc. No. R05-231; Filed June 21, 2005, 4:09 p.m.

TITLE 12. HEALTH

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Medical Assistance Services intends to consider amending regulations entitled **12 VAC 30-50, Amount, Duration and Scope of Medical and Remedial Care Services**. The purpose of the proposed action is to discontinue coverage of erectile dysfunction drugs for sex offenders.

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

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

Public comments may be submitted until July 27, 2005.

Contact: Brian McCormick, Policy and Research Division, 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. R05-212; Filed May 27, 2005, 9:18 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Medical Assistance Services intends to consider amending regulations entitled **12 VAC 30-60, Standards Established and Methods Used to Assure High Quality Care, and 12 VAC 30-90, Methods and Standards for Establishing Payment Rates for Long-Term Care**. The purpose of the proposed action is to provide additional reimbursement (\$10 per day) to nursing facilities for residents who require specialized treatment beds due to their having at least one treatable Stage IV pressure ulcer.

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

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

Notices of Intended Regulatory Action

Public comments may be submitted until July 13, 2005.

Contact: Suzanne Klaas, Project Manager, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 225-4239, FAX (804) 786-1680 or e-mail suzanne.klaas@dmas.virginia.gov.

VA.R. Doc. No. R05-198; Filed May 25, 2005, 1:27 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Medical Assistance Services intends to consider amending regulations entitled **12 VAC 30-70, Methods and Standards for Establishing Payment Rates; Inpatient Hospital Care**. The purpose of the proposed action is to provide, for qualifying hospitals, additional indirect medical education (IME) payment to hospitals based on their NICU utilization, above and beyond the IME payment calculated for the hospitals every year.

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

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

Public comments may be submitted until July 13, 2005.

Contact: Steve Ford, Project Manager, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7355, FAX (804) 786-1680 or e-mail steve.ford@dmas.virginia.gov.

VA.R. Doc. No. R05-194; Filed May 12, 2005, 4:09 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Medical Assistance Services intends to consider amending regulations entitled **12 VAC 30-120, Waivered Services**, and **12 VAC 30-141, Family Access to Medical Insurance Security Plan**. The purpose of the proposed action is to delete the list of dental services that do not require prior authorization, add that certain dental services and limited oral surgery procedures require preauthorization as described in the Dental Provider Manual, and reference prior dental preauthorization for FAMIS benefits reimbursement.

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

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

Public comments may be submitted until July 13, 2005.

Contact: Daniel Plain, Health Care Services Division, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 225-4218, FAX (804) 786-1680 or e-mail daniel.plain@dmas.virginia.gov.

VA.R. Doc. No. R05-196; Filed May 12, 2005, 1:21 p.m.

TITLE 16. LABOR AND EMPLOYMENT

DEPARTMENT OF LABOR AND INDUSTRY

Safety and Health Codes Board

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Safety and Health Codes Board intends to consider promulgating regulations entitled **16 VAC 25-75, Telecommunications, General, Approach Distances** and **16 VAC 25-90, Federal Identical General Industry Standards**. The purpose of the proposed action is to promulgate a new Virginia (VOSH) regulation and amend the General Industry Standard for Telecommunications regulation 16 VAC 25-90-1910.268 (b) (7) (i). The new telecommunications regulation is intended to provide the same degree of protection to telecommunications employees working in similar proximity to power lines as their counterparts under the electrical power generation, transmission and distribution standard, General Industry 16 VAC 25-1910.269 (l) (2) (i).

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

Statutory Authority: § 40.1-22 of the Code of Virginia; Occupational Safety and Health Act of 1970 (Pub.L. 91-596).

Public comments may be submitted until August 11, 2005.

Contact: John Crisanti, Policy Analyst Senior, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 786-4300, FAX (804) 786-8418 or e-mail john.crisanti@doli.virginia.gov.

VA.R. Doc. No. R05-234; Filed June 22, 2005, 9:47 a.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF MEDICINE

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Medicine intends to consider amending regulations entitled **18 VAC 85-20, Regulations Governing the Practice of Medicine, Osteopathy, Podiatry, and Chiropractic**. The purpose of the proposed action is to specify that at least one of the required two years of postgraduate training or study in the United States or Canada must be as an intern or resident in a hospital or health care facility.

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

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

Public comments may be submitted until August 10, 2005.

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-

Notices of Intended Regulatory Action

1712, telephone (804) 662-9908, FAX (804) 662-9943 or e-mail william.harp@dhp.virginia.gov.

VA.R. Doc. No. R05-235; Filed June 22, 2005, 10:01 a.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Medicine intends to consider amending regulations entitled **18 VAC 85-20, Regulations Governing the Practice of Medicine, Osteopathy, Podiatry, and Chiropractic**. The purpose of the proposed action is to clarify ambiguous provisions and specify more clearly the timing of a malpractice report, the definition of a paid claim and the conditions under which a report is required.

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

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

Public comments may be submitted until August 10, 2005.

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943 or e-mail william.harp@dhp.virginia.gov.

VA.R. Doc. No. R05-236; Filed June 22, 2005, 10:01 a.m.

DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Professional and Occupational Regulation intends to consider amending regulations entitled **18 VAC 120-40, Virginia Professional Boxing and Wrestling Events Regulations**. The purpose of the proposed action is to make clarifying changes and add regulation of mixed martial arts and similar contests.

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

Statutory Authority: § 54.1-831 of the Code of Virginia.

Public comments may be submitted until July 13, 2005.

Contact: Karen W. O'Neal, Deputy Director for Licensing and Regulation, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8537, FAX (804) 367-2475 or e-mail karen.oneal@dpor.virginia.gov.

VA.R. Doc. No. R05-200; Filed May 19, 2005, 11:44 a.m.

TITLE 22. SOCIAL SERVICES

CHILD DAY-CARE COUNCIL

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Child Day-Care Council intends to

consider amending regulations entitled **22 VAC 15-10, Public Participation Guidelines**. The purpose of the proposed action is to make editorial changes throughout the regulation to improve clarity. 22 VAC 15-10-40 will be amended to reflect the provisions of Chapter 241 of the 2002 Acts of Assembly, which changed the provisions for a person to petition the council to take rulemaking action. 22 VAC 10-15-50 will be amended to reflect the statutory changes of Chapter 717 of the 1995 Acts of Assembly, which make publication of proposed regulations in a newspaper of general circulation discretionary rather than mandatory.

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

Statutory Authority: §§ 2.2-4007 and 63.2-1735 of the Code of Virginia.

Public comments may be submitted until July 27, 2005.

Contact: Richard Martin, Manager, Office of Legislative and Regulatory Affairs, Department of Social Services, 7 N. 8th St., Richmond, VA 23219, telephone (804) 726-7902, FAX (804) 726-7906 or email richard.martin@dss.virginia.gov.

VA.R. Doc. No. R05-223; Filed June 10, 2005, 8:26 a.m.

STATE BOARD OF SOCIAL SERVICES

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Social Services intends to consider amending regulations entitled **22 VAC 40-41, Neighborhood Assistance Tax Credit Program**. The purpose of the proposed action is to amend the regulation for the Neighborhood Assistance Program (NAP). NAP is a state tax credit program established by the General Assembly in 1981. The program uses tax credits as an incentive for businesses and, with certain restrictions, individuals, to make donations to eligible projects. To be an eligible project an organization must be a 501(c)(3) or (4) whose primary function is providing assistance to low-income individuals and families. The amendments will make several technical and clarifying changes, including updating code citations and correcting inconsistencies in terminology. In addition, amendments are being proposed to ensure the availability of tax credits and their equitable distribution among approved projects. Also, amendments are being proposed to ensure fairness in the valuation of certain donated items and to improve the process for determining eligibility of organizations applying to participate in NAP.

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

Statutory Authority: §§ 63.2-217 and 63.2-2002 of the Code of Virginia.

Public comments may be submitted until August 10, 2005.

Contact: J. Mark Grigsby, Director, Office of Community Services, Department of Social Services, 7 N. 8th St., Richmond, VA 23219, telephone (804) 726-7922, FAX (804) 726-7946 or email james.grigsby@dss.virginia.gov.

VA.R. Doc. No. R05-232; Filed June 22, 2005, 8:59 a.m.

Notices of Intended Regulatory Action

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Social Services intends to consider amending regulations entitled **22 VAC 40-80, General Procedures and Information for Licensure**. The purpose of the proposed action is to conform the regulation with legislative changes passed by the 2005 General Assembly relating to terms of license, administrative sanctions, and hearings procedures.

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

Statutory Authority: §§ 63.2-217, 63.2-1732, 63.2-1733 and 63.2-1734 of the Code of Virginia.

Public comments may be submitted until July 27, 2005.

Contact: Kathryn Thomas, Program Development Consultant, Department of Social Services, 7 N. 8th St., Richmond, VA 23219, telephone (804) 726-7158, FAX (804) 726-7132 or email kathryn.thomas@dss.virginia.gov.

VA.R. Doc. No. R05-222; Filed June 10, 2005, 8:26 a.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Social Services intends to consider adopting regulations entitled **22 VAC 40-211, Resource, Foster and Adoptive Family Home Approval Standards**. The purpose of the proposed action is to adopt a new regulation specific to the approval requirements for resource, foster and adoptive family homes providers approved by local departments of social services. The new regulation will include many of the provisions from 22 VAC 40-770, Standards and Regulations for Agency Approved Providers, which is being repealed. The new regulation will ensure compliance with changes to federal and state laws and regulations regarding resource, foster and adoptive family homes.

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

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

Public comments may be submitted until August 10, 2005.

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

VA.R. Doc. No. R05-233; Filed June 22, 2005, 8:59 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 repealing regulations entitled **22 VAC 40-770, Standards and Regulations for Agency Approved Providers** and adopting regulations entitled **22 VAC 40-771, Adult Services Approved Providers**. The purpose of the proposed action is to repeal the existing regulation 22 VAC 40-770 and replace it with a new regulation. 22 VAC 40-770,

Standards and Regulations for Agency Approved Providers, includes generic provisions that apply to all providers approved by local departments of social services, including adult services, child care, foster care and adoptive home providers. Because of the uniqueness of each type of provider, such a format is not longer effective. The new regulation 22 VAC 40-771, Adult Services Approved Providers, will address only providers contracted through the adult services program. Separate regulations will be proposed for child care and permanency (foster care and adoptive home) providers.

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

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

Public comments may be submitted until August 10, 2005.

Contact: Sue Murdock, Adult Services Program Consultant, Department of Social Services, 7 N. 8th St., Richmond, VA 23219, telephone (804) 726-7616, FAX (804) 726-7895 or email susan.murdock@dss.virginia.gov.

VA.R. Doc. No. R05-227; Filed June 14, 2005, 2:17 p.m.

TITLE 24. TRANSPORTATION AND MOTOR VEHICLES

DEPARTMENT OF MOTOR VEHICLES

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Motor Vehicles intends to consider promulgating regulations entitled **24 VAC 20-81, Hauling Permits**. The purpose of the proposed action is to establish requirements for the issuance of permits to haul overweight and over dimension vehicles over the highways of Virginia.

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

Statutory Authority: § 46.2-1128 of the Code of Virginia.

Public comments may be submitted until July 27, 2005.

Contact: Ron Thompson, Senior Policy Analyst, Department of Motor Vehicles, P.O. Box 27412, Richmond, VA 23269-0001, telephone (804) 367-1844, FAX (804) 367-6631, toll-free (800) 435-5137 or email ronald.thompson@dmv.virginia.gov.

VA.R. Doc. No. R05-220; Filed June 8, 2005, 10 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 6. CRIMINAL JUSTICE AND CORRECTIONS

CRIMINAL JUSTICE SERVICES BOARD

Title of Regulation: **6 VAC 20-240. Regulations Relating to School Security Officers (adding 6 VAC 20-240-10 through 6 VAC 20-240-120).**

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

Public Hearing Date: September 8, 2005 - 9 a.m.

Public comments may be submitted until September 9, 2005.

(See Calendar of Events section for additional information)

Agency Contact: Donna Bowman, Manager, Center for School Safety, Department of Criminal Justice Services, 805 East Broad Street, Richmond, VA 23219, telephone (804) 371-6506, FAX (804) 371-8981 or e-mail donna.bowman@dcjs.virginia.gov.

Basis: Section 9.1-102 of the Code of Virginia requires the department to establish compulsory minimum standards for employment and job-entry and in-service training curricula and certification requirements for school security officers.

In addition, § 9.1-184 of the Code of Virginia mandates the Virginia Center for School Safety at the Department of Criminal Justice Services to provide training and certification of school security officers.

School security officers are a vital and essential component of many localities' school safety plan. Structured, consistent training and certification for these officers is also required now by the Code of Virginia, and certainly needed to provide a minimum level of competency in the performance of this function. The purpose of this regulatory action is to provide localities with minimum guidelines for hiring security officers and the minimum training requirements needed for the officer to be effective in promoting school safety.

Substance: This regulatory action identifies compulsory minimum standards for employment, entry-level and in-service training requirements, and certification requirements for school security officers. Currently, there is no required training for these officers. This regulatory action will consolidate and standardize minimum entry-level and employment requirements as well as provide a certification component to ensure all school security officers in Virginia have minimum training and professional development opportunities. This will assure a minimum level of competency in the job of school safety officer and have a positive impact on the school safety climate at the local level.

Issues: Legislation was enacted to address the increasing vigilance and proficiency necessary to ensure a safe school

environment in light of homeland security issues and the ever-increasing complexity of school safety concerns. The primary advantage to enacting these regulations is that they address the advantages outlined by the constituents in their concerns listed below. When the Crime Commission reported on the study of school systems that employed security officers in 2001 (HD 31), the vast majority of school divisions responded that there was a need to:

1. Provide consistency and continuity across the state;
2. Ensure proper training of school employees;
3. Mitigate school division liability by ensuring compliance with state and federal laws; and
4. Protect students from possible violations of their rights.

Through the employment and training certifications outlined in the regulations, these concerns are addressed and mitigated.

The disadvantage to the issuance of these regulations is the minimal cost involved in compliance. The cost of requiring a records check on individuals as a condition of employment falls on the local school divisions; however, most division were already assuming this cost as part of local hiring practices. The cost of training is minimal in that the curriculum and standards have been developed by DCJS and the cost of materials for all school security officers is incurred by the state. Through the use of locally trained instructors, localities can train their own employees to the certification standards.

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 Section 2.2-4007.G of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007.G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the Proposed Regulation. Chapter 836 of the 2002 Acts of Assembly amended § 9.1-102 of the Code of Virginia such that the Department of Criminal Justice Services (DCJS) has the power and duty to establish, in consultation with the Department of Education and the Virginia State Crime Commission, compulsory minimum standards for employment, including initial training, in-service training, and other requirements for certification as a school security officer (SSO).

Proposed Regulations

The proposed regulation requires all SSOs to be certified and establishes minimum requirements for certification and recertification. The proposed regulation also requires instructors providing SSO training to be approved by DCJS. It establishes minimum requirements for obtaining and renewing approval as an SSO training instructor.

An emergency regulation to this effect has been in place since August 2004.

Estimated Economic Impact. Description of Regulation: School Security Officers: The proposed regulation requires all SSOs to be certified and establishes minimum requirements for certification and recertification. In order to obtain initial certification, applicants are required to complete compulsory minimum training developed and approved by DCJS. SSOs are required to complete the required training within 60 days of being hired. Extension of the 60-day time limit may be granted under certain circumstances. The compulsory minimum training is to consist of a 32-hour training curriculum that includes training in the role and responsibility of SSOs, relevant state and federal laws, school and personal liability issues, security awareness in the school environment, mediation and conflict resolution, disaster and emergency response, and student behavioral dynamics. The Code of Virginia requires the SSO training curriculum to include these topics. The training curriculum was developed based on the legislative outline and the curriculum for school resource officers (SRO)¹. The curriculum was then reviewed and amended by the SSO working group². DCJS estimates that Module 1 (Roles and Responsibilities) will require a minimum of eight hours, Module 2 (Legal Issues) will require a minimum of 16 hours, and Module 3 (Today's Student) will require a minimum of eight hours. Applicants are expected to take a test for each module and pass with a minimum grade of 80%. Applicants are also required to meet attendance requirements specified in the regulation. Those who miss any part of the training are required to make it up either within 60 days or when the next session is offered, or risk not being certified.

In addition to the minimum training requirements and any applicable school board requirements, applicants are required to meet certain minimum employment requirements prior to being certified. They are required to undergo a background check, both to the Central Criminal Records Exchange (CCRE) and the Federal Bureau of Investigation (FBI), such that the results of the check are available within 30 days of employment. They are required to have a high school education, have passed the General Educational Development examination, or have passed the National External Diploma program. They are also required to be at least 21 years old, possess a valid driver's license (if SSO duties require operation of a motor vehicle), and have successfully completed basic first aid training. The employing localities are responsible for verifying and certifying to DCJS that the minimum employment requirements are met. They are

also responsible for costs of the background check and the first aid training.

Certification is to remain valid for a period of 24 months. Applications for recertification are to be submitted to DCJS at least 30 days before certification expires. Extension of the 30-day time limit may be granted under certain circumstances. However, individuals whose certification expires without a request for extension being filed are required to comply with initial certification requirements. Applicants for recertification are required to complete at least 16 hours of DCJS-approved in-service training. They are required to submit the agenda and outline of any training for which they are seeking in-service credit to DCJS for approval.³ Following approval of the training, applicants are required to submit proof that they have completed the training within the required time frame. According to DCJS, applicants will be able to take any of the approximately 43 different training programs sponsored by the Virginia Center for School Safety for partial in-service credit. Applicants are allowed to continue operating in the capacity of an SSO pending notification by DCJS regarding a recertification application.

DCJS is required to notify the applicant and the employing school division of its decision regarding initial certification once it receives a completed application and is notified of successful completion of training. Certified SSOs can be decertified by DCJS for a number of reasons, including conviction of or pleading guilty or no contest to a felony or any offense that would be a felony in Virginia, failure to meet training requirements, termination of employment, violation of school board policy or standards of conduct established in the regulation, and refusal to submit to a drug screening or a positive result on a drug screening. The proposed regulation provides for an appeals process in the event an application is denied or an individual is decertified. DCJS is required to maintain a current database of all certified SSOs and their training records.

SSO Training Instructor Approval: The proposed regulation also requires instructors providing SSO training to be approved by DCJS. It establishes minimum requirements for obtaining and renewing approval as an SSO training instructor. Applicants for initial approval are required to be certified as an SSO or be employed by DCJS. They are required to have a high school education, have passed the General Educational Development examination, or have passed the National External Diploma program. They are also required to either have minimum three years of management or supervisory experience or have five years of general experience as an SSO or with any federal, military police, state, county, or municipal law-enforcement agency in a related field. In addition, they are required to have completed an SSO instructor course approved by DCJS or have minimum one year of experience as an instructor or teacher at an accredited educational institution or agency.

Approval is to remain valid for 24 months. Applications for renewal of approval are to be submitted at least 30 days before expiration. Applicants are required to have completed eight hours of DCJS-approved instructor in-service training in

¹ SROs are defined as certified law-enforcement officers hired by a local law enforcement agency to provide law enforcement and security services to Virginia public, elementary, and secondary schools.

² The SSO working group was made up of security directors from school divisions employing a large number of SSOs, such as Fairfax, Newport News, Norfolk City, Prince William, and Virginia Beach.

³ This is similar to how in-service training credit is handled by law enforcement.

the 12 months immediately preceding the renewal application and be in good standing in the jurisdiction where approved as an instructor. Individuals whose approval expires are required to comply with initial approval requirements. In order to maintain approval, SSO training instructors are required to ensure that attendance and other administrative requirements specified in the regulation are met. Instructors are responsible for monitoring student attendance and reporting students that are not present for the required number of hours of training. Instructors are also required to notify DCJS of training sessions to be conducted, including any changes to the date, time, and location of the session, conduct training session in accordance with lesson plans developed by DCJS, allow DCJS to inspect and observe training sessions, provide instruction in no less than four-hour sessions, administer examinations at the end of each module of entry-level training, and submit a training completion roster (listing the student's score and attendance record) and all tests to DCJS. In addition, instructors are required to meet standards of conduct established in the regulation.

Estimated Economic Impact. The proposed regulation is likely to impose economic costs. It will make it more expensive and more difficult to operate as an SSO or an SSO training instructor.

1. Training Requirements: The proposed regulation establishes minimum training requirements for certification as an SSO or approval as an SSO training instructor.

Individuals seeking to operate as SSOs will be required to meet initial and in-service training requirements. According to DCJS, the cost of initial training is estimated to be \$112.50 per hour for DCJS-conducted training.⁴ The cost of initial training conducted by localities is estimated to be \$256.50 per hour for a class of 25 students.⁵ The cost of providing the initial training curriculum is estimated at \$25 per copy. DCJS anticipates that it will be required to provide 400 copies of the curriculum per year at a cost of \$10,000. In addition to initial training, SSOs are required to have 16 hours of DCJS-approved in-service training in order to be recertified. The cost of the in-service training requirement is likely to vary depending on the nature and type of training. For example, an SSO can attend training programs currently being sponsored by the Virginia Center for School Safety at no cost or he can pay to attend other types of training programs approved by DCJS for in-service credit.

Individuals seeking to operate as SSO training instructors are required to complete an SSO instructor course approved by DCJS or have minimum one year of experience as an instructor or teacher at an accredited educational institution or agency. According to DCJS, the cost of initial SSO instructor training is \$112.50 per hour or \$3,600 for 32 hours of initial training. However, not all SSO training instructor applicants will be required to participate in the training. Individuals with at least one year of experience as an instructor or teacher at an accredited educational institution or agency can seek approval as an SSO training instructor without completing the training. In addition to initial training requirements, SSOs are required

to have eight hours of DCJS-approved in-service training in order to renew their approval. DCJS anticipates sponsoring at least one annual SSO instructor in-service training course each year to be provided free of charge. DCJS estimates that an eight-hour course for a class of 100 students will cost the agency \$325 per hour or \$2,600 for the full eight hours.⁶

In addition to the cost of the training itself, the proposed change is also likely to impose some additional economic costs. The time taken to meet the training requirements must be valued as time that would have otherwise been used for regular SSO- and SSO instructor-related activities. Thus, the proposed change will result in lost income for the SSO or a loss of productivity for the school division employing the SSO during the time they are in training. The proposed change is also likely to impose some travel-related costs, including costs related to traveling to and from the training center and costs related to any overnight stays. DCJS is currently required to provide lodging for individuals attending DCJS-conducted training. The agency estimates that it costs approximately \$5,000 to lodge 25-30 people for four days. The lodging costs for locality-conducted training are likely to be minimal as the training is usually conducted in the locality where the SSO is employed.

2. Employment Requirements: The proposed regulation requires SSOs and SSO training instructors to meet minimum employment requirements specified in the regulation.

All SSOs are required to undergo a background check to the CCRE and the FBI. According to DCJS, local ordinances currently require individuals working with children to undergo background checks to the CCRE. However, not all localities require a background check to the FBI. The total cost of conducting a background check to the CCRE and the FBI is estimated to be \$37 per applicant, \$13 for the CCRE check and \$24 for the FBI check. The cost of the background check is to be incurred by the locality employing the SSO.

All SSOs are required to successfully complete basic first-aid training. The cost associated with this requirement is likely to vary as localities are allowed to choose the level and substance of the training. However, a combined CPR and first-aid class conducted by the Red Cross lasts about six hours and CPR and first-aid certification through the Red Cross costs \$60. The cost of the first-aid training is to be incurred by the locality employing the SSO.

The remaining requirements for certification as an SSO or approval as an SSO training instructor serve to reduce the pool of potential applicants. For example, individuals who do not have a high school level education or are less than 21 years old will not be eligible for certification as an SSO. Individuals without SSO certification and without the requisite amount of work experience will not be eligible to apply for approval as an SSO training instructor. By restricting the pool of applicants in this manner, the proposed regulation could result in fewer individuals being certified as SSOs or approved as SSO training instructors. This, in turn, could increase in the cost of these services in Virginia.

⁴ or \$3,600 for 32 hours of initial training

⁵ or \$8,208 for 32 hours of initial training

⁶ \$2,000 for one night's lodging for 100 students + \$500 per day to the course instructor + \$100 for refreshments

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3. Administrative Requirements: DCJS is likely to incur additional costs in running the SSO program. The agency estimates that it will require \$90,000 per year to administer the program (\$65,000 per year for a full-time position and \$25,000 for a part-time position). In addition, the agency expects to incur \$7,500 per year in travel-related expenses for DCJS staff to monitor training sessions conducted by localities⁷. DCJS also anticipates major revisions to the curriculum every 3-4 years at a cost of \$4,000 per revision. The cost to create the initial curriculum was \$25,000. As the agency does not intend to charge for certification, recertification, approval, or renewal of approval, the entire costs of running the program will be borne by DCJS.

The proposed regulation is also likely to produce economic benefits. It is intended to improve school safety climate by ensuring that all SSOs have a minimum level of competency in the job. A survey of school divisions conducted by the Virginia State Crime Commission (VSCC) in 2002⁸ found that 19 of the 111 school divisions responding to the survey reported employing SSOs or school security specialists. However, due to a lack of state oversight, school divisions developed their own school security programs, with varying training, employment, and job requirements. Only eight of the 19 school divisions required any entry-level training for SSOs, with the remaining 11 requiring some form of training later in the employment tenure. For those that did require entry-level training, the amount of training ranged from 12 hours to 103 hours. Employment requirements also varied across school divisions. For example, out of 19 school divisions employing SSOs, three required drug screening at job entry, five required a physical examination, one required psychological testing, and nine required U.S. citizenship. SSO job responsibilities also varied across school divisions. While some areas of responsibility were similar across most school divisions⁹, law enforcement-related responsibilities varied widely across school divisions. One-third of school divisions reported having law enforcement-related activities as part of an SSO's job responsibility. Of the school divisions employing SSOs, six conducted on-site arrests for violations of the law, seven pursued school-based violations off school property, and six pursued violations off school property when they occurred during a school-sponsored trip or event.

Individuals operating as SSOs have the potential to be a hazard to public safety, such as through the illegal search and seizure of students and property. According to DCJS, there have been two lawsuits against localities in the last decade relating to the activities of SSOs. By establishing minimum training and employment requirements, the proposed regulation is intended to reduce the potential for harm from search and seizure activities in response to violations of school board policies or the law. Establishment of minimum employment standards and of a process for training and

certification of SSOs was one of the recommendations of the 2002 VSCC report.

In addition, by clarifying the job responsibilities of SSOs, the proposed regulation is likely to remove any confusion regarding the legal standard under which SSOs are to operate. According to the 2002 VSCC report, some school divisions were having their SSOs sworn in as Conservators of the Peace.¹⁰ Conservators of the Peace are considered law-enforcement officers and are, thus, held to a different standard of action compared to school officials. For example, law-enforcement officers are required to operate under a probable cause standard whereas school security officers acting in their capacity as a school official are required to operate on a reasonable suspicion standard. The problem arises when an SSO conducts searches based on reasonable suspicion in his capacity as a school official and uses the information collected during the search to develop probable cause and carry out arrests in his capacity as a law-enforcement officer¹¹. To prevent such instances, the Code of Virginia was amended to distinguish SROs from SSOs, with the former defined as law-enforcement officers and required to act under a probable cause standard and the latter defined as a school official and required to act under a reasonable suspicion standard.

Establishment of statewide training and certification requirements for SSOs could also produce some additional economic benefits. Most of the school divisions and principals surveyed as part of the 2002 VSCC report supported the establishment of statewide requirements. Specifically, 84% of the school divisions and 77% of middle, high, and secondary school principals responding to the survey supported uniform training and certification of SSOs. The three most cited reasons for uniform standards and certification requirements were consistency and continuity across the state, proper training of school employees, and mitigation of school division liability.

The net economic impact of the proposed regulation will depend on whether the additional costs imposed by the regulation are greater than or less than its benefits. On one hand, the proposed regulation makes it more difficult and more expensive for individuals to operate as SSOs and for school divisions to hire SSOs. It also imposes additional administrative and other costs on DCJS. On the other hand, the proposed regulation is likely to reduce the potential for harm to students studying in Virginia's public schools. Students are less likely to be subject to illegal search and seizure. Moreover, the additional training and certification requirements are likely to ensure that SSOs across the state are able to carry out their responsibilities with a minimum level of competency. The net economic impact of the proposed change will depend on whether the requirements of the proposed regulation are commensurate with the safety risk to students studying in Virginia's public schools. If the requirements are the minimum necessary to protect students,

⁷ \$150 per day x 5 days per month x 10 months per year

⁸ "Study of School Security Officers", House Document No. 31, Report of the Virginia State Crime Commission to the Governor and General Assembly of Virginia, 2002.

⁹ Uniform job responsibilities included building security, building safety audits/assessments, roving security patrols, participation in crisis response teams, monitoring of alarm/close-circuit television equipment, on-site patrols, and maintaining security at after-hours extra-curricular events.

¹⁰ According to the 2002 VSCC survey, seven divisions reported having their SSOs sworn in as Conservators of the Peace.

¹¹ According to DCJS, SSOs are not allowed to possess arrest authority under the Code of Virginia. However, they are allowed to detain students on school property for violations of school rules and policies or the law. They are also allowed to detain students for the purpose of identification or for the safety and security of the school or the student.

the proposed regulation is likely to produce a net positive economic impact. The additional cost associated with the regulation can be viewed as part of the compliance cost incurred to ensure a safe school environment. If, on the other hand, the requirements are excessive given the risks, the proposed regulation, by imposing unnecessary requirements, is likely to lead to a waste of resources and have a net negative economic impact.

A precise estimate of all the costs and benefits, and hence of the net economic impact, is not possible at this time. Only some of the costs can be reasonably estimated. An estimate of the reduction in risk to students from the establishment of uniform certification requirements is also not possible at this time. However, the requirements of the proposed regulation appear to be reasonable and consistent with the safety risk to students. Thus, the costs and the benefits associated with the proposed regulation do not appear to be significantly different from each other.

Businesses and Entities Affected. The proposed regulation affects all individuals seeking to operate as SSOs or SSO training instructors in Virginia. All SSOs will now be required to be certified and meet minimum certification and recertification requirements established in the regulation. All SSO training instructors will now be required to be approved and meet minimum approval and approval renewal requirements established in the regulation.

According to DCJS, there are currently 948 SSOs employed by 35 localities operating in Virginia. In addition, there are approximately 10-20 SSOs employed by Governor's schools and alternative schools operating in the state. Of these, 800 SSOs are expected to complete the required training by the end of this month. DCJS also estimates that there are currently 75 instructors trained and ready for approval.

Localities Particularly Affected. The proposed regulation applies to all localities in the Commonwealth. However, only 35 localities currently employ SSOs and these localities are likely to be the most affected. Localities not currently requiring SSOs to undergo a background check to the CCRE and the FBI will have to incur the cost of conducting a background check. Localities will also have to incur the cost of providing basic first-aid training to SSOs. Some or all of the cost associated with meeting the initial and in-service training requirement for SSO and SSO training instructors is likely to be incurred by localities. Finally, depending on labor market conditions and how restrictive the proposed employment requirements are, localities may have to pay more for SSO and SSO training instructor services.

Projected Impact on Employment. By making it more difficult and more expensive to operate as an SSO or an SSO training instructor, the proposed regulation could have a negative impact on the number of people employed in these capacities. Individuals seeking these appointments will now be required to be certified or approved by DCJS and meet all the requirements of the proposed regulation prior to operating as an SSO or an SSO training instructor.

Effects on the Use and Value of Private Property. As most of the costs associated with the proposed regulation are likely to be incurred by the state and localities employing SSOs, the

proposed regulation is not likely to have a significant impact on the use and value of private property.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Department of Criminal Justice Services, Law Enforcement Services Section, concurs with the economic impact analysis as reviewed by the Department of Planning and Budget.

Summary:

The proposed regulation requires all school security officers to be certified and establishes minimum requirements for certification and recertification. The proposed regulation also requires instructors providing school security officer training to be approved by the department. It establishes minimum requirements for obtaining and renewing approval as a school security officer training instructor.

CHAPTER 240.

REGULATIONS RELATING TO SCHOOL SECURITY OFFICERS.

6 VAC 20-240-10. Definitions.

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

"Approved instructor" means a person who has been approved by the department to instruct in the school security officer training course.

"Approved training" means training approved by the department to meet compulsory minimum training standards.

"Approved training session" means a training session that is approved by the department for the specific purpose of training school security officers.

"Board" means the Criminal Justice Services Board or any successor board or agency.

"Certification" means a method of regulation indicating that qualified persons have met the minimum requirements as school security officers.

"Compulsory minimum training standards" means the performance outcomes and minimum hours approved by the board.

"Date of hire" means the date any employee of a school board or system is hired to provide security services for a school and whom the department must regulate.

"Department" means the Department of Criminal Justice Services or any successor agency.

"Director" means the chief administrative officer of the department.

"In-service training requirement" means the compulsory in-service training standards adopted by the board for school security officers.

"School security officer" means an individual who is employed by the local school board for the singular purpose of maintaining order and discipline, preventing crime,

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investigating violations of school board policies, and detaining students violating the law or school board policies on school property or at school-sponsored events and who is responsible solely for ensuring the safety, security, and welfare of all students, faculty, staff, and visitors in the assigned school.

"This chapter" means the Regulations Relating to School Security Officers (6 VAC 20-240).

"Training certification" means verification of the successful completion of any training requirement established by this chapter.

"Training requirement" means any entry-level or in-service training or retraining standard established by this chapter.

6 VAC 20-240-20. Initial certification and training requirements for school security officers.

A. In addition to meeting all the hiring requirements of the employing school board, all school security officers who enter upon the duties of such office on or after September 1, 2004, are required to meet the following minimum certification and training requirements. Such person shall:

1. Undergo a background investigation to include fingerprint-based criminal history record inquiry of both the Central Criminal Records Exchange (CCRE) and the Federal Bureau of Investigation (FBI). Results of such inquiries shall be examined by the employing school division within 30 days of date of hire;

2. Have a high school education, have passed the General Educational Development exam, or have passed the National External Diploma program;

3. Be a minimum of 21 years of age;

4. Possess a valid driver's license if required by the duties of office to operate a motor vehicle;

5. Successfully complete basic first aid training. The level and substance of such training shall be at the discretion of the employing school division;

6. Comply with compulsory minimum entry-level training requirements approved by the board:

a. Every school security officer hired on or after September 1, 2004, is required to comply with the compulsory minimum training standards within 60 days of the date of hire as a school security officer.

b. The compulsory minimum training shall consist of a 32-hour school security officer training course developed and approved by the department. Such training shall include but not be limited to:

- (1) The role and responsibility of school security officers,
- (2) Relevant state and federal laws,
- (3) School and personal liability issues,
- (4) Security awareness in the school environment,
- (5) Mediation and conflict resolution,

(6) Disaster and emergency response, and

(7) Student behavioral dynamics.

c. The compulsory minimum training shall include a test for each module approved and provided by the department with a minimum passing grade of 80% on each module; and

7. Submit to the department a properly completed and signed application for certification from the localities in a format provided by the department.

B. All costs associated with the background investigation, submission of fingerprints for criminal history record inquiries, and basic first aid training to meet the hiring requirements are the responsibility of that locality.

C. The department may grant an extension of the time limit for completion of the compulsory minimum training standards under the following documented conditions:

1. Illness or injury;

2. Military service;

3. Special duty required and performed in the public interest;

4. Administrative leave, full-time educational leave or suspension pending investigation or adjudication of a crime; or

5. Any other reasonable situation documented by the employing school division superintendent.

6 VAC 20-240-30. Department certification procedures.

A. The department will notify the applicant for school security officer certification and the superintendent of the employing school division that the school security officer is certified in accordance with this regulation after the following conditions are met:

1. Notification to the department by the instructor that the applicant for school security officer certification has successfully completed the compulsory minimum entry-level training;

2. Receipt by the department of signed application for certification.

B. If a school security officer seeking certification is denied by the department, the department will notify the superintendent and the applicant by letter outlining the basis for the denial and the process for appeal of the decision to deny.

C. The department shall maintain a current database of certified school security officers as well as relevant training records.

D. Certification shall be for a period not to exceed 24 months.

6 VAC 20-240-40. School security officer standards of conduct.

A school security officer shall:

1. Conform to all requirements pursuant to the Code of Virginia and this chapter;

2. Maintain at all times with the employing school division a valid mailing address. Written notification of any address change shall be submitted to the division no later than 10 days after the effective date of the change;

3. Inform the employing school division in writing within 10 days after pleading guilty or nolo contendere or being convicted or found guilty of any felony or a misdemeanor;

4. Inform the employing school division in writing within 10 days after having been found guilty by any court or administrative body of competent jurisdiction to have violated the school security officer statutes or regulations of that jurisdiction, there is no appeal, or the time for appeal having elapsed.

6 VAC 20-240-50. Recertification of school security officers.

A. Applications for recertification shall be received by the department at least 30 days before certification expiration. It is the responsibility of the individual to ensure recertification applications are filed with the department. A valid certification as a school security officer is required in order to remain eligible for employment as a school security officer. If the school security officer recertification application is on file with the department 30 days prior to expiration, the school security officer may continue to operate in the school security officer capacity pending notification by the department.

B. Applicants for recertification must complete 16 hours of in-service training during each two-year period after initial certification. The in-service training must be school security officer related to include a legal update and other relevant topics approved by the department.

C. Individuals whose certification is expired shall comply with the initial certification requirements set forth in this chapter.

D. The department, subject to its discretion, retains the right to grant an extension of the recertification time limit and requirements under the following conditions:

1. Illness or injury;
2. Military service;
3. Special duty required and performed in the public interest;
4. Administrative leave, full-time educational leave or suspension pending investigation or adjudication of a crime; or
5. Any other reasonable situation documented by the employing school division superintendent.

E. Request for extensions shall:

1. Be submitted in writing and signed by the school superintendent prior to the expiration date of the time limit for completion of the requirement;
2. Indicate the projected date for the completion of the requirement.

6 VAC 20-240-60. Decertification and appeal procedure.

A. The department may decertify for any of the following reasons. The school security officer has:

1. Been convicted of or pled guilty or no contest to a felony or any offense that would be a felony if committed in Virginia;
2. Failed to comply with or maintain compliance with compulsory minimum training requirements;
3. Refused to submit to a drug screening or has produced a positive result on a drug screening reported to the employing school board where the positive result cannot be explained to the school board's satisfaction;
4. Violated any standard of conduct set forth in 6 VAC 20-240-40;
5. Violated any other school board policy; or
6. Been terminated by the employing school division.

B. Such school security officer shall not have the right to serve as a school security officer within this Commonwealth until the department has reinstated the certification.

C. The findings and the decision of the department may be appealed to the board provided that written notification is given to the attention of the Director, Department of Criminal Justice Services, 805 East Broad St., Richmond, Virginia 23219, within 30 days following the date notification of the decision was served, or the date it was mailed to the respondent, whichever occurred first. In the event the hearing decision is served by mail, three days shall be added to that period. (Rule 2A:2 of Rules of the Virginia Supreme Court.)

6 VAC 20-240-70. Instructor application.

A. The department may approve instructors to deliver school security officer training and may revoke such approval for just cause.

B. Each person applying for instructor approval shall:

1. Be currently certified as a school security officer or employed by the department;
2. Have a high school diploma or equivalent (GED) or have passed the National External Diploma Program;
3. Have a minimum of:
 - a. Three years management or supervisory experience as a school security officer or with any federal, military police, state, county or municipal law-enforcement agency in a related field; or
 - b. Five years general experience as a school security officer, or with a federal, state or local law-enforcement agency in a related field;
4. Have completed:
 - a. A school security officer instructor course approved by the department; or

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b. Have a minimum of one-year experience as an instructor or teacher in an accredited educational institution or law-enforcement agency.

C. Each person applying for instructor approval shall file with the department:

1. A properly completed application provided by the department;
2. Documentation verifying that the applicant meets the minimum eligibility requirements pursuant to this section;
3. Documentation verifying previous instructor experience, training, work experience and education for those subjects in which certification is requested.

D. The department will evaluate qualifications based upon the justification provided.

E. Upon completion of the instructor application requirements, the department may approve the instructor for a period not to exceed 24 months.

F. Each instructor shall conduct himself in a professional manner and the department may revoke instructor approval for just cause.

G. Applicants for instructor approval may submit a waiver application form for review by the department outlining previous instructor training or related experience. The department reserves the right to review each waiver application and evaluate qualifications and experience on an individual basis.

6 VAC 20-240-80. Renewal instructor application.

A. Renewal instructor applications shall be received by the department at least 30 days before expiration. It is the responsibility of the instructor to ensure renewal requirements are filed with the department.

B. Each person applying for renewal instructor approval shall meet the minimum requirements for eligibility as follows:

1. Successfully complete the eight-hour instructor in-service training as required by the department within the 12 months immediately preceding the expiration date of the current approval; and
2. Be in good standing in the jurisdiction where approved as an instructor.

C. The department may renew instructor approval for a period not to exceed 24 months.

D. The department may renew instructor approval when the department receives a properly completed renewal application provided by the department.

E. Any renewal instructor application received by the department shall meet all renewal requirements before the expiration date of approval. Individuals whose approval is expired may be subject to the initial approval requirements.

6 VAC 20-240-90. School security officer instructor standards of conduct.

An instructor shall:

1. Conform to all requirements pursuant to the Code of Virginia and this chapter;

2. Maintain a current mailing address with the department. Written notification of any address change shall be received by the department no later than 10 days after the effective date of the change;

3. Inform the department in writing within 10 days after pleading guilty or nolo contendere or being convicted or found guilty of any felony or of a misdemeanor;

4. Inform the department in writing within 10 days after having been found guilty by any court or administrative body of competent jurisdiction to have violated the school security officer statutes or regulations of that jurisdiction, there being no appeal or the time for appeal having elapsed;

5. Conduct training sessions pursuant to requirements established in this chapter;

6. Notify the department within 10 calendar days following termination of employment; and

7. Conduct himself in a professional manner.

6 VAC 20-240-100. School security officer instructor administrative requirements.

A. School security officer instructors shall ensure that training sessions are conducted in accordance with requirements established in this chapter. Adherence to the administrative requirements, attendance, and standards of conduct are the responsibility of the instructor of the training session.

B. Administrative requirements.

1. In a manner approved by the department, an approved instructor must submit a notification to conduct a training session to the department. All notifications shall be received by the department, or postmarked if mailed, no less than 30 calendar days before the beginning of each training session to include the date, time, instructors, and location of the training session. The department may allow a training session to be conducted with less than 30 calendar days of notification with prior approval.

2. The instructor must submit notification of any changes to the date, time, location, or cancellation of a future training session to the department in writing. This notice must be received by the department at least 24 hours in advance of the scheduled starting time of the class. In the event that a session must be cancelled on the scheduled date, the department must be notified immediately followed by a cancellation in writing as soon as practical.

3. A test determined by the department shall be administered at the conclusion of each module of the entry-level training session. The student must attain a grade of 80% on each module. All tests must be returned to the department with the accompanying training roster and attendance records in a manner approved by the department.

4. In a manner approved by the department, the instructor shall submit an original training completion roster to the department listing testing scores and attendance records for

each student. The training completion roster shall be received by the department within seven calendar days, or postmarked if mailed, no later than five business days following the training completion date.

5. Instructors will conduct training sessions utilizing lesson plans developed by the department including at a minimum the compulsory minimum training standards established pursuant to this chapter. Instructors must maintain accurate and current information on relevant laws and make changes to the curriculum. It is the instructor's responsibility to assure they have the most recent curriculum supplied by the department.

6. Instruction shall be provided in no less than four-hour sessions for a combined total certification course of 32 hours.

7. A training session must adhere to the minimum compulsory training standards and must be presented in its entirety.

8. The instructor shall permit the department to inspect and observe any training session.

9. Mandated training conducted not in accordance with the Code of Virginia and this chapter is invalid.

C. Attendance.

1. School security officers enrolled in an approved training session are required to be present for the hours required for each training session.

2. Tardiness and absenteeism will not be permitted. Individuals violating these provisions will be required to make up any training missed. Such training must be completed within 60 days after the completion of the training session or at the next available session offered if it is held in the same school year. Individuals not completing the required training within this period may not be certified or recertified and may be required to complete the entire training session.

3. Individuals who do not successfully complete the compulsory minimum training standards of the training session shall be reported to the department and will not be certified.

4. Each individual attending an approved session shall comply with the regulations promulgated by the board and any other rules applicable to the session. If the instructor considers a violation of the rules detrimental to the training of other students or to involve cheating on tests, the instructor may expel the individual from the session. The instructor shall immediately report such action to the employing locality and the department.

6 VAC 20-240-110. Approval authority.

A. The board shall be the approval authority for the training categories, hours and performance outcomes of the compulsory minimum training standards. Amendments to training categories, hours and performance outcomes shall be made in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

B. The board shall be the approval authority for the training objectives, criteria and lesson plan guides that support the performance outcomes. Training objectives, criteria and lesson plan guides supporting the compulsory minimum training standards and performance outcomes may be added, deleted or amended by the board based upon written recommendation of the School Security Officer Advisory Committee.

C. Prior to approving changes to training objectives, criteria or lesson plan guides, the board shall conduct a public hearing. Sixty days before the public hearing, the proposed changes shall be distributed to all affected parties for the opportunity to comment. Notice of change of training objectives, criteria and lesson plan guides shall be filed for publication in the Virginia Register of Regulations upon adoption, change or deletion. The department shall notify each approved instructor in writing of any new, revised or deleted objectives. Such adoptions, changes or deletions shall become effective 30 days after notice of publication in the Virginia Register.

6 VAC 20-240-120. Hearing process.

The board will hear and act upon appeals arising from decisions made by the director. In all case decisions, the Criminal Justice Services Board shall be the final agency authority.

VA.R. Doc. No. R05-188; Filed June 20, 2005, 2:29 p.m.



TITLE 9. ENVIRONMENT

STATE AIR POLLUTION CONTROL BOARD

Titles of Regulations: 9 VAC 5-50. New and Modified Stationary Sources (amending 9 VAC 5-50-250, 9 VAC 5-50-270, 9 VAC 5-50-280).

9 VAC 5-80. Permits for Stationary Sources (amending 9 VAC 5-80-1100, 9 VAC 5-80-1110, 9 VAC 5-80-2000 through 9 VAC 5-80-2020, 9 VAC 5-80-2040 through 9 VAC 5-80-2070, 9 VAC 5-80-2090, 9 VAC 5-80-2110, 9 VAC 5-80-2120, 9 VAC 5-80-2140, 9 VAC 5-80-2180, 9 VAC 5-80-2210 through 9 VAC 5-80-2240; adding 9 VAC 5-80-1605 through 9 VAC 5-80-1865, 9 VAC 5-80-1925 through 9 VAC 5-80-1995, 9 VAC 5-80-2091, 9 VAC 5-80-2141 through 9 VAC 5-80-2144; repealing 9 VAC 5-80-1310, 9 VAC 5-80-1700 through 9 VAC 5-80-1970).

Statutory Authority: § 10.1-1308 of the Code of Virginia; Clean Air Act (§§ 110, 112, 165, 173, 182 and Title V); 40 CFR Parts 51, 61, 63, 70 and 72.

Public Hearing Date: August 17, 2005 - 4 p.m.

Public comments may be submitted until 5 p.m. on September 12, 2005.

(See Calendar of Events section for additional information)

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

Proposed Regulations

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

Purpose: The purpose of the regulations is to (i) protect public health and welfare by enabling the department to determine whether a new or modified source will affect ambient air quality standards and PSD ambient air increments; (ii) require the owner of a proposed new or modified facility to provide such information as may be needed to enable the board to conduct a preconstruction review in order to determine compliance with applicable control technology and other standards and to assess the impact of the emissions from the facility on air quality; and (iii) provide the basis for the board's final action (approval or disapproval) on the permit depending upon the results of the preconstruction review. The proposed amendments are being made in order to provide the regulatory authority to implement the federal new source reform requirements of 40 CFR Part 51.

Substance: The following amendments apply to Articles 8 (PSD areas) and 9 (nonattainment areas):

1. Provisions for electric utility steam generating units (EUSGUs) have been added in order for the baseline state regulations to be consistent with the baseline federal regulations.
2. Requirements for determining whether physical changes made to existing emissions units trigger major NSR requirements have been revised. Sources establishing their baseline actual emissions may now use any consecutive 24-month period during the five-year period prior to the change to determine the baseline actual emissions.
3. The method for determining if a physical or operational change will result in an emissions increase has been revised. The previous "actual-to-potential" and "actual-to-representative-actual-annual" emissions applicability tests for existing emissions units have been replaced with an "actual-to-projected-actual" applicability test.
4. Provisions for pollution control projects (PCPs) have been added. A PCP is an activity, set of work practices, or project at an existing emissions unit that reduces air pollution. Obtaining a PCP exclusion relieves the PCP from major new source review (NSR). These new PCP provisions replace the old PCP provisions of Article 6, which have been removed.
5. Provisions for Clean Units have been added. An emissions unit qualifies as a Clean Unit, and qualifies to use the Clean Unit control technology applicability test, if it has gone through major NSR permitting review and is complying with a BACT or LAER determination that has been subject to public participation. When a source undergoes NSR review and installs a BACT or LAER technology that has undergone public comment, it may make changes to a Clean Unit without triggering an additional major NSR review.
6. Provisions for plantwide applicability limits (PALs) have been added. A PAL is a voluntary option that allows a source to manage emissions without triggering major new source review. The PAL program is based on plantwide actual emissions. If the emissions are maintained below a plantwide

actual emissions cap, then the facility may avoid major NSR permitting process when it makes alterations to the facility or individual emissions units.

The following amendments are limited to specific articles:

7. Article 8 has been revised in order to be consistent with other NSR regulations. This consists of (i) removing federal enforceability of certain provisions that should be enforceable by the state (toxics and odor) in order to prevent state-only terms and conditions from being designated as federally enforceable in a permit; (ii) deleting provisions covered elsewhere regarding circumvention, and reactivation and permanent shutdown; and (iii) adding provisions regarding changes to permits, administrative permit amendments, minor permit amendments, significant amendment procedures, and reopening for cause.

8. Article 4 of 9 VAC 5 Chapter 50, which contains general requirements for new and modified stationary sources, has been revised to be consistent with the control technology provisions of Articles 8 and 9.

Issues: Advantages to the regulated community include more certainty, as various long-standing EPA policies are now codified into the regulations, and more specifics as to what is and is not subject to major source NSR have been added. Added flexibility in business planning will be realized, as new projects that either have a positive or no negative impact on the environment can be implemented without undergoing costly and time-consuming NSR permitting. The general public will benefit from a reduction in the health and welfare effects of air pollution, as the new rules encourage the application of air pollution control equipment and work practices. While there is a slight immediate disadvantage to the public in that changes to a source may no longer be scrutinized through the traditional approach of a permitting analysis for every facility change, this disadvantage will be outweighed over time as focus will be shifted to activities with more significant impacts to the environment. This slight disadvantage will also be outweighed by the additional recordkeeping that sources will have to conduct in order to justify projects that are exempt from major source NSR.

The department will benefit by diverting its limited resources to projects with a potentially significant impact to the environment rather than on projects with positive or neutral effects to the environment. Permitting resources will be diverted to projects with more of an impact on the environment. There may be a slight initial disadvantage to compliance and enforcement staff in that additional, closer scrutiny will be required of facility inspections and review; however, this will be outweighed over time as the system eliminates attention to less important programs and diverts it to areas that genuinely require greater scrutiny. The department will also benefit from the availability of additional recordkeeping that sources will have to conduct in order to justify projects that are exempt from major source NSR.

Localities particularly affected: The proposed regulation amendments affect sources located in areas designated as attainment (PSD) areas or nonattainment areas. Sources located in a PSD area are subject to Article 8; sources located in nonattainment areas are subject to Article 9 for the

pollutants for which they are designated nonattainment. Currently, the following nonattainment areas are subject to Article 9 (the remainder of the Commonwealth is subject to Article 8) for the pollutants indicated:

1. Northern Virginia Ozone Nonattainment Area: Arlington County, Alexandria City, Fairfax County, Fairfax City, Loudoun County, Falls Church City, Prince William County, Manassas City, and Manassas Park City.
2. Northern Virginia PM2.5 Nonattainment Area: Arlington County, Alexandria City, Fairfax County, Fairfax City, Loudoun County, Falls Church City, Prince William County, Manassas City, and Manassas Park City.
3. Fredericksburg Ozone Nonattainment Area: Spotsylvania County, Stafford County, and Fredericksburg City.
4. Hampton Roads Ozone Nonattainment Area: Gloucester County, Isle of Wight County, James City County, York County, Chesapeake City, Hampton City, Newport News City, Poquoson City, Portsmouth City, Norfolk City, Suffolk City, Virginia Beach City, and Williamsburg City.
5. Richmond Ozone Nonattainment Area: Charles City County, Chesterfield County, Hanover County, Henrico County, Prince George County, Colonial Heights City, Hopewell City, Petersburg City, and Richmond City.

Note that the Shenandoah National Park Ozone Nonattainment Area, which includes the portions of Madison County and Page County located in Shenandoah National Park, currently has no major stationary sources, and none are anticipated to be developed.

Public participation: In addition to any other comments, the department is seeking comments on the following specific issues:

1. The costs and benefits of the proposal.
2. Any impacts of the regulation on farm and forest land preservation.
3. Determining baseline emissions: should the lookback period be (i) any consecutive 24 months in the previous 10 years, as specified in the EPA rule; (ii) two years, as specified in the current state regulations; (iii) any consecutive 24 months in the previous five years; (iv) the average of previous 10 years; (v) the highest one year of previous five years; (vi) an average of previous five years; (vii) the highest one year out of the most recent five years; (viii) the highest two years in five; or (ix) an alternative not listed here.
4. Consequences of exceeding projected emissions: what level of discretion is available to the state? Should such discretion be codified in the regulation? If so, how--a generic reference or specific steps?
5. Projected actual emissions: should the projected emissions resulting from the physical or operational change be differentiated from demand growth? How can these emissions be quantified, reported, or made enforceable? What level and specificity of recordkeeping and public accessibility are appropriate? For example, should the board be notified if demand growth or other adjustments to the calculation are needed to keep the change from triggering NSR? If so, how?

6. Should malfunctions be included or excluded in determining baseline actual emissions and projected actual emissions? What, if any, would be the potential effects of the federal malfunction provisions in the context of other state rules and requirements?

7. Should there be a requirement for sources to "net in" as well as net out?

8. Plantwide applicability limits (PALs): Should the baseline emissions for the PAL be the same as the baseline emissions for determining program applicability as described in issue 3? Should PAL duration be: (i) 10 years, as specified in the EPA rule; (ii) five years; or (iii) some other period?

9. Should PAL renewal be based on emissions at the time of the renewal or within some shorter lookback period? Should review of significant changes to the overall airshed and the potential affect on NAAQS or PSD increment be required?

10. Should pollution control projects (PCPs) include the "primary purpose" test (that is, should the explicit purpose of the PCP be to reduce air pollution)?

11. Clean units: Is additional specificity needed as to how "substantially as effective" is determined? Should sources not be allowed to use an alternative to a BACT/LAER analysis in order to qualify?

Anyone wishing to submit written comments for the public comment file may do so at the public hearing (see below) or by mail, email or facsimile transmission to Karen G. Sabasteanski, Policy Analyst, Office of Air Regulatory Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240 (e-mail kgsabastea@deq.virginia.gov) (FAX number 804-698-4510). Written comments must include the name and address of the commenter. Comments by facsimile transmission will be accepted only if followed by receipt of the original within one week. Comments by email will be accepted only if the name and address of the commenter are included. All testimony, exhibits and documents received are matters of public record. In order to be considered comments must be received by 5 p.m. on the date established as the close of the comment period.

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. Based on the EPA's new major new source review reform rules, the proposed regulations incorporate five main elements: (i) changes to the

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method for determining baseline actual emissions; (ii) changes to the method for determining emissions increases due to operational change; (iii) provisions to allow for compliance with plantwide applicability limits (PALs); (iv) provisions to exclude pollution control projects (PCPs) from new source review; and (v) provisions for determining applicability of new source review requirements for units designated as Clean Units.

The remaining changes are clarifications of the current requirements and are not expected to have any significant economic impact. These changes relate to state-only enforceable requirements; removal of redundant provisions covered elsewhere regarding circumvention, and reactivation and permanent shutdown; provisions regarding changes to permits, administrative permit amendments, minor permit amendments, significant amendment procedures, and reopening for cause; and revising general requirements for new and modified stationary sources to be consistent with the control technology provisions of new source review regulations.

Estimated economic impact. These regulations contain rules for the emissions sources locating in prevention of significant deterioration (PSD) areas as well as for sources locating in nonattainment areas. More specially, Article 8 establishes a new source review (NSR) permit program whereby owners of sources locating in PSD areas are required to obtain a permit prior to construction of a new facility or modification (physical change or change in the method of operation) of an existing one. Article 9 establishes a NSR permit program whereby owners of sources locating in nonattainment areas are required to obtain a permit prior to construction of a new facility or modification of an existing one.

Articles 8 and 9 apply to the construction or reconstruction of new major stationary sources or major modifications to existing ones. The owner must obtain a permit from the State Air Pollution Control Board (the board) prior to the construction or modification of the source. The owner of the proposed new or modified source must provide information as may be needed to enable the board to conduct a preconstruction review in order to determine compliance with applicable control technology. These regulations also provide the basis for the board's final action (approval or disapproval) on the permit depending on the results of the preconstruction review.

Article 8 requires a facility to control emissions from the proposed facility so that the air quality standards or increments are not violated. Article 9 requires a facility to obtain emission reductions from existing sources to offset the proposed project's emissions increases.

On December 31, 2002, EPA promulgated its final rule revising the federal new source review (NSR) permitting program for PSD (attainment) and nonattainment areas, by publishing the rule in the Federal Register (67 FR 80185). The new rule, signed by the Administrator on November 22, 2002, affects 40 CFR 51.165 and 40 CFR 51.166. EPA also

published an analysis of the environmental effects of the proposed rules.¹

The new rule incorporates five main elements: (i) changes to the method for determining baseline actual emissions; (ii) changes to the method for determining emissions increases due to an operational change; (iii) provisions to allow for compliance with plant wide applicability limits; (iv) provisions to exclude pollution control projects from NSR; and (v) provisions for determining applicability of NSR requirements for units designated as clean units.

EPA states in the Federal Register that the final rule revisions become effective on March 3, 2003, and will apply beginning on that date in any area for which EPA is the permit reviewing authority, and in any area for which EPA has delegated the authority to issue permits under the federal program to the state or local agency. In areas where the state or local agency is administering the NSR program under an approved SIP, the state or local agency must adopt and submit revisions to the SIP to reflect the rule revisions no later than January 2, 2006. The revised SIP must be the same as or equivalent to the revised federal program.

Changes to the Method for Determining Baseline Actual Emissions: The board proposes to revise the requirements for determining whether physical changes made to existing emissions units trigger major NSR requirements. The proposed rules change the look back period to determine baseline emissions from the immediate past two years prior to the change to any consecutive two year period within the five years prior to the change. This change will allow sources to pick the consecutive two years within a five-year period when the emissions were the highest rather than having to use the emissions from the last two years as a baseline regardless of the amount of emissions. For example, if the average emissions in the last two years are 30 tons per year and the average emissions from the previous 3rd and 4th years are 90 tons per year, the source will have the option of choosing the 3rd and 4th year emissions as a baseline. Thus, the proposed change in the look back period will provide added flexibility to sources in choosing the two years which works best for them when establishing the emissions baseline.

While the board proposes a five-year look back period, EPA final rule allows sources to use any consecutive two years in the last 10 years. In other words, EPA final rule provides even more flexibility to the sources than does the board's proposal.

The economic impact of the more flexible look back period on emissions sources is expected to be almost certainly positive. Given the choice, the sources will choose the consecutive two years that are best for them. Thus, we can reliably conclude that the extension of the look back period from the last two years to any two consecutive years within five will provide net benefits to the affected emissions sources. However, the complexity of the behavioral responses to this proposed change and the lack of comprehensive data make it impossible to determine the potential size of the expected net benefits.

¹ New Source Review (NSR) Improvements, Supplemental Analysis of the Environmental Impact of the 2002 Final NSR Improvement Rules, U.S. EPA, November 21, 2002.

The impact of the more flexible look back period on the amount of pollutants emitted into the air is less certain. On one hand, the current look back period provides incentives to sources to emit more than they otherwise would. Knowing that the emissions from this year will be used as a baseline next year, it is rational for sources to increase their current emissions so that they do not impede their ability to produce in the following years. Thus, the removal of this incentive to emit more should reduce the amount of emissions from affected sources. On the other hand, allowing sources to pick emissions from any consecutive two years within the previous five as a baseline will lead to sources picking the years when the emissions were the highest. However, being authorized to emit as high as the highest emissions in the last five years, does not necessarily mean that they will actually emit the maximum allowed as they will continue to have the option of choosing the years that work best for them. The net impact of this change on emissions will depend on the reduction in emissions that will result from the elimination of adverse incentives to emit more under the current rules and the potential increase in emissions that may result from the higher emissions limits that will be allowed under the proposed rules.

A significant difference between the EPA final rule and the board's proposal is whether to allow the sources to use emissions from different years for different pollutants or mandating the use of the same two consecutive years for all pollutants. For example, under the EPA final rule, the sources could use emissions from 1995 and 1996 for particulate matter and use emissions from 1997 and 1998 for volatile organic compounds. Under the board's proposal, the sources will have to use emissions from 1995 and 1996 or from 1997 and 1998 for both pollutants. Therefore, the board's proposal is more stringent than the EPA's final rule.

The only available assessment of this change on emissions is provided by EPA. EPA's analysis that is based on the more flexible 10 year look back period and less stringent pollutant specific time frame selection finds that the net impact on emissions could be an increase or decrease, but is likely to be insignificant.

Changes to the Method for Determining Emissions Increases: The board proposes to replace the current "actual-to-potential" test with "actual-to-projected-actual" test when determining emissions increases of units due to a physical or operational change. The actual-to-potential test looks at the difference between actual emissions and the emissions at full capacity even though the source may never operate at full capacity. If the difference is greater than the threshold, a project triggers new source review under the current applicability test.

The actual-to-potential test can trigger review even for a very small project if the source is operating significantly below its capacity. For example, if the actual emissions are 300 tons per year and the potential emissions are 400 tons per year, a project increasing emissions by one ton per year would trigger review because the difference between the actual and potential emissions is 100 tons per year that is greater than the threshold that triggers review. Thus, the sources have incentives not to make any changes to their plants unless it is necessary. Because some of these projects may be

environmentally beneficial, the current test discourages implementation of environmentally beneficial projects.

In addition, to avoid triggering new source review, the sources have incentives to keep potential emissions low and to keep actual emissions high. These adverse incentives have negative effect on the amount of pollutants emitted by the sources. For example, installation of a heat exchanger may increase the energy efficiency of the source lowering emissions. However, if the heat exchanger increases the potential emissions significantly triggering review, the source is likely to forgo this environmentally beneficial project in order to avoid the review. Thus, the use of the potential emissions in the current test produces disincentives for the sources to implement environmentally beneficial projects.

The other adverse impact stems from the desire to minimize the difference between the actual and potential emissions to avoid review. The smaller the difference between the actual and potential emissions is, the less likely a project will trigger review. Thus, a source has incentives to increase their current actual emissions in order to avoid a review next year.

The proposed "actual-to-projected-actual" test will help eliminate the disincentives to take on the environmentally beneficial changes and incentives to keep actual emissions high. Furthermore, the proposed test will provide a more accurate estimate of the true impact of the physical or operational change as it looks at the emissions before and after a project is implemented. EPA analysis concludes that the net impact of this change on emissions is likely to be environmentally beneficial, but only to a small extent because many sources will be unaffected by this change.

The economic impact of this change on the sources may be more significant than its impact on the emissions. Under the proposed test, the sources will not face barriers to implement energy efficient changes that could produce significant costs savings. Their incentives to artificially increase the production probably at significant costs in order to keep actual emissions high will also be lowered. Also, the likely decrease in permit applications is expected to reduce administrative costs. Thus, the potential economic impact of this change on the sources appears to be positive.

Plantwide Applicability Limits: The board proposes to introduce a plantwide applicability (PAL) approach for determining major new source review applicability. A PAL is a voluntary option that allows a source to manage plantwide emissions under a cap without triggering new source review. Under a PAL, a source is allowed to make significant alterations to the facility or transfer emissions among the units included under the PAL without triggering new source review as long as the total emissions does not exceed the cap.

The economic impact of a PAL on the sources that utilize it is expected to be positive. A PAL is a voluntary option and by taking advantage of this option a source reveals that the expected benefits from it exceed the expected costs. The benefits from a PAL come from the operational flexibility it provides to a source. The sources where frequent operational changes are made, where the timing of these changes are critical, and where there are economic opportunities from installation of air pollution control measures will be afforded a

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chance to realize these benefits under a PAL. Also, PALs are expected to provide significant reductions in emissions because they create incentives to reduce actual emissions as much as possible to create room under the cap for possible operational changes over the life of the PAL. EPA expects significant emissions reductions resulting from making PALs available for the sources that may be interested.

The proposed duration of a PAL is five years while the horizon of PALs under the EPA final rule is 10 years. A PAL with shorter horizon could provide somewhat less incentive for a source to participate.

Clean Unit test: The board proposes to introduce a clean unit test approach to major new source review applicability for modifications. Under the proposed rules, a source can be granted a clean unit status which would exempt the source from review for five years as long as the change does not cause the unit to exceed its permitted emissions. The clean unit status will be automatically granted to the units that went through major new source review and are complying with best available control technology (BACT) or lowest achievable emissions rate (LAER). This designation will also be available to units whose emissions control technology is comparable to or as effective as BACT/LAER.

Under the current rules, all units must go through the review when an operational change occurs even though there is no change in the equipment. The compliance costs associated with the review provide disincentives to sources to implement efficiency enhancing operational changes and also delay the implementation of more efficient operations. The clean unit test will eliminate the disincentives to make environmentally beneficial changes and allow the implementation of the changes sooner. It will also provide direct incentives to install added controls and enhancing existing controls in order to qualify for the exemption. EPA expects some small net environmental benefits from the proposed clean unit test.

The economic impact on emission sources is almost guaranteed to be positive because the test is optional. By applying for this designation, a source reveals that the expected benefits from this designation exceed the expected costs. Thus, we can reliably infer that the proposed clean unit test will provide net benefits to those units who choose to take advantage of this designation.

EPA final rule provides for a 10-year time frame for the duration of the clean unit designation. The board's proposal is for a five-year period. In its analysis, EPA finds no evidence that the ten-year time frame is too long to have significant environmental impact as the units appear to remain as BACT over 10 years.

Pollution Control Project Exclusion: The board proposes to streamline the process by which the sources may implement a pollution control project (PCP) and be exempt from the new source review. A PCP is an activity, set of work practices, or project at an existing emissions unit that is environmentally beneficial. Normally an increase in a regulated pollutant would trigger a review. A pollution control project exclusion allows a source to avoid the new source review when the emissions reductions from one or more air pollutants environmentally outweigh the increase in some other pollutants. In other

words, obtaining a PCP exclusion relieves the PCP from major new source review. Current regulations allow the board to issue pollution control project exclusions, but the process to do so is cumbersome.

Currently, a source must go through the public participation process and have the exemption granted through a permit. The proposed changes will provide a list of projects for which an automatic exclusion will be granted without having to go through the public participation process and without having to obtain a permit.

The removal of difficulties in implementing projects that has proven to be environmentally beneficial will provide administrative cost savings and environmental benefits. The sources will be able to avoid compliance costs and delay associated with the public hearings and the issuance of a permit. Thus, an increase in the number of pollution control projects is expected. The environmental benefits are likely to result from the implementation of more environmentally beneficial projects and from the implementation of such projects sooner than otherwise would be. EPA is confident that both the environment and the emissions sources will realize net benefits from this change.

Summary: The existing regulatory design and lack of voluntary features in the current regulations introduce incentives to the emissions sources to artificially increase actual emissions and introduce disincentives to implement environmentally beneficial projects. Adverse incentives such as these are known to cause firms operate below or above the optimal production level and produce deadweight efficiency losses. Deadweight losses are net welfare losses extracted from the society as a whole including producers, consumers, and the government. Because the proposed changes will recover a portion of the deadweight losses, they will provide net benefits to the sources in the form of reduced compliance costs, to the public in the form of improved air quality, and to the Commonwealth in the form of reduced administrative expenses.

EPA's analysis of the proposed rules is based on the best available data and direct experience and suggests that the proposed reform provisions discussed in this report are more than likely to reduce compliance costs, improve air quality, and reduce state expenditures. However, the analysis is based on the evaluation of more flexible version of the rules the board is proposing. The critical provisions that are more stringent than the EPA's proposed rule include (i) five-year look back period as opposed to 10-year look back period, (ii) five-year time frame for PALs as opposed to 10 years, (iii) five-year time period for clean unit designation as opposed to 10 years.

The board's decision to propose more stringent time periods is intended to provide sources with the benefits of NSR reforms while providing additional security that implementation of these reforms will not have an adverse impact to public health and welfare. In fact, the board is seeking comments on these issues from the public. These more stringent provisions could possibly reduce some potential net benefits to the sources and the environment when compared to the case where the sources were allowed to operate under more flexible time periods as recommended by EPA. Thus, the net benefits from

this regulatory action could be maximized if more flexible time frames are incorporated before the final regulations are published. On the other hand, the shorter time frames will allow sources and the department the ability to monitor the progress of the reforms as they are implemented with the goal of ensuring protection of the Commonwealth's air quality.

Businesses and entities affected. The voluntary nature of the proposed provisions makes it impossible to accurately estimate the number of sources that may be affected. Based on the available data and programmatic experience, it is anticipated that roughly 350 emissions sources may be eligible to utilize some or all of the elements of the proposed changes.

Localities particularly affected. Currently, the nonattainment areas listed below are subject to Article 9 for the pollutants indicated. Also, the Shenandoah National Park Ozone Nonattainment Area, which includes the portions of Madison County and Page County located in Shenandoah National Park currently, has no major stationary sources, and none are anticipated to be developed. The remainder of the Commonwealth is subject to Article 8.

Northern Virginia Ozone Nonattainment Area: Arlington County, Alexandria City, Fairfax County, Fairfax City, Loudoun County, Falls Church City, Prince William County, Manassas City, and Manassas Park City.

Northern Virginia PM_{2.5} Nonattainment Area: Arlington County, Alexandria City, Fairfax County, Fairfax City, Loudoun County, Falls Church City, Prince William County, Manassas City, and Manassas Park City.

Fredericksburg Ozone Nonattainment Area: Spotsylvania County, Stafford County, and Fredericksburg City.

Hampton Roads Ozone Nonattainment Area: Gloucester County, Isle of Wight County, James City County, York County, Chesapeake City, Hampton City, Newport News City, Poquoson City, Portsmouth City, Norfolk City, Suffolk City, Virginia Beach City, and Williamsburg City.

Richmond Ozone Nonattainment Area: Charles City County, Chesterfield County, Hanover County, Henrico County, Prince George County, Colonial Heights City, Hopewell City, Petersburg City, and Richmond City.

Projected impact on employment. The proposed regulations are expected to reduce deadweight efficiency losses and provide net economic benefits to the Commonwealth. Recovery of some of the otherwise unnecessary compliance costs borne by the sources, the state, and the public should add to the economic activity and have a positive impact on employment.

Effects on the use and value of private property. The proposed regulations are also likely to improve air quality which could positively affect property values. In addition, to the extent the sources realize savings in compliance costs and improve their profitability, a positive impact on their asset values may result.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: We disagree with DPB's

assertion that the net benefits from this regulatory action could be maximized if EPA's original time frames were incorporated.

While many aspects of the EPA rule will likely result in some air quality benefit when applied in Virginia, the Commonwealth's overall air quality situation can benefit from a number of changes to the EPA requirements. Section 10.1-1308 of the Code of Virginia states, "The regulations shall not promote or encourage any substantial degradation of present air quality in any air basin or region which has an air quality superior to that stipulated in the regulations." In other words, no regulation may contribute to the deterioration of air quality. Given the uncertainty of specific impacts that implementing the federal rules will have on the areas of the state that are attaining the national standards, it is believed that certain limitations on some aspects of the federal rules may help ensure that this state-specific need is met.

In addition to ensuring that areas of the state that meet the national standards continue to do so, the Commonwealth is also obligated to actively improve air quality. Currently, approximately one half of the Commonwealth's citizens live in areas that do not attain the national standards. Virginia's nonattainment problems extend beyond its borders as well: a neighboring state has submitted a § 126 petition to EPA claiming that Virginia's air pollution is having a negative impact on its air quality. Visibility problems have been identified in Virginia's national park areas. Additionally, nitrogen deposition from airborne emissions is contributing to serious water quality problems in Chesapeake Bay. In this larger context, it is clear that the state needs to take additional steps beyond the immediate legal requirements for nonattainment and PSD areas if larger, statewide issues of air quality are to be addressed. Given the uncertainty surrounding the specific impacts of the federal rule, the state is exercising its responsibility to consider a somewhat more closely scrutinized process for implementing the basic elements of NSR reform.

DPB's analysis is heavily dependent on the analysis EPA conducted in support of the federal regulatory action. Serious issues have been raised with respect to EPA's analysis; indeed, numerous states and organizations are currently engaged in lawsuits with the agency over the quality of their analysis. While we have no specific issue to take with EPA's analysis, neither do we believe it reasonable, under the circumstances, to rely on it completely and uncritically when assessing Virginia's air quality needs and the board's judgment in determining the best means of meeting those needs.

We also note that DPB's example of when an increase would trigger major new source review, using a one-ton increase as an example, is unrealistic. For an increase to trigger major new source review, the increase must be above the significance level thresholds. For the criteria pollutants (most PSD permits are issued for these pollutants), the thresholds range from 15 to 100 tons per year. While it is true that the significance level for some pollutants such as lead is 0.6 tons per year, it is extremely rare to issue a PSD permit due to an increase for lead. Therefore, while we understand DPB's interest in making a general demonstration of how the

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program works, we also believe that it does not correspond to how the regulations work on a practical basis.

Virginia has a legal obligation to incorporate the federal regulations in a manner that will result in equal or better environmental benefit. The proposal is designed to balance the need to improve permitting certainty and flexibility with Virginia's specific air quality needs.

Summary:

Article 8 (9 VAC 5-80-1605 et seq.) of 9 VAC 5 Chapter 80 establishes a new source review (NSR) permit program whereby owners of sources locating in prevention of significant deterioration (PSD) areas are required to obtain a permit prior to construction of a new facility or modification (physical change or change in the method of operation) of an existing one. Article 9 (9 VAC 5-80-2000 et seq.) of 9 VAC 5 Chapter 80 establishes an NSR permit program whereby owners of sources locating in nonattainment areas are required to obtain a permit prior to construction of a new facility or modification of an existing one.

Articles 8 and 9 apply to the construction or reconstruction of new major stationary sources or major modifications to existing ones. The owner must obtain a permit from the board prior to the construction or modification of the source. The owner of the proposed new or modified source must provide information as may be needed to enable the board to conduct a preconstruction review in order to determine compliance with applicable control technology and other standards, and to assess the impact of the emissions from the facility on air quality. The regulation also provides the basis for the board's final action (approval or disapproval) on the permit depending on the results of the preconstruction review.

Article 8 requires a facility to use the best available control technology (BACT) to control emissions from the proposed facility, and requires a facility to control emissions from the proposed facility such that the air quality standards or increments are not violated. Article 9 requires a facility to use the lowest achievable emission rate (LAER) as the limit to control emissions from the proposed facility, and requires the facility to obtain emission reductions from existing sources to offset the proposed project's emissions increases.

EPA's new major NSR reform rule incorporates five main elements: (i) changes to the method for determining baseline actual emissions; (ii) changes to the method for determining emissions increases due to operational change; (iii) provisions to exclude pollution control projects (PCPs) from NSR; (iv) provisions for determining applicability of NSR requirements for units designated as Clean Units; and (v) provisions to allow for compliance with plantwide applicability limits (PALs). The current state NSR regulations have been amended in order to meet these new requirements; additionally, the minor NSR regulation in Article 6 (9 VAC 5-80-1100 et seq.) of 9 VAC 5 Chapter 80 has been revised to remove provisions for PCPs that will be covered by the changes to the major NSR regulations.

In addition, Article 8 has been revised in order to be consistent with other NSR regulations. This consists of (i)

removing federal enforceability of certain provisions that should be enforceable by the state (toxics and odor) in order to prevent state-only terms and conditions from being designated as federally enforceable in a permit; (ii) deleting provisions covered elsewhere regarding circumvention, and reactivation and permanent shutdown; and (iii) adding provisions regarding changes to permits, administrative permit amendments, minor permit amendments, significant amendment procedures, and reopening for cause. Finally, Article 4 (9 VAC 5-50-240 et seq.) of 9 VAC 5 Chapter 50, which contains general requirements for new and modified stationary sources, has been revised to be consistent with the control technology provisions of Articles 8 and 9.

Article 4.

Standards of Performance for Stationary Sources (Rule 5-4).

9 VAC 5-50-250. Definitions.

A. For the purpose of the Regulations for the Control and Abatement of Air Pollution and subsequent amendments or any orders issued by the board, the words or terms shall have the meanings given them in subsection C of this section.

B. As used in this article, all terms not defined here shall have the meanings given them in 9 VAC 5 Chapter 10 (9 VAC 5-10-40 ~~et seq.~~), unless otherwise required by context.

C. Terms defined.

"Best available control technology" means a standard of performance (including a visible emission standard) based on the maximum degree of emission reduction for any pollutant which would be emitted from any proposed stationary source which the board, on a case-by-case basis, taking into account energy, environmental and economic impacts and other costs, determines is achievable for such source through the application of production processes or available methods, systems and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant. In no event shall application of best available control technology result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard in Article 5 (9 VAC 5-50-400 et seq.) of this part or Article 1 (9 VAC 5-60-60 et seq.) of Part II of 9 VAC 5 Chapter 60. If the board determines that technological or economic limitations on the application of measurement methodology to particular emissions unit would make the imposition of an emission standard infeasible, a design, equipment, work practice, operational standard, or combination of them, may be prescribed instead of requiring the application of best available control technology. Such standard shall, to the degree possible, set forth the emission reduction achievable by implementation of such design, equipment, work practice or operation, and shall provide for compliance by means which achieve equivalent results. In determining best available control technology for stationary sources subject to Article 6 (9 VAC 5-80-1100 et seq.) of Part II of 9 VAC 5 Chapter 80, consideration shall be given to the nature and amount of the new emissions, emission control efficiencies achieved in the industry for the source type, and the cost effectiveness of the incremental emission reduction achieved.

"Lowest achievable emission rate" means for any source, the more stringent rate of emissions based on the following:

1. The most stringent emissions limitation which is contained in the implementation plan of any state for such class or category of stationary source, unless the owner of the proposed stationary source demonstrates that such limitations are not achievable; or

2. The most stringent emissions limitation which is achieved in practice by such class or category of stationary source. This limitation, when applied to a modification, means the lowest achievable emissions rate for the new or modified emissions units within the stationary source. In no event shall the application of this term permit a proposed new or modified stationary source to emit any pollutant in excess of the amount allowable under an applicable new source standard of performance.

~~"New source review program" means a program for the preconstruction review and permitting of new stationary sources or expansions to existing ones in accordance with Article 6 (9 VAC 5-80-1100 et seq.), Article 7 (9 VAC 5-80-1400 et seq.), Article 8 (9 VAC 5-80-1700 et seq.), or Article 9 (9 VAC 5-80-2000 et seq.) of 9 VAC 5 Chapter 80.~~

"New source review (NSR) program" means a preconstruction review and permit program (i) for new stationary sources or modifications (physical changes or changes in the method of operation); (ii) established to implement the requirements of §§ 110(a)(2)(C), 112 (relating to permits for hazardous air pollutants), 165 (relating to permits in prevention of significant deterioration areas), and 173 (relating to permits in nonattainment areas) of the federal Clean Air Act and associated regulations; and (iii) codified in Article 6 (9 VAC 5-80-1100 et seq.), Article 7 (9 VAC 5-80-1400 et seq.), Article 8 (9 VAC 5-80-1605 et seq.) and Article 9 (9 VAC 5-80-2000 et seq.) of 9 VAC 5 Chapter 80.

9 VAC 5-50-270. Standard for major stationary sources (nonattainment areas).

A. For major stationary sources located in nonattainment areas, no owner or other person shall cause or permit to be discharged into the atmosphere from any affected facility any emissions in excess of that resultant from the lowest achievable emission rate, as reflected in any condition that may be placed upon the permit approval for the facility.

B. A major stationary source shall apply lowest achievable emission rate for each ~~qualifying~~ *regulated NSR pollutant (as defined in 9 VAC 5-80-2010)* that it would emit.

C. A major modification shall apply the lowest achievable emission rate to each new or modified emission unit which would increase the emissions of a ~~qualifying~~ *regulated NSR pollutant*.

D. In the case of a reconstruction, the determination of lowest achievable emission rate shall take into account any economic or technical limitations on compliance with applicable standards of performance (as specified in Article 5 (9 VAC 5-50-400 et seq.) of this chapter) which are inherent in the proposed replacements.

E. For phased construction projects, the determination of lowest achievable emission rate shall be reviewed, and modified as appropriate, at the latest reasonable time which occurs no later than 18 months prior to commencement of

construction of each independent phase of the project. At such time, the owner of the applicable stationary source may be required to demonstrate the adequacy of any previous determination of lowest achievable emission rate for the source.

9 VAC 5-50-280. Standard for major stationary sources (prevention of significant deterioration areas).

A. For major stationary sources located in prevention of significant deterioration areas, no owner or other person shall cause or permit to be discharged into the atmosphere from any affected facility any emissions in excess of that resultant from using best available control technology, as reflected in any condition that may be placed upon the permit approval for the facility.

B. A major stationary source shall apply best available control technology for each ~~pollutant subject to regulation under the federal Clean Air Act~~ *regulated NSR pollutant (as defined in 9 VAC 5-80-1615)* that it would have the potential to emit in significant amounts.

C. A major modification shall apply best available control technology for each ~~regulated NSR pollutant subject to regulation under the federal Clean Air Act~~ for which it would result in a significant net emissions increase at the source. This requirement applies to each proposed emissions unit at which a net emissions increase in the pollutant would occur as a result of physical change or change in the method of operation in the unit.

D. For phased construction projects, the determination of best available control technology shall be reviewed, and modified as appropriate, at the latest reasonable time which occurs no later than 18 months prior to commencement of construction of each independent phase of the project. At such time, the owner of the applicable stationary source may be required to demonstrate the adequacy of any previous determination of best available control technology for the source.

Article 6.
Permits for New and Modified Stationary Sources.

9 VAC 5-80-1100. Applicability.

A. Except as provided in subsection C of this section, the provisions of this article apply to the construction, reconstruction, relocation or modification of any stationary source.

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

C. The provisions of this article do not apply to any stationary source, emissions unit or facility that is exempt under the provisions of 9 VAC 5-80-1320. Exemption from the requirement to obtain a permit under this article shall not relieve any owner of the responsibility to comply with any other applicable provisions of regulations of the board or any other applicable regulations, laws, ordinances and orders of the governmental entities having jurisdiction. Any stationary source, emissions unit or facility which is exempt from the provisions of this article based on the criteria in 9 VAC 5-80-1320 but which exceeds the applicability thresholds for any applicable emission standard in 9 VAC 5 Chapter 40

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(9 VAC 5-40-40 et seq.) if it were an existing source or any applicable standard of performance in 9 VAC 5 Chapter 50 (9 VAC 5-50-40 et seq.) shall be subject to the more restrictive of the provisions of either the emission standard in 9 VAC 5 Chapter 40 (9 VAC 5-40-40 et seq.) or the standard of performance in 9 VAC 5 Chapter 50 (9 VAC 5-50-40 et seq.).

D. The fugitive emissions of a stationary source, to the extent quantifiable, shall be included in determining whether it is subject to this article. The provisions of this article do not apply to a stationary source or modification that would be subject to this article only if fugitive emissions, to the extent quantifiable, are considered in calculating the actual emissions of the source or net emissions increase.

E. An affected facility subject to Article 5 (9 VAC 5-50-400 et seq.) of Part II of 9 VAC 5 Chapter 50 shall not be exempt from the provisions of this article, except where:

1. The affected facility would be subject only to recordkeeping or reporting requirements or both under Article 5 (9 VAC 5-50-400 et seq.) of 9 VAC 5 Chapter 50; or
2. The affected facility is constructed, reconstructed or modified at a stationary source which has a current permit for similar affected facilities that requires compliance with emission standards and other requirements that are not less stringent than the provisions of Article 5 (9 VAC 5-50-400 et seq.) of 9 VAC 5 Chapter 50.

F. Regardless of the exemptions provided in this article, no owner or other person shall circumvent the requirements of this article by causing or allowing a pattern of ownership or development over a geographic area of a source which, except for the pattern of ownership or development, would otherwise require a permit.

G. ~~Except as provided in 9 VAC 5-80-1310,~~ No provision of this article shall be construed as exempting any stationary source or emissions unit from the provisions of the major new source review program. Accordingly, no provision of the major new source review program regulations shall be construed as exempting any stationary source or emissions unit from this article.

H. Unless specified otherwise, the provisions of this article are applicable to various sources as follows:

1. Provisions referring to "sources," "new or modified sources, or both" or "stationary sources" are applicable to the construction, reconstruction or modification of all stationary sources (including major stationary sources and major modifications) and the emissions from them to the extent that such sources and their emissions are not subject to the provisions of the major new source review program.
2. Provisions referring to "major stationary sources" are applicable to the construction or reconstruction of all major stationary sources subject to this article. Provisions referring to "major modifications" are applicable to major modifications of stationary sources subject to this article.
3. In cases where the provisions of the major new source review program conflict with those of this article, the

provisions of the major new source review program shall prevail.

4. Provisions referring to "state and federally enforceable" or "federally and state enforceable" or similar wording shall mean "state-only enforceable" for terms and conditions of a permit designated state-only enforceable under 9 VAC 5-80-1120 F.

9 VAC 5-80-1110. Definitions.

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

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

C. Terms defined.

"Actual emissions" means the actual rate of emissions (expressed in tons per year) of a pollutant from a stationary source or portion thereof, as determined in accordance with the provisions of this definition.

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

2. The board may presume that source-specific allowable emissions for the emissions unit are equivalent to the actual emissions of the unit.

3. For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

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

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

"Applicable federal requirement" means all of the following as they apply to emissions units in a source subject to this article (including requirements that have been promulgated or approved by the administrator through rulemaking at the time of permit issuance but have future-effective compliance dates):

1. Any standard or other requirement provided for in an implementation plan established pursuant to § 110, § 111(d) or § 129 of the federal Clean Air Act, including any source-specific provisions such as consent agreements or orders.

2. Any limit or condition in any construction permit issued under the new source review program or in any operating permit issued pursuant to the state operating permit program.

3. Any emission standard, alternative emission standard, alternative emission limitation, equivalent emission limitation or other requirement established pursuant to § 112 or § 129 of the federal Clean Air Act as amended in 1990.

4. Any new source performance standard or other requirement established pursuant to § 111 of the federal Clean Air Act, and any emission standard or other requirement established pursuant to § 112 of the federal Clean Air Act before it was amended in 1990.

5. Any limitations and conditions or other requirement in a Virginia regulation or program that has been approved by EPA under Subpart E of 40 CFR Part 63 for the purposes of implementing and enforcing § 112 of the federal Clean Air Act.

6. Any requirement concerning accident prevention under § 112(r)(7) of the federal Clean Air Act.

7. Any compliance monitoring requirements established pursuant to either § 504(b) or § 114(a)(3) of the federal Clean Air Act.

8. Any standard or other requirement for consumer and commercial products under § 183(e) of the federal Clean Air Act.

9. Any standard or other requirement for tank vessels under § 183(f) of the federal Clean Air Act.

10. Any standard or other requirement in 40 CFR Part 55 to control air pollution from outer continental shelf sources.

11. Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the federal Clean Air Act, unless the administrator has determined that such requirements need not be contained in a permit issued under this article.

12. With regard to temporary sources subject to 9 VAC 5-80-130, (i) any ambient air quality standard, except applicable state requirements and (ii) requirements regarding increments or visibility as provided in Article 8 (~~9 VAC 5-80-1700~~ 9 VAC 5-80-1605 et seq.) of this part.

"Begin actual construction" means initiation of permanent physical on-site construction of an emissions unit. This includes, but is not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operation, this term refers to those on-site activities other than preparatory activities which mark the initiation of the change. With respect to the initial location of a portable emissions unit, this term refers to the delivery of any portion of the portable emissions unit to the site.

"Commence," as applied to the construction, reconstruction or modification of an emissions unit, means that the owner has all necessary preconstruction approvals or permits and has either:

1. Begun, or caused to begin, a continuous program of actual on-site construction, reconstruction or modification of the unit, to be completed within a reasonable time; or

2. Entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner, to undertake a program of actual construction, reconstruction or modification of the unit, to be completed within a reasonable time.

"Complete application" means that the application contains all the information necessary for processing the application and that the provisions of § 10.1-1321.1 of the Virginia Air Pollution Control Law have been met. Designating an application complete for purposes of permit processing does not preclude the board from requesting or accepting additional information.

"Construction" means fabrication, erection or installation of an emissions unit.

"Emergency" means, in the context of 9 VAC 5-80-1320 B 2, a situation where immediate action on the part of a source is needed and where the timing of the action makes it impractical to meet the requirements of this article, such as sudden loss of power, fires, earthquakes, floods or similar occurrences.

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

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

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

1. Are permanent;

2. Contain a legal obligation for the owner to adhere to the terms and conditions;

3. Do not allow a relaxation of a requirement of the implementation plan;

4. Are technically accurate and quantifiable;

5. Include averaging times or other provisions that allow at least monthly (or a shorter period if necessary to be consistent with the implementation plan) checks on compliance. This may include, but not be limited to, the following: compliance with annual limits in a rolling basis, monthly or shorter limits, and other provisions consistent with 9 VAC 5-80-1180 and other regulations of the board; and

6. Require a level of recordkeeping, reporting and monitoring sufficient to demonstrate compliance.

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"Federal hazardous air pollutant new source review program" means a program for the preconstruction review and approval of new sources or expansions to existing ones in accordance with regulations specified below and promulgated to implement the requirements of § 112 (relating to hazardous air pollutants) of the federal Clean Air Act.

1. The provisions of 40 CFR 61.05, 40 CFR 61.06, 40 CFR 61.07, 40 CFR 61.08 and 40 CFR 61.15 for issuing approvals of the construction of any new source or modification of any existing source subject to the provisions of 40 CFR Part 61. These provisions of the federal hazardous air pollutant new source review program shall be implemented through this article and Article 1 (9 VAC 5-60-60 et seq.) of 9 VAC 5 Chapter 60.

2. The provisions of 40 CFR 63.5 for issuing approvals to construct a new source or reconstruct a source subject to the provisions of 40 CFR Part 63, except for Subparts B, D and E. These provisions of the federal hazardous air pollutant new source review program shall be implemented through this article and Article 2 (9 VAC 5-60-90 et seq.) of 9 VAC 5 Chapter 60.

3. The provisions of 40 CFR 63.50 through 40 CFR 63.56 for issuing Notices of MACT approval prior to the construction of a new emissions unit. These provisions of the federal hazardous air pollutant new source review program shall be implemented through this article and Article 3 (9 VAC 5-60-120 et seq.) of 9 VAC 5 Chapter 60.

"Federally enforceable" means all limitations and conditions which are enforceable by the administrator and citizens under the federal Clean Air Act or that are enforceable under other statutes administered by the administrator. Federally enforceable limitations and conditions include, but are not limited to, the following:

1. Emission standards, alternative emission standards, alternative emission limitations, and equivalent emission limitations established pursuant to § 112 of the federal Clean Air Act, as amended in 1990.

2. New source performance standards established pursuant to § 111 of the federal Clean Air Act, and emission standards established pursuant to § 112 of the federal Clean Air Act before it was amended in 1990.

3. All terms and conditions in a federal operating permit, including any provisions that limit a source's potential to emit, unless expressly designated as not federally enforceable.

4. Limitations and conditions that are part of an implementation plan established pursuant to § 110, § 111(d) or § 129 of the federal Clean Air Act.

5. Limitations and conditions that are part of a federal construction permit issued under 40 CFR 52.21 or any construction permit issued under regulations approved by the EPA in accordance with 40 CFR Part 51.

6. Limitations and conditions that are part of an operating permit issued pursuant to a program approved by the EPA into an implementation plan as meeting the EPA's minimum criteria for federal enforceability, including adequate notice

and opportunity for EPA and public comment prior to issuance of the final permit and practicable enforceability.

7. Limitations and conditions in a Virginia regulation or program that has been approved by the EPA under Subpart E of 40 CFR Part 63 for the purposes of implementing and enforcing § 112 of the federal Clean Air Act.

8. Individual consent agreements that the EPA has legal authority to create.

"Fixed capital cost" means the capital needed to provide all the depreciable components.

"Fugitive emissions" means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

"General permit" means a permit issued under this article that meets the requirements of 9 VAC 5-80-1250.

"Hazardous air pollutant" means any air pollutant listed in § 112(b) of the federal Clean Air Act, as amended by 40 CFR 63.60.

"Major modification" means any modification defined as such in ~~9 VAC 5-80-1710 C~~ 9 VAC 5-80-1615 C or 9 VAC 5-80-2010 C, as may apply.

~~"Major new source review (major NSR program)" means a program for the preconstruction review of changes which are subject to review as new major stationary sources or major modifications under Article 7 (9 VAC 5-80-1400 et seq.), Article 8 (9 VAC 5-80-1700 et seq.) or Article 9 (9 VAC 5-80-2000 et seq.) of this part.~~

"Major new source review (major NSR) program" means a preconstruction review and permit program (i) for new major stationary sources or major modifications (physical changes or changes in the method of operation); (ii) established to implement the requirements of §§ 112, 165 and 173 of the federal Clean Air Act and associated regulations; and (iii) codified in Article 7 (9 VAC 5-80-1400 et seq.), Article 8 (9 VAC 5-80-1605 et seq.) and Article 9 (9 VAC 5-80-2000 et seq.) of this part.

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

~~"Minor new source review (minor NSR program)" means a program for the preconstruction review of changes which are subject to review as new or modified sources and which do not qualify as new major stationary sources or major modifications under Article 7 (9 VAC 5-80-1400 et seq.), Article 8 (9 VAC 5-80-1700 et seq.) or Article 9 (9 VAC 5-80-2000 et seq.) of this part.~~

"Minor new source review (minor NSR) program" means a preconstruction review and permit program (i) for new stationary sources or modifications (physical changes or changes in the method of operation) that do not qualify for review under the major new source review program; (ii) established to implement the requirements of §§ 110(a)(2)(C) and 112 of the federal Clean Air Act and associated regulations; and (iii) codified in Article 6 (9 VAC 5-80-1100 et seq.) of this part.

"Modification" means any physical change in, change in the method of operation of, or addition to, a stationary source that would result in a net emissions increase of any regulated air pollutant emitted into the atmosphere by the source or which results in the emission of any regulated air pollutant into the atmosphere not previously emitted, except that the following shall not, by themselves (unless previously limited by permit conditions), be considered modifications under this definition:

1. Maintenance, repair and replacement which the board determines to be routine for a source type and which does not fall within the definition of ~~reconstruction~~ "reconstruction";
2. An increase in the production rate of a unit, if that increase does not exceed the operating design capacity of that unit;
3. An increase in the hours of operation;
4. Use of an alternative fuel or raw material if, prior to the date any provision of the regulations of the board becomes applicable to the source type, the source was designed to accommodate that alternative use. A source shall be considered to be designed to accommodate an alternative fuel or raw material if provisions for that use were included in the final construction specifications;
5. Use of an alternative fuel or raw material if, prior to the date any provision of the regulations of the board becomes applicable to the source type, the source was not designed to accommodate that alternative use and the owner demonstrates to the board that as a result of trial burns at the source or other sources or of other sufficient data that the emissions resulting from the use of the alternative fuel or raw material supply are decreased;
6. The addition, replacement or use of any system or device whose primary function is the reduction of air pollutants, except when a system or device that is necessary to comply with applicable air pollution control laws and regulations is replaced by a system or device which the board considers to be less efficient in the control of air pollution emissions; or
7. The removal of any system or device whose primary function is the reduction of air pollutants if the system or device is not necessary for the source to comply with any applicable air pollution control laws or regulations.

"Modified source" means any stationary source (or portion of it), the modification of which commenced on or after March 17, 1972.

"Necessary preconstruction approvals or permits" means those permits or approvals required under federal air quality control laws and regulations, and those air quality control laws and regulations which are part of the implementation plan.

"Net emissions increase" means the amount by which the sum of the following exceeds zero: (i) any increase in actual emissions from a particular physical change or change in the method of operation at a stationary source and (ii) any other increases and decreases in actual emissions at the source that are concurrent with the particular change and are otherwise creditable. An increase or decrease in actual

emissions is concurrent with the increase from the particular change only if it is directly resultant from the particular change. An increase or decrease in actual emissions is not creditable if the board has relied on it in issuing a permit for the source under the new source review program and that permit is in effect when the increase in actual emissions from the particular change occurs. Creditable increases and decreases shall be federally enforceable or enforceable as a practical matter.

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

~~"New source review program" means a program for the preconstruction review and permitting of new stationary sources or expansions to existing ones in accordance with regulations promulgated to implement the requirements of §§ 110 (a)(2)(C), 112 (relating to permits for hazardous air pollutants), 165 (relating to permits in prevention of significant deterioration areas), and 173 (relating to permits in nonattainment areas) of the federal Clean Air Act.~~

"New source review (NSR) program" means a preconstruction review and permit program (i) for new stationary sources or modifications (physical changes or changes in the method of operation); (ii) established to implement the requirements of §§ 110(a)(2)(C), 112 (relating to permits for hazardous air pollutants), 165 (relating to permits in prevention of significant deterioration areas), and 173 (relating to permits in nonattainment areas) of the federal Clean Air Act and associated regulations; and (iii) codified in Article 6 (9 VAC 5-80-1100 et seq.), Article 7 (9 VAC 5-80-1400 et seq.), Article 8 (9 VAC 5-80-1605 et seq.) and Article 9 (9 VAC 5-80-2000 et seq.) of this part.

"Nonroad engine" means any internal combustion engine:

1. In or on a piece of equipment that is self-propelled or serves a dual purpose by both propelling itself and performing another function (such as garden tractors, off-highway mobile cranes and bulldozers);
2. In or on a piece of equipment that is intended to be propelled while performing its function (such as lawnmowers and string trimmers); or
3. That, by itself or in or on a piece of equipment, is portable or transportable, meaning designed to be capable of being carried or moved from one location to another. Indications of transportability include, but are not limited to, wheels, skids, carrying handles, dollies, trailers, or platforms.

An internal combustion engine is not a nonroad engine if:

1. The engine is used to propel a motor vehicle or a vehicle used solely for competition, or is subject to standards promulgated under § 202 of the federal Clean Air Act; or
2. The engine otherwise included in subdivision 3 above remains or will remain at a location for more than 12 consecutive months or a shorter period of time for an engine located at a seasonal source.

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For purposes of this definition, a location is any single site at a building, structure, facility or installation. Any engine (or engines) that replaces an engine at a location and that is intended to perform the same or similar function as the engine replaced will be included in calculating the consecutive time period. An engine located at a seasonal source is an engine that remains at a seasonal source during the full annual operating period of the seasonal source. A seasonal source is a stationary source that remains in a single location on a permanent basis (i.e., at least two years) and that operates at the single location approximately three months (or more) each year. This paragraph does not apply to an engine after the engine is removed from the location.

~~"Pollution control project" means physical or operational changes whose primary function is the reduction of emissions of targeted regulated air pollutants but which results in an increase in emissions of nontargeted regulated air pollutants that qualify as a major modification as defined in 9 VAC 5-80-1740 or 9 VAC 5-80-2040. The fabrication, manufacture or production of pollution control/prevention equipment and inherently less polluting fuels or raw materials is not a pollution control project. A pollution control project shall be so designated by the board.~~

"Portable," in reference to emissions units, means an emissions unit that is designed to have the capability of being moved from one location to another for the purpose of operating at multiple locations and storage when idle. Indications of portability include, but are not limited to, wheels, skids, carrying handles, dollies, trailers, or platforms.

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

"Public comment period" means a time during which the public shall have the opportunity to comment on the new or modified source permit application information (exclusive of confidential information), the preliminary review and analysis of the effect of the source upon the ambient air quality, and the preliminary decision of the board regarding the permit application.

"Reactivation" means beginning operation of an emissions unit that has been shut down.

"Reconstruction" means the replacement of an emissions unit or its components to such an extent that:

1. The fixed capital cost of the new components exceeds 50% of the fixed capital cost that would be required to construct a comparable entirely new unit;
2. The replacement significantly extends the life of the emissions unit; and
3. It is technologically and economically feasible to meet the applicable emission standards prescribed under regulations of the board.

Any determination by the board as to whether a proposed replacement constitutes reconstruction shall be based on:

1. The fixed capital cost of the replacements in comparison to the fixed capital cost of the construction of a comparable entirely new unit;
2. The estimated life of the unit after the replacements compared to the life of a comparable entirely new unit;
3. The extent to which the components being replaced cause or contribute to the emissions from the unit; and
4. Any economic or technical limitations on compliance with applicable standards of performance which are inherent in the proposed replacements.

"Regulated air pollutant" means any of the following:

1. Nitrogen oxides or any volatile organic compound;
2. Any pollutant for which an ambient air quality standard has been promulgated;
3. Any pollutant subject to any standard promulgated under § 111 of the federal Clean Air Act;
4. Any pollutant subject to a standard promulgated under or other requirements established under § 112 of the federal Clean Air Act concerning hazardous air pollutants and any pollutant regulated under 40 CFR Part 63; or
5. Any pollutant subject to a regulation adopted by the board.

"Relocation" means a change in physical location of a stationary source or an emissions unit from one stationary source to another stationary source.

"Secondary emissions" means emissions which occur or would occur as a result of the construction, reconstruction, modification or operation of a stationary source, but do not come from the stationary source itself. For the purpose of this article, secondary emissions must be specific, well-defined, and quantifiable; and must impact upon the same general areas as the stationary source which causes the secondary emissions. Secondary emissions include emissions from any off site support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the stationary source. Secondary emissions do not include any emissions which come directly from a mobile source, such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

"State enforceable" means all limitations and conditions which are enforceable as a practical matter, including any regulation of the board, those requirements developed pursuant to 9 VAC 5-170-160, requirements within any applicable order or variance, and any permit requirements established pursuant to this chapter.

~~"State operating permit program" means a program for issuing limitations and conditions for stationary sources in accordance with Article 5 (9 VAC 5-80-800 et seq.) of this part, promulgated to meet EPA's minimum criteria for federal enforceability, including adequate notice and opportunity for EPA and public comment prior to issuance of the final permit, and practicable enforceability.~~

"State operating permit program" means an operating permit program (i) for issuing limitations and conditions for stationary sources; (ii) promulgated to meet the EPA's minimum criteria for federal enforceability, including adequate notice and opportunity for the EPA and public comment prior to issuance of the final permit, and practicable enforceability; and (iii) codified in Article 5 (9 VAC 5-80-800 et seq.) of this part.

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

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

~~"Targeted regulated air pollutants" means regulated air pollutants that are reduced as a result of physical or operational changes whose primary function is the reduction of emissions of regulated air pollutants to meet an applicable federal requirement, exclusive of the new source review program.~~

9 VAC 5-80-1310. Pollution control projects. (Repealed.)

~~A. This section shall apply only to pollution control projects at major stationary sources and shall be the administrative mechanism, along with the other applicable provisions of this article, for issuing pollution control project permits. This section shall not apply to air pollution controls and emissions associated with a proposed new stationary source or emissions unit.~~

~~B. The approval of a permit for a proposed project under this section constitutes a determination by the board that the project is a pollution control project and qualifies for an exclusion from review under Article 8 (9 VAC 5-80-1700 et seq.) or Article 9 (9 VAC 5-80-2000 et seq.) of this part.~~

~~C. Notwithstanding the definitions for major modification and net emissions increase as defined in 9 VAC 5-80-1710 and 9 VAC 5-80-2010, any physical or operational change consistent with the terms and conditions of a pollution control project permit issued under this section (i) shall not constitute a major modification for the pollutants covered by the pollution control project and (ii) qualifies for the exclusion in subsection B of this section.~~

~~D. No owner or other person shall begin construction of a proposed project that may qualify as a pollution control project without a permit issued pursuant to this section.~~

~~E. The provisions of this article shall apply to any pollution control project, except that 9 VAC 5-50-260 shall not apply. This subsection shall not be construed as preventing the board from prescribing any control measure it finds necessary to make a determination under subdivision H 4 of this section.~~

~~F. Approval of a pollution control project permit shall not provide the owner the license to engage in any activity that (i) will cause emissions from the stationary source that result in violations of or exacerbate violations of, or interfere with the attainment and maintenance of, any ambient air quality standard or (ii) is not in conformance with any applicable control strategy, including any emission standards or emission limitations, in the implementation plan.~~

~~G. The owner of a stationary source may request the board to approve a pollution control project permit for any one or more pollutants by submitting an application that meets the following criteria:~~

~~1. The application shall meet the requirements of 9 VAC 5-80-1140.~~

~~2. The application shall contain the information required by 9 VAC 5-80-1150.~~

~~3. Where a significant increase in emissions has not been previously analyzed for its air quality impact and raises the possibility of (i) a violation of an ambient air quality standard or prevention of significant deterioration increment in 9 VAC 5-80-1730 or (ii) adversely affecting visibility or other air quality related values, the application shall include an air quality analysis sufficient to demonstrate the impact of the project.~~

~~4. In the case of nonattainment areas, the application shall include legally enforceable mechanisms to ensure offsetting emissions reductions will be available for any significant increase in a nonattainment pollutant from the pollution control project.~~

~~H. The board may approve a pollution control project for a stationary source in accordance with this subsection:~~

~~1. In considering this request, the board will afford the public an opportunity to review and comment on the source's application for this exclusion in accordance with 9 VAC 5-80-1170. The board will provide a copy of the public notice required by 9 VAC 5-80-1170 F, the permit, and any preliminary review and analysis documents to the regional administrator, U.S. Environmental Protection Agency, prior to promulgation of the public notice required by 9 VAC 5-80-1170 F.~~

~~2. The board will determine that the proposed pollution control project, after consideration of the reduction in the targeted regulated air pollutant and any collateral effects, will be environmentally beneficial. A project that would result in an unacceptable increased risk due to the release of air toxics shall not be considered environmentally beneficial. Unless there is reason to believe otherwise, the board will presume that the projects by their nature will result in reduced risk from air toxics. If a significant collateral increase of a nonattainment pollutant resulting from a pollution control project is not offset on at least a one to one ratio, the pollution control project shall not qualify as~~

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~~environmentally beneficial. Pollution prevention projects that increase utilization rate may not qualify as environmentally beneficial. Therefore, the emissions rate after the change would be the product of the new emissions rate times the existing utilization rate. However, if the increased utilization results from debottlenecking, these projects may qualify, but all the debottlenecked emissions increases should be viewed as collateral and evaluated to determine whether the project is still environmentally beneficial and meets all applicable safeguards.~~

~~3. The board will determine that the proposed pollution control project will not (i) cause or contribute to a violation of an ambient air quality standard or prevention of significant deterioration increment in 9 VAC 5-80-1730 or (ii) adversely affect visibility or other air quality related values. The analysis for this determination will include a case by case assessment of the pollution control project's net emissions and overall impact on the environment and the specific impact.~~

~~4. With regard to the increase in nontargeted regulated air pollutants, the board will determine that the collateral increase will be minimized and will not result in environmental harm.~~

~~5. The board will include in the permit terms and conditions to ensure that adverse collateral environmental impacts from the project are identified, minimized, and, where appropriate, mitigated.~~

~~6. The board will not approve as a pollution control project any project that constitutes the replacement of an existing emissions unit with a newer or different one (albeit more efficient and less polluting) or the reconstruction of an existing emissions unit.~~

Article 8.

Permits for Major Stationary Sources and Major Modifications Locating in Prevention of Significant Deterioration Areas.

9 VAC 5-80-1605. Applicability.

A. The provisions of this article apply to the construction of any new major stationary source or any project at an existing major stationary source.

B. The provisions of this article apply in prevention of significant deterioration areas designated in 9 VAC 5-20-205.

C. At such time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation that was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of this article shall apply to the source or modification as though construction had not yet commenced on the source or modification.

D. Unless specified otherwise, the provisions of this article apply as follows:

1. Provisions referring to "sources," "new or modified sources" or "stationary sources" apply to the construction or

modification of all major stationary sources and major modifications.

2. Any emissions units or pollutants not subject to the provisions of this article may be subject to the provisions of Article 6 (9 VAC 5-80-1100 et seq.), Article 7 (9 VAC 5-80-1400 et seq.), or Article 9 (9 VAC 5-80-2000 et seq.) of this part.

3. Provisions referring to "state and federally enforceable" and "federally and state enforceable" or similar wording shall mean "state-only enforceable" for terms and conditions of a permit designated state-only enforceable under 9 VAC 5-80-1625 G.

E. For purposes of applying subsection F of this section and other provisions of this article, the effective date of the amendments adopted by the board on [insert adoption date] shall be the date 30 days after the date on which a notice is published in the Virginia Register acknowledging that the administrator has approved the amendments adopted by the board on [insert adoption date].

F. Unless otherwise approved by the board or prescribed in these regulations, when this article is amended, the previous provisions of this article shall remain in effect for all applications that are deemed complete under the provisions of 9 VAC 5-80-1775 A prior to [the effective date of the amended article]. Any permit applications that have not been determined to be complete as of [the effective date of the amendments] shall be subject to the new provisions.

G. Regardless of the exemptions provided in this article, no owner or other person shall circumvent the requirements of this section by causing or allowing a pattern of ownership or development over a geographic area of a source which, except for the pattern of ownership or development, would otherwise require a permit.

H. The requirements of this article will be applied in accordance with the following principles:

1. Except as otherwise provided in subsections I and J of this subsection, and consistent with the definition of "major modification," a project is a major modification for a regulated NSR pollutant if it causes two types of emissions increases: a significant emissions increase, and a significant net emissions increase. The project is not a major modification if it does not cause a significant emissions increase. If the project causes a significant emissions increase, then the project is a major modification only if it also results in a significant net emissions increase.

2. The procedure for calculating (before beginning actual construction) whether a significant emissions increase (i.e., the first step of the process) will occur depends upon the type of emissions units being modified, according to subdivisions 3 through 6 of this subsection. The procedure for calculating (before beginning actual construction) whether a significant net emissions increase will occur at the major stationary source (i.e., the second step of the process) is in the definition of "net emissions increase." Regardless of any such preconstruction projections, a major modification results if the project causes a significant

emissions increase and a significant net emissions increase.

3. The actual-to-projected-actual applicability test for projects that only involve existing emissions units shall be conducted as provided in this subdivision. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the projected actual emissions and the baseline actual emissions, for each existing emissions unit, is significant for that pollutant.

4. The actual-to-potential test for projects that only involve construction of a new emissions unit shall be conducted as provided in this subdivision. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the potential to emit from each new emissions unit following completion of the project and the baseline actual emissions of these units before the project is significant for that pollutant.

5. The emission test for projects that involve Clean Units shall be conducted as provided in this subdivision. For a project that will be constructed and operated at a Clean Unit without causing the emissions unit to lose its Clean Unit designation, no emissions increase is deemed to occur.

6. The hybrid test for projects that involve multiple types of emissions units shall be conducted as provided in this subdivision. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the emissions increases for each emissions unit, using the method specified in subdivisions 3 through 5 of this subsection as applicable with respect to each emissions unit, for each type of emissions unit is significant for that pollutant. For example, if a project involves both an existing emissions unit and a Clean Unit, the projected increase is determined by summing the values determined using the method specified in subdivision 3 of this subsection for the existing unit and using the method specified in subdivision 5 of this subsection for the Clean Unit.

I. For any major stationary source for a PAL for a regulated NSR pollutant, the major stationary source shall comply with the requirements under 9 VAC 5-80-1865.

J. An owner undertaking a PCP shall comply with the requirements under 9 VAC 5-80-1855.

K. The provisions of 40 CFR Part 60, Part 61 and Part 63 cited in this article apply only to the extent that they are incorporated by reference in Article 5 (9 VAC 5-50-400 et seq.) of Part II of 9 VAC 5 Chapter 50 and Article 1 (9 VAC 5-60-60 et seq.) and Article 2 (9 VAC 5-60-90 et seq.) of Part II of 9 VAC 5 Chapter 60.

L. The provisions of 40 CFR Part 51 and Part 58 cited in this article apply only to the extent that they are incorporated by reference in 9 VAC 5-20-21.

9 VAC 5-80-1615. Definitions.

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

B. For the purpose of this article, 9 VAC 5-80-280 and applying this article in the context of the Regulations for the Control and Abatement of Air Pollution and related uses, the words or terms shall have the meaning given them in subsection C of this section:

C. Terms defined.

"Actual emissions" means the actual rate of emissions of a regulated NSR pollutant from an emissions unit, as determined in accordance with subdivisions a through c of this definition, except that this definition shall not apply for calculating whether a significant emissions increase has occurred, or for establishing a PAL under 9 VAC 5-80-1865. Instead, the definitions of "projected actual emissions" and "baseline actual emissions" shall apply for those purposes.

a. In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a consecutive 24-month period that precedes the particular date and that is representative of normal source operation. The board will allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

b. The board may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

c. For any emissions unit that has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

"Actuals PAL for a major stationary source" means a PAL based on the baseline actual emissions of all emissions units at the source that emit or have the potential to emit the PAL pollutant.

"Administrator" means the administrator of the U.S. Environmental Protection Agency (EPA) or an authorized representative.

"Adverse impact on visibility" means visibility impairment that interferes with the management, protection, preservation or enjoyment of the visitor's visual experience of the federal class I area. This determination shall be made on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency and time of visibility impairment, and how these factors correlate with (i) times of visitor use of the federal class I areas, and (ii) the frequency and timing of natural conditions that reduce visibility.

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

a. The applicable standards as set forth in 40 CFR Parts 60, 61, and 63;

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b. The applicable implementation plan emissions limitation including those with a future compliance date; or

c. The emissions limit specified as a federally and state enforceable permit condition, including those with a future compliance date.

For the purposes of actuals PALs, "allowable emissions" shall also be calculated considering any emission limitations that are enforceable as a practical matter on the emissions unit's potential to emit.

"Applicable federal requirement" means all of the following as they apply to emissions units in a source subject to this article (including requirements that have been promulgated or approved by the administrator through rulemaking at the time of permit issuance but have future-effective compliance dates):

a. Any standard or other requirement provided for in an implementation plan established pursuant to § 110 or § 111(d) of the federal Clean Air Act, including any source-specific provisions such as consent agreements or orders.

b. Any limit or condition in any construction permit issued under the new source review program or in any operating permit issued pursuant to the state operating permit program.

c. Any emission standard, alternative emission standard, alternative emission limitation, equivalent emission limitation or other requirement established pursuant to § 112 or § 129 of the federal Clean Air Act as amended in 1990.

d. Any new source performance standard or other requirement established pursuant to § 111 of the federal Clean Air Act, and any emission standard or other requirement established pursuant to § 112 of the federal Clean Air Act before it was amended in 1990.

e. Any limitations and conditions or other requirement in a Virginia regulation or program that has been approved by EPA under subpart E of 40 CFR Part 63 for the purposes of implementing and enforcing § 112 of the federal Clean Air Act.

f. Any requirement concerning accident prevention under § 112(r)(7) of the federal Clean Air Act.

g. Any compliance monitoring requirements established pursuant to either § 504(b) or § 114(a)(3) of the federal Clean Air Act.

h. Any standard or other requirement for consumer and commercial products under § 183(e) of the federal Clean Air Act.

i. Any standard or other requirement for tank vessels under § 183(f) of the federal Clean Air Act.

j. Any standard or other requirement in 40 CFR Part 55 to control air pollution from outer continental shelf sources.

k. Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the federal Clean Air Act unless the administrator has

determined that such requirements need not be contained in a permit issued under this article.

l. With regard to temporary sources subject to 9 VAC 5-80-130, (i) any ambient air quality standard, except applicable state requirements, and (ii) requirements regarding increments or visibility as provided in this article.

"Baseline actual emissions" means the rate of emissions, in tons per year, of a regulated NSR pollutant, as determined in accordance with the following:

a. For any existing electric utility steam generating unit, baseline actual emissions means the average rate, in tons per year, at which the unit actually emitted the pollutant during any consecutive 24-month period selected by the owner within the five-year period immediately preceding when the owner begins actual construction of the project. The board will allow the use of a different time period upon a determination that it is more representative of normal source operation.

(1) The average rate shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions.

(2) The average rate shall be adjusted downward to exclude any noncompliant emissions that occurred while the source was operating above any emission limitation that was legally enforceable during the consecutive 24-month period.

(3) For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period shall be used to determine the baseline actual emissions for the emissions units being changed. The same consecutive 24-month period shall be used for each different regulated NSR pollutant unless the owner can demonstrate to the satisfaction of the board that a different consecutive 24-month period for a different pollutant or pollutants is more appropriate due to extenuating circumstances.

(4) The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by subdivision a (2) of this definition.

b. For an existing emissions unit (other than an electric utility steam generating unit), baseline actual emissions means the average rate, in tons per year, at which the emissions unit actually emitted the pollutant during any consecutive 24-month period selected by the owner within the five-year period immediately preceding either the date the owner begins actual construction of the project, or the date a complete permit application is received by the board for a permit required under this article, whichever is earlier, except that the five-year period shall not include any period earlier than November 15, 1990.

(1) The average rate shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions.

(2) The average rate shall be adjusted downward to exclude any noncompliant emissions that occurred while the source was operating above any emission limitation that was legally enforceable during the consecutive 24-month period.

(3) The average rate shall be adjusted downward to exclude any emissions that would have exceeded an emission limitation with which the major stationary source must currently comply, had such major stationary source been required to comply with such limitations during the consecutive 24-month period. However, if an emission limitation is part of a maximum achievable control technology standard that the administrator proposed or promulgated under 40 CFR Part 63, the baseline actual emissions need only be adjusted if the board has taken credit for such emissions reductions in an attainment demonstration or maintenance plan consistent with the requirements of 9 VAC 5-80-2120 K.

(4) For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period shall be used to determine the baseline actual emissions for all the emissions units being changed. The same consecutive 24-month period shall be used for each different regulated NSR pollutant unless the owner can demonstrate to the satisfaction of the board that a different consecutive 24-month period for a different pollutant or pollutants is more appropriate due to extenuating circumstances.

(5) The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by subdivisions b (2) and (3) of this definition.

c. For a new emissions unit, the baseline actual emissions for purposes of determining the emissions increase that will result from the initial construction and operation of such unit shall equal zero; and thereafter, for all other purposes, shall equal the unit's potential to emit.

"Baseline area":

a. Means any intrastate area (and every part thereof) designated as attainment or unclassifiable under § 107(d)(1)(C) of the federal Clean Air Act in which the major source or major modification establishing the minor source baseline date would construct or would have an air quality impact equal to or greater than $1 \mu\text{g}/\text{m}^3$ (annual average) of the pollutant for which the minor source baseline date is established.

b. Area redesignations under § 107(d)(3) of the federal Clean Air Act cannot intersect or be smaller than the area of impact of any major stationary source or major modification that:

- (1) Establishes a minor source baseline date; or
- (2) Is subject to this article or 40 CFR 52.21 and would be constructed in the same state as the state proposing the redesignation.

c. Any baseline area established originally for the TSP increments shall remain in effect and shall apply for purposes of determining the amount of available PM_{10} increments, except that such baseline area shall not remain in effect if the board rescinds the corresponding minor source baseline date in accordance with subdivision d of the definition of "baseline date."

"Baseline concentration"

a. Means that ambient concentration level that exists in the baseline area at the time of the applicable minor source baseline date. A baseline concentration is determined for each pollutant for which a minor source baseline date is established and shall include:

(1) The actual emissions representative of sources in existence on the applicable minor source baseline date, except as provided in subdivision b of this definition; and

(2) The allowable emissions of major stationary sources that commenced construction before the major source baseline date, but were not in operation by the applicable minor source baseline date.

b. The following will not be included in the baseline concentration and will affect the applicable maximum allowable increase(s):

(1) Actual emissions from any major stationary source on which construction commenced after the major source baseline date; and

(2) Actual emissions increases and decreases at any stationary source occurring after the minor source baseline date.

"Baseline date"

a. "Major source baseline date" means:

(1) In the case of particulate matter and sulfur dioxide, January 6, 1975; and

(2) In the case of nitrogen dioxide, February 8, 1988.

b. "Minor source baseline date" means the earliest date after the trigger date on which a major stationary source or a major modification subject to this article submits a complete application under this article. The trigger date is:

(1) In the case of particulate matter and sulfur dioxide, August 7, 1977; and

(2) In the case of nitrogen dioxide, February 8, 1988.

c. The baseline date is established for each pollutant for which increments or other equivalent measures have been established if:

(1) The area in which the proposed source or modification would construct is designated as attainment or unclassifiable under § 107(d)(1)(C) of the federal Clean Air Act for the pollutant on the date of its complete application under this article or 40 CFR 52.21; and

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(2) In the case of a major stationary source, the pollutant would be emitted in significant amounts, or, in the case of a major modification, there would be a significant net emissions increase of the pollutant.

d. Any minor source baseline date established originally for the TSP increments shall remain in effect and shall apply for purposes of determining the amount of available PM₁₀ increments, except that the board may rescind any such minor source baseline date where it can be shown, to the satisfaction of the board, that the emissions increase from the major stationary source, or the net emissions increase from the major modification, responsible for triggering that date did not result in a significant amount of PM₁₀ emissions.

"Begin actual construction" means, in general, initiation of physical on-site construction activities on an emissions unit that are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operation, this term refers to those on-site activities other than preparatory activities that mark the initiation of the change.

"Best available control technology" means an emissions limitation (including a visible emissions standard) based on the maximum degree of reduction for each regulated NSR pollutant that would be emitted from any proposed major stationary source or major modification that the board, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant. In no event shall application of best available control technology result in emissions of any pollutant that would exceed the emissions allowed by any applicable standard under 40 CFR Parts 60, 61, and 63. If the board determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, a design, equipment, work practice, operational standard, or combination thereof, may be prescribed instead to satisfy the requirement for the application of best available control technology. Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design, equipment, work practice or operation, and shall provide for compliance by means that achieve equivalent results.

"Building, structure, facility or installation" means all of the pollutant-emitting activities that belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control) except the activities of any vessel. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., that have the same first two-digit code) as described in the Standard Industrial Classification Manual (see 9 VAC 5-20-21).

"Clean coal technology" means any technology, including technologies applied at the precombustion, combustion, or post combustion stage, at a new or existing facility that will achieve significant reductions in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity, or process steam that was not in widespread use as of November 15, 1990.

"Clean coal technology demonstration project" means a project using funds appropriated under the heading "Department of Energy-Clean Coal Technology," up to a total amount of \$2,500,000,000 for commercial demonstration of clean coal technology, or similar projects funded through appropriations for EPA. The federal contribution for a qualifying project shall be at least 20% of the total cost of the demonstration project.

"Clean unit" means any emissions unit that has been issued a major NSR permit that requires compliance with BACT or LAER, is complying with such BACT/LAER requirements, and qualifies as a Clean Unit pursuant to 9 VAC 5-80-1835; any emissions unit that has been designated by the board as a Clean Unit, based on the criteria in 9 VAC 5-80-1845 C 1 through 4; or any emissions unit that has been designated by the administrator as a Clean Unit in accordance with 40 CFR 52.21(y)(3)(i) through (iv).

"Commence" as applied to construction of a major stationary source or major modification, means that the owner has all necessary preconstruction approvals or permits and either has:

- a. Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or
- b. Entered into binding agreements or contractual obligations, that cannot be canceled or modified without substantial loss to the owner, to undertake a program of actual construction of the source, to be completed within a reasonable time.

"Complete" means, in reference to an application for a permit, that the application contains all of the information necessary for processing the application and the provisions of § 10.1-1321.1 of the Virginia Air Pollution Control Law have been met. Designating an application complete for the purposes of permit processing does not preclude the board from requesting or accepting any additional information.

"Construction" means any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) that would result in a change in emissions.

"Continuous emissions monitoring system" or "CEMS" means all of the equipment that may be required to meet the data acquisition and availability requirements of this article, to sample, condition (if applicable), analyze, and provide a record of emissions on a continuous basis.

"Continuous emissions rate monitoring system" or "CERMS" means the total equipment required for the determination and recording of the pollutant mass emissions rate (in terms of mass per unit of time).

"Continuous parameter monitoring system" or "CPMS" means all of the equipment necessary to meet the data acquisition and availability requirements of this article, to monitor process and control device operational parameters (for example, control device secondary voltages and electric currents) and other information (for example, gas flow rate, O₂ or CO₂ concentrations), and to record average operational parameter value(s) on a continuous basis.

"Effective date of this revision" means the effective date determined in accordance with 9 VAC 5-80-1605 E.

"Electric utility steam generating unit" means any steam electric generating unit that is constructed for the purpose of supplying more than one-third of its potential electric output capacity and more than 25 MW electrical output to any utility power distribution system for sale. Any steam supplied to a steam distribution system for the purpose of providing steam to a steam-electric generator that would produce electrical energy for sale is also considered in determining the electrical energy output capacity of the affected facility.

"Emissions unit" means any part of a stationary source that emits or would have the potential to emit any regulated NSR pollutant and includes an electric utility steam generating unit. For purposes of this definition, there are two types of emissions units: (i) a new emissions unit is any emissions unit that is (or will be) newly constructed and that has existed for less than two years from the date such emissions unit first operated; and (ii) an existing emissions unit is any emissions unit that is not a new emissions unit.

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

- a. Are permanent;
- b. Contain a legal obligation for the owner to adhere to the terms and conditions;
- c. Do not allow a relaxation of a requirement of the implementation plan;
- d. Are technically accurate and quantifiable;
- e. Include averaging times or other provisions that allow at least monthly (or a shorter period if necessary to be consistent with the implementation plan) checks on compliance. This may include, but not be limited to, the following: compliance with annual limits on a rolling basis, monthly or shorter limits, and other provisions consistent with this article and other regulations of the board; and
- f. Require a level of recordkeeping, reporting and monitoring sufficient to demonstrate compliance.

"Federal land manager" means, with respect to any lands in the United States, the secretary of the department with authority over such lands.

"Federally enforceable" means all limitations and conditions that are enforceable by the administrator and citizens under the federal Clean Air Act or that are enforceable under other statutes administered by the administrator. Federally enforceable limitations and conditions include, but are not limited to, the following:

a. Emission standards, alternative emission standards, alternative emission limitations, and equivalent emission limitations established pursuant to § 112 of the federal Clean Air Act as amended in 1990.

b. New source performance standards established pursuant to § 111 of the federal Clean Air Act, and emission standards established pursuant to § 112 of the federal Clean Air Act before it was amended in 1990.

c. All terms and conditions (unless expressly designated as not federally enforceable) in a federal operating permit, including any provisions that limit a source's potential to emit.

d. Limitations and conditions that are part of an implementation plan established pursuant to § 110, § 111(d) or § 129 of the federal Clean Air Act.

e. Limitations and conditions (unless expressly designated as not federally enforceable) that are part of a federal construction permit issued under 40 CFR 52.21 or a new source review permit issued under regulations approved by the EPA into the implementation plan.

f. Limitations and conditions (unless expressly designated as not federally enforceable) that are part of a state operating permit where the permit and the permit program pursuant to which it was issued meet all of the following criteria:

(1) The operating permit program has been approved by the EPA into the implementation plan under §110 of the federal Clean Air Act;

(2) The operating permit program imposes a legal obligation that operating permit holders adhere to the terms and limitations of such permits and provides that permits that do not conform to the operating permit program requirements and the requirements of EPA's underlying regulations may be deemed not "federally enforceable" by EPA;

(3) The operating permit program requires that all emission limitations, controls, and other requirements imposed by such permits will be at least as stringent as any other applicable limitations and requirements contained in the implementation plan or enforceable under the implementation plan, and that the program may not issue permits that waive, or make less stringent, any limitations or requirements contained in or issued pursuant to the implementation plan, or that are otherwise "federally enforceable";

(4) The limitations, controls, and requirements in the permit in question are permanent, quantifiable, and otherwise enforceable as a practical matter; and

(5) The permit in question was issued only after adequate and timely notice and opportunity for comment by the EPA and the public.

g. Limitations and conditions in a regulation of the board or program that has been approved by the EPA under subpart E of 40 CFR Part 63 for the purposes of

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implementing and enforcing § 112 of the federal Clean Air Act.

h. Individual consent agreements that the EPA has legal authority to create.

"Federal operating permit" means a permit issued under the federal operating permit program.

"Federal operating permit program" means an operating permit system (i) for issuing terms and conditions for major stationary sources, (ii) established to implement the requirements of Title V of the federal Clean Air Act and associated regulations, and (iii) codified in Article 1 (9 VAC 5-80-50 et seq.), Article 2 (9 VAC 5-80-310 et seq.), Article 3 (9 VAC 5-80-360 et seq.), and Article 4 (9 VAC 5-80-710 et seq.) of this part.

"Fugitive emissions" means those emissions that could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

"High terrain" means any area having an elevation 900 feet or more above the base of the stack of a source.

"Indian governing body" means the governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-government.

"Indian reservation" means any federally recognized reservation established by treaty, agreement, executive order, or act of Congress.

"Innovative control technology" means any system of air pollution control that has not been adequately demonstrated in practice, but would have substantial likelihood of achieving greater continuous emissions reduction than any control system in current practice or of achieving at least comparable reductions at lower cost in terms of energy, economics, or nonair quality environmental impacts.

"Lowest achievable emission rate" or "LAER" is as defined in 9 VAC 5-80-2010 C.

"Locality particularly affected" means any locality that bears any identified disproportionate material air quality impact that would not be experienced by other localities.

"Low terrain" means any area other than high terrain.

"Major emissions unit" means (i) any emissions unit that emits or has the potential to emit 100 tons per year or more of the PAL pollutant in an attainment area; or (ii) any emissions unit that emits or has the potential to emit the PAL pollutant in an amount that is equal to or greater than the major source threshold for the PAL pollutant in subdivision 1 of the definition of "major stationary source."

"Major modification"

a. Means any physical change in or change in the method of operation of a major stationary source that would result in a significant emissions increase of a regulated NSR pollutant, and a significant net emissions increase of that pollutant from the major stationary source.

b. Any significant emissions increase from any emissions units or net emissions increase at a major stationary source that is significant for volatile organic compounds shall be considered significant for ozone.

c. A physical change or change in the method of operation shall not include the following:

(1) Routine maintenance, repair and replacement.

(2) Use of an alternative fuel or raw material by reason of an order under § 2 (a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plant pursuant to the federal Power Act.

(3) Use of an alternative fuel by reason of any order or rule under § 125 of the federal Clean Air Act.

(4) Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste.

(5) Use of an alternative fuel or raw material by a stationary source that:

(a) The source was capable of accommodating before January 6, 1975, unless such change would be prohibited under any federally and state enforceable permit condition that was established after January 6, 1975, pursuant to 40 CFR 52.21 or this chapter; or

(b) The source is approved to use under any permit issued under 40 CFR 52.21 or this chapter; and

(c) The owner demonstrates to the board that as a result of trial burns at the source or other sources or other sufficient data that the emissions resulting from the use of the alternative fuel or raw material supply are decreased.

(6) An increase in the hours of operation or in the production rate, unless such change is prohibited under any federally and state enforceable permit condition that was established after January 6, 1975, pursuant to 40 CFR 52.21 or this chapter.

(7) Any change in ownership at a stationary source.

(8) The addition, replacement or use of a PCP at an existing emissions unit meeting the requirements of 9 VAC 5-80-1855. A replacement control technology must provide more effective emission control than that of the replaced control technology to qualify for this exclusion.

(9) The installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, provided that the project complies with:

(a) The applicable implementation plan, and

(b) Other requirements necessary to attain and maintain the ambient air quality standards during the project and after it is terminated.

(10) The installation or operation of a permanent clean coal technology demonstration project that constitutes repowering, provided that the project does not result in an increase in the potential to emit of any regulated pollutant emitted by the unit. This exemption shall apply on a pollutant-by-pollutant basis.

(11) The reactivation of a very clean coal-fired electric utility steam generating unit.

d. This definition shall not apply with respect to a particular regulated NSR pollutant when the major stationary source is complying with the requirements under 9 VAC 5-80-1865 for a PAL for that pollutant. Instead, the definition of "PAL major modification" shall apply.

"Major new source review (NSR) permit" means a permit issued under the major new source review program.

"Major new source review (major NSR) program" means a preconstruction review and permit program (i) for new major stationary sources or major modifications (physical changes or changes in the method of operation), (ii) established to implement the requirements of §§ 112, 165 and 173 of the federal Clean Air Act and associated regulations, and (iii) codified in Article 7 (9 VAC 5-80-1400 et seq.), Article 8 (9 VAC 5-80-1605 et seq.) and Article 9 (9 VAC 5-80-2000 et seq.) of this part.

"Major stationary source"

a. Means:

(1) Any of the following stationary sources of air pollutants that emits, or has the potential to emit, 100 tons per year or more of a regulated NSR pollutant:

- (a) Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input.
- (b) Coal cleaning plants (with thermal dryers).
- (c) Kraft pulp mills.
- (d) Portland cement plants.
- (e) Primary zinc smelters.
- (f) Iron and steel mill plants.
- (g) Primary aluminum ore reduction plants.
- (h) Primary copper smelters.
- (i) Municipal incinerators capable of charging more than 250 tons of refuse per day.
- (j) Hydrofluoric acid plants.
- (k) Sulfuric acid plants.
- (l) Nitric acid plants.
- (m) Petroleum refineries.
- (n) Lime plants.
- (o) Phosphate rock processing plants.
- (p) Coke oven batteries.

(q) Sulfur recovery plants.

(r) Carbon black plants (furnace process).

(s) Primary lead smelters.

(t) Fuel conversion plants.

(u) Sintering plants.

(v) Secondary metal production plants.

(w) Chemical process plants.

(x) Fossil fuel boilers (or combinations thereof) totaling more than 250 million British thermal units per hour heat input.

(y) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels.

(z) Taconite ore processing plants.

(aa) Glass fiber processing plants.

(bb) Charcoal production plants.

(2) Notwithstanding the stationary source size specified in subdivision a (1) of this definition, any stationary source that emits, or has the potential to emit, 250 tons per year or more of a regulated NSR pollutant; or

(3) Any physical change that would occur at a stationary source not otherwise qualifying under subdivision a (1) or a (2) of this definition as a major stationary source, if the change would constitute a major stationary source by itself.

b. A major stationary source that is major for volatile organic compounds shall be considered major for ozone.

c. The fugitive emissions of a stationary source shall not be included in determining for any of the purposes of this article whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources:

(1) Coal cleaning plants (with thermal dryers).

(2) Kraft pulp mills.

(3) Portland cement plants.

(4) Primary zinc smelters.

(5) Iron and steel mills.

(6) Primary aluminum ore reduction plants.

(7) Primary copper smelters.

(8) Municipal incinerators capable of charging more than 250 tons of refuse per day.

(9) Hydrofluoric, sulfuric, or nitric acid plants.

(10) Petroleum refineries.

(11) Lime plants.

(12) Phosphate rock processing plants.

(13) Coke oven batteries.

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- (14) Sulfur recovery plants.
- (15) Carbon black plants (furnace process).
- (16) Primary lead smelters.
- (17) Fuel conversion plants.
- (18) Sintering plants.
- (19) Secondary metal production plants.
- (20) Chemical process plants.
- (21) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input.
- (22) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels.
- (23) Taconite ore processing plants.
- (24) Glass fiber processing plants.
- (25) Charcoal production plants.
- (26) Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input.
- (27) Any other stationary source category that, as of August 7, 1980, is being regulated under 40 CFR Parts 60 and 61.

"Minor new source review (NSR) permit" means a permit issued under the minor new source review program.

"Minor new source review (minor NSR) program" means a preconstruction review and permit program (i) for new stationary sources or modifications (physical changes or changes in the method of operation) which do not qualify for review under the major new source review program, (ii) established to implement the requirements of §§ 110(a)(2)(C) and 112 of the federal Clean Air Act and associated regulations, and (iii) codified in Article 6 (9 VAC 5-80-1100 et seq.) of this part.

"Necessary preconstruction approvals or permits" means those permits required under NSR programs that are part of the applicable implementation plan.

"Net emissions increase"

a. Means, with respect to any regulated NSR pollutant emitted by a major stationary source, the amount by which the sum of the following exceeds zero:

- (1) The increase in emissions from a particular physical change or change in the method of operation at a stationary source as calculated pursuant to 9 VAC 5-80-1605 H; and
- (2) Any other increases and decreases in actual emissions at the major stationary source that are contemporaneous with the particular change and are otherwise creditable. Baseline actual emissions for calculating increases and decreases under this subdivision shall be determined as provided in the definition of "baseline actual emissions," except that

subdivisions a (3) and b (4) of that definition shall not apply.

b. An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between:

(1) The date five years before construction on the particular change commences; and

(2) The date that the increase from the particular change occurs.

c. An increase or decrease in actual emissions is creditable only if (i) it occurs between the date five years before construction on the particular change commences and the date that the increase from the particular change occurs; (ii) the board has not relied on it in issuing a permit for the source under this chapter (or the administrator under 40 CFR 52.21), which permit is in effect when the increase in actual emissions from the particular change occurs; and (iii) the increase or decrease in emissions did not occur at a Clean Unit except as provided in 9 VAC 5-80-1835 H and 9 VAC 5-0-1845 J.

d. An increase or decrease in actual emissions of sulfur dioxide, particulate matter, or nitrogen oxides that occurs before the applicable minor source baseline date is creditable only if it is required to be considered in calculating the amount of maximum allowable increases remaining available.

e. An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

f. A decrease in actual emissions is creditable only to the extent that:

(1) The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

(2) It is enforceable as a practical matter at and after the time that actual construction on the particular change begins;

(3) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change; and

(4) The decrease in actual emissions did not result from the installation of add-on control technology or application of pollution prevention practices that were relied on in designating an emissions unit as a Clean Unit under 40 CFR 52.21(y), 9 VAC 5-80-1845 or 9 VAC 5-80-2142. That is, once an emissions unit has been designated as a Clean Unit, the owner cannot later use the emissions reduction from the air pollution control measures that the Clean Unit designation is based on in calculating the net emissions increase for another emissions unit (i.e., must not use that reduction in a "netting analysis" for another emissions unit). However, any new emission reductions that were not

relied upon in a PCP excluded pursuant to 9 VAC 5-80-1855 or for a Clean Unit designation are creditable to the extent they meet the requirements in 9 VAC 5-80-1855 F 4 for the PCP and 9 VAC 5-80-1835 H or 9 VAC 5-80-1845 J for a Clean Unit.

g. An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.

h. Subdivision a of the definition of "actual emissions" shall not apply for determining creditable increases and decreases.

"New source review (NSR) permit" means a permit issued under the new source review program.

"New source review (NSR) program" means a preconstruction review and permit program (i) for new stationary sources or modifications (physical changes or changes in the method of operation); (ii) established to implement the requirements of §§ 110(a)(2)(C), 112 (relating to permits for hazardous air pollutants), 165 (relating to permits in prevention of significant deterioration areas), and 173 (relating to permits in nonattainment areas) of the federal Clean Air Act and associated regulations; and (iii) codified in Article 6 (9 VAC 5-80-1100 et seq.), Article 7 (9 VAC 5-80-1400 et seq.), Article 8 (9 VAC 5-80-1605 et seq.) and Article 9 (9 VAC 5-80-2000 et seq.) of this part.

"Plantwide applicability limitation (PAL)" means an emission limitation expressed in tons per year, for a pollutant at a major stationary source that is enforceable as a practical matter and established sourcewide in accordance with 9 VAC 5-80-1865.

"PAL effective date" generally means the date of issuance of the PAL permit. However, the PAL effective date for an increased PAL is the date any emissions unit that is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.

"PAL effective period" means the period beginning with the PAL effective date and ending five years later.

"PAL major modification" means, notwithstanding the definitions for major modification and net emissions increase, any physical change in or change in the method of operation of the PAL source that causes it to emit the PAL pollutant at a level equal to or greater than the PAL.

"PAL permit" means the major NSR permit, the minor NSR permit, the state operating permit, or the federal operating permit issued by the board that establishes a PAL for a major stationary source.

"PAL pollutant" means the pollutant for which a PAL is established at a major stationary source.

"Pollution control project" or "PCP" means any activity, set of work practices or project (including pollution prevention) undertaken at an existing emissions unit that reduces emissions of air pollutants from such unit. Such qualifying activities can include the replacement or upgrade of an

existing emissions control technology with a more effective unit. Other changes that may occur at the source are not considered part of the PCP if they are not necessary to reduce emissions through the PCP. The following projects are presumed to be environmentally beneficial pursuant to 9 VAC 5-80-1855 B 1. Projects not listed in this definition may qualify for a case-specific PCP exclusion pursuant to the requirements of 9 VAC 5-80-1855 B and E.

a. Conventional or advanced flue gas desulfurization or sorbent injection for control of SO₂.

b. Electrostatic precipitators, baghouses, high efficiency multiclones, or scrubbers for control of particulate matter or other pollutants.

c. Flue gas recirculation, low-NO_x burners or combustors, selective noncatalytic reduction, selective catalytic reduction, low emission combustion (for IC engines), and oxidation/absorption catalyst for control of NO_x.

d. Regenerative thermal oxidizers, catalytic oxidizers, condensers, thermal incinerators, hydrocarbon combustion flares, biofiltration, absorbers and adsorbers, and floating roofs for storage vessels for control of volatile organic compounds or hazardous air pollutants. For the purpose of this article, "hydrocarbon combustion flare" means either a flare used to comply with an applicable NSPS or MACT (including uses of flares during startup, shutdown, or malfunction permitted under such a standard), or a flare that serves to control emissions of waste streams comprised predominately of hydrocarbons and containing no more than 230 mg/dscm hydrogen sulfide.

e. Activities or projects undertaken to accommodate switching (or partially switching) to an inherently less polluting fuel, to be limited to the following fuel switches:

(1) Switching from a heavier grade of fuel oil to a lighter fuel oil, or any grade of oil to 0.05% sulfur diesel (i.e., from a higher sulfur content #2 fuel or from #6 fuel, to CA 0.05% sulfur #2 diesel);

(2) Switching from coal, oil, or any solid fuel to natural gas, propane, or gasified coal;

(3) Switching from coal to wood, excluding construction or demolition waste, chemical or pesticide treated wood, and other forms of "unclean" wood;

(4) Switching from coal to #2 fuel oil (0.5% maximum sulfur content); and

(5) Switching from high sulfur coal to low sulfur coal (maximum 1.2% sulfur content).

f. Activities or projects undertaken to accommodate switching from the use of one ozone depleting substance (ODS) to the use of a substance with a lower or zero ozone depletion potential (ODP), including changes to equipment needed to accommodate the activity or project, that meet the following requirements:

(1) The productive capacity of the equipment is not increased as a result of the activity or project.

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(2) *The projected usage of the new substance is lower, on an ODP-weighted basis, than the baseline usage of the replaced ODS. To make this determination, the following procedures shall be conducted:*

(a) *Determine the ODP of the substances by consulting 40 CFR Part 82, Subpart A, Appendices A and B.*

(b) *Calculate the replaced ODP-weighted amount by multiplying the baseline actual usage (using the annualized average of any 24 consecutive months of usage within the past 10 years) by the ODP of the replaced ODS.*

(c) *Calculate the projected ODP-weighted amount by multiplying the projected annual usage of the new substance by its ODP.*

(d) *If the value calculated in subdivision (b) is more than the value calculated in subdivision (c), then the projected use of the new substance is lower, on an ODP-weighted basis, than the baseline usage of the replaced ODS.*

"Pollution prevention" means any activity that through process changes, product reformulation or redesign, or substitution of less polluting raw materials, eliminates or reduces the release of air pollutants (including fugitive emissions) and other pollutants to the environment prior to recycling, treatment, or disposal; it does not mean recycling (other than certain "in-process recycling" practices), energy recovery, treatment, or disposal.

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

"Predictive emissions monitoring system" or "PEMS" means all of the equipment necessary to monitor process and control device operational parameters (for example, control device secondary voltages and electric currents) and other information (for example, gas flow rate, O₂ or CO₂ concentrations), and calculate and record the mass emissions rate (for example, pounds per hour) on a continuous basis.

"Project" means a physical change in, or change in the method of operation of, an existing major stationary source.

"Projected actual emissions" means the maximum annual rate, in tons per year, at which an existing emissions unit is

projected to emit a regulated NSR pollutant in any one of the five years (12-month period) following the date the unit resumes regular operation after the project, or in any one of the 10 years following that date, if the project involves increasing the emissions unit's design capacity or its potential to emit that regulated NSR pollutant and full utilization of the unit would result in a significant emissions increase or a significant net emissions increase at the major stationary source. In determining the projected actual emissions (before beginning actual construction), the owner of the major stationary source:

a. Shall consider all relevant information, including but not limited to, historical operational data, the company's own representations, the company's expected business activity and the company's highest projections of business activity, the company's filings with the state or federal regulatory authorities, and compliance plans under the approved implementation plan;

b. Shall include fugitive emissions to the extent quantifiable and emissions associated with startups, shutdowns, and malfunctions; and

c. Shall exclude, in calculating any increase in emissions that results from the particular project, that portion of the unit's emissions following the project that an existing unit could have accommodated during the consecutive 24-month period used to establish the baseline actual emissions and that are also unrelated to the particular project, including any increased utilization due to product demand growth; or

d. In lieu of using the method set out in subdivisions a through c of this definition, may elect to use the emissions unit's potential to emit, in tons per year.

"Reactivation of a very clean coal-fired electric utility steam generating unit" means any physical change or change in the method of operation associated with the commencement of commercial operations by a coal-fired utility unit after a period of discontinued operation where the unit:

a. Has not been in operation for the two-year period prior to the enactment of the federal Clean Air Act Amendments of 1990, and the emissions from such unit continue to be carried in the department's emissions inventory at the time of enactment;

b. Was equipped prior to shut-down with a continuous system of emissions control that achieves a removal efficiency for sulfur dioxide of no less than 85% and a removal efficiency for particulates of no less than 98%;

c. Is equipped with low-NO_x burners prior to the time of commencement of operations following reactivation; and

d. Is otherwise in compliance with the requirements of the federal Clean Air Act.

"Reasonably available control technology" or "RACT" means the lowest emission limit that a particular source is capable of meeting by the application of control technology that is reasonably available, considering technological and economic feasibility.

"Regulated NSR pollutant" means:

- a. Any pollutant for which an ambient air quality standard has been promulgated and any constituents or precursors for such pollutants identified by the administrator (e.g., volatile organic compounds are precursors for ozone);
- b. Any pollutant that is subject to any standard promulgated under § 111 of the federal Clean Air Act;
- c. Any class I or II substance subject to a standard promulgated under or established by Title VI of the federal Clean Air Act; or
- d. Any pollutant that otherwise is subject to regulation under the federal Clean Air Act; except that any or all hazardous air pollutants either listed in § 112 of the federal Clean Air Act or added to the list pursuant to § 112(b)(2), which have not been delisted pursuant to § 112(b)(3), are not regulated NSR pollutants unless the listed hazardous air pollutant is also regulated as a constituent or precursor of a general pollutant listed under § 108 of the federal Clean Air Act.

"Repowering" means:

- a. Replacement of an existing coal-fired boiler with one of the following clean coal technologies: atmospheric or pressurized fluidized bed combustion, integrated gasification combined cycle, magnetohydrodynamics, direct and indirect coal-fired turbines, integrated gasification fuel cells, or as determined by the administrator, in consultation with the Secretary of Energy, a derivative of one or more of these technologies, and any other technology capable of controlling multiple combustion emissions simultaneously with improved boiler or generation efficiency and with significantly greater waste reduction relative to the performance of technology in widespread commercial use as of November 15, 1990.
- b. Repowering shall also include any oil and/or gas-fired unit which has been awarded clean coal technology demonstration funding as of January 1, 1991, by the Department of Energy.
- c. The board may give expedited consideration to permit applications for any source that satisfies the requirements of this definition and is granted an extension under § 409 of the federal Clean Air Act.

"Secondary emissions" means emissions that would occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. For the purpose of this article, secondary emissions shall be specific, well defined, quantifiable, and affect the same general area as the stationary source or modification that causes the secondary emissions. Secondary emissions include emissions from any offsite support facility that would not be constructed or increase its emissions except as a result of the construction or operation of the major stationary source or major modification. Secondary emissions do not include any emissions that come directly from a mobile source, such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

"Significant" means:

- a. In reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

Pollutant	Emissions Rate
Carbon Monoxide	100 tons per year (tpy)
Nitrogen Oxides	40 tpy
Sulfur Dioxide	40 tpy
Particulate Matter (TSP)	25 tpy
PM ₁₀	15 tpy
Ozone	40 tpy of volatile organic compounds
Lead	0.6 tpy
Fluorides	3 tpy
Sulfuric Acid Mist	7 tpy
Hydrogen Sulfide (H ₂ S)	10 tpy
Total Reduced Sulfur (including H ₂ S)	10 tpy
Reduced Sulfur Compounds (including H ₂ S)	10 tpy
Municipal waste combustor organics (measured as total tetra-through octa-chlorinated dibenzo-p-dioxins and dibenzofurans)	3.5 x 10 ⁻⁶ tpy
Municipal waste combustor metals (measured as particulate matter)	15 tpy
Municipal waste combustor acid gases (measured as the sum of SO ₂ and HCl)	40 tpy
Municipal solid waste landfills emissions (measured as nonmethane organic compounds)	50 tpy

- b. In reference to a net emissions increase or the potential of a source to emit a regulated NSR pollutant that subdivision a of this definition does not list, any emissions rate.

- c. Notwithstanding subdivision a of this definition, any emissions rate or any net emissions increase associated with a major stationary source or major modification that would construct within 10 kilometers of a class I area, and have an impact on such area equal to or greater than 1 µg/m³ (24-hour average).

"Significant emissions increase" means, for a regulated NSR pollutant, an increase in emissions that is significant for that pollutant.

"Significant emissions unit" means an emissions unit that emits or has the potential to emit a PAL pollutant in an amount that is significant for that PAL pollutant, but less than the amount that would qualify the unit as a major emissions unit.

"Small emissions unit" means an emissions unit that emits or has the potential to emit the PAL pollutant in an amount less than the significant level for that PAL pollutant.

"State enforceable" means all limitations and conditions that are enforceable as a practical matter, including any regulation of the board, those requirements developed pursuant to 9 VAC 5-170-160, requirements within any applicable order or variance, and any permit requirements established pursuant to this chapter.

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"State operating permit" means a permit issued under the state operating permit program.

"State operating permit program" means an operating permit program (i) for issuing limitations and conditions for stationary sources; (ii) promulgated to meet the EPA's minimum criteria for federal enforceability, including adequate notice and opportunity for the EPA and public comment prior to issuance of the final permit, and practicable enforceability; and (iii) codified in Article 5 (9 VAC 5-80-800 et seq.) of this part.

"Stationary source" means any building, structure, facility, or installation that emits or may emit a regulated NSR pollutant.

"Temporary clean coal technology demonstration project" means a clean coal technology demonstration project that is operated for a period of five years or less, and that complies with the applicable implementation plan and other requirements necessary to attain and maintain the ambient air quality standards during the project and after it is terminated.

9 VAC 5-80-1625. General.

A. No owner or other person shall begin actual construction of any new major stationary source or major modification without first obtaining from the board a permit to construct and operate such source. The permit will state that the major stationary source or major modification shall meet all the applicable requirements of this article.

B. The requirements of this article apply to the construction of any new major stationary source or the major modification of any existing major stationary source, except as this article otherwise provides.

C. No owner or other person shall relocate any emissions unit from one stationary source to another without first obtaining a permit from the board to relocate the unit.

D. Prior to the decision of the board, all permit applications will be subject to a public comment period, a public hearing will be held as provided in 9 VAC 5-80-1775.

E. The board may combine the requirements of and the permits for emissions units within a stationary source subject to the new source review program into one permit. Likewise the board may require that applications for permits for emissions units within a stationary source required by any provision of the new source review program be combined into one application.

F. The board may incorporate the terms and conditions of a state operating permit into a permit issued pursuant to this article. The permit issued pursuant to this article may supersede the state operating permit provided the public participation provisions of the state operating permit program are followed.

G. All terms and conditions of any permit issued under this article shall be federally enforceable except those that are designated state-only enforceable under subdivision 1 of this subsection. Any term or condition that is not federally enforceable shall be designated as state-only enforceable as provided in subdivision 2 of this subsection.

1. A term or condition of any permit issued under this article shall not be federally enforceable if it is derived from or is

designed to implement Article 2 (9 VAC 5-40-130 et seq.) of 9 VAC 5 Chapter 40, Article 2 (9 VAC 5-50-130 et seq.) of 9 VAC 5 Chapter 50, Article 4 (9 VAC 5-60-200 et seq.) of 9 VAC 5 Chapter 60, or Article 5 (9 VAC 5-60-300) of 9 VAC 5 Chapter 60.

2. Any term or condition of any permit issued under this article that is not federally enforceable shall be marked in the permit as state-only enforceable and shall only be enforceable by the board. Incorrectly designating a term or condition as state-only enforceable shall not provide a shield from federal enforcement of a term or condition that is legally federally enforceable.

H. Nothing in the regulations of the board shall be construed to prevent the board from granting permits for programs of construction or modification in planned incremental phases. In such cases, all net emissions increases from all emissions units covered by the program shall be added together for determining the applicability of this article.

9 VAC 5-80-1635. Ambient air increments.

In areas designated as class I, II or III, increases in pollutant concentration over the baseline concentration shall be limited to the following:

MAXIMUM ALLOWABLE INCREASE (micrograms per cubic meter)	
Class I	
Particulate matter:	
PM ₁₀ , annual arithmetic mean	4
PM ₁₀ , 24 hour maximum	8
Sulfur dioxide:	
Annual arithmetic mean	2
Twenty-four hour maximum	5
Three-hour maximum	25
Nitrogen dioxide:	
Annual arithmetic mean	2.5
Class II	
Particulate matter:	
PM ₁₀ , annual arithmetic mean	17
PM ₁₀ , 24 hour maximum	30
Sulfur dioxide:	
Annual arithmetic mean	20
Twenty-four hour maximum	91
Three-hour maximum	512
Nitrogen dioxide:	
Annual arithmetic mean 25	25
Class III	
Particulate matter:	
PM ₁₀ , annual geometric mean	34
PM ₁₀ , 24 hour maximum	60
Sulfur dioxide:	
Annual arithmetic mean	40
Twenty-four hour maximum	182
Three-hour maximum	700
Nitrogen dioxide:	
Annual arithmetic mean 50	50

For any period other than an annual period, the applicable maximum allowable increase may be exceeded during one such period per year at any one location.

9 VAC 5-80-1645. Ambient air ceilings.

No concentration of a pollutant shall exceed:

1. The concentration permitted under the secondary ambient air quality standard, or
2. The concentration permitted under the primary ambient air quality standard, whichever concentration is lowest for the pollutant for a period of exposure.

9 VAC 5-80-1655. Applications.

A. A single application is required identifying at a minimum each emissions unit subject to the provisions of this article. The application shall be submitted according to procedures acceptable to the board. However, where several emissions units are included in one project, a single application covering all units in the project may be submitted. A separate application is required for each location.

B. For projects with phased development, a single application may be submitted covering the entire project.

C. Any application form, report, or certification submitted to the board shall comply with the provisions of 9 VAC 5-20-230.

9 VAC 5-80-1665. Compliance with local zoning requirements.

No provision of this part or any permit issued thereunder shall relieve an owner of the responsibility to comply in all respects with any existing zoning ordinances and regulations in the locality in which the source is located or proposes to be located; provided, however, that such compliance does not relieve the board of its duty under 9 VAC 5-170-170 and § 10.1-1307 E of the Virginia Air Pollution Control Law to independently consider relevant facts and circumstances.

9 VAC 5-80-1675. Compliance determination and verification by performance testing.

A. Compliance with standards of performance shall be determined in accordance with the provisions of 9 VAC 5-50-20 and shall be verified by performance tests in accordance with the provisions of 9 VAC 5-50-30.

B. Testing required by this section shall be conducted within 60 days by the owner after achieving the maximum production rate at which the new or modified source will be operated, but not later than 180 days after initial startup of the source; and 60 days thereafter the board shall be provided by the owner with two or, upon request, more copies of a written report of the results of the tests.

C. The requirements of this section shall be met unless the board:

1. Specifies or approves, in specific cases, the use of a reference method with minor changes in methodology;
2. Approves the use of an equivalent method;
3. Approves the use of an alternative method, the results of which the board has determined to be adequate for indicating whether a specific source is in compliance;
4. Waives the requirement for testing because, based upon a technical evaluation of the past performance of similar

source types, using similar control methods, the board reasonably expects the new or modified source to perform in compliance with applicable standards; or

5. Waives the requirement for testing because the owner of the source has demonstrated by other means to the board's satisfaction that the source is in compliance with the applicable standard.

D. The provisions for the granting of waivers under subsection C of this section are intended for use in determining the initial compliance status of a source. The granting of a waiver does not obligate the board to grant any waivers once the source has been in operation for more than one year beyond the initial startup date.

E. The granting of a waiver under this section does not shield the source from potential enforcement of any permit term or condition, applicable requirements of the implementation plan, or any other applicable federal requirements promulgated under the federal Clean Air Act.

9 VAC 5-80-1685. Stack heights.

A. The provisions of 9 VAC 5-50-20 H apply.

B. Prior to issuing a permit with a new or revised emission limitation that is based on a good engineering practice stack height that exceeds the height allowed by subdivision 1 or 2 of the GEP definition in 9 VAC 5-10-20, the board will notify the public of the availability of the demonstration study specified in subdivision 3 of the GEP definition and will provide opportunity for public hearing on it using the procedures set forth in 9 VAC 5-80-1775.

9 VAC 5-80-1695. Exemptions.

A. The requirements of this article shall not apply to a particular major stationary source or major modification; if:

1. The source or modification would be a major stationary source or major modification only if fugitive emissions, to the extent quantifiable, are considered in calculating the potential to emit of the stationary source or modification and the source does not belong to any of the following categories:

- a. Coal cleaning plants (with thermal dryers).
- b. Kraft pulp mills.
- c. Portland cement plants.
- d. Primary zinc smelters.
- e. Iron and steel mills.
- f. Primary aluminum ore reduction plants.
- g. Primary copper smelters.
- h. Municipal incinerators capable of charging more than 250 tons of refuse per day.
- i. Hydrofluoric acid plants.
- j. Sulfuric acid plants.
- k. Nitric acid plants.
- l. Petroleum refineries.

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- m. Lime plants.
 - n. Phosphate rock processing plants.
 - o. Coke oven batteries.
 - p. Sulfur recovery plants.
 - q. Carbon black plants (furnace process).
 - r. Primary lead smelters.
 - s. Fuel conversion plants.
 - t. Sintering plants.
 - u. Secondary metal production plants.
 - v. Chemical process plants.
 - w. Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input.
 - x. Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels.
 - y. Taconite ore processing plants.
 - z. Glass fiber processing plants.
 - aa. Charcoal production plants.
 - bb. Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input.
 - cc. Any other stationary source category which, as of August 7, 1980, is being regulated under 40 CFR Part 60 or 61; or
2. The source or modification is a portable stationary source that has previously received a permit under this article, and
- a. The owner proposes to relocate the source and emissions of the source at the new location would be temporary;
 - b. The emissions from the source would not exceed its allowable emissions;
 - c. The emissions from the source would impact no class I area and no area where an applicable increment is known to be violated; and
 - d. Reasonable notice is given to the board prior to the relocation identifying the proposed new location and the probable duration of operation at the new location. Such notice shall be given to the board not less than 10 days in advance of the proposed relocation unless a different time duration is previously approved by the board.
- B. The requirements of this article shall not apply to a major stationary source or major modification with respect to a particular pollutant if the owner demonstrates that, as to that pollutant, the source or modification is located in an area designated as nonattainment in 9 VAC 5-20-204.
- C. The requirements of 9 VAC 5-80-1715, 9 VAC 5-80-1735, and 9 VAC 5-80-1755 shall not apply to a major stationary source or major modification with respect to a particular pollutant, if the allowable emissions of that pollutant from the

source, or the net emissions increase of that pollutant from the modification:

1. Would impact no class I area and no area where an applicable increment is known to be violated, and
 2. Would be temporary.
- D. The requirements of 9 VAC 5-80-1715, 9 VAC 5-80-1735, and 9 VAC 5-80-1755 as they relate to any maximum allowable increase for a class II area shall not apply to a major modification at a stationary source that was in existence on March 1, 1978, if the net increase in allowable emissions of each regulated NSR pollutant from the modification after the application of best available control technology would be less than 50 tons per year.
- E. The board may exempt a proposed major stationary source or major modification from the requirements of 9 VAC 5-80-1735 with respect to monitoring for a particular pollutant if:

1. The emissions increase of the pollutant from the new source or the net emissions increase of the pollutant from the modification would cause, in any area, air quality impacts less than the following amounts:
 - Carbon monoxide - 575 $\mu\text{g}/\text{m}^3$, 8-hour average
 - Nitrogen dioxide - 14 $\mu\text{g}/\text{m}^3$, annual average
 - Particulate matter - 10 $\mu\text{g}/\text{m}^3$ of PM_{10} , 24-hour average
 - Sulfur dioxide - 13 $\mu\text{g}/\text{m}^3$, 24-hour average
 - Ozone¹
 - Lead - 0.1 $\mu\text{g}/\text{m}^3$, 3-month average
 - Fluorides - 0.25 $\mu\text{g}/\text{m}^3$, 24-hour average
 - Total reduced sulfur - 10 $\mu\text{g}/\text{m}^3$, 1-hour average
 - Hydrogen sulfide - 0.2 $\mu\text{g}/\text{m}^3$, 1-hour average
 - Reduced sulfur compounds - 10 $\mu\text{g}/\text{m}^3$, 1-hour average; or
2. The concentrations of the pollutant in the area that the source or modification would affect are less than the concentrations listed in subdivision 1 of this subsection, or the pollutant is not listed in subdivision 1 of this subsection.

9 VAC 5-80-1700. (Repealed.)

9 VAC 5-80-1705. Control technology review.

- A. A major stationary source or major modification shall meet each applicable emissions limitation under the implementation plan and each applicable emissions standard and standard of performance under 40 CFR Parts 60, 61 and 63.
- B. A new major stationary source shall apply best available control technology for each regulated NSR pollutant that it would have the potential to emit in significant amounts.

¹ No de minimis air quality level is provided for ozone. However, any net increase of 100 tons per year or more of volatile organic compounds subject to this article would be required to perform an ambient impact analysis including the gathering of ambient air quality data.

C. A major modification shall apply best available control technology for each regulated NSR pollutant for which it would result in a significant net emissions increase at the source. This requirement applies to each proposed emissions unit at which a net emissions increase in the pollutant would occur as a result of a physical change or change in the method of operation in the unit.

D. For phased construction projects, the determination of best available control technology shall be reviewed and modified as appropriate at the latest reasonable time that occurs no later than 18 months prior to commencement of construction of each independent phase of the project. At such time, the owner of the applicable stationary source may be required to demonstrate the adequacy of any previous determination of best available control technology for the source.

9 VAC 5-80-1710. (Repealed.)

9 VAC 5-80-1715. Source impact analysis.

A. The owner of the proposed source or modification shall demonstrate that allowable emission increases from the proposed source or modification, in conjunction with all other applicable emissions increases or reductions (including secondary emissions), would not cause or contribute to air pollution in violation of:

1. Any ambient air quality standard in any air quality control region; or
2. Any applicable maximum allowable increase over the baseline concentration in any area.

B. The following applies to any new major stationary source or major modification if it would cause or contribute to a violation of any ambient air quality standard.

1. A new major stationary source or major modification will be considered to cause or contribute to a violation of an ambient air quality standard when such source or modification would, at a minimum, exceed the following significance levels at any locality that does not or would not meet the applicable air quality standard:

Pollutant	Annual	Averaging time (hours)			
		24	8	3	1
SO ₂	1.0 µg/m ³	5.0 µg/m ³		25.0 µg/m ³	
PM ₁₀	1.0 µg/m ³	5.0 µg/m ³			
NO ₂	1.0 µg/m ³				
CO			500 µg/m ³		2000 µg/m ³

2. A proposed new major stationary source or major modification may reduce the impact of its emissions upon air quality by obtaining sufficient emission reductions to, at a minimum, compensate for its adverse ambient impact where the new major stationary source or major modification would otherwise cause or contribute to a violation of any ambient air quality standard. In the absence of such emission reductions, the board will deny the proposed construction.

3. The requirements of this subsection do not apply to a major stationary source or major modification with respect to a particular pollutant if the owner demonstrates that, as to

that pollutant, the source or modification is located in an area designated as nonattainment in 9 VAC 5-20-204.

9 VAC 5-80-1720. (Repealed.)

9 VAC 5-80-1725. Air quality models.

A. All applications of air quality modeling involved in this article shall be based on the applicable air quality models, data bases, and other requirements specified in Appendix W to 40 CFR Part 51.

B. Where an air quality impact model specified in Appendix W to 40 CFR Part 51 is inappropriate, the model may be modified or another model substituted. Such a modification or substitution of a model may be made on a case-by-case basis, or, where appropriate, on a generic basis for a specific state program. Written approval of the administrator shall be obtained for any modification or substitution. In addition, use of a modified or substituted model shall be subject to notice and opportunity for public comment under procedures developed in accordance with 9 VAC 5-80-1775.

9 VAC 5-80-1730. (Repealed.)

9 VAC 5-80-1735. Air quality analysis.

A. Preapplication analysis.

1. Any application for a permit under this article shall contain an analysis of ambient air quality in the area that the major stationary source or major modification would affect for each of the following pollutants:

- a. For the source, each pollutant that it would have the potential to emit in a significant amount;
- b. For the modification, each pollutant for which it would result in a significant net emissions increase.

2. With respect to any such pollutant for which no ambient air quality standard exists, the analysis shall contain such air quality monitoring data as the board determines is necessary to assess ambient air quality for that pollutant in any area that the emissions of that pollutant would affect.

3. With respect to any such pollutant (other than nonmethane hydrocarbons) for which such a standard does exist, the analysis shall contain continuous air quality monitoring data gathered for purposes of determining whether emissions of that pollutant would cause or contribute to a violation of the standard or any maximum allowable increase.

4. In general, the continuous air quality monitoring data that is required shall have been gathered over a period of at least one year and shall represent at least the year preceding receipt of the application, except that, if the board determines that a complete and adequate analysis can be accomplished with monitoring data gathered over a period shorter than one year (but not to be less than four months), the data that is required shall have been gathered over at least that shorter period.

5. The owner of a proposed stationary source or modification of volatile organic compounds who satisfies all conditions of § IV of Appendix S to 40 CFR Part 51 may provide post-approval monitoring data for ozone in lieu of

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providing preconstruction data as required under this subsection.

B. Post-construction monitoring. The owner of a major stationary source or major modification shall, after construction of the stationary source or modification, conduct such ambient monitoring as the board determines is necessary to determine the effect emissions from the stationary source or modification may have, or are having, on air quality in any area.

C. Operation of monitoring stations. The owner of a major stationary source or major modification shall meet the requirements of Appendix B to 40 CFR Part 58 during the operation of monitoring stations for purposes of satisfying this section.

9 VAC 5-80-1740. (Repealed.)

9 VAC 5-80-1745. Source information.

The owner of a proposed source or modification shall submit all information necessary to perform any analysis or make any determination required under this article.

A. With respect to a source or modification to which 9 VAC 5-80-1705, 9 VAC 5-80-1715, 9 VAC 5-80-1735, and 9 VAC 5-80-1755 apply, such information shall include:

- 1. A description of the nature, location, design capacity, and typical operating schedule of the source or modification, including specifications and drawings showing its design and plant layout;*
- 2. A detailed schedule for construction of the source or modification;*
- 3. A detailed description as to what system of continuous emission reduction is planned for the source or modification, emission estimates, and any other information necessary to determine that best available control technology would be applied.*

B. Upon request of the board, the owner shall also provide information on:

- 1. The air quality impact of the source or modification, including meteorological and topographical data necessary to estimate such impact; and*
- 2. The air quality impacts, and the nature and extent of any or all general commercial, residential, industrial, and other growth that has occurred since the baseline date in the area the source or modification would affect.*

9 VAC 5-80-1750. (Repealed.)

9 VAC 5-80-1755. Additional impact analyses.

A. The owner shall provide an analysis of the impairment to visibility, soils and vegetation that would occur as a result of the source or modification and general commercial, residential, industrial and other growth associated with the source or modification. The owner need not provide an analysis of the impact on vegetation having no significant commercial or recreational value.

B. The owner shall provide an analysis of the air quality impact projected for the area as a result of general commercial, residential, industrial and other growth associated with the source or modification.

C. The board may require monitoring of visibility in any federal class I area near the proposed new stationary source or major modification for such purposes and by such means as the board deems necessary and appropriate.

9 VAC 5-80-1760. (Repealed.)

9 VAC 5-80-1765. Sources affecting federal class I areas - additional requirements.

A. Notice to administrator. The board shall transmit to the administrator a copy of each permit application relating to a major stationary source or major modification and provide notice to the administrator of the following actions related to the consideration of such permit:

- 1. Notification of the permit application status as provided in subsection A of 9 VAC 5-80-1775.*
- 2. Notification of the public comment period on the application as provided in subsection F 5 of 9 VAC 5-80-1775.*
- 3. Notification of the final determination on the application and issuance of the permit as provided in subsection F 9 of 9 VAC 5-80-1775.*
- 4. Notification of any other action deemed appropriate by the board.*

B. Notice to federal land managers. The board shall provide written notice of any permit application for a proposed major stationary source or major modification, the emissions from which may affect a class I area, to the federal land manager and the federal official charged with direct responsibility for management of any lands within any such area. Such notification shall include a copy of all information relevant to the permit application and shall be given within 30 days of receipt and at least 60 days prior to any public hearing on the application for a permit to construct. Such notification shall include an analysis of the proposed source's anticipated impacts on visibility in the federal class I area. The board shall also provide the federal land manager and such federal officials with a copy of the preliminary determination required under subsection F of 9 VAC 5-80-1775, and shall make available to them any materials used in making that determination, promptly after the board makes such determination. Finally, the board shall also notify all affected federal land managers within 30 days of receipt of any advance notification of any such permit application.

C. Federal land manager. The federal land manager and the federal official charged with direct responsibility for management of such lands have an affirmative responsibility to protect the air quality related values (including visibility) of such lands and to consider, in consultation with the board, whether a proposed source or modification will have an adverse impact on such values.

D. Visibility analysis. The board shall consider any analysis performed by the federal land manager, provided within 30

days of the notification required by subsection B of this section, that shows that a proposed new major stationary source or major modification may have an adverse impact on visibility in any federal class I area. Where the board finds that such an analysis does not demonstrate to the satisfaction of the board that an adverse impact on visibility will result in the federal class I area, the board shall, in the notice of public hearing on the permit application, either explain this decision or give notice as to where the explanation can be obtained.

E. Denial - impact on air quality related values. The federal land manager of any such lands may demonstrate to the board that the emissions from a proposed source or modification would have an adverse impact on the air quality-related values (including visibility) of those lands, notwithstanding that the change in air quality resulting from emissions from such source or modification would not cause or contribute to concentrations that would exceed the maximum allowable increases for a class I area. If the board concurs with such demonstration, then it shall not issue the permit.

F. Class I variances. The owner of a proposed source or modification may demonstrate to the federal land manager that the emissions from such source or modification would have no adverse impact on the air quality related values of any such lands (including visibility), notwithstanding that the change in air quality resulting from emissions from such source or modification would cause or contribute to concentrations that would exceed the maximum allowable increases for a class I area. If the federal land manager concurs with such demonstration and so certifies, the board may, provided that the applicable requirements of this article are otherwise met, issue the permit with such emission limitations as may be necessary to assure that emissions of sulfur dioxide, particulate matter, and nitrogen oxides would not exceed the following maximum allowable increases over minor source baseline concentration for such pollutants:

MAXIMUM ALLOWABLE INCREASE
(micrograms per cubic meter)

<i>Particulate matter:</i>	
<i>PM₁₀, annual geometric mean</i>	17
<i>PM₁₀, 24 hour maximum</i>	30
<i>Sulfur dioxide:</i>	
<i>Annual arithmetic mean</i>	20
<i>Twenty-four hour maximum</i>	91
<i>Three-hour maximum</i>	325
<i>Nitrogen dioxide:</i>	
<i>Annual arithmetic mean</i>	25

G. Sulfur dioxide variance by governor with federal land manager's concurrence. The owner of a proposed source or modification that cannot be approved under subsection F of this section may demonstrate to the governor that the source or modification cannot be constructed by reason of any maximum allowable increase for sulfur dioxide for a period of 24 hours or less applicable to any class I area and, in the case of federal mandatory class I areas, that a variance under this clause would not adversely affect the air quality related values of the area (including visibility). The governor, after consideration of the federal land manager's recommendation (if any) and subject to the federal land manager's

concurrence, may, after notice and public hearing, grant a variance from such maximum allowable increase. If such variance is granted, the board shall issue a permit to such source or modification pursuant to the requirements of subsection I of this section, provided that the applicable requirements of this article are otherwise met.

H. Variance by the governor with the president's concurrence. In any case whether the governor recommends a variance in which the federal land manager does not concur, the recommendations of the governor and the federal land manager shall be transmitted to the president. The president may approve the governor's recommendation if he finds that the variance is in the national interest. If the variance is approved, the board shall issue a permit pursuant to the requirements of subsection I of this section, provided that the applicable requirements of this article are otherwise met.

I. Emission limitations for presidential or gubernatorial variance. In the case of a permit issued pursuant to subsection G or H of this section the source or modification shall comply with such emission limitations as may be necessary to assure that emissions of sulfur dioxide from the source or modification would not (during any day on which the otherwise applicable maximum allowable increases are exceeded) cause or contribute to concentrations that would exceed the following maximum allowable increases over the baseline concentration and to assure that such emissions would not cause or contribute to concentrations which exceed the otherwise applicable maximum allowable increases for periods of exposure of 24 hours or less for more than 18 days, not necessarily consecutive, during any annual period:

MAXIMUM ALLOWABLE INCREASE
(micrograms per cubic meter)

Period of exposure	Low terrain areas	High terrain areas
24-hour maximum	36	62
3-hour maximum	130	221

9 VAC 5-80-1770. (Repealed.)

9 VAC 5-80-1775. Public participation.

A. Within 30 days after receipt of an application, the board will notify the applicant of the status of the application. The notification of the initial determination with regard to the status of the application will be provided by the board in writing and will include (i) a determination as to which provisions of the new source review program are applicable, (ii) the identification of any deficiencies and (iii) a determination as to whether the application contains sufficient information to begin application review. The determination that the application has sufficient information to begin review is not necessarily a determination that it is complete. Within 30 days after receipt of any additional information, the board will notify the applicant in writing of any deficiencies in such information. The date of receipt of a complete application shall be, for the purpose of this article, the date on which the board received all required information and the provisions of § 10.1-1321.1 of the Virginia Air Pollution Control Law have been met, if applicable.

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B. No later than 30 days after receiving the initial determination notification required under subsection A of this section, the applicant shall notify the public about the proposed source as required in subsection C of this section. The applicant shall also provide an informational briefing about the proposed source for the public as required in subsection D of this section.

C. The public notice required under subsection B of this section shall be placed by the applicant in at least one newspaper of general circulation in the affected air quality control region. The notice shall be approved by the board and shall include, but not be limited to, the name, location, and type of the source, and the time and place of the informational briefing.

D. The informational briefing shall be held in the locality where the source is or will be located and at least 30 days, but no later than 60 days, following the day of the publication of the public notice in the newspaper. The applicant shall inform the public about the operation and potential air quality impact of the source and answer any questions concerning air quality about the proposed source from those in attendance at the briefing. At a minimum, the applicant shall provide information on and answer questions about (i) specific pollutants and the total quantity of each which the applicant estimates will be emitted and (ii) the control technology proposed to be used at the time of the informational briefing. Representatives from the board will attend and provide information and answer questions on the permit application review process.

E. Upon a determination by the board that it will achieve the desired results in an equally effective manner, an applicant for a permit may implement an alternative plan for notifying the public as required in subsection C of this section and for providing the informational briefing as required in subsection D of this section.

F. Within one year after receipt of a complete application, the board will make a final determination on the application. This involves performing the following actions in a timely manner:

1. Make a preliminary determination whether construction should be approved, approved with conditions, or disapproved.

2. Make available in at least one location in each air quality control region in which the proposed source or modification would be constructed a copy of all materials the applicant submitted (exclusive of confidential information under 9 VAC 5-170-60), a copy of the preliminary determination and a copy or summary of other materials, if any, considered in making the preliminary determination.

3. If appropriate, hold a public briefing on the preliminary determination prior to the public comment period but no later than the day before the beginning of the public comment period. The board will notify the public of the time and place of the briefing, by advertisement in a newspaper of general circulation in the air quality control region in which the proposed source or modification would be constructed. The notification will be published at least 30 days prior to the day of the briefing.

4. Notify the public, by advertisement in a newspaper of general circulation in each region in which the proposed source or modification would be constructed, of the application, the preliminary determination, the degree of increment consumption that is expected from the source or modification, and the opportunity for comment at a public hearing as well as written public comment. The notification will contain a statement of the estimated local impact of the proposed source or modification, which at a minimum will provide information regarding specific pollutants and the total quantity of each which may be emitted, and will list the type and quantity of any fuels to be used. The notification will be published at least 30 days prior to the day of the hearing. Written comments will be accepted by the board for at least 15 days after any hearing, unless the board votes to shorten the period. Notices of public comment periods and public hearings for major stationary sources and major modifications published under this section shall meet the requirements of § 10.1-1307.01 of the Virginia Air Pollution Control Law.

5. Send a copy of the notice of public comment to the applicant, the administrator and to officials and agencies having cognizance over the location where the proposed construction would occur as follows: local air pollution control agencies, the chief elected official and chief administrative officer of the city and county where the source or modification would be located and any other locality particularly affected, the planning district commission, and any state, federal land manager, or Indian governing body whose lands may be affected by emissions from the source or modification.

6. Provide opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality impact of the source or modification, alternatives to the source or modification, the control technology required, and other appropriate considerations.

7. Consider all written comments submitted within a time specified in the notice of public comment and all comments received at any public hearing(s) in making a final decision on the approvability of the application. No later than 10 days after the close of the public comment period, the applicant may submit a written response to any comments submitted by the public. The board will consider the applicant's response in making a final decision. The board will make all comments available for public inspection in the same locations where the board made available preconstruction information relating to the proposed source or modification.

8. Make a final determination whether construction should be approved, approved with conditions, or disapproved pursuant to this article.

9. Notify the applicant in writing of the final determination and make such notification available for public inspection at the same location where the board made available preconstruction information and public comments relating to the source or modification.

G. In order to facilitate the efficient issuance of permits under Articles 1 (9 VAC 5-80-50 et seq.) and 3 (9 VAC 5-80-360 et seq.) of this part, upon request of the applicant the board will

process the permit application under this article using public participation procedures meeting the requirements of this section and 9 VAC 5-80-270 or 9 VAC 5-80-670, as applicable.

9 VAC 5-80-1780. (Repealed.)

9 VAC 5-80-1785. Source obligation.

A. Any owner who constructs or operates a source or modification not in accordance (i) with the application submitted pursuant to this article or (ii) with the terms and conditions of any permit to construct or operate, or any owner of a source or modification subject to this article who commences construction or operation without applying for and receiving a permit hereunder, shall be subject to appropriate enforcement action including, but not limited to, any specified in 9 VAC 5-80-1985.

B. The provisions of this subsection apply to projects at an existing emissions unit at a major stationary source (other than projects at a Clean Unit or at a source with a PAL) in circumstances where there is a reasonable possibility that a project that is not a part of a major modification may result in a significant emissions increase and the owner elects to use the method specified in subdivisions a through c of the definition of "projected actual emissions" for calculating projected actual emissions.

1. Before beginning actual construction of the project, the owner shall document and maintain a record of the following information:

- a. A description of the project;
- b. Identification of the emissions unit(s) whose emissions of a regulated NSR pollutant could be affected by the project; and
- c. A description of the applicability test used to determine that the project is not a major modification for any regulated NSR pollutant, including the baseline actual emissions, the projected actual emissions, the amount of emissions excluded under subdivision c of the definition of "projected actual emissions" and an explanation for why such amount was excluded, and any netting calculations, if applicable.

2. If the emissions unit is an existing electric utility steam generating unit, no less than 30 days before beginning actual construction, the owner shall provide a copy of the information set out in subdivision 1 of this subsection to the board. Nothing in this subdivision shall be construed to require the owner of such a unit to obtain any determination from the board before beginning actual construction.

3. The owner shall monitor the emissions of any regulated NSR pollutant that could increase as a result of the project and that is emitted by any emissions unit identified in subdivision 1 b of this section; and calculate and maintain a record of the annual emissions, in tons per year on a calendar year basis, for a period of five years following resumption of regular operations after the change, or for a period of 10 years following resumption of regular operations after the change if the project increases the

design capacity of or potential to emit that regulated NSR pollutant at such emissions unit.

4. If the unit is an existing electric utility steam generating unit, the owner shall submit a report to the board within 60 days after the end of each calendar year during which records must be generated under subdivision 3 of this subsection setting out the unit's annual emissions during the calendar year that preceded submission of the report.

5. If the unit is an existing unit other than an electric utility steam generating unit, the owner shall submit a report to the board if the annual emissions, in tons per year, from the project identified in subdivision 1 of this subsection, exceed the baseline actual emissions (as documented and maintained pursuant to subdivision 1 c of this subsection), by a significant amount for that regulated NSR pollutant, and if such emissions differ from the preconstruction projection as documented and maintained pursuant to subdivision 1 c of this subsection. Such report shall be submitted to the board within 60 days after the end of such calendar year. The report shall contain the following:

- a. The name, address and telephone number of the major stationary source;
- b. The annual emissions as calculated pursuant to subdivision 3 of this subsection; and
- c. Any other information that the owner wishes to include in the report (for example, an explanation as to why the emissions differ from the preconstruction projection).

C. The owner of the source shall make the information required to be documented and maintained pursuant to subsection B of this section available for review upon a request for inspection by the board or the general public pursuant to the requirements contained in 9 VAC 5-170-60.

D. Approval to construct shall not relieve any owner of the responsibility to comply fully with applicable provisions of the implementation plan and any other requirements under local, state or federal law.

E. For each project subject to subsection B of this section, the owner shall provide notice of the availability of the information set out in subdivision B 1 of this section to the board no less than 30 days before beginning actual construction. The notice shall include the location of the information and the name, address and telephone number of the contact from whom the information may be obtained. Should subsequent information become available to the board to indicate that a given project subject to subsection B is a part of a major modification that resulted in a significant emissions increase, the board will proceed as if the owner is in violation of 9 VAC 5-80-1625 A and may institute appropriate enforcement action as provided in subsection A of this section.

9 VAC 5-80-1790. (Repealed.)

9 VAC 5-80-1795. Environmental impact statements.

Whenever any proposed source or modification is subject to action by a federal agency that might necessitate preparation of an environmental impact statement pursuant to the National Environmental Policy Act (42 USC 4321), review conducted

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pursuant to this article shall be coordinated by the administrator with the broad environmental reviews under that Act and under § 309 of the federal Clean Air Act to the maximum extent feasible and reasonable.

9 VAC 5-80-1800. (Repealed.)

9 VAC 5-80-1805. Disputed permits.

If a permit is proposed to be issued for any major stationary source or major modification proposed for construction in any state that the governor of an affected state or Indian governing body of an affected tribe determines will cause or contribute to a cumulative change in air quality in excess of that allowed in this part within the affected state or Indian reservation, the governor or Indian governing body may request the administrator to enter into negotiations with the persons involved to resolve such dispute. If requested by any state or Indian governing body involved, the administrator shall make a recommendation to resolve the dispute and protect the air quality related values of the lands involved. If the persons involved do not reach agreement, the administrator shall resolve the dispute. The administrator's determination, or the results of agreements reached through other means, shall become part of the applicable implementation plan and shall be enforceable as part of such plan.

9 VAC 5-80-1810. (Repealed.)

9 VAC 5-80-1815. Interstate pollution abatement.

A. The owner of each source or modification, which may significantly contribute to levels of air pollution in excess of an ambient air quality standard in any air quality control region outside the Commonwealth, shall provide written notice to all nearby states of the air pollution levels that may be affected by such source at least 60 days prior to the date of commencement of construction.

B. Any state or political subdivision may petition the administrator for a finding that any source or modification emits or would emit any air pollutant in amounts that will prevent attainment or maintenance of any ambient air quality standard or interfere with measures for the prevention of significant deterioration or the protection of visibility in the implementation plan for such state. Within 60 days after receipt of such petition and after a public hearing, the administrator will make such a finding or deny the petition.

C. Notwithstanding any permit granted pursuant to this article, no owner or other person shall commence construction or modification or begin operation of a source to which a finding has been made under the provisions of subsection B of this section.

9 VAC 5-80-1820. (Repealed.)

9 VAC 5-80-1825. Innovative control technology.

A. Prior to the close of the public comment period under 9 VAC 5-80-1775, an owner of a proposed major stationary source or major modification may request, in writing, that the board approve a system of innovative control technology.

B. The board, with the consent of the governor(s) of affected state(s), will determine that the source or modification may employ a system of innovative control technology, if:

1. The proposed control system would not cause or contribute to an unreasonable risk to public health, welfare, or safety in its operation or function;

2. The owner agrees to achieve a level of continuous emissions reduction equivalent to that which would have been required under 9 VAC 5-80-1705 B by a date specified by the board. Such date shall not be later than four years from the time of startup or seven years from permit issuance;

3. The source or modification would meet the requirements of 9 VAC 5-80-1705 and 9 VAC 5-80-1715 based on the emissions rate that the stationary source employing the system of innovative control technology would be required to meet on the date specified by the board;

4. The source or modification would not, before the date specified by the board:

(a) Cause or contribute to a violation of an applicable ambient air quality standard; or

(b) Impact any area where an applicable increment is known to be violated;

5. All other applicable requirements including those for public participation have been met; and

6. The provisions of 9 VAC 5-80-1765 (relating to class I areas) have been satisfied with respect to all periods during the life of the source or modification.

C. The board will withdraw any approval to employ a system of innovative control technology made under this article, if:

1. The proposed system fails by the specified date to achieve the required continuous emissions reduction rate; or

2. The proposed system fails before the specified date so as to contribute to an unreasonable risk to public health, welfare, or safety; or

3. The board decides at any time that the proposed system is unlikely to achieve the required level of control or to protect the public health, welfare, or safety.

D. If a source or modification fails to meet the requirement level of continuous emission reduction within the specified time period or the approval is withdrawn in accordance with subsection C of this section, the board may allow the source or modification up to an additional three years to meet the requirement for the application of best available control technology through use of a demonstrated system of control.

9 VAC 5-80-1830. (Repealed.)

9 VAC 5-80-1835. Clean Unit Test for emissions units that are subject to BACT or LAER.

A. An owner of a major stationary source may use the Clean Unit Test according to the provisions of this section to determine whether emissions increases at a Clean Unit are part of a project that is a major modification. The provisions of this section apply to any emissions unit for which the board has issued a major NSR permit within the last five years.

B. The general provisions set forth in this subsection shall apply to Clean Units.

1. Any project for which the owner begins actual construction after the effective date of the Clean Unit designation (as determined in accordance with subsection D of this section) and before the expiration date (as determined in accordance with subsection E of this section) will be considered to have occurred while the emissions unit was a Clean Unit.

2. If a project at a Clean Unit does not cause the need for a change in the emission limitations or work practice requirements in the permit for the unit that were adopted in conjunction with BACT and the project would not alter any physical or operational characteristics that formed the basis for the BACT determination as specified in subdivision F 4 of this section, the emissions unit remains a Clean Unit.

3. If a project causes the need for a change in the emission limitations or work practice requirements in the permit for the unit that were adopted in conjunction with BACT or the project would alter any physical or operational characteristics that formed the basis for the BACT determination as specified in subdivision F 4 of this section, then the emissions unit loses its designation as a Clean Unit upon issuance of the necessary permit revisions (unless the unit requalifies as a Clean Unit pursuant to subdivision C 3 of this section). If the owner begins actual construction on the project without first applying to revise the emissions unit's permit, the Clean Unit designation ends immediately prior to the time when actual construction begins.

4. A project that causes an emissions unit to lose its designation as a Clean Unit is subject to the applicability requirements of 9 VAC 5-80-1605 H 1 through 4 and 9 VAC 5-80-1605 H 6 as if the emissions unit is not a Clean Unit.

C. An emissions unit automatically qualifies as a Clean Unit when the unit meets the criteria in subdivisions 1 and 2 of this subsection. After the original Clean Unit designation expires in accordance with subsection E of this section or is lost pursuant to subdivision B 3 of this section, such emissions unit may requalify as a Clean Unit under either subdivision 3 of this subsection, or under the Clean Unit provisions in 9 VAC 5-80-1845. To requalify as a Clean Unit under subdivision 3 of this subsection, the emissions unit shall obtain a new major NSR permit issued in accordance with this article and meet all the criteria in subdivision 3 of this subsection. The Clean Unit designation applies individually for each pollutant emitted by the emissions unit.

1. The emissions unit shall have received a major NSR permit within the last five years. The owner shall maintain and be able to provide information that would demonstrate that this permitting requirement is met.

2. Air pollutant emissions from the emissions unit shall be reduced through the use of qualifying air pollution control technology (which includes pollution prevention or work practices) that meets both of the following requirements:

a. The control technology achieves the BACT or LAER level of emissions reductions as determined through issuance of a major NSR permit within the past five years.

However, the emissions unit is not eligible for the Clean Unit designation if the BACT determination resulted in no requirement to reduce emissions below the level of a standard, uncontrolled, new emissions unit of the same type.

b. The owner made an investment to install the control technology. For the purpose of this determination, an investment includes expenses to research the application of a pollution prevention technique to the emissions unit or expenses to apply a pollution prevention technique to an emissions unit.

3. In order to requalify for the Clean Unit designation, the emissions unit shall obtain a new major NSR permit that requires compliance with the current-day BACT (or LAER), and the emissions unit shall meet the requirements in subdivisions 1 and 2 of this subsection.

D. The effective date of an emissions unit's Clean Unit designation (i.e., the date on which the owner may begin to use the Clean Unit test to determine whether a project at the emissions unit is a major modification) is determined according to one of the following:

1. For original Clean Unit designation and for emissions units that requalify as Clean Units by implementing new control technology to meet current-day BACT, the effective date is the date the emissions unit's air pollution control technology is placed into service, or three years after the issuance date of the major NSR permit, whichever is earlier, but no sooner than the effective date of this revision.

2. For emissions units that requalify for the Clean Unit designation using an existing control technology, the effective date is the date the new major NSR permit is issued.

E. An emissions unit's Clean Unit designation expires (i.e., the date on which the owner may no longer use the Clean Unit Test to determine whether a project affecting the emissions unit is, or is part of, a major modification) according to one of the following:

1. For any emissions unit that automatically qualifies as a Clean Unit under subdivisions C 1 and 2 of this section or requalifies by implementing new control technology to meet current-day BACT under subdivision C 3 of this section, the Clean Unit designation expires five years after the effective date, or the date the equipment went into service, whichever is earlier; or, it expires at any time the owner fails to comply with the provisions for maintaining the Clean Unit designation in subsection G of this section.

2. For any emissions unit that requalifies as a Clean Unit under subdivision C 3 of this section using an existing control technology, the Clean Unit designation expires five years after the effective date; or, it expires any time the owner fails to comply with the provisions for maintaining the Clean Unit designation in subsection G of this section.

F. After the effective date of the Clean Unit designation, and in accordance with the provisions of the applicable federal operating permit program, but no later than when the federal operating permit is renewed, the federal operating permit for

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the major stationary source shall include the following terms and conditions:

1. A statement indicating that the emissions unit qualifies as a Clean Unit and identifying the pollutants for which this designation applies.
 2. If the effective date is not known when the Clean Unit designation is initially recorded in the federal operating permit (e.g., because the air pollution control technology is not yet in service), the permit shall describe the event that will determine the effective date (e.g., the date the control technology is placed into service). Once the effective date is determined, the owner shall notify the board of the exact date. This specific effective date shall be added to the source's federal operating permit at the first opportunity, such as a modification, revision, reopening, or renewal of the federal operating permit for any reason, whichever comes first, but in no case later than the next renewal.
 3. If the expiration date is not known when the Clean Unit designation is initially recorded into the federal operating permit (e.g., because the air pollution control technology is not yet in service), then the permit shall describe the event that will determine the expiration date (e.g., the date the control technology is placed into service). Once the expiration date is determined, the owner shall notify the board of the exact date. The expiration date shall be added to the source's federal operating permit at the first opportunity, such as a modification, revision, reopening, or renewal of the federal operating permit for any reason, whichever comes first, but in no case later than the next renewal.
 4. All emission limitations and work practice requirements adopted in conjunction with BACT, and any physical or operational characteristics that formed the basis for the BACT determination (e.g., possibly the emissions unit's capacity or throughput).
 5. Monitoring, recordkeeping, and reporting requirements as necessary to demonstrate that the emissions unit continues to meet the criteria for maintaining the Clean Unit designation (see subsection G of this section).
 6. Terms reflecting the owner's duties to maintain the Clean Unit designation and the consequences of failing to do so, as presented in subsection G of this section.
- G. To maintain the Clean Unit designation, the owner shall conform to all the restrictions listed in this subsection. This subsection applies independently to each pollutant for which the emissions unit has the Clean Unit designation. That is, failing to conform to the restrictions for one pollutant affects the Clean Unit designation only for that pollutant.

1. The Clean Unit shall comply with the emission limitations and work practice requirements adopted in conjunction with the BACT that are recorded in the major NSR permit, and subsequently reflected in the federal operating permit. The owner may not make a physical change in or change in the method of operation of the Clean Unit that causes the emissions unit to function in a manner that is inconsistent with the physical or operational characteristics that formed

the basis for the BACT determination (for example, the emissions unit's capacity or throughput).

2. The Clean Unit shall comply with any terms and conditions in the federal operating permit related to the unit's Clean Unit designation.
3. The Clean Unit shall continue to control emissions using the specific air pollution control technology that was the basis for its Clean Unit designation. If the emissions unit or control technology is replaced, then the Clean Unit designation ends.

H. Emissions changes that occur at a Clean Unit shall not be included in calculating a significant net emissions increase (i.e., shall not be used in a "netting analysis"), unless such use occurs before the effective date of the Clean Unit designation, or after the Clean Unit designation expires; or, unless the emissions unit reduces emissions below the level that qualified the unit as a Clean Unit. However, if the Clean Unit reduces emissions below the level that qualified the unit as a Clean Unit, then the owner may generate a credit for the difference between the level that qualified the unit as a Clean Unit and the new emissions limit if such reductions are surplus, quantifiable, and permanent. For purposes of generating offsets, the reductions shall also be federally and state enforceable. For purposes of determining creditable net emissions increases and decreases, the reductions shall also be enforceable as a practical matter.

I. The Clean Unit designation of an emissions unit is not affected by redesignation of the attainment status of the area in which it is located. That is, if a Clean Unit is located in an attainment area and the area is redesignated to nonattainment, its Clean Unit designation is not affected. Similarly, redesignation from nonattainment to attainment does not affect the Clean Unit designation. However, if an existing Clean Unit designation expires, it may requalify under the requirements that are currently applicable in the area.

9 VAC 5-80-1840. (Repealed.)

9 VAC 5-80-1845. Clean Unit provisions for emissions units that achieve an emission limitation comparable to BACT.

A. An owner of a major stationary source has the option of using the Clean Unit Test to determine whether emissions increases at a Clean Unit are part of a project that is a major modification according to the provisions of this section. The provisions of this section apply to emissions units that do not qualify as Clean Units under 9 VAC 5-80-1835, but that are achieving a level of emissions control comparable to BACT, as determined by the board in accordance with this section.

B. The general provisions set forth in this subsection shall apply to Clean Units.

1. Any project for which the owner begins actual construction after the effective date of the Clean Unit designation (as determined in accordance with subsection E of this section) and before the expiration date (as determined in accordance with subsection F of this section) will be considered to have occurred while the emissions unit was a Clean Unit.

2. If a project at a Clean Unit does not cause the need for a change in the emission limitations or work practice requirements in the permit for the unit that have been determined (pursuant to subsection D of this section) to be comparable to BACT, and the project would not alter any physical or operational characteristics that formed the basis for determining that the emissions unit's control technology achieves a level of emissions control comparable to BACT as specified in subdivision H 4 of this section, the emissions unit remains a Clean Unit.

3. If a project causes the need for a change in the emission limitations or work practice requirements in the permit for the unit that have been determined (pursuant to subsection D of this section) to be comparable to BACT, or the project would alter any physical or operational characteristics that formed the basis for determining that the emissions unit's control technology achieves a level of emissions control comparable to BACT as specified in subdivision H 4 of this section, then the emissions unit loses its designation as a Clean Unit upon issuance of the necessary permit revisions (unless the unit re-qualifies as a Clean Unit pursuant to subdivision C 4 of this section. If the owner begins actual construction on the project without first applying to revise the emissions unit's permit, the Clean Unit designation ends immediately prior to the time when actual construction begins.

4. A project that causes an emissions unit to lose its designation as a Clean Unit is subject to the applicability requirements of 9 VAC 5-80-1605 G 1 through 4 and 9 VAC 5-80-1605 G 6 as if the emissions unit is not a Clean Unit.

C. An emissions unit qualifies as a Clean Unit when the unit meets the criteria in subdivisions 1 through 3 of this subsection. After the original Clean Unit designation expires in accordance with subsection F of this section or is lost pursuant to subdivision B 3 of this section, such emissions unit may requalify as a Clean Unit under either subdivision 4 of this subsection, or under the Clean Unit provisions in 9 VAC 5-80-1835. To requalify as a Clean Unit under subdivision 4 of this subsection, the emissions unit shall obtain a new permit issued pursuant to the requirements in subsections G and H of this section and meet all the criteria in subdivision 4 of this subsection. The board will make a separate Clean Unit designation for each pollutant emitted by the emissions unit for which the emissions unit qualifies as a Clean Unit.

1. Air pollutant emissions from the emissions unit shall be reduced through the use of qualifying air pollution control technology (which includes pollution prevention or work practices) that meets both of the following requirements:

a. The owner has demonstrated that the emissions unit's control technology is comparable to BACT according to the requirements of subsection D of this section. However, the emissions unit is not eligible for a Clean Unit designation if its emissions are not reduced below the level of a standard, uncontrolled emissions unit of the same type (e.g., if the BACT determinations to which it is compared have resulted in a determination that no control measures are required).

b. The owner made an investment to install the control technology. For the purpose of this determination, an investment includes expenses to research the application of a pollution prevention technique to the emissions unit or to retool the unit to apply a pollution prevention technique.

2. The board must determine that the allowable emissions from the emissions unit will not cause or contribute to a violation of any ambient air quality standard or ambient air increment in 9 VAC 5-80-1635, or have an adverse impact on an air quality related value (such as visibility) that has been identified for a federal class I area by a Federal Land Manager and for which information is available to the general public.

3. An emissions unit may qualify as a Clean Unit even if the control technology, on which the Clean Unit designation is based, was installed before the effective date of this revision. However, for such emissions units, the owner shall apply for the Clean Unit designation within two years after the effective date of this revision. For technologies installed on and after the effective date of this revision, the owner shall apply for the Clean Unit designation at the time the control technology is installed.

4. In order to requalify as a Clean Unit, the emissions unit shall obtain a new permit (pursuant to requirements in subsections G and H of this section) that demonstrates that the emissions unit's control technology is achieving a level of emission control comparable to current-day BACT, and the emissions unit shall meet the requirements in subdivisions 1 a and 2 of this subsection.

D. The owner may demonstrate that the emissions unit's control technology is comparable to BACT for purposes of subdivision C 1 of this section according to either subdivisions 1 or 2 of this subsection. Subdivision 3 of this subsection specifies the time for making this comparison.

1. The emissions unit's control technology is presumed to be comparable to BACT if it achieves an emission limitation that is equal to or better than the average of the emission limitations achieved by all the sources for which a BACT or LAER determination has been made within the preceding five years and entered into the RACT/BACT/LAER Clearinghouse (RBLC), and for which it is technically feasible to apply the BACT or LAER control technology to the emissions unit. The board will also compare this presumption to any additional BACT or LAER determinations of which the board is aware, and shall consider any information on achieved-in-practice pollution control technologies provided during the public comment period, to determine whether any presumptive determination that the control technology is comparable to BACT is correct.

2. The owner may demonstrate that the emissions unit's control technology is substantially as effective as BACT (the "substantially-as-effective test"). In addition, any other person may present evidence related to whether the control technology is substantially as effective as BACT during the public participation process required under subsection G of this section. The board will consider such evidence on a

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case-by-case basis and determine whether the emissions unit's air pollution control technology is substantially as effective as BACT.

3. The provisions governing the time for making the comparison under this subsection shall be as follows:

a. The owner of an emissions unit with control technologies that are installed before the effective date of this revision may, at its option, either demonstrate that the emission limitation achieved by the emissions unit's control technology is comparable to the BACT requirements that applied at the time the control technology was installed, or demonstrate that the emission limitation achieved by the emissions unit's control technology is comparable to current-day BACT requirements. The expiration date of the Clean Unit designation will depend on which option the owner uses, as specified in subsection F of this section.

b. The owner of an emissions unit with control technologies that are installed after the effective date of this revision shall demonstrate that the emission limitation achieved by the emissions unit's control technology is comparable to current-day BACT requirements.

E. The effective date of an emissions unit's Clean Unit designation (i.e., the date on which the owner may begin to use the Clean Unit test to determine whether a project involving the emissions unit is a major modification) is the date that the permit required by subsection G of this section is issued or the date that the emissions unit's air pollution control technology is placed into service, whichever is later.

F. If the owner demonstrates that the emission limitation achieved by the emissions unit's control technology is comparable to the BACT requirements that applied at the time the control technology was installed, then the Clean Unit designation expires five years from the date that the control technology was installed. For all other emissions units, the Clean Unit designation expires five years from the effective date of the Clean Unit designation, as determined according to subsection E of this section. In addition, for all emissions units, the Clean Unit designation expires any time the owner fails to comply with the provisions for maintaining the Clean Unit designation in subsection I of this section.

G. The board will designate an emissions unit a Clean Unit only by issuing a permit through a NSR program that includes requirements for public notice of the proposed Clean Unit designation and opportunity for public comment. Such permit shall also meet the requirements in subsection H of this section.

H. The permit required by subsection G of this section shall include the terms and conditions set forth in subdivisions 1 through 6 of this subsection. Such terms and conditions shall be incorporated into the major stationary source's federal operating permit in accordance with the provisions of the federal operating permit program, but no later than when the federal operating permit is renewed.

1. A statement indicating that the emissions unit qualifies as a Clean Unit and identifying the pollutants for which this designation applies.

2. If the effective date of the Clean Unit designation is not known when the board issues the permit (e.g., because the air pollution control technology is not yet in service), then the permit shall describe the event that will determine the effective date (e.g., the date the control technology is placed into service). Once the effective date is known, then the owner shall notify the board of the exact date. This specific effective date shall be added to the source's federal operating permit at the first opportunity, such as a modification, revision, reopening, or renewal of the federal operating permit for any reason, whichever comes first, but in no case later than the next renewal.

3. If the expiration date of the Clean Unit designation is not known when the board issues the permit (e.g., because the air pollution control technology is not yet in service), then the permit shall describe the event that will determine the expiration date (e.g., the date the control technology is placed into service). Once the expiration date is known, then the owner shall notify the board of the exact date. The expiration date shall be added to the source's federal operating permit at the first opportunity, such as a modification, revision, reopening, or renewal of the federal operating permit for any reason, whichever comes first, but in no case later than the next renewal.

4. All emission limitations and work practice requirements adopted in conjunction with emission limitations necessary to assure that the control technology continues to achieve an emission limitation comparable to BACT, and any physical or operational characteristics that formed the basis for determining that the emissions unit's control technology achieves a level of emissions control comparable to BACT (e.g., possibly the emissions unit's capacity or throughput).

5. Monitoring, recordkeeping, and reporting requirements as necessary to demonstrate that the emissions unit continues to meet the criteria for maintaining its Clean Unit designation (see subsection I of this section).

6. Terms reflecting the owner's duties to maintain the Clean Unit designation and the consequences of failing to do so, as presented in subsection I of this section.

I. To maintain the Clean Unit designation, the owner shall conform to all the restrictions listed in subdivisions 1 through 5 of this subsection. This subsection applies independently to each pollutant for which the board has designated the emissions unit a Clean Unit. That is, failing to conform to the restrictions for one pollutant affects the Clean Unit designation only for that pollutant.

1. The Clean Unit shall comply with the emission limitations and work practice requirements adopted to ensure that the control technology continues to achieve emission control comparable to BACT.

2. The owner may not make a physical change in or change in the method of operation of the Clean Unit that causes the emissions unit to function in a manner that is inconsistent with the physical or operational characteristics that formed the basis for the determination that the control technology is achieving a level of emission control that is comparable to BACT (e.g., the emissions unit's capacity or throughput).

3. The Clean Unit shall comply with any terms and conditions in the federal operating permit related to the unit's Clean Unit designation.

4. The Clean Unit shall continue to control emissions using the specific air pollution control technology that was the basis for its Clean Unit designation. If the emissions unit or control technology is replaced, then the Clean Unit designation ends.

J. Emissions changes that occur at a Clean Unit shall not be included in calculating a significant net emissions increase ("netting analysis") unless such use occurs before the effective date of this revision or after the Clean Unit designation expires; or, unless the emissions unit reduces emissions below the level that qualified the unit as a Clean Unit. However, if the Clean Unit reduces emissions below the level that qualified the unit as a Clean Unit, then the owner may generate a credit for the difference between the level that qualified the unit as a Clean Unit and the emissions unit's new emissions limit if such reductions are surplus, quantifiable, and permanent. For purposes of generating offsets, the reductions shall also be federally and state enforceable. For purposes of determining creditable net emissions increases and decreases, the reductions shall also be enforceable as a practical matter.

K. The Clean Unit designation of an emissions unit is not affected by redesignation of the attainment status of the area in which it is located. That is, if a Clean Unit is located in an attainment area and the area is redesignated to nonattainment, its Clean Unit designation is not affected. Similarly, redesignation from nonattainment to attainment does not affect the Clean Unit designation. However, if a Clean Unit's designation expires or is lost pursuant to 9 VAC 5-80-1835 B 3 and subdivision B 3 of this section, it shall requalify under the requirements that are currently applicable.

9 VAC 5-80-1850. (Repealed.)

9 VAC 5-80-1855. Pollution control project (PCP) exclusion procedural requirements.

A. Before an owner begins actual construction of a PCP, the owner shall either submit a notice to the board if the project is listed in subdivisions a through f of the definition of "pollution control project," or if the project is not listed in subdivisions a through f of the definition of "pollution control project," then the owner shall submit a permit application and obtain approval to use the PCP exclusion from the board consistent with the requirements of subsection E of this section. Regardless of whether the owner submits a notice or a permit application, the project shall meet the requirements in subsection B of this section, and the notice or permit application shall contain the information required in subsection C of this section.

B. Any project that relies on the PCP exclusion shall meet the following requirements:

1. The environmental benefit from the emissions reductions of pollutants regulated under the federal Clean Air Act shall outweigh the environmental detriment of emissions increases in pollutants regulated under the federal Clean Air Act. A statement that a technology from subdivisions a

through f of the definition for "pollution control project" is being used shall be presumed to satisfy this requirement.

2. The emissions increases from the project will not cause or contribute to a violation of any ambient air quality standard or ambient air increment in 9 VAC 5-80-1635, or have an adverse impact on an air quality related value (such as visibility) that has been identified for a federal class I area by a federal land manager and for which information is available to the general public.

C. In the notice or permit application sent to the board, the owner shall include, at a minimum, the following information:

1. A description of the project.

2. The potential emissions increases and decreases of any pollutant regulated under the federal Clean Air Act and the projected emissions increases and decreases using the methodology in 9 VAC 5-80-1605 H, that will result from the project, and a copy of the environmentally beneficial analysis required by subdivision B 1 of this section.

3. A description of monitoring and recordkeeping, and all other methods, to be used on an ongoing basis to demonstrate that the project is environmentally beneficial. Methods should be sufficient to meet the requirements in the federal operating permit program.

4. A certification that the project will be designed and operated in a manner that is consistent with proper industry and engineering practices, in a manner that is consistent with the environmentally beneficial analysis and air quality analysis required by subsection B of this section, with information submitted in the notice or permit application, and in such a way as to minimize, within the physical configuration and operational standards usually associated with the emissions control device or strategy, emissions of collateral pollutants.

5. Demonstration that the PCP will not have an adverse air quality impact (e.g., modeling, screening level modeling results, or a statement that the collateral emissions increase is included within the parameters used in the most recent modeling exercise) as required by subdivision B 2 of this section. An air quality impact analysis is not required for any pollutant that will not experience a significant emissions increase as a result of the project.

D. For projects listed in subdivisions a through f of the definition of "pollution control project," the owner may begin actual construction of the project immediately after notice is sent to the board (unless otherwise prohibited under requirements of the applicable implementation plan). The owner shall respond to any requests by the board for additional information that the board determines is necessary to evaluate the suitability of the project for the PCP exclusion.

E. Before an owner may begin actual construction of a PCP project that is not listed in subdivisions a through f of the definition for "pollution control project" (an "unlisted project"), the project must be approved by the board and recorded in an NSR permit, state operating permit, or federal operating permit. The permit procedures must include the requirement that the board provide the public with notice of the proposed approval, with access to the environmentally beneficial

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analysis and the air quality analysis, and provide at least a 30-day period for the public and the administrator to submit comments. The board will address all material comments received by the end of the comment period before taking final action on the permit.

F. Upon installation of the PCP, the owner shall comply with the following operational requirements:

1. The owner shall operate the PCP in a manner consistent with proper industry and engineering practices, in a manner that is consistent with the environmentally beneficial analysis and air quality analysis required by subsection B of this section, with information submitted in the notice or permit application required by subsection C of this section, and in such a way as to minimize, within the physical configuration and operational standards usually associated with the emissions control device or strategy, emissions of collateral pollutants.

2. The owner shall maintain copies on site of the environmentally beneficial analysis, the air quality impacts analysis, and monitoring and other emission records to prove that the PCP operated consistent with the general duty requirements in subdivision 1 of this subsection.

3. The owner shall comply with any provisions in the applicable permit related to use and approval of the PCP exclusion.

4. Emission reductions created by a PCP shall not be included in calculating a significant net emissions increase unless the emissions unit further reduces emissions after qualifying for the PCP exclusion (e.g., taking an operational restriction on the hours of operation). The owner may generate a credit for the difference between the level of reduction which was used to qualify for the PCP exclusion and the new emissions limit if such reductions are surplus, quantifiable, and permanent. For purposes of generating offsets, the reductions shall also be federally and state enforceable. For purposes of determining creditable net emissions increases and decreases, the reductions shall also be enforceable as a practical matter.

9 VAC 5-80-1860. (Repealed.)

9 VAC 5-80-1865. Actuals plantwide applicability limits (PAL).

A. The board may approve the use of an actuals PAL for any existing major stationary source if the PAL meets the requirements of this section. The term "PAL" shall mean "actuals PAL" throughout this section.

1. Any physical change in or change in the method of operation of a major stationary source that maintains its total sourcewide emissions below the PAL level, meets the requirements of this section, and complies with the PAL permit:

- a. Is not a major modification for the PAL pollutant;
- b. Does not have to be approved through this article; and
- c. Is not subject to the provisions in 9 VAC 5-80-1605 C (restrictions on relaxing enforceable emission limitations

that the major stationary source used to avoid applicability of the major NSR program).

2. Except as provided under subdivision 1 c of this subsection, a major stationary source shall continue to comply with all applicable federal or state requirements, emission limitations, and work practice requirements that were established prior to the effective date of the PAL.

B. As part of a permit application requesting a PAL, the owner of a major stationary source shall submit the following information to the board for approval:

1. A list of all emissions units at the source designated as small, significant or major based on their potential to emit. In addition, the owner of the source shall indicate which, if any, federal or state applicable requirements, emission limitations, or work practices apply to each unit.

2. Calculations of the baseline actual emissions (with supporting documentation). Baseline actual emissions are to include emissions associated not only with operation of the unit, but also emissions associated with startup, shutdown, and malfunction.

3. The calculation procedures that the major stationary source owner proposes to use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total for each month as required by subdivision N 1 of this section.

C. The general requirements set forth in this subsection shall apply to the establishment of PALs.

1. The board may establish a PAL at a major stationary source, provided that at a minimum, the following requirements are met:

a. The PAL shall impose an annual emission limitation in tons per year, that is enforceable as a practical matter, for the entire major stationary source. For each month during the PAL effective period after the first 12 months of establishing a PAL, the major stationary source owner shall show that the sum of the monthly emissions from each emissions unit under the PAL for the previous 12 consecutive months is less than the PAL (a 12-month average, rolled monthly). For each month during the first 11 months from the PAL effective date, the major stationary source owner shall show that the sum of the preceding monthly emissions from the PAL effective date for each emissions unit under the PAL is less than the PAL.

b. The PAL shall be established in a PAL permit that meets the public participation requirements in subsection D of this section.

c. The PAL permit shall contain all the requirements of subsection F of this section.

d. The PAL shall include fugitive emissions, to the extent quantifiable, from all emissions units that emit or have the potential to emit the PAL pollutant at the major stationary source.

e. Each PAL shall regulate emissions of only one pollutant.

f. Each PAL shall have a PAL effective period of five years.

g. The owner of the major stationary source with a PAL shall comply with the monitoring, recordkeeping, and reporting requirements provided in subsections M through O of this section for each emissions unit under the PAL through the PAL effective period.

2. At no time during or after the PAL effective period are emissions reductions of a PAL pollutant that occur during the PAL effective period creditable as decreases for purposes of offsets under 9 VAC 5-80-2120 F through N unless the level of the PAL is reduced by the amount of such emissions reductions and such reductions would be creditable in the absence of the PAL.

D. PALs for existing major stationary sources shall be established, renewed, or increased through the public participation procedures of 9 VAC 5-80-1775. This includes the requirement that the board provide the public with notice of the proposed approval of a PAL permit and at least a 30-day period for submittal of public comment. The board will address all material comments before taking final action on the permit.

E. The actuals PAL level for a major stationary source shall be established as the sum of the baseline actual emissions of the PAL pollutant for each emissions unit at the source; plus an amount equal to the applicable significant (as reflected in the definition of "significant") level for the PAL pollutant. When establishing the actuals PAL level, for a PAL pollutant, only one consecutive 24-month period shall be used to determine the baseline actual emissions for all existing emissions units. The same consecutive 24-month period shall be used for each different PAL pollutant unless the owner can demonstrate to the satisfaction of the board that a different consecutive 24-month period for a different pollutant or pollutants is more appropriate due to extenuating circumstances. Emissions associated with units that were permanently shutdown after this 24-month period shall be subtracted from the PAL level. Emissions from units on which actual construction began after the 24-month period shall be added to the PAL level in an amount equal to the potential to emit of the units. The board will specify a reduced PAL level or levels (in tons per year) in the PAL permit to become effective on the future compliance dates of any applicable federal or state regulatory requirements that the board is aware of prior to issuance of the PAL permit. For instance, if the source owner will be required to reduce emissions from industrial boilers in half from baseline emissions of 60 ppm NO_x to a new rule limit of 30 ppm, then the permit shall contain a future effective PAL level that is equal to the current PAL level reduced by half of the original baseline emissions of such units.

F. The PAL permit shall contain, at a minimum, the following information:

1. The PAL pollutant and the applicable sourcewide emission limitation in tons per year.
2. The PAL permit effective date and the expiration date of the PAL (PAL effective period).

3. Specification in the PAL permit that if a major stationary source owner applies to renew a PAL in accordance with subsection J of this section before the end of the PAL effective period, then the PAL shall not expire at the end of the PAL effective period. It shall remain in effect until a revised PAL permit is issued by the board, or until the board determines that the revised PAL permit will not be issued.

4. A requirement that emission calculations for compliance purposes shall include emissions from startups, shutdowns, and malfunctions.

5. A requirement that, once the PAL expires, the major stationary source is subject to the requirements of subsection I of this section.

6. The calculation procedures that the major stationary source owner shall use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total as required by subdivision N 1 of this section.

7. A requirement that the major stationary source owner monitor all emissions units in accordance with the provisions under subsection M of this section.

8. A requirement to retain the records required under subsection N of this section on site. Such records may be retained in an electronic format.

9. A requirement to submit the reports required under subsection O of this section by the required deadlines.

10. Any other requirements that the board deems necessary to implement and enforce the PAL.

G. The PAL effective period shall be five years.

H. The requirements for the reopening of the PAL permit set forth in this subsection shall apply to actuals PALs.

1. During the PAL effective period, the board will reopen the PAL permit to:

- a. Correct typographical or calculation errors made in setting the PAL or reflect a more accurate determination of emissions used to establish the PAL;
- b. Reduce the PAL if the owner of the major stationary source creates creditable emissions reductions for use as offsets under 9 VAC 5-80-2120 F through N; and
- c. Revise the PAL to reflect an increase in the PAL as provided under subsection L of this section.

2. The board may reopen the PAL permit for any of the following reasons:

- a. Reduce the PAL to reflect newly applicable federal requirements (e.g., NSPS) with compliance dates after the PAL effective date.
- b. Reduce the PAL consistent with any other requirement, that is enforceable as a practical matter, and that the board may impose on the major stationary source.
- c. Reduce the PAL if the board determines that a reduction is necessary to avoid causing or contributing to a violation of an ambient air standard or ambient air

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increment in 9 VA 5-80-1635, or to an adverse impact on an air quality related value that has been identified for a federal class I area by a federal land manager and for which information is available to the general public.

3. Except for the permit reopening in subdivision 1 a of this subsection for the correction of typographical or calculation errors that do not increase the PAL level, all other reopenings shall be carried out in accordance with the public participation requirements of subsection D of this section.

I. Any PAL that is not renewed in accordance with the procedures in subsection J of this section shall expire at the end of the PAL effective period, and the following requirements shall apply:

1. Each emissions unit (or each group of emissions units) that existed under the PAL shall comply with an allowable emission limitation under a revised permit established according to the following procedures:

a. Within the time frame specified for PAL renewals in subdivision J 2 of this section, the major stationary source shall submit a proposed allowable emission limitation for each emissions unit (or each group of emissions units, if such a distribution is more appropriate as decided by the board) by distributing the PAL allowable emissions for the major stationary source among each of the emissions units that existed under the PAL. If the PAL had not yet been adjusted for an applicable requirement that became effective during the PAL effective period, as required under subdivision J 5 of this section, such distribution shall be made as if the PAL had been adjusted.

b. The board will decide whether and how the PAL allowable emissions will be distributed and issue a revised permit incorporating allowable limits for each emissions unit, or each group of emissions units, as the board determines is appropriate.

2. Each emissions unit shall comply with the allowable emission limitation on a 12-month rolling basis. The board may approve the use of monitoring systems (source testing, emission factors, etc.) other than CEMS, CERMS, PEMS, or CPMS to demonstrate compliance with the allowable emission limitation.

3. Until the board issues the revised permit incorporating allowable limits for each emissions unit, or each group of emissions units, as required under subdivision 1 b of this subsection, the source shall continue to comply with a sourcewide, multiunit emissions cap equivalent to the level of the PAL emission limitation.

4. Any physical change or change in the method of operation at the major stationary source will be subject to major NSR program requirements if such change meets the definition of "major modification."

5. The major stationary source owner shall continue to comply with any state or federal applicable requirements (such as BACT, RACT, or NSPS) that may have applied either during the PAL effective period or prior to the PAL effective period except for those emission limitations that had been established pursuant to 9 VAC 5-80-1605 C, but

were eliminated by the PAL in accordance with the provisions in subdivision A 1 c of this section.

J. The requirements for the renewal of the PAL permit set forth in this subsection shall apply to actuals PALs.

1. The board will follow the procedures specified in subsection D of this section in approving any request to renew a PAL for a major stationary source, and shall provide both the proposed PAL level and a written rationale for the proposed PAL level to the public for review and comment. During such public review, any person may propose a PAL level for the source for consideration by the board.

2. A major stationary source owner shall submit a timely application to the board to request renewal of a PAL. A timely application is one that is submitted at least 6 months prior to, but not earlier than 18 months from, the date of permit expiration. This deadline for application submittal is to ensure that the permit will not expire before the permit is renewed. If the owner of a major stationary source submits a complete application to renew the PAL within this time period, then the PAL shall continue to be effective until the revised permit with the renewed PAL is issued, or until the board determines that the revised permit with the renewed PAL will not be issued.

3. The application to renew a PAL permit shall contain the following information:

a. The information required in subsection B of this section.

b. A proposed PAL level.

c. The sum of the potential to emit of all emissions units under the PAL (with supporting documentation).

d. Any other information the owner wishes the board to consider in determining the appropriate level for renewing the PAL.

K. The requirements for the adjustment of the PAL set forth in this subsection shall apply to actuals PALs. In determining whether and how to adjust the PAL, the board will consider the options outlined in subdivisions 1 and 2 of this subsection. However, in no case may any such adjustment fail to comply with subdivision 3 of this subsection.

1. If the emissions level calculated in accordance with subsection E of this section is equal to or greater than 80% of the PAL level, the board may renew the PAL at the same level without considering the factors set forth in subdivision 2 of this subsection; or

2. The board may set the PAL at a level that it determines to be more representative of the source's baseline actual emissions, or that it determines to be more appropriate considering air quality needs, advances in control technology, anticipated economic growth in the area, desire to reward or encourage the source's voluntary emissions reductions, or other factors as specifically identified by the board in a written rationale.

3. Notwithstanding subdivisions 1 and 2 of this subsection:

a. If the potential to emit of the major stationary source is less than the PAL, the board will adjust the PAL to a level no greater than the potential to emit of the source; and

b. The board will not approve a renewed PAL level higher than the current PAL, unless the major stationary source has complied with the provisions of subsection L of this section.

4. If the compliance date for a state or federal requirement that applies to the PAL source occurs during the PAL effective period, and if the board has not already adjusted for such requirement, the PAL shall be adjusted at the time of PAL permit renewal or federal operating permit renewal, whichever occurs first.

L. The requirements for increasing a PAL during the PAL effective period set forth in this subsection shall apply to actuals PALs.

1. The board may increase a PAL emission limitation only if the owner of the major stationary source complies with the following provisions:

a. The owner of the major stationary source shall submit a complete application to request an increase in the PAL limit for a PAL major modification. Such application shall identify the emissions units contributing to the increase in emissions so as to cause the major stationary source's emissions to equal or exceed its PAL.

b. As part of this application, the major stationary source owner shall demonstrate that the sum of the baseline actual emissions of the small emissions units, plus the sum of the baseline actual emissions of the significant and major emissions units assuming application of BACT equivalent controls, plus the sum of the allowable emissions of the new or modified emissions units exceeds the PAL. The level of control that would result from BACT equivalent controls on each significant or major emissions unit shall be determined by conducting a new BACT analysis at the time the application is submitted, unless the emissions unit is currently required to comply with a BACT or LAER requirement that was established within the preceding five years. In such a case, the assumed control level for that emissions unit shall be equal to the level of BACT or LAER with which that emissions unit shall currently comply.

c. The owner obtains a major NSR permit for all emissions units identified in subdivision 1 of this subsection, regardless of the magnitude of the emissions increase resulting from them (i.e., no significant levels apply). These emissions units shall comply with any emissions requirements resulting from the major NSR program process (e.g., BACT), even though they have also become subject to the PAL or continue to be subject to the PAL.

2. The PAL permit shall require that the increased PAL level shall be effective on the day any emissions unit that is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.

3. The board will calculate the new PAL as the sum of the allowable emissions for each modified or new emissions

unit, plus the sum of the baseline actual emissions of the significant and major emissions units (assuming application of BACT equivalent controls as determined in accordance with subdivision 1 b of this subsection), plus the sum of the baseline actual emissions of the small emissions units.

4. The PAL permit shall be revised to reflect the increased PAL level pursuant to the public notice requirements of subsection D of this section.

M. The requirements for monitoring the PAL set forth in this subsection apply to actuals PALs.

1. The general requirements for monitoring a PAL set forth in this subdivision apply to actuals PALs.

a. Each PAL permit shall contain enforceable requirements for the monitoring system that accurately determines plantwide emissions of the PAL pollutant in terms of mass per unit of time. Any monitoring system authorized for use in the PAL permit shall be based on sound science and meet generally acceptable scientific procedures for data quality and manipulation. Additionally, the information generated by such system shall meet minimum legal requirements for admissibility in a judicial proceeding to enforce the PAL permit.

b. The PAL monitoring system shall employ one or more of the four general monitoring approaches meeting the minimum requirements set forth in subdivision 2 of this subdivision and must be approved by the board.

c. Notwithstanding subdivision 1 b of this subdivision, the owner may also employ an alternative monitoring approach that meets subdivision 1 a of this subsection if approved by the board.

d. Failure to use a monitoring system that meets the requirements of this section renders the PAL invalid.

2. The following are acceptable general monitoring approaches when conducted in accordance with the minimum requirements in subdivisions 3 through 9 of this subsection:

a. Mass balance calculations for activities using coatings or solvents;

b. CEMS;

c. CPMS or PEMS; and

d. Emission factors.

3. An owner using mass balance calculations to monitor PAL pollutant emissions from activities using coating or solvents shall meet the following requirements:

a. Provide a demonstrated means of validating the published content of the PAL pollutant that is contained in or created by all materials used in or at the emissions unit;

b. Assume that the emissions unit emits all of the PAL pollutant that is contained in or created by any raw material or fuel used in or at the emissions unit, if it cannot otherwise be accounted for in the process; and

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- c. Where the vendor of a material or fuel, which is used in or at the emissions unit, publishes a range of pollutant content from such material, the owner shall use the highest value of the range to calculate the PAL pollutant emissions unless the board determines there is site-specific data or a site-specific monitoring program to support another content within the range.*
4. An owner using CEMS to monitor PAL pollutant emissions shall meet the following requirements:
- CEMS shall comply with applicable Performance Specifications found in 40 CFR Part 60, Appendix B; and*
 - CEMS shall sample, analyze and record data at least every 15 minutes while the emissions unit is operating.*
5. An owner using CPMS or PEMS to monitor PAL pollutant emissions shall meet the following requirements:
- The CPMS or the PEMS shall be based on current site-specific data demonstrating a correlation between the monitored parameters and the PAL pollutant emissions across the range of operation of the emissions unit; and*
 - Each CPMS or PEMS shall sample, analyze, and record data at least every 15 minutes, or at another less frequent interval approved by the board, while the emissions unit is operating.*
6. An owner using emission factors to monitor PAL pollutant emissions shall meet the following requirements:
- All emission factors shall be adjusted, if appropriate, to account for the degree of uncertainty or limitations in the factors' development;*
 - The emissions unit shall operate within the designated range of use for the emission factor, if applicable; and*
 - If technically practicable, the owner of a significant emissions unit that relies on an emission factor to calculate PAL pollutant emissions shall conduct validation testing to determine a site-specific emission factor within six months of PAL permit issuance, unless the board determines that testing is not required.*
7. A source owner shall record and report maximum potential emissions without considering enforceable emission limitations or operational restrictions for an emissions unit during any period of time that there is no monitoring data, unless another method for determining emissions during such periods is specified in the PAL permit.
8. Notwithstanding the requirements in subdivisions 3 through 7 of this subsection, where an owner of an emissions unit cannot demonstrate a correlation between the monitored parameters and the PAL pollutant emissions rate at all operating points of the emissions unit, the board will, at the time of permit issuance:
- Establish default values for determining compliance with the PAL based on the highest potential emissions reasonably estimated at such operating points; or*
 - Determine that operation of the emissions unit during operating conditions when there is no correlation between monitored parameters and the PAL pollutant emissions is a violation of the PAL.*
9. All data used to establish the PAL pollutant shall be revalidated through performance testing or other scientifically valid means approved by the board. Such testing shall occur at least once every five years after issuance of the PAL.
- N. The requirements for recordkeeping in the PAL permit set forth in this subsection shall apply to actuals PALs.
- The PAL permit shall require an owner to retain a copy of all records necessary to determine compliance with any requirement of this section and of the PAL, including a determination of each emissions unit's 12-month rolling total emissions, for five years from the date of such record.*
 - The PAL permit shall require an owner to retain a copy of the following records for the duration of the PAL effective period plus five years:*
 - A copy of the PAL permit application and any applications for revisions to the PAL; and*
 - Each annual certification of compliance pursuant to the federal operating permit and the data relied on in certifying the compliance.*
- O. The owner shall submit semi-annual monitoring reports and prompt deviation reports to the board in accordance with the federal operating permit program. The reports shall meet the following requirements:
- The semi-annual report shall be submitted to the board within 30 days of the end of each reporting period. This report shall contain the following information:*
 - The identification of owner and operator and the permit number.*
 - Total annual emissions (tons per year) based on a 12-month rolling total for each month in the reporting period recorded pursuant to subdivision N 1 of this section.*
 - All data relied upon, including, but not limited to, any quality assurance or quality control data, in calculating the monthly and annual PAL pollutant emissions.*
 - A list of any emissions units modified or added to the major stationary source during the preceding six-month period.*
 - The number, duration, and cause of any deviations or monitoring malfunctions (other than the time associated with zero and span calibration checks), and any corrective action taken.*
 - A notification of a shutdown of any monitoring system, whether the shutdown was permanent or temporary, the reason for the shutdown, the anticipated date that the monitoring system will be fully operational or replaced with another monitoring system, and whether the emissions unit monitored by the monitoring system continued to operate, and the calculation of the emissions of the pollutant or the number determined by method included in the permit, as provided by subdivision M 7 of this section.*

g. A signed statement by the responsible official (as defined by the federal operating permit program) certifying the truth, accuracy, and completeness of the information provided in the report.

2. The major stationary source owner shall promptly submit reports of any deviations or exceedance of the PAL requirements, including periods where no monitoring is available. A report submitted pursuant to 9 VAC 5-80-110 F 2 B shall satisfy this reporting requirement. The deviation reports shall be submitted within the time limits prescribed by 9 VAC 5-80-110 F 2 B. The reports shall contain the following information:

- a. The identification of owner and operator and the permit number;
- b. The PAL requirement that experienced the deviation or that was exceeded;
- c. Emissions resulting from the deviation or the exceedance; and
- d. A signed statement by the responsible official (as defined by the applicable federal operating permit program) certifying the truth, accuracy, and completeness of the information provided in the report.

3. The owner shall submit to the board the results of any revalidation test or method within three months after completion of such test or method.

P. The board will not issue a PAL that does not comply with the requirements of this section after [the effective date of this revision]. The board may supersede any PAL that was established prior to [the effective date of this revision] with a PAL that complies with the requirements of this section.

9 VAC 5-80-1870. (Repealed.)

9 VAC 5-80-1880. (Repealed.)

9 VAC 5-80-1890. (Repealed.)

9 VAC 5-80-1900. (Repealed.)

9 VAC 5-80-1910. (Repealed.)

9 VAC 5-80-1920. (Repealed.)

9 VAC 5-80-1925. Changes to permits.

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

1. Changes to a permit issued under this article shall be made as specified under subsections B and C of this section and 9 VAC 5-80-1935 through 9 VAC 5-80-1965.
2. Changes to a permit issued under this article may be initiated by the permittee as specified in subsection B of this section or by the board as specified in subsection C of this section.
3. Changes to a permit issued under this article and incorporated into a permit issued under Article 1 (9 VAC 5-80-50 et seq.) or Article 3 (9 VAC 5-80-360 et seq.) of this part shall be made as specified in Article 1 (9 VAC 5-80-50 et seq.) or Article 3 (9 VAC 5-80-360 et seq.) of this part.

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

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

1. The permittee may initiate a change to a permit by submitting a written request to the board for an administrative permit amendment, a minor permit amendment or a significant permit amendment. The requirements for these permit revisions can be found in 9 VAC 5-80-1935 through 9 VAC 5-80-1955.

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

C. The board may initiate a change to a permit through the use of permit reopenings as specified in 9 VAC 5-80-1965.

9 VAC 5-80-1930. (Repealed.)

9 VAC 5-80-1935. Administrative permit amendments.

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

1. Correction of typographical or any other error, defect or irregularity which does not substantially affect the permit.
2. Identification of a change in the name, address, or phone number of any person identified in the permit, or of a similar minor administrative change at the source.
3. Change in ownership or operational control of a source where the board determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to the board and the requirements of 9 VAC 5-80-2170 have been fulfilled.
4. The combining of permits under the new source review program as provided in 9 VAC 5-80-1625 E.

B. The administrative permit amendment procedures are as follows:

1. The board will normally take final action on a request for an administrative permit amendment no more than 60 days from receipt of the request.
2. The board will incorporate the changes without providing notice to the public under 9 VAC 5-80-1775. However, any such permit revisions shall be designated in the permit amendment as having been made pursuant to this section.
3. The owner may implement the changes addressed in the request for an administrative amendment immediately upon submittal of the request.

9 VAC 5-80-1940. (Repealed.)

9 VAC 5-80-1945. Minor permit amendments.

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

1. Do not violate any applicable federal requirement;
2. Do not involve significant changes to existing monitoring, reporting, or recordkeeping requirements that would make

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the permit requirements less stringent, such as a change to the method of monitoring to be used, a change to the method of demonstrating compliance or a relaxation of reporting or recordkeeping requirements;

3. Do not require or change a case-by-case determination of an emission limitation or other standard;

4. Do not seek to establish or change a permit term or condition (i) for which there is no corresponding underlying applicable regulatory requirement and (ii) that the source has assumed to avoid an applicable regulatory requirement to which the source would otherwise be subject. Such terms and conditions include:

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

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

5. Are not modifications under the new source review program or under § 112 of the federal Clean Air Act; and

6. Are not required to be processed as a significant amendment under 9 VAC 5-80-1955; or as an administrative permit amendment under 9 VAC 5-80-1935.

B. Notwithstanding subsection A of this section, minor permit amendment procedures may be used for permit amendments that:

1. Involve the use of economic incentives, emissions trading, and other similar approaches, to the extent that such minor permit amendment procedures are explicitly provided for in a regulation of the board or a federally-approved program.

2. Require more frequent monitoring or reporting by the permittee or to reduce the level of an emissions cap.

3. Designate any term or permit condition that meets the criteria in 9 VAC 5-80-1625 G 1 as state-only enforceable as provided in 9 VAC 5-80-1625 G 2 for any permit issued under this article or any regulation from which this article is derived.

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

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

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

2. A request that such procedures be used.

E. The public participation requirements of 9 VAC 5-80-1775 shall not extend to minor permit amendments.

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

1. Issue the permit amendment as proposed.

2. Deny the permit amendment request.

3. Determine that the requested amendment does not meet the minor permit amendment criteria and should be reviewed under the significant amendment procedures.

G. The requirements for making changes are as follows:

1. The owner may make the change proposed in the minor permit amendment request immediately after the request is filed.

2. After the change under subdivision 1 of this subsection is made, and until the board takes any of the actions specified in subsection F of this section, the source shall comply with both the applicable regulatory requirements governing the change and the proposed permit terms and conditions.

3. During the time period specified in subdivision 2 of this subsection, the owner need not comply with the existing permit terms and conditions the owner seeks to modify. However, if the owner fails to comply with the proposed permit terms and conditions during this time period, the existing permit terms and conditions the owner seeks to modify may be enforced against the owner.

9 VAC 5-80-1950. (Repealed.)

9 VAC 5-80-1955. Significant amendment procedures.

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

1. Significant amendment procedures shall be used for requesting permit amendments that do not qualify as minor permit amendments under 9 VAC 5-80-1945 or as administrative amendments under 9 VAC 5-80-1935.

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

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

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

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

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

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

B. A request for a significant permit amendment shall include a description of the change, the emissions resulting from the change, and any new applicable regulatory requirements that will apply if the change occurs. The applicant may, at his discretion, include a suggested draft permit amendment.

C. The provisions of 9 VAC 5-80-1775 shall apply to requests made under this section.

D. The board will normally take final action on significant permit amendments within 90 days after receipt of a complete request. If a public comment period is required, processing time for a permit is normally 180 days following receipt of a complete application. The board may extend this time period if additional information is required or if a public hearing is conducted under 9 VAC 5-80-1775.

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

9 VAC 5-80-1960. (Repealed.)

9 VAC 5-80-1965. Reopening for cause.

A. A permit may be reopened and amended under any of the following situations:

1. Additional regulatory requirements become applicable to the emissions units covered by the permit after a permit is issued but prior to commencement of construction.

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

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

4. A new emission standard prescribed under 40 CFR Part 60, 61 or 63 becomes applicable after a permit is issued but prior to initial startup.

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

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

9 VAC 5-80-1970. (Repealed.)

9 VAC 5-80-1975. Transfer of permits.

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

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

C. In the case of a name change of a stationary source, the owner shall abide by any current permit issued under the previous source name. The owner shall notify the board of the change in source name within 30 days of the name change.

D. The provisions of this section concerning the transfer of a permit from one location to another shall not apply to the relocation of portable facilities that are exempt from the provisions of this article by 9 VAC 5-80-1695 A 2.

9 VAC 5-80-1985. Permit invalidation, suspension, revocation, and enforcement.

A. A permit granted pursuant to this article shall become invalid if a program of continuous construction, reconstruction or modification is not commenced within the latest of the following time frames:

1. Eighteen months from the date the permit is granted.

2. Nine months from the date of the issuance of the last permit or other authorization (other than permits granted pursuant to this article) from any government entity.

3. Nine months from the date of the last resolution of any litigation concerning any such permits or authorizations (including permits granted pursuant to this article).

B. A permit granted pursuant to this article shall become invalid if a program of construction, reconstruction or modification is discontinued for a period of 18 months or more or if a program of construction, reconstruction or modification is not completed within a reasonable time. This provision does not apply to the period between construction of the approved phases of a phased construction project; each phase shall commence construction within 18 months of the projected and approved commencement date.

C. The board may extend the periods prescribed in subsections A and B of this section upon satisfactory demonstration that an extension is justified. Provided there is no substantive change to the application information, the review and analysis, and the decision of the board, such extensions may be granted using the procedures for minor amendments in 9 VAC 5-80-1945.

D. Any owner who constructs or operates a source or modification not in accordance (i) with the application submitted pursuant to this article, or (ii) with the terms and conditions of any permit to construct or operate, or any owner of a source or modification subject to this article who commences construction or operation without applying for and receiving a permit hereunder, shall be subject to appropriate

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enforcement action including, but not limited to, any specified in this section.

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

F. The board may revoke any permit if the permittee:

1. Knowingly makes material misstatements in the permit application or any amendments thereto;
2. Fails to comply with the terms or conditions of the permit;
3. Fails to comply with any emission standards applicable to an emissions unit included in the permit;
4. Causes emissions from the stationary source that result in violations of, or interfere with the attainment and maintenance of, any ambient air quality standard; or fails to operate in conformance with any applicable control strategy, including any emission standards or emission limitations, in the implementation plan in effect at the time that an application is submitted; or
5. Fails to comply with the applicable provisions of this article.

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

H. The permittee shall comply with all terms and conditions of the permit. Any permit noncompliance constitutes a violation of the Virginia Air Pollution Control Law and is grounds for (i) enforcement action or (ii) revocation.

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

J. The board will notify the applicant in writing of its decision, with its reasons to change, suspend or revoke a permit, or to render a permit invalid.

9 VAC 5-80-1995. Existence of permit no defense.

The existence of a permit under this article shall not constitute a defense to a violation of the Virginia Air Pollution Control Law (§ 10.1-1300 et seq. of the Code of Virginia) or the regulations of the board and shall not relieve any owner of the responsibility to comply with any applicable regulations, laws, ordinances and orders of the governmental entities having jurisdiction.

Article 9.

Permits for Major Stationary Sources and Major Modifications Locating in Nonattainment Areas or the Ozone Transport Region.

9 VAC 5-80-2000. Applicability.

A. The provisions of this article apply to ~~any person seeking to construct or reconstruct the construction of~~ any new major stationary source or ~~to make a major modification to a major stationary source, if the source or modification is or would be that is major for the pollutant for which the area is designated as nonattainment.~~ ~~to make a major modification to a major stationary source, if the source or modification is or would be that is major for the pollutant for which the area is designated as nonattainment.~~

B. The provisions of this article apply in (i) nonattainment areas designated in 9 VAC 5-20-204 or (ii) the Ozone Transport Region as defined in 9 VAC 5-80-2010 C. This article applies to all localities in the Ozone Transport Region regardless of a locality's nonattainment status.

C. ~~If the Ozone Transport Region is designated attainment for ozone, sources located or planning to locate in the Ozone Transport region shall be subject to the offset requirements for areas classified as moderate in 9 VAC 5-80-2120 B 2. If the Ozone Transport Region is designated nonattainment for ozone, sources located or planning to locate in the region shall be subject to the offset requirements of 9 VAC 5-80-2120 B depending on the classification except if the classification is marginal or there is no classification, the classification shall be moderate for purpose of applying 9 VAC 5-80-2120 B.~~

D. At such time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of this article shall apply to the source or modification as though construction had not commenced on the source or modification.

~~E. Where a source is constructed or modified in contemporaneous increments which individually are not subject to approval under this article and which are not part of a program of construction or modification in planned incremental phases approved by the board, all such increments shall be added together for determining the applicability of this article. An incremental change is contemporaneous with the particular change only if it occurs between the date five years before construction on the particular change commences and the date that the increase from the particular change occurs.~~

~~F. E.~~ Unless specified otherwise, the provisions of this article apply as follows:

1. Provisions referring to "sources," "new and/or modified sources" or "stationary sources" apply to the construction, ~~reconstruction~~ or modification of all major stationary sources and major modifications.

2. Any emissions units or pollutants not subject to the provisions of this article may be subject to the provisions of Article 6 (9 VAC 5-80-1100 et seq.), Article 7 (9 VAC 5-80-1400 et seq.), or Article 8 (~~9 VAC 5-80-1700~~ 9 VAC 5-80-1605 et seq.) of this part.

3. Provisions referring to "state and federally enforceable" and "federally and state enforceable" or similar wording shall mean "state-only enforceable" for terms and conditions of a permit designated state-only enforceable under 9 VAC 5-80-2020 Ξ F.

F. For purposes of applying subsection G of this section and other provisions of this article, the effective date of the amendments adopted by the board on [insert adoption date] shall be the date 30 days after the date on which a notice is published in the Virginia Register acknowledging that the administrator has approved the amendments adopted by the board on [insert adoption date].

G. Unless otherwise approved by the board or prescribed in these regulations, when this article is amended, the previous provisions of this article shall remain in effect for all applications that are deemed complete under the provisions of subsection A of 9 VAC 5-80-2060 prior to [the effective date of the amended article]. Any permit applications that have not been determined to be complete as of [the effective date of the amendments] shall be subject to the new provisions.

G- H. Regardless of the exemptions provided in this article, no owner or other person shall circumvent the requirements of this article by causing or allowing a pattern of ownership or development over a geographic area of a source which, except for the pattern of ownership or development, would otherwise require a permit.

I. The requirements of this article will be applied in accordance with the following principles:

1. Except as otherwise provided in subsections J and K of this section, and consistent with the definition of "major modification," a project is a major modification for a regulated NSR pollutant if it causes two types of emissions increases: (i) a significant emissions increase and (ii) a significant net emissions increase. A project is not a major modification if it does not cause a significant emissions increase. If a project causes a significant emissions increase, then the project is a major modification only if it also results in a significant net emissions increase.

2. The procedure for calculating (before beginning actual construction) whether a significant emissions increase (i.e., the first step of the process) will occur depends upon the type of emissions units being modified, according to subdivisions 3 through 6 of this subsection. The procedure for calculating (before beginning actual construction) whether a significant net emissions increase will occur at the source (i.e., the second step of the process) is contained in the definition of "net emissions increase." Regardless of any such preconstruction projections, a major modification results if the project causes a significant emissions increase and a significant net emissions increase.

3. The actual-to-projected-actual applicability test for projects that only involve existing emissions units shall be as provided in this subdivision. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the projected actual emissions and the baseline actual emissions for each

existing emissions unit, equals or exceeds the significant amount for that pollutant.

4. The actual-to-potential test for projects that only involve construction of a new emissions unit shall be as provided in this subdivision. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the potential to emit from each new emissions unit following completion of the project and the baseline actual emissions of these units before the project equals or exceeds the significant amount for that pollutant.

5. The emission test for projects that involve Clean Units shall be as provided in this subdivision. For a project that will be constructed and operated at a Clean Unit without causing the emissions unit to lose its Clean Unit designation, no emissions increase is deemed to occur.

6. The hybrid test for projects that involve multiple types of emissions units shall be as provided in this subdivision. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the emissions increases for each emissions unit, using the method specified in subdivisions 3 through 5 of this subsection as applicable with respect to each emissions unit, for each type of emissions unit equals or exceeds the significant amount for that pollutant. For example, if a project involves both an existing emissions unit and a Clean Unit, the projected increase is determined by summing the values determined using the method specified in subdivision 3 of this subsection for the existing unit and using the method specified in subdivision 5 of this subsection for the Clean Unit.

J. For any major stationary source for a PAL for a regulated NSR pollutant, the major stationary source shall comply with the requirements under 9 VAC 5-80-2144.

K. An owner undertaking a PCP shall comply with the requirements under 9 VAC 5-80-2143.

L. The provisions of 40 CFR Part 60, Part 61 and Part 63 cited in this article apply only to the extent that they are incorporated by reference in Article 5 (9 VAC 5-50-400 et seq.) of Part II of 9 VAC 5 Chapter 50 and Article 1 (9 VAC 5-60-60 et seq.) and Article 2 (9 VAC 5-60-90 et seq.) of Part II of 9 VAC 5 Chapter 60.

M. The provisions of 40 CFR Part 51 and Part 58 cited in this article apply only to the extent that they are incorporated by reference in 9 VAC 5-20-21.

9 VAC 5-80-2010. Definitions.

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

B. For the purpose of this article, 9 VAC 5-50-270 and any related use, the words or terms shall have the meanings given them in subsection C of this section.

C. Terms defined.

"Actual emissions" means the actual rate of emissions of a regulated NSR pollutant from an emissions unit, as determined in accordance with subdivisions a through c of this

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definition, *except that this definition shall not apply for calculating whether a significant emissions increase has occurred, or for establishing a PAL under 9 VAC 5-80-2144. Instead, the definitions of "projected actual emissions" and "baseline actual emissions" shall apply for those purposes.*

a. In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a ~~two-year~~ *consecutive 24-month* period which precedes the particular date and which is representative of normal source operation. The board ~~shall~~ *will* allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

b. The board may presume that the source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

c. For any emissions unit ~~which~~ *that* has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

"Actuals PAL for a major stationary source" means a PAL based on the baseline actual emissions of all emissions units at the source, that emit or have the potential to emit the PAL pollutant.

"Administrator" means the Administrator of the U.S. Environmental Protection Agency (EPA) or an authorized representative.

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

a. The applicable standards set forth in 40 CFR Parts 60 ~~and 64, 61 and 63;~~

b. Any applicable implementation plan emissions limitation including those with a future compliance date; or

c. The emissions limit specified as a federally and state enforceable permit condition, including those with a future compliance date.

For the purposes of actuals PALs, "allowable emissions" shall also be calculated considering any emission limitations that are enforceable as a practical matter on the emissions unit's potential to emit.

"Applicable federal requirement" means all of the following as they apply to emissions units in a source subject to this article (including requirements that have been promulgated or approved by the administrator through rulemaking at the time of permit issuance but have future-effective compliance dates):

a. Any standard or other requirement provided for in an implementation plan established pursuant to § 110 or

§ 111(d) of the federal Clean Air Act, including any source-specific provisions such as consent agreements or orders.

b. Any limit or condition in any construction permit issued under the new source review program or in any operating permit issued pursuant to the state operating permit program.

c. Any emission standard, alternative emission standard, alternative emission limitation, equivalent emission limitation or other requirement established pursuant to § 112 or § 129 of the federal Clean Air Act as amended in 1990.

d. Any new source performance standard or other requirement established pursuant to § 111 of the federal Clean Air Act, and any emission standard or other requirement established pursuant to § 112 of the federal Clean Air Act before it was amended in 1990.

e. Any limitations and conditions or other requirement in a Virginia regulation or program that has been approved by EPA under subpart E of 40 CFR Part 63 for the purposes of implementing and enforcing § 112 of the federal Clean Air Act.

f. Any requirement concerning accident prevention under § 112(r)(7) of the federal Clean Air Act.

g. Any compliance monitoring requirements established pursuant to either § 504(b) or § 114(a)(3) of the federal Clean Air Act.

h. Any standard or other requirement for consumer and commercial products under § 183(e) of the federal Clean Air Act.

i. Any standard or other requirement for tank vessels under § 183(f) of the federal Clean Air Act.

j. Any standard or other requirement in 40 CFR Part 55 to control air pollution from outer continental shelf sources.

k. Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the federal Clean Air Act, unless the administrator has determined that such requirements need not be contained in a permit issued under this article.

l. With regard to temporary sources subject to 9 VAC 5-80-130, (i) any ambient air quality standard, except applicable state requirements, and (ii) requirements regarding increments or visibility as provided in Article 8 (~~9 VAC 5-80-1700~~ 9 VAC 5-80-1605 et seq.) of this part.

"Baseline actual emissions" means the rate of emissions, in tons per year, of a regulated NSR pollutant, as determined in accordance with the following:

a. For any existing electric utility steam generating unit, baseline actual emissions means the average rate, in tons per year, at which the unit actually emitted the pollutant during any consecutive 24-month period selected by the owner within the five-year period immediately preceding when the owner begins actual construction of the project. The board may allow the use

of a different time period upon a determination that it is more representative of normal source operation.

(1) The average rate shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions.

(2) The average rate shall be adjusted downward to exclude any noncompliant emissions that occurred while the source was operating above any emission limitation that was legally enforceable during the consecutive 24-month period.

(3) For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period shall be used to determine the baseline actual emissions for the emissions units being changed. The same consecutive 24-month period shall be used for each different regulated NSR pollutant unless the owner can demonstrate to the satisfaction of the board that a different consecutive 24-month period for a different pollutant or pollutants is more appropriate due to extenuating circumstances.

(4) The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by subdivision a (2) of this definition.

b. For an existing emissions unit other than an electric utility steam generating unit, baseline actual emissions means the average rate, in tons per year, at which the emissions unit actually emitted the pollutant during any consecutive 24-month period selected by the owner within the five-year period immediately preceding either the date the owner begins actual construction of the project, or the date a complete permit application is received by the board for a permit required either under this section or under a plan approved by the Administrator, whichever is earlier, except that the five-year period shall not include any period earlier than November 15, 1990.

(1) The average rate shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions.

(2) The average rate shall be adjusted downward to exclude any noncompliant emissions that occurred while the source was operating above any emission limitation that was legally enforceable during the consecutive 24-month period.

(3) The average rate shall be adjusted downward to exclude any emissions that would have exceeded an emission limitation with which the source shall currently comply, had such source been required to comply with such limitations during the consecutive 24-month period. However, if an emission limitation is part of a maximum achievable control technology standard that the Administrator proposed or promulgated under 40 CFR Part 63, the baseline actual emissions need only be adjusted if the state has taken credit for such emissions reductions in an attainment demonstration or

maintenance plan consistent with the requirements of 9 VAC 5-80-2120 K.

(4) For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period shall be used to determine the baseline actual emissions for the emissions units being changed. The same consecutive 24-month period shall be used for each different regulated NSR pollutant unless the owner can demonstrate to the satisfaction of the board that a different consecutive 24-month period for a different pollutant or pollutants is more appropriate due to extenuating circumstances.

(5) The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by subdivisions b (2) and b (3) of this definition.

c. For a new emissions unit, the baseline actual emissions for purposes of determining the emissions increase that will result from the initial construction and operation of such unit shall equal zero; and thereafter, for all other purposes, shall equal the unit's potential to emit.

d. For a PAL for a major stationary source, the baseline actual emissions shall be calculated for existing electric utility steam generating units in accordance with the procedures contained in subdivision a of this definition, for other existing emissions units in accordance with the procedures contained in subdivision b of this definition, and for a new emissions unit in accordance with the procedures contained in subdivision c of this definition.

"Begin actual construction" means, in general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operation, this term refers to those on-site activities other than preparatory activities which mark the initiation of the change.

"Best available control technology" means an emissions limitation (including a visible emissions standard) based on the maximum degree of reduction for each regulated NSR pollutant that would be emitted from any proposed major stationary source or major modification that the board, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant. In no event shall application of best available control technology result in emissions of any pollutant that would exceed the emissions allowed by any applicable standard under 40 CFR Parts 60, 61, and 63. If the board determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an

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emissions standard infeasible, a design, equipment, work practice, operational standard, or combination thereof, may be prescribed instead to satisfy the requirement for the application of best available control technology. Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design, equipment, work practice or operation, and shall provide for compliance by means that achieve equivalent results.

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

"Clean coal technology" means any technology, including technologies applied at the precombustion, combustion, or post-combustion stage, at a new or existing facility that will achieve significant reductions in air emissions of sulfur dioxide or nitrogen oxides associated with the utilization of coal in the generation of electricity, or process steam that was not in widespread use as of November 15, 1990.

"Clean coal technology demonstration project" means a project using funds appropriated under the heading "Department of Energy-Clean Coal Technology," up to a total amount of \$2,500,000,000 for commercial demonstration of clean coal technology, or similar projects funded through appropriations for the U.S. EPA. The federal contribution for a qualifying project shall be at least 20% of the total cost of the demonstration project.

"Clean Unit" means any emissions unit that has been issued a major NSR permit that requires compliance with BACT or LAER, that is complying with such BACT or LAER requirements, and qualifies as a Clean Unit pursuant to 9 VAC 5-80-2141; or any emissions unit that has been designated by a board as a Clean Unit, based on the criteria in 9 VAC 5-80-2142 C 1 through C 4; or any emissions unit that has been designated as a Clean Unit by the Administrator in accordance with 40 CFR 52.21(y)(3)(i) through (iv).

"Commence," as applied to construction of a major stationary source or major modification, means that the owner has all necessary preconstruction approvals or permits and either has:

- a. Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or
- b. Entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner, to undertake a program of actual construction of the source, to be completed within a reasonable time.

"Complete application" means that the application contains all the information necessary for processing the application and the provisions of § 10.1-1321.1 of the Virginia Air Pollution

Control Law have been met. Designating an application complete for purposes of permit processing does not preclude the board from requesting or accepting additional information.

"Construction" means any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) which that would result in a change in actual emissions.

"Continuous emissions monitoring system (CEMS)" means all of the equipment that may be required to meet the data acquisition and availability requirements of this section, to sample, condition (if applicable), analyze, and provide a record of emissions on a continuous basis.

"Continuous emissions rate monitoring system (CERMS)" means the total equipment required for the determination and recording of the pollutant mass emissions rate (in terms of mass per unit of time).

"Continuous parameter monitoring system (CPMS)" means all of the equipment necessary to meet the data acquisition and availability requirements of this section, to monitor process and control device operational parameters (for example, control device secondary voltages and electric currents) and other information (for example, gas flow rate, O₂ or CO₂ concentrations), and to record average operational parameter values on a continuous basis.

"Effective date of this revision" means the effective date determined in accordance with 9 VAC 5-80-2000 F.

"Electric utility steam generating unit" means any steam electric generating unit that is constructed for the purpose of supplying more than one-third of its potential electric output capacity and more than 25 megawatt electrical output to any utility power distribution system for sale. Any steam supplied to a steam distribution system for the purpose of providing steam to a steam-electric generator that would produce electrical energy for sale is also considered in determining the electrical energy output capacity of the affected facility.

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

"Emissions unit" means any part of a stationary source which emits or would have the potential to emit ~~any pollutant subject to regulation under the federal Clean Air Act~~ any regulated NSR pollutant and includes an electric steam generating unit. For purposes of this article, there are two types of emissions units: (i) a new emissions unit is any emissions unit that is (or will be) newly constructed and that has existed for less than two years from the date such emissions unit first operated; and (ii) an existing emissions unit is any emissions unit that is not a new emissions unit.

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

- a. Are permanent;

- b. Contain a legal obligation for the owner to adhere to the terms and conditions;
- c. Do not allow a relaxation of a requirement of the implementation plan;
- d. Are technically accurate and quantifiable;
- e. Include averaging times or other provisions that allow at least monthly (or a shorter period if necessary to be consistent with the implementation plan) checks on compliance. This may include, but not be limited to, the following: compliance with annual limits in a rolling basis, monthly or shorter limits, and other provisions consistent with ~~9-VAC-5-80-2050~~ *this article* and other regulations of the board; and
- f. Require a level of recordkeeping, reporting and monitoring sufficient to demonstrate compliance.

"Federal land manager" means, with respect to any lands in the United States, the secretary of the department with authority over such lands.

"Federally enforceable" means all limitations and conditions which are enforceable by the administrator and citizens under the federal Clean Air Act or that are enforceable under other statutes administered by the administrator. Federally enforceable limitations and conditions include, but are not limited to the following:

- a. Emission standards, alternative emission standards, alternative emission limitations, and equivalent emission limitations established pursuant to § 112 of the federal Clean Air Act as amended in 1990.
- b. New source performance standards established pursuant to § 111 of the federal Clean Air Act, and emission standards established pursuant to § 112 of the federal Clean Air Act before it was amended in 1990.
- c. All terms and conditions (*unless expressly designated as not federally enforceable*) in a federal operating permit, including any provisions that limit a source's potential to emit, ~~unless expressly designated as not federally enforceable.~~
- d. Limitations and conditions that are part of an implementation plan established pursuant to § 110 ~~or § 444(d)~~, § 111(d), or § 129 of the federal Clean Air Act.
- e. Limitations and conditions (*unless expressly designated as not federally enforceable*) that are part of a federal construction permit issued under 40 CFR 52.21 or any construction permit issued under regulations approved by EPA ~~in accordance with 40 CFR Part 51 into the implementation plan.~~
- f. Limitations and conditions (*unless expressly designated as not federally enforceable*) that are part of ~~an a~~ *a state operating permit issued pursuant to a program approved by EPA into a SIP as meeting EPA's minimum criteria for federal enforceability, including adequate notice and opportunity for EPA and public comment prior to issuance of the final permit and practicable enforceability where the permit and the permit program pursuant to which it was issued meet all of the following criteria:*

(1) The operating permit program has been approved by the EPA into the implementation plan under § 110 of the federal Clean Air Act.

(2) The operating permit program imposes a legal obligation that operating permit holders adhere to the terms and limitations of such permits and provides that permits that do not conform to the operating permit program requirements and the requirements of EPA's underlying regulations may be deemed not "federally enforceable" by EPA.

(3) The operating permit program requires that all emission limitations, controls, and other requirements imposed by such permits will be at least as stringent as any other applicable limitations and requirements contained in the implementation plan or enforceable under the implementation plan, and that the program may not issue permits that waive, or make less stringent, any limitations or requirements contained in or issued pursuant to the implementation plan, or that are otherwise "federally enforceable."

(4) The limitations, controls, and requirements in the permit in question are permanent, quantifiable, and otherwise enforceable as a practical matter.

(5) The permit in question was issued only after adequate and timely notice and opportunity for comment by the EPA and the public.

g. Limitations and conditions in a ~~Virginia~~ *regulation of the board* or program that has been approved by EPA under subpart E of 40 CFR Part 63 for the purposes of implementing and enforcing § 112 of the federal Clean Air Act.

h. Individual consent agreements that EPA has legal authority to create.

"Federal operating permit" means a permit issued under the federal operating permit program.

"Federal operating permit program" means an operating permit system (i) for issuing terms and conditions for major stationary sources, (ii) established to implement the requirements of Title V of the federal Clean Air Act and associated regulations, and (iii) codified in Article 1 (9 VAC 5-80-50 et seq.), Article 2 (9 VAC 5-80-310 et seq.), Article 3 (9 VAC 5-80-360 et seq.), and Article 4 (9 VAC 5-80-710 et seq.) of this part.

~~*"Fixed capital cost" means the capital needed to provide all the depreciable components.*~~

"Fugitive emissions" means those emissions that could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

"Lowest achievable emissions rate (LAER)" means for any source, the more stringent rate of emissions based on the following:

- a. The most stringent emissions limitation which is contained in the implementation plan of any state for such class or category of stationary source, unless the owner

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of the proposed stationary source demonstrates that such limitations are not achievable; or

b. The most stringent emissions limitation which is achieved in practice by such class or category of stationary sources. This limitation, when applied to a modification, means the lowest achievable emissions rate for the new or modified emissions units within the stationary source. In no event shall the application of this term permit a proposed new or modified stationary source to emit any pollutant in excess of the amount allowable under an applicable new source standard of performance.

"Major emissions unit" means (i) any emissions unit that emits or has the potential to emit 100 tons per year or more of the PAL pollutant in an attainment area; or (ii) any emissions unit that emits or has the potential to emit the PAL pollutant in an amount that is equal to or greater than the major source threshold for the PAL pollutant in subdivision a 1 of the definition of "major stationary source."

"Major modification"

a. Means any physical change in or change in the method of operation of a major stationary source that would result in (i) a significant net emissions increase of ~~any qualifying nonattainment pollutant~~ a regulated NSR pollutant; and (ii) a significant net emissions increase of that pollutant from the source.

b. Any ~~net~~ significant emissions increase from any emissions units or net emissions increase at a source that is considered significant for volatile organic compounds shall be considered significant for ozone.

c. A physical change or change in the method of operation shall not include the following:

- (1) Routine maintenance, repair and replacement;
- (2) Use of an alternative fuel or raw material by reason of an order under § 2 (a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act.
- (3) Use of an alternative fuel by reason of an order or rule § 125 of the federal Clean Air Act.
- (4) Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste.
- (5) Use of an alternative fuel or raw material by a stationary source which:

- (a) The source was capable of accommodating before December 21, 1976, unless such change would be prohibited under any federally and state enforceable permit condition which was established after December 21, 1976, pursuant to 40 CFR 52.21 or this chapter; or
- (b) The source is approved to use under any permit issued under 40 CFR 52.21 or this chapter; and
- (c) The owner demonstrates to the board that as a result of trial burns at the source or other sources or

other sufficient data that the emissions resulting from the use of the alternative fuel or raw material supply are decreased.

~~(3)~~ (6) An increase in the hours of operation or in the production rate, unless such change is prohibited under any federally and state enforceable permit condition which was established after December 21, 1976, pursuant to 40 CFR 52.21 or this chapter.

(7) Any change in ownership at a stationary source.

(8) *The addition, replacement or use of a PCP at an existing emissions unit meeting the requirements of 9 VAC 5-80-2143. A replacement control technology shall provide more effective emissions control than that of the replaced control technology to qualify for this exclusion.*

(9) *The installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, provided that the project complies with:*

- (a) *The applicable implementation plan, and*
- (b) *Other requirements necessary to attain and maintain the national ambient air quality standard during the project and after it is terminated.*

d. *This definition shall not apply with respect to a particular regulated NSR pollutant when the source is complying with the requirements under 9 VAC 5-80-2144 for a PAL for that pollutant. Instead, the definition for "PAL major modification" shall apply.*

~~"Major new source review (major NSR)" means a program for the preconstruction review of changes that are subject to review as new major stationary sources or major modifications under Article 7 (9 VAC 5-80-1400 et seq.), Article 8 (9 VAC 5-80-1700 et seq.) or Article 9 (9 VAC 5-80-2000 et seq.) of this part.~~

"Major new source review (NSR) permit" means a permit issued under the major new source review program.

"Major new source review (major NSR) program" means a preconstruction review and permit program (i) for new major stationary sources or major modifications (physical changes or changes in the method of operation), (ii) established to implement the requirements of §§ 112, 165 and 173 of the federal Clean Air Act and associated regulations, and (iii) codified in Article 7 (9 VAC 5-80-1400 et seq.), Article 8 (9 VAC 5-80-1605 et seq.) and Article 9 (9 VAC 5-80-2000 et seq.) of this part.

"Major stationary source"

a. Means:

- (1) Any stationary source of air pollutants which emits, or has the potential to emit, (i) 100 tons per year or more of ~~any nonattainment~~ a regulated NSR pollutant, (ii) 50 tons per year or more of volatile organic compounds or nitrogen oxides in ozone nonattainment areas classified as serious in 9 VAC 5-20-204, (iii) 25 tons per year or more of volatile organic compounds or nitrogen oxides in ozone nonattainment areas classified

as severe in 9 VAC 5-20-204, or (iv) 100 tons per year or more of nitrogen oxides or 50 tons per year of volatile organic compounds in the Ozone Transport Region; or

(2) Any physical change that would occur at a stationary source not qualifying under subdivision a (1) of this definition as a major stationary source, if the change would constitute a major stationary source by itself.

b. A major stationary source that is major for volatile organic compounds shall be considered major for ozone.

c. The fugitive emissions of a stationary source shall not be included in determining for any of the purposes of this article whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources:

- (1) Coal cleaning plants (with thermal dryers).
- (2) Kraft pulp mills.
- (3) Portland cement plants.
- (4) Primary zinc smelters.
- (5) Iron and steel mills.
- (6) Primary aluminum ore reduction plants.
- (7) Primary copper smelters.
- (8) Municipal incinerators (or combinations of them) capable of charging more than 250 tons of refuse per day.
- (9) Hydrofluoric acid plants.
- (10) Sulfuric acid plants.
- (11) Nitric acid plants.
- (12) Petroleum refineries.
- (13) Lime plants.
- (14) Phosphate rock processing plants.
- (15) Coke oven batteries.
- (16) Sulfur recovery plants.
- (17) Carbon black plants (furnace process).
- (18) Primary lead smelters.
- (19) Fuel conversion plants.
- (20) Sintering plants.
- (21) Secondary metal production plants.
- (22) Chemical process plants.
- (23) Fossil-fuel boilers (or combination of them) totaling more than 250 million British thermal units per hour heat input.
- (24) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels.

(25) Taconite ore processing plants.

(26) Glass fiber manufacturing plants.

(27) Charcoal production plants.

(28) Fossil fuel steam electric plants of more than 250 million British thermal units per hour heat input.

(29) Any other stationary source category which, as of August 7, 1980, is being regulated under ~~§ 111 or § 112 of the federal Clean Air Act 40 CFR Part 60, 61 or 63.~~

~~"Minor new source review (minor NSR)" means a program for the preconstruction review of changes that are subject to review as new or modified sources and that do not qualify as new major stationary sources or major modifications under Article 7 (9 VAC 5-80-1400 et seq.), Article 8 (9 VAC 5-80-1700 et seq.) or Article 9 (9 VAC 5-80-2000 et seq.) of this part.~~

"Minor new source review (NSR) permit" means a permit issued under the minor new source review program.

"Minor new source review (minor NSR) program" means a preconstruction review and permit program (i) for new stationary sources or modifications (physical changes or changes in the method of operation) that do not qualify for review under the major new source review program, (ii) established to implement the requirements of §§ 110(a)(2)(C) and 112 of the federal Clean Air Act and associated regulations, and (iii) codified in Article 6 (9 VAC 5-80-1100 et seq.) of this part.

~~"Necessary preconstruction approvals or permits" means those permits or approvals required under federal air quality control laws and regulations, and those air quality control laws and regulations which the NSR program that are part of the applicable implementation plan.~~

"Net emissions increase"

a. Means, with respect to any regulated NSR pollutant emitted by a major stationary source, the amount by which the sum of the following exceeds zero:

(1) ~~Any~~ The increase in actual emissions from a particular physical change or change in the method of operation at a stationary source as calculated pursuant to 9 VAC 5-80-2000 I; and

(2) Any other increases and decreases in actual emissions at the major stationary source that are contemporaneous with the particular change and are otherwise creditable. *Baseline actual emissions for calculating increases and decreases under this subdivision shall be determined as provided in the definition of "baseline actual emissions," except that subdivisions a (3) and b (4) of that definition shall not apply.*

b. An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs before the date that the increase from the particular change occurs. For sources located in ozone nonattainment areas classified as serious or

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severe in 9 VAC 5-20-204, an increase or decrease in actual emissions of volatile organic compounds or nitrogen oxides is contemporaneous with the increase from the particular change only if it occurs during a period of five consecutive calendar years which includes the calendar year in which the increase from the particular change occurs.

c. An increase or decrease in actual emissions is creditable only if:

(1) It occurs between the date five years before construction on the particular change specified in ~~subdivision a (1) of this definition commences and the date that the increase specified in subdivision a (1) of this definition from the particular change occurs; and~~

(2) The board has not relied on it in issuing a permit for the source pursuant to this chapter which permit is in effect when the increase in actual emissions from the particular change occurs; *and*

(3) *The increase or decrease in emissions did not occur at a Clean Unit, except as provided in 9 VAC 5-80-2141 H and 9 VAC 5-80-2142 J.*

d. An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

e. A decrease in actual emissions is creditable only to the extent that:

(1) The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

(2) It is ~~federally and state~~ enforceable as a *practical matter* at and after the time that actual construction on the particular change begins;

(3) The board has not relied on it in issuing any permit pursuant to this chapter or the board has not relied on it in demonstrating attainment or reasonable further progress in the implementation plan; ~~and~~

(4) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change; ~~and~~

(5) *The decrease in actual emissions did not result from the installation of add-on control technology or application of pollution prevention practices that were relied on in designating an emissions unit as a Clean Unit under 40 CFR 52.21(y) or under regulations approved pursuant to 9 VAC 5-80-1855 or 9 VAC 5-80-2142. That is, once an emissions unit has been designated as a Clean Unit, the owner cannot later use the emissions reduction from the air pollution control measures that the Clean Unit designation is based on in calculating the net emissions increase for another emissions unit (i.e., shall not use that reduction in a "netting analysis" for another emissions unit). However, any new emissions reductions that were not relied upon in a PCP excluded pursuant to 9 VAC 5-80-2143 or for a Clean Unit designation are creditable to the extent*

they meet the requirements in 9 VAC 5-80-2143 F 4 for the PCP and 9 VAC 5-80-2141 H or 9 VAC 5-80-2142 J for a Clean Unit.

f. An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.

g. *Subdivision a of the definition of "actual emissions" shall not apply for determining creditable increases and decreases or after a change.*

"New source review (NSR) permit" means a permit issued under the new source review program.

~~"New source review program" means a program for the preconstruction review and permitting of new stationary sources or expansions to existing ones in accordance with regulations promulgated to implement the requirements of §§ 140 (a)(2)(C), 165 (relating to permits in prevention of significant deterioration areas), 173 (relating to permits in nonattainment areas), and 112 (relating to permits for hazardous air pollutants) of the federal Clean Air Act.~~

"New source review (NSR) program" means a preconstruction review and permit program (i) for new stationary sources or modifications (physical changes or changes in the method of operation); (ii) established to implement the requirements of §§ 110(a)(2)(C), 112 (relating to permits for hazardous air pollutants), 165 (relating to permits in prevention of significant deterioration areas), and 173 (relating to permits in nonattainment areas) of the federal Clean Air Act and associated regulations; and (iii) codified in Article 6 (9 VAC 5-80-1100 et seq.), Article 7 (9 VAC 5-80-1400 et seq.), Article 8 (9 VAC 5-80-1605 et seq.) and Article 9 (9 VAC 5-80-2000 et seq.) of this part.

"Nonattainment major new source review (NSR) program" means a preconstruction review and permit program (i) for new major stationary sources or major modifications (physical changes or changes in the method of operation), (ii) established to implement the requirements of § 173 of the federal Clean Air Act and associated regulations, and (iii) codified in Article 9 (9 VAC 5-80-2000 et seq.) of this part. Any permit issued under such a program is a major NSR permit.

"Nonattainment pollutant" means, within a nonattainment area, the pollutant for which such area is designated nonattainment. For ozone nonattainment areas, the nonattainment pollutants shall be volatile organic compounds (including hydrocarbons) and nitrogen oxides.

"Ozone transport region" means the area established by § 184(a) of the federal Clean Air Act or any other area established by the administrator pursuant to § 176A of the federal Clean Air Act for purposes of ozone. For the purposes of this article, the Ozone Transport Region consists of the following localities: Arlington County, Fairfax County, Loudoun County, Prince William County, Stafford County, Alexandria City, Fairfax City, Falls Church City, Manassas City, and Manassas Park City.

"Plantwide applicability limitation (PAL)" means an emission limitation expressed in tons per year, for a pollutant at a major stationary source, that is enforceable as a practical matter and established sourcewide in accordance with 9 VAC 5-80-2144.

"PAL effective date" generally means the date of issuance of the PAL permit. However, the PAL effective date for an increased PAL is the date any emissions unit that is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.

"PAL effective period" means the period beginning with the PAL effective date and ending five years later.

"PAL major modification" means, notwithstanding the definitions for "major modification" and "net emissions increase," any physical change in or change in the method of operation of the PAL source that causes it to emit the PAL pollutant at a level equal to or greater than the PAL.

"PAL permit" means the major NSR permit, the minor NSR permit, the state operating permit, or the federal operating permit issued by the board that establishes a PAL for a major stationary source.

"PAL pollutant" means the pollutant for which a PAL is established at a major stationary source.

"Pollution control project (PCP)" means any activity, set of work practices, or project (including pollution prevention) undertaken at an existing emissions unit that reduces emissions of air pollutants from such unit. Such qualifying activities or projects can include the replacement or upgrade of an existing emissions control technology with a more effective unit. Other changes that may occur at the source are not considered part of the PCP if they are not necessary to reduce emissions through the PCP. Projects listed in subdivisions a through f of this definition are presumed to be environmentally beneficial pursuant to 9 VAC 5-80-2143 B 1. Projects not listed in these subdivisions may qualify for a case-specific PCP exclusion pursuant to the requirements of 9 VAC 5-80-2143 B and E.

a. Conventional or advanced flue gas desulfurization or sorbent injection for control of SO₂.

b. Electrostatic precipitators, baghouses, high efficiency multiclones, or scrubbers for control of particulate matter or other pollutants.

c. Flue gas recirculation, low-NO_x burners or combustors, selective noncatalytic reduction, selective catalytic reduction, low emission combustion (for IC engines), and oxidation/absorption catalyst for control of NO_x.

d. Regenerative thermal oxidizers, catalytic oxidizers, condensers, thermal incinerators, hydrocarbon combustion flares, biofiltration, absorbers and adsorbers, and floating roofs for storage vessels for control of volatile organic compounds or hazardous air pollutants. For the purpose of this article, "hydrocarbon combustion flare" means either a flare used to comply with an applicable NSPS or MACT standard (including uses of flares during startup, shutdown, or malfunction permitted under such a standard), or a flare that serves to control emissions of waste streams comprised predominately of hydrocarbons

and containing no more than 230 mg/dscm hydrogen sulfide.

e. Activities or projects undertaken to accommodate switching (or partially switching) to an inherently less polluting fuel, to be limited to the following fuel switches:

(1) Switching from a heavier grade of fuel oil to a lighter fuel oil, or any grade of oil to 0.05% sulfur diesel (i.e., from a higher sulfur content #2 fuel or from #6 fuel, to CA 0.05% sulfur #2 diesel);

(2) Switching from coal, oil, or any solid fuel to natural gas, propane, or gasified coal;

(3) Switching from coal to wood, excluding construction or demolition waste, chemical or pesticide treated wood, and other forms of "unclean" wood;

(4) Switching from coal to #2 fuel oil (0.5% maximum sulfur content); and

(5) Switching from high sulfur coal to low sulfur coal (maximum 1.2% sulfur content).

f. Activities or projects undertaken to accommodate switching from the use of one ozone depleting substance (ODS) to the use of a substance with a lower or zero ozone depletion potential (ODP), including changes to equipment needed to accommodate the activity or project, that meet the following requirements:

(1) The productive capacity of the equipment is not increased as a result of the activity or project; and

(2) The projected usage of the new substance is lower, on an ODP-weighted basis, than the baseline usage of the replaced ODS, determined as follows:

(a) Determine the ODP of the substances by consulting 40 CFR Part 82, subpart A, appendices A and B.

(b) Calculate the replaced ODP-weighted amount by multiplying the baseline actual usage (using the annualized average of any 24 consecutive months of usage within the past 10 years) by the ODP of the replaced ODS.

(c) Calculate the projected ODP-weighted amount by multiplying the projected future annual usage of the new substance by its ODP.

(d) If the value calculated in subdivision (b) of this subdivision is more than the value calculated in subdivision (c) of this subdivision, then the projected use of the new substance is lower, on an ODP-weighted basis, than the baseline usage of the replaced ODS.

"Pollution prevention" means any activity that through process changes, product reformulation or redesign, or substitution of less polluting raw materials, eliminates or reduces the release of air pollutants (including fugitive emissions) and other pollutants to the environment prior to recycling, treatment, or disposal; it does not mean recycling (other than certain "in-process recycling" practices), energy recovery, treatment, or disposal.

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

"Predictive emissions monitoring system (PEMS)" means all of the equipment necessary to monitor process and control device operational parameters (for example, control device secondary voltages and electric currents) and other information (for example, gas flow rate, O₂ or CO₂ concentrations), and calculate and record the mass emissions rate (for example, pounds per hour) on a continuous basis.

"Prevention of significant deterioration (PSD) program" means a preconstruction review and permit program (i) for new major stationary sources or major modifications (physical changes or changes in the method of operation), (ii) established to implement the requirements of § 165 of the federal Clean Air Act and associated regulations, and (iii) codified in Article 8 (9 VAC 5-80-1605 et seq.) of this part.

"Project" means a physical change in, or change in the method of operation of, an existing major stationary source.

"Projected actual emissions" means the maximum annual rate, in tons per year, at which an existing emissions unit is projected to emit a regulated NSR pollutant in any one of the five years (12-month period) following the date the unit resumes regular operation after the project, or in any one of the 10 years following that date, if the project involves increasing the emissions unit's design capacity or its potential to emit of that regulated NSR pollutant and full utilization of the unit would result in a significant emissions increase or a significant net emissions increase at the source. In determining the projected actual emissions before beginning actual construction, the owner shall:

- a. Consider all relevant information, including but not limited to, historical operational data, the company's own representations, the company's expected business activity and the company's highest projections of business activity, the company's filings with the state or federal regulatory authorities, and compliance plans under the approved plan;
- b. Include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions; and
- c. Exclude, in calculating any increase in emissions that results from the particular project, that portion of the unit's

emissions following the project that an existing unit could have accommodated during the consecutive 24-month period used to establish the baseline actual emissions and that are also unrelated to the particular project, including any increased utilization due to product demand growth; or

d. In lieu of using the method set out in subdivisions a through c of this definition, may elect to use the emissions unit's potential to emit, in tons per year, as defined under the definition of potential to emit.

"Public comment period" means a time during which the public shall have the opportunity to comment on the new or modified source permit application information (exclusive of confidential information), the preliminary review and analysis of the effect of the source upon the ambient air quality, and the preliminary decision of the board regarding the permit application.

~~"Qualifying pollutant" means, with regard to a major stationary source, any pollutant emitted in such quantities or at such rate as to qualify the source as a major stationary source.~~

"Reasonable further progress" means the annual incremental reductions in emissions of a given air pollutant (including substantial reductions in the early years following approval or promulgation of an implementation plan and regular reductions thereafter) which are sufficient in the judgment of the board to provide for attainment of the applicable ambient air quality standard within a specified nonattainment area by the attainment date prescribed in the implementation plan for such area.

~~"Reconstruction" means when the fixed capital cost of the new components exceeds 50% of the fixed capital cost of a comparable entirely new stationary source. Any final decision as to whether reconstruction has occurred shall be made in accordance with the provisions of subdivisions a through c of this definition. A reconstructed stationary source will be treated as a new stationary source for purposes of this article.~~

- ~~a. The fixed capital cost of the replacements in comparison to the fixed capital cost that would be required to construct a comparable entirely new facility.~~
- ~~b. The estimated life of the facility after the replacements compared to the life of a comparable entirely new facility.~~
- ~~c. The extent to which the components being replaced cause or contribute to the emissions from the facility.~~

"Regulated air NSR pollutant" means any of the following:

- a. Nitrogen oxides or any volatile organic compound;
- b. Any pollutant for which an ambient air quality standard has been promulgated; or
- c. Any pollutant subject to any standard promulgated under § 111 of the federal Clean Air Act that is a constituent or precursor of a general pollutant listed under subdivisions a and b of this definition, provided that a constituent or precursor pollutant may only be regulated under NSR as part of regulation of the general pollutant.
- ~~d. Any pollutant subject to a standard promulgated under or other requirements established under § 112 of the~~

~~federal Clean Air Act concerning hazardous air pollutants and any pollutant regulated under 40 CFR Part 63; or~~

~~e. Any pollutant subject to a regulation adopted by the board.~~

"Secondary emissions" means emissions which would occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. For the purpose of this article, secondary emissions ~~must~~ shall be specific, well defined, quantifiable, and affect the same general area as the stationary source or modification which causes the secondary emissions. Secondary emissions include emissions from any off-site support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the major stationary source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source, such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

"Significant" means, in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

- a. Ozone nonattainment areas classified as serious or severe in 9 VAC 5-20-204.

POLLUTANT	EMISSIONS RATE
Carbon Monoxide	100 tons per year (tpy)
Nitrogen Oxides	25 tpy
Sulfur Dioxide	40 tpy
Particulate Matter	25 tpy
Ozone	25 tpy of volatile organic compounds
Lead	0.6 tpy

- b. Other nonattainment areas.

POLLUTANT	EMISSIONS RATE
Carbon Monoxide	100 tons per year (tpy)
Nitrogen Oxides	40 tpy
Sulfur Dioxide	40 tpy
Particulate Matter	25 tpy
Ozone	40 tpy of volatile organic compounds
Lead	0.6 tpy

"Significant emissions increase" means, for a regulated NSR pollutant, an increase in emissions that is significant for that pollutant.

"Significant emissions unit" means an emissions unit that emits or has the potential to emit a PAL pollutant in an amount that is equal to or greater than the significant level for that PAL pollutant, but less than the amount that would qualify the unit as a major emissions unit.

"Small emissions unit" means an emissions unit that emits or has the potential to emit the PAL pollutant in an amount less than the significant level for that PAL pollutant.

"State enforceable" means all limitations and conditions that are enforceable as a practical matter, including any regulation of the board, those requirements developed pursuant to 9 VAC 5-170-160, requirements within any applicable order or variance, and any permit requirements established pursuant to this chapter.

"State operating permit" means a permit issued under the state operating permit program.

~~"State operating permit program" means a program for issuing limitations and conditions for stationary sources in accordance with Article 5 (9 VAC 5-80-800 et seq.) of this part, promulgated to meet EPA's minimum criteria for federal enforceability, including adequate notice and opportunity for EPA and public comment prior to issuance of the final permit and practicable enforceability an operating permit program (i) for issuing limitations and conditions for stationary sources, (ii) promulgated to meet the EPA's minimum criteria for federal enforceability, including adequate notice and opportunity for the EPA and public comment prior to issuance of the final permit, and practicable enforceability, and (iii) codified in Article 5 (9 VAC 5-80-800 et seq.) of this part.~~

~~"Stationary source" means any building, structure, facility, or installation which emits or may emit any air pollutant subject to regulation under the federal Clean Air Act a regulated NSR pollutant.~~

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

"Temporary clean coal technology demonstration project" means a clean coal technology demonstration project that is operated for a period of five years or less, and that complies with the applicable implementation plan and other requirements necessary to attain and maintain the national ambient air quality standards during the project and after it is terminated.

9 VAC 5-80-2020. General.

A. No owner or other person shall begin actual construction, ~~reconstruction~~ or modification of any new major stationary source or major modification without first obtaining from the board a permit to construct and operate such source. *The permit will state that the major stationary source or major modification shall meet all the applicable requirements of this article.*

B. No owner or other person shall relocate any emissions unit from one stationary source to another without first obtaining from the board a permit to relocate the unit.

C. No owner or other person shall relocate any emissions unit from one stationary source to another without first obtaining a permit from the board to relocate the unit.

~~C- D.~~ The board may combine the requirements of and the permits for emissions units within a stationary source subject to the new source review program into one permit. Likewise the board may require that applications for permits for emissions units within a stationary source required by any provision of the new source review program be combined into one application.

~~D- E.~~ The board may incorporate the terms and conditions of a state operating permit into a permit issued pursuant to this article. The permit issued pursuant to this article may

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supersede the state operating permit provided the public participation provisions of the state operating permit program are followed.

~~E. F.~~ All terms and conditions of any permit issued under this article shall be federally enforceable except those that are designated state-only enforceable under subdivision 1 of this subsection. Any term or condition that is not federally enforceable shall be designated as state-only enforceable as provided in subdivision 2 of this subsection.

1. A term or condition of any permit issued under this article shall not be federally enforceable if it is derived from or is designed to implement Article 2 (9 VAC 5-40-130 et seq.) ~~or Article 3 (9 VAC 5-40-160 et seq.)~~ of 9 VAC 5 Chapter 40 ~~or Article 2 (9 VAC 5-50-130 et seq.) or Article 3 (9 VAC 5-50-160 et seq.)~~ of 9 VAC 5 Chapter 50, Article 4 (9 VAC 5-60-200 et seq.) of 9 VAC 5 Chapter 60, or Article 5 (9 VAC 5-60-300) of 9 VAC 5 Chapter 60.

2. Any term or condition of any permit issued under this article that is not federally enforceable shall be marked in the permit as state-only enforceable and shall only be enforceable by the board. Incorrectly designating a term or condition as state-only enforceable shall not provide a shield from federal enforcement of a term or condition that is legally federally enforceable.

~~F. G.~~ Nothing in the regulations of the board shall be construed to prevent the board from granting permits for programs of construction or modification in planned incremental phases. In such cases, all net emissions increases from all emissions units covered by the program shall be added together for determining the applicability of this article.

9 VAC 5-80-2040. Application information required.

A. The board ~~shall~~ *will* furnish application forms to applicants. Completion of these forms serves as initial registration of new and modified sources.

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

1. Company name and address (or plant name and address if different from the company name), owner's name and agent, and telephone number and names of plant site manager or contact or both.

2. A description of the source's processes and products (by Standard Industrial Classification Code).

3. All emissions of regulated ~~air~~ NSR pollutants.

a. A permit application shall describe all emissions of regulated ~~air~~ NSR pollutants emitted from any emissions unit or group of emissions units to be covered by the permit.

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

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

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

5. Actual emission rates in tons per year and other information as may be necessary to determine the net emissions increase of actual emissions.

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

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

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

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

10. Any additional information or documentation that the board deems necessary to review and analyze the air pollution aspects of the stationary source or emissions unit, including the submission of measured air quality data at the proposed site prior to construction, ~~reconstruction~~ or modification. Such measurements shall be accomplished using procedures acceptable to the board.

11. For major stationary sources, the location and registration number for all stationary sources owned or operated by the applicant (or by any entity controlling, controlled by, or under common control with the applicant) in the Commonwealth.

12. For major stationary sources, the analyses required by 9 VAC 5-80-2090 2 shall be provided by the applicant. Upon request, the board will advise an applicant of the reasonable geographic limitation on the areas to be subject to an analysis to determine the air quality impact at the proposed source.

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

9 VAC 5-80-2050. Standards and conditions for granting permits.

A. No permit will be granted pursuant to this article unless it is shown to the satisfaction of the board that the following standards and conditions have been met:

1. The source shall be designed, built and equipped to comply with standards of performance prescribed under 9 VAC 5 Chapter 50 (9 VAC 5-50).

2. The source shall be designed, built and equipped to operate without causing a violation of the applicable provisions of regulations of the board or the applicable control strategy portion of the implementation plan.

3. The board determines that the following occurs:

a. By the time the source is to commence operation, sufficient offsetting emissions reductions shall have been obtained in accordance with 9 VAC 5-80-2120 such that total allowable emissions of qualifying nonattainment pollutants from existing sources in the region, from new or modified sources which are not major emitting facilities, and from the proposed source will be sufficiently less than total emissions from existing sources, as determined in accordance with the requirements of this article, prior to the application for such permit to construct or modify so as to represent (when considered together with any applicable control measures in the implementation plan) reasonable further progress; or

b. In the case of a new or modified major stationary source which is located in a zone, within the nonattainment area, identified by the administrator, in consultation with the Secretary of Housing and Urban Development, as a zone to which economic development should be targeted, that emissions of such pollutant resulting from the proposed new or modified major stationary source shall not cause or contribute to emissions levels which exceed the allowance permitted for such pollutant for such area from new or modified major stationary sources in the implementation plan; and

c. Any emission reductions required as a precondition of the issuance of a permit under subdivision ~~3-a or 3-b of this subsection~~ *a or b of this subdivision* shall be state and federally enforceable before such permit may be issued.

4. The applicant shall demonstrate that all major stationary sources owned or operated by such applicant (or by any entity controlling, controlled by, or under common control with such applicant) in the Commonwealth are subject to emission limitations and are in compliance, or on a schedule for compliance, with all applicable emission limitations and standards under these regulations.

5. The administrator has not determined that the applicable implementation plan is not being adequately implemented for the nonattainment area in which the proposed source is to be constructed or modified in accordance with the requirements of this article.

6. The applicant shall demonstrate, through an analysis of alternative sites, sizes, production processes, and environmental control techniques for such proposed source, that benefits of the proposed source significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification.

B. Permits may be granted to stationary sources or emissions units that contain emission caps provided the limits or caps are made enforceable as a practical matter using the elements set forth in subsection D of this section.

C. Permits granted pursuant to this article may contain emissions standards as necessary to implement the provisions of this article and 9 VAC 5-50-270. The following criteria shall be met in establishing emission standards to the

extent necessary to assure that emissions levels are enforceable as a practical matter:

1. Standards may include the level, quantity, rate, or concentration or any combination of them for each affected pollutant.

2. In no case shall a standard result in emissions that would exceed the emissions rate based on the potential to emit of the emissions unit.

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

D. Permits issued under this article shall contain, but not be limited to, any of the following elements as necessary to ensure that the permits are enforceable as a practical matter:

1. Emission standards.

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

a. Limit on fuel sulfur content.

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

c. Limit on raw material usage rate.

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

3. Specifications for permitted equipment, identified as thoroughly as possible. The identification shall include, but not be limited to, type, rated capacity, and size. ~~Specifications included in the permit under this subdivision are for informational purposes only and do not form enforceable terms or conditions of the permit unless the specifications are needed to form the basis for one or more of the other terms or conditions in the permit.~~

4. Specifications for air pollution control equipment installed or to be installed. ~~Specifications included in the permit under this subdivision are for informational purposes only and do not form enforceable terms or conditions of the permit unless the specifications are needed to form the basis for one or more of the other terms or conditions in the permit.~~

5. Specifications for air pollution control equipment operating parameters and the circumstances under which such equipment shall be operated, where necessary to ensure that the required overall control efficiency is achieved. The operating parameters may include, but not be limited to, any of the following:

a. Pressure indicators and required pressure drop.

b. Temperature indicators and required temperature.

c. pH indicators and required pH.

d. Flow indicators and required flow.

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6. Requirements for proper operation and maintenance of any pollution control equipment, and appropriate spare parts inventory.
7. Stack test requirements.
8. Reporting or recordkeeping requirements, or both.
9. Continuous emission or air quality monitoring requirements, or both.
10. Other requirements as may be necessary to ensure compliance with the applicable regulations.

9 VAC 5-80-2060. Action on permit application.

A. Within 30 days after receipt of an application, the board shall notify the applicant of the status of the application. The notification of the initial determination with regard to the status of the application shall be provided by the board in writing and shall include (i) a determination as to which provisions of the new source review program are applicable, (ii) the identification of any deficiencies, and (iii) a determination as to whether the application contains sufficient information to begin application review. The determination that the application has sufficient information to begin review is not necessarily a determination that it is complete. Within 30 days after receipt of any additional information, the board ~~shall~~ *will* notify the applicant in writing of any deficiencies in such information. The date of receipt of a complete application for processing under subsection B of this section shall be the date on which the board received all required information and the provisions of § 10.1-1321.1 of the Virginia Air Pollution Control Law have been met, if applicable.

B. Processing time for a permit is normally 180 days following receipt of a complete application. The board may extend this time period if additional information is required. Processing steps may include, but not be limited to, the following:

1. Completion of the preliminary review and analysis in accordance with 9 VAC 5-80-2090 and the preliminary decision of the board.
2. Completion of the public participation requirements in accordance with 9 VAC 5-80-2070.
3. Completion of the final review and analysis and the final decision of the board.

C. The board will normally take action on all applications after completion of the review and analysis, or expiration of the public comment period (and consideration of comments from it) when required, unless more information is needed. The board shall notify the applicant in writing of its decision on the application, including its reasons, and shall also specify the applicable emission limitations. These emission limitations are applicable during any emission testing conducted in accordance with 9 VAC 5-80-2080.

D. The applicant may appeal the decision pursuant to Part VIII (9 VAC 5-170-190 et seq.) of 9 VAC 5 Chapter 170.

E. Within five days after notification to the applicant pursuant to subsection C of this section, the notification and any comments received pursuant to the public comment period and public hearing shall be made available for public

inspection at the same location as was the information in 9 VAC 5-80-2070 F 1.

9 VAC 5-80-2070. Public participation.

A. No later than 30 days after receiving the initial determination notification required under 9 VAC 5-80-2060 A, applicants shall notify the public about the proposed source as required in subsection B of this section. The applicant shall also provide an informational briefing about the proposed source for the public as required in subsection C of this section.

B. The public notice required under subsection A of this section shall be placed by the applicant in at least one newspaper of general circulation in the affected air quality control region. The notice shall be approved by the board and shall include, but not be limited to, the name, location, and type of the source, and the time and place of the informational briefing.

C. The informational briefing shall be held in the locality where the source is or will be located and at least 30 days, but no later than 60 days, following the day of the publication of the public notice in the newspaper. The applicant shall inform the public about the operation and potential air quality impact of the source and answer any questions concerning air quality about the proposed source from those in attendance at the briefing. At a minimum, the applicant shall provide information on and answer questions about (i) specific pollutants and the total quantity of each which the applicant estimates will be emitted and (ii) the control technology proposed to be used at the time of the informational briefing. Representatives from the board ~~shall~~ *will* attend and provide information and answer questions on the permit application review process.

D. Upon determination by the board that it will achieve the desired results in an equally effective manner, an applicant for a permit may implement an alternative plan for notifying the public as required in subsection B of this section and for providing the informational briefing as required in subsection C of this section.

E. Prior to the decision of the board, all permit applications will be subject to a public comment period of at least 30 days. In addition, at the end of the public comment period, a public hearing shall be held with notice in accordance with subsection F of this section.

F. For the public comment period and public hearing, the board ~~shall~~ *will* notify the public, by advertisement in at least one newspaper of general circulation in the affected air quality control region, of the opportunity for public comment and the public hearing on the information available for public inspection under the provisions of subdivision 1 of this subsection. The notification shall be published at least 30 days prior to the day of the public hearing.

1. Information on the permit application (exclusive of confidential information under 9 VAC 5-170-60), as well as the preliminary review and analysis and preliminary decision of the board, shall be available for public inspection during the entire public comment period in at least one location in the affected air quality control region.

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

3. Notices of public comment periods and public hearings for major stationary sources and major modifications published under this section shall meet the requirements of § 10.1-1307.01 of the Virginia Air Pollution Control Law.

G. In order to facilitate the efficient issuance of permits under Articles 1 (9 VAC 5-80-50 et seq.) and 3 (9 VAC 5-80-360 et seq.) of this part, upon request of the applicant the board shall will process the permit application under this article using public participation procedures meeting the requirements of this section and 9 VAC 5-80-270 or 9 VAC 5-80-670, as applicable.

H. If appropriate, the board may provide a public briefing on its review of the permit application prior to the public comment period but no later than the day before the beginning of the public comment period. If the board provides a public briefing, the requirements of subsection F of this section concerning public notification shall be followed.

9 VAC 5-80-2090. Application review and analysis.

No permit shall be granted pursuant to this article unless compliance with the standards in 9 VAC 5-80-2050 is demonstrated to the satisfaction of the board by a review and analysis of the application performed on a source-by-source basis as specified below:

1. Applications shall be subject to a control technology review to determine if such source will be designed, built and equipped to comply with all applicable standards of performance prescribed under 9 VAC 5 Chapter 50 (9 VAC 5-50).

2. Applications shall be subject to an air quality analysis to determine the impact of qualifying nonattainment pollutant emissions.

9 VAC 5-80-2091. Source obligation.

A. Any owner who constructs or operates a source or modification not in accordance (i) with the application submitted pursuant to this article or (ii) with the terms and conditions of any permit to construct or operate, or any owner of a source or modification subject to this article who commences construction or operation without applying for and receiving a permit hereunder, shall be subject to appropriate enforcement action including, but not limited to, any specified in 9 VAC 5-80-2180.

B. The following provisions apply to projects at existing emissions units at a major stationary source (other than projects at a Clean Unit or at a source with a PAL) in circumstances where there is a reasonable possibility that a project that is not a part of a major modification may result in a significant emissions increase and the owner elects to use the method specified in subdivisions a through c of the definition of "projected actual emissions" for calculating projected actual emissions:

1. Before beginning actual construction of the project, the owner shall document and maintain a record of the following information:

a. A description of the project;

b. Identification of the emissions units whose emissions of a regulated NSR pollutant could be affected by the project; and

c. A description of the applicability test used to determine that the project is not a major modification for any regulated NSR pollutant, including the baseline actual emissions, the projected actual emissions, the amount of emissions excluded under subdivision c of the definition of "projected actual emissions" and an explanation for why such amount was excluded, and any netting calculations, if applicable.

2. If the emissions unit is an existing electric utility steam generating unit, no less than 30 days before beginning actual construction, the owner shall provide a copy of the information set out in subdivision 1 of this subsection to the board. Nothing in this subdivision shall be construed to require the owner of such a unit to obtain any determination from the board before beginning actual construction.

3. The owner shall monitor the emissions of any regulated NSR pollutant that could increase as a result of the project and that is emitted by any emissions units identified in subdivision 1 b of this subsection; and calculate and maintain a record of the annual emissions, in tons per year on a calendar year basis, for a period of five years following resumption of regular operations after the change, or for a period of 10 years following resumption of regular operations after the change if the project increases the design capacity or potential to emit of that regulated NSR pollutant at such emissions unit.

4. If the unit is an existing electric utility steam generating unit, the owner shall submit a report to the board within 60 days after the end of each year during which records shall be generated under subdivision 3 of this subsection setting out the unit's annual emissions during the year that preceded submission of the report.

5. If the unit is an existing unit other than an electric utility steam generating unit, the owner shall submit a report to the board if the annual emissions, in tons per year, from the project identified in subdivision 1 of this subsection, exceed the baseline actual emissions (as documented and maintained pursuant to subdivision 1 c of this subsection) by a significant amount for that regulated NSR pollutant, and if such emissions differ from the preconstruction projection as documented and maintained pursuant to subdivision 1 c of this subsection. Such report shall be submitted to the board within 60 days after the end of such year. The report shall contain the following:

a. The name, address and telephone number of the major stationary source;

b. The annual emissions as calculated pursuant to subdivision 3 of this subsection; and

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c. Any other information that the owner wishes to include in the report (e.g., an explanation as to why the emissions differ from the preconstruction projection).

C. The owner shall make the information required to be documented and maintained pursuant to subsection A of this section available for review upon a request for inspection by the board or the general public pursuant to the requirements contained in 9 VAC 5-80-270 or 9 VAC 5-80-670.

D. Approval to construct shall not relieve any owner of the responsibility to comply fully with applicable provisions of the implementation plan and any other requirements under local, state or federal law.

E. For each project subject to subsection B of this section, the owner shall provide notice of the availability of the information set out in subdivision B 1 of this section to the board no less than 30 days before beginning actual construction. The notice shall include the location of the information and the name, address and telephone number of the contact from whom the information may be obtained. Should subsequent information become available to the board to indicate that a given project subject to subsection B of this section is a part of a major modification that resulted in a significant emissions increase, the board will proceed as if the owner is in violation of 9 VAC 5-80-1625 A and may institute appropriate enforcement action as provided in subsection A of this section.

9 VAC 5-80-2110. Interstate pollution abatement.

A. The owner of each new or modified source, which may significantly contribute to levels of air pollution in excess of an ambient air quality standard in any quality control region outside the Commonwealth, shall provide written notice to all nearby states of the air pollution levels which may be affected by such source at least 60 days prior to the date of commencement of construction, ~~reconstruction~~ or modification.

B. Any state or political subdivision may petition the administrator for a finding that any new or modified source emits or would emit any air pollutant in amounts which will prevent attainment or maintenance of any ambient air quality standard or interfere with measures for the prevention of significant deterioration or the protection of visibility in the implementation plan for such state. Within 60 days after receipt of such petition and after a public hearing, the administrator will make such a finding or deny the petition.

C. Notwithstanding any permit granted pursuant to this article, no owner or other person shall commence construction, ~~reconstruction~~ or modification or begin operation of a source to which a finding has been made under the provisions of subsection B of this section.

9 VAC 5-80-2120. Offsets.

A. Owners shall comply with the offset requirements of this article by obtaining emission reductions from the same source or other sources in the same nonattainment area, except that for ozone precursor pollutants the board may allow the owner to obtain such emission reductions in another nonattainment area if (i) the other area has an equal or higher nonattainment classification than the area in which the source is located and (ii) emissions from such other area contribute to a violation of

the ambient air quality standard in the nonattainment area in which the source is located. By the time a new or modified source begins operation, such emission reductions shall (i) be in effect, (ii) be state and federally enforceable and (iii) assure that the total tonnage of increased emissions of the air pollutant from the new or modified source shall be offset by an equal or greater reduction, as applicable, in the actual emissions of such air pollutant from the same or other sources in the nonattainment area.

B. The (i) ratio of total emission reductions of volatile organic compounds to total increased emissions of volatile organic compounds or (ii) the ratio of total emission reductions of nitrogen oxides to total increased emissions of nitrogen oxides in ozone nonattainment areas designated in 9 VAC 5-20-204 shall be at least the following:

- | | |
|---|--------------|
| 1. Nonattainment areas classified as marginal | 1.1 to one. |
| 2. Nonattainment areas classified as moderate | 1.15 to one. |
| 3. Nonattainment areas classified as serious | 1.2 to one. |
| 4. Nonattainment areas classified as severe | 1.3 to one. |
| 5. Nonattainment areas with any other classification or no classification | 1 to one. |

The ratio of total emissions reductions of the nonattainment pollutant to total increased emissions of the nonattainment pollutant in nonattainment areas (other than ozone nonattainment areas) designated in 9 VAC 5-20-204 shall be at least 1 to one.

C. Emission reductions otherwise required by these regulations shall not be creditable as emissions reductions for purposes of any such offset requirement. Incidental emission reductions which are not otherwise required by these regulations shall be creditable as emission reductions for such purposes if such emission reductions meet the requirements of subsection A of this section.

D. The board ~~shall~~ will allow an owner to offset by alternative or innovative means emission increases from rocket engine and motor firing, and cleaning related to such firing, at an existing or modified major source that tests rocket engines or motors under the following conditions:

1. Any modification proposed is solely for the purpose of expanding the testing of rocket engines or motors at an existing source that is permitted to test such engines on November 15, 1990.
2. The source demonstrates to the satisfaction of the board that it has used all reasonable means to obtain and utilize offsets, as determined on an annual basis, for the emissions increases beyond allowable levels, that all available offsets are being used, and that sufficient offsets are not available to the source.
3. The source has obtained a written finding from the U.S. Department of Defense, U.S. Department of Transportation, National Aeronautics and Space Administration or other appropriate federal agency, that the testing of rocket motors or engines at the facility is required for a program essential to the national security.

4. The owner will comply with an alternative measure, imposed by the board, designed to offset any emission increases beyond permitted levels not directly offset by the source. In lieu of imposing any alternative offset measures, the board may impose an emissions fee to be paid to the board which shall be an amount no greater than 1.5 times the average cost of stationary source control measures adopted in that nonattainment area during the previous three years. The board shall will utilize the fees in a manner that maximizes the emissions reductions in that nonattainment area.

E. For sources subject to the provisions of this article, the baseline for determining credit for emissions reduction is the emissions limit under the applicable implementation plan in effect at the time the application to construct is filed, except that the offset baseline shall be the actual emissions of the source from which offset credit is obtained where:

1. The demonstration of reasonable further progress and attainment of ambient air quality standards is based upon the actual emissions of sources located within a designated nonattainment area; or
2. The applicable implementation plan does not contain an emissions limitation for that source or source category.

F. Where the emissions limit under the applicable implementation plan allows greater emissions than the potential to emit of the source, emissions offset credit will be allowed only for control below this potential.

G. For an existing fuel combustion source, credit shall be based on the allowable emissions under the applicable implementation plan for the type of fuel being burned at the time the application to construct is filed. If the owner of the existing source commits to switch to a cleaner fuel at some future date, emissions offset credit based on the allowable (or actual) emissions for the fuels involved is not acceptable, unless the permit is conditioned to require the use of a specified alternative control measure which would achieve the same degree of emissions reduction should the source switch back to a dirtier fuel at some later date. The board will ensure that adequate long-term supplies of the new fuel are available before granting emissions offset credit for fuel switches.

H. Emissions reductions achieved by shutting down an existing source or curtailing production or operating hours below baseline levels may be generally credited if such reductions are permanent, quantifiable, and federally and state enforceable. In addition, the shutdown or curtailment is creditable only if it occurred on or after January 1, 1991.

I. No emissions credit may be allowed for replacing one volatile organic compound with another of lesser reactivity.

J. Where this article does not adequately address a particular issue, the provisions of Appendix S to 40 CFR Part 51 shall be followed to the extent that they do not conflict with this article.

K. Credit for an emissions reduction can be claimed to the extent that the board has not relied on it in issuing any permit under this chapter or has not relied on it in demonstrating attainment or reasonable further progress.

L. Decreases in actual emissions resulting from the installation of add-on control technology or application of pollution prevention measures that were relied upon in designating an emissions unit as a Clean Unit or a project as a PCP cannot be used as offsets.

M. Decreases in actual emissions occurring at a Clean Unit cannot be used as offsets, except as provided in 9 VAC 5-80-2141 H and 9 VAC 5-80-2142 J. Decreases in actual emissions occurring at a PCP cannot be used as offsets, except as provided in 9 VAC 5-80-2143 F 4.

N. The total tonnage of increased emissions, in tons per year, resulting from a major modification that shall be offset in accordance with § 173 of the federal Clean Air Act shall be determined by summing the difference between the allowable emissions after the modification and the actual emissions before the modification for each emissions unit.

9 VAC 5-80-2140. Exception.

The provisions of this article do not apply to a source or modification that would be a major stationary source or major modification only if fugitive emissions, to the extent quantifiable, are considered in calculating the potential to emit of the source or modification and the source does not belong to any of the following categories:

1. Coal cleaning plants (with thermal dryers);
2. Kraft pulp mills;
3. Portland cement plants;
4. Primary zinc smelters;
5. Iron and steel mills;
6. Primary aluminum ore reduction plants;
7. Primary copper smelters;
8. Municipal incinerators capable of charging more than 250 tons of refuse per day;
9. Hydrofluoric acid plants;
10. Sulfuric acid plants;
11. Nitric acid plants;
12. Petroleum refineries;
13. Lime plants;
14. Phosphate rock processing plants;
15. Coke oven batteries;
16. Sulfur recovery plants;
17. Carbon black plants (furnace process);
18. Primary lead smelters;
19. Fuel conversion plants;
20. Sintering plants;
21. Secondary metal production plants;
22. Chemical process plants;

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23. Fossil-fuel boilers (or combination of them) totaling more than 250 million British thermal units per hour heat input;
24. Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
25. Taconite ore processing plants;
26. Glass fiber processing plants;
27. Charcoal production plants;
28. Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; and
29. Any other stationary source category which, as of August 7, 1980, is being regulated under ~~§ 111 or § 112 of the federal Clean Air Act (42 USC § 7401-40 CFR Parts 60, 61 or 63.~~

9 VAC 5-80-2141. Clean Unit test for emissions units that are subject to LAER.

A. An owner of a major stationary source may use the Clean Unit test according to the provisions of this section to determine whether emissions increases at a Clean Unit are part of a project that is a major modification. The provisions of this section apply to any emissions unit for which the board has issued a major NSR permit within the past five years.

B. The general provisions set forth in this subsection shall apply to Clean Units.

1. Any project for which the owner begins actual construction after the effective date of the Clean Unit designation (as determined in accordance with subsection D of this section) and before the expiration date (as determined in accordance with subsection E of this section) will be considered to have occurred while the emissions unit was a Clean Unit.

2. If a project at a Clean Unit does not cause the need for a change in the emission limitations or work practice requirements in the permit for the unit that were adopted in conjunction with LAER and the project would not alter any physical or operational characteristics that formed the basis for the LAER determination as specified in subdivision F 4 of this section, the emissions unit remains a Clean Unit.

3. If a project causes the need for a change in the emission limitations or work practice requirements in the permit for the unit that were adopted in conjunction with LAER or the project would alter any physical or operational characteristics that formed the basis for the LAER determination as specified in subdivision F 4 of this section, then the emissions unit loses its designation as a Clean Unit upon issuance of the necessary permit revisions (unless the unit requalifies as a Clean Unit pursuant to subdivision C 3 of this section). If the owner begins actual construction on the project without first applying to revise the emissions unit's permit, the Clean Unit designation ends immediately prior to the time when actual construction begins.

4. A project that causes an emissions unit to lose its designation as a Clean Unit is subject to the applicability requirements of 9 VAC 5-80-2000 I 1 through 4 and 6 as if the emissions unit is not a Clean Unit.

5. For certain emissions units with PSD permits that meet the requirements of subdivisions a and b of this subdivision, the BACT level of emissions reductions or work practice requirements or both shall satisfy the requirement for LAER in meeting the requirements for Clean Units under subsections C through H of this section. For these emissions units, all requirements for the LAER determination under subdivisions 2 and 3 of this subsection shall also apply to the BACT permit terms and conditions. In addition, the requirements of subdivision G 1 b of this section do not apply to emissions units that qualify for Clean Unit status under this subdivision.

a. The emissions unit shall have received a PSD permit within the last five years and such permit shall require the emissions unit to comply with BACT.

b. The emissions unit shall be located in an area that was redesignated as nonattainment for the relevant pollutants after issuance of the PSD permit and before the effective date of the Clean Unit test provisions in the area.

C. An emissions unit automatically qualifies as a Clean Unit when the unit meets the criteria in subdivisions 1 and 2 of this subsection. After the original Clean Unit designation expires in accordance with subsection E of this section or is lost pursuant to subdivision B 3 of this section, such emissions unit may requalify as a Clean Unit under either subdivision 3 of this subsection, or under the Clean Unit provisions in 9 VAC 5-80-2142. To requalify as a Clean Unit under subdivision 3 of this subsection, the emissions unit shall obtain a new major NSR permit issued through the applicable nonattainment major NSR program and meet all the criteria in subdivision 3 of this subsection. Clean Unit designation applies individually for each pollutant emitted by the emissions unit.

1. The emissions unit shall have received a major NSR permit within the past five years. The owner shall maintain and be able to provide information that would demonstrate that this permitting requirement is met.

2. Air pollutant emissions from the emissions unit shall be reduced through the use of an air pollution control technology (which includes pollution prevention or work practices) that meets both the following requirements:

a. The control technology achieves the LAER level of emissions reductions as determined through issuance of a major NSR permit within the past five years. However, the emissions unit is not eligible for Clean Unit designation if the LAER determination resulted in no requirement to reduce emissions below the level of a standard, uncontrolled, new emissions unit of the same type.

b. The owner made an investment to install the control technology. For the purpose of this determination, an investment includes expenses to research the application of a pollution prevention technique to the emissions unit or expenses to apply a pollution prevention technique to an emissions unit.

3. In order to requalify for the Clean Unit designation, the emissions unit shall obtain a new major NSR permit that requires compliance with the current-day LAER, and the

emissions unit shall meet the requirements in subdivisions 1 and 2 of this subsection.

D. The effective date of an emissions unit's Clean Unit designation (i.e., the date on which the owner may begin to use the Clean Unit test to determine whether a project at the emissions unit is a major modification) is determined according to the following:

1. For an original Clean Unit designation and for emissions units that requalify as Clean Units by implementing a new control technology to meet current-day LAER, the effective date is the date the emissions unit's air pollution control technology is placed into service, or three years after the issuance date of the major NSR permit, whichever is earlier, but no sooner than the effective date of this revision.

2. For emissions units that requalify for the Clean Unit designation using an existing control technology, the effective date is the date the new, major NSR permit is issued.

E. An emissions unit's Clean Unit designation expires (i.e., the date on which the owner may no longer use the Clean Unit test to determine whether a project affecting the emissions unit is, or is part of, a major modification) according to the following:

1. For any emissions unit that automatically qualifies as a Clean Unit under subdivision C 1 and C 2 of this section, the Clean Unit designation expires five years after the effective date, or the date the equipment went into service, whichever is earlier; or, it expires at any time the owner fails to comply with the provisions for maintaining Clean Unit designation in subsection G of this section.

2. For any emissions unit that requalifies as a Clean Unit under subdivision C 3 of this section, the Clean Unit designation expires five years after the effective date; or, it expires any time the owner fails to comply with the provisions for maintaining the Clean Unit designation in subsection G of this section.

F. After the effective date of the Clean Unit designation, and in accordance with the provisions of the applicable federal operating permit program, but no later than when the federal operating permit is renewed, the federal operating permit for the source shall include the following terms and conditions:

1. A statement indicating that the emissions unit qualifies as a Clean Unit and identifying the pollutants for which the Clean Unit designation applies.

2. If the effective date is not known when the Clean Unit designation is initially recorded in the federal operating permit (e.g., because the air pollution control technology is not yet in service), the permit shall describe the event that will determine the effective date (e.g., the date the control technology is placed into service). Once the effective date is determined, the owner shall notify the board of the exact date. This specific effective date shall be added to the source's federal operating permit at the first opportunity, such as a modification, revision, reopening, or renewal of the federal operating permit for any reason, whichever comes first, but in no case later than the next renewal.

3. If the expiration date is not known when the Clean Unit designation is initially recorded into the federal operating permit (e.g., because the air pollution control technology is not yet in service), then the permit shall describe the event that will determine the expiration date (e.g., the date the control technology is placed into service). Once the expiration date is determined, the owner shall notify the board of the exact date. The expiration date shall be added to the source's federal operating permit at the first opportunity, such as a modification, revision, reopening, or renewal of the federal operating permit for any reason, whichever comes first, but in no case later than the next renewal.

4. All emission limitations and work practice requirements adopted in conjunction with the LAER, and any physical or operational characteristics that formed the basis for the LAER determination (e.g., possibly the emissions unit's capacity or throughput).

5. Monitoring, recordkeeping, and reporting requirements as necessary to demonstrate that the emissions unit continues to meet the criteria for maintaining the Clean Unit designation (see subsection G of this section).

6. Terms reflecting the owner's duties to maintain the Clean Unit designation and the consequences of failing to do so, as presented in subsection G of this section.

G. To maintain the Clean Unit designation, the owner shall conform to all the restrictions listed in this subsection. This subsection applies independently to each pollutant for which the emissions unit has the Clean Unit designation. That is, failing to conform to the restrictions for one pollutant affects Clean Unit designation only for that pollutant.

1. The Clean Unit shall comply with the emission limitations and work practice requirements adopted in conjunction with the LAER that is recorded in the major NSR permit, and subsequently reflected in the federal operating permit.

a. The owner shall not make a physical change in or change in the method of operation of the Clean Unit that causes the emissions unit to function in a manner that is inconsistent with the physical or operational characteristics that formed the basis for the LAER determination (e.g., possibly the emissions unit's capacity or throughput).

b. The Clean Unit shall not emit above a level that has been offset.

2. The Clean Unit shall comply with any terms and conditions in the federal operating permit related to the unit's Clean Unit designation.

3. The Clean Unit shall continue to control emissions using the specific air pollution control technology that was the basis for its Clean Unit designation. If the emissions unit or control technology is replaced, then the Clean Unit designation ends.

H. Emissions changes that occur at a Clean Unit shall not be included in calculating a significant net emissions increase (i.e., shall not be used in a "netting analysis"), or be used for generating offsets unless such use occurs before the effective

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date of the Clean Unit designation, or after the Clean Unit designation expires; or, unless the emissions unit reduces emissions below the level that qualified the unit as a Clean Unit. However, if the Clean Unit reduces emissions below the level that qualified the unit as a Clean Unit, then, the owner may generate a credit for the difference between the level that qualified the unit as a Clean Unit and the new emission limitation if such reductions are surplus, quantifiable, and permanent. For purposes of generating offsets, the reductions shall also be federally enforceable. For purposes of determining creditable net emissions increases and decreases, the reductions shall also be enforceable as a practical matter.

I. The Clean Unit designation of an emissions unit is not affected by redesignation of the attainment status of the area in which it is located. If a Clean Unit is located in an attainment area and the area is redesignated to nonattainment, its Clean Unit designation is not affected. Similarly, redesignation from nonattainment to attainment does not affect the Clean Unit designation. However, if an existing Clean Unit designation expires, it shall requalify under the requirements that are currently applicable in the area.

9 VAC 5-80-2142. Clean unit provisions for emissions units that achieve an emissions limitation comparable to LAER.

A. An owner of a major stationary source has the option of using the Clean Unit Test to determine whether emissions increases at a Clean Unit are part of a project that is a major modification according to the provisions of this section. The provisions of this section apply to emissions units that do not qualify as Clean Units under 9 VAC 5-80-2141, but that are achieving a level of emissions control comparable to LAER, as determined by the board in accordance with this section.

B. The general provisions set forth in this subsection shall apply to a Clean Unit designated under this section.

1. Any project for which the owner begins actual construction after the effective date of the Clean Unit designation (as determined in accordance with subsection E of this section) and before the expiration date (as determined in accordance with subsection F of this section) will be considered to have occurred while the emissions unit was a Clean Unit.

2. If a project at a Clean Unit does not cause the need for a change in the emission limitations or work practice requirements in the permit for the unit that have been determined (pursuant to subsection D of this section) to be comparable to LAER, and the project would not alter any physical or operational characteristics that formed the basis for determining that the emissions unit's control technology achieves a level of emissions control comparable to LAER as specified in subdivision H 4 of this section, the emissions unit remains a Clean Unit.

3. If a project causes the need for a change in the emission limitations or work practice requirements in the permit for the unit that have been determined (pursuant to subsection D of this section) to be comparable to LAER, or the project would alter any physical or operational characteristics that formed the basis for determining that the emissions unit's

control technology achieves a level of emissions control comparable to LAER as specified in subdivision H 4 of this section, then the emissions unit loses its designation as a Clean Unit upon issuance of the necessary permit revisions (unless the unit requalifies as a Clean Unit pursuant to subdivision C 4 of this section). If the owner begins actual construction on the project without first applying to revise the emissions unit's permit, the Clean Unit designation ends immediately prior to the time when actual construction begins.

4. A project that causes an emissions unit to lose its designation as a Clean Unit is subject to the applicability requirements of 9 VAC 5-80-2000 I 1 through 4 and 6 as if the emissions unit were never a Clean Unit.

C. An emissions unit qualifies as a Clean Unit when the unit meets the criteria in subdivisions 1 through 3 of this subsection. After the original Clean Unit designation expires in accordance with subsection F of this section or is lost pursuant to subdivision B 3 of this section, such emissions unit may requalify as a Clean Unit under either subdivision 4 of this subsection, or under the Clean Unit provisions in 9 VAC 5-80-2141. To requalify as a Clean Unit under subdivision 4 of this subsection, the emissions unit shall obtain a new permit issued pursuant to the requirements in subsections G and H of this section and meet all the criteria in subdivision 4 of this subsection. The board will make a separate Clean Unit designation for each pollutant emitted by the emissions unit for which the emissions unit qualifies as a Clean Unit.

1. Air pollutant emissions from the emissions unit shall be reduced through the use of air pollution control technology (which includes pollution prevention or work practices) that meets both the following requirements:

a. The owner has demonstrated that the emissions unit's control technology is comparable to LAER according to the requirements of subsection D of this section. However, the emissions unit is not eligible for the Clean Unit designation if its emissions are not reduced below the level of a standard, uncontrolled emissions unit of the same type (e.g., if the LAER determinations to which it is compared have resulted in a determination that no control measures are required).

b. The owner made an investment to install the control technology. For the purpose of this determination, an investment includes expenses to research the application of a pollution prevention technique to the emissions unit or to retool the unit to apply a pollution prevention technique.

2. The board will determine that the allowable emissions from the emissions unit will not cause or contribute to a violation of any ambient air quality standard or ambient air increment in 9 VAC 5-80-1635, or have an adverse impact on an air quality related value (such as visibility) that has been identified for a federal class I area by a federal land manager and for which information is available to the general public.

3. An emissions unit may qualify as a Clean Unit even if the control technology, on which the Clean Unit designation is based, was installed before [the effective date of this

revision]. However, for such emissions units, the owner shall apply for the Clean Unit designation within two years after [the effective date of this revision]. For technologies installed after the plan requirements become effective, the owner shall apply for the Clean Unit designation at the time the control technology is installed.

4. In order to requalify as a Clean Unit, the emissions unit shall (i) obtain a new permit (pursuant to subsections G and H of this section) that demonstrates that the emissions unit's control technology is achieving a level of emission control comparable to current-day LAER, and (ii) meet the requirements in subdivisions 1 a and 2 of this subsection.

D. The owner may demonstrate that the emissions unit's control technology is comparable to LAER for purposes of subdivision C 1 of this section according to either subdivisions 1 or 2 of this subsection. Subdivision 3 of this subsection specifies the time for making this comparison.

1. The emissions unit's control technology is presumed to be comparable to LAER if it achieves an emission limitation that is at least as stringent as any one of the five best-performing similar sources for which a LAER determination has been made within the preceding five years, and for which information has been entered into the RACT/BACT/LAER Clearinghouse (RBLC). The board will also compare this presumption to any additional LAER determinations of which it is aware, and will consider any information on achieved-in-practice pollution control technologies provided during the public comment period, to determine whether any presumptive determination that the control technology is comparable to LAER is correct.

2. The owner may demonstrate that the emissions unit's control technology is substantially as effective as LAER. In addition, any other person may present evidence related to whether the control technology is substantially as effective as LAER during the public participation process required under subsection G of this section. The board will consider such evidence on a case-by-case basis and determine whether the emissions unit's air pollution control technology is substantially as effective as LAER.

3. The provisions governing the time for making the comparison under this subsection shall be as follows:

a. The owner of an emissions unit whose control technology is installed before the effective date of this revision may, at its option, either demonstrate that the emission limitation achieved by the emissions unit's control technology is comparable to the LAER requirements that applied at the time the control technology was installed, or demonstrate that the emission limitation achieved by the emissions unit's control technology is comparable to current-day LAER requirements. The expiration date of the Clean Unit designation will depend on which option the owner uses, as specified in subsection F of this section.

b. The owner of an emissions unit whose control technology is installed after [the effective date of this revision] may demonstrate that the emission limitation achieved by the emissions unit's control technology is comparable to current-day LAER requirements.

E. The effective date of an emissions unit's Clean Unit designation (i.e., the date on which the owner may begin to use the Clean Unit test to determine whether a project involving the emissions unit is a major modification) is the date that the permit required by subsection G of this section is issued or the date that the emissions unit's air pollution control technology is placed into service, whichever is later.

F. If the owner demonstrates that the emission limitation achieved by the emissions unit's control technology is comparable to the LAER requirements that applied at the time the control technology was installed, then the Clean Unit designation expires five years from the date that the control technology was installed. For all other emissions units, the Clean Unit designation expires five years from the effective date of the Clean Unit designation, as determined according to subsection E of this section. In addition, for all emissions units, the Clean Unit designation expires any time the owner fails to comply with the provisions for maintaining the Clean Unit designation in subsection I of this section.

G. The board will designate an emissions unit a Clean Unit only by issuing a permit through an NSR program that includes requirements for public notice of the proposed Clean Unit designation and opportunity for public comment. Such permit shall also meet the requirements of subsection H of this section.

H. The permit required by subsection G of this section shall include the terms and conditions set forth in subdivisions 1 through 6 of this subsection. Such terms and conditions shall be incorporated into the source's federal operating permit in accordance with the provisions of the federal operating permit program, but no later than when the federal operating permit is renewed.

1. A statement indicating that the emissions unit qualifies as a Clean Unit and identifying the pollutants for which this designation applies.

2. If the effective date of the Clean Unit designation is not known when the board issues the permit (e.g., because the air pollution control technology is not yet in service), then the permit shall describe the event that will determine the effective date (e.g., the date the control technology is placed into service). Once the effective date is known, then the owner shall notify the board of the exact date. This specific effective date shall be added to the source's federal operating permit at the first opportunity, such as a modification, revision, reopening, or renewal of the federal operating permit for any reason, whichever comes first, but in no case later than the next renewal.

3. If the expiration date of the Clean Unit designation is not known when the board issues the permit (e.g., because the air pollution control technology is not yet in service), then the permit shall describe the event that will determine the expiration date (e.g., the date the control technology is placed into service). Once the expiration date is known, then the owner shall notify the board of the exact date. The expiration date shall be added to the source's federal operating permit at the first opportunity, such as a modification, revision, reopening, or renewal of the federal

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operating permit for any reason, whichever comes first, but in no case later than the next renewal.

4. All emission limitations and work practice requirements adopted in conjunction with emission limitations necessary to assure that the control technology continues to achieve an emission limitation comparable to LAER, and any physical or operational characteristics that formed the basis for determining that the emissions unit's control technology achieves a level of emissions control comparable to LAER (e.g., possibly the emissions unit's capacity or throughput).

5. Monitoring, recordkeeping, and reporting requirements as necessary to demonstrate that the emissions unit continues to meet the criteria for maintaining its Clean Unit designation (see subsection I of this section).

6. Terms reflecting the owner's duties to maintain the Clean Unit designation and the consequences of failing to do so, as presented in subsection I of this section.

I. To maintain Clean Unit designation, the owner shall conform to all the restrictions listed in subdivisions 1 through 5 of this subsection. This subsection applies independently to each pollutant for which the board has designated the emissions unit a Clean Unit. That is, failing to conform to the restrictions for one pollutant affects the Clean Unit designation only for that pollutant.

1. The Clean Unit shall comply with the emission limitations and work practice requirements adopted to ensure that the control technology continues to achieve emission control comparable to LAER.

2. The owner may not make a physical change in or change in the method of operation of the Clean Unit that causes the emissions unit to function in a manner that is inconsistent with the physical or operational characteristics that formed the basis for the determination that the control technology is achieving a level of emission control that is comparable to LAER (e.g., possibly the emissions unit's capacity or throughput).

3. The Clean Unit may not emit above a level that has been offset.

4. The Clean Unit shall comply with any terms and conditions in the federal operating permit related to the unit's Clean Unit designation.

5. The Clean Unit shall continue to control emissions using the specific air pollution control technology that was the basis for its Clean Unit designation. If the emissions unit or control technology is replaced, then the Clean Unit designation ends.

J. Emissions changes that occur at a Clean Unit shall not be included in calculating a significant net emissions increase (i.e., shall not be used in a "netting analysis"), or be used for generating offsets unless such use occurs before the effective date of plan requirements adopted to implement this subsection or after the Clean Unit designation expires; or, unless the emissions unit reduces emissions below the level that qualified the unit as a Clean Unit. However, if the Clean Unit reduces emissions below the level that qualified the unit as a Clean Unit, then the owner may generate a credit for the

difference between the level that qualified the unit as a Clean Unit and the emissions unit's new emission limitation if such reductions are surplus, quantifiable, and permanent. For purposes of generating offsets, the reductions shall also be federally enforceable. For purposes of determining creditable net emissions increases and decreases, the reductions shall also be enforceable as a practical matter.

K. The Clean Unit designation of an emissions unit is not affected by redesignation of the attainment status of the area in which it is located. If a Clean Unit is located in an attainment area and the area is redesignated to nonattainment, its Clean Unit designation is not affected. Similarly, redesignation from nonattainment to attainment does not affect the Clean Unit designation. However, if a Clean Unit's designation expires or is lost pursuant to 9 VAC 5-80-2141 B 3 and subdivision B 3 of this section, it shall requalify under the requirements that are currently applicable.

9 VAC 5-80-2143. Pollution control project (PCP) exclusion.

A. Before an owner begins actual construction of a PCP, the owner shall either submit a notice to the board if the project is listed in subdivisions a through f of the definition of "pollution control project," or if the project is not listed in subdivisions a through f of the definition of "pollution control project," then the owner shall submit a permit application and obtain approval to use the PCP exclusion from the board consistent with the requirements in subsection E of this section. Regardless of whether the owner submits a notice or a permit application, the project shall meet the requirements in subsection B of this section, and the notice or permit application shall contain the information required in subsection C of this section.

B. Any project that relies on the PCP exclusion shall provide the following:

1. The environmental benefit from the emission reductions of pollutants regulated under the federal Clean Air Act shall outweigh the environmental detriment of emissions increases. A statement that a technology from subdivisions a through f of the definition of "pollution control project" is being used shall be presumed to satisfy this requirement.

2. The emissions increases from the project shall not cause or contribute to a violation of any ambient air quality standard or ambient air increment in 9 VAC 5-80-1635, or have an adverse impact on an air quality related value (such as visibility) that has been identified for a federal class I area by a federal land manager and for which information is available to the general public.

C. In the notice or permit application sent to the board, the owner shall include, at a minimum, the following information:

1. A description of the project.

2. The potential emissions increases and decreases of any pollutant regulated under the federal Clean Air Act and the projected emissions increases and decreases using the methodology in 9 VAC 5-80-2000 I, that will result from the project, and a copy of the environmentally beneficial analysis required by subdivision B 1 of this section.

3. A description of monitoring and recordkeeping, and all other methods, to be used on an ongoing basis to demonstrate that the project is environmentally beneficial. Methods should be sufficient to meet the requirements in the federal operating permit program.

4. A certification that the project will be designed and operated in a manner that is consistent with proper industry and engineering practices, in a manner that is consistent with the environmentally beneficial analysis and air quality analysis required by subsection B of this section, with information submitted in the notice or permit application, and in such a way as to minimize, within the physical configuration and operational standards usually associated with the emissions control device or strategy, emissions of collateral pollutants.

5. Demonstration that the PCP will not have an adverse air quality impact (e.g., modeling, screening level modeling results, or a statement that the collateral emissions increase is included within the parameters used in the most recent modeling exercise) as required by subdivision B 2 of this section. An air quality impact analysis is not required for any pollutant which will not experience a significant emissions increase as a result of the project.

D. For projects listed in subdivisions a through f of the definition of "pollution control project," the owner may begin actual construction of the project immediately after notice is sent to the board (unless otherwise prohibited under requirements of the applicable implementation plan). The owner shall respond to any requests by the board for additional information that the board determines is necessary to evaluate the suitability of the project for the PCP exclusion.

E. Before an owner begins actual construction of a PCP project that is not listed in subdivisions a through f of the definition of "pollution control project," the project shall be approved by the board and recorded in an NSR permit, state operating permit, or federal operating permit. The permit procedures must include the requirement that the board provide the public with notice of the proposed approval, with access to the environmentally beneficial analysis and the air quality analysis, and provide at least a 30-day period for the public and the administrator to submit comments. The board will address all material comments received by the end of the comment period before taking final action on the permit.

F. Upon installation of the PCP, the owner shall comply with the following operational requirements:

1. The owner shall operate the PCP in a manner consistent with proper industry and engineering practices, in a manner that is consistent with the environmentally beneficial analysis and air quality analysis required by subsection B of this section, with information submitted in the notice or permit application required by subsection C of this section, and in such a way as to minimize, within the physical configuration and operational standards usually associated with the emissions control device or strategy, emissions of collateral pollutants.

2. The owner shall maintain copies on site of the environmentally beneficial analysis, the air quality impacts analysis, and monitoring and other emission records to

prove that the PCP operated consistent with the requirements of subdivision 1 of this subsection.

3. The owner shall comply with any provisions in the applicable permit related to use and approval of the PCP exclusion.

4. Emission reductions created by a PCP shall not be included in calculating a significant net emissions increase, or be used for generating offsets, unless the emissions unit further reduces emissions after qualifying for the PCP exclusion (e.g., taking an operational restriction on the hours of operation). The owner may generate a credit for the difference between the level of reduction which was used to qualify for the PCP exclusion and the new emission limitation if such reductions are surplus, quantifiable, and permanent. For purposes of generating offsets, the reductions shall also be federally enforceable. For purposes of determining creditable net emissions increases and decreases, the reductions shall also be enforceable as a practical matter.

9 VAC 5-80-2144. Actuals plantwide applicability limits (PALs)

A. The board may approve the use of an actuals PAL for any existing major stationary source (except as provided in subdivision 1 of this subsection) if the PAL meets the requirements of this section. The term "PAL" shall mean "actuals PAL" throughout this section.

1. No PAL shall be allowed for VOC or NO_x for any source located in an extreme ozone nonattainment area.

2. Any physical change in or change in the method of operation of a source that maintains its total sourcewide emissions below the PAL level, meets the requirements of this section, and complies with the PAL permit:

- a. Is not a major modification for the PAL pollutant;
- b. Does not have to be approved through this article; and
- c. Is not subject to the provisions in 9 VAC 5-80-2000 D (restrictions on relaxing enforceable emission limitations that the major stationary source used to avoid applicability of the major NSR program).

3. Except as provided under subdivision 2 c of this subsection, a source shall continue to comply with all applicable federal or state requirements, emission limitations, and work practice requirements that were established prior to the effective date of the PAL.

B. As part of a permit application requesting a PAL, the owner of a major stationary source shall submit the following information to the board for approval:

1. A list of all emissions units at the source designated as small, significant or major based on their potential to emit. In addition, the owner shall indicate which, if any, federal or state applicable requirements, emission limitations or work practices apply to each unit.

2. Calculations of the baseline actual emissions, with supporting documentation. Baseline actual emissions are to include emissions associated not only with operation of the

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unit, but also emissions associated with startup, shutdown and malfunction.

3. The calculation procedures that the owner proposes to use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total for each month as required by subdivision N 1 of this section.

C. The general requirements set forth in this subsection shall apply to the establishment of PALs.

1. The board may establish a PAL at a major stationary source, provided that at a minimum, the following requirements are met:

a. The PAL shall impose an annual emission limitation in tons per year, that is enforceable as a practical matter, for the entire source. For each month during the PAL effective period after the first 12 months of establishing a PAL, the owner shall show that the sum of the monthly emissions from each emissions unit under the PAL for the previous 12 consecutive months is less than the PAL (a 12-month rolling average). For each month during the first 11 months from the PAL effective date, the owner shall show that the sum of the preceding monthly emissions from the PAL effective date for each emissions unit under the PAL is less than the PAL.

b. The PAL shall be established in a PAL permit that meets the public participation requirements in subsection D of this section.

c. The PAL permit shall contain all the requirements of subsection F of this section.

d. The PAL shall include fugitive emissions, to the extent quantifiable, from all emissions units that emit or have the potential to emit the PAL pollutant.

e. Each PAL shall regulate emissions of only one pollutant.

f. Each PAL shall have a PAL effective period of five years.

g. The owner shall comply with the monitoring, recordkeeping, and reporting requirements provided in subsections M through O of this section for each emissions unit under the PAL through the PAL effective period.

2. At no time (during or after the PAL effective period) are emissions reductions of a PAL pollutant, which occur during the PAL effective period, creditable as decreases for purposes of offsets under 9 VAC 5-80-2120 F through N unless the level of the PAL is reduced by the amount of such emissions reductions and such reductions would be creditable in the absence of the PAL.

D. PALs shall be established, renewed, or increased through the public participation procedures of 9 VAC 5-90-2070. This includes the requirement that the board provide the public with notice of the proposed approval of a PAL permit and at least a 30-day period for submittal of public comment. The board will address all material comments before taking final action on the permit.

E. The actuals PAL level for a major stationary source shall be established as the sum of the baseline actual emissions of the PAL pollutant for each emissions unit at the source; plus an amount equal to the applicable significant level for the PAL pollutant or under the federal Clean Air Act, whichever is lower. When establishing the actuals PAL level, for a PAL pollutant, only one consecutive 24-month period shall be used to determine the baseline actual emissions for all existing emissions units. The same consecutive 24-month period shall be used for each different PAL pollutant unless the owner can demonstrate to the satisfaction of the board that a different consecutive 24-month period for a different pollutant or pollutants is more appropriate due to extenuating circumstances. Emissions associated with units that were permanently shutdown after this 24-month period shall be subtracted from the PAL level. Emissions from units on which actual construction began after the 24-month period shall be added to the PAL level in an amount equal to the potential to emit of the units. The board will specify a reduced PAL level (in tons per year) in the PAL permit to become effective on the future compliance dates of any applicable federal or state regulatory requirements that the board is aware of prior to issuance of the PAL permit. For instance, if the source owner will be required to reduce emissions from industrial boilers in half from baseline emissions of 60 ppm NO_x to a new rule limit of 30 ppm, then the permit shall contain a future effective PAL level that is equal to the current PAL level reduced by half of the original baseline emissions of such units.

F. The PAL permit shall contain, at a minimum, the following information:

1. The PAL pollutant and the applicable sourcewide emission limitation in tons per year.

2. The PAL permit effective date and the expiration date of the PAL (PAL effective period).

3. Specification in the PAL permit that if an owner applies to renew a PAL in accordance with subsection J of this section before the end of the PAL effective period, then the PAL shall not expire at the end of the PAL effective period. It shall remain in effect until a revised PAL permit is issued by the board, or until the board determines that the revised PAL permit will not be issued.

4. A requirement that emission calculations for compliance purposes include emissions from startups, shutdowns and malfunctions.

5. A requirement that, once the PAL expires, the source is subject to the requirements of subsection I of this section.

6. The calculation procedures that the owner shall use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total for each month as required by subdivision N 1 of this section.

7. A requirement that the owner monitor all emissions units in accordance with the provisions under subsection M of this section.

8. A requirement to retain the records required under subsection N of this section on site. Such records may be retained in an electronic format.

9. A requirement to submit the reports required under subsection O of this section by the required deadlines.

10. Any other requirements that the board deems necessary to implement and enforce the PAL.

G. The PAL effective period shall be five years.

H. The requirements for reopening of a PAL permit set forth in this section shall apply to actuals PALs.

1. During the PAL effective period, the board will reopen the PAL permit to:

a. Correct typographical and calculation errors made in setting the PAL or reflect a more accurate determination of emissions used to establish the PAL;

b. Reduce the PAL if the owner creates creditable emissions reductions for use as offsets under 9 VAC 5-80-2120 F through N; and

c. Revise the PAL to reflect an increase in the PAL as provided under subsection L of this section.

2. The board may reopen the PAL permit for any of the following reasons:

a. Reduce the PAL to reflect newly applicable federal requirements (e.g., NSPS) with compliance dates after the PAL effective date.

b. Reduce the PAL consistent with any other requirement, that is enforceable as a practical matter, and that the board may impose on the major stationary source.

c. Reduce the PAL if the board determines that a reduction is necessary to avoid causing or contributing to a violation of an ambient air quality standard or ambient air increment in 9 VAC 5-80-1635, or to an adverse impact on an air quality related value that has been identified for a federal class I area by a federal land manager and for which information is available to the general public.

3. Except for the permit reopening in subdivision 1 a of this subsection for the correction of typographical and calculation errors that do not increase the PAL level, all other reopenings shall be carried out in accordance with the public participation requirements of subsection D of this section.

I. Any PAL which is not renewed in accordance with the procedures in subsection J of this section shall expire at the end of the PAL effective period, and the following requirements shall apply:

1. Each emissions unit or each group of emissions units that existed under the PAL shall comply with an allowable emission limitation under a revised permit established according to the following procedures:

a. Within the timeframe specified for PAL renewals in subdivision J 2 of this section, the source shall submit a proposed allowable emission limitation for each emissions unit (or each group of emissions units, if such a distribution is more appropriate as decided by the board) by distributing the PAL allowable emissions for the source

among each of the emissions units that existed under the PAL. If the PAL had not yet been adjusted for an applicable requirement that became effective during the PAL effective period, as required under subsection J 5 of this section, such distribution shall be made as if the PAL had been adjusted.

b. The board will decide whether and how the PAL allowable emissions will be distributed and issue a revised permit incorporating allowable limits for each emissions unit, or each group of emissions units, as the board determines is appropriate.

2. Each emissions unit shall comply with the allowable emission limitation on a 12-month rolling basis. The board may approve the use of monitoring systems (such as source testing or emission factors) other than CEMS, CERMS, PEMS or CPMS to demonstrate compliance with the allowable emission limitation.

3. Until the board issues the revised permit incorporating allowable limits for each emissions unit, or each group of emissions units, as required under subdivision 1 b of this subsection, the source shall continue to comply with a source-wide, multi-unit emissions cap equivalent to the level of the PAL emission limitation.

4. Any physical change or change in the method of operation at the source will be subject to the nonattainment major NSR requirements if such change meets the definition of "major modification."

5. The owner shall continue to comply with any state or federal applicable requirements (such as BACT, RACT, or NSPS) that may have applied either during the PAL effective period or prior to the PAL effective period except for those emission limitations that had been established pursuant to 9 VAC 5-80-2000 D, but were eliminated by the PAL in accordance with the provisions in subdivision A 2 c of this section.

J. The requirements for the renewal of the PAL permit set forth in this subsection shall apply to actuals PALs.

1. The board will follow the procedures specified in subsection D of this section in approving any request to renew a PAL, and will provide both the proposed PAL level and a written rationale for the proposed PAL level to the public for review and comment. During such public review, any person may propose a PAL level for the source for consideration by the board.

2. The owner shall submit a timely application to the board to request renewal of a PAL. A timely application is one that is submitted at least six months prior to, but not earlier than 18 months from, the date of permit expiration. This deadline for application submittal is to ensure that the permit will not expire before the permit is renewed. If the owner submits a complete application to renew the PAL within this time period, then the PAL shall continue to be effective until the revised permit with the renewed PAL is issued, or until the board determines that the revised permit with the renewed PAL will not be issued.

3. The application to renew a PAL permit shall contain the following information:

Proposed Regulations

- a. The information required in subsection B of this section.
- b. A proposed PAL level.
- c. The sum of the potential to emit of all emissions units under the PAL, with supporting documentation.
- d. Any other information the owner wishes the board to consider in determining the appropriate level for renewing the PAL.

K. The requirements for the adjustment of the PAL set forth in this subsection shall apply to actuals PALs. In determining whether and how to adjust the PAL, the board will consider the options outlined in subdivisions 1 and 2 of this subsection. However, in no case may any such adjustment fail to comply with subdivision 3 of this subsection.

- 1. If the emissions level calculated in accordance with subsection E of this section is equal to or greater than 80% of the PAL level, the board may renew the PAL at the same level without considering the factors set forth in subdivision 2 of this subsection; or
- 2. The board may set the PAL at a level that it determines to be more representative of the source's baseline actual emissions, or that it determines to be appropriate considering air quality needs, advances in control technology, anticipated economic growth in the area, desire to reward or encourage the source's voluntary emissions reductions, or other factors as specifically identified by the board in its written rationale.
- 3. Notwithstanding subdivisions 1 and 2 of this subsection:
 - a. If the potential to emit of the source is less than the PAL, the board will adjust the PAL to a level no greater than the potential to emit of the source; and
 - b. The board will not approve a renewed PAL level higher than the current PAL, unless the source has complied with the provisions for increasing a PAL under subsection L of this section.

4. If the compliance date for a state or federal requirement that applies to the PAL source occurs during the PAL effective period, and if the board has not already adjusted for such requirement, the PAL shall be adjusted at the time of PAL permit renewal or federal operating permit renewal, whichever occurs first.

L. The requirements for increasing a PAL during the PAL effective period set forth in this subsection shall apply to actuals PALs.

- 1. The board may increase a PAL emission limitation only if the owner of the major stationary source complies with the following provisions:
 - a. The owner shall submit a complete application to request an increase in the PAL limit for a PAL major modification. Such application shall identify the emissions units contributing to the increase in emissions so as to cause the source's emissions to equal or exceed its PAL.
 - b. As part of this application, the owner shall demonstrate that the sum of the baseline actual emissions of the small

emissions units, plus the sum of the baseline actual emissions of the significant and major emissions units assuming application of BACT equivalent controls, plus the sum of the allowable emissions of the new or modified emissions units exceeds the PAL. The level of control that would result from BACT equivalent controls on each significant or major emissions unit shall be determined by conducting a new BACT analysis at the time the application is submitted, unless the emissions unit is currently required to comply with a BACT or LAER requirement that was established within the preceding five years. In such a case, the assumed control level for that emissions unit shall be equal to the level of BACT or LAER with which that emissions unit shall currently comply.

c. The owner obtains a major NSR permit for all emissions units identified in subdivision 1 of this subsection, regardless of the magnitude of the emissions increase resulting from them (i.e., no significant levels apply). These emissions units shall comply with any emissions requirements resulting from the nonattainment major NSR program process (e.g., LAER), even though they have also become subject to the PAL or continue to be subject to the PAL.

- 2. The PAL permit shall require that the increased PAL level shall be effective on the day any emissions unit that is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.
- 3. The board will calculate the new PAL as the sum of the allowable emissions for each modified or new emissions unit, plus the sum of the baseline actual emissions of the significant and major emissions units (assuming application of BACT equivalent controls as determined in accordance with subdivision 1 b of this subsection), plus the sum of the baseline actual emissions of the small emissions units.
- 4. The PAL permit shall be revised to reflect the increased PAL level pursuant to the public notice requirements of subsection D of this section.

M. The requirements for monitoring the PAL set forth in this subsection apply to actuals PALs.

- 1. The general requirements for monitoring a PAL set forth in this subdivision apply to actuals PALs.
 - a. Each PAL permit shall contain enforceable requirements for the monitoring system that accurately determines plantwide emissions of the PAL pollutant in terms of mass per unit of time. Any monitoring system authorized for use in the PAL permit shall be based on sound science and meet generally acceptable scientific procedures for data quality and manipulation. Additionally, the information generated by such system shall meet minimum legal requirements for admissibility in a judicial proceeding to enforce the PAL permit.
 - b. The PAL monitoring system shall employ one or more of the four general monitoring approaches meeting the minimum requirements set forth in subdivision 2 of this subsection and must be approved by the board.

- c. Notwithstanding subdivision 1 b of this subsection, the owner may also employ an alternative monitoring approach that meets subdivision 1 a of this subsection if approved by the board.*
- d. Failure to use a monitoring system that meets the requirements of this section renders the PAL invalid.*
- 2. The following are acceptable general monitoring approaches when conducted in accordance with the minimum requirements in subdivisions 3 through 9 of this subsection:*
- a. Mass balance calculations for activities using coatings or solvents;*
 - b. CEMS;*
 - c. CPMS or PEMS; and*
 - d. emission factors.*
- 3. An owner using mass balance calculations to monitor PAL pollutant emissions from activities using coating or solvents shall meet the following requirements:*
- a. Provide a demonstrated means of validating the published content of the PAL pollutant that is contained in or created by all materials used in or at the emissions unit;*
 - b. Assume that the emissions unit emits all of the PAL pollutant that is contained in or created by any raw material or fuel used in or at the emissions unit, if it cannot otherwise be accounted for in the process; and*
 - c. Where the vendor of a material or fuel, which is used in or at the emissions unit, publishes a range of pollutant content from such material, the owner shall use the highest value of the range to calculate the PAL pollutant emissions unless the board determines there is site-specific data or a site-specific monitoring program to support another content within the range.*
- 4. An owner using CEMS to monitor PAL pollutant emissions shall meet the following requirements:*
- a. CEMS shall comply with applicable performance specifications found in 40 CFR Part 60, appendix B; and*
 - b. CEMS shall sample, analyze and record data at least every 15 minutes while the emissions unit is operating.*
- 5. An owner using CPMS or PEMS to monitor PAL pollutant emissions shall meet the following requirements:*
- a. The CPMS or the PEMS shall be based on current site-specific data demonstrating a correlation between the monitored parameters and the PAL pollutant emissions across the range of operation of the emissions unit; and*
 - b. Each CPMS or PEMS shall sample, analyze, and record data at least every 15 minutes, or at another less frequent interval approved by the board, while the emissions unit is operating.*
- 6. An owner using emission factors to monitor PAL pollutant emissions shall meet the following requirements:*
- a. All emission factors shall be adjusted, if appropriate, to account for the degree of uncertainty or limitations in the factors' development;*
 - b. The emissions unit shall operate within the designated range of use for the emission factor, if applicable; and*
 - c. If technically practicable, the owner of a significant emissions unit that relies on an emission factor to calculate PAL pollutant emissions shall conduct validation testing to determine a site-specific emission factor within six months of PAL permit issuance, unless the board determines that testing is not required.*
- 7. The owner shall record and report maximum potential emissions without considering enforceable emission limitations or operational restrictions for an emissions unit during any period of time that there is no monitoring data, unless another method for determining emissions during such periods is specified in the PAL permit.*
- 8. Notwithstanding the requirements in subdivisions 3 through 7 of this subsection, where an owner of an emissions unit cannot demonstrate a correlation between the monitored parameters and the PAL pollutant emissions rate at all operating points of the emissions unit, the board will, at the time of permit issuance:*
- a. Establish default values for determining compliance with the PAL based on the highest potential emissions reasonably estimated at such operating points; or*
 - b. Determine that operation of the emissions unit during operating conditions when there is no correlation between monitored parameters and the PAL pollutant emissions is a violation of the PAL.*
- 9. All data used to establish the PAL pollutant shall be revalidated through performance testing or other scientifically valid means approved by the board. Such testing shall occur at least once every five years after issuance of the PAL.*
- N. The requirements for recordkeeping in the PAL permit set forth in this subsection shall apply to actuals PALs.*
- 1. The PAL permit shall require the owner to retain a copy of all records necessary to determine compliance with any requirement of this section and of the PAL, including a determination of each emissions unit's 12-month rolling total emissions, for five years from the date of such record.*
 - 2. The PAL permit shall require an owner to retain a copy of the following records for the duration of the PAL effective period plus five years:*
 - a. A copy of the PAL permit application and any applications for revisions to the PAL; and*
 - b. Each annual certification of compliance pursuant to the federal operating permit and the data relied on in certifying the compliance.*
- O. The owner shall submit semi-annual monitoring reports and prompt deviation reports to the board in accordance with the federal operating permit program. The reports shall meet the following requirements:*

Proposed Regulations

1. The semi-annual report shall be submitted to the board within 30 days of the end of each reporting period. This report shall contain the following information:

- a. Identification of the owner and the permit number.
- b. Total annual emissions in tons per year based on a 12-month rolling total for each month in the reporting period recorded pursuant to subdivision N 1 of this section.
- c. All data relied upon, including, but not limited to, any quality assurance or quality control data, in calculating the monthly and annual PAL pollutant emissions.
- d. A list of any emissions units modified or added to the source during the preceding six-month period.
- e. The number, duration, and cause of any deviations or monitoring malfunctions (other than the time associated with zero and span calibration checks), and any corrective action taken.
- f. A notification of a shutdown of any monitoring system, whether the shutdown was permanent or temporary, the reason for the shutdown, the anticipated date that the monitoring system will be fully operational or replaced with another monitoring system, and whether the emissions unit monitored by the monitoring system continued to operate, and the calculation of the emissions of the pollutant or the number determined by method included in the permit, as provided by subdivision M 7 of this section.
- g. A signed statement by the responsible official (as defined by the federal operating permit program) certifying the truth, accuracy, and completeness of the information provided in the report.

2. The owner shall promptly submit reports of any deviations or exceedance of the PAL requirements, including periods where no monitoring is available. A report submitted pursuant to 9 VAC 5-80-110 F 2 b shall satisfy this reporting requirement. The deviation reports shall be submitted within the time limits prescribed by 9 VAC 5-80-110 F 2 b. The reports shall contain the following information:

- a. Identification of the owner and the permit number;
- b. The PAL requirement that experienced the deviation or that was exceeded;
- c. Emissions resulting from the deviation or the exceedance; and
- d. A signed statement by the responsible official (as defined by the federal operating permit program) certifying the truth, accuracy, and completeness of the information provided in the report.

3. The owner shall submit to the board the results of any revalidation test or method within three months after completion of such test or method.

P. The board will not issue a PAL that does not comply with the requirements of this section after the effective date of this revision. The board may supersede any PAL that was

established prior to the effective date of this revision with a PAL that complies with the requirements of this section.

9 VAC 5-80-2180. Permit invalidation, suspension, revocation, and enforcement.

A. A permit granted pursuant to this article shall become invalid if a program of continuous construction, ~~reconstruction~~ or modification is not commenced within the latest of the following time frames:

1. Eighteen months from the date the permit is granted.
2. Nine months from the date of the issuance of the last permit or other authorization (other than permits granted pursuant to this article) from any government entity.
3. Nine months from the date of the last resolution of any litigation concerning any such permits or authorizations (including permits granted pursuant to this article).

B. A permit granted pursuant to this article shall become invalid if a program of construction, ~~reconstruction~~ or modification is discontinued for a period of 18 months or more or if a program of construction, ~~reconstruction~~ or modification is not completed within a reasonable time. This provision does not apply to the period between construction of the approved phases of a phased construction project; each phase ~~must~~ shall commence construction within 18 months of the projected and approved commencement date.

C. The board may extend the periods prescribed in subsections A and B of this section upon satisfactory demonstration that an extension is justified. Provided there is no substantive change to the application information, the review and analysis, and the decision of the board, such extensions may be granted using the procedures for minor amendments in 9 VAC 5-80-2220.

D. Any owner who constructs or operates a source or modification not in accordance (i) with the application submitted pursuant to this article, or (ii) with the terms and conditions of any permit to construct or operate, or any owner of a source or modification subject to this article who commences construction or operation without applying for and receiving a permit hereunder, shall be subject to appropriate enforcement action including, but not limited to, any specified in this section.

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

F. The board may revoke any permit if the permittee:

1. Knowingly makes material misstatements in the permit application or any amendments thereto;
2. Fails to comply with the terms or conditions of the permit;
3. Fails to comply with any emission standards applicable to an emissions unit included in the permit;
4. Causes emissions from the stationary source which result in violations of, or interfere with the attainment and maintenance of, any ambient air quality standard; or fails to operate in conformance with any applicable control strategy,

including any emission standards or emission limitations, in the implementation plan in effect at the time that an application is submitted; or

5. Fails to comply with the applicable provisions of this article.

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

H. The permittee shall comply with all terms and conditions of the permit. Any permit noncompliance constitutes a violation of the Virginia Air Pollution Control Law and is grounds for (i) enforcement action or (ii) revocation.

I. Violation of the regulations of the board shall be grounds for revocation of permits issued under this article and are subject to the civil charges, penalties and all other relief contained in Part V (9 VAC 5-170-120 et seq.) of 9 VAC 5 Chapter 170 and the Virginia Air Pollution Control Law (§ 10.1-1300 et seq. of the Code of Virginia).

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

9 VAC 5-80-2210. Administrative permit amendments.

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

1. Correction of typographical or any other error, defect or irregularity that does not substantially affect the permit.
2. Identification of a change in the name, address, or phone number of any person identified in the permit, or of a similar minor administrative change at the source.
3. Change in ownership or operational control of a source where the board determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to the board and the requirements of 9 VAC 5-80-2170 have been fulfilled.
4. The combining of permits under the new source review program as provided in 9 VAC 5-80-2020 C.

B. The administrative permit amendment procedures are as follows:

1. The board will normally take final action on a request for an administrative permit amendment no more than 60 days from receipt of the request.
2. The board ~~shall~~ will incorporate the changes without providing notice to the public under 9 VAC 5-80-2070. However, any such permit revisions shall be designated in the permit amendment as having been made pursuant to this section.
3. The owner may implement the changes addressed in the request for an administrative amendment immediately upon submittal of the request.

9 VAC 5-80-2220. Minor permit amendments.

A. Minor permit amendment procedures shall be used only for those permit amendments that *meet all of the following criteria*:

1. Do not violate any applicable federal requirement;
2. Do not involve significant changes to existing monitoring, reporting, or record keeping requirements that would make the permit requirements less stringent, such as a change to the method of monitoring to be used, a change to the method of demonstrating compliance or a relaxation of reporting or record keeping requirements;
3. Do not require or change a case-by-case determination of an emission limitation or other standard;
4. Do not seek to establish or change a permit term or condition (i) for which there is no corresponding underlying applicable regulatory requirement and (ii) that the source has assumed to avoid an applicable regulatory requirement to which the source would otherwise be subject. Such terms and conditions include:
 - a. An emissions cap assumed to avoid classification as a modification under the new source review program or § 112 of the federal Clean Air Act; and
 - b. An alternative emissions limit approved pursuant to regulations promulgated under § 112(i)(5) of the federal Clean Air Act;

5. Are not modifications under the new source review program or under § 112 of the federal Clean Air Act; ~~and~~ .

6. Are not required to be processed as a significant amendment under 9 VAC 5-80-2230 or as an administrative permit amendment under 9 VAC 5-80-2210.

B. Notwithstanding subsection A of this section, minor permit amendment procedures may be used for permit amendments that *meet any of the following criteria*:

1. Involve the use of economic incentives, emissions trading, and other similar approaches, to the extent that such minor permit amendment procedures are explicitly provided for in a regulation of the board or a federally-approved program.
2. Require more frequent monitoring or reporting by the permittee or to reduce the level of an emissions cap.
3. Designate any term or permit condition that meets the criteria in 9 VAC 5-80-2020 E 1 as state-only enforceable as provided in 9 VAC 5-80-2020 E 2 for any permit issued under this article or any regulation from which this article is derived.

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

Proposed Regulations

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

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

E. The public participation requirements of 9 VAC 5-80-2070 shall not extend to minor permit amendments.

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

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

G. The requirements for making changes are as follows:

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

9 VAC 5-80-2230. Significant amendment procedures.

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

1. Significant amendment procedures shall be used for requesting permit amendments that do not qualify as minor permit amendments under 9 VAC 5-80-2220 or as administrative amendments under 9 VAC 5-80-2210.
2. Significant amendment procedures shall be used for those permit amendments that *meet any of the following criteria*:
 - a. Involve significant changes to existing monitoring, reporting, or record keeping requirements that would make the permit requirements less stringent, such as a change to the method of monitoring to be used, a change to the method of demonstrating compliance or a relaxation of reporting or recordkeeping requirements.
 - b. Require or change a case-by-case determination of an emission limitation or other standard.

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

- (1) An emissions cap assumed to avoid classification as a modification under the new source review program or § 112 of the federal Clean Air Act; and
- (2) An alternative emissions limit approved pursuant to regulations promulgated under § 112(i)(5) of the federal Clean Air Act.

B. A request for a significant permit amendment shall include a description of the change, the emissions resulting from the change, and any new applicable regulatory requirements that will apply if the change occurs. The applicant may, at his discretion, include a suggested draft permit amendment.

C. The provisions of 9 VAC 5-80-2070 shall apply to requests made under this section.

D. The board will normally take final action on significant permit amendments within 90 days after receipt of a complete request. If a public comment period is required, processing time for a permit is normally 180 days following receipt of a complete application. The board may extend this time period if additional information is required or if a public hearing is conducted under 9 VAC 5-80-2070.

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

9 VAC 5-80-2240. Reopening for cause.

A. A permit may be reopened and amended under any of the following situations:

1. Additional regulatory requirements become applicable to the emissions units covered by the permit after a permit is issued but prior to commencement of construction.
2. The board determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other terms or conditions of the permit.
3. The board determines that the permit ~~must~~ *shall* be amended to assure compliance with the applicable regulatory requirements or that the conditions of the permit are not sufficient to meet all of the standards and requirements contained in this article.
4. A new emission standard prescribed under 40 CFR Part 60, 61 or 63 becomes applicable after a permit is issued but prior to initial startup.

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

C. Reopenings shall not be initiated before a notice of such intent is provided to the source by the board at least 30 days

in advance of the date that the permit is to be reopened, except that the board may provide a shorter time period in the case of an emergency.

VA.R. Doc. No. R03-181 and R04-189; Filed June 21, 2005, 4:09 p.m.

TITLE 10. FINANCE AND FINANCIAL INSTITUTIONS

STATE CORPORATION COMMISSION

REGISTRAR'S NOTICE: The State Corporation Commission is exempt from the Administrative Process Act in accordance with § 2.2-4002 A 2 of the Code of Virginia, which exempts courts, any agency of the Supreme Court, and any agency that by the Constitution is expressly granted any of the powers of a court of record.

Title of Regulation: 10 VAC 5-20. Banking and Savings Institutions (adding 10 VAC 5-20-50).

Statutory Authority: §§ 6.1-194.32 and 12.1-13 of the Code of Virginia.

Public Hearing Date: A public hearing will be scheduled upon request.

Public comments may be submitted until July 28, 2005.

Agency Contact: Nicholas Kyrus, Deputy Commissioner, Bureau of Financial Institutions, State Corporation Commission, P.O. Box 640, Richmond, VA 23218, telephone (804) 371-9657, FAX (804) 371-9416, toll-free 1-800-552-7945 or e-mail nick.kyrus@scc.virginia.gov.

Summary:

The regulation provides for conversion of a Virginia state-chartered mutual savings association to a stock savings association by board of director approval, filing of an application, plan of conversion, and amended corporate articles and other documents with the Commissioner of Financial Institutions, together with a \$1,000 application fee. After preliminary approval is obtained, the conversion must be approved by the association's members after due notice. Final approval is obtained by making proof of proper member approval, commitment for FDIC insurance and other legal compliance.

AT RICHMOND, JUNE 21, 2005

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. BFI-2005-00075

Ex Parte: In re: proposed regulation governing the conversion of mutual associations to stock associations

ORDER TO TAKE NOTICE

WHEREAS, § 6.1-194.32 of the Virginia Savings Institutions Act of 1985 ("Act"), § 6.1-194.1 et seq. of the Code of Virginia,

authorizes state-chartered mutual associations to convert to stock associations;

WHEREAS, § 6.1-194.32 of the Act also authorizes the State Corporation Commission ("Commission") to adopt regulations governing the conversion of state-chartered mutual associations to stock associations;

WHEREAS, by Order dated November 22, 1977, the Commission adopted a regulation entitled "Regulation 4-77 – Conversion to Stock Association" ("Regulation 4-77") pursuant to former § 6.1-195.57 of the Code of Virginia, which was the predecessor statute to § 6.1-194.32 of the Act;

WHEREAS, subsequent changes to various federal and state laws have rendered certain provisions and references in Regulation 4-77 obsolete or inaccurate; and

WHEREAS, the Bureau of Financial Institutions has proposed that Regulation 4-77 be renumbered and modified to conform to current law;

Accordingly, IT IS THEREFORE ORDERED THAT:

(1) The proposed regulation, entitled "Conversion of Mutual to Stock Association," is appended hereto and made a part of the record herein.

(2) Comments or requests for hearing on the proposed regulation must be submitted in writing to Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218, on or before July 28, 2005. Requests for hearing shall state why a hearing is necessary and why the issues cannot be adequately addressed in written comments. All correspondence shall contain a reference to Case No. BFI-2005-00075. Interested persons desiring to submit comments or request a hearing electronically may do so by following the instructions available at the Commission's website: <http://www.scc.virginia.gov/caseinfo.htm>.

(3) The proposed regulation shall be posted on the Commission's website at <http://www.scc.virginia.gov/caseinfo.htm>.

AN ATTESTED COPY hereof, together with a copy of the proposed regulation, shall be sent to the Registrar of Regulations for publication in the Virginia Register.

AN ATTESTED COPY hereof shall be sent to the Commissioner of Financial Institutions, who shall forthwith mail a copy of this Order, together with the proposed regulation, to all state-chartered mutual savings institutions and other interested parties as he may designate.

10 VAC 5-20-50. Conversion of mutual to stock association.

A. Conversion authorized. As authorized by § 6.1-194.32 of the Code of Virginia, a state mutual savings and loan association may convert to a stock association in accordance with this section, the Virginia Non-Stock Corporation Act (§ 13.1-801 et seq. of the Code of Virginia), and regulations promulgated by the federal Office of Thrift Supervision (OTS) relating to mutual-to-stock conversions.

Proposed Regulations

B. Application for conversion. Upon the affirmative vote of 2/3 of its board of directors, a state mutual association may file with the Bureau of Financial Institutions (bureau) an application to convert to a stock association. The application shall be accompanied by a filing fee of \$1,000.00.

The application shall conform to OTS requirements as to its form and content. (A copy of the conversion application submitted to the OTS may be submitted.) In addition, the application shall include:

- 1. A certified copy of the minutes of the meeting at which the board of directors authorized the association's officers to apply for conversion.*
- 2. The proposed amended articles of incorporation and bylaws of the stock association to be formed.*
- 3. The proposed form of notice to members of the meeting at which conversion will be formally considered and voted upon, which notice shall include a clear statement to account holders that the stock to which they may subscribe will not be an insured investment.*
- 4. A statement of the time and manner in which such notice will be provided.*

C. Plan of conversion. In addition to complying with the requirements of OTS regulations, a plan of conversion shall be filed with the Bureau that provides:

- 1. A statement of the business purposes to be accomplished by the conversion.*
- 2. That the word "mutual" will not be in the name of the association after its conversion to stock form of ownership.*
- 3. That no reduction in the association's reserves or net worth will result from the conversion.*

D. Preliminary approval. The Commissioner of Financial Institutions (commissioner) shall review the application and, if (i) the application, plan of conversion, and articles of amendment comply with the requirements of state law and regulations, (ii) the proposed plan of conversion appears to be fair and equitable to members of the association, and (iii) there is an intention to retain FDIC insurance of deposit accounts, the commissioner shall issue preliminary approval of the conversion. Such preliminary approval shall be given subject to a concurring shareholder vote and to continued compliance with all applicable laws and regulations.

Prior to granting preliminary approval, the commissioner may require the applicant to submit such additional information as may be necessary for making a determination of fairness, and may require that changes in the application be made where necessary to protect the interests of the applicant's members.

E. Special meeting of members. When it has received the commissioner's preliminary approval, the board of directors may call a special meeting of the members of the association for the purpose of considering and voting upon the conversion and the proposed amendments to the association's articles of incorporation. Written notice of such meeting shall conform to the applicable provisions of law and shall be mailed to each member entitled to vote on the matters to be taken up. The

plan of conversion, or a summary of it, shall accompany the notice. Notice of the meeting may not be waived.

Conduct of the special meeting and voting on the proposed amendments to the articles of incorporation shall be governed by the applicable provisions of the Non-Stock Corporation Act. Voting rights of members shall be determined in accordance with § 6.1-194.17 of the Code of Virginia. The plan of conversion shall be approved in accordance with § 13.1-886 E of the Code of Virginia and a certified copy of the minutes of the special meeting shall be filed promptly with the bureau.

F. Formal approval; effective date of conversion. Upon receiving (i) evidence that the plan of conversion and the amended articles have been duly approved by the association's members, (ii) evidence that the accounts of the stock association will continue to be insured by the FDIC, and (iii) a copy of the amended articles of incorporation, as approved, the commissioner, when satisfied that all applicable laws and regulations have been complied with, shall issue formal approval authorizing the conversion. Thereafter, the effective date of the conversion shall be the date when the Clerk of the State Corporation Commission issues a certificate of amendment giving legal effect to the association's amended articles of incorporation.

G. Actions performed by the commissioner under this section shall be subject to review pursuant to the State Corporation Commission Rules of Practice and Procedure (5 VAC 5-20).

VA.R. Doc. No. R05-238; Filed June 22, 2005, 11:14 a.m.



TITLE 11. GAMING

VIRGINIA RACING COMMISSION

REGISTRAR'S NOTICE: The Virginia Racing Commission is exempt from the Administrative Process Act pursuant to subdivision A 18 of § 2.2-4002 of the Code of Virginia (i) when acting by and through its duly appointed stewards or in matters related to any specific race meeting or (ii) in promulgating technical rules regulating actual live horse racing at race meetings licensed by the commission.

Titles of Regulations: 11 VAC 10-70. Stewards (amending 11 VAC 10-70-20, 11 VAC 10-70-30, 11 VAC 10-70-40, 11 VAC 10-70-60, 11 VAC 10-70-70, 11 VAC 10-70-80, 11 VAC 10-70-90 and 11 VAC 10-70-170; repealing 11 VAC 10-70-50).

11 VAC 10-90. Appeals to the Commission (amending 11 VAC 10-90-10, 11 VAC 10-90-30, and 11 VAC 10-90-50).

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

Public Hearing Date: N/A - Public comments may be submitted until 5 p.m. on September 9, 2005.

Agency Contact: David S. Lermond, Jr., Regulatory Coordinator, Virginia Racing Commission, 10700 Horsemen's Lane, New Kent, VA 23024, telephone (804) 966-7404, FAX (804) 966-7418 or e-mail david.lermond@vrc.virginia.gov.

Summary:

The amendments clarify the authority of the stewards appointed by the Virginia Racing Commission to enforce and interpret the commission's regulations. The definition of "participant" has been added, which provides that certain individuals associated with a horse that is entered to run in Virginia shall be considered as participants and come under the jurisdiction of the commission. Additionally, the amendments provide the authority of the commission to take disciplinary actions through stewards or at a meeting at which a quorum is present and clarify that such disciplinary actions must be determined by a preponderance of the evidence. These amendments are made to conform the regulation to Chapter 700 of the 2005 Acts of Assembly.

11 VAC 10-70-20. Appointment.

~~Three~~ The commission shall appoint stewards, all of whom shall be employees of the commission, ~~shall be appointed for each race meeting licensed by the commission. The commission, in its discretion, may appoint one or more stewards for the satellite facilities licensed by the commission.~~ To qualify for appointment as a steward, the appointee shall meet the experience, education and examination requirements necessary to be accredited by the Racing Officials Accreditation Program administered by the Universities of Arizona and Louisville, or in the case of harness racing, be licensed as a judge by the United States Trotting Association.

11 VAC 10-70-30. Senior Commonwealth Steward.

One of the ~~three~~ stewards employed by the commission ~~for each race meeting~~ shall be designated as the Senior Commonwealth Steward. The Senior Commonwealth Steward shall preside at all hearings conducted by the stewards ~~at the race meetings that do not pertain to the operation of the satellite wagering facilities. In matters pertaining to the operation of satellite facilities, a single~~ Any steward shall preside at all ~~may~~ conduct hearings pertaining to the operation of satellite wagering facilities.

11 VAC 10-70-40. General powers and authority.

~~The~~ A steward or the stewards ~~for each race meeting or satellite facility licensed by the commission~~ shall be responsible to the commission ~~for the conduct of the race meeting or for the operation of the satellite facilities in accordance with the Code of Virginia and the regulations of the commission.~~ The steward or stewards, shall have authority over all holders of permits, and shall have authority to resolve conflicts or disputes that are related to the conduct of racing or operation of the satellite facilities *in accordance with the Code of Virginia and the regulations of the commission.*

11 VAC 10-70-50. General powers.

~~The~~ A steward or the stewards shall exercise immediate supervision, control and regulation of horse racing at each race meeting ~~or and at a~~ all satellite ~~facility~~ facilities licensed by the commission ~~and shall be responsible to the commission.~~ The powers of the stewards shall include:

1. Reviewing the conduct of all racing officials, track management, permitted personnel, other persons responsible for the conduct of racing and simulcasting, and patrons as necessary, to ensure compliance with these regulations and the Code of Virginia;
2. Determining all questions, disputes, protests, complaints, ~~or~~ and objections concerning live horse racing ~~which arise during a race meeting or at a satellite facility~~ and simulcast horse racing and enforcing their rulings;
- ~~2-~~ 3. Taking disciplinary action against any holder of a permit ~~or participant~~ found violating federal laws, state laws, local ordinances or regulations of the commission;
- ~~3-~~ 4. Reviewing applications for permits and either granting or denying ~~the~~ permits to participate in horse racing at race meetings or satellite facilities. *Nothing in these regulations shall be construed to prohibit the granting of a permit with such conditions as the stewards may deem appropriate;*
- 4- 5. Enforcing the regulations of the commission in all matters pertaining to horse racing ~~or and~~ satellite facilities;
- ~~5-~~ 6. Issuing rulings pertaining to the conduct of horse racing ~~or and~~ satellite facilities;
- ~~6-~~ 7. Varying any arrangement for the conduct of a race meeting including but not limited to postponing a race or races, canceling a race, or declaring a race "no contest";
- ~~7-~~ 8. Requesting assistance from other commission employees, *law-enforcement officials*, racing officials, members of *the horse racing industry* or the licensee's security service in the investigation of possible *statutory or rule infractions violations*;
- ~~8-~~ 9. Conducting hearings on all questions, disputes, protests, complaints, or objections concerning racing matters ~~or and~~ satellite facilities; ~~and~~
- ~~9-~~ 10. Substituting another qualified person where any racing official is unable to perform his duties,;
11. *Issuing subpoenas for the attendance of witnesses to appear before them, administering oaths and compelling the production of any of the books, documents, records, or memoranda of any licensee or permit holder. In addition, the stewards may issue subpoenas to compel the production of an annual balance sheet and operating statement of any licensee or permit holder and may require the production of any contract to which such person is or may be a party. The stewards may also issue subpoenas to compel production of records or other documents or relevant things and the testimony of witnesses whenever, in their judgment, it is necessary to do so for the effectual discharge of their duties;*
12. *Placing horses on the Stewards' List for unsatisfactory performance; and*
13. *Interpreting the regulations and deciding all questions of racing not specifically covered by the regulations.*

11 VAC 10-70-60. Duties.

In addition to the duties necessary and pertinent to the general supervision, control and regulation of race meetings

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or satellite facilities, the stewards shall have the following specific duties:

1. Causing investigations to be made in all instances of possible violations of federal laws, state laws, local ordinances and regulations of the commission;
2. Being present within the enclosure at a race meeting no less than 90 minutes before post time of the first race and remaining until 15 minutes after the last race is declared "official";
3. Being present in the stewards' stand during the running of all races at race meetings;
4. Administering examinations for applicants applying for permits as trainers, jockeys, apprentice jockeys or farriers to determine the applicants' qualifications for the permits;
5. Determining the identification of horses;
6. Determining eligibility of horses for races restricted to Virginia breds;
7. Determining eligibility of a horse or person to participate in a race;
8. Supervising the taking of entries and the drawing of post positions;
9. Approving or denying requests for horses to be excused from racing;
10. Locking the totalizator at the start of the race so that no more pari-mutuel tickets may be sold;
11. Determining alleged violations of these regulations in the running of any race through their own observation or by patrol judges and posting the "inquiry" sign ~~on the infield results board~~ when there are alleged violations;
12. Determining alleged violations of these regulations in the running of any race brought to their attention by any participant and posting the "objection" sign ~~on the infield results board~~ when there are alleged violations;
13. Causing the "official" sign to be posted ~~on the infield results board~~ after determining the official order of finish for the purposes of the pari-mutuel payout;
14. Reviewing the video tapes of the previous day's races and determining the jockeys ~~whom the stewards feel who~~ should review the films for instructional purposes;
15. Making periodic inspections of the facilities within the enclosure at race meetings, including but not limited to the stable area, paddock, and jockeys' room;
16. Reporting their findings of their periodic inspections of the facilities to the commission;
17. Filing with the commission a written daily report ~~at during race meetings which~~. *Such report* shall contain a detailed written record of all questions, disputes, protests, complaints or objections brought to the attention of the stewards, a summary of any interviews relating to these actions, copies of any rulings issued by the stewards, and any emergency actions taken and the basis for the actions;

18. Submitting to the commission after the conclusion of the race meeting a written report setting out their findings on the conduct of the race meeting, the condition of the facilities and any recommendation for improvement that they deem appropriate; and

~~19. Observing the conduct of simulcast horse racing at satellite facilities.~~ *Imposing any of the following penalties on a licensee, participant or permit holder for a violation of these regulations:*

- a. Issue a reprimand;*
- b. Assess a fine;*
- c. Require forfeiture or redistribution of a purse or award;*
- d. Place a permit holder or participant on probation with or without conditions;*
- e. Suspend a permit holder or participant with or without conditions;*
- f. Revoke a permit;*
- g. Exclude from the grounds under the jurisdiction of the commission; or*
- h. Any combination of the above.*

11 VAC 10-70-70. Objections and protests.

The stewards receive and hear all objections lodged by *trainers, owners, jockeys or drivers* after the completion of a race, and all protests lodged by holders of a permit before or after the completion of a race under the following provisions:

1. The stewards shall keep a written record of all objections and protests;
2. Jockeys shall indicate their intention of lodging an objection in a manner prescribed by the stewards;
3. Drivers shall indicate their intention of lodging an objection immediately after the race by reporting to the patrol judge;
4. If the placement of the starting gate or line is in error, a protest must be made prior to the time that the first horse enters the starting gate or line;
5. Protests, other than those arising out of the running of a race, shall be in writing, clearly stating the nature of the protest, signed by the holder of a permit making the protest, and filed with the stewards at least one hour before post time of the race out of which the protest arises;
6. Protests, arising out of the running of a race, must be made to the stewards as soon as possible after the completion of the race but before the race is declared official ~~and~~. The stewards may call and examine any witness *regarding the protest*;
7. Until a final determination is made on an objection or protest and any administrative remedies and all appeals thereof are exhausted, the purse money for the race shall be retained by the horsemen's bookkeeper or licensee and paid only upon the approval of the stewards or commission; and

8. A *participant* or holder of a permit may not withdraw a protest without the permission of the stewards.

11 VAC 10-70-80. Period of authority.

The period of authority ~~for each steward shall commence at a period of time prior to the race meeting and shall terminate at a period of time after the end of the race meeting as designated by the commission. The period of authority for the steward or stewards at satellite facilities shall commence and terminate at a period of time designated by the be established by contractual arrangement between each steward and the commission.~~

11 VAC 10-70-90. Appointment of substitute.

If any steward is absent at the time of the running of the race or is otherwise unable to perform his duties, the other ~~two~~ stewards shall agree on the appointment of a substitute to act for the absent steward. If a substitute is appointed, the commission shall be notified immediately followed by a written report, stating the name of the ~~deputy substitute~~ steward, the reason for his appointment, and the races over which the substitute officiated.

11 VAC 10-70-170. Orders following disciplinary actions.

Any disciplinary action taken by the steward or stewards or by the commission shall be provided in writing to the ~~holder of a permit person being disciplined~~, setting forth the federal or state law, local ordinance or regulation that was violated, the date of the violation, the factual or procedural basis of the finding, the extent of the disciplinary action taken, and the date when the disciplinary action is to take effect. The order following disciplinary action may be hand delivered or mailed to the ~~holder of the permit person being disciplined~~, but in either case, *the mode of delivery* shall be duly ~~acknowledged certified~~ by the ~~holder of a permit sender~~. *The sender shall use reasonable efforts to obtain acknowledgement of receipt by the recipient.*

11 VAC 10-90-10. ~~Generally Request for review; stay.~~

A holder of ~~or applicant for~~ a license or permit or a *participant* who wishes to contest a denial of a permit or disciplinary action of the stewards may request a review by the commission. A *denial of a license or permit* or disciplinary action taken by the steward or stewards shall not be stayed or superseded by the filing of a request for a review unless the commission so orders. ~~At the written request of an aggrieved party, a stay in the implementation of a disciplinary action may be granted by the executive secretary chairman of the commission or a commissioner designated by the chairman. Such request shall be acted upon within 72 hours of the delivery of the written request to the executive secretary. Any granting or denial of a stay shall be effective until the next regularly scheduled meeting of the commission at which time the granting or denial or further stay shall be decided by the commission.~~

11 VAC 10-90-30. Content of request.

The request shall state:

1. The disciplinary action ~~of or denial of a permit~~ by the steward or stewards being contested;

2. The basis for the request; and

3. Any additional information the ~~applicant for or holder of a licensee, permit holder or participant~~ may wish to include concerning the request.

11 VAC 10-90-50. Procedures for conducting a commission review.

Reviews of stewards' decisions involving the outcome of a race or riding/driving infractions shall be conducted on the record of the stewards' proceedings. Riding/driving infractions are defined as any violations of the commission's regulations while riding or driving a horse in any race.

All other reviews will be de novo.

The commission shall conduct its review within 45 days of receipt of a request for a review of a denial of a permit or a disciplinary action taken by the steward or stewards. The following provisions shall apply to reviews by the commission:

1. If any commissioner determines that he has a conflict of interest or cannot accord a fair and impartial review, that commissioner shall not take part in the review.

2. The commissioners, in their discretion, may appoint an independent hearing officer to preside at the review and prepare a ~~proposed~~ *recommended* written decision for their consideration. *The commission, at its discretion, may accept the recommendation in its entirety, amend it or reject it.*

3. Unless the parties otherwise agree, a notice setting the date, time and location of the review shall be sent to the ~~holder of or applicant for a permit person requesting the review and all other owners, trainers, jockeys and drivers who may be affected by the resulting decision~~ at least 10 days before the date set for the review.

a. *The written notice shall describe the charges, basis thereof and possible penalties.*

b. *The written notice shall inform each party of the right to counsel, the right to present a defense including witnesses for that purpose and the right to cross-examine any witness.*

4. The proceedings shall be open to the public.

a. The proceedings shall be electronically recorded.

b. A court reporter may be used. The court reporter shall be paid by the person who requests him. If the ~~applicant for or holder of a permit person requesting the review~~ elects to have a court reporter, a transcript shall be provided to the commission. The transcript shall become part of the commission's records.

5. The proceedings shall include the following:

a. The commission ~~or hearing officer~~ may issue subpoenas to compel the attendance of witnesses or ~~for the production of reports, books, papers, registration documents or any other materials and other relevant evidence~~ it deems appropriate. However, nothing in this section shall be taken to authorize discovery proceedings;

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- b. Oaths shall be administered to all witnesses;
- c. The commission may examine any witnesses;
- d. Written notice shall be given to the holder of or applicant for a permit in a reasonable time prior to the review;
- e. The written notice shall inform the holder of a permit of the charges against him, the basis thereof and possible penalties;
- f. The holder of a permit shall be informed of his right to counsel, the right to present a defense including witnesses for that purpose, and the right to cross-examine any witnesses; *and*
- g. The commission may grant a continuance of any review for good cause; ~~and.~~
- ~~h. A record of the proceedings shall be made.~~

6. ~~The Review proceeding is a hearing~~ *proceedings regarding riding or driving infractions shall be on the record of the stewards hearing and not a new hearing; therefore, presentations by both sides will be limited to arguments and comments regarding the record of the stewards hearing.*

7. *In conducting a review of rulings of the stewards regarding riding or driving infractions, the commission, in its discretion, may allow new evidence to be introduced which, through the exercise of reasonable diligence, could not have been found obtained at the time of the stewards hearing. If the commission determines additional evidence to be introduced may affect the outcome of the case, the commission, in its discretion, may remand the case to the stewards for further review. The stewards shall consider such additional evidence as directed by the commission and, if necessary, in the stewards' discretion, will conduct a new, additional or supplemental hearing. The stewards shall then issue a new decision and order subject to commission review as herein provided.*

VA.R. Doc. No. R05-228; Filed June 17, 2005, 11:44 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 4. CONSERVATION AND NATURAL RESOURCES

MARINE RESOURCES COMMISSION

Title of Regulation: **4 VAC 20-390. Wetlands Mitigation-Compensation Policy (amending 4 VAC 20-390-20 through 4 VAC 20-390-50).**

Statutory Authority: §§ 28.2-103 and 29.2-1301 of the Code of Virginia.

Effective Date: July 1, 2005.

Agency Contact: Tony Watkinson, Deputy Chief, Habitat Management Division, Marine Resources Commission, 2600 Washington Avenue, Newport News, VA 23607, telephone (757) 247-2255, FAX (757) 247-8062 or e-mail tony.watkinson@mrc.virginia.gov.

Summary:

The revised Wetland/Mitigation Compensation Policy suggests that the commission and/or wetland boards require compensation for all permitted tidal wetland losses, especially vegetated wetlands. Key changes in the policy eliminate the previous threshold of 1,000 square feet for noncommercial projects and recognizes a change in the Code of Virginia (§ 28.2-1308) that allows use of mitigation banks to satisfy compensation requirements. Furthermore, the policy recognizes the potential for use of in-lieu fees to fund wetland restoration or creation projects. The use of in-lieu fees should be the last form of mitigation used to offset permitted wetland losses and must be the result of an agreed upon permit condition between the applicant and the commission or wetlands board provided the applicant can demonstrate that on-site or off-site compensation options are not practical and no compensatory mitigation banks have been established in the project watershed. The policy stipulates the sequence of acceptable mitigation options. The revised policy, however, maintains the essential requirement that proposed activities that result in wetlands loss should stand on their own merit in the permit approval process, and that compensation should not be used to justify permit issuance.

4 VAC 20-390-20. Policy.

In spite of the passage of the Virginia Wetlands Act and the Federal Water Pollution Control Act in 1972, the pressures to use or develop lands, including tidal wetlands along Virginia's shoreline, have continued to accelerate as evidenced by the increasing number of permit applications being submitted. At the same time scientific research has demonstrated that certain wetlands can be established or reestablished in areas where wetlands are not found at present. This has led to an increasing number of proposals calling for the destruction of wetlands in one area in order to accommodate development,

and the creation of wetlands in another area in order to offset the loss of the natural wetland resource. While losses are controlled by existing permit programs, data compiled by the Virginia Institute of Marine Science (VIMS) over the last 11 years (1993-2004) has shown a total permitted loss of 132 acres of tidal wetlands. Of these losses, most are associated with shoreline stabilization projects where each individual project may account for only a few hundred square feet of impact. Compensation for these losses has not usually been required. In fact, during the same period only 20.3 acres of mitigation have been required. Research, however has demonstrated that certain wetlands can be established or reestablished in areas where wetlands are not presently found. As such, compensation for permitted wetland losses is viewed as a means of offsetting impacts of necessary projects.

Although compensating for the loss of a wetland by establishing another of equal or greater area sounds very attractive in theory and has been regarded as successful in a few specific cases, in general, this form of mitigation has proven difficult to successfully implement. Many questions regarding the ecological soundness and feasibility of substituting one habitat for another remain to be answered. In addition, a number of studies have demonstrated that for various reasons the created habitats either never attain the level of productivity or diversity of the natural systems they replace or simply are not capable of performing the ecological functions of the undisturbed habitat.

Although California and Oregon now require compensation for lost wetlands on all projects, states such as North Carolina and New Jersey have taken a much more limited approach to the mitigation compensation question. In general, these latter two states rely on wetland compensation only as a last resort to replace wetlands whose loss is highly justified and unavoidable. Virginia to this point has also taken a very conservative tack with regard to the use of wetland compensation as a management tool.

The commission, and this chapter, do not require that all wetlands losses be compensated. They do recommend, however, that compensation be required on a limited basis to replace unavoidable wetlands losses. There are three main reasons for this recommendation.

First, a literature survey and experience with implementing compensation on a day-to-day basis reveal a number of significant problems with the concept itself that remain to be resolved.

Second, there are general philosophical and technical questions regarding compensation which have not been answered by the scientific community to this point in time.

Third, and most important, a reading of the Wetlands Act clearly indicates that the General Assembly intended for the Commonwealth's wetland resources to be preserved in their

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~~"natural state," and emphasized through its declaration of policy, the importance of an overall ecological approach to wetlands management.~~

~~"The Commonwealth of Virginia hereby recognizes the unique character of the wetlands, an irreplaceable natural resource which, in its natural state, is essential to the ecological systems of the tidal rivers, bays and estuaries of the Commonwealth."~~

~~The General Assembly also stated that where economic development in the wetlands is clearly necessary and justified it will be accommodated while preserving the wetlands resource.~~

~~"...it is declared to be the public policy of this Commonwealth to preserve the wetlands and to prevent their despoliation and destruction and to accommodate necessary economic development in a manner consistent with wetlands preservation."~~

~~In § 62.1-13.3 of the Code of Virginia the General Assembly mandated the preservation of the ecological systems within wetlands of primary ecological significance and then stated:~~

~~"Development in Tidewater, Virginia, to the maximum extent possible, shall be concentrated in wetlands of lesser ecological significance, in wetlands which have been irreversibly disturbed before July 1, 1972, and in areas of Tidewater, Virginia, apart from the wetlands."~~

~~The General Assembly has spelled out clearly that "necessary economic development" is to be accommodated in Tidewater, Virginia, but that the emphasis is on wetlands preservation in their natural state.~~

~~The commission, through this policy, intends to encourage, where appropriate, the compensation of all permitted tidal wetland losses, especially vegetated losses, provided all mitigative measures have been considered to avoid any impact. This should include compensation on-site, compensation within the watershed, compensation through the use of a mitigation bank as authorized by § 28.2-1308 of the Code of Virginia or through acceptance of an applicant's offer of payment to an in-lieu fee account established at the local, regional or state level and dedicated to wetland creation and restoration.~~

~~The need to compensate for all permitted wetland losses is further emphasized by the Commonwealth's commitment to the restoration of the Chesapeake Bay. In 2000, Virginia, as a Chesapeake Bay Program partner committed to "achieve a no-net loss of existing wetlands acreage and function in the signatories' regulatory programs." If Virginia is to meet this goal, wetland losses permitted through the tidal wetland regulatory program, no matter how small, must be replaced.~~

4 VAC 20-390-30. General criteria.

~~It shall remain the policy of the Commonwealth to mitigate or minimize the loss of wetlands and the adverse ecological effects of all permitted activities through the implementation of the principles set forth in these the existing Wetlands Guidelines which were promulgated in 1974 and revised in 1982 by the commission. To determine whether compensation is warranted and permissible on a case-by-case basis,~~

however, a two-tiered mechanism will be implemented. This dual approach will consist first of an evaluation of necessity for the proposed wetlands loss 4 VAC 20-390-40 (see specific criteria below). If the proposal passes this evaluation, compensation will be required and implemented as set forth in the second phase, the Supplemental Guidelines of this policy, 4 VAC 20-390-50.

The primary thrust of combining the existing Wetlands Guidelines with the two-tiered compensation guidelines is to preserve the wetlands as much as possible in their natural state and to consider appropriate requirements for compensation only after it has been proven that the loss of the natural resource is unavoidable and that the project will have the highest public and private benefit. ~~Commitments to preserve other existing wetlands shall not ordinarily be an acceptable form of compensation.~~

A reading of the original Wetlands Act clearly indicates that the General Assembly intended for the Commonwealth's wetland resources to be preserved in their "natural state," and emphasized through its declaration of policy, the importance of an overall ecological approach to wetlands management.

"The Commonwealth of Virginia hereby recognizes the unique character of the wetlands, an irreplaceable natural resource which, in its natural state, is essential to the ecological systems of the tidal rivers, bays and estuaries of the Commonwealth." (Emphasis added)

The General Assembly has also originally stated that where economic development in the wetlands is clearly necessary and justified it will be accommodated while preserving the wetlands resource.

"... it is declared to be the public policy of this Commonwealth to preserve the wetlands and to prevent their despoliation and destruction and to accommodate necessary economic development in a manner consistent with wetlands preservation." (Originally adopted under § 62.1-13.1 of the Code of Virginia, now under Powers and Duties of the Commission pursuant to § 28.2-1301 of the Code of Virginia) (Emphasis added)

In § 28.2-1308 of the Code of Virginia the General Assembly mandated the preservation of the ecological systems within wetlands of primary ecological significance and then stated:

"Development in Tidewater, Virginia, to the maximum extent practical, shall be concentrated in wetlands of lesser ecological significance, in vegetated wetlands which have been irreversibly disturbed before July 1, 1972, in nonvegetated wetlands which have been irreversibly disturbed prior to January 1, 1983, and in areas of Tidewater, Virginia, outside of wetlands."

The General Assembly has clearly spelled out that "necessary economic development" is to be accommodated in Tidewater, Virginia, but that the emphasis is on wetlands preservation in their natural state.

Since use and development of tidal wetlands are regulated through the Wetlands Zoning Ordinance, commitments to preserve other existing tidal wetlands are not ordinarily an acceptable form of compensation.

4 VAC 20-390-40. Specific criteria.

In order for a proposal to be authorized to destroy wetlands and compensate for same in some prescribed manner, the three criteria listed below must be met. If the proposal cannot meet one or more of these criteria, the activity shall be denied, or must occur in areas apart from the wetlands. Should it satisfy all three criteria, however, compensation for the wetlands lost is required. *Since the proposed activity should stand on its own merits in the permit approval process, compensation should not be used to justify permit issuance.*

1. All reasonable mitigative actions, including alternate siting, which would eliminate or minimize wetlands loss or disturbance shall be incorporated in the proposal.
2. The proposal shall clearly be water-dependent in nature.
3. The proposal shall demonstrate clearly its need to be in the wetlands and its overwhelming public and private benefits.

4 VAC 20-390-50. Supplemental guidelines.

A. If compensation is required, then the following guidelines should be given due consideration and, if appropriate, may be included as conditions of the permit: *In any case, on-site compensation at the project site is the preferred location alternative with off-site, in the same watershed, as a consideration when on-site is not feasible. Locating a compensation site outside the river basin of the project is not acceptable unless it is done as part of a state-coordinated program of ecological enhancement. The sequence of acceptable mitigation options should be as follows: On-site, off-site within the same watershed or mitigation bank in the watershed, or through a proffered payment of an in-lieu fee if on-site and off-site compensation are shown by the applicant to be impractical considering the project location.*

B. *Use of on-site and off-site compensation. When on-site or off-site compensation is required as a condition of permit approval, the following items should be considered. The commission or wetlands board may wish to condition any approval on the receipt of an acceptable compensation plan before issuance of the final permit for an approved project.*

1. A detailed plan, including a scaled plan view drawing, shall ~~should~~ be submitted describing the objectives of the wetland compensation, the type of wetland to be created, the mean tide range at the site, the proposed elevations relative to a tidal datum, the exact location, the areal extent, the method of marsh establishment and the exact time frame from initial work to completion. *The plan should also include plans for replanting areas where vegetation fails to grow.*
2. Once the grading is completed at the planting site, it should be inspected by a competent authority to insure that the elevations are appropriate for the vegetation to be planted and that the surface drainage is effective.
3. The compensation plan and its implementation ~~must~~ *should* be accomplished by experienced professionals knowledgeable of the general and site-specific requirements for wetland establishment and long-term survival.

4. A performance bond or letter of credit ~~is~~ *should be* required and shall remain in force until the new wetland is successfully established; a minimum of two growing seasons ~~and a required planting success rate established by the commission or wetlands board has been achieved.~~

5. The compensation marsh should be designed to replace as nearly as possible, the functional values of the lost resource on an equal or greater basis. In general this means creating a marsh of similar plant structure to that being lost. This may not be the case where a lesser value marsh is involved (i.e. Group 4 or 5 wetlands). A minimum 1:1 areal exchange is required in ~~any case~~ *all cases. The ratio of required compensation to approved loss should be specified by the commission or wetlands board and may be based on the use of the Function Specific Credit Calculation Method established by the Virginia Institute of Marine Science (VIMS) and contained in the Guidelines for the Establishment, Use and Operation of Tidal Wetland Mitigation Banks in Virginia.*

6. The compensation should be accomplished prior to, or concurrently with, the construction of the proposed project. Before any activity under the permit may begin, the permittee must own all interests in the mitigation site ~~which~~ *that* are needed to carry out the mitigation.

7. All reasonable steps must be taken to avoid or minimize any adverse environmental effects associated with the compensation activities themselves.

~~8. On-site compensation is the preferred location alternative with off-site in the same watershed as a consideration when on-site is not possible. Locating a compensation site outside the river basin of the project is not acceptable unless it is done as part of a state-coordinated program of ecological enhancement.~~

~~9.~~ 8. In selecting a compensation site, one aquatic community should not be sacrificed to "create" another. In cases where dredged material must be placed overboard, the area may be used to create marsh, oyster rock or improve the resource value of the bottom.

~~10.~~ 9. The type of plant community proposed as compensation must have a demonstrated history of successful establishment in order to be acceptable.

~~11. The proposed activity should stand on its own merits in the permit review. Compensation should not be used to justify permit issuance.~~

~~12.~~ 10. Manipulating the plant species composition of an existing marsh community, as a form of compensation, is unacceptable.

~~13.~~ 11. Nonvegetated wetlands should be treated on an equal basis with vegetated wetlands with regard to compensation and mitigation, unless site-specific information indicates one is more valuable than the other.

~~14.~~ 12. Both short-term and long-term monitoring of compensation sites should be considered on a case-by-case basis. For unproven types of compensation the applicant will be responsible for funding such monitoring as is deemed necessary.

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~~15. Where on-site replacement for noncommercial projects is not feasible, compensation for small wetland losses (less than 1,000 square feet) should be avoided in favor of eliminating loss of the natural marsh to the maximum extent possible.~~

~~16. 13. Conservation or other easements to be held in perpetuity should be required for the compensation marsh. Easements accepted by the commission will be processed in accordance with the provisions of § 62.1-13.17 § 28.2-1301 of the Code of Virginia.~~

~~17. All commercial projects which involve unavoidable wetland losses should be compensated.~~

C. Use of mitigation banks. Pursuant to § 28.2-1308 of the Code of Virginia, when any activity involving the loss of tidal wetlands authorized by the commission or a wetlands board is conditioned upon compensatory mitigation the applicant may be permitted to satisfy all or part of such mitigation requirements by the purchase or use of credits from any approved wetlands mitigation bank. Guidelines for the Establishment, Use and Operation of Tidal Wetland Mitigation Banks in Virginia have been promulgated by the commission. Unless the applicant can demonstrate compliance with specific criteria contained in § 28.2-1308 for use of a compensatory mitigation bank outside the watershed where a permitted project is located, the use of a mitigation bank for permitted activities requiring compensation must be in the same USGS cataloging unit or adjacent USGS cataloging unit in the same watershed. When approving the use of a compensatory mitigation bank the ratio of required compensation to approved loss must be specified by the commission or wetlands board and should incorporate the use of Function Specific Credit Calculation Method established by the Virginia Institute of Marine Science (VIMS) and contained in the Guidelines for the Establishment, Use and Operation of Tidal Wetland Mitigation Banks in Virginia.

D. Use of in-lieu fees. The use of in-lieu fees should be the last form of mitigation used to offset permitted wetland losses and must be the result of an agreed upon permit condition between the applicant and the commission or wetlands board provided the applicant can demonstrate that on-site or off-site compensation options are not practical and no compensatory mitigation banks have been established in the project watershed. Localities are encouraged to establish a fund for such payments that is dedicated to tidal wetlands restoration and creation. At the local level this could be the same fund established for the receipt of civil charges or civil penalties. Administration of such a fund should include an ability to trace the contribution of in-lieu fees to eventual use in actual wetland restoration or creation projects. If payments are made to other dedicated wetland restoration funds this should be recognized in the permit issued by the board. In no case should an in-lieu fee amount be accepted for less than the cost of necessary compensation acreage or the purchase of necessary credits in an approved bank. This is intended to prevent the avoidance of use of on-site or off-site compensation, or compensatory mitigation bank for a cheaper alternative that would not be able to fund the same level of wetland restoration or creation required by on-site or off site compensation or through use of a compensatory mitigation

bank. Use of the fund could be for actual tidal wetland creation or restoration projects in the locality or for the purchase of credits in an approved compensatory mitigation bank that is authorized subsequent to the receipt of any in-lieu fee. Localities are encouraged to combine any in-lieu fee with other potential or available funds for wetland restoration or creation projects.

VA.R. Doc. No. R05-224; Filed June 17, 2005, 3:32 p.m.

TITLE 8. EDUCATION

BOARD OF EDUCATION

Title of Regulation: 8 VAC 20-30. Regulations Governing Adult High School Programs (amending 8 VAC 20-30-10 through 8 VAC 20-30-40, 8 VAC 20-30-60, and 8 VAC 20-30-70; repealing 8 VAC 20-30-50).

Statutory Authority: §§ 22.1-224 of the Code of Virginia.

Effective Date: August 15, 2005.

Agency Contact: Robert MacGillivray, Adult Education Services, Department of Education, P.O. Box 2120, Richmond, VA 23218, telephone (804) 371-2333, FAX (804) 225-2524.

Summary:

The amendments create an adult high school diploma for (i) individuals who were not required to earn verified credit at the time they entered the ninth grade, but who meet the credit requirements that were in place at the time they entered the ninth grade and (ii) individuals who successfully complete the External Diploma Program (EDP). Individuals who were not required to earn verified credit at the time they entered the ninth grade or who have successfully completed the EDP will no longer be eligible for a standard or advanced diploma unless they meet all credit requirements defined by the Regulations Establishing the Standards for Accrediting Public Schools in Virginia (8 VAC 20-131) at the time they expect to graduate.

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.

8 VAC 20-30-10. Responsibility.

Local [~~authorities~~ school officials] are responsible for evaluating and awarding credit for educational achievement, other than that earned in the regular high school program.

8 VAC 20-30-20. Minimum requirements for secondary adult high school programs.

~~Secondary Adult high school programs for adults which are not part of the regular day 9 through 12 high school program and shall meet the following minimum requirements:~~

1. Age. A- An adult student shall be at least 18 years of age. Under circumstances which local school authorities

consider justifiable, [~~the age limit may be lowered~~ *students of school age may enroll in courses offered by the adult high school*]. Only in exceptional circumstances should [~~local authorities school officials~~] permit [a] ~~regularly~~ [*an school-aged*] individual enrolled ~~day student in grades 9 through 12~~ to earn credits toward high school graduation in adult classes. ~~(In such cases, alternative All educational programs alternatives must have been considered) prior to placing an enrolled student in an adult class. [Such students would be able to earn a diploma, as provided in 8 VAC 20-131-50, but would not be eligible to earn an adult high school diploma.]~~

2. Credit.

a. Satisfactory completion of 108 hours of classroom instruction in a subject shall constitute sufficient evidence for one unit of credit ~~toward a high school diploma. Where accelerated or other innovative instructional methods are used, satisfactory completion of comparable competencies as the regular secondary school program as measured by objective testing in a subject shall constitute sufficient evidence for one unit of credit.~~

b. ~~Eighteen units of credit are required for graduation as specified in the Standards for Accrediting Schools in Virginia with the exclusion of health and physical education.~~

c. ~~An Advanced Studies Diploma (20 credits) shall be awarded to students who complete the credits as specified in the Standards for Accrediting Schools in Virginia with the exclusion of health and physical education.~~

d. ~~In addition to the units of credit specified in the Standards for Accrediting Schools in Virginia, each student must demonstrate mastery of minimum competencies as prescribed by the Board of Education.~~

e. ~~b. When, in the judgment of the principal or the superintendent, an adult not regularly enrolled in the day [grades] 9 through 12 high school program is able to demonstrate by examination or other objective evidence, satisfactory completion of the work, he may receive credit in accordance with policies adopted by the local school board. It is the responsibility of the school issuing the credit to document the types of examinations employed, or other objective evidence used, the testing or assessment procedures, and the extent of progress in each case.~~

f. ~~No student may be issued a diploma by earning credits in adult or evening classes prior to the time that he would have graduated from a secondary school had he remained in school and made normal progress.~~

g. ~~c. Credits actually earned in adult secondary high school programs shall be transferable as [identified prescribed] in the Standards for Accrediting Schools in Virginia Regulations Establishing Standards for Accrediting Public Schools in Virginia [(8 VAC 20-131)] within the sponsoring school division and shall be transferable to public secondary schools outside of the sponsoring school division.~~

3. Diplomas.

a. A diploma [, as provided in 8 VAC 20-131-50,] shall be awarded to an adult student who completes all requirements of the diploma regulated by the Board of Education [, with the exception of health and physical education requirements,] in effect at the time he will graduate [; ~~however, the board may authorize substitute assessments for adult students~~].

b. An adult high school diploma shall be awarded to an adult student who completes the course credit requirements in effect for any Board of Education diploma, with the exception of health and physical education course requirements, at the time he first entered the ninth grade [; ~~however, the board may authorize substitute assessments for adult students. The requirement for specific assessments may be waived if the assessments are no longer administered to students in Virginia public schools.]~~

c. An adult high school diploma shall be awarded to an adult student who demonstrates through applied performance assessment full mastery of the National External Diploma Program Generalized Competencies Correlated with CASAS Competencies, 1996, as promulgated by the American Council on Education and validated and endorsed by the United States Department of Education.

[d. A General Achievement Diploma, as provided in 8 VAC 20-680, shall be awarded to an adult student who completes all requirements of the diploma.]

8 VAC 20-30-30. Minimum qualifications of teachers.

[~~The minimum qualifications of~~] Teachers teaching in the adult and evening high school [program] shall be [~~the same in all respects as those required for~~] the regular day school [~~public high schools licensed and endorsed in the subject areas they teach~~].

8 VAC 20-30-40. Library facilities.

~~The library facilities available for the regular day school shall be available for the adult evening school.~~

The adult high school program shall have library media services, science laboratories, and computer technology accessible to instructional staff and adult learners.

[8 VAC 20-30-50.] Science laboratory facilities. (Repealed.)

~~If science is offered, the laboratory facilities also shall be available.~~

8 VAC 20-30-60. Administration and supervision.

The adult and evening high school program shall be under the supervision of the secondary high school principal, assistant principal, or a qualified staff member approved by the division superintendent.

8 VAC 20-30-70. Guidance services.

~~The adult and evening high school should program shall have appropriate guidance services available.~~

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DOCUMENTS INCORPORATED BY REFERENCE

~~Standards for Accrediting Public Schools in Virginia, 1988 edition.~~

~~Standards for Accrediting Schools in Virginia, 1992 edition.~~

National External Diploma Program Generalized Competencies Correlated with CASAS Competencies, Comprehensive Adult Student Assessment System EDP/CASAS, 1996.

VA.R. Doc. No. R04-141; Filed June 22, 2005, 10:29; a.m.

TITLE 9. ENVIRONMENT

STATE WATER CONTROL BOARD

Notice of Effective Date

Titles of Regulations: **9 VAC 25-260. Water Quality Standards - Bottom Creek (amending 9 VAC 25-260-30).**

9 VAC 25-260. Water Quality Standards - Lake Drummond (amending 9 VAC 25-260-30).

9 VAC 25-260. Water Quality Standards - Little Stony Creek (amending 9 VAC 25-260-30).

9 VAC 25-260. Water Quality Standards - Ragged Island (amending 9 VAC 25-260-30).

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

Effective Date: August 10, 2005.

On December 2, 2004, the State Water Control Board adopted revisions to the Water Quality Standards in 9 VAC 25-260-30. These revisions relate to the designation of Lake Drummond and portions of Brown Mountain Creek, Laurel Fork, North Fork of the Buffalo River, Pedlar River, Ramsey's Draft, Whitetop Laurel Creek, Bottom Creek, Little Stony Creek, and Ragged Island Creek as Exceptional State Waters. The amendments were published in the Virginia Register of Regulations as final in 21:7 VA.R. 1389-1390 February 7, 2005, with an effective date of 30 days after notice in the Virginia Register of EPA approval.

The State Water Control Board hereby notices EPA approval of these revisions to the water quality standards via a letter dated June 2, 2005, from Jon M. Capacasa, Director of the Water Protection Division, EPA Region 3 to Robert G. Burnley, Director of the Virginia Department of Environmental Quality. The effective date of these amendments is August 10, 2005. Copies are available online at <http://www.deq.virginia.gov/wqs>; by calling toll free at 1-800-592-5482 ext. 4113 or local 698-4113; by written request to Jean Gregory at P.O. Box 10009, Richmond, VA 23240; or by e-mail request to jwgregory@deq.virginia.gov.

VA.R. Doc. Nos. R03-52, R03-53, R03-54, R03-199, R03-200, R03-201, R03-202; Filed June 10, 2005, 3:57 p.m.

TITLE 11. GAMING

VIRGINIA RACING COMMISSION

REGISTRAR'S NOTICE: The Virginia Racing Commission is exempt from the Administrative Process Act pursuant to subdivision A 18 of § 2.2-4002 of the Code of Virginia (i) when acting by and through its duly appointed stewards or in matters related to any specific race meeting or (ii) in promulgating technical rules regulating actual live horse racing at race meetings licensed by the commission.

Titles of Regulations: **11 VAC 10-70. Stewards (amending 11 VAC 10-70-20, 11 VAC 10-70-30, 11 VAC 10-70-40, 11 VAC 10-70-60, 11 VAC 10-70-70, 11 VAC 10-70-80, 11 VAC 10-70-90 and 11 VAC 10-70-170; repealing 11 VAC 10-70-50).**

11 VAC 10-90. Appeals to the Commission (amending 11 VAC 10-90-10, 11 VAC 10-90-30, and 11 VAC 10-90-50).

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

Effective Date: June 17, 2005.

Agency Contact: David S. Lermond, Jr., Regulatory Coordinator, Virginia Racing Commission, 10700 Horsemen's Lane, New Kent, VA 23024, telephone (804) 966-7404, FAX (804) 966-7418 or e-mail david.lermond@vrc.virginia.gov.

Summary:

The amendments clarify the authority of the stewards appointed by the Virginia Racing Commission to enforce and interpret the commission's regulations. The definition of "participant" has been added, which provides that certain individuals associated with a horse that is entered to run in Virginia shall be considered as participants and come under the jurisdiction of the commission. Additionally, the amendments provide the authority of the commission to take disciplinary actions through stewards or at a meeting at which a quorum is present and clarify that such disciplinary actions must be determined by a preponderance of the evidence. These amendments are made to conform the regulation to Chapter 700 of the 2005 Acts of Assembly.

11 VAC 10-70-20. Appointment.

~~Three~~ *The commission shall appoint stewards, all of whom shall be employees of the commission, shall be appointed for each race meeting licensed by the commission. The commission, in its discretion, may appoint one or more stewards for the satellite facilities licensed by the commission. To qualify for appointment as a steward, the appointee shall meet the experience, education and examination requirements necessary to be accredited by the Racing Officials Accreditation Program administered by the Universities of Arizona and Louisville, or in the case of harness racing, be licensed as a judge by the United States Trotting Association.*

11 VAC 10-70-30. Senior Commonwealth Steward.

One of the ~~three~~ stewards employed by the commission for ~~each race meeting~~ shall be designated as the Senior Commonwealth Steward. The Senior Commonwealth Steward shall preside at all hearings conducted by the stewards ~~at the race meetings that do not pertain to the operation of the satellite wagering facilities. In matters pertaining to the operation of satellite facilities, a single~~ Any steward shall ~~preside at all~~ may conduct hearings pertaining to the operation of satellite wagering facilities.

11 VAC 10-70-40. General powers and authority.

~~The A~~ steward or ~~the~~ stewards for ~~each race meeting or satellite facility licensed by the commission~~ shall be responsible to the commission for ~~the conduct of the race meeting or for the operation of the satellite facilities in accordance with the Code of Virginia and the regulations of the commission. The steward or stewards,~~ shall have authority over all holders of permits, and shall have authority to resolve conflicts or disputes that are related to the conduct of racing or operation of the satellite facilities *in accordance with the Code of Virginia and the regulations of the commission.*

11 VAC 10-70-50. General powers.

~~The A~~ steward or ~~the~~ stewards shall exercise immediate supervision, control and regulation of horse racing at each race meeting ~~or and at a all satellite facility facilities~~ licensed by the commission ~~and shall be responsible to the commission.~~ The powers of the stewards shall include:

- ~~1.~~ *Reviewing the conduct of all racing officials, track management, permitted personnel, other persons responsible for the conduct of racing and simulcasting, and patrons as necessary, to ensure compliance with these regulations and the Code of Virginia;*
- ~~2.~~ Determining all questions, disputes, protests, complaints, ~~or and~~ objections concerning live horse racing ~~which arise during a race meeting or at a satellite facility and simulcast horse racing~~ and enforcing their rulings;
- ~~2- 3.~~ Taking disciplinary action against any holder of a permit ~~or participant~~ found violating federal laws, state laws, local ordinances or regulations of the commission;
- ~~3- 4.~~ Reviewing applications for permits and either granting or denying ~~the~~ permits to participate in horse racing at race meetings or satellite facilities. *Nothing in these regulations shall be construed to prohibit the granting of a permit with such conditions as the stewards may deem appropriate;*
- ~~4- 5.~~ Enforcing the regulations of the commission in all matters pertaining to horse racing ~~or and~~ satellite facilities;
- ~~5- 6.~~ Issuing rulings pertaining to the conduct of horse racing ~~or and~~ satellite facilities;
- ~~6- 7.~~ Varying any arrangement for the conduct of a race meeting including but not limited to postponing a race or races, canceling a race, or declaring a race "no contest";
- ~~7- 8.~~ Requesting assistance from other commission employees, *law-enforcement officials*, racing officials,

members of *the horse racing industry* or the licensee's security service in the investigation of possible *statutory or rule infractions violations*;

~~8- 9.~~ Conducting hearings on all questions, disputes, protests, complaints, or objections concerning racing matters ~~or and~~ satellite facilities; ~~and~~

~~9- 10.~~ Substituting another qualified person where any racing official is unable to perform his duties-;

11. Issuing subpoenas for the attendance of witnesses to appear before them, administering oaths and compelling the production of any of the books, documents, records, or memoranda of any licensee or permit holder. In addition, the stewards may issue subpoenas to compel the production of an annual balance sheet and operating statement of any licensee or permit holder and may require the production of any contract to which such person is or may be a party. The stewards may also issue subpoenas to compel production of records or other documents or relevant things and the testimony of witnesses whenever, in their judgment, it is necessary to do so for the effectual discharge of their duties;

12. Placing horses on the Stewards' List for unsatisfactory performance; and

13. Interpreting the regulations and deciding all questions of racing not specifically covered by the regulations.

11 VAC 10-70-60. Duties.

In addition to the duties necessary and pertinent to the general supervision, control and regulation of race meetings or satellite facilities, the stewards shall have the following specific duties:

1. Causing investigations to be made in all instances of possible violations of federal laws, state laws, local ordinances and regulations of the commission;
2. Being present within the enclosure at a race meeting no less than 90 minutes before post time of the first race and remaining until 15 minutes after the last race is declared "official";
3. Being present in the stewards' stand during the running of all races at race meetings;
4. Administering examinations for applicants applying for permits as trainers, jockeys, apprentice jockeys or farriers to determine the applicants' qualifications for the permits;
5. Determining the identification of horses;
6. Determining eligibility of horses for races restricted to Virginia breds;
7. Determining eligibility of a horse or person to participate in a race;
8. Supervising the taking of entries and the drawing of post positions;
9. Approving or denying requests for horses to be excused from racing;

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10. Locking the totalizator at the start of the race so that no more pari-mutuel tickets may be sold;
11. Determining alleged violations of these regulations in the running of any race through their own observation or by patrol judges and posting the "inquiry" sign ~~on the infield results board~~ when there are alleged violations;
12. Determining alleged violations of these regulations in the running of any race brought to their attention by any participant and posting the "objection" sign ~~on the infield results board~~ when there are alleged violations;
13. Causing the "official" sign to be posted ~~on the infield results board~~ after determining the official order of finish for the purposes of the pari-mutuel payout;
14. Reviewing the video tapes of the previous day's races and determining the jockeys ~~whom the stewards feel who~~ should review the films for instructional purposes;
15. Making periodic inspections of the facilities within the enclosure at race meetings, including but not limited to the stable area, paddock, and jockeys' room;
16. Reporting their findings of their periodic inspections of the facilities to the commission;
17. Filing with the commission a written daily report ~~at~~ *during* race meetings ~~which~~. *Such report* shall contain a detailed written record of all questions, disputes, protests, complaints or objections brought to the attention of the stewards, a summary of any interviews relating to these actions, copies of any rulings issued by the stewards, and any emergency actions taken and the basis for the actions;
18. Submitting to the commission after the conclusion of the race meeting a written report setting out their findings on the conduct of the race meeting, the condition of the facilities and any recommendation for improvement that they deem appropriate; and
19. ~~Observing the conduct of simulcast horse racing at satellite facilities. Imposing any of the following penalties on a licensee, participant or permit holder for a violation of these regulations:~~
 - a. Issue a reprimand;
 - b. Assess a fine;
 - c. Require forfeiture or redistribution of a purse or award;
 - d. Place a permit holder or participant on probation with or without conditions;
 - e. Suspend a permit holder or participant with or without conditions;
 - f. Revoke a permit;
 - g. Exclude from the grounds under the jurisdiction of the commission; or
 - h. Any combination of the above.

11 VAC 10-70-70. Objections and protests.

The stewards receive and hear all objections lodged by *trainers, owners, jockeys or drivers* after the completion of a

race, and all protests lodged by holders of a permit before or after the completion of a race under the following provisions:

1. The stewards shall keep a written record of all objections and protests;
2. Jockeys shall indicate their intention of lodging an objection in a manner prescribed by the stewards;
3. Drivers shall indicate their intention of lodging an objection immediately after the race by reporting to the patrol judge;
4. If the placement of the starting gate or line is in error, a protest must be made prior to the time that the first horse enters the starting gate or line;
5. Protests, other than those arising out of the running of a race, shall be in writing, clearly stating the nature of the protest, signed by the holder of a permit making the protest, and filed with the stewards at least one hour before post time of the race out of which the protest arises;
6. Protests, arising out of the running of a race, must be made to the stewards as soon as possible after the completion of the race but before the race is declared official ~~and~~. The stewards may call and examine any witness *regarding the protest*;
7. Until a final determination is made on an objection or protest and any administrative remedies and all appeals thereof are exhausted, the purse money for the race shall be retained by the horsemen's bookkeeper or licensee and paid only upon the approval of the stewards or commission; and
8. A *participant* or holder of a permit may not withdraw a protest without the permission of the stewards.

11 VAC 10-70-80. Period of authority.

The period of authority *for each steward* shall ~~commence at a period of time prior to the race meeting and shall terminate at a period of time after the end of the race meeting as designated by the commission. The period of authority for the steward or stewards at satellite facilities shall commence and terminate at a period of time designated by the~~ *be established by contractual arrangement between each steward and the commission.*

11 VAC 10-70-90. Appointment of substitute.

If any steward is absent at the time of the running of the race or is otherwise unable to perform his duties, the other ~~two~~ stewards shall agree on the appointment of a substitute to act for the absent steward. If a substitute is appointed, the commission shall be notified immediately followed by a written report, stating the name of the ~~deputy~~ *substitute* steward, the reason for his appointment, and the races over which the substitute officiated.

11 VAC 10-70-170. Orders following disciplinary actions.

Any disciplinary action taken by the steward or stewards or by the commission shall be provided in writing to the ~~holder of a permit person being disciplined~~, setting forth the federal or state law, local ordinance or regulation that was violated, the date of the violation, the factual or procedural basis of the

finding, the extent of the disciplinary action taken, and the date when the disciplinary action is to take effect. The order following disciplinary action may be hand delivered or mailed to the ~~holder of the permit person being disciplined~~, but in either case, ~~the mode of delivery shall be duly acknowledged certified by the holder of a permit sender. The sender shall use reasonable efforts to obtain acknowledgement of receipt by the recipient.~~

11 VAC 10-90-10. Generally Request for review; stay.

A holder of ~~or applicant for~~ a license or permit or a participant who wishes to contest a denial of a permit or disciplinary action of the stewards may request a review by the commission. A ~~denial of a license or permit or disciplinary action taken by the steward or stewards shall not be stayed or superseded by the filing of a request for a review unless the commission so orders. At the written request of an aggrieved party, a stay in the implementation of a disciplinary action may be granted by the executive secretary chairman of the commission or a commissioner designated by the chairman. Such request shall be acted upon within 72 hours of the delivery of the written request to the executive secretary. Any granting or denial of a stay shall be effective until the next regularly scheduled meeting of the commission at which time the granting or denial or further stay shall be decided by the commission.~~

11 VAC 10-90-30. Content of request.

The request shall state:

1. The disciplinary action ~~of or denial of a permit~~ by the steward or stewards being contested;
2. The basis for the request; and
3. Any additional information the ~~applicant for or holder of a licensee, permit holder or participant~~ may wish to include concerning the request.

11 VAC 10-90-50. Procedures for conducting a commission review.

Reviews of stewards' decisions involving the outcome of a race or riding/driving infractions shall be conducted on the record of the stewards' proceedings. Riding/driving infractions are defined as any violations of the commission's regulations while riding or driving a horse in any race.

All other reviews will be de novo.

The commission shall conduct its review within 45 days of receipt of a request for a review of a denial of a permit or a disciplinary action taken by the steward or stewards. The following provisions shall apply to reviews by the commission:

1. If any commissioner determines that he has a conflict of interest or cannot accord a fair and impartial review, that commissioner shall not take part in the review.
2. The commissioners, in their discretion, may appoint an independent hearing officer to preside at the review and prepare a ~~proposed~~ recommended written decision for their consideration. *The commission, at its discretion, may accept the recommendation in its entirety, amend it or reject it.*

3. Unless the parties otherwise agree, a notice setting the date, time and location of the review shall be sent to the ~~holder of or applicant for a permit person requesting the review and all other owners, trainers, jockeys and drivers who may be affected by the resulting decision~~ at least 10 days before the date set for the review.

a. *The written notice shall describe the charges, basis thereof and possible penalties.*

b. *The written notice shall inform each party of the right to counsel, the right to present a defense including witnesses for that purpose and the right to cross-examine any witness.*

4. The proceedings shall be open to the public.

a. The proceedings shall be electronically recorded.

b. A court reporter may be used. The court reporter shall be paid by the person who requests him. If the ~~applicant for or holder of a permit person requesting the review~~ elects to have a court reporter, a transcript shall be provided to the commission. The transcript shall become part of the commission's records.

5. The proceedings shall include the following:

a. The commission ~~or hearing officer~~ may issue subpoenas to compel the attendance of witnesses or ~~for the production of reports, books, papers, registration documents or any other materials and other relevant evidence~~ it deems appropriate. However, nothing in this section shall be taken to authorize discovery proceedings;

b. Oaths shall be administered to all witnesses;

c. The commission may examine any witnesses;

d. Written notice shall be given to the holder of or applicant for a permit in a reasonable time prior to the review;

e. The written notice shall inform the holder of a permit of the charges against him, the basis thereof and possible penalties;

f. The holder of a permit shall be informed of his right to counsel, the right to present a defense including witnesses for that purpose, and the right to cross-examine any witnesses; *and*

g. The commission may grant a continuance of any review for good cause; ~~and.~~

~~h. A record of the proceedings shall be made.~~

6. ~~The Review proceeding is a hearing proceedings regarding riding or driving infractions shall be~~ on the record of the stewards hearing and not a new hearing; therefore, presentations by both sides will be limited to arguments and comments regarding the record of the stewards hearing.

7. *In conducting a review of rulings of the stewards regarding riding or driving infractions, the commission, in its discretion, may allow new evidence to be introduced which, through the exercise of reasonable diligence, could not have been ~~found~~ obtained at the time of the stewards*

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hearing. *If the commission determines additional evidence to be introduced may affect the outcome of the case, the commission, in its discretion, may remand the case to the stewards for further review. The stewards shall consider such additional evidence as directed by the commission and, if necessary, in the stewards' discretion, will conduct a new, additional or supplemental hearing. The stewards shall then issue a new decision and order subject to commission review as herein provided.*

VA.R. Doc. No. R05-228; Filed June 17, 2005, 11:46 a.m.

TITLE 12. HEALTH

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

REGISTRAR'S NOTICE: The Department of Medical Assistance Services is claiming an exclusion from the Administrative Process Act in accordance with § 2.2-4006 A 4 (a) of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law where no agency discretion is involved. The Department of Medical Assistance Services will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 12 VAC 30-50. Amount, Duration, and Scope of Medical and Remedial Care Services (amending 12 VAC 30-50-300 and 12 VAC 30-50-530).

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

Effective Date: August 10, 2005.

Agency Contact: Bob Knox, Project Manager, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-8854, FAX (804) 786-1680 or e-mail robert.knox@dmas.virginia.gov.

Summary:

The regulatory action proposes to cover Medicaid transportation as a medical service, as permitted by federal regulations, instead of as an administrative expense. DMAS is submitting a § 1915(b) waiver to the Centers for Medicare and Medicaid Services as part of this change. The approved waiver will allow DMAS to continue to utilize a transportation broker for meeting the nonemergency transportation needs of recipients. Nonemergency transportation includes but is not limited to, nonemergency air travel, nonemergency ground ambulance, wheelchair vans, common user bus (intra-city and inter-city), volunteer drivers, and taxicabs. This change will permit DMAS more effective financial management of nonemergency transportation.

12 VAC 30-50-300. Any other medical care and any other type of remedial care recognized under state law, specified by the Secretary of Health and Human Services.

A. Emergency transportation services shall be provided to Virginia Medicaid recipients to ensure that they have necessary access to and from providers of all emergency medical services. Emergency transport services shall be covered; *and* nonemergency transport services shall be covered as ~~an administrative expense~~ *medical services*. The single state agency may enter into contracts with friends of recipients, public agencies, nonprofit private agencies, for-profit private agencies, and public carriers to provide transportation to Medicaid recipients.

B. Services of Christian Science nurses are not provided.

C. Care and services provided in Christian Science sanatoria are provided with no limitations.

D. Skilled nursing facility services for patients under 21 years of age are provided with no limitations.

E. Emergency hospital services are provided with no limitations.

F. Personal care services in recipient's home, prescribed in accordance with a plan of treatment and provided by a qualified person under supervision of a registered nurse are not provided.

12 VAC 30-50-530. Methods of providing transportation.

DMAS will ensure necessary transportation for recipients to and from providers of covered medical services. DMAS shall cover transportation to covered medical services under the following circumstances:

1. Emergency air ~~and ground~~, ambulance transportation ~~shall be covered as a medical service under applicable federal Medicaid regulations, and 2--~~all other modes of transportation shall be covered as ~~administrative expenses~~ *medical services* under 42 CFR 431.53 and any other applicable federal Medicaid regulations. These modes include, but shall not be limited to, nonemergency air travel, nonemergency ground ambulance, stretcher vans, wheelchair vans, common user bus (intra-city and inter-city), volunteer/registered drivers, and taxicabs. DMAS may contract directly with providers of transportation or with brokers of transportation services, or both. DMAS may require that brokers not have a financial interest in transportation providers with whom they contract.

~~2.~~ 2. Medicaid provided transportation shall only be available when recipients have no other means of transportation available.

~~3.~~ 3. Recipients shall be furnished transportation services that are the most economical to adequately meet the recipients' medical needs.

~~4.~~ 4. Ambulances, wheelchair vans, taxicabs, and other modes of transportation must be licensed to provide services in the Commonwealth by the appropriate state or local licensing agency, or both. Volunteer/registered drivers must be licensed to operate a motor vehicle in the Commonwealth and must maintain automobile insurance.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF COUNSELING

Title of Regulation: 18 VAC 115-15. Delegation of Informal Fact-Finding to an Agency Subordinate (adding 18 VAC 115-15-10 through 18 VAC 115-15-30).

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

Effective Date: August 10, 2005.

Agency Contact: Evelyn B. Brown, Executive Director, Board of Counseling, Alcoa Building, 6603 West Broad Street, 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9912, FAX (804) 662-9943, or e-mail evelyn.brown@dhp.virginia.gov.

Summary:

The regulation establishes the criteria for delegation, including the decision to delegate at the time of a probable cause determination, the types of cases that cannot be delegated, and the individuals who may be designated as agency subordinates.

Summary of Public Comments and Agency's Response: No public comments were received by the promulgating agency.

CHAPTER 15.
DELEGATION OF INFORMAL FACT-FINDING TO AN AGENCY SUBORDINATE.

18 VAC 115-15-10. Decision to delegate.

In accordance with § 54.1-2400 (10) of the Code of Virginia, the board may delegate an informal fact-finding proceeding to an agency subordinate upon determination that probable cause exists that a practitioner may be subject to a disciplinary action.

18 VAC 115-15-20. Criteria for delegation.

Cases that may not be delegated to an agency subordinate include violations of standards of practice as set forth in regulations governing each profession certified or licensed by the board, except as may otherwise be determined by the probable cause committee in consultation with the board chair.

18 VAC 115-15-30. Criteria for an agency subordinate.

A. An agency subordinate authorized by the board to conduct an informal fact-finding proceeding may include board members and professional staff or other persons deemed knowledgeable by virtue of their training and experience in administrative proceedings involving the regulation and discipline of health professionals.

B. The executive director shall maintain a list of appropriately qualified persons to whom an informal fact-finding proceeding may be delegated.

C. The board may delegate to the executive director the selection of the agency subordinate who is deemed appropriately qualified to conduct a proceeding based on the qualifications of the subordinate and the type of case being heard.

TITLE 24. TRANSPORTATION AND MOTOR VEHICLES

COMMONWEALTH TRANSPORTATION BOARD

REGISTRAR'S NOTICE: The Commonwealth Transportation Board is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4006 A 1, which excludes agency orders or regulations fixing rates or prices and § 2.2-4006 A 2, which excludes regulations that establish or prescribe agency organization, internal practice or procedures, including delegations of authority. The Commonwealth Transportation Board will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 24 VAC 30-620. Rules, Regulations and Rates Concerning Toll and Bridge Facilities (amending 24 VAC 30-620-30).

Statutory Authority: §§ 2.2-604, 33.1-8, 33.1-12 and 33.1-252 of the Code of Virginia.

Effective Date: August 20, 2005.

Agency Contact: Deborah E. Brown, Division Administrator, Innovative Finance and Revenue Operations Division, Department of Transportation, Washington Building, 1100 Bank Street, Richmond, VA 23219, telephone (804) 786-9847 or e-mail deborah.brown@vdot.virginia.gov.

Summary:

The amendments increase the toll rate schedule for this facility to provide a level of tolls adequate to cover ordinary maintenance and operations and to make payments of debt service obligations and deposits into a maintenance and replacement fund without using other sources of state moneys.

24 VAC 30-620-30. Rates and delegation of authority to suspend toll collection.

A. The Commonwealth Transportation Commissioner delegates the authority to suspend toll collection operations on the Dulles Toll Road to the Dulles Toll Road's Toll Facilities Administrative Director, subject to consultation with the Northern Virginia District Administrator and to the conditions and criteria outlined in 24 VAC 30-620-20 A and B. At his discretion, the Dulles Toll Road's Toll Facilities Administrative

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Director may delegate this authority to others within the toll facility's organization. This delegation of authority includes establishing policies and procedures specific to the toll facility governing the investigation and decision-making processes associated with the possible suspension of toll collections. These policies and procedures shall become part of the toll facility's operating plan.

B. The following are the toll rate schedules for the Dulles Toll Road.

DULLES TOLL ROAD RATE STRUCTURE		
VEHICLE CLASS	MAIN PLAZA	ALL RAMPS
Two axles ¹	\$0.75	\$0.50
Three axles ²	\$1.00	\$0.75
Four axles	\$1.25	\$1.00
Five axles	\$1.50	\$1.25
Six axles or more	\$1.75	\$1.50

¹Includes passenger cars, motorcycles, motorcycles equipped with a sidecar, towing a trailer or equipped with a sidecar and towing a trailer, and 2-axle trucks (4 and 6 tires).

²Includes trucks, buses, and passenger cars with trailers.

C. The Commonwealth Transportation Commissioner delegates the authority to suspend toll collection operations on the Powhite Parkway Extension Toll Road to the Richmond Toll Facilities' Toll Facilities Administrative Director, subject to consultation with the Richmond District Administrator and to the conditions and criteria outlined in 24 VAC 30-620-20 A and B. At his discretion, the Richmond Toll Facilities' Toll Facilities Administrative Director may delegate this authority to others within the toll facility's organization. This delegation of authority includes establishing policies and procedures specific to the toll facility governing the investigation and decision-making processes associated with the possible suspension of toll collections. These policies and procedures shall become part of the toll facility's operating plan.

D. The following are the toll rate schedules for the Powhite Parkway Extension Toll Road.

POWHITE PARKWAY EXTENSION TOLL ROAD MAXIMUM RATE STRUCTURE				
VEHICLE CLASS	MAIN LINE PLAZA	MAIN LINE PLAZA - EAST & WEST RAMP	RAMP - ROUTE 60	RAMP - COURTHOUSE ROAD
Two axle vehicles ¹	\$0.75	\$0.25	\$0.25	\$0.50
Three axle vehicles	\$1.00	\$0.35	\$0.35	\$0.60
Four axle vehicles	\$1.25	\$0.45	\$0.45	\$0.70
Five axle vehicles	\$1.50	\$0.55	\$0.55	\$0.80
Six axle vehicles	\$1.50	\$0.55	\$0.55	\$0.80

¹Includes passenger cars, motorcycles, motorcycles equipped with a sidecar, towing a trailer or equipped with a sidecar and towing a trailer, and 2-axle trucks (4 and 6 tires).

E. The Commonwealth Transportation Commissioner delegates the authority to suspend toll collection operations on the George P. Coleman Bridge to the George P. Coleman Bridge Facility's Toll Facilities Administrative Director, subject to consultation with the Hampton Roads District Administrator and to the conditions and criteria outlined in 24 VAC 30-620-20 A and B. At his discretion, the George P. Coleman Bridge Facility's Toll Facilities Administrative Director may delegate this authority to others within the toll facility's organization. This delegation of authority includes establishing policies and procedures specific to the toll facility governing the investigation and decision-making processes associated with the possible suspension of toll collections. These policies and procedures shall become part of the toll facility's operating plan.

F. The following are the toll rate schedules for the George P. Coleman Bridge.

GEORGE P. COLEMAN BRIDGE TOLL RATE STRUCTURE	
VEHICLE CLASS ¹	ONE-WAY RATE
Motorcycles ²	\$0.50
Commuter cars, vans, pick-ups	\$0.50
Commuter commercial vans/ trucks	\$0.50
Cars, vans, pick-ups	\$2.00
Two axle, six tire trucks and buses	\$2.00
Three axle vehicles and buses	\$3.00
Four or more axle vehicles	\$4.00

GEORGE P. COLEMAN BRIDGE TOLL RATE STRUCTURE	
VEHICLE CLASS ¹	ONE-WAY RATE
Motorcycles, pedestrians and bicyclists ²	\$0.85
Commuter ETC cars, vans, pick-ups	\$0.85
Commuter ETC two-axle commercial vans/trucks	\$0.85
Cars, vans, pick-ups	\$2.00
Two-axle, six-tire trucks and buses	\$2.00
Three-axle vehicles and buses	\$3.00
Four or more-axle vehicles	\$4.00

¹Commuter toll rates will be available only via the Smart Tag/E-Pass electronic toll collection (ETC) system to two-axle vehicles making three round-trip crossings within a 90-day period on the George P. Coleman Bridge.

²Includes motorcycles equipped with a sidecar, towing a trailer, or equipped with a sidecar and towing a trailer. Motorcyclists requesting this rate must use the manual toll collection lanes because the ~~AVI~~ Automatic Vehicle Identification system cannot accommodate the ~~\$0.50~~ \$0.85 rate.

VA.R. Doc. No. R05-229; Filed June 21, 2005, 1:11 p.m.

FAST-TRACK REGULATIONS

Section 2.2-4012.1 of the Code of Virginia provides an exemption from certain provisions of the Administrative Process Act for agency regulations deemed by the Governor to be noncontroversial. To use this process, Governor's concurrence is required and advance notice must be provided to certain legislative committees. Fast-track regulations will become effective on the date noted in the regulatory action if no objections to using the process are filed in accordance with § 2.2-4012.1.

TITLE 8. EDUCATION

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

Title of Regulation: 8 VAC 40-20. Regulations for the Senior Citizen Higher Education Program (amending 8 VAC 40-20-20 and 8 VAC 40-20-30).

Statutory Authority: § 23-38.56 of the Code of Virginia.

Public Hearing Date: N/A -- Public comments may be submitted until September 12, 2005.

(See Calendar of Events section for additional information)

Effective Date: September 28, 2005.

Agency Contact: Rick Patterson, Regulatory Coordinator, State Council of Higher Education for Virginia, 101 North 14th Street, Richmond, VA 23219, telephone (804) 225-2609, FAX (804) 225-2604, or e-mail rick.patterson@schev.edu.

Basis: These amendments to the regulations are promulgated under the authority granted under § 23-38.56 of the Code of Virginia to control the procedure for administering the Senior Citizen Higher Education Program.

Purpose: 8 VAC 40-20-20: The General Assembly raised the maximum level of income for senior citizens to receive tuition-free education from \$10,000 to \$15,000. This change to § 23-38.56 of the Code of Virginia necessitated a change to the regulation to reflect the new figure. The language allowing senior citizens of any income level to audit a course given for academic credit, as well as noncredit courses, is amended to reflect the language change in § 23-38.56 as well. This makes the pursuit of a degree accessible to those in a lower income bracket while not denying all senior citizens the opportunity to take classes. This encourages education throughout one's lifetime and encourages senior citizens to stay active and engaged as citizens.

The addition of the statement that senior citizens are not exempt from attendance and course assignment requirements makes clear that senior citizens are to be treated as any other student with respect to the classroom environment. This is to make clear that while senior citizens may be eligible to be exempt from tuition, they are still students with the responsibilities inherent with the position.

8 VAC 40-20-30: The change to using a state income tax form as the acceptable form to prove income is a technical change. Section 23-38.56 of the Code of Virginia was altered to say, "a taxable individual income not exceeding \$15,000 for Virginia income tax purposes," would be considered for eligibility. A state income tax form would contain the necessary information about the level of Virginia taxable income and would be more appropriate than the federal income tax form that was previously given as an example.

Substance: 8 VAC 40-20-20: The amendment eliminates the figure of \$10,000 and replaces it with, "\$15,000." After "the individual may take a course for academic credit" added "free of tuition or fees, except for fees established for the purpose of paying for course materials, such as laboratory fees." Eliminates, "If the person's taxable income exceeded \$10,000, the individual may only audit the course for free." After "A senior citizen, regardless of income level," adds the phrase, "audit a course that is given for academic credit or." The remainder of the sentence was modified to say, "take a noncredit course free of tuition or fees, except for fees established for the purpose of paying for course materials, such as laboratory fees." These amendments are required in order to conform the regulations to the Code of Virginia.

Under the second condition, 2., eliminated, "unless the senior citizen has completed 75% of the degree requirements necessary for the degree. At such time in the senior citizen's program, the senior citizen can enroll in courses at the same time as other tuition paying students." Added, "State institutions of higher education may make individual exceptions to this procedure when the senior citizen has completed 75% of the requirements for the degree." This change was made to make the regulation language more closely reflect the language of § 23-38.56 of the Code of Virginia.

The following paragraph is added to the end of the section, "Nothing in this regulation exempts a senior citizen enrolled in a course from the requirements for attendance and completion of course assignments." This amendment is needed to clarify what eligibility requirements are in place for senior citizens.

8 VAC 40-20-30: The amendment eliminates "an IRS 1040 form" and replaces it with, "a state income tax form." This amendment is required in order to conform the regulations to § 23-38.56 of the Code of Virginia.

Issues: The amendments to the regulations provide no disadvantages to the public, private citizens, or regulated community. Conformity to the Code of Virginia and clarification of the provisions is viewed as a net advantage to each of the affected sectors as the regulations are brought into conformity with the Code of Virginia.

Rationale for Using Fast-Track Process: These changes are expected to be noncontroversial in nature as they reflect changes in the Code of Virginia that require amendments to the regulations.

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

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employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the proposed regulation. The State Council of Higher Education for Virginia (SCHEV) proposes to amend these regulations to match language in the Code of Virginia (§ 23-38.54 to § 23-38.60). Specifically, the new regulations: (i) increase the maximum income that a senior citizen may have in order to qualify for free tuition, from federal taxable income of not more than \$10,000 to Virginia taxable individual income not exceeding \$15,000; (ii) make clear that the free tuition does not include fees established for the purpose of paying for course materials, such as laboratory fees; and (iii) provide state institutions of higher learning the option of whether to allow program participants who have completed 75% of degree requirements to enroll in courses at the same time as tuition-paying students.

Estimated economic impact. The Senior Citizen Higher Education Program allows senior citizens to take college courses without paying tuition or required fees, except for course materials, under certain conditions. Under the current regulations, a senior citizen may take a course for academic credit for free if in the preceding year he had a federal taxable income of not more than \$10,000. This was consistent with the Code of Virginia (Code) prior to the enactment of Chapter 521 of the 2002 Acts of Assembly. Since 2002, the Code has permitted a senior citizen to take a course for academic credit for free if he had a taxable individual income not exceeding \$15,000 for Virginia income tax purposes in the year preceding year. SCHEV informed the Commonwealth's public colleges and universities about the 2002 Code change during that year, and made clear that the \$15,000 for Virginia income tax purposes figure applied rather than the federal taxable income of not more than \$10,000 figure that remained in the regulations.¹ In order to be consistent with the current Code, SCHEV proposes to amend these regulations to state that a senior citizen may take a course for academic credit for free if he had a taxable individual income not exceeding \$15,000 for Virginia income tax purposes in the preceding year.

SCHEV has only recently asked public colleges and universities to report their number of Senior Citizen Higher Education Program participants. The schools reported that there were 1,007 participants in Fiscal Year 2004. SCHEV has no data for prior years. Thus we do not have an indication of to what degree the increase in the maximum taxable income had on program participation. In any case, the proposed change in the regulatory language will have no impact since the figure in the Code overrode the figure in the regulations, and the 2002 Code change was made known that year.

Unlike the Code, the current regulations do not specify that the free tuition under the Senior Citizen Higher Education Program does not include fees established for the purpose of paying for course materials, such as laboratory fees. SCHEV proposes to add this language to match the Code for

clarification. This may prevent some initial confusion, but will not affect fee charges.

The current regulations state that the program participant has the right to enroll in courses at the same time as tuition-paying students if he has completed 75% of degree requirements. This language does not leave it to the institution's discretion. The Code leaves it to the institution to decide whether a program participant who has completed 75% of degree requirements can enroll in courses at the same time as other tuition-paying students. SCHEV proposes to amend the regulations to match the Code so that institutions have the choice as to whether a program participant who has completed 75% of degree requirements can enroll in courses at the same time as tuition-paying students. As far as SCHEV knows, the Commonwealth's colleges and universities have been aware that they have had this discretion as indicated in the Code, but not in the current regulations.² As long as no institution mistakenly thought it had to allow program participants who have completed 75% of degree requirements to enroll at the same time as tuition-paying students and would not have had done so if it knew that doing so was optional, this proposed amendment to the regulations will have no effect.

Businesses and entities affected. The proposed amendments affect the 15 public four-year colleges and universities in the Commonwealth, as well as their staff and students.

Localities particularly affected. The proposed amendments particularly affect the localities that possess the 15 public four-year colleges and universities in the Commonwealth.

Projected impact on employment. The proposed amendments will not affect employment.

Effects on the use and value of private property. The proposed amendments will not affect the use and value of private property.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The State Council of Higher Education for Virginia concurs with the EIA.

Summary:

The eligibility section of the regulation, 8 VAC 40-20-20, has been amended to reflect changes in § 23-38.56 of the Code of Virginia that increase the income cap on senior citizens eligible for the program and allow senior citizens of any income level to audit any class for academic credit. A paragraph was added to clarify that a senior citizen enrolled under these provisions is expected to meet attendance and course requirements. A change was made to 8 VAC 40-20-30 stating that a state tax form would now be allowed as a proof of income eligibility. This change was made based on a change in § 23-38.56 of the Code of Virginia stating that Virginia taxable income would govern the eligibility.

8 VAC 40-20-20. Eligibility.

A senior citizen may take courses without paying tuition or required fees, except for course materials, under certain conditions. If the senior citizen ~~had a federal~~ has taxable

¹ Source: SCHEV

² Ibid

income of not more than ~~\$10,000~~ \$15,000 in the preceding year, the individual may take a course for academic credit *free of tuition or fees, except for fees established for the purpose of paying for course materials, such as laboratory fees.* ~~If the person's taxable income exceeded \$10,000, the individual may only audit the course for free.~~ A senior citizen, regardless of income level, may *audit a course that is given for academic credit or take a noncredit course for free of tuition or fees, except for fees established for the purpose of paying for course materials, such as laboratory fees.*

No limit is placed on the number of terms, quarters or semesters in which a senior citizen who is not enrolled for academic credit may register for courses, but the individual can take no more than three noncredit courses in any one term, quarter or semester. There will be no restriction on the number of courses that may be taken for credit in any term, semester or quarter, or on the number of terms, semesters or quarters in which an eligible senior citizen may take courses for credit.

The two additional conditions listed below shall be met before a senior citizen may take a course under the provisions of this program:

1. The senior citizen shall meet the appropriate admission requirements of the institution in which the student plans to enroll, and
2. The senior citizen may be admitted to a course only on a space-available basis after all tuition-paying students have been accommodated, ~~unless the senior citizen has completed 75% of the degree requirements necessary for a degree. At such time in the senior citizen's program, the senior citizen can enroll in courses at the same time as other tuition-paying students. State institutions of higher education may make individual exceptions to this procedure when the senior citizen has completed 75% of the requirements for the degree.~~

An institution has no special obligation to offer courses specifically to meet the needs of senior citizens or to continue to provide a particular course for a senior citizen who has registered for the course if the regular enrollment in the course is not adequate to justify the offering.

Nothing in this regulation exempts a senior citizen enrolled in a course from the requirements for attendance and completion of course assignments.

8 VAC 40-20-30. Application.

A senior citizen who wishes to take courses under the provisions of the Senior Citizens Higher Education Act shall complete an application at the institution in which the person plans to enroll. The institution shall determine all aspects of the ~~persons's~~ person's eligibility. The application process shall include a determination of income eligibility (review of an ~~IRS 1040 form~~ *state income tax form*, for example), if the individual makes application to take courses for academic credit.

VA.R. Doc. No. R05-239; Filed June 22, 2005, 10:55 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 85-20-280).

Statutory Authority: §§ 54.1-2400 and 54.1-2910.1 of the Code of Virginia.

Public Hearing Date: July 14, 2005 - 8:15 a.m.

Public comments may be submitted until September 9, 2005.

(See Calendar of Events section for additional information)

Effective Date: September 26, 2005.

Agency Contact: William L. Harp, M.D., Executive Director, Board of Medicine, 6603 West Broad Street, 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, or e-mail william.harp@dhp.virginia.gov.

Basis: Section 54.1-2400 of the Code of Virginia provides the Board of Medicine the authority to promulgate regulations to administer the regulatory system.

Section 54.1-2910.1 of the Code of Virginia requires doctors to report certain information and requires the board to promulgate regulations to implement this section.

Purpose: The purpose of the action is to ensure that the regulation is inclusive of all reporting elements required by statute, including reports of suspension or revocation of privileges or the termination of employment. While the Code of Virginia currently requires such reporting, the time limit of 30 days for reporting is found in 18 VAC 85-20-280. Without the time period specified in regulation, there is no standard by which a practitioner could be held accountable for failure to report. By amending the regulations to include the reporting of disciplinary actions by a health care entity or organization, patients seeking information on doctors are better protected by having access to pertinent information about disciplinary actions or loss of privileges in a timelier manner.

Rationale for Using Fast-Track Process: The fast-track process is being used to promulgate the amendment because it is not a new requirement or obligation for licensees; it is already required in statute. Practitioners are already informed that they must report such disciplinary actions resulting in suspension, revocation or termination of employment. Therefore, the board believes the change is mostly clarifying and reflective of current practice.

Substance: The proposed fast-track action amends 18 VAC 85-20-280 by adding the requirement for reporting of any final disciplinary or other action required to be reported to the board by health care institutions, other practitioners, insurance companies, health maintenance organizations, and professional organizations pursuant to §§ 54.1-2400.6, 54.1-2908, and 54.1-2909 that results in a suspension or revocation of privileges or the termination of employment.

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Issues: There are no disadvantages to the public of this amendment; there are certainly advantages to the public in having requirements for reporting disciplinary actions, loss of privileges or dismissal from employment reported on the profile in a timely manner. Many citizens use the profile to review the practice history of a physician prior to seeing that practitioner or use the information to select a practitioner for care.

There are no disadvantages to the agency or the Commonwealth; the proposed regulation will clarify profiling regulations for consistency with the statute.

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 54.1-2910.1 (10) of the Code of Virginia includes a requirement for the practitioner to report any final disciplinary action taken by institutions or entities, which results in suspension or revocation of privileges or termination of employment. The Board of Medicine (board) proposes to incorporate this requirement into these regulations.

Estimated economic impact. The regulations state that "In compliance with requirements of § 54.1-2910.1 of the Code of Virginia, a doctor of medicine, osteopathic medicine, or podiatry licensed by the board shall provide, upon initial request or whenever there is a change in the information that has been entered on the profile, the following information within 30 days: ..." The current regulations list 12 types of information that must be reported by practitioners within 30 days. The board proposes to add the following as a type of information that must be reported within 30 days: "Any final disciplinary or other action required to be reported to the board by health care institutions, other practitioners, insurance companies, health maintenance organizations, and professional organizations pursuant to §§ 54.1-2400.6, 54.1-2908, and 54.1-2909 that results in a suspension or revocation of privileges or the termination of employment."

Section 54.1-2910.1 (10) of the Code of Virginia already requires the above, but does not specify a timeframe within which the information must be reported. The proposed amendment specifies that the information must be reported within 30 days.

The Department of Health Professions (department) conducts random audits comparing information on Virginia licensed physicians and podiatrists in the National Practitioner Database (maintained by the federal government) with

physicians and podiatrists' self-reported information on the department's publicly accessible practitioner information website. If discrepancies are found, the practitioner is asked to submit the correct information. (The National Practitioner Database is legally nonpublic information.) If the practitioner does not comply within 60 days, the board asks the practitioner to sign a confidential consent agreement stating that he will post the accurate information within a set number of days (typically 30 days after the date of the consent agreement). The 60 days (rather than the 30 specified in the regulations) was determined by a board vote.¹ If the practitioner does not sign a consent agreement or does not comply within the number of days specified in the consent agreement, then a public informal conference is held and the failure to comply is reported to the National Practitioner Database.

The board has been treating the information that is proposed to be added to the regulations as if it were in the regulations; i.e., the procedures described above have been followed, just like the 12 information areas already listed in the regulations.² No one has challenged this.³ Thus in practice, adding the proposed language will have little or no impact.

Since the Code of Virginia requires that this information be reported and does not mention a timeframe, it can be argued that the practitioner is in violation if he does not report the information immediately. By treating the information in question as if it were already in the regulations, the board has been essentially less restrictive than it could have been.

Businesses and entities affected. The proposed amendments potentially affect the 28,535 persons licensed as doctors of medicine and surgery, the 1,103 persons licensed as doctors of osteopathy and surgery, the 474 persons licensed as podiatrists, their employers and potential employers, and their patients and potential patients.

Localities particularly affected. The proposed regulations do not disproportionately affect certain Virginia localities more than others.

Projected impact on employment. The proposed amendments will not significantly affect employment levels.

Effects on the use and value of private property. The proposed amendments will not significantly affect the use and value of private property.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Board of Medicine concurs with the analysis of the Department of Planning and Budget for amendments to 18 VAC 85-20 for a fast-track change in the regulations for the physician profile.

Summary:

The amendments incorporate the requirement for the practitioner to report any final disciplinary action taken by institutions or entities that results in suspension or revocation of privileges or termination of employment.

¹ Source: Department of Health Professions

² Ibid

³ Ibid

18 VAC 85-20-280. Required information.

A. In compliance with requirements of § 54.1-2910.1 of the Code of Virginia, a doctor of medicine, osteopathic medicine, or podiatry licensed by the board shall provide, upon initial request or whenever there is a change in the information that has been entered on the profile, the following information within 30 days:

1. The address and telephone number of the primary practice setting and all secondary practice settings with the percentage of time spent at each location;
2. Names of medical, osteopathic or podiatry schools and graduate medical or podiatric education programs attended with dates of graduation or completion of training;
3. Names and dates of specialty board certification, if any, as approved by the American Board of Medical Specialties, the Bureau of Osteopathic Specialists of the American Osteopathic Association or the Council on Podiatric Medical Education of the American Podiatric Medical Association;
4. Number of years in active, clinical practice in the United States or Canada following completion of medical or podiatric training and the number of years, if any, in active, clinical practice outside the United States or Canada;
5. The specialty, if any, in which the physician or podiatrist practices;
6. Names of hospitals with which the physician or podiatrist is affiliated;
7. Appointments within the past 10 years to medical or podiatry school faculties with the years of service and academic rank;
8. Publications, not to exceed 10 in number, in peer-reviewed literature within the most recent five-year period;
9. Whether there is access to translating services for non-English speaking patients at the primary and secondary practice settings and which, if any, foreign languages are spoken in the practice;
10. Whether the physician or podiatrist participates in the Virginia Medicaid Program and whether he is accepting new Medicaid patients;
11. A report on felony convictions including the date of the conviction, the nature of the conviction, the jurisdiction in which the conviction occurred, and the sentence imposed, if any; ~~and~~
12. Final orders of any regulatory board of another jurisdiction that result in the denial, probation, revocation, suspension, or restriction of any license or that results in the reprimand or censure of any license or the voluntary surrender of a license while under investigation in a state other than Virginia while under investigation, as well as any disciplinary action taken by a federal health institution or federal agency; *and*
13. *Any final disciplinary or other action required to be reported to the board by health care institutions, other practitioners, insurance companies, health maintenance organizations, and professional organizations pursuant to*

§§ 54.1-2400.6, 54.1-2908, and 54.1-2909 that results in a suspension or revocation of privileges or the termination of employment.

B. Adjudicated notices and final orders or decision documents, subject to s 54.1-2400.2 F of the Code of Virginia, shall be made available on the profile. Information shall be posted indicating the availability of unadjudicated notices and of orders that have not yet become final.

C. For the sole purpose of expediting dissemination of information about a public health emergency, an email address or facsimile number shall be provided, if available. Such addresses or numbers shall not be published on the profile and shall not be released or made available for any other purpose.

VA.R. Doc. No. R05-226; Filed June 17, 2005, 8:39 a.m.

FORMS

TITLE 4. CONSERVATION AND NATURAL RESOURCES

DEPARTMENT OF MINES, MINERALS AND ENERGY

EDITOR'S NOTICE: The following forms have been filed by the Department of Mines, Minerals and Energy. The forms are available for public inspection at the Department of Mines, Minerals and Energy, 202 North Ninth Street, Richmond, Virginia 23219, at the department's Big Stone Gap office, 3405 Mountain Empire Road, Big Stone Gap, VA 24219, or the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia 23219. Copies of the forms may be obtained from Stephen A. Walz, Department of Mines, Minerals and Energy, 202 North Ninth Street, Richmond, Virginia 23219, telephone (804) 692-3200.

Title of Regulation: **4 VAC 25-130. Coal Surface Mining Reclamation Regulations.**

FORMS

Anniversary Notification, DMLR-PT-028 (eff. 9/99).

Change Order Justification, DMLR-AML-065 (eff. 8/99).

Ground Water Monitoring Report, DMLR-PT-101 (rev. 11/99).

Application for Exemption Determination (Extraction of Coal Incidental to the Extraction Of Other Minerals), DMLR-211 (rev. 4/96).

Applicant Violator System (AVS) Ownership Control Information, DMLR-AML-003 (rev. 1/95).

Consent for Right of Entry-Exploratory, DMLR-AML-122 (rev. 3/98).

Consent for Right of Entry-Construction, DMLR-AML-123 (rev. 3/98).

Consent for Right of Entry-Construction Lien Waiver, DMLR-AML-174 (rev. 3/91).

License for Performance--Acid Mine Drainage Investigations and Monitoring (Abandoned Mine Land Program), DMLR-AML-175c (11/96).

License for Performance--Acid Mine Drainage Reclamation and Construction (Abandoned Mine Land Program), DMLR-AML-176c, (rev. 12/96).

Consent for Right of Entry-Ingress/Egress, DMLR-AML-177 (rev. 3/98).

Application for Recertification: DMLR Endorsement/Blaster's Certification, DMLR-BCME-03 (rev. ~~6/95~~ 5/05).

Application for DMLR Endorsement: Blaster's Certification (Coal Surface Mining Operation), DMLR-BCME-04 (rev. ~~6/95~~ 5/05).

Geology and Hydrology Information Part A through E, DMLR-CP-186 (rev. 3/86).

Sediment and Pond Design Data Sheet, DMLR-CP-187 (rev. 12/85).

Notice of Temporary Cessation, DMLR-ENF-220 (rev. 2/96).

Application for Small Operator's Assistance, DMLR-OA-106 (rev. 12/85).

Lands Unsuitable Petition, DMLR-OA-131 (rev. 12/85).

Application for Permit for Coal Exploration and Reclamation Operations (which Remove More Than 250 Tons) and NPDES, DMLR-PS-062 (rev. 12/85).

Chapter 19-Statement for Third Party-Certificate of Deposit, DMLR-PS-093 (rev. 12/85).

Cognovit Note, Part I and II, DMLR-PS-095 (rev. 12/85).

Application-Coal Surface Mining Reclamation Fund, DMLR-PS-162 (rev. 7/89).

Application for Release of Bond-Estimated Cost, DMLR-PS-212 (rev. 3/88).

Application for Release of Bond-Reclamation Fund, DMLR-PS-213 (rev. 3/88).

Example-Waiver (300 Feet from Dwelling), DMLR-PT-223 (rev. 2/96).

Analysis, Premining vs Postmining Productivity Comparison (Hayland/Pasture Land Use), DMLR-PT-012 (eff. 8/03).

Surety Bond, DMLR-PT-013 (rev. 9/04).

Surety Bond-Federal Lands, DMLR-PT-013A (rev. 10/95).

Surety Bond Rider, DMLR-PT-013B (rev. 9/04).

Map Legend, DMLR-PT-017 (rev. ~~4/00~~ 2/05).

Certificate of Deposit Example, DMLR-PT-026 (rev. 9/04).

Form Letter From Banks Issuing a CD for Mining on Federal Lands, DMLR-PT-026A (rev. 8/03).

Operator's Seeding Report, DMLR-PT-011 (rev. 4/96).

Request for Relinquishment, DMLR-PT-027 (rev. 4/96).

Water Supply Inventory List, DMLR-PT-030 (rev. 4/96).

Application for Permit for Coal Surface Mining and Reclamation Operations and National Pollutant Discharge Elimination Systems (NPDES), DMLR-PT-034 (rev. 2/99).

Application for Permit: Coal Surface Mining and Reclamation Operations, DMLR-PT-034D (rev. 8/98).

Coal Exploration Notice, DMLR-PT-051 (rev. 11/98).

Well Construction Data Sheet, DMLR-WCD-034D (rev. 5/04).

Sediment Basin Design Data Sheet, DMLR-PT-086 (rev. 10/95).

Impoundment Construction and Annual Certification, DMLR-PT-092 (rev. 10/95).

Road Construction Certification, DMLR-PT-098 (rev. 10/95).

Ground Water Monitoring Report, DMLR-PT-101 (rev. 2/95).

- Rainfall Monitoring Report, DMLR-PT-102 (rev. 8/98).
- Pre-Blast Survey, DMLR-PT-104 (rev. 10/95).
- Excess Spoil Fills and Refuse Embankments Construction Certification, DMLR-PT-105 (rev. 4/96).
- Stage-Area Storage Computations, DMLR-PT-111 (rev. 10/95).
- NPDES Discharge Monitoring Report, DMLR-PT-119 (rev. 2/95).
- Water Monitoring Report-Electronic File/Printout Certification, DMLR-PT-119C (rev. 5/95; included in DMLR-PT-119).
- Coal Surface Mining Reclamation Fund Application, DMLR-PT-162 (rev. 4/96).
- Conditions-Coal Surface Mining Reclamation Fund, DMLR-PT-167 (rev. 10/95).
- Coal Surface Mining Reclamation Fund Tax Reporting Form, DMLR-PT-178 (rev. 10/95).
- Surface Water Monitoring Report, DMLR-PT-210 (rev. 8/98).
- Application For Performance Bond Release, DMLR-PT-212 (rev. 4/96).
- Public Notice: Application for Transfer, Assignment, or Sale of Permit Rights under Chapter 19 of Title 45.1 of the Code of Virginia, DMLR-PT-219 (8/96).
- Public Notice: Application for Bond Reduction Under Chapter 19 of Title 45.1 of the Code of Virginia-Cost Estimate, Phase I, DMLR-PT-225 (rev. 4/96).
- Public Notice: Application for Bond Reduction Under Chapter 19 of Title 45.1 of the Code of Virginia-Cost Estimate, Phase II, DMLR-PT-226 (rev. 4/96).
- Public Notice: Application for Bond Reduction Under Chapter 19 of Title 45.1 of the Code of Virginia-Cost Estimate, Phase III, DMLR-PT-227 (rev. 4/96).
- Public Notice: Application for Bond Reduction Under Chapter 19 of Title 45.1 of the Code of Virginia-Pool Bonding, Incremental Bond Reduction, DMLR-PT-228 (rev. 4/96).
- Public Notice: Application for Bond Reduction Under Chapter 19 of Title 45.1 of the Code of Virginia-Pool Bonding, Entire Permit Bond Reduction, DMLR-PT-229 (rev. 9/95).
- Public Notice: Application for Bond Reduction Under Chapter 19 of Title 45.1 of the Code of Virginia-Pool Bonding, Entire Permit Bond Release, DMLR-PT-230 (rev. 4/96).
- Verification of Public Display of Application, DMLR-PT-236 (8/01).
- Affidavit (Permit Application Information: Ownership and Control Information and Violation History Information), DMLR-PT-240 (rev. 12/98).
- Stream Channel Diversion(s) Certification, DMLR-PT-233 (rev. 2/96).
- Quarterly Acid-Base Monitoring Report, DMLR-PT-239 (rev. 6/95).
- Affidavit (No Legal Change in a Company's Identity), DMLR-PT-250 (rev. 12/98).
- Blasting Plan Data, DMLR-PT-103 (rev. 4/96).
- Affidavit (Reclamation Fee Payment), DMLR-PT-244 (rev. 2/96).
- Application-National Pollutant Discharge Elimination System (NPDES) Permit-Short Form C, DMLR-PT-128 (rev. 5/96).
- National Pollutant Discharge Elimination System (NPDES) Short Form C-Instructions, DMLR-PT-128A (rev. 5/96).
- Impoundment Inspection Report, DMLR-PT-251 (rev. 12/93).
- Water Sample Tag, DMLR-TS-107 (rev. 3/83).
- Surface Water Baseline Data Summary, DMLR-TS-114 (rev. 4/82).
- Diversion Design Computation Sheet, DMLR-TS-120 (rev. 12/85).
- Sediment Channel Design Data Sheet, DMLR-TS-127 (rev. 12/85).
- Virginia Stream Survey, DMLR-TS-217 (rev. 1/87).
- Line Transect-Forest Land Count, DMLR-PT-224 (rev. 2/96).
- Applicant Violator System (AVS) Ownership & Control Information, DMLR-AML-003 (rev. 4/97).
- Application for Permit Renewal Coal Surface Mining and Reclamation Operations, DMLR-PT-034R (eff. 6/97).
- Application for Coal Exploration Permit and National Pollutant Discharge Elimination System Permit, DMLR-PT-062 (formerly DMLR-PS-062) (rev. 6/97).
- Conditions-Coal Surface Mining Reclamation Fund, DMLR-PT-167 (rev. 10/95).
- Vibration Observations, DMLR-ENF-032V (eff. 9/97).
- Application for Small Operator Assistance, DMLR-PT-106 (formerly CP-106) (rev. 9/97).
- Application-National Pollutant Discharge Elimination System Application Instructions, DMLR-PT-128 (rev. 9/97).
- Blasting Plan Data, DMLR-PT-103 (rev. 10/97).
- Request for Relinquishment, DMLR-PT-027 (rev. 1/98).
- Written Findings, DMLR-PT-237 (rev. 1/98).
- Irrevocable Standby Letter of Credit, DMLR-PT-255 (rev. 9/04).
- Confirmation of Irrevocable Standby Letter of Credit, DMLR-PT-255A (eff. 8/03).
- DMLR-AML-312, Affidavit (eff. 7/98)



COMMONWEALTH OF VIRGINIA
 DEPARTMENT OF MINES, MINERALS AND ENERGY
 DIVISION OF MINED LAND RECLAMATION
 P. O. DRAWER 900; BIG STONE GAP, VA 24219
 TELEPHONE: (276) 523-8234

REGISTRAR OF REGULATIONS
 05 JUN 13 AM 11:02

**APPLICATION FOR RECERTIFICATION
 DMLR ENDORSEMENT
 BLASTER'S CERTIFICATION**

NAME			
	Last	First	Middle Initial
ADDRESS			
	Street/P. O. Box	City/State	Zip Code
Telephone No.			

I was previously certified as a Blaster by the Division of Mines. (DM Certification number →) _____

Please check the type of Recertification being applied for:

To take the Division of Mined Land Reclamation's endorsement examination. I understand that to be certified, I must achieve the required score (85% or better) to receive the endorsement. Should I fail to achieve the acceptable score, I understand that I must retake the Division of Mine's Blaster's examination and the DMLR endorsement examination. The DM will inform me of the appropriate examination date(s).

To obtain the Recertification, based upon Work Experience. I understand that the Division may approve recertification based upon my work experience as a certified blaster during two of the last three years for the following surface coal mining operations. I have provided a description of my experience in blasting related activities for the following company(ies) on Page 2 of this application form:

Company Name			Address	
Permit No(s).				
Certification of Blasting Experience	I hereby affirm, with knowledge of the penalties provided under 45.1-246(G) ¹ of the Code of Virginia , that I worked for _____ months with this company in a capacity which demonstrates my competency in blasting activities.			
Company Name			Address	
Permit No(s).				
Certification of Blasting Experience	I hereby affirm, with knowledge of the penalties provided under 45.1-246(G) of the Code of Virginia , that I worked for _____ months with this company in a capacity which demonstrates my competency in blasting activities.			

Signature		Date	
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¹ 45.1-246(G): "Whoever knowingly makes any false statement, representation or certification, or knowingly fails to make any required statement, representation or certification, in any application, shall, upon conviction thereof, be punished by a fine of not more than ten thousand dollars, or by confinement in jail for not more than twelve months, or both."

Company Name	
---------------------	--

I hereby affirm that the person applying for the aforementioned recertification has worked for this company during the following specified period in a capacity which demonstrates blaster's competency:

Job Title of Applicant		Employment Date, from		to	
Brief Description of Duties Performed					

Company Official's Name (print)		Title	
Signature		Date	

NOTARIZATION:

State of _____, County/City of _____ to wit:

Subscribed and affirmed to before me by _____ this _____ day of _____, 20 ____.

Notary Public Signature		My Commission Expires (attach seal)	
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Company Name	
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I hereby affirm that the person applying for the aforementioned recertification has worked for this company during the following specified period in a capacity which demonstrates blaster's competency:

Job Title of Applicant		Employment Date, from		to	
Brief Description of Duties Performed					

Company Official's Name (print)		Title	
Signature		Date	

NOTARIZATION:

State of _____, County/City of _____ to wit:

Subscribed and affirmed to before me by _____ this _____ day of _____, 20 ____.

Notary Public Signature		My Commission Expires (attach seal)	
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COMMONWEALTH OF VIRGINIA
 DEPARTMENT OF MINES, MINERALS AND ENERGY
 DIVISION OF MINED LAND RECLAMATION
 P. O. DRAWER 900, BIG STONE GAP, VA 24219
 TELEPHONE: (276) 523-8234

REGISTRAR OF REGULATIONS

APPLICATION FOR DMLR ENDORSEMENT
BLASTER'S CERTIFICATION
 (Coal Surface Mining Operation)

05 JUN 13 AM 11:02

NAME			
	Last	First	Middle Initial
ADDRESS			
	Street/P. O. Box	City/State	Zip Code
Telephone No.			

Business Address (if applicable)			
	Street/P. O. Box	City/State	Zip Code
Telephone No.			

<input type="checkbox"/> Yes	<input type="checkbox"/> No	I am presently certified as a Blaster by the Division of Mines. (DM Certification number →)	
------------------------------	-----------------------------	---	--

I understand that to be certified to blast on any "coal surface mining operation"* , I must also pass the Division of Mined Land Reclamation's (DMLR) Endorsement test and be subsequently certified by the DMLR endorsement. By signing and dating this application, I hereby apply for the DMLR endorsement, as administered by the Division of Mines.

Signature		Date	
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* As defined under §45.1-229 of the Virginia Coal Surface Mining Control and Reclamation Act of 1979, as amended, "coal surface mining operations" means the following:

- Activities conducted on the surface of lands in connection with a surface coal mine or, subject to the requirements of §45.1-243, surface operations and surface impacts incident to an underground coal mine, the products of which enter commerce or the operations of which directly or indirectly affect interstate commerce. Such activities include excavation for the purpose of obtaining coal, including such common methods as contour, strip, auger, mountaintop removal, box cut, open pit, and area mining; the use of explosives and blasting; and in situ distillation or retorting; leaching or other chemical or physical processing; and the cleaning, concentrating, or other processing or preparation of coal. Such activities also include the loading of coal for interstate commerce at or near the mine site. Provided these activities do not include the extraction of coal incidental to the extraction of other minerals, where coal does not exceed sixteen and two-thirds per cent of the tonnage of minerals removed for purposes of commercial use or sale, or coal explorations subject to §45.1-233 of this chapter; and
- The areas upon which the activities occur or where such activities disturb the natural land surface. Such areas shall also include any adjacent land the use of which is incidental to any such activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of such activities and for the haulage, and excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas, and other areas upon which are sited structures, facilities, or other property or materials on the surface, resulting from or incident to such activities.

DMLR-BCME-4
 Rev. 05/05



COMMONWEALTH OF VIRGINIA
 DEPARTMENT OF MINES, MINERALS AND ENERGY
 DIVISION OF MINED LAND RECLAMATION
 P. O. DRAWER 900; BIG STONE GAP, VA 24219
 TELEPHONE: (276) 523-8202

MAP LEGEND

Map Type: Check appropriate box(es)	<input type="checkbox"/> Application	<input type="checkbox"/> Renewal	<input type="checkbox"/> Revision	CSMO Permit No.	
	<input type="checkbox"/> Relinquishment	<input type="checkbox"/> Deletion	<input type="checkbox"/> Correction	Application No.: (optional)	
	<input type="checkbox"/> Anniversary	<input type="checkbox"/> Completion			

COMPANY	
----------------	--

COLOR CODE	NUMBER OF ACRES	ACRES	SINCE PERMIT ISSUANCE, TOTAL NUMBER OF ACRES	ACRES
OUTLINED RED	Covered by the Permit. (If amending acreage, provide the existing and amended acreage amounts ____ + ____.)		Disturbed.	
SHADED RED	Undisturbed and will not be disturbed next __ months.		Regraded.	
SHADED YELLOW	To be disturbed next __ months.		Vegetated.	
CROSS-HATCH MAGENTA	That will be re-mined (Prior to 08/03/77).		Remaining undisturbed.	
SHADED BROWN	Regraded without partial bond release.		With partial bond release.	
SHADED GREEN	Vegetated without partial bond release.			
CROSS-HATCH BROWN	Regraded with partial bond release.			
CROSS-HATCH GREEN	Vegetated with partial bond release.			
CROSS-HATCH ORANGE	Disturbed, but not regraded.			
CROSS-HATCH PURPLE	Being relinquished to _____, under Permit No. _____.			
CROSS-HATCH RED	Being deleted.			
SHADED BLUE	Streams, water drainways, sediment ponds.			
PURPLE LINES	Pre- Existing highwall (Prior to 08/03/77) Linear feet _____, Square feet _____.			
COMMENTS:				

MAP PREPARED BY	
P.G. Certification No. (Virginia)	P. E. License No. (Virginia)

CERTIFICATION: I, the undersigned, hereby certify this map to be true and accurate, showing to the best of my knowledge and belief, all information required by the Virginia Coal Surface Mining Control and Reclamation Act of 1979, as amended, and the regulations promulgated thereunder.

AFFIX SEAL	
Signature: _____ Date: _____	

DMLR-PT-017
 Rev. 02/05

GENERAL NOTICES/ERRATA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Total Maximum Daily Load (TMDL) for Chestnut Creek

Announcement of an effort to restore water quality in Chestnut Creek in Carroll County, Grayson County and Galax, Virginia.

Public meeting: Courtroom at the Public Safety Building, 353 N. Main Street, in Galax, Virginia, on July 21, 2005, from 6 p.m. to 8 p.m.

Purpose of notice: The Virginia Department of Environmental Quality and the Department of Conservation and Recreation are announcing the start of a study to restore water quality, a public comment opportunity, and a public meeting.

Meeting description: First public meeting on a study to restore water quality.

Description of study: DEQ is working to identify pollutants that impair aquatic organisms and sources of bacteria contamination in the waters of Chestnut Creek that flow through Galax, and parts of Grayson County and Carroll County, Virginia. The bacteria contamination exceeds water quality standards, which prohibits the recreational use.

The lower 14 miles of Chestnut Creek, from the Galax raw water intake near the city limits is impaired for both aquatic life use and for the recreational use due to bacteria violations. The upper 3.68 miles beginning at the confluence between Coal Creek and Chestnut Creek downstream to the raw water intake is "impaired" for bacteria violations. The stream is impaired for failing to meet the aquatic life use based on violations of the general standard for aquatic organisms and failure to meet the recreational use because of fecal coliform and E coli bacteria violations.

During the study, DEQ will determine the pollutants impairing the aquatic community and develop total maximum daily loads (TMDL) for the impaired waters. A TMDL is the total amount of a pollutant a water body can contain and still meet water quality standards. DEQ will also determine the sources of bacteria contamination and develop a TMDL for bacteria. To restore water quality, contamination levels have to be reduced to the TMDL amount.

How a decision is made: The development of a TMDL includes a public comment period, including public meetings. After public comments have been considered and addressed, DEQ will submit the TMDL report to the U.S. Environmental Protection Agency for approval.

How to comment: DEQ accepts written comments by e-mail, fax or postal mail. Written comments should include the name, address and telephone number of the person commenting and be received by DEQ during the comment period. DEQ also accepts written and oral comments at the public meeting announced in this notice.

To review fact sheets: Fact sheets are available on the impaired waters from the contacts below or on the DEQ web site at www.deq.virginia.gov/tmdl.

Contact for additional information: Nancy T. Norton, P.E., Regional TMDL Coordinator, Virginia Department of Environmental Quality, Southwest Regional Office, 355 Deadmore Street, P.O. Box 1688, Abingdon, VA 24212-1688, telephone (276) 676-4807, FAX (276) 676-4899, or e-mail ntnorton@deq.virginia.gov.

Total Maximum Daily Load (TMDL) for Laurel Fork

Announcement of an effort to restore water quality in Laurel Fork in Pocahontas, Virginia.

Public meeting: Pocahontas Presbyterian Church at 134 Moore Street in Pocahontas, Virginia, on July 13, 2005, from 6 p.m. to 8 p.m.

Purpose of notice: The Virginia Department of Environmental Quality and the Department of Conservation and Recreation are announcing the start of a study to restore water quality, a public comment opportunity, and a public meeting.

Meeting description: First public meeting on a study to restore water quality.

Description of study: DEQ is working to identify pollutants that impair aquatic organisms and identify sources of bacteria contamination and causes of low levels of dissolved oxygen in the waters of Laurel Fork which flows through Pocahontas in Tazewell County, Virginia. The bacteria contamination exceeds water quality standards, which prohibits the recreational use. Low dissolved oxygen impairs or decreases the number and variety of aquatic organisms in the water.

The 2.9 mile long "impaired" stream segment on Laurel Fork begins at Route 644 and flows downstream through the Town of Pocahontas to Bluestone River. The stream is impaired for failing to meet the aquatic life use based on dissolved oxygen violations, violations of the general standard for aquatic organisms and failure to meet the recreational use because of fecal coliform and E coli bacteria violations.

During the study, DEQ will determine the pollutants impairing the aquatic community and develop total maximum daily loads (TMDL) for the impaired waters. A TMDL is the total amount of a pollutant a water body can contain and still meet water quality standards. DEQ will also determine the sources of bacteria contamination and develop a TMDL for bacteria. To restore water quality, contamination levels have to be reduced to the TMDL amount.

How a decision is made: The development of a TMDL includes a public comment period, including public meetings. After public comments have been considered and addressed, DEQ will submit the TMDL report to the U.S. Environmental Protection Agency for approval.

How to comment: DEQ accepts written comments by e-mail, fax or postal mail. Written comments should include the name, address and telephone number of the person commenting and be received by DEQ during the comment period. DEQ also accepts written and oral comments at the public meeting announced in this notice.

To review fact sheets: Fact sheets are available on the impaired waters from the contacts below or on the DEQ web site at www.deq.virginia.gov/tmdl.

Contact for additional information: Nancy T. Norton, P.E., Regional TMDL Coordinator, Virginia Department of Environmental Quality, Southwest Regional Office, 355 Deadmore Street, P.O. Box 1688, Abingdon, VA 24212-1688, telephone (276) 676-4807, FAX (276) 676-4899, or e-mail ntnorton@deq.virginia.gov.

Total Maximum Daily Load (TMDL) for North Fork Holston River

Announcement of an effort to restore water quality in North Fork Holston River in Saltville, Virginia.

Public meeting: Friends Community Church at 145 Palmer Avenue in Saltville, Virginia, on July 14, 2005, from 6 p.m. to 8 p.m.

Purpose of notice: The Virginia Department of Environmental Quality and the Department of Conservation and Recreation are announcing the start of a study to restore water quality, a public comment opportunity, and a public meeting.

Meeting description: First public meeting on a study to restore water quality.

Description of study: DEQ is working to identify sources of pollutants that decrease the number and variety of aquatic organisms in the waters of the North Fork Holston River just downstream of Saltville in Smyth County and Washington County, Virginia.

The 4.8 mile long "impaired" stream segment of North Fork Holston River begins at the confluence with Robertson Branch in Saltville and extends downstream to Tumbling Creek. The stream is impaired for the aquatic life use violations of the general standard for aquatic organisms.

During the study, DEQ will develop a total maximum daily load, or a TMDL, for the impaired waters. A TMDL is the total amount of a pollutant a water body can contain and still meet water quality standards. To restore water quality, contamination levels have to be reduced to the TMDL amount.

How a decision is made: The development of a TMDL includes a public comment period, including public meetings. After public comments have been considered and addressed, DEQ will submit the TMDL report to the U.S. Environmental Protection Agency for approval.

How to comment: DEQ accepts written comments by e-mail, fax or postal mail. Written comments should include the name, address and telephone number of the person commenting and be received by DEQ during the comment period. DEQ also accepts written and oral comments at the public meeting announced in this notice.

To review fact sheets: Fact sheets are available on the impaired waters from the contacts below or on the DEQ web site at www.deq.virginia.gov/tmdl.

Contact for additional information: Nancy T. Norton, P.E., Regional TMDL Coordinator, Virginia Department of

Environmental Quality, Southwest Regional Office, 355 Deadmore Street, P.O. Box 1688, Abingdon, VA 24212-1688, telephone (276) 676-4807, FAX (276) 676-4899, or e-mail ntnorton@deq.virginia.gov.

Total Maximum Daily Load (TMDL) for Knox Creek and PawPaw Creek

Announcement of an effort to restore water quality in Knox Creek and Pawpaw Creek in Hurley, Virginia.

Public meeting: Hurley Elementary and Middle School in Hurley, Virginia, on July 12, 2005, from 6 p.m. to 8 p.m.

Purpose of notice: The Virginia Department of Environmental Quality and the Department of Conservation and Recreation are announcing the start of a study to restore water quality, a public comment opportunity, and a public meeting.

Meeting description: First public meeting on a study to restore water quality.

Description of study: DEQ is working to identify sources of pollutants affecting the aquatic organisms and sources of bacteria contamination in the waters of Knox Creek. DEQ is also working to identify the pollutant impacting aquatic organisms in PawPaw Creek. These two streams flow through Buchanan County, Virginia near Hurley.

The Knox Creek "impaired" stream segment includes the entire stream length in Virginia, from its headwaters to the Kentucky state line. This segment is approximately 16.9 miles long. The stream is impaired for failing to meet the aquatic life use based on violations of the general standard for aquatic organisms and failure to meet the recreational use because of fecal coliform bacteria violations.

PawPaw Creek is impaired from the Kentucky state line to its confluence with Knox Creek, about 4.5 miles of stream reach. This stream is impaired due to failing to meet the aquatic life use based on violations of the general standard for aquatic organisms only.

During the study, DEQ will determine the pollutants impairing the aquatic community and develop total maximum daily loads (TMDL) for the impaired waters. A TMDL is the total amount of a pollutant a water body can contain and still meet water quality standards. DEQ will also determine the sources of bacteria contamination and develop a TMDL for bacteria. To restore water quality, contamination levels have to be reduced to the TMDL amount.

How a decision is made: The development of a TMDL includes a public comment period, including public meetings. After public comments have been considered and addressed, DEQ will submit the TMDL report to the U.S. Environmental Protection Agency for approval.

How to comment: DEQ accepts written comments by e-mail, fax or postal mail. Written comments should include the name, address and telephone number of the person commenting and be received by DEQ during the comment period. DEQ also accepts written and oral comments at the public meeting announced in this notice.

General Notices/Errata

To review fact sheets: Fact sheets are available on the impaired waters from the contacts below or on the DEQ web site at www.deq.virginia.gov/tmdl.

Contact for additional information: Nancy T. Norton, P.E., Regional TMDL Coordinator, Virginia Department of Environmental Quality, Southwest Regional Office, 355 Deadmore Street, P.O. Box 1688, Abingdon, VA 24212-1688, telephone (276) 676-4807, FAX (276) 676-4899, or e-mail ntnorton@deq.virginia.gov.

Total Maximum Daily Load (TMDL) for Pigg River Watershed

Public meeting: W.E. Skelton Educational Conference Center at Smith Mountain Lake (4-H Center) in Wirtz, Virginia, on August 16, 2005, from 7 p.m. to 9 p.m. Directions: from 220 S, turn left onto Wirtz Road (Rt. 697) (There will be an Exxon & Dairy Queen on the left, Plateau Park & Franklin Motel on the right.) Follow Wirtz Rd. for 5 miles to the stop sign. At stop sign, turn left onto Rt. 122 N (Booker T. Washington Highway). Go 1 mile to Burnt Chimney Rd. Turn right onto Burnt Chimney Rd. (Rt. 670). Follow Burnt Chimney Rd. for 6.7 miles to Rt. 668. (Dudley's Schoolhouse Store will be on the right directly past the road.) Turn right onto Rt. 668 (Lovely Valley Rd.) Follow for 0.7 miles to the stop sign. Turn right onto Rt. 944 (Crafts Ford Rd.) Follow for 1.6 miles to a sharp curve. Turn left onto Hermitage Rd. (Rt. 669). Follow Hermitage Rd. to the 4-H Center.

Purpose of notice: The Virginia Department of Environmental Quality announces a public meeting and the start of a study to restore water quality in the Pigg River watershed.

Meeting description: First public meeting on a study to restore water quality in the Pigg River watershed.

Description of study: Virginia agencies are working to identify sources of bacterial pollution in the Pigg River watershed. This contamination exceeds water quality standards, which decreases the suitability of the water for swimming, kayaking and other recreational activities involving direct contact with the water.

The following is a list of the "impaired" waters, their location, the length of the impaired segment and the reason for the impairment: Pigg River, multiple counties, 63.98 miles, bacteria; Leesville Lake, Pittsylvania Co., 154 acres, bacteria; Storey Creek, Franklin Co., 11.60 miles, bacteria; Snow Creek, Pittsylvania Co., 10.98 miles, bacteria; Old Womans Creek, Campbell Co., 4.86 miles, bacteria; and Big Chestnut Creek, Franklin Co., 12.88 miles, bacteria.

During the study, the state agencies will develop a total maximum daily load, or a TMDL, for the impaired waters. A TMDL is the total amount of a pollutant a water body can contain and still meet water quality standards. To restore water quality, contamination levels have to be reduced to the TMDL amount.

How to comment: DEQ accepts written comments by e-mail, fax or postal mail. Written comments should include the name, address and telephone number of the person commenting and be received by September 16, 2005. DEQ also accepts written

and oral comments at the public meeting announced in this notice.

Contact for additional information: Mary R. Dail, Virginia Department of Environmental Quality, West Central Regional Office, 3019 Peters Creek Road, Roanoke, VA 24019, telephone (540) 562-6715, FAX (540) 562-6860, or e-mail mrdail@deq.virginia.gov.

Total Maximum Daily Load (TMDL) for Roanoke River watershed

Public meeting: Eastern Montgomery High School in Elliston, Virginia, on Thursday, August 4, 2005, from 7 p.m. to 9 p.m. Directions: Eastern Montgomery High School is located at 4695 Crozier Road, which is located off of Route 460/11 in Elliston.

Purpose of notice: The Virginia Department of Environmental Quality announces a public meeting to discuss a study to restore water quality in the Roanoke River watershed.

Description of Study: Virginia agencies are working to identify sources of bacterial pollution and biological impairment (general standard) in the Roanoke River watershed. The bacteria exceeds water quality standards, which decreases the suitability of the water for swimming, kayaking and other recreational activities involving direct contact with the water. The general standard indicates the water quality is unable to support a natural aquatic community.

The following is a list of the "impaired" waters, the length of the impaired segment, their location and the reason for the impairment: Ore Branch (L04R-3.9 miles), Roanoke City, bacteria; Wilson Creek (L02R - 5 miles), Montgomery County, bacteria; Roanoke River (L04R-11.72 miles), Roanoke City, bacteria and biological; Roanoke River/Smith Mountain Lake (L12L - 378 acres), Bedford and Franklin County, bacteria.

During the study, the state agencies will develop a total maximum daily load (TMDL) for the impaired waters. A TMDL is the total amount of a pollutant a water body can contain and still meet water quality standards. To restore water quality, contamination levels have to be reduced to the TMDL amount.

How to Comment: DEQ accepts written comments by e-mail, fax or postal mail. Written comments should include the name, address and telephone number of the person commenting and be received by September 9, 2005. DEQ also accepts written and oral comments at the public meeting announced in this notice.

Contact for additional information: Jason R. Hill, Virginia Department of Environmental Quality, West Central Regional Office, 3019 Peters Creek Road, Roanoke, VA 24019, telephone (540) 562-6724, FAX (540) 562-6860, or e-mail jrhill@deq.virginia.gov.

Total Maximum Daily Load (TMDL) for Roanoke River watershed

Public meeting: Virginia Department of Environmental Quality, West Central Regional Office in Roanoke, Virginia, on Tuesday, August 9, 2005, from 7 p.m. to 9 p.m. Directions:

from I-81, take exit 143 (I-581). Take the first Peters Creek Road exit (Exit 2S). Turn right on Peters Creek Road. After second light, turn left into Brammer Village. Go to the left and come up the hill. DEQ is third building on the right (Building 3019).

Purpose of notice: The Virginia Department of Environmental Quality announces a public meeting to discuss a study to restore water quality in the Roanoke River watershed.

Description of study: Virginia agencies are working to identify sources of bacterial pollution and biological impairment (general standard) in the Roanoke River watershed. The bacteria exceeds water quality standards, which decreases the suitability of the water for swimming, kayaking and other recreational activities involving direct contact with the water. The general standard indicates the water quality is unable to support a natural aquatic community.

The following is a list of the "impaired" waters, the length of the impaired segment, their location and the reason for the impairment: Ore Branch (L04R-3.9 miles), Roanoke City, bacteria; Wilson Creek (L02R - 5 miles), Montgomery County, bacteria; Roanoke River (L04R-11.72 miles), Roanoke City, bacteria and biological; Roanoke River/Smith Mountain Lake (L12L - 378 acres), Bedford and Franklin County, bacteria.

During the study, the state agencies will develop a total maximum daily load (TMDL) for the impaired waters. A TMDL is the total amount of a pollutant a water body can contain and still meet water quality standards. To restore water quality, contamination levels have to be reduced to the TMDL amount.

How to comment: DEQ accepts written comments by e-mail, fax or postal mail. Written comments should include the name, address and telephone number of the person commenting and be received by September 9, 2005. DEQ also accepts written and oral comments at the public meeting announced in this notice.

Contact for additional information: Jason R. Hill, Virginia Department of Environmental Quality, West Central Regional Office, 3019 Peters Creek Road, Roanoke, VA 24019, telephone (540) 562-6724, FAX (540) 562-6860, or e-mail jrhil@deq.virginia.gov.

Total Maximum Daily Load (TMDL) for Stock Creek

Announcement of an effort to restore water quality in Stock Creek in Scott County, Virginia.

Public meeting: Cove Ridge Center at Natural Tunnel State Park near Duffield, Virginia, on July 19, 2005, from 6 p.m. to 8 p.m.

Purpose of notice: The Virginia Department of Environmental Quality and the Department of Conservation and Recreation are announcing the start of a study to restore water quality, a public comment opportunity, and a public meeting.

Meeting description: First public meeting on a study to restore water quality.

Description of study: DEQ is working to identify pollutants that impair aquatic organisms living in the waters of Stock Creek.

Stock Creek flows through Mabe and near Sunbright along Route 653 and 871 to the east of Duffield in Scott County. The TMDL segment is between Sunbright and Natural Tunnel State Park off of Route 871, beginning downstream of the impoundment near Cyprus Foote and Mineral.

The 0.6 miles of Stock is impaired for failing to meet the aquatic life use based on violations of the general standard for aquatic organisms.

During the study, DEQ will determine the pollutants impairing the aquatic community and develop total maximum daily loads (TMDLs) for the impaired waters. A TMDL is the total amount of a pollutant a water body can contain and still meet water quality standards. To restore water quality, contamination levels have to be reduced to the TMDL amount.

How a decision is made: The development of a TMDL includes a public comment period, including public meetings. After public comments have been considered and addressed, DEQ will submit the TMDL report to the U.S. Environmental Protection Agency for approval.

How to comment: DEQ accepts written comments by e-mail, fax or postal mail. Written comments should include the name, address and telephone number of the person commenting and be received by DEQ during the comment period. DEQ also accepts written and oral comments at the public meeting announced in this notice.

To review fact sheets: Fact sheets are available on the impaired waters from the contacts below or on the DEQ web site at www.deq.virginia.gov/tmdl.

Contact for additional information: Nancy T. Norton, P.E., Regional TMDL Coordinator, Virginia Department of Environmental Quality, Southwest Regional Office, 355 Deadmore Street, P.O. Box 1688, Abingdon, VA 24212-1688, telephone (276) 676-4807, FAX (276) 676-4899, or e-mail ntnorton@deq.virginia.gov.

Total Maximum Daily Load (TMDL) for Straight Creek and Callahan Creek

Citizens may comment on an effort to restore water quality in Straight Creek and Callahan Creek watersheds in Southwest Virginia.

Public comment period: July 11, 2005, to August 11, 2005.

Purpose of notice: The Virginia Department of Environmental Quality, the Department of Mines, Minerals and Energy and the Department of Conservation and Recreation are announcing a public comment opportunity to comment on the revisions to the Powell River TMDL. This document has been divided into two documents; Straight Creek TMDL report and Callahan Creek TMDL report.

Description of study: The following is a list of the "impaired" waters, their location, the length of the impaired segment and the reason for the impairment:

Straight Creek and its tributary streams are located in Lee County northwest of Pennington Gap, Virginia. The impairments include about 38 miles of streams in the Straight

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Creek watershed. Straight Creek flows through St. Charles. The entire length of Straight Creek from its headwaters to confluence with North Fork Powell River is included. Stone Creek follows Route 421 west towards the Kentucky/Virginia state line. The revised TMDL study identifies sediment and total dissolved solids as the stressors for aquatic life problems. The revised study proposes reductions in sediment, total dissolved solids and bacteria so that the stream can meet the water quality standards.

Callahan Creek is in Wise County north of Appalachia, Virginia. The impairments include about 5.2 miles of stream. The lower 2 miles has both bacteria and benthic impairments and the upper 3 miles are listed for bacteria violations only. The upstream impairment ends just above Stonega at Possum Trot Hollow. The revised TMDL study identifies sediment and total dissolved solids as the stressors for aquatic life problems. The revised study proposes reductions in sediment, total dissolved solids and bacteria so that the stream can meet the water quality standards.

Comments to the draft Powell River TMDL report resulted in changes to the document. The most significant change is that each watershed now has an individual report. Other changes are detailed in the summary of responses to comments document that is available on the DEQ website.

A total maximum daily load or a TMDL is the total amount of a pollutant a water body can contain and still meet water quality standards. To restore water quality, contamination levels have to be reduced to the TMDL amount.

How a decision is made: The development of a TMDL includes a public comment period, including three public meetings. After public comments have been considered and addressed, DEQ will submit the TMDL report to the State Water Control Board and then to the U.S. Environmental Protection Agency for approval.

How to comment: DEQ accepts written comments by e-mail, fax or postal mail. Written comments should include the name, address and telephone number of the person commenting and be received by DEQ during the comment period.

To review revised TMDL reports: Revised TMDL reports for Callahan Creek and Straight Creek are available from the contacts below or on the DEQ web site at www.deq.virginia.gov/tmdl.

Contact for additional information: Nancy T. Norton, P.E., Department of Environmental Quality, Southwest Regional Office, P.O. Box 1688, Abingdon, VA 24212-1388, telephone (276) 676-4807, FAX (276) 676-4807, or e-mail ntnorton@deq.virginia.gov.

STATE CORPORATION COMMISSION

June 15, 2005

ADMINISTRATIVE LETTER 2005 -11

TO: ALL PROPERTY & CASUALTY COMPANIES LICENSED
IN VIRGINIA AND ALL RATE SERVICE
ORGANIZATIONS LICENSED IN VIRGINIA

RE: AMENDMENTS TO § 38.2-231 OF THE CODE OF VIRGINIA; WITHDRAWAL OF ADMINISTRATIVE LETTERS 1986-10, 1986-18, AND 1987-14

Pursuant to House Bill No. 1882 and House Bill No. 2410, effective July 1, 2005, § 38.2-231 of the Code of Virginia has been amended to require insurers of commercial liability insurance (including commercial package policies), commercial automobile insurance, and certain types of miscellaneous casualty insurance to provide a notice to the named insured when there has been a premium increase greater than 25%. Additionally, medical malpractice insurers must provide at least 90 days' notice when the policy is being cancelled or non-renewed or when the renewal premium will be increased by more than 25% of the premium charged by the insurer at the effective date of the expiring policy. The changes to § 38.2-231 apply to policies with effective dates on or after July 1, 2005.

Furthermore, because of these changes and other changes that have been made to § 38.2-231, Administrative Letters 1986-10, 1986-18, and 1987-14 are hereby withdrawn. Due to inquiries from insurers regarding the changes effective July 1, 2005, the Bureau believes it would be helpful to highlight the specific changes to the statute and then address the insurers' most frequently asked questions.

- Prior to July 1, 2005, insurers were required to notify insureds when the filed rate increased by more than 25%. Insurers are now required to notify insureds when the renewal premium is increased by more than 25% of the premium charged by the insurer at the effective date of the expiring policy.
- Section 38.2-231 L was added pertaining only to policies of medical malpractice insurance as defined in § 38.2-2800. The requirement of 45 days' advance notice for canceling or non-renewing policies as well as increasing the premium by more than 25% is replaced by the requirement that 90 days' advance notice be given. All other provisions of § 38.2-231 apply.
- The statute now specifically applies to policies of miscellaneous casualty insurance as defined in subsection B of § 38.2-111 insuring a business entity.

Most Frequently Asked Questions Regarding Section 38.2-231

GENERAL QUESTIONS

1. What lines of business are subject to this section?

Section 38.2-231 applies to all policies of insurance as defined in §§ 38.2-117 and 38.2-118 that insure a business entity, or policies of insurance that include in part insurance as defined in §§ 38.2-117 or 38.2-118 insuring a business entity. Section 38.2-231 also applies to policies of insurance as defined in § 38.2-124 insuring a business entity and to policies of insurance as defined in subsection B of § 38.2-111 insuring a business entity.

Such policies include but are not limited to commercial automobile liability, commercial package policies (that include liability coverage), commercial general liability,

professional liability, commercial umbrella, directors' and officers' liability, errors and omissions, employment related practices liability, gap insurance, and tuition refund policies.

Also, because the provision that triggers notice requirements is now based on increases in *premium*, rather than increases in the filed rate, such notice requirements will now apply to classes of insurance that are exempt from rate-filing requirements, such as directors' and officers' liability, pollution liability, employment practices liability, and others. Previously, notice requirements did not apply to classes of insurance where there were no filed rates.

Workers' compensation policies are not subject to this statute.

2. Are any policies as defined in §§ 38.2-117, 38.2-118, 38.2-124 or 38.2-111 covering a business entity exempt from § 38.2-231?

Yes. For example, the definition of a "policy of motor vehicle insurance" in § 38.2-231 H excludes policies issued through the Virginia Automobile Insurance Plan. Please refer to this subsection for additional exemptions.

3. What evidence of mailing does the insurer need to retain if the notice is mailed using the U.S. Postal Bulk Mailing procedure?

If the notices are mailed using the U.S. Postal Bulk Mailing procedure, the company is required to comply with § 38.2-231 F 1 (c) and the company must retain the following:

- a. A copy of the notice;
- b. The completed U.S. Postal Bulk Mailing Form which indicates the date of mailing and the number of items mailed;
- c. The mailing list showing the name and address stated in the policy, or the last known address, to whom the notices were mailed; and
- d. A signed statement by the insurer that the written receipt from the Postal Service corresponds to the mailing list retained by the insurer.

4. When an insurer moves an insured from one company within the group to another, is the insurer required to provide notice to the insured?

Yes. If the renewal offer is not issued by the expiring insurer, a non-renewal notice is required even when coverage is being offered by another insurer within the same group of companies.

QUESTIONS APPLICABLE TO PREMIUM INCREASES

5. If the expiring policy's premium changed during the expiring policy's term, how does the insurer determine if the renewal premium has increased more than 25%?

The percentage of increase should be calculated by comparing the renewal premium to the premium charged at the effective date of the expiring policy.

6. Is a notice required if the insured adds new exposures to the policy within 45 days of the renewal effective date and

prior to the issuance of the renewal or the renewal quote if the new exposures result in a premium increase of more than 25%?

In this case, the insurer must provide the insured with the notice even though the notice period extends beyond the expiration of the prior policy.

7. If the insured requests changes to the policy after the renewal has been issued, does the insurer have to provide notice if the changes resulted in an increase over 25%?

No. Based on the language in § 38.2-231 C, if the renewal has already been issued or a renewal quote has been issued, the insurer is not required to send notice.

8. What if the insurer fails to provide proper notification of a premium increase over 25%?

Subsection D of § 38.2-231 requires the insurer to send another notice which would allow the insured 45 days to accept or reject the renewal.

9. If a policy is extended for 45 days because the insurer failed to provide proper notice, what rates apply?

If, during the extended time period, the insured refuses the policy, the rates that applied to the prior policy term will be applied to the extended coverage period; otherwise, if the insured accepts the increase, the increase will take effect upon the expiration of the prior policy.

10. What happens if the insurer did not provide proper notice and the increase in premium was based solely on new exposures that were added at the request of the insured?

In this case, the insurer must extend coverage under the prior terms and conditions until proper notice has been given as required by subsection D of § 38.2-231. During the extended time period, the insurer would charge for all of the coverages the insured requested. If the insured refuses the increase during the extended time period, the rates that applied to the prior term will be applied to the extended coverage term; otherwise, the rates for the new policy term will apply.

11. Is the insurer required to provide a specific reason when increasing the premium over 25%?

The law now only requires the insurer to state in the notice that the specific reason for the increase and the amount of the increase may be obtained from the agent or the insurer.

QUESTIONS APPLICABLE TO REDUCTIONS IN COVERAGE

12. When must an insurer provide the notification required under this statute for a reduction in coverage?

The notification for reduction in coverage applies only when a class, line, or subdivision of insurance has been declared non-competitive pursuant to § 38.2-1912. If the policy is subject to § 38.2-1912, the company is required to provide the insured 45 days' notice that there has been a reduction in coverage. The notice must also advise the insured of the right to request a review by the Commissioner of Insurance and that the specific reason for the reduction and the

General Notices/Errata

manner in which coverage will be reduced may be obtained from the agent or the insurer.

13. How does an insurer find out what lines of coverage are subject to § 38.2-1912?

Currently, no lines of insurance that are subject to § 38.2-231 come under the "delayed effect" provisions of § 38.2-1912. For example, workers' compensation rate filings are subject to § 38.2-1912, but workers' compensation insurance is not subject to § 38.2-231. If a line of insurance or coverage is determined to be subject to the "delayed effect" provisions of § 38.2-1912, the Bureau will issue a Commission order. It is the insurer's responsibility to know when a line of coverage is subject to § 38.2-1912. However, Commission orders are mailed to insurers and are posted on the Bureau's website.

14. What if the insurer fails to provide proper notification of a reduction in coverage?

Subsection D of § 38.2-231 states that if the insurer does not provide notice in the manner required, coverage will be extended until 45 days after proper notice is given.

15. What coverage applies when the policy has been extended because the insurer failed to provide proper notification of a reduction in coverage?

In this case, if the insured refuses the reduction in coverage, coverage for any period that extends beyond the expiration date will be under the prior policy's terms and conditions. If the insured accepts the reduction in coverage, the reduction will take effect upon the expiration of the prior policy.

QUESTIONS APPLICABLE TO CANCELLATIONS AND NONRENEWALS

16. When the insurer gives a specific reason for terminating coverage, what is considered a specific reason?

The insurer is required to provide a specific reason that is clear enough for the insured to know the reason the policy is being cancelled or non-renewed. The Bureau does not consider the following examples to be specific reasons: "loss history," "driving record," "claims," "prohibited risk," "underwriting reason," "loss history unacceptable," "engineering report," "inspection report," or "loss ratio exceeds acceptable margin."

17. Is the insurer required to give 90 days' notice when canceling a medical malpractice policy for non-payment of premium?

No. Only 15 days' advance written notice is required for cancellations resulting from non-payment of premium. The law did not change any of the notice provisions pertaining to non-payment of premium.

If you have any questions regarding this administrative letter, please contact Carol Howard, Supervisor of the Property & Casualty Consumer Services Section, at (804) 371-9394 ext. 4692.

/s/ Alfred W. Gross
Commissioner of Insurance

STATE WATER CONTROL BOARD

Proposed Consent Special Order for Sam's East, Inc.

Citizens may comment on a proposed consent order for a facility in Colonial Heights, Virginia.

Public comment period: July 11, 2005, to August 10, 2005.

Purpose of notice: To invite the public to comment on a proposed consent order.

A consent order is issued to a business owner or other responsible party to perform specific actions that will bring the entity into compliance with the relevant law and regulations. It is developed cooperatively with the business owner and entered into by mutual agreement.

Project description: The State Water Control Board proposes to issue a consent order to Sam's East, Inc. to address a violation of 9 VAC 25-580-220 of the Underground Storage Tanks: Technical Standards and Corrective Action Requirements Regulation. The location of the facility where the violation occurred is 735 Southpark Boulevard, in Colonial Heights, Virginia. The consent order resolves the facility's failure to report an accidental release of petroleum that occurred while a third party was filling the underground storage tanks at Sam's Club East on November 25, 2003. The order requires payment of a civil charge.

How a decision is made: After public comments have been considered, the State Water Control Board will make a final decision.

How to comment: DEQ accepts comments from the public by e-mail, fax or postal mail. All comments must include the name, address and telephone number of the person commenting and be received by DEQ within the comment period.

To review the consent order: The public may review the proposed consent order at the DEQ Piedmont Regional Office every work day by appointment or on the DEQ website at www.deq.virginia.gov.

Contact for public comments, document requests and additional information: Scott Kennedy, Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, VA 23060, telephone (804) 527-5014, FAX (804) 527-5106, or e-mail skennedy@deq.virginia.gov.

Proposed Consent Special Order for the Town of Rich Creek

Citizens may comment on a proposed consent order for a facility in Rich Creek, Virginia.

Public comment period: July 11, 2005, to August 11, 2005.

Purpose of notice: To invite the public to comment on a proposed consent order.

A consent order is issued to a business owner or other responsible party to perform specific actions that will bring the

entity into compliance with the relevant law and regulations. It is developed cooperatively with the facility and entered into by mutual agreement.

Consent order description: The State Water Control Board proposes to issue a consent order to the Town of Rich Creek to address alleged violations of the VPDES Permit Number VA0021041. The facility where the alleged violation occurred is in the Town of Rich Creek. The consent order describes a settlement to resolve the failure of the town to conduct a monitoring study required in the permit. It requires the town to pay a civil charge as a penalty.

How a decision is made: After public comments have been considered, the State Water Control Board will make a final decision.

How to comment: DEQ accepts comments from the public by e-mail, fax or postal mail. All comments must include the name, address and telephone number of the person commenting and be received by DEQ within the comment period.

To review the consent order: The public may review the proposed consent order at the DEQ West Central Regional Office weekdays by appointment or on the DEQ website at www.deq.virginia.gov.

Contact for public comments, document requests and additional information Jerry Ford, Jr., Department of Environmental Quality, 3019 Peters Creek Road, Roanoke, VA 24019, telephone (540) 562-6817, FAX (540) 562-6725, or e-mail jrford@deq.virginia.gov.

AGENCY RESPONSE TO LEGISLATIVE OBJECTIONS-RR08
RESPONSE TO PETITION FOR RULEMAKING-RR13
FAST-TRACK RULEMAKING ACTION-RR14

ERRATA

BOARD OF DENTISTRY

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

Publication: 21:19 VA.R. 2550-2554 May 30, 2005.

Correction to Final Regulation:

Page 2550, column 2, Title of Regulation, line 6, change "18 VAC 60-20-106, 18 VAC 60-20-107" to "18 VAC 60-20-107, 18 VAC 60-20-108"

Page 2552, column 1, 18 VAC 60-20-106, catchline, change "18 VAC 60-20-106" to "18 VAC 60-20-107"

Page 2552, column 1, subsection A of 18 VAC 60-20-106, change "18 VAC 60-20-106" to "18 VAC 60-20-107"

Page 2552, column 2, 18 VAC 60-20-107, catchline, change "18 VAC 60-20-107" to "18 VAC 60-20-108"

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

CALENDAR OF EVENTS

Symbol Key

- † Indicates entries since last publication of the *Virginia Register*
♿ Location accessible to persons with disabilities
☎ Teletype (TTY)/Voice Designation

NOTICE

Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and the *Virginia Register* deadline may preclude a notice of such cancellation. If you are unable to find a meeting notice for an organization in which you are interested, please check the Commonwealth Calendar at www.vipnet.org or contact the organization directly.

For additional information on open meetings and public hearings held by the standing committees of the legislature during the interim, please call Legislative Information at (804) 698-1500 or Senate Information and Constituent Services at (804) 698-7410 or (804) 698-7419/TTY☎, or visit the General Assembly web site's Legislative Information System (<http://leg1.state.va.us/lis.htm>) and select "Meetings."

VIRGINIA CODE COMMISSION

EXECUTIVE

BOARD OF ACCOUNTANCY

† July 26, 2005 - 10 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Room 395, Richmond, Virginia.♿ (Interpreter for the deaf provided upon request)

A meeting to discuss general business matters. A public comment period will be held at the beginning of the meeting. All meetings are subject to cancellation. The time of the meeting is subject to change. Any person desiring to attend the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act.

Contact: Nancy Taylor Feldman, Executive Director, Board of Accountancy, 3600 W. Broad St., Suite 378, Richmond, VA 23230, telephone (804) 367-8505, FAX (804) 367-2174, (804) 367-9753/TTY☎, e-mail boa@boa.virginia.gov.

COMMONWEALTH COUNCIL ON AGING

† July 21, 2005 - 11 a.m. -- Open Meeting

Department for the Aging, 1610 Forest Ave., Suite 100, Richmond, Virginia.♿ (Interpreter for the deaf provided upon request)

Regular business meeting of the Legislative Committee. Public comments welcomed.

Contact: Marsha Mucha, Department for the Aging, 1610 Forest Ave., Suite 100, Richmond, VA 23229, telephone (804) 662-9312, e-mail marsha.mucha@vda.virginia.gov.

BOARD OF AGRICULTURE AND CONSUMER SERVICES

July 13, 2005 - 2 p.m. -- Open Meeting

Eastern Shore Agricultural and Extension Center, 33446 Research Drive, Painter, Virginia.♿

A meeting to discuss issues related to Virginia agriculture and consumer services. 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 Roy Seward at least five days before the meeting date so that suitable arrangements can be made.

Contact: Roy E. Seward, Board Secretary, Department of Agriculture and Consumer Services, Washington Bldg., 1100 Bank St., Suite 211, Richmond, VA 23219, telephone (804) 786-3538, FAX (804) 371-2945, e-mail roy.seward@vdacs.virginia.gov.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Virginia Cattle Industry Board

† July 15, 2005 - 10 a.m. -- Open Meeting

Holiday Inn Golf and Conference Center, Woodrow Wilson Parkway, Staunton, Virginia.♿

During the regular business meeting, the board will approve minutes from the May 12, 2005, meeting in addition to reviewing the financial statements for the period October 1, 2004, through July 1, 2005. Staff will give program updates for the state and national level. The board will entertain any other business items that may come before it. The board will hear 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 three days before the meeting date so that suitable arrangements can be made for any appropriate accommodation.

Contact: Bill R. McKinnon, Executive Director, Department of Agriculture and Consumer Services, P.O. Box 9, Daleville, VA 24083, telephone (540) 992-1992, FAX (540) 992-4632, e-mail bmckinnon@vacattlemen.org.

Virginia Peanut Board

† **July 19, 2005 - 10:30 a.m.** -- Open Meeting
Peanut Growers Cooperative Marketing Association, 1001 Campbell Avenue, Franklin, Virginia. 

The minutes of the last board meeting will be heard and approved. The board's financial statement will be reviewed. A budget for the 2005-2006 year will be developed. 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: Thomas R. (Dell) Cotton, Jr., Program Director, Department of Agriculture and Consumer Services, 1001 Campbell Avenue, P.O. Box 59, Franklin, VA 23851-0059, telephone (757) 569-0249, FAX (757) 562-0744.

Pesticide Control Board

† **July 21, 2005 - 9 a.m.** -- Open Meeting
Washington Building, 1100 Bank Street, Second Floor Board Room, Richmond, Virginia. 

A meeting to discuss general business matters requiring board action. However, portions of the meeting may be held in closed session pursuant to § 2.2-3711 of the Code of Virginia. The board will entertain public comment at the beginning of the meeting on all other business for a period not to exceed 30 minutes. Any person desiring to attend the meeting, and requiring special accommodations in order to participate in 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: Dr. Wayne Surles, Program Manager, Department of Agriculture and Consumer Services, Washington Building, 1100 Bank Street, 4th Floor, Richmond, VA 23219, telephone (804) 371-6558, FAX (804) 371-8598, toll-free (800) 552-9963, e-mail wayne.surles@vdacs.virginia.gov.

Virginia Pork Industry Board

† **July 22, 2005 - 3 p.m.** -- Open Meeting
Smithfield Station, 415 South Main Street on Business Route 10 East, Smithfield, Virginia. 

The board's minutes of the last meeting will be reviewed and approved. The board's financial statement will be reviewed. The board will elect Pork Board delegates, elect new officers, approve projects, and formulate the annual report. 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 three days before the meeting date so that suitable arrangements can be made for any appropriate accommodation.

Contact: John H. Parker, Executive Director, Department of Agriculture and Consumer Services, 1100 Bank Street, 9th Floor, Richmond, VA 23219, telephone (804) 786-7092, FAX (804) 371-7786, e-mail john.parker@vdacs.virginia.gov.

Virginia Small Grains Board

July 20, 2005 - 8 a.m. -- Open Meeting
DoubleTree Hotel Richmond Airport, 5501 Eubank Road, Richmond, Virginia. 

A meeting to review FY 2004-2005 project reports and receive and approve the 2005-2006 project proposals. Minutes from the last board meeting and a current financial statement will be heard and will be subject to approval. 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 Philip T. Hickman at least five days before the meeting date so that suitable arrangements can be made.

Contact: Philip T. Hickman, Program Director, Department of Agriculture and Consumer Services, 1100 Bank St., Room 1005, Richmond, VA 23219, telephone (804) 371-6157, FAX (804) 371-7786, e-mail butch.nottingham@vdacs.virginia.gov.

Virginia Soybean Board

† **August 23, 2005 - 3 p.m.** -- Open Meeting
Corbin Hall Farm, 2936 Corbin Hall Drive, Waterview, Virginia. 

The board will discuss checkoff revenues and the financial status of the board following the end of the fiscal year ending June 30, 2005, and will hear and approve the minutes of the March 10, 2005, meeting. Reports will also be heard from the chairman, United Soybean Board representatives, and other committees. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact the person identified in this notice at least five days before the meeting date so that suitable arrangements can be made for any appropriate accommodation.

Contact: Philip T. Hickman, Program Director, Department of Agriculture and Consumer Services, 1100 Bank Street, Room 906, Richmond, VA 23219, telephone (804) 371-6157, FAX (804) 371-7786, e-mail phil.hickman@vdacs.virginia.gov.

Calendar of Events

SECRETARY OF AGRICULTURE AND FORESTRY

Biodiesel Work Group (HJR 598)

† **August 8, 2005 - 9:30 a.m.** -- Open Meeting
Virginia Farm Bureau Federation, 12580 West Creek Parkway, Richmond, Virginia 

The two-day meeting scheduled Monday, August 8, 2005, and Tuesday, August 9, 2005. The meeting will be a listening session on the use and production of biodiesel fuel in the Commonwealth. Invitees will present an overview and discuss various aspects of the use and production of biodiesel in Virginia. The Biodiesel Work Group will entertain public comment at the conclusion of all other business on August 9, 2005, for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact Perida Giles at least five days before the meeting date so that suitable arrangements can be made for any appropriate accommodation

Contact: Perida Giles, Senior Policy Analyst, Department of Agriculture and Consumer Services, 1100 Bank Street, Suite 211, Richmond, VA 23219, telephone (804) 786-5175, FAX (804) 371-2945, e-mail perida.giles@vdacs.virginia.gov.

STATE AIR POLLUTION CONTROL BOARD

July 29, 2005 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Air Pollution Control Board intends to amend regulations entitled **9 VAC 5-50, New and Modified Stationary Sources; 9 VAC 5-60, Hazardous Air Pollutant Sources; and 9 VAC 5-80, Permits for Stationary Sources (Rev. K04)**. The purpose of the proposed action is to convert from a permit applicability approach that looks at the changes from a sourcewide perspective to determine applicability to an approach that looks at each physical or operational change to the source individually to determine applicability. Currently applicability is based on the net emissions increase in actual emissions based on all the sourcewide emissions changes directly resultant from the physical or operational change. The revised program would base permit applicability on the uncontrolled emissions from each individual physical or operational change to the source.

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

Contact: Robert A. Mann, Director, Office of Air Regulatory Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4419, FAX (804) 698-4510 or e-mail ramann@deq.virginia.gov.

† **August 10, 2005 - 1:30 p.m.** -- Open Meeting
Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 

A public meeting to receive comment on a notice of intent to amend the regulations for the control and abatement of air pollution for the clean air mercury rule. The notice of intent

appears in the Virginia Register of Regulations on July 11, 2005. The comment period begins on July 11, 2005, and ends on August 10, 2005.

Contact: Mary E. Major, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4423, FAX (804) 698-4510, e-mail memajor@deq.virginia.gov.

† **August 10, 2005 - 1:30 p.m.** -- Open Meeting
Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 

A public meeting to receive comments on the notice of intent to amend 9 VAC 5-140, Regulation for Emissions Trading (Rev. E05), the regulations for the control and abatement of air pollution concerning the clean air interstate rule (Rev. E05). The notice of intent appears in the Virginia Register of Regulations on July 11, 2005. The comment period begins on July 11, 2005, and closes on August 10, 2005.

Contact: Mary E. Major, State Air Pollution Control Board, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4423, FAX (804) 698-4510, e-mail memajor@deq.virginia.gov.

† **August 17, 2005 - 4 p.m.** -- Public Hearing
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia 

September 12, 2005 - Public comments may be received until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Air Pollution Control Board intends to amend regulations entitled **9 VAC 5-50, New and Modified Stationary Sources and 9 VAC 5-80, Permits for Stationary Sources (Rev E05)**. The purpose of the proposed action is to consider amending the regulations that govern permitting for new major stationary sources and major modifications in order to meet the new source reform requirements of 40 CFR Part 51. Public comments may be submitted until 5 p.m. on September 12, 2005.

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

Contact: Karen G. Sabasteanski, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4426, FAX (804) 698-4510, e-mail kgsabastea@deq.virginia.gov.

ALCOHOLIC BEVERAGE CONTROL BOARD

July 18, 2005 - 9 a.m. -- Open Meeting
August 1, 2005 - 9 a.m. -- Open Meeting
August 15, 2005 - 9 a.m. -- Open Meeting
August 29, 2005 - 9 a.m. -- Open Meeting
September 12, 2005 - 9 a.m. -- Open Meeting
September 26, 2005 - 9 a.m. -- Open Meeting
† **October 11, 2005 - 9 a.m.** -- Open Meeting
Department of Alcoholic Beverage Control, 2901 Hermitage Road, Richmond, Virginia 

A meeting to receive and discuss reports and activities from staff members and to discuss other matters not yet determined.

Contact: W. Curtis Coleburn, III, Secretary to the Board, Department of Alcoholic Beverage Control, 2901 Hermitage Rd., Richmond, VA 23220, telephone (804) 213-4409, FAX (804) 213-4411, (804) 213-4687/TTY ☎, e-mail curtis.coleburn@abc.virginia.gov.

ALZHEIMER'S DISEASE AND RELATED DISORDERS COMMISSION

† **September 20, 2005 - 10 a.m.** -- Open Meeting
Department for the Aging, 1610 Forest Avenue, Suite 100, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular meeting.

Contact: Cecily Slasor, I and R Specialist, Alzheimer's Disease and Related Disorders Commission, 1610 Forest Ave., Ste. 100, Richmond, VA 23229, telephone (804) 662-9338, FAX (804) 662-9354, toll-free (800) 552-3402, (804) 662-9333/TTY ☎, e-mail cecily.slasor@vda.virginia.gov.

BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS, CERTIFIED INTERIOR DESIGNERS AND LANDSCAPE ARCHITECTS

July 28, 2005 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ♿

A meeting of the Architects Section to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail apelscidla@dpor.virginia.gov.

August 2, 2005 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ♿

A meeting of the Professional Engineers Section to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements

can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail apelscidla@dpor.virginia.gov.

August 4, 2005 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ♿

A meeting of the Landscape Architects Section to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail apelscidla@dpor.virginia.gov.

August 9, 2005 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ♿

A meeting of the Land Surveyors Section to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail apelscidla@dpor.virginia.gov.

August 11, 2005 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ♿

A meeting of the Interior Designers Section to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Calendar of Events

Contact: Mark N. Courtney, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail apelscidla@dpor.virginia.gov.

September 8, 2005 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. ♿

A meeting of the full board to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail apelscidla@dpor.virginia.gov.

ART AND ARCHITECTURAL REVIEW BOARD

August 5, 2005 - 10 a.m. -- Open Meeting

September 9, 2005 - 10 a.m. -- Open Meeting

† **October 7, 2005 - 10 a.m.** -- Open Meeting

Science Museum of Virginia, 2500 West Broad Street, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A monthly meeting to review projects submitted by state agencies. Art and Architectural Review Board submittal forms and submittal instructions can be downloaded by visiting the DGS Forms Center at www.dgs.state.va.us. Request form #DGS-30-905 or submittal instructions #DGS-30-906. The deadline for submitting project datasheets and other required information is two weeks prior to the meeting date.

Contact: Richard L. Ford, AIA Chairman, Art and Architectural Review Board, 101 Shockoe Slip, 3rd Floor, Richmond, VA 23219, telephone (804) 648-5040, FAX (804) 225-0329, (804) 786-6152/TTY ☎, or e-mail rford@comarchs.com.

VIRGINIA BOARD FOR ASBESTOS, LEAD, AND HOME INSPECTORS

August 17, 2005 - 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, 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 alhi@dpor.virginia.gov.

COMPREHENSIVE SERVICES FOR AT-RISK YOUTH AND FAMILIES

State Executive Council

September 14, 2005 - 9 a.m. -- Open Meeting
Location to be announced.

A regular meeting. The meeting will adjourn by noon.

Contact: Kim McGaughey, Executive Director, Comprehensive Services for At-Risk Youth and Families, 1604 Santa Rosa Rd., Richmond, VA 23229, telephone (804) 662-9830, FAX (804) 662-9831.

AUCTIONEERS BOARD

† **October 6, 2005 - 10 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. ♿

A meeting to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at 804-367-8514 at least 10 days prior to this meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Marian H. Brooks, Regulatory Board Administrator, Auctioneers Board, 3600 W. Broad St. Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail auctioneers@dpor.virginia.gov.

BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

† **July 13, 2005 - 1 p.m.** -- Public Hearing
Department of Health Professions, 6603 West Broad Street,
5th Floor, Richmond, Virginia 23230-1712. ♿

A public hearing to receive comments regarding the board's 2006 legislative proposal.

Contact: Elizabeth Young, Executive Director, Board of Audiology and Speech-Language Pathology, 6603 West 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.

† **July 13, 2005 - 1:30 p.m.** -- Open Meeting
August 18, 2005 - 9:30 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street,
5th Floor, Richmond, Virginia. ♿

A meeting to discuss issues and matters related to audiology and speech-language pathology.

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) 662-9907, FAX (804) 662-9523, (804) 662-7197/TTY ☎, e-mail elizabeth.young@dhp.virginia.gov.

VIRGINIA AVIATION BOARD

† **August 17, 2005 - 9 a.m.** -- Open Meeting
Ramada Plaza Resort Oceanfront, 5700 Atlantic Avenue, Virginia Beach, Virginia. ♿

The 2005 Virginia Aviation Conference will be held August 17-19, 2005. 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, Executive Assistant, Department of Aviation, 5702 Gulfstream Rd., Richmond, VA 23250, telephone (804) 236-3626, FAX (804) 236-3635, e-mail carolyn.toth@doav.virginia.gov.

BOARD FOR BARBERS AND COSMETOLOGY

† **July 28, 2005 - 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: 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.

August 15, 2005 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Conference Room 4W, Richmond, Virginia. ♿

A meeting to conduct general business and consider regulatory issues as may be presented. A portion of the meeting may be held in closed session. A public comment period will be held at the beginning of the meeting. Any person desiring to attend the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so suitable arrangements can be made. The board 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 barbercosmo@dpor.virginia.gov.

August 15, 2005 - 1 p.m. -- Public Hearing
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ♿

August 26, 2005 - 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 for Barbers and Cosmetology intends to adopt regulations entitled **18 VAC 41-30, Hair Braiding Regulations**. The purpose of the proposed regulations is to promulgate regulations governing the licensure and practice of hair braiding as mandated by Chapter 600 of the 2003 Acts of Assembly.

Statutory Authority: § 54.1-201 and Chapter 7 (§ 54.1-700 et seq.) of Title 54.1 of the Code of Virginia.

Contact: William H. Ferguson, II, Executive Director, Board for Barbers and Cosmetology, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8590, FAX (804) 367-6295 or e-mail william.ferguson@dpor.virginia.gov.

BOARD FOR THE BLIND AND VISION IMPAIRED

† **July 12, 2005 - 1 p.m.** -- Open Meeting
NOTE: CHANGE IN MEETING LOCATION
Virginia Industries for the Blind, 1102 Monticello Road, Charlottesville, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular quarterly meeting to receive information regarding department activities and operations, review expenditures from the board endowment fund, and discuss other issues raised before the board.

Contact: Katherine C. Proffitt, Administrative Staff Assistant, Department for the Blind and Vision Impaired, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3145, FAX (804) 371-3157, toll-free (800) 622-2155, (804) 371-3140/TTY ☎, e-mail kathy.proffitt@dbvi.virginia.gov.

BOARD FOR BRANCH PILOTS

July 29, 2005 - 9 a.m. -- Open Meeting
Virginia Port Authority, 600 World Trade Center, Norfolk, Virginia. ♿

A meeting to conduct general business. A portion of the meeting may be held in closed session. A public comment period will be held at the beginning of the meeting. Any person desiring to attend the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Executive Director, Board for Branch Pilots, 3600 W. Broad St. Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail branchpilots@dpor.virginia.gov.

Calendar of Events

CEMETERY BOARD

July 12, 2005 - 2 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: Christine Martine, Executive Director, Cemetery Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, (804) 367-9753/TTY , e-mail cemeterybrd@dpor.virginia.gov.

CHARITABLE GAMING BOARD

September 13, 2005 - 10 a.m. -- Open Meeting
Science Museum of Virginia, 2500 West Broad Street,
Discovery Room, Richmond, Virginia. 

A regular quarterly meeting.

Contact: Clyde E. Cristman, Director, Department of Charitable Gaming, James Monroe Bldg., 101 N. 14th St., 17th Floor, Richmond, VA 23219, telephone (804) 786-1681, FAX (804) 786-1079, e-mail clyde.cristman@dcg.virginia.gov.

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

† July 25, 2005 - 10 a.m. -- Open Meeting
Department of Conservation and Recreation, James Monroe Building, 101 N. 14th St., 17th Floor Conference Room, Richmond, Virginia.

A committee meeting to discuss policy issues and direction for board activities.

Contact: David C. Dowling, Policy, Planning, and Budget Director, Department of Conservation and Recreation, 203 Governor Street, Suite 302, Richmond, VA 23219, telephone (804) 786-2291, FAX (804) 786-6141, e-mail david.dowling@dcr.virginia.gov.

† August 9, 2005 - 10 a.m. -- Open Meeting
Department of Conservation and Recreation, James Monroe Building, 101 N. 14th St., 17th Floor Conference Room, Richmond, Virginia.

The Northern Area Review Committee will conduct general business, including review of local Chesapeake Bay Preservation Area programs for the northern area.

Contact: David C. Dowling, Policy, Planning, and Budget Director, Department of Conservation and Recreation, 203 Governor Street, Suite 302, Richmond, VA 23219, telephone (804) 786-2291, FAX (804) 786-6141, e-mail david.dowling@dcr.virginia.gov.

† August 9, 2005 - 2 p.m. -- Open Meeting
Department of Conservation and Recreation, James Monroe Building, 101 N. 14th St., 17th Floor Conference Room, Richmond, Virginia.

The Southern Area Review Committee will conduct general business, including review of local Chesapeake Bay Preservation Area programs for the southern area.

Contact: David C. Dowling, Policy, Planning, and Budget Director, Department of Conservation and Recreation, 203 Governor Street, Suite 302, Richmond, VA 23219, telephone (804) 786-2291, FAX (804) 786-6141, e-mail david.dowling@dcr.virginia.gov.

† September 19, 2005 - 10 a.m. -- Open Meeting
LOCATION TBA

A regular business meeting and review of local programs.

Contact: David C. Dowling, Policy, Planning, and Budget Director, Department of Conservation and Recreation, 203 Governor Street, Suite 302, Richmond, VA 23219, telephone (804) 786-2291, FAX (804) 786-6141, e-mail david.dowling@dcr.virginia.gov.

CHILD DAY-CARE COUNCIL

† September 08, 2005 - 10 a.m. -- Open Meeting
Department of Social Services, 7 N. 8th Street, 6th Floor Conference Room, Richmond, Virginia. 

A regular business meeting.

Contact: Pat Rengnerth, State Board Liaison, Department of Social Services, Office of Legislative and Regulatory Affairs, 7 North Eighth Street, Room 5214, Richmond, VA 23219, telephone (804) 726-7905, FAX (804) 726-7906, (800) 828-1120/TTY , e-mail patricia.rengnerth@dss.virginia.gov.

STATE CHILD FATALITY REVIEW TEAM

July 12, 2005 - 10 a.m. -- Open Meeting
September 9, 2005 - 10 a.m. -- Open Meeting
Office of the Chief Medical Examiner, 400 East Jackson Street, Richmond, Virginia. 

The business portion of the meeting is open to the public. At the conclusion of the open meeting, the team will go into closed session for confidential case review.

Contact: Angela Myrick, Coordinator, Department of Health, 400 E. Jackson St., Richmond, VA 23219, telephone (804) 786-1047, FAX (804) 371-8595, toll-free (800) 447-1708, e-mail angela.myrick@vdh.virginia.gov.

STATE BOARD FOR COMMUNITY COLLEGES

July 20, 2005 - 1:30 p.m. -- Open Meeting
September 14, 2005 - 9 a.m. -- Open Meeting
Virginia Community College System, James Monroe Building, 101 North 14th Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

Meetings of the Academic Committee, Student Affairs and Workforce Development Committee, and Budget and Finance Committee begin at 1:30 p.m. The Facilities Committee and the Audit Committee will meet at 3 p.m. The Personnel Committee will meet at 3:30 p.m. The Executive Committee will meet at 5 p.m.

Contact: D. Susan Hayden, Director of Public Affairs, Virginia Community College System, 101 N. 14th St., Richmond, VA

23219, telephone (804) 819-4961, FAX (804) 819-4768, (804) 371-8504/TTY ☎

July 21, 2005 - 9 a.m. -- Open Meeting

September 15, 2005 - 9 a.m. -- Open Meeting

James Monroe Building, 101 North 14th Street, Godwin-Hamel Board Room, 15th Floor, Richmond, Virginia. ♿
(Interpreter for the deaf provided upon request)

A meeting of the full board. Public comment may be received at the beginning of the meeting upon notification at least five working days prior to the meeting.

Contact: D. Susan Hayden, Director of Public Affairs, Virginia Community College System, 15th Floor, 101 N. 14th St., Richmond, VA 23219, telephone (804) 819-4961, FAX (804) 819-4768, (804) 371-8504/TTY ☎

COMPENSATION BOARD

July 20, 2005 - 11 a.m. -- Open Meeting

830 East Main Street, 2nd Floor Conference Room, Richmond, Virginia. ♿

A monthly board meeting.

Contact: Cindy P. Waddell, Administrative Staff Assistant, Compensation Board, P.O. Box 710, Richmond, VA 23218, telephone (804) 786-0786, FAX (804) 371-0235, e-mail cindy.waddell@scb.virginia.gov.

DEPARTMENT OF CONSERVATION AND RECREATION

Falls of the James Scenic River Advisory Committee

† **July 14, 2005 - Noon** -- Open Meeting

† **August 11, 2005 - Noon** -- Open Meeting

† **September 8, 2005 - Noon** -- Open Meeting

Richmond City Hall, 5th Floor Conference Room, Richmond, Virginia.

A regular meeting to discuss river issues.

Contact: David C. Dowling, Policy, Planning, and Budget Director, Department of Conservation and Recreation, 203 Governor Street, Suite 302, Richmond, VA 23219, telephone (804) 786-2291, FAX (804) 786-6141, e-mail david.dowling@dcr.virginia.gov.

Goose Creek Scenic River Advisory Committee

† **July 13, 2005 - 1 p.m.** -- Open Meeting

Loudoun County Government Center, 1 Harrison Street, S.E., Lovettsville Room, Leesburg, Virginia.

A regular meeting to discuss river issues.

Contact: David C. Dowling, Policy, Planning, and Budget Director, Department of Conservation and Recreation, 203 Governor Street, Suite 302, Richmond, VA 23219, telephone (804) 786-2291, FAX (804) 786-6141, e-mail david.dowling@dcr.virginia.gov.

Virginia Soil and Water Conservation Board

† **July 21, 2005 - 9:30 a.m.** -- Open Meeting

Natural Resources Conservation Service, 1506 Santa Rosa Road, Richmond, Virginia.

† **September 15, 2005 - 9:30 a.m.** -- Open Meeting

Location to be determined.

A regular business meeting to discuss soil and water, stormwater management and dam safety issues.

Contact: David C. Dowling, Policy, Planning, and Budget Director, Department of Conservation and Recreation, 203 Governor Street, Suite 302, Richmond, VA 23219, telephone (804) 786-2291, FAX (804) 786-6141, e-mail david.dowling@dcr.virginia.gov.

BOARD FOR CONTRACTORS

July 13, 2005 - 7 p.m. -- Public Hearing

Southwest Virginia Higher Education Center, One Partnership Circle, Abingdon, Virginia.

July 14, 2005 - 7 p.m. -- Public Hearing

Chesapeake City Council Chambers, 306 Cedar Road, Chesapeake, Virginia.

July 29, 2005 - 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 for Contractors intends to amend regulations entitled **18 VAC 50-22, Board for Contractors Regulations**. The purpose of the proposed action is to amend the current regulations to reflect statutory changes, respond to changes in the industry and revise language for clarity and ease of use.

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

Contact: Eric L. Olson, Executive Director, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2785, FAX (804) 367-2474 or e-mail eric.olson@dpor.virginia.gov.

July 13, 2005 - 7 p.m. -- CANCELED

Southwest Virginia Higher Education Center, One Partnership Circle, Abingdon, Virginia.

July 14, 2005 - 7 p.m. -- CANCELED

Chesapeake City Council Chambers, 306 Cedar Road, Chesapeake, Virginia.

A meeting to receive comments regarding implementation of regulatory fee amendments effective August 1, 2005, for Board for Contractors Regulations, 18 VAC 50-22, and Board for Contractors Tradesman Regulations, 18 VAC 50-30 is canceled.

Contact: Eric L. Olson, Executive Director, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2785, FAX (804) 367-2474 or e-mail eric.olson@dpor.virginia.gov.

Calendar of Events

† **July 12, 2005 - 10:30 a.m.** -- Open Meeting

July 14, 2005 - 9 a.m. -- Open Meeting

† **July 19, 2005 - 3 p.m.** -- Open Meeting

† **July 21, 2005 - 9 a.m.** -- Open Meeting

† **July 26, 2005 - 9 a.m.** -- Open Meeting

† **July 28, 2005 - 9 a.m.** -- Open Meeting

† **August 4, 2005 - 9 a.m.** -- Open Meeting

† **August 25, 2005 - 9 a.m.** -- Open Meeting

Department of Professional and Occupational Regulation,
3600 West Broad Street, 4th Floor, Richmond, Virginia. 

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 19, 2005 - 9 a.m. -- Open Meeting

August 30, 2005 - 9 a.m. -- Open Meeting

Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. 

A regular meeting to address policy and procedural issues and review and render 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. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at (804) 367-2785 at least 10 days prior to this meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: 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.

August 10, 2005 - 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.virginia.gov.

BOARD OF CORRECTIONS

July 19, 2005 - 10 a.m. -- Open Meeting

September 20, 2005 - 10 a.m. -- Open Meeting

Department of Corrections, 6900 Atmore Drive, 3rd Floor Board Room, Richmond, Virginia. 

A meeting of the Liaison Committee to discuss correctional matters of interest to the board.

Contact: Barbara Woodhouse, Administrative Staff Assistant, Department of Corrections, 6900 Atmore Dr., Richmond, VA

23225, telephone (804) 674-3124, FAX (804) 674-3236, e-mail woodhousebl@vadoc.virginia.gov.

July 19, 2005 - 1 p.m. -- Open Meeting

September 20, 2005 - 1 p.m. -- Open Meeting

Department of Corrections, 6900 Atmore Drive, 3rd Floor, Room 3054, Richmond, Virginia. 

A meeting of the Correctional Services/Policy and Regulations Committee to discuss correctional services and policy/regulation matters to be considered by the board.

Contact: Barbara Woodhouse, Administrative Staff Assistant, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3124, FAX (804) 674-3236, e-mail woodhousebl@vadoc.virginia.gov.

July 20, 2005 - 9:30 a.m. -- Open Meeting

September 21, 2005 - 9:30 a.m. -- Open Meeting

Department of Corrections, 6900 Atmore Drive, 3rd Floor Board Room, Richmond, Virginia. 

A meeting of the Administration Committee to discuss administrative matters to be considered by the board.

Contact: Barbara Woodhouse, Administrative Staff Assistant, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3124, FAX (804) 674-3236, e-mail woodhousebl@vadoc.virginia.gov.

July 20, 2005 - 10 a.m. -- Open Meeting

September 21, 2005 - 10 a.m. -- Open Meeting

Department of Corrections, 6900 Atmore Drive, 3rd Floor Board Room, Richmond, Virginia. 

A regular meeting of the full board to review and discuss all matters considered by board committees that require action by the board.

Contact: Barbara Woodhouse, Administrative Staff Assistant, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3124, FAX (804) 674-3236, e-mail woodhousebl@vadoc.virginia.gov.

BOARD OF COUNSELING

July 29, 2005 - 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 Counseling intends to amend regulations entitled **18 VAC 115-20, Regulations Governing the Practice of Professional Counseling; 18 VAC 115-50, Regulations Governing the Practice of Marriage and Family Therapy; 18 VAC 115-60, Regulations Governing the Licensure of Substance Abuse Treatment Practitioners.** The purpose of the proposed action is to update and provide for consistency of regulations relating to standards of practices, disciplinary actions, and reinstatement governing the three professions licensed by this board.

Statutory Authority: §§ 54.1-2400 and 54.1-3505 of the Code of Virginia.

Public comments may be submitted until July 29, 2005, to Evelyn B. Brown, Executive Director, Board of Counseling, 6603 West Broad Street, Richmond, VA 23230-1712.

Contact: Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6603 W. Broad St., Richmond, VA 23230-1712, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.virginia.gov.

CRIMINAL JUSTICE SERVICES BOARD

September 8, 2005 - 9 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. 

A meeting of the Committee on Training.

Contact: Leon D. Baker, Jr., Division Director, Department of Criminal Justice Services, Eighth Street Office Bldg., 805 E. Broad St., 10th Floor, Richmond, VA 23219, telephone (804) 225-4086, FAX (804) 786-0588, e-mail lbaker@dcjs.virginia.gov.

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† **September 8, 2005 - 9 a.m.** -- Public Hearing
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. 

September 9, 2005 - 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 Criminal Justice Services Board intends to adopt regulations entitled **6 VAC 20-240, Regulations Relating to School Security Officers**. The purpose of the proposed action is to identify compulsory minimum standards for employment, entry-level and in-service training requirements and certification requirements for school security officers.

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

Contact: Donna Bowman, Manager, Virginia Center for School Safety, 805 East Broad Street, Richmond, VA 23219, telephone (804) 371-6506, FAX (804) 371-8981, or e-mail donna.bowman@dcjs.virginia.gov.

September 8, 2005 - 11 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. 

A meeting to conduct general board business.

Contact: Leon D. Baker, Jr., Division Director, Department of Criminal Justice Services, Eighth Street Office Bldg., 805 E. Broad St., 10th Floor, Richmond, VA 23219, telephone (804) 225-4086, FAX (804) 786-0588, e-mail lbaker@dcjs.virginia.gov.

DEPARTMENT FOR THE DEAF AND HARD-OF-HEARING

August 3, 2005 - 10 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 quarterly meeting of the advisory board.

Contact: Leslie Hutcheson Prince, Policy and Planning Manager, Department for the Deaf and Hard-of-Hearing, 1602 Rolling Hills Dr., Suite 203, Richmond, VA 23235, telephone (804) 662-9703, toll-free (800) 552-7917, (804) 662-9703/TTY , e-mail leslie.prince@vddhh.virginia.gov.

BOARD OF DENTISTRY

July 15, 2005 - 9 a.m. -- Open Meeting
July 22, 2005 - 9 a.m. -- Open Meeting
August 12, 2005 - 9 a.m. -- Open Meeting
August 26, 2005 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 

A meeting of the Special Conference Committee to hold informal conferences. There will not be a public comment period.

Contact: Cheri Emma-Leigh, Operations Manager, Board of Dentistry, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-9906, FAX (804) 662-7246, (804) 662-7197/TTY , e-mail cheri.emma-leigh@dhp.virginia.gov.

September 16, 2005 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, Richmond, Virginia. 

A meeting to discuss business issues. There will be a public comment period at the beginning 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

July 21, 2005 - 11 a.m. -- Open Meeting
August 18, 2005 - 11 a.m. -- Open Meeting
September 15, 2005 - 11 a.m. -- Open Meeting
Department of General Services, Eighth Street Office Building, 805 East Broad Street, 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

Calendar of Events

(804) 371-7934, (804) 786-6152/TTY☎, or e-mail rhonda.bishton@dgs.virginia.gov.

VIRGINIA ECONOMIC DEVELOPMENT PARTNERSHIP

July 13, 2005 - 6:30 p.m. -- Open Meeting
Location to be determined.

July 14, 2005 - 9 a.m. -- Open Meeting
901 East Byrd Street, West Tower, Presentation Center, 20th Floor, Richmond, Virginia.♿

A meeting of the Search Committee to focus on the selection of a new executive director.

Contact: Kim Ellett, Senior Executive Assistant, Virginia Economic Development Partnership, P.O. Box 798, Richmond, VA 23218-0798, telephone (804) 371-8108, FAX (804) 371-8112, e-mail ellett1@comcast.net.

† **July 14, 2005 - 7:30 a.m.** -- Open Meeting
† **July 27, 2005 - 7:30 a.m.** -- Open Meeting
901 East Byrd Street, Riverfront Plaza, West Tower, 19th Floor, Richmond, Virginia.♿

A meeting of the Finance Committee.

Contact: Kimberly M. Ellett, Senior Executive Assistant, Virginia Economic Development Partnership, P.O. Box 798, Richmond, VA 23218, telephone (804) 371-8108, FAX (804) 371-8112, e-mail kellett@yesvirginia.org.

July 27, 2005 - 9 a.m. -- Open Meeting
901 East Byrd Street, West Tower, Presentation Center, 20th Floor, Richmond, Virginia.♿

A meeting of the Search Committee to focus on the selection of a new executive director; interviews will be held for this position.

Contact: Kim Ellett, Senior Executive Assistant, Virginia Economic Development Partnership, P.O. Box 798, Richmond, VA 23218-0798, telephone (804) 371-8108, FAX (804) 371-8112, e-mail ellett1@comcast.net.

BOARD OF EDUCATION

July 18, 2005 - 10 a.m. -- Open Meeting
James Monroe Building, 101 North 14th Street, Conference Room C, Richmond, Virginia.

A meeting of the Committee on English as a Second Language. 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, James Monroe Bldg., 101 N. 14th St., 25th Floor, Richmond, VA 23219, telephone (804) 225-2540, FAX (804) 225-2524, e-mail margaret.roberts@doe.virginia.gov.

July 27, 2005 - 9 a.m. -- Open Meeting
September 21, 2005 - 9 a.m. -- Open Meeting
James Monroe Building, 101 North 14th Street, Main Lobby Level, Conference Rooms C and D, Richmond, Virginia.♿

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.

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 margaret.roberts@doe.virginia.gov.

DEPARTMENT OF EDUCATION

July 21, 2005 - 8:45 a.m. -- Open Meeting
July 22, 2005 - 8:45 a.m. -- Open Meeting
Richmond Holiday Inn at the Koger Center, Midlothian Turnpike, Richmond, Virginia.

A meeting of the State Special Education Advisory Committee. Agenda to be announced.

Contact: Dr. Margaret N. Roberts, Office of Policy and Communications, 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 margaret.roberts@doe.virginia.gov.

DEPARTMENT OF ENVIRONMENTAL QUALITY

† **July 12, 2005 - 6 p.m.** -- Open Meeting
Hurley Elementary and Middle School, Hurley, Virginia.♿

A public meeting on the development of a bacteria TMDL for Knox Reek and a TMDL in PawPaw Creek located in Buchanan County. The public notice appears in the Virginia Register of Regulations on July 11, 2005. The comment period begins on July 12, 2005, and ends on August 11, 2005.

Contact: Nancy T. Norton, Department of Environmental Quality, P.O. Box 1688, Abingdon, VA 24212, telephone (276) 676-4807, FAX (276) 676-4899, e-mail ntnorton@deq.virginia.gov.

July 12, 2005 - 7 p.m. -- Open Meeting
Ottobine Elementary School, 8646 Waggys Creek Road, Dayton, Virginia.♿

The final public meeting on the development of a bacteria TMDL for Beaver Creek in Rockingham County. The public notice appears in the Virginia Register of Regulations on June 27, 2005. The public comment period begins on July 12, 2005, and ends on August 12, 2005.

Contact: Robert Brent, Department of Environmental Quality, 4411 Early Rd., Harrisonburg, VA 22801, telephone (540) 574-7848, FAX (540) 574-7878, e-mail rbrent@deq.virginia.gov.

July 12, 2005 - 7 p.m. -- Open Meeting

Page Middle School, 5628 George Washington Memorial Highway, Gloucester, Virginia. 

The first public meeting on the development of fecal coliform TMDLs for 16 shellfish waters in Gloucester County. The public notice appears in the Virginia Register of Regulations on June 27, 2005. The public comment period begins on July 13, 2005, and closes on August 11, 2005.

Contact: Chester Bigelow, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4554, FAX (804) 698-4116, e-mail cbigelow@deq.virginia.gov.

† **July 13, 2005 - 6 p.m.** -- Open Meeting

Pocahontas Presbyterian Church, 134 Moore Street, Pocahontas, Virginia. 

A public meeting on the development of TMDLs for bacteria contamination and causes of low levels of dissolved oxygen in the waters of Laurel Fork in Tazewell County. The public notice appears in the Virginia Register of Regulations on July 11, 2005. The comment period begins on July 13, 2005, and ends on August 12, 2005.

Contact: Nancy T. Norton, Department of Environmental Quality, P.O. Box 1688, Abingdon, VA 24212, telephone (276) 676-4807, FAX (276) 676-4899, e-mail ntnorton@deq.virginia.gov.

† **July 14, 2005 - 6 p.m.** -- Open Meeting

Friends Community Church, 145 Palmer Avenue, Saltville, Virginia. 

A public meeting on the development of a TMDL for waters of the North Fork Holston River in Smyth County and Washington County. The public notice appears in the Virginia Register of Regulations on July 11, 2005. The comment period begins on July 14, 2005 and ends on August 15, 2005.

Contact: Nancy T. Norton, Department of Environmental Quality, P.O. Box 1688, Abingdon, VA 24212, telephone (276) 676-4807, FAX (276) 676-4899, e-mail ntnorton@deq.virginia.gov.

July 14, 2005 - 7 p.m. -- Open Meeting

Williams Wharf, off Route 614 on Williams Wharf Road, Mathews, Virginia. 

The first public meeting on the development of fecal coliform TMDLs for seven shellfish propagation waters in Mathews County. The public notice appears in the Virginia Register of Regulations on June 27, 2005. The comment

period begins on July 15, 2005, and closes on August 12, 2005.

Contact: Chester Bigelow, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4554, FAX (804) 698-4116, e-mail cbigelow@deq.virginia.gov.

July 19, 2005 - 9 a.m. -- Open Meeting

Department of Environmental Quality, 629 East Main Street, Richmond, Virginia. 

A regular meeting of the Ground Water Protection Steering Committee.

Contact: Mary Ann Massie, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4042, e-mail mamassie@deq.virginia.gov.

† **July 19, 2005 - 6 p.m.** -- Open Meeting

Natural Tunnel State Park, Cove Ridge Center, Duffield, Virginia. 

A public meeting on the development of a TMDL for waters of Stock Creek in Scott County. The public notice appears in the Virginia Register of Regulations on July 11, 2005. The comment period begins on July 19, 2005, and ends on August 18, 2005.

Contact: Nancy T. Norton, Department of Environmental Quality, P.O. Box 1688, Abingdon, VA 24212, telephone (276) 676-4807, FAX (276) 676-4899, e-mail ntnorton@deq.virginia.gov.

July 20, 2005 - 7 p.m. -- Open Meeting

Poquoson Public Library, 500 City Hall Avenue, Main Conference Room, Poquoson, Virginia. 

The first public meeting on the development of fecal coliform TMDLs for shellfish propagation waters in the City of Poquoson and York County. The public notice appears in the Virginia Register of Regulations on June 27, 2005. The public comment period begins on July 21, 2005, and closes on August 11, 2005.

Contact: Chester Bigelow, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4554, FAX (804) 698-4116, e-mail cbigelow@deq.virginia.gov.

† **July 21, 2005 - 6 p.m.** -- Open Meeting

Public Safety Building, Courtroom, 353 N. Main Street, Galax, Virginia. 

A public meeting on the development of a bacteria TMDL for Chestnut Creek in Carroll County, Grayson County and Galax. The notice appears in the Virginia Register of Regulations on July 11, 2005. The public comment period begins on July 21, 2005, and ends on August 22, 2005.

Contact: Nancy Norton, Department of Environmental Quality, P.O. Box 1688, Abingdon, VA 24212, telephone (276) 676-4807, FAX (276) 676-4899, e-mail ntnorton@deq.virginia.gov.

Calendar of Events

† **August 4, 2005 - 7 p.m.** -- Open Meeting
Eastern Montgomery High School, 4695 Crozier Road,
Elliston, Virginia. 📍

A public meeting on the development of a bacteria TMDL for impaired segments in the Roanoke River Watershed located in Roanoke City and Montgomery, Bedford and Franklin counties. The public notice appears in the Virginia Register on July 11, 2005. The public comment period begins on August 4, 2005, and closes on September 9, 2005.

Contact: Jason R. Hill, Department of Environmental Quality, 3019 Peters Creek Road Roanoke, VA 24019, telephone (540) 562-6724, FAX (540) 562-6860, e-mail jrhill@deq.virginia.gov.

† **August 9, 2005 - 7 p.m.** -- Open Meeting
Department of Environmental Quality, West Central Regional Office, 3019 Peters Creek Road, Roanoke, Virginia. 📍

A public meeting to discuss a study to restore water quality in the Roanoke River Watershed for segments impaired for bacteria located in Roanoke City and the counties of Montgomery, Bedford and Franklin. The public notice appears in the Virginia Register of Regulations on July 11, 2005. The public comment period begins on August 9, 2005, and closes on September 9, 2005.

Contact: Jason R. Hill, Department of Environmental Quality, 3019 Peters Creek Road Roanoke, VA 24019, telephone (540) 562-6724, FAX (540) 562-6860, e-mail jrhill@deq.virginia.gov.

† **August 16, 2005 - 7 p.m.** -- Open Meeting
Smith Mountain Lake 4-H Center, W.E. Skelton Educational Conference Center, Wirtz, Virginia. 📍

The first public meeting on the development of bacteria TMDLs for impaired waters in the Pigg River Watershed located in Pittsylvania, Franklin and Campbell counties. The public notice appears in the Virginia Register of Regulations on July 11, 2005. The comment period begins on August 16, 2005, and ends on September 16, 2005.

Contact: Mary R. Dail, Department of Environmental Quality, 3019 Peters Creek Road, Roanoke, VA 24019, telephone (540) 562-6715, FAX (540) 562-6860, e-mail mrdail@deq.virginia.gov.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

July 12, 2005 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 3, Richmond, Virginia. 📍

A meeting to discuss general business matters related to funeral service.

Contact: Elizabeth Young, Executive Director, Board of Funeral Directors and Embalmers, Alcoa Building, 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.

July 12, 2005 - 12:30 p.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 3, Richmond, Virginia. 📍

A meeting of the Regulatory/Legislative Committee to discuss the rules and regulations that pertain to the practice of funeral service.

Contact: Elizabeth Young, Executive Director, Board of Funeral Directors and Embalmers, Alcoa Building, 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 FOR GEOLOGY

July 27, 2005 - 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.virginia.gov.

STATE BOARD OF HEALTH

August 29, 2005 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Health intends to repeal regulations entitled **12 VAC 5-480, Radiation Protection Regulations** and adopt regulations entitled **12 VAC 5-481, Virginia Radiation Protection Regulations**. The purpose of the proposed action is to comprehensively amend the regulations in light of the most current safety considerations.

Statutory Authority: § 32.1-229 of the Code of Virginia.

Contact: Les Foldesi, Director, Radiological Health Program, Department of Health, 109 Governor St., Richmond, VA 23219, telephone (804) 864-8150, FAX (804) 864-7902 or e-mail les.foldesi@vdh.virginia.gov.

DEPARTMENT OF HEALTH

July 12, 2005 - 10 a.m. -- Open Meeting
Madison Building, 109 Governor Street, 5th Floor Conference Room, Richmond, Virginia.

A meeting of the Authorized Onsite Soil Evaluator Regulations Advisory Committee to make recommendations to the commissioner regarding AOSE/PE policies, procedures and programs.

Contact: Donna Tiller, Executive Secretary, Department of Health, 109 Governor St., 5th Floor, Richmond, VA 23219, telephone (804) 864-7470, FAX (804) 864-7476, e-mail donna.tiller@vdh.virginia.gov.

† **July 20, 2005 - 10 a.m.** -- Open Meeting
Virginia Farm Bureau, 12580 West Creek Parkway,
Richmond, Virginia. 

A meeting of the Biosolids Use Regulation Advisory Committee (BURAC) immediately following a BUIIC meeting, to discuss the development of amendments to the Biosolids Use Regulations (12 VAC 5-585) including site management practices and extended buffers.

Contact: Cal Sawyer, Director, Division of Wastewater Engineering, Department of Health, 109 Governor Street, 5th Floor, Richmond, VA 23219, telephone (804) 864-7463, FAX (804) 864-7475, e-mail cal.sawyer@vdh.virginia.gov.

Radiation Advisory Board

July 20, 2005 - 10 a.m. -- Open Meeting
NOTE: CHANGE IN MEETING LOCATION
Virginia Center for Health Affairs, 4200 Innslake Drive, Glen Allen, Virginia.  (Interpreter for the deaf provided upon request)

The annual meeting.

Contact: Les Foldesi, Director, Radiological Health Program, Department of Health, 109 Governor St., Room 730, Richmond, VA 23219, telephone (804) 864-8151, FAX (804) 864-8155, toll-free (800) 468-0138, (804) 828-1120/TTY , e-mail les.foldesi@vdh.virginia.gov.

BOARD OF HEALTH PROFESSIONS

July 14, 2005 - 8:30 a.m. -- Public Hearing
Department of Health Professions, 6603 West Broad Street, Classrooms B and C, Richmond, Virginia. 

A public hearing to receive public comment on the need to regulate naturopaths.

Contact: Elizabeth A. Carter, Ph.D., Executive Director, Board of Health Professions, Alcoa Bldg., 6603 W. Broad St., Richmond, VA 23230-1712, telephone (804) 662-7691, FAX (804) 662-7098, (804) 662-7197/TTY , e-mail elizabeth.carter@dhp.virginia.gov.

July 14, 2005 - 9:30 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, Classrooms B and C, Richmond, Virginia. 

A meeting of the Regulatory Research Committee to receive comment from the Dialysis Patient Care Technician Employers regarding clinical training of new candidates for certification and consider draft legislation. The committee will also consider public comment presented by the naturopaths. Public comment will be received at the beginning of the meeting.

Contact: Elizabeth A. Carter, Ph.D., Executive Director, Board of Health Professions, Alcoa Bldg., 6603 W. Broad St., Richmond, VA 23230-1712, telephone (804) 662-7691, FAX (804) 662-7098, (804) 662-7197/TTY , e-mail elizabeth.carter@dhp.virginia.gov.

July 14, 2005 - 11 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, Classrooms B and C, Richmond, Virginia. 

A meeting of the Executive Committee to receive and consider an overview of the agency's budget. Public comment will be received at the beginning of the meeting.

Contact: Elizabeth A. Carter, Ph.D., Executive Director, Board of Health Professions, Alcoa Bldg., 6603 W. Broad St., Richmond, VA 23230-1712, telephone (804) 662-7691, FAX (804) 662-7098, (804) 662-7197/TTY , e-mail elizabeth.carter@dhp.virginia.gov.

July 14, 2005 - 1 p.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, Classrooms B and C, Richmond, Virginia. 

A meeting to receive the reports of the Regulatory and Executive Committees and to make recommendations. The board will also receive updates on the Sanction Reference Study, Telehealth, Brochures and Issues Forum, HPIP Program Grant and board reports. Public comment will be received at the beginning of the meeting.

Contact: Elizabeth A. Carter, Ph.D., Executive Director, Board of Health Professions, Alcoa Bldg., 6603 W. Broad St., Richmond, VA 23230-1712, telephone (804) 662-7691, FAX (804) 662-7098, (804) 662-7197/TTY , e-mail elizabeth.carter@dhp.virginia.gov.

July 29, 2005 - 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 Health Professions intends to amend regulations entitled **18 VAC 76-40, Regulations Governing the Emergency Contact Information**. The purpose of the proposed action is to include licensed athletic trainers among the professions required to report emergency contact information.

Statutory Authority: § 54.1-2506.1 of the Code of Virginia.

Public comments may be submitted until July 29, 2005, to Robert A. Nebiker, Director, Department of Health Professions, 6603 West Broad Street, Richmond, VA 23230-1712.

Contact: Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6603 W. Broad St., Richmond, VA 23230-1712, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.virginia.gov.

DEPARTMENT OF HEALTH PROFESSIONS

August 19, 2005 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, Board Room 3, Richmond, Virginia. 

A meeting of the Health Practitioners' Intervention Program Committee.

Calendar of Events

Contact: Peggy W. Call, Intervention Program Manager, Department of Health Professions, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-9424, FAX (804) 662-7358, e-mail peggy.call@dhp.virginia.gov.

BOARD FOR HEARING AID SPECIALISTS

July 18, 2005 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia 

A meeting to conduct general business matters and consider regulatory issues as may be presented. A public comment period will be held at the beginning of the meeting. A portion of the board's business may be discussed in closed session. All meetings are subject to cancellation. The time of the meeting is subject to change. Any person desiring to attend the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act.

Contact: William H. Ferguson, II, Executive Director, Board for Hearing Aid Specialists, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-6295, (804) 367-9753/TTY , e-mail hearingaidspec@dpor.virginia.gov.

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

July 14, 2005 - 1 p.m. -- Open Meeting
Madras Hill, Greenwood, Virginia.

A meeting to discuss SCHEV roles and responsibilities.

Contact: Lee Ann Rung, State Council of Higher Education for Virginia, 101 N 14th St., Richmond, VA 23219, telephone (804) 225-2602, FAX (804) 371-7911, e-mail leeannrung@schev.edu.

July 19, 2005 - 12:30 p.m. -- Open Meeting
Christopher Newport University, 1 University Place, Newport News, Virginia.

Committees will meet beginning at 8:30 a.m. Agenda materials will be available on the website approximately one week prior to the meeting at www.schev.edu. A public comment period will be allocated on the meeting agenda. To be scheduled, those interested in making public comment should contact the person listed below no later than 5 p.m. three business days prior to the meeting date. At the time of the request, the speaker's name, address and topic must be provided. Each speaker will be given up to three minutes to address SCHEV. Speakers are asked to submit a written copy of their remarks at the time of comment.

Contact: Lee Ann Rung, State Council of Higher Education for Virginia, 101 N 14th St., Richmond, VA 23219, telephone (804) 225-2602, FAX (804) 371-7911, e-mail leeannrung@schev.edu.

† **September 12, 2005** - 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 Council of Higher Education for Virginia intends to amend regulations entitled **8 VAC 40-20, Regulations for the Senior Citizen Higher Education Program**. The purpose of the proposed action is to conform the regulations with the enabling statute, § 23-38.56 of the Code of Virginia, by providing clarifying language and by incorporating changes from Chapters 381, 521, and 700 of the Acts of Assembly.

Statutory Authority: § 23-38.56 of the Code of Virginia.

Contact: Rick Patterson, Regulatory Coordinator, State Council of Higher Education for Virginia, 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-2609, FAX (804) 225-2604, or e-mail rickpatterson@schev.edu.

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

July 26, 2005 - 10 a.m. -- Open Meeting
Department of Housing and Community Development, 501 North 2nd Street, Richmond, Virginia. 

A meeting to conduct general business.

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

† **July 15, 2005 - 10 a.m.** -- Open Meeting
Department of Housing and Community Development, 501 North 2nd Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

The review board hears appeals concerning the application of the department's building and fire regulations and formulates recommendations for future changes to the codes for the Board of Housing and Community Development.

Contact: Vernon W. Hodge, Secretary, Department of Housing and Community Development, 501 North 2nd Street, Richmond, VA 23219, telephone (804) 371-7150.

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

† **July 27, 2005 - 11 a.m.** -- Open Meeting
601 South Belvidere Street, Richmond, Virginia. 

The annual meeting of the Board of Commissioners of the Virginia Housing Development Authority. The Board of

Commissioners will elect a Chairman and Vice Chairman; will review and, if appropriate, approve the minutes from the prior meeting; may consider for approval and ratification mortgage loan commitments under its various programs; will review the Authority's operations for the prior months; and will consider such other matters and take such other actions as they may deem appropriate. Various committees of the Board of Commissioners, including the Programs Committee, the Audit/Operations Committee, the Executive Committee, and the Committee of the Whole, may also meet during the day preceding the meeting and before and after the meeting and may consider matters within their purview. The committees and the board may also meet during meals on the night before the meeting and on the day of the meeting. The planned agenda of the meeting will be available at the offices of the Authority one week prior to the date of the meeting. The annual meeting of the shareholders and Board of Directors of Housing for Virginia, Inc., a corporation wholly owned by the Authority, will be held following the meeting of the Authority's Board of Commissioners.

Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, VA 23220, telephone (804) 343-5540, FAX (804) 783-6701, toll-free (800) 968-7837, (804) 783-6705/TTY ☎.

VIRGINIA INFORMATION TECHNOLOGIES AGENCY

E-911 Wireless Services Board

July 13, 2005 - 9 a.m. -- Open Meeting

September 14, 2005 - 9 a.m. -- Open Meeting

110 South 7th Street, 1st Floor, Telecommunications Conference Room, Suite 100, Richmond, Virginia.

A subcommittee meeting. 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., 3rd Floor, Richmond, VA 23219, telephone (804) 371-0015, FAX (804) 371-2277, toll-free (866) 482-3911, e-mail steve.marzolf@vita.virginia.gov.

July 13, 2005 - 10 a.m. -- Open Meeting

September 14, 2005 - 10 a.m. -- Open Meeting

110 South 7th Street, 4th Floor Auditorium, Richmond, Virginia.

A regular board meeting.

Contact: Steve Marzolf, Public Safety Communications Coordinator, Virginia Information Technologies Agency, 110 S. 7th St., 3rd Floor, Richmond, VA 23219, telephone (804) 371-0015, FAX (804) 371-2277, toll-free (866) 482-3911, e-mail steve.marzolf@vita.virginia.gov.

INNOVATIVE TECHNOLOGY AUTHORITY

† **July 13, 2005 - 1 p.m.** -- Open Meeting

Center for Innovative Technology, 2214 Rock Hill Road, Herndon, Virginia. ♿

A meeting to elect the Board of Directors.

Contact: June Portch, Operations Manager, Innovative Technology Authority, 2214 Rock Hill Road, Herndon, VA 20170, telephone (703) 689-3049, FAX (703) 464-1708, e-mail jportch@cit.org.

JAMESTOWN-YORKTOWN FOUNDATION

NOTE: CHANGE IN MEETING DATE

August 2, 2005 - Noon -- Open Meeting

Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular meeting of the Executive Committee of the Jamestown 2007 Steering Committee. Call contact below for specific meeting location.

Contact: Judith Leonard, Administrative Office Manager, Jamestown-Yorktown Foundation, 410 W. Francis St., Williamsburg, VA 23185, telephone (757) 253-4253, FAX (757) 253-4950, (757) 253-5110/TTY ☎, e-mail judith.leonard@jyf.virginia.gov.

BOARD OF JUVENILE JUSTICE

November 9, 2005 - 10 a.m. -- Public Hearing

Department of Juvenile Justice, 700 East Franklin Street, 4th Floor, Richmond, Virginia.

November 25, 2005 - 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 Juvenile Justice intends to amend regulations entitled **6 VAC 35-10, Public Participation Guidelines**. The purpose of the proposed action is to update the regulation to reflect technological and statutory changes since the original regulation was adopted in 1991.

Statutory Authority: §§ 2.2-4007 and 66-3 of the Code of Virginia.

Public comments may be submitted until November 25, 2005, to Patricia Rollston, P.O. Box 1110, Richmond, VA 23219-1110.

Contact: Donald R. Carignan, Regulatory Coordinator, Department of Juvenile Justice, P.O. Box 1110, Richmond, VA 23219-1110, telephone (804) 371-0743, FAX (804) 371-0773 or e-mail don.carignan@djj.virginia.gov.

DEPARTMENT OF LABOR AND INDUSTRY

Virginia Apprenticeship Council

September 15, 2005 - 10 a.m. -- Open Meeting

Location to be announced. ♿ (Interpreter for the deaf provided upon request)

A meeting to conduct general business.

Calendar of Events

Contact: Beverley Donati, Program Director, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 786-2382, FAX (804) 786-8418, (804) 786-2376/TTY ☎, e-mail bgd@doli.state.va.us.

STATE LAND EVALUATION ADVISORY COUNCIL

August 2, 2005 - 11 a.m. -- Open Meeting

September 13, 2005 - 11 a.m. -- Open Meeting

Department of Taxation, 2220 West Broad Street, Richmond, Virginia. ♿

A meeting to adopt suggested ranges of values for agricultural, horticultural, forest and open-space land use and the use-value assessment program.

Contact: H. Keith Mawyer, Property Tax Manager, Department of Taxation, 2220 W. Broad St., Richmond, VA 23220, telephone (804) 367-8020, FAX (804) 367-8662, e-mail keith.mawyer@tax.virginia.gov.

THE LIBRARY OF VIRGINIA

† **July 11, 2005 - 10 a.m.** -- Open Meeting

The Library of Virginia, 800 East Broad Street, Richmond, Virginia. ♿

A strategic planning retreat.

Contact: Jean H. Taylor, Executive Secretary to the Librarian, The Library of Virginia, 800 East Broad Street, Richmond, VA 23219-8000, telephone (804) 692-3535, FAX (804) 692-3594, (804) 692-3976/TTY ☎, e-mail jtaylor@lva.lib.va.us.

† **July 14, 2005 - 10:30 a.m.** -- Open Meeting

James City County Library, 7770 Croaker Road, Williamsburg, Virginia. ♿

A meeting of the Public Library Study Steering Committee.

Contact: Jean H. Taylor, Executive Secretary Senior, The Library of Virginia, 800 East Broad Street, Richmond, VA 23219-8000, telephone (804) 692-3535, FAX (804) 692-3594, (804) 692-3976/TTY ☎, e-mail jtaylor@lva.lib.va.us.

STATE LIBRARY BOARD

September 19, 2005 - 8:15 a.m. -- Open Meeting

The Library of Virginia, 800 East Broad Street, Richmond, Virginia. ♿

Meetings of the board to discuss matters pertaining to the Library of Virginia and the board. Committees of the board will meet as follows:

8:15 a.m. - Public Library Development Committee, Orientation Room
Publications and Educational Services Committee, Conference Room B
Records Management Committee, Conference Room C

9:30 a.m. - Archival and Information Services Committee, Orientation Room

Collection Management Services Committee, Conference Room B

Legislative and Finance Committee, Conference Room C

10:30 a.m. - Library Board, Conference Room, 2M

Contact: Jean H. Taylor, Executive Secretary to the Librarian, The Library of Virginia, 800 E. Broad St., Richmond, VA 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

July 18, 2005 - 10 a.m. -- Public Hearing

Department of Housing and Community Development, 205 North 2nd Street, Richmond, Virginia.

August 1, 2005 - 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 Commission on Local Government intends to amend regulations entitled **1 VAC 50-10, Public Participation Guidelines**. The purpose of the proposed action is to update the public participation guidelines. The commission's current guidelines were adopted in 1984 and have not been amended since that date.

Statutory Authority: § 15.2-2903 of the Code of Virginia.

Contact: Ted McCormack, Associate Director, Commission on Local Government, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 786-6508, FAX (804) 371-7090, email ted.mccormack@dhcd.virginia.gov.

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July 18, 2005 - 10 a.m. -- Public Hearing

Department of Housing and Community Development, 205 North 2nd Street, Richmond, Virginia.

August 1, 2005 - 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 Commission on Local Government intends to amend regulations entitled **1 VAC 50-20, Organization and Regulations of Procedure**. The purpose of the proposed action is to update the regulations that are used by the commission in the review of boundary change and governmental transition issues and in the conduct of its meetings and oral presentations and public hearings. The commission's current regulations were adopted in 1984.

Statutory Authority: § 15.2-2903 of the Code of Virginia.

Contact: Ted McCormack, Associate Director, Commission on Local Government, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 786-6508, FAX (804) 371-7090, email ted.cccormack@dhcd.virginia.gov.

July 18, 2005 - 1 p.m. -- Open Meeting

The Jackson Center, 501 North Second Street, 1st Floor, Board Room, Richmond, Virginia. ♿

A regular meeting to consider such matters as may be presented.

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.

MARINE RESOURCES COMMISSION

† **July 26, 2005 - 9:30 a.m.** -- Open Meeting
† **August 23, 2005 - 9:30 a.m.** -- Open Meeting
† **September 27, 2005 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 Avenue, 3rd Floor, Newport News, VA 23607, telephone (757) 247-2215, FAX (757) 247-8101, toll-free (800) 541-4646, (757) 247-2292/TTY ☎, e-mail jane.mccroskey@mrc.virginia.gov.

BOARD OF MEDICAL ASSISTANCE SERVICES

September 13, 2005 - 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.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

July 12, 2005 - 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 issues and concerns about Medicaid pharmacy issues with the committee and the community.

Contact: Rachel Cain, Pharmacist, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 225-2873, FAX (804) 786-5799, (800) 343-0634/TTY ☎, e-mail rachel.cain@dmas.virginia.gov.

July 20, 2005 - 1 p.m. -- Open Meeting
September 21, 2005 - 1 p.m. -- Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, 13th Floor, Boardroom, Richmond, Virginia.

A meeting of the Medicaid Transportation Advisory Committee to discuss issues and concerns about Medicaid transportation issues with the committee and the community.

Contact: Bob Knox, Transportation Manager, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8854, FAX (804) 786-5799, (800) 343-0634/TTY ☎, e-mail bob.knox@dmas.virginia.gov.

July 29, 2005 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Medical Assistance Services intends to amend regulations entitled **12 VAC 30-50, Amount, Duration and Scope of Medical and Remedial Care Services; 12 VAC 30-60, Standards Established and Methods Used to Assure High Quality Care; and 12 VAC 30-130, Amount, Duration and Scope of Selected Services.** The purpose of the proposed action is to implement coverage of new levels of community-based residential mental health services for children and adolescents.

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

Contact: Renee Slade White, Regulatory Coordinator, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7959, FAX (804) 786-1680 or e-mail renee.white@dmas.virginia.gov.

July 29, 2005 - 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 30-60, Standards Established and Methods Used to Assure High Quality Care.** The purpose of the proposed action is to change DMAS requirements for physician certification and recertification of home health patient care, to conform to federal Medicare law and regulation for home health services in order to reduce confusion and errors by home health agencies.

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

Contact: Diane Thorpe, Long-Term Care and Quality Assurance Division, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7959, FAX (804) 786-1680 or e-mail diane.thorpe@dmas.virginia.gov.

August 11, 2005 - 2 p.m. -- Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, 13th Floor, Board Room, Richmond, Virginia. ♿

A meeting of the Drug Utilization Review Board to discuss issues and concerns about Medicaid pharmacy issues with the committee and the community.

Contact: Rachel Cain, Pharmacist, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 225-2873, FAX (804) 786-5799,

Calendar of Events

(800) 343-0634/TTY , e-mail
rachel.cain@dmas.virginia.gov.

BOARD OF MEDICINE

July 14, 2005 - 7:30 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street,
5th Floor, Boardroom 1, Richmond, Virginia.

A meeting of the Nominating Committee to develop a slate of officers recommended for election by the board. No public comment will be received.

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.

July 14, 2005 - 8 a.m. -- Public Hearing
Department of Health Professions, 6603 West Broad Street,
5th Floor, Boardroom 2, Richmond, Virginia.

July 29, 2005 - 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 Medicine intends to amend regulations entitled **18 VAC 85-20, Regulations Governing the Practice of Medicine, Osteopathic Medicine, Podiatry and Chiropractic**. The purpose of the proposed action is to clarify that the intent of regulations for performance of office-based anesthesia was to address the administration of anesthesia in an office-based setting by an amendment stating that performance of a major conductive block for diagnostic or therapeutic purposes does not require the services of an anesthesiologist or certified registered nurse anesthetist, but could be administered by a qualified physician.

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

Public comments may be submitted until July 29, 2005, to William L. Harp, M.D., Director, Board of Medicine, 6603 West Broad Street, Richmond, VA 23230-1712.

Contact: Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6603 W. Broad St., Richmond, VA 23230-1712, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.virginia.gov.

† **July 14, 2005 - 8:15 a.m.** -- Public Hearing
Department of Health Professions, 6603 West Broad Street,
5th Floor, Boardroom 2, Richmond, Virginia.

September 9, 2005 - Public comments may be received until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Medicine intends to amend regulations entitled **18 VAC 85-20, Regulations**

Governing the Practice of Medicine, Osteopathy, Podiatry and Chiropractic. The purpose of the proposed action is to incorporate the requirement for the practitioner to report any final disciplinary action taken by institutions or entities, which results in suspension or revocation of privileges or termination of employment. The requirement for reporting is currently stated in § 54.1-2910.1 (10) of the Code of Virginia, but its addition to regulation will ensure that practitioners are obligated to report within 30 days.

Statutory Authority: §§ 54.1-2400 and 54.1-2910.1 of the Code of Virginia.

Public comments may be submitted until September 9, 2005, to William L. Harp, M.D., Director, Board of Medicine, 6603 West Broad Street, Richmond, VA 23230-1712.

Contact: Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6603 W. Broad St., Richmond, VA 23230-1712, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.virginia.gov.

July 14, 2005 - 8 a.m. -- Public Hearing
Department of Health Professions, 6603 West Broad Street,
5th Floor, Boardroom 2, Richmond, Virginia.

July 29, 2005 - 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 Medicine intends to amend regulations entitled **18 VAC 85-40, Regulations Governing the Practice of Respiratory Care Practitioners**. The purpose of the proposed action is to recognize courses directly related to the practice of respiratory care that are approved by the American Medical Association for Category 1 CME credit.

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

Public comments may be submitted until July 29, 2005, to William L. Harp, M.D., Director, Board of Medicine, 6603 West Broad Street, Richmond, VA 23230-1712.

Contact: Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6603 W. Broad St., Richmond, VA 23230-1712, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.virginia.gov.

July 14, 2005 - 8 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street,
5th Floor, Board Room 2, Richmond, Virginia.

A 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.

† **August 16, 2005 - 9 a.m.** -- Open Meeting
Holiday Inn Select, 2801 Plank Road, Fredericksburg,
Virginia. (Interpreter for the deaf provided upon request)

† **August 24, 2005 - 9 a.m.** -- Open Meeting
Williamsburg Marriott, 50 Kingsmill Road, Williamsburg,
Virginia.

A Special Conference Committee will convene an informal conference to inquire into allegations that certain practitioners of medicine or the other healing arts may have violated certain laws and regulations governing the practice of medicine. Further, the committee may review cases with board staff for case disposition, including consideration of consent orders for settlement. The committee will meet in open and closed session pursuant to the Code of Virginia. Public comment will not be received.

Contact: Renee S. Dixon, Discipline Case Manager, Board of Medicine, 6603 W. Broad Street, 5th Floor, telephone (804) 662-7009, FAX (804) 662-9517, (804) 662-7197/TTY ☎, e-mail renee.dixon@dhp.virginia.gov.

August 19, 2005 - 8:30 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street,
5th Floor, Board Room 2, Richmond, Virginia.

A meeting of the Legislative Committee to consider regulatory 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.

September 16, 2005 - 8 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street,
5th Floor, Board Room 2, Richmond, Virginia.

A meeting of the Executive Committee 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.

Advisory Board on Acupuncture

August 3, 2005 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street,
5th Floor, Board Room 4, Richmond, Virginia.

A meeting to consider issues related to the regulation of acupuncture. 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.

Advisory Board on Athletic Training

August 4, 2005 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street,
5th Floor, Board Room 4, Richmond, Virginia.

A meeting to consider issues related to the regulation of athletic training. 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.

Advisory Board on Occupational Therapy

August 2, 2005 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street,
5th Floor, Board Room 4, Richmond, Virginia.

A meeting to consider issues related to the regulation of occupational therapy. 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.

Advisory Board on Physician Assistants

August 4, 2005 - 1 p.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street,
5th Floor, Board Room 4, Richmond, Virginia.

A meeting to consider issues related to the regulation of physician assistants. 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.

Advisory Board on Radiologic Technology

NOTE: CHANGE IN MEETING DATE

July 27, 2005 - 1 p.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street,
5th Floor, Board Room 3, Richmond, Virginia.

A meeting to consider issues related to the regulation of radiologic technologists and radiologic technologist-limited. 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

Calendar of Events

(804) 662-9943, (804) 662-7197/TTY 📞, e-mail
william.harp@dhp.virginia.gov.

Advisory Board on Respiratory Care

August 2, 2005 - 1 p.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street,
5th Floor, Board Room 4, Richmond, Virginia.

A meeting to consider issues related to the regulation of
respiratory care. 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

August 10, 2005 - 10 a.m. -- Public Hearing
Jefferson Building, 1220 Bank Street, 8th Floor Conference
Room, Richmond, Virginia. 🗣️ (Interpreter for the deaf provided
upon request)

A public hearing to receive comments on the Virginia
Community Mental Health Services Performance
Partnership Block Grant Application for Federal FY 2006.
Copies of the application are available for review at the
Office of Mental Health Services, 10th Floor, Jefferson
Building, and at each community services board office.
Comments may be made at the hearing or in writing no later
than August 10, 2005, to the Office of the Commissioner,
Department of Mental Health, Mental Retardation and
Substance Abuse Services, P.O. Box 1797, Richmond, VA
23218. Any person wishing to make a presentation at the
hearing should contact William T. Ferriss, LCSW. Copies of
oral presentations should be filed at the time of the hearing.

Contact: William T. Ferriss, LCSW, Office of Mental Health,
Department of Mental Health, Mental Retardation and
Substance Abuse Services, P.O. Box 1797, Richmond, VA
23218, telephone (804) 786-4837, FAX (804) 371-0091, (804)
371-8977/TTY 📞

STATE MILK COMMISSION

August 17, 2005 - 10:45 a.m. -- Open Meeting
Department of Forestry, 900 Natural Resources Drive, Room
2054, 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 edward.wilson@vdacs.virginia.gov.

MOTOR VEHICLE DEALER BOARD

July 11, 2005 - 8:30 a.m. -- Open Meeting
Department of Motor Vehicles, 2300 West Broad Street,
Room 702, Richmond, Virginia 🗣️ (Interpreter for the deaf
provided upon request)

Committees will meet as follows:

Dealer Practices Committee - 8:30 a.m.
Licensing Committee - Immediately following Dealer
Practices.
Advertising Committee - 9:30 a.m. or immediately after
Licensing, whichever is later. Transaction Recovery Fund
Committee - Immediately following Advertising.
Franchise Law Committee - To be scheduled as needed.
Full board meeting - 10 a.m. or 5-45 minutes following
Transaction Recovery Fund.

Meetings may begin later, but not earlier than scheduled.
Meeting end times are approximate. Any person who needs
any accommodation in order to participate in the meeting
should contact the board at least 10 days before the
meeting so that suitable arrangements can be made.

Contact: Alice R. Weedon, Administrative Assistant, Motor
Vehicle Dealer Board, 2201 W. Broad St., Suite 104,
Richmond, VA 23220, telephone (804) 367-1100, FAX (804)
367-1053, toll-free (877) 270-0203, e-mail
dboard@mvdv.virginia.gov.

† **July 18, 2005 - 1 p.m.** -- Open Meeting
Department of Motor Vehicles, 2300 W. Broad Street, Room
702, Richmond, Virginia. 🗣️ (Interpreter for the deaf provided
upon request)

The Virginia Motor Vehicle Dealer Board (board) is the state
agency charged with licensing motor vehicle dealers and
enforcing the Virginia Motor Vehicle Dealer Laws. Section
46.2-1511 of the Code of Virginia requires motor vehicle
dealers to appoint a "dealer-operator." A dealer-operator is
defined as "the individual who works at the established
place of business of a dealer and who is responsible for and
in charge of day-to-day operations of that place of
business." Chapter 321 of the 2005 Acts of Assembly
requires that the dealer-operator of independent (used) car
dealerships successfully complete a course of study before
they are allowed to take the dealer-operator test. Further,
Chapter 321 gives the board authority to approve qualified
persons to administer the course of study. The requirement
that independent dealer operators must complete a course
of study is effective January 1, 2006. Anyone who is a
dealer operator of an independent automobile dealership as
of December 31, 2005, will not be required to complete a
course of study. It is estimated that about 350 individuals
statewide per year will enroll in the course of study and that
each course will require about 12 hours of classroom
instruction. The board has developed the dealer-operator
test that will be administered via the automated testing

machines located in all DMV Customer Service Centers. A copy of the test as well as a list of subjects to be included in the course of study will be made available to those interested in conducting the course. On July 18, 2005, the Motor Vehicle Dealer Board will hold an open meeting for all entities interested in conducting the course of study. If you have questions and/or plan to attend the July 18 meeting, please contact Bruce Gould, Executive Director of the Motor Vehicle Dealer Board, by e-mail (bruce.gould@mvdv.virginia.gov); telephone (804-367-110; ext. 3002) or send a letter to the Motor Vehicle Dealer Board, 2201 West Broad Street; Suite 104, Richmond, VA 23220. If you are interested in conducting the course and are unable to attend the meeting on July 18, please contact Mr. Gould in order to schedule an appointment.

Contact: Bruce Gould, Executive Director, Motor Vehicle Dealer Board, 2201 W. Broad Street, Suite 104, Richmond, VA 23220, telephone (804) 367-1100, FAX (804) 367-1053, toll-free (877) 270-0203, e-mail dboard@mvdv.virginia.gov.

BOARD OF NURSING

July 18, 2005 - 9 a.m. -- Open Meeting
July 20, 2005 - 9 a.m. -- Open Meeting
July 21, 2005 - 9 a.m. -- Open Meeting
September 19, 2005 - 9 a.m. -- Open Meeting
September 21, 2005 - 9 a.m. -- Open Meeting
September 22, 2005 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 2, Richmond, Virginia. ☎

A panel of the board will conduct formal hearings 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, 2005 - 9 a.m. -- Open Meeting
September 20, 2005 - 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 discipline 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.

July 19, 2005 - 1:30 p.m. -- Public Hearing
Department of Health Professions, 6603 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia.

July 29, 2005 - 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 Nursing intends to amend regulations entitled **18 VAC 90-25, Regulations Governing Certified Nurse Aides**. The purpose of the proposed action is to increase the biennial renewal fee for certified nurse aides from \$45 to \$50.

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

Public comments may be submitted until July 29, 2005, to Jay Douglas, R.N., Executive Director, Board of Nursing, 6603 West Broad Street, Richmond, VA 23230-1712.

Contact: Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6603 W. Broad St., Richmond, VA 23230-1712, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.virginia.gov.

August 2, 2005 - 9 a.m. -- Open Meeting
August 9, 2005 - 9 a.m. -- Open Meeting
August 16, 2005 - 9 a.m. -- Open Meeting
August 23, 2005 - 9 a.m. -- Open Meeting
August 25, 2005 - 9 a.m. -- Open Meeting
August 30, 2005 - 9 a.m. -- Open Meeting
† October 4, 2005 - 9 a.m. -- Open Meeting
† October 11, 2005 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. ☎

A Special Conference Committee comprised of two or three members of the Virginia Board of Nursing or agency subordinate will conduct informal conferences with licensees and certificate holders. Public comment will not be received.

Contact: Jay P. Douglas, R.N., M.S.M., C.S.A.C., Executive Director, Board of Nursing, 6603 West Broad Street, 5th Floor, Richmond, VA 23230, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY ☎, e-mail nursebd@dhp.virginia.gov.

JOINT BOARDS OF NURSING AND MEDICINE

August 24, 2005 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 1, Richmond, Virginia. ☎

A meeting of the Joint Boards of Nursing and Medicine.

Contact: Jay P. Douglas, RN, MSM, CSAC, 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

BOARD OF NURSING HOME ADMINISTRATORS

July 27, 2005 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street,
5th Floor, Richmond, Virginia. 

A meeting to discuss general board business. There will be a public comment period during the first 15 minutes of the meeting.

Contact: Sandra Reen, Executive Director, Board of Nursing Home Administrators, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-7457, FAX (804) 662-9943, (804) 662-7197/TTY , e-mail sandra.reen@dhp.virginia.gov.

OLMSTEAD OVERSIGHT ADVISORY COMMITTEE

July 26, 2005 - 11 a.m. -- Open Meeting
Virginia Housing Development Authority, 621 South Belvidere Street, Richmond, Virginia.

A joint meeting between the Implementation Team and the Oversight Advisory Committee.

Contact: Kathie Shifflett, Administrative Assistant, 8004 Franklin Farms Dr., Richmond, VA 23229, telephone (804) 622-7069, FAX (804) 662-7663, e-mail kathie.shifflett@drs.virginia.gov.

August 11, 2005 - 11 a.m. -- Open Meeting
Virginia Housing Development Authority, 621 South Belvidere Street, Richmond, Virginia.

A regular meeting.

Contact: Kathie Shifflett, Administrative Assistant, 8004 Franklin Farms Dr., Richmond, VA 23229, telephone (804) 622-7069, FAX (804) 662-7663, e-mail kathie.shifflett@drs.virginia.gov.

September 13, 2005 - 11 a.m. -- Open Meeting
September 14, 2005 - 9 a.m. -- Open Meeting
Department of Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, Virginia.

A regular meeting.

Contact: Kathie Shifflett, Administrative Assistant, Office of Governor, 8004 Franklin Farms Dr., Richmond, VA 23229, telephone (804) 662-7069, FAX (804) 662-7663, e-mail kathie.shifflett@drs.virginia.gov.

BOARD FOR OPTICIANS

July 22, 2005 - 9:30 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, 4th Floor, Richmond, Virginia. 

A meeting to conduct general business including consideration of regulatory issues as may be presented on the agenda. A public comment period will be held at the beginning of the meeting. A portion of the board's business may be discussed in closed session. All meetings are subject to cancellation. The time of the meeting is subject to change. Any person desiring to attend the meeting and

requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so suitable arrangements can be made. The board 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

July 29, 2005 - 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 Optometry intends to amend regulations entitled **18 VAC 105-20, Regulations Governing the Practice of Optometry** and repeal regulations entitled **18 VAC 105-30, Regulations for Certification for Therapeutic Pharmaceutical Agents**. The purpose of the proposed action is to incorporate the current requirements for certification in therapeutic pharmaceutical agents into regulations governing the practice of optometry.

Statutory Authority: §§ 54.1-2400 and 54.1-3223 of the Code of Virginia.

Public comments may be submitted until July 29, 2005, to Elizabeth A. Carter, Ph.D., Executive Director, Board of Optometry, 6603 West Broad Street, Richmond, VA 23230-1712.

Contact: Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6603 W. Broad St., Richmond, VA 23230-1712, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.virginia.gov.

VIRGINIA BOARD FOR PEOPLE WITH DISABILITIES

August 31, 2005 - 10 a.m. -- Open Meeting
202 North 9th Street, Richmond, Virginia. 

A meeting of the Executive Committee.

Contact: Sandra Smalls, Executive Assistant, Virginia Board for People with Disabilities, 202 N. 9th St., 9th Floor, Richmond, VA 23219, telephone (804) 786-0016, FAX (804) 786-1118, toll-free (800) 846-4464, (800) 846-4464/TTY , e-mail sandra.smalls@vbpd.virginia.gov.

September 1, 2005 - 9 a.m. -- Open Meeting
Holiday Inn, 6531 West Broad Street, Richmond, Virginia. 
(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 23219, telephone (804) 786-0016, FAX (804) 786-1118, toll-free (800) 846-4464, (800) 846-4464/TTY , e-mail sandra.smalls@vbpd.virginia.gov.

BOARD OF PHARMACY

† **July 14, 2005 - 9 a.m.** -- Open Meeting
6603 West Broad Street, 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 West Broad Street, 5th Floor, Richmond, Virginia 23230, telephone (804) 662-9911, FAX (804) 662-9313.

July 29, 2005 - 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 Pharmacy intends to amend regulations entitled **18 VAC 110-20, Regulations Governing the Practice of Pharmacy**. The purpose of the proposed action is to limit the time for dispensing or refilling of Schedule VI drugs to one year from date of issuance unless the prescriber specifies a longer period, not to exceed two years.

Statutory Authority: § 54.1-2400 and Chapters 33 (§ 54.1-3300 et seq.) and 34 (§ 54.1-3400 et seq.) of Title 54.1 of the Code of Virginia.

Public comments may be submitted until July 29, 2005, to Elizabeth Scott Russell, Executive Director, Board of Pharmacy, 6603 West Broad Street, Richmond, VA 23230-1712.

Contact: Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6603 W. Broad St., Richmond, VA 23230-1712, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.virginia.gov.

August 12, 2005 - 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 Pharmacy intends to amend regulations entitled **18 VAC 110-30, Regulations for Practitioners of the Healing Arts to Sell Controlled Substances**. The purpose of the proposed action is to eliminate unnecessary requirements for equipment and security, allow electronic transmission and storage of records, amend a burdensome reinstatement requirement and clarify rules for repackaging and storage. In addition, regulations are updated for consistency with Code changes requiring registration and training of pharmacy technicians and counseling of patients.

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

Public comments may be submitted until August 12, 2005, to Elizabeth Scott Russell, Executive Director, Board of Pharmacy, 6603 West Broad Street, Richmond, VA 23230-1712.

Contact: Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6603 W. Broad St., Richmond, VA 23230-1712, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.virginia.gov.

September 13, 2005 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. 

A meeting to consider regulatory and disciplinary matters as may be presented on the agenda. Public comment will be received at the beginning of the meeting.

Contact: Elizabeth Scott Russell, RPh, Executive Director, Board of Pharmacy, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9911, FAX (804) 662-9313, (804) 662-7197/TTY , e-mail scotti.russell@dhp.virginia.gov.

BOARD OF PHYSICAL THERAPY

August 19, 2005 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 

A regular business 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 1, 2005 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 

A meeting to conduct board business. The meeting is open to the public; however a portion of the board's business may be discussed in closed session. All meetings are subject to cancellation. The time of the meeting is subject to change. Any person desiring to attend the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act.

Contact: Kevin Hoeft, Regulatory Boards Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2785, FAX (804) 367-2474, (804) 367-9753/TTY , e-mail kevin.hoeft@dpdor.virginia.gov.

BOARD FOR PROFESSIONAL AND OCCUPATIONAL REGULATION

September 19, 2005 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 

A quarterly board meeting.

Calendar of Events

Contact: Judith A. Spiller, Executive Secretary, Board for Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8519, FAX (804) 367-9537, (804) 367-9753/TTY ☎, e-mail judy.spiller@dpor.virginia.gov.

BOARD OF PSYCHOLOGY

July 12, 2005 - 9:30 a.m. -- Open Meeting

† **October 11, 2005 - 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 regulatory and disciplinary 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.

July 12, 2005 - Noon -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor Richmond, Virginia. 📍

A meeting of the Ad Hoc Committee on Technical Assistance to develop guidance for the use of technical assistance.

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 15, 2005 - 11 a.m. -- Open Meeting

Holiday Inn Select, 601 Main Street, Lynchburg, Virginia.

An informal conference.

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.

August 23, 2005 - 9:30 a.m. -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 📍

A formal hearing.

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 GUARDIAN AND CONSERVATOR ADVISORY BOARD

† **September 29, 2005 - 10 a.m.** -- Open Meeting

Department for the Aging, 1610 Forest Avenue, Suite 100, Richmond, Virginia. 📍

An advisory board meeting.

Contact: Janet Dingle Brown, Esq, Public Guardianship Coordinator and Legal Services Developer, Department for the Aging, 1610 Forest Avenue, Suite 100, Richmond, VA 23229, telephone (804) 662-7049, FAX (804) 662-9354, toll-free (800) 552-3402, (804) 662-9333/TTY ☎, e-mail janet.brown@vda.virginia.gov.

VIRGINIA RACING COMMISSION

July 29, 2005 - 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 amend regulations entitled **11 VAC 10-20, Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering**. The purpose of the proposed action is to specify certain procedures for the transfer or acquisition of an interest in an existing owner's, owner-operator's, or operator's license.

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

Contact: David S. Lermond, Jr., Regulatory Coordinator, Virginia Racing Commission, 10700 Horsemen's Rd., New Kent, VA 23124, telephone (804) 966-7404, FAX (804) 966-7418 or e-mail david.lermond@vrc.virginia.gov.

REAL ESTATE APPRAISER BOARD

† **July 21, 2005 - 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: Christine Martine, Executive Director, Real Estate Appraiser Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-6946, (804) 367-9753/TTY ☎, e-mail reappraisers@dpor.virginia.gov.

August 23, 2005 - 10 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, 4 West Conference Room, Richmond, Virginia. 📍

A meeting to discuss 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.oneal@dpor.virginia.gov.

REAL ESTATE BOARD

July 13, 2005 - 10 a.m. -- Public Hearing
Department of Professional and Occupational Regulation,
3600 West Broad Street, 4th Floor, Room 5W, Richmond,
Virginia. 

A public hearing to receive public comment on the study set forth in House Joint Resolution 686.

Contact: Thomas K. Perry, Property Registration Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-6946, (804) 367-9753/TTY , e-mail proreg@dpor.virginia.gov.

July 14, 2005 - 9 a.m. -- Open Meeting
† **July 27, 2005 - 9 a.m.** -- Open Meeting
† **July 28, 2005 - 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: Christine Martine, Executive Director, Real Estate Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail reboard@dpor.virginia.gov.

† **July 14, 2005 - 9 a.m.** -- Open Meeting
† **September 15, 2005 - 9 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, 4 West Conference Room,
Richmond, Virginia. 

A meeting to discuss any and all board business.

Contact: Christine Martine, Executive Director, Real Estate Board, 3600 W. Broad Street, Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-6946, (804) 367-9753/TTY , e-mail reboard@dpor.virginia.gov.

VIRGINIA RESEARCH AND TECHNOLOGY ADVISORY COMMISSION

September 20, 2005 - 11 a.m. -- Open Meeting
Greater Richmond Convention Center, 403 North 3rd Street,
Richmond, Virginia.

E-mail Nancy Vorona for information and to participate in the meeting.

Contact: Nancy Vorona, VP Research Investment, CIT, Virginia Research and Technology Advisory Commission, 2214 Rock Hill Rd., Suite 600, Herndon, VA 20170, telephone (703) 689-3043, FAX (703) 464-1720, e-mail nvorona@cit.org.

November 15, 2005 - 1 p.m. -- Open Meeting
NASA Langley Research Center/National Institute of Aerospace, Hampton, Virginia.

Tour at 10 a.m. Meeting will follow at 1 p.m. Lunch will be provided.

Contact: Nancy Vorona, VP Research Investment, CIT, Virginia Research and Technology Advisory Commission,

2214 Rock Hill Rd., Suite 600, Herndon, VA 20170, telephone (703) 689-3043, FAX (703) 464-1720, e-mail nvorona@cit.org.

VIRGINIA RESOURCES AUTHORITY

July 12, 2005 - 9 a.m. -- Open Meeting
August 9, 2005 - 9 a.m. -- Open Meeting
Eighth and Main Building, 707 East Main Street, 2nd Floor,
Richmond, Virginia. 

A regular meeting of the Board of Directors to (i) review and, if appropriate, approve the minutes from the most recent monthly meeting; (ii) review the authority's operations for the prior month; (iii) review applications for loans submitted to the authority for approval; (iv) consider loan commitments for approval and ratification under its various programs; (v) approve the issuance of any bonds; (vi) review the results of any bond sales; and (vii) consider such other matters and take such other actions as it may deem appropriate. Various committees of the Board of Directors may also meet immediately before or after the regular meeting and consider matters within their purview. The planned agenda of the meeting and any committee meetings will be available at the offices of the authority one week prior to the date of the meeting. Any person who needs any accommodation in order to participate in the meeting should contact the authority at least 10 days before the meeting so that suitable arrangements can be made.

Contact: Bonnie R. C. McRae, Executive Assistant, Virginia Resources Authority, 707 E. Main St., Richmond, VA 23219, telephone (804) 644-3100, FAX (804) 644-3109, e-mail bmcrae@vra.state.va.us.

SEWAGE HANDLING AND DISPOSAL APPEAL REVIEW BOARD

August 10, 2005 - 10 a.m. -- Open Meeting
September 14, 2005 - 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, Department of Health, 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

† **July 20, 2005 - Noon** -- Open Meeting
† **August 17, 2005 - 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 general business of the board. Time is subject to change depending upon the board's agenda.

Calendar of Events

Contact: Scott E. Parsons, Executive Director, Virginia Small Business Financing Authority, 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

July 29, 2005 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Social Services intends to amend regulations entitled **22 VAC 40-901, Community Services Block Grant Program**. The purpose of the proposed action is to establish criteria for the expansion of existing community action agencies and the designation of new community action agencies.

Statutory Authority: §§ 2.2-5402 and 63.2-217 of the Code of Virginia.

Contact: J. Mark Grigsby, Director, Office of Community Services, Department of Social Services, 7 N. 8th St., Richmond, VA 23219, telephone (804) 726-7922, FAX (804) 726-7946 or e-mail james.grigsby@dss.virginia.gov.

NOTE: CHANGE IN MEETING DATE

† **August 12, 2005 - 9 a.m.** -- Open Meeting
Department of Social Services, 7 North 8th Street, 6th Floor, Conference Room, Richmond, Virginia. ♿

New member orientation.

Contact: Pat Rengnerth, State Board Liaison, State Board of Social Services, Office of Legislative and Regulatory Affairs, 7 N. 8th St., Room 5214, Richmond, VA 23219, telephone (804) 726-7905, FAX (804) 726-7906, (800) 828-1120/TTY ♿, e-mail patricia.rengnerth@dss.virginia.gov.

August 17, 2005 - 9 a.m. -- Open Meeting

August 18, 2005 - 9 a.m. -- Open Meeting
Department of Social Services, 1701 High Street, Portsmouth, Virginia. ♿

A regular meeting. Public comment will be received at 1:30 p.m.

Contact: Pat Rengnerth, State Board Liaison, State Board of Social Services, Office of Legislative and Regulatory Affairs, 7 N. 8th St., Room 5214, Richmond, VA 23219, telephone (804) 726-7905, FAX (804) 726-7906, (800) 828-1120/TTY ♿, e-mail patricia.rengnerth@dss.virginia.gov.

August 26, 2005 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Social Services intends to amend regulations entitled **22 VAC 40-740, Adult Protective Services**. The purpose of the proposed action is to provide guidelines to local departments of social services for investigating reports and protecting the health, safety, and welfare of the elderly and adults who are incapacitated

and to maximize statewide consistency in the implementation of the adult protective services program following comprehensive APS legislation in the 2004 General Assembly.

Statutory Authority: § 63.2-217 and Article 2 (§ 63.2-1603 et seq.) of Chapter 16 of Title 54.1 of the Code of Virginia.

Contact: Sue Murdock, Adult Services Program Consultant, Department of Social Services, 7 N. 8th St., Richmond, VA 23219, telephone (804) 726-7616, FAX (804) 726-7895 or e-mail susan.murdock@dss.virginia.gov.

DEPARTMENT OF SOCIAL SERVICES

† **July 11, 2005 - 9 a.m.** -- Open Meeting
Department of Social Services, 7 N. 8th Street, Vault Rooms A and B, Richmond, Virginia. ♿

A meeting of the Child Support Quadrennial Guideline Review Panel. No public comment during this period. Written comments will be accepted. Interested parties may request to be placed on mailing list of materials sent to panel members.

Contact: Tara Outridge, Operations Support Coordinator, Department of Social Services, 7 N. 8th Street, Richmond, Va 23219, telephone (804) 726-7431, e-mail tara.outridge@dss.virginia.gov.

† **July 21, 2005 - 10 a.m.** -- Open Meeting
Department of Social Services, 7 N. 8th Street, Conference Room 3445, Richmond, Virginia. ♿

A regular business meeting of the Licensed Child Placing Agency Policy Advisory Group.

Contact: Wenda Singer, Department of Social Services, 7 N. 8th Street, Richmond, VA 23219, telephone (804) 726-7148, e-mail wenda.singer@dss.virginia.gov.

BOARD OF SOCIAL WORK

July 13, 2005 - 10 a.m. -- CANCELED
Department of Health Professions, 6603 West Broad Street, Fifth Floor, Richmond, Virginia. ♿

Informal conferences to hear possible violations of the laws and regulations governing the practice of social work have been canceled.

Contact: Evelyn B. Brown, Executive Director, Board of Social Work, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9914, FAX (804) 662-7250, (804) 662-7197/TTY ♿, e-mail evelyn.brown@dhp.virginia.gov.

September 16, 2005 - 10 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia. ♿

A meeting to conduct regular board business.

Contact: Evelyn B. Brown, Executive Director, Board of Social Work, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9914, FAX

(804) 662-7250, (804) 662-7197/TTY ☎, e-mail
evelyn.brown@dhp.virginia.gov.

BOARD FOR PROFESSIONAL SOIL SCIENTISTS AND WETLAND PROFESSIONALS

July 13, 2005 - 10 a.m. -- Open Meeting

Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. ♿

A meeting to conduct board business. The meeting is open to the public; however a portion of the board's business may be discussed in closed session. All meetings are subject to cancellation. The time of the meeting is subject to change. Any person desiring to attend the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Executive Director, Board for Professional Soil Scientists and Wetland Professionals, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail soilscientist@dpor.virginia.gov.

COUNCIL ON TECHNOLOGY SERVICES

August 25, 2005 - 2 p.m. -- Open Meeting

Department of Transportation, 1221 East Broad Street,
Auditorium, Richmond, Virginia. ♿

A regular meeting of the advisory council to the chief information officer of the Commonwealth on matters related to information technology in the Commonwealth.

Contact: Jennifer W. Hunter, Special Assistant for Communications/COTS Executive Director, Council on Technology Services, 411 E. Franklin St., Suite 500, Richmond, VA 23219, telephone (804) 343-9012, FAX (804) 343-9015, e-mail jenny.hunter@vita.virginia.gov.

COMMONWEALTH TRANSPORTATION BOARD

July 12, 2005 - 7 p.m. -- Open Meeting

Stafford County Board of Supervisors Chambers, 1300
Courthouse Road, Stafford, Virginia. ♿

The first meeting of the I-95/395 PPTA Advisory Panel to receive a presentation by the two teams proposing improvements to the I-95/395 corridor, followed by questions by the Advisory Panel. Public comment will not be received at this meeting. The September 21, 2005, meeting is planned for public comments. Proceedings will be televised over the county's cable network.

Contact: Robert L. Trachy, Jr., Project Manager, Commonwealth Transportation Board, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-4263, e-mail larry.trachy@vdot.virginia.gov.

July 15, 2005 - 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 adopt regulations entitled **24 VAC 30-121, Comprehensive Roadside Management Program Regulations**. The purpose of the proposed action is to promulgate roadside management regulations to fulfill the directives of Chapter 679 of the 2004 Acts of Assembly.

Statutory Authority: §§ 33.1-12 and 33.1-223.2:9 of the Code of Virginia.

Contact: Jacob Porter, Roadside Operations Program Manager, Commonwealth Transportation Board, Asset Management Division, Monroe Tower, 1401 E. Broad St., 19th Floor, Richmond, VA 23219, telephone (804) 786-7218, FAX (804) 786-7987, e-mail jacobporter@vdot.virginia.gov.

July 20, 2005 - 2 p.m. -- Open Meeting

Department of Transportation 1221 East Broad Street,
Auditorium, Richmond, Virginia. ♿

A work session of the Commonwealth Transportation Board and transportation staff.

Contact: Carol A. Mathis, Administrative Staff Assistant, Virginia Department of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-2701, FAX (804) 786-2940, e-mail carol.mathis@vdot.virginia.gov.

July 21, 2005 - 9 a.m. -- Open Meeting

Department of Transportation, 1221 East Broad Street,
Auditorium, Richmond, Virginia. ♿

A regularly scheduled meeting to transact board business, such as permits, additions/deletions to the highway system, and other matters requiring board approval. Public comment will be received at the outset of the meeting on items on the agenda for which the opportunity for public comment has not been afforded the public in another forum. Remarks will be limited to five minutes. Large groups are asked to select one individual to speak for the group. The board reserves the right to amend these conditions. Separate committee meetings may be held on call of the chairman. Contact VDOT Public Affairs at (804) 786-2715 for schedule.

Contact: Carol A. Mathis, Administrative Staff Assistant, Virginia Department of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-2701, FAX (804) 786-2940, e-mail carol.mathis@vdot.virginia.gov.

July 26, 2005 - 7 p.m. -- Open Meeting

Arlington County Board Meeting Room, 2100 Clarendon
Boulevard, Arlington, Virginia. ♿

The second meeting of the I-95/395 PPTA Advisory Panel to consider two proposals for improvements to the I-95/395 corridor. Public comment will not be received at this meeting. Public comments are planned to be received at the September 21, 2005, meeting. Proceedings will be televised over the county's cable network.

Calendar of Events

Contact: Robert L. Trachy, Jr., Project Manager, Commonwealth Transportation Board, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-4263, FAX (804) 225-4700, e-mail larry.trachy@vdot.virginia.gov.

NOTE: CHANGE IN MEETING DATE

† **September 21, 2005 - 7 p.m.** -- Open Meeting
McCoart Administrative Building, 1 County Complex, Prince William County Board of Supervisors Meeting Room, Prince William, Virginia. ♿

The third meeting of the PPTA Advisory Panel to consider two proposals for improvements to the corridor. Proceedings will be televised over the county's cable network. Public comments will be received.

Contact: Robert L. Trachy, Jr., Project Manager, Department of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-4263, e-mail larry.trachy@vdot.virginia.gov.

† **October 11, 2005 - 7 p.m.** -- Open Meeting
1200 Government Center Parkway, Fairfax County Board of Supervisors Meeting Room, Fairfax, Virginia. ♿

Final meeting of the PPTA Advisory Panel to consider two proposals for improvements to the corridor. Public comment will not be received at this meeting. Proceedings will be televised over the county's cable network.

Contact: Robert L. Trachy, Jr., Project Manager, Commonwealth Transportation Board, Department of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-4263, FAX (804) 225-4700, or e-mail larry.trachy@vdot.virginia.gov.

TREASURY BOARD

July 20, 2005 - 9 a.m. -- Open Meeting
James Monroe Building, 101 North 14th Street, 3rd Floor, Treasury Board Room, Richmond, Virginia. ♿

A regular meeting.

Contact: Melissa Mayes, Secretary, Department of the Treasury, 101 N. 14th St., 3rd Floor, Richmond, VA 23219, telephone (804) 371-6011, FAX (804) 786-0833, e-mail melissa.mayes@trs.virginia.gov.

DEPARTMENT OF VETERANS SERVICES

Joint Leadership Council of Veterans Service Organizations

July 13, 2005 - 11 a.m. -- Open Meeting
Location to be determined.

A regular meeting. Public comment will be received at approximately 12:30 p.m.

Contact: Steven Combs, Assistant to the Commissioner, Department of Veterans Services, 900 E. Main St., Richmond VA 23219, telephone (804) 786-0294, e-mail steven.combs@dvs.virginia.gov.

BOARD OF VETERINARY MEDICINE

† **July 12, 2005 - 10 a.m.** -- Open Meeting
Department of Health Professions, 6603 West Broad Street, Board Room 4, Richmond, Virginia. ♿

A meeting of the Ad Hoc Committee on Equine Dental Technicians to consider issues related to equine dentistry and possible recommendations for legislation or regulations.

Contact: Elizabeth A. Carter, Ph.D., Executive Director, Board of Veterinary Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9915, FAX (804) 662-9504, (804) 662-7197/TTY ♿, e-mail elizabeth.carter@dhp.virginia.gov.

July 13, 2005 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. ♿

Informal hearings (disciplinary proceedings). Public comment will not be received.

Contact: Terri Behr, Administrative Assistant, Department of Health Professions, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-9915, FAX (804) 662-7098, (804) 662-7197/TTY ♿, e-mail terri.behr@dhp.virginia.gov.

† **July 27, 2005 - 9 a.m.** -- Open Meeting
Hotel Roanoke and Conference Center, 110 Shenandoah Ave., Roanoke, Virginia. ♿

A quorum of the board will conduct a formal hearing. Public comment will not be received.

Contact: Terri H. Behr, Administrative Assistant, Board of Veterinary Medicine, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-9915, FAX (804) 662-7098, (804) 662-7197/TTY ♿, e-mail terri.behr@dhp.virginia.gov.

BOARD FOR WASTE MANAGEMENT FACILITY OPERATORS

August 11, 2005 - 10:30 a.m. -- Public Hearing
Department of Profession and Occupational Regulation, 3600 West Broad Street, 4th Floor, Conference Room 4 West, Richmond, Virginia.

August 26, 2005 - 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 for Waste Management Facility Operators intends to amend regulations entitled **18 VAC 155-20, Waste Management Facility Operators Regulations**. The purpose of the proposed action is to (i) create a new license classification (Class V) for Municipal Solid Waste (MSW) composting facilities and move MSW composting from Class II to the new Class V; (ii) clarify that a waste management facility for which the board has not established training and licensure requirements may be operated by a Class I licensee; (iii) require applicants using experience to substitute for a high school diploma to have obtained that experience during the seven years immediately preceding the date of application; (iv) require applicants to document at least one year of experience with

a waste management facility in order to qualify for licensure; (v) repeal language requiring facility specific training to have been completed after January 1, 1989, and language concerning the first renewal after May 1, 2000, which assigned a single expiration date to all classes of license held by a single individual; (vi) require license renewal applicants to state that they are in compliance with all Virginia and federal laws and regulations; (vii) amend the training course curriculum section to be more reflective of current technology and training needs, to amend Class II training to remove MSW composting requirements, and to create a new curriculum for Class V MSW composting; and (viii) make renewing a license through fraudulent means or misrepresentation a ground for license denial and disciplinary action and to cite the provisions of § 54.1-204 of the Code of Virginia pertinent to applicants with criminal convictions.

Statutory Authority: § 54.1-2211 of the Code of Virginia.

Contact: David Dick, Executive Director, Board for Waste Management Facility Operators, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0219, FAX (804) 367-6128 or e-mail wastemtg@dpor.virginia.gov.

STATE WATER CONTROL BOARD

July 14, 2005 - 9:30 a.m. -- Open Meeting

August 25, 2005 - 9:30 a.m. -- Open Meeting

September 16, 2005 - 9:30 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 Virginia Water Protection Permit Regulation.

Contact: William K. Norris, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4022, FAX (804) 698-4224, e-mail wknorris@deq.virginia.gov.

† **July 25, 2005 - 9:30 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 a general VPDES permit for total nitrogen and total phosphorus discharges and nutrient trading in the Chesapeake Bay. The Notice of Intent was published in the Virginia Register of Regulations on May 2, 2005. The deadline for comments on the Notice of Intent and to volunteer to serve on the Advisory Committee was June 1, 2005.

Contact: Allan Brockenbrough, State Water Control Board, P.O. Box 10009 Richmond, VA 23240, telephone (804) 698-4147, e-mail abrockenbrough@deq.virginia.gov.

August 9, 2005 - 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 water quality standards

to establish nutrient criteria for lakes. Meeting date is tentative and interested persons should confirm the meeting with the contact person.

Contact: Eleanore Daub, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4111, FAX (804) 698-4116, e-mail emdaub@deq.virginia.gov.

BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

August 11, 2005 - 9 a.m. -- Public Hearing

Department of Profession and Occupational Regulation, 3600 West Broad Street, 4th Floor, Conference Room 4 West, Richmond, Virginia.

August 26, 2005 - 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 for Waterworks and Wastewater Works Operators intends to amend regulations entitled **18 VAC 160-20, Board for Waterworks and Wastewater Works Operators**. The purpose of the proposed action is to allow applicants that meet all of the board's license qualification requirements except for experience at a classified facility to sit for the board's examination. Those so qualified who do pass the examination will be issued a conditional license. A full license will be issued upon receipt of documentation of half of the classified facility experience from a conditional license holder. The public health, safety and welfare will benefit from a larger pool of qualified individuals that can more quickly become licensed to operate a classified facility and from the operation of nonclassified facilities by those who have met the standards set by the board's regulations. The goal is to allow individuals who are technically qualified but who have not obtained experience at a classified facility operated under the oversight of the Virginia Department of Health or the Virginia Department of Environmental Quality to sit for the board's examination. The board expects a disproportionately large number of operator retirements in the coming years and feels that this amendment will create a pool of qualified individuals that can become licensed after a relatively short period of employment at a classified facility. Costs to the facilities (many of which are publicly owned and funded) to recruit replacements should be reduced as a result.

Conditional licensees operating nonclassified facilities would be under the disciplinary authority of the board. The board can take action against a conditional license holder should his operation cause an adverse affect to the consuming public or to the classified facilities receiving his treated waste.

Statutory Authority: § 54.1-2301 of the Code of Virginia.

Contact: David Dick, Executive Director, Board for Waste Management Facility Operators, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0219, FAX (804) 367-6128 or e-mail wastemtg@dpor.virginia.gov.

Calendar of Events

† **September 14, 2005 - 8:30 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation
3600 West Broad Street Richmond, Virginia. ☎

A meeting to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at 804-367-2648 at least 10 days prior to this meeting so that suitable arrangements can be made for an appropriate accommodation. The department fully complies with the Americans with Disabilities Act.

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.

INDEPENDENT

STATE LOTTERY BOARD

July 13, 2005 - 9 a.m. -- Open Meeting
Richmond Omni Hotel, 100 South 12th Street, Roanoke Room, 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 OFFICE FOR PROTECTION AND ADVOCACY

Board for Protection and Advocacy

July 19, 2005 - 9 a.m. -- Open Meeting
September 20, 2005 - 9 a.m. -- Open Meeting
Virginia Office for Protection and Advocacy, Byrd Building, 1910 Byrd Avenue, Suite 5, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

Public comment is welcomed and will be accepted at the start of the meeting. If you wish to provide public comment via telephone, or if interpreter services or other accommodations are required, please contact Lisa Shehi no later than Tuesday, July 5, 2005.

Contact: Lisa Shehi, Administrative Assistant, Virginia Office for Protection and Advocacy, 1910 Byrd Ave., Suite 5, Richmond, VA 23230, telephone (804) 225-2042, FAX (804) 662-7431, toll-free (800) 552-3962, (804) 225-2042/TTY ☎, e-mail lisa.shehi@vopa.virginia.gov.

Disabilities Advisory Council

NOTE: CHANGE IN MEETING DATE
July 27, 2005 - 10 a.m. -- Open Meeting
Virginia Office for Protection and Advocacy, 1910 Byrd Avenue, Suite 5, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

Public comment is welcome and will be received at the beginning of the meeting. For those needing interpreter services or other accommodations, please contact Delicia (Dee) Vance by July 14, 2005.

Contact: Delicia Vance, Outreach Advocate, Virginia Office for Protection and Advocacy, 1910 Byrd Ave., Suite 5, Richmond, VA 23230, telephone (804) 662-7099, FAX (804) 662-7057, toll-free (800) 552-3962, (804) 225-2042/TTY ☎, e-mail delicia.vance@vopa.virginia.gov.

PAIMI Advisory Council

August 11, 2005 - 10 a.m. -- Open Meeting
Location to be announced.

Public comment is welcome and will be received at the beginning of the meeting. For those needing interpreter services or other accommodations, please contact Delicia (Dee) Vance by July 29, 2005.

Contact: Delicia Vance, Outreach Advocate, Virginia Office for Protection and Advocacy, 1910 Byrd Ave., Suite 5, Richmond, VA 23230, telephone (804) 662-7099, FAX (804) 662-7057, toll-free (800) 552-3962, (804) 225-2042/TTY ☎, e-mail delicia.vance@vopa.virginia.gov.

VIRGINIA RETIREMENT SYSTEM

August 16, 2005 - Noon -- Open Meeting
Virginia Retirement System Headquarters Building, 1200 East Main Street, Richmond, Virginia. ☎

A regular meeting of the Optional Retirement Plan Advisory Committee. No public comment will be received at the meeting.

Contact: LaShaunda B. King, Executive Assistant, Virginia Retirement System, 1200 E. Main Street, Richmond, VA 23219, telephone (804) 649-8059, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY ☎, or e-mail lking@vrs.state.va.us.

August 17, 2005 - 2:30 p.m. -- Open Meeting
Virginia Retirement System Headquarters Building, 1200 East Main Street, Richmond, Virginia. ☎

Meetings of the following committees:

- 11 a.m. - Investment Advisory
- 2:30 p.m. - Benefits and Actuarial
- 4 p.m. - Audit and Compliance
- 4 p.m. - Administration and Personnel

No public comment will be received.

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, 2005 - 8:30 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.

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 ☎, or e-mail lking@vrs.state.va.us.

NOTE: CHANGE IN MEETING DATE AND TIME

August 18, 2005 - 8:30 a.m. -- Open Meeting
Location to be determined. ♿

The Board of Trustees annual retreat. Details will be posted 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.

LEGISLATIVE

JOINT COMMISSION ON ADMINISTRATIVE RULES

August 10, 2005 - 1 p.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, Senate Room A, Richmond, Virginia. ♿

A regular meeting. For questions regarding the meeting agenda, contact Elizabeth Palen, Division of Legislative Services, (804) 786-3591. Individuals requiring interpreter services or other accommodations should telephone Senate Committee Operations at (804) 698-7450, (804) 698-7419/TTY, or write to Senate Committee Operations, P.O. Box 396, Richmond, VA 23218 at least seven days prior to the meeting.

Contact: Nathan Hatfield, Senate Committee Operations, General Assembly Bldg., 910 Capitol St., Richmond, VA 23219, telephone (804) 698-7410.

JOINT LEGISLATIVE AUDIT AND REVIEW COMMISSION

July 11, 2005 - 10 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, Senate Room A, Richmond, Virginia. ♿

A meeting to discuss VRS oversight.

Contact: Trish Bishop, Principal Legislative Analyst, Joint Legislative Audit and Review Commission, General Assembly Bldg., 910 Capitol St., Suite 1100, Richmond, VA 23219,

telephone (804) 786-1258, FAX (804) 371-0101, e-mail tbishop@leg.state.va.us.

VIRGINIA CODE COMMISSION

July 27, 2005 - 10 a.m. -- Open Meeting
August 17, 2005 - 10 a.m. -- Open Meeting
September 21, 2005 - 10 a.m. -- Open Meeting
† October 19, 2005 - 10 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, 6th Floor, Speaker's Conference Room, Richmond, Virginia. ♿

A meeting to continue work on the 2007 Code of Virginia project.

Contact: Jane Chaffin, Registrar of Regulations, Virginia Code Commission, General Assembly Building, 2nd Floor, 910 Capitol Street, Richmond, VA 23219, telephone (804) 786-3591, FAX (804) 692-0625 or e-mail jchaffin@leg.state.va.us.

JOINT SUBCOMMITTEE STUDYING CONFLICTS OF INTEREST AND LOBBYING DISCLOSURE FILINGS

July 19, 2005 - 10 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, Senate Room A, Richmond, Virginia. ♿

A regular meeting. For questions regarding the meeting agenda, contact Amigo Wade, Division of Legislative Services, (804) 786-3591.

Contact: Barbara L. Teague, House Committee Operations, 910 Capitol St., Richmond, VA 23219, telephone (804) 698-1540.

VIRGINIA FREEDOM OF INFORMATION ADVISORY COUNCIL

August 31, 2005 - 1 p.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. ♿

An agenda for the meeting will be posted as soon as it is available.

Contact: Maria Everett, Executive Director, Virginia Freedom of Information Advisory Council, 910 Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804) 255-3056, FAX (804) 371-0169, toll-free (866) 448-4100.

JOINT SUBCOMMITTEE STUDYING PUBLIC FUNDING OF HIGHER EDUCATION IN VIRGINIA

† July 25, 2005 - 2 p.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, Senate Room A, Richmond, Virginia. ♿

A regular meeting. Should you have any questions regarding the meeting agenda, please contact Amy Sebring, Senate Finance Committee Staff (804) 698-7480 or Tony Maggio, House Appropriations Committee Staff (804) 698-1590.

Calendar of Events

Contact: Amy Sebring, Senate Finance Committee Staff, 910 Capitol Street, Richmond, Virginia 23219, telephone (804) 698-7480 or Tony Maggio, House Appropriations Committee Staff, 910 Capitol Street, Richmond, Virginia 23219, telephone (804) 698-1590.

JOINT SUBCOMMITTEE STUDYING REDUCTION OF HIGHWAY NOISE ABATEMENT COSTS

July 19, 2005 - 10 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room C, Richmond, Virginia. 

A regular meeting. For questions regarding the meeting agenda, contact Alan Wambold Division of Legislative Services, (804) 786-3591.

Contact: Barbara L. Regen, House Committee Operations, 910 Capitol St., Richmond, VA 23219, telephone (804) 698-1540.

HOUSE AND SENATE FINANCE COMMITTEES

† August 29, 2005 - Noon -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room C, Richmond, Virginia. 

A meeting of the House and Senate Subcommittees on Land Conservation Tax Credit. A public hearing will begin at 12:45 p.m. Any questions about the agenda for the meeting or the public hearing should be addressed to Joan Putney or David Rosenberg in the Division of Legislative Services, (804) 786-3591. If you are unable to attend this meeting or if our office may be of assistance, please call (804) 698-1540.

Contact: Joan Putney or David Rosenberg, Division of Legislative Services, 910 Capitol Street, 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.

JOINT SUBCOMMITTEE PLANNING AND COORDINATING THE 200TH ANNIVERSARY CELEBRATION OF THE BIRTH OF ROBERT E. LEE - HJR 710/SJR 382

† July 26, 2005 - 10 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room C, Richmond, Virginia. 

A regular meeting. Any questions about the agenda for this meeting should be addressed to Robie Ingram or Lisa Wallmeyer in the Division of Legislative Services, (804) 786-3591. If you are unable to attend this meeting or if our office can be of assistance, please call (804) 698-1540.

Contact: Robie Ingram or Lisa Wallmeyer, Division of Legislative Services, 910 Capitol Street, 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.

JOINT SUBCOMMITTEE TO EXAMINE THE COST AND FEASIBILITY OF RELOCATING THE MUSEUM AND WHITE HOUSE OF THE CONFEDERACY

July 22, 2005 - 10 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room C, Richmond, Virginia. 

A regular meeting. For questions regarding the meeting agenda, contact Robie Ingram or Bryan Stogdale, Division of Legislative Services, (804) 786-3591.

Contact: Barbara L. Teague, House Committee Operations, 910 Capitol St., Richmond, VA 23219, telephone (804) 698-1540.

JOINT SUBCOMMITTEE STUDYING THE PUBLIC RECORDS ACT

July 29, 2005 - 2 p.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room C, Richmond, Virginia. 

A regular meeting. For questions regarding the meeting agenda, contact Lisa Wallmeyer, Division of Legislative Services, (804) 786-3591.

Contact: Lori Maynard, House Committee Operations, 910 Capitol St., Richmond, VA 23219, telephone (804) 698-1540.

JOINT SUBCOMMITTEE STUDYING MEDICAL, ETHICAL, AND SCIENTIFIC ISSUES RELATING TO STEM CELL RESEARCH

August 17, 2005 - 10 a.m. -- Open Meeting
September 21, 2005 - 10 a.m. -- Open Meeting
November 15, 2005 - 2 p.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room C, Richmond, Virginia. 

A regular meeting. For questions regarding the meeting agenda, contact Norma Szakal or Amy Marschean, Division of Legislative Services, (804) 786-3591.

Contact: Barbara L. Regen, House Committee Operations, 910 Capitol St., Richmond, VA 23219, telephone (804) 698-1540.

JOINT COMMISSION ON TECHNOLOGY AND SCIENCE

July 19, 2005 - 10 a.m. -- Open Meeting
September 12, 2005 - 10 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. 

A meeting of the JCOTS Emerging Technology Issues Advisory Committee.

Contact: Lisa Wallmeyer, Executive Director, Joint Commission on Technology and Science, 910 Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591, e-mail lwallmeyer@leg.state.va.us.

July 20, 2005 - 2 p.m. -- Open Meeting

September 14, 2005 - 2 p.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. ♿

A meeting of the JCOTS Nanotechnology Advisory Committee.

Contact: Lisa Wallmeyer, Executive Director, Joint Commission on Technology and Science, 910 Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591, e-mail lwallmeyer@leg.state.va.us.

August 2, 2005 - 2 pm. -- Open Meeting

October 11, 2005 - 2 p.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. ♿

A meeting of the JCOTS Integrated Government Advisory Committee.

Contact: Lisa Wallmeyer, Executive Director, Joint Commission on Technology and Science, 910 Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591, e-mail lwallmeyer@leg.state.va.us.

August 3, 2005 - 10 a.m. -- Open Meeting

General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. ♿

A meeting of the JCOTS Privacy Advisory Committee.

Contact: Lisa Wallmeyer, Executive Director, Joint Commission on Technology and Science, 910 Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591, e-mail lwallmeyer@leg.state.va.us.

UNEMPLOYMENT COMPENSATION COMMISSION

† **July 27, 2005 - 10 a.m.** -- Open Meeting

General Assembly Building, 9th and Broad Streets, Senate Room A, Richmond, Virginia. ♿

A regular meeting. Should you have any questions regarding the meeting agenda, please contact Frank Munyan with the Division of Legislative Services at (804) 786-3591. If you are unable to attend this meeting or have questions regarding scheduling, please call me at (804) 698-7410.

Contact: Frank Munyan, Division of Legislative Services, 910 Capitol Street, 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.

VIRGINIA UNIFORM LAWS COMMISSIONERS

July 18, 2005 - 8 a.m. -- Open Meeting

General Assembly Building, 9th and Broad Streets, 4th Floor West Conference Room, Richmond, Virginia. ♿

A meeting of the Virginia Commissioners for the Promotion of Uniformity of Legislation to review Uniform Acts to be considered by the National Conference of Commissioners on Uniform State Laws at its annual meeting in July.

Contact: Jessica D. French, Senior Attorney, Division of Legislative Services, 910 Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591, FAX (804) 371-8705, e-mail jfrench@leg.state.va.us.

JOINT SUBCOMMITTEE STUDYING OPTIONS TO PROVIDE A LONG-TERM FUNDING SOURCE TO CLEAN UP VIRGINIA'S POLLUTED WATERS, INCLUDING THE CHESAPEAKE BAY AND ITS TRIBUTARIES

July 20, 2005 - 10 a.m. -- Open Meeting

General Assembly Building, 9th and Broad Streets, House Room C, Richmond, Virginia. ♿

A regular meeting. For questions regarding the meeting agenda, contact Marty Farber, Mark Vucci or David Rosenberg, Division of Legislative Services, (804) 786-3591.

Contact: Barbara L. Teague, House Committee Operations, 910 Capitol St., Richmond, VA 23219, telephone (804) 698-1540.

JOINT SUBCOMMITTEE STUDYING THE VOTING EQUIPMENT CERTIFICATION PROCESS

NOTE: CHANGE IN MEETING DATE, TIME AND LOCATION

July 19, 2005 - 12:30 p.m. -- Open Meeting

General Assembly Building, 9th and Broad Streets, Senate Room B, Richmond, Virginia. ♿

NOTE: CHANGE IN MEETING TIME

August 22, 2005 - 12:30 p.m. -- Open Meeting

November 21, 2005 - 1 p.m. -- Open Meeting

General Assembly Building, 9th and Broad Streets, House Room C, Richmond, Virginia. ♿

A regular meeting. For questions regarding the meeting agenda, contact Mary Spain or Jack Austin, Division of Legislative Services, (804) 786-3591.

Contact: Barbara L. Regen, House Committee Operations, 910 Capitol St., Richmond, VA 23219, telephone (804) 698-1540.

CHRONOLOGICAL LIST

OPEN MEETINGS

July 11

Audit and Review Commission, Joint Legislative

† Library of Virginia, The

Motor Vehicle Dealer Board

† Social Services, Department of

July 12

Blind and Vision Impaired, Board for the

† Blind and Vision Impaired, Department of

Cemetery Board

Child Fatality Review Team, State

† Contractors, Board for

Calendar of Events

† Environmental Quality, Department of
Funeral Directors and Embalmers, Board of
Health, Department of
Medical Assistance Services, Department of
Psychology, Board of
Resources Authority, Virginia
Transportation Board, Commonwealth
† Veterinary Medicine, Board of

July 13

Agriculture and Consumer Services, Board of
† Audiology and Speech-Language Pathology, Board for
† Conservation and Recreation, Department of
- Goose Creek Scenic River Advisory Committee
Economic Development Partnership, Virginia
† Environmental Quality, Department of
Information Technologies Agency, Virginia
- E-911 Wireless Services Board
† Innovative Technology Authority
Lottery Board, State
Soil Scientists and Wetland Professionals, Board for
Professional
Veterans Services, Department of
- Joint Leadership Council of Veterans Service
Organizations
Veterinary Medicine, Board of

July 14

† Economic Development Partnership, Virginia
† Conservation and Recreation, Department of
- Falls of the James Scenic River Advisory Committee
† Economic Development Partnership, Virginia
† Environmental Quality, Department of
Health Professions, Board of
Higher Education for Virginia, State Council of
† Library of Virginia, The
Medicine, Board of
† Pharmacy, Board of
† Real Estate Board
Water Control Board, State

July 15

† Agriculture and Consumer Services, Department of
- Virginia Cattle Industry Board
Dentistry, Board of
† Housing and Community Development, Department of
- State Building Code Technical Review Board
Psychology, Board of

July 18

Alcoholic Beverage Control Board
Education, Board of
Hearing Aid Specialists, Board for
Local Government, Commission on
† Motor Vehicle Dealer, Board
Nursing, Board of
Uniform Laws Commissioners, Virginia

July 19

† Agriculture and Consumer Services, Department of
- Virginia Peanut Board
Conflicts of Interest and Lobbyist Disclosure Files, Joint
Subcommittee Studying
† Contractors, Board for
Corrections, Board of
† Environmental Quality, Department of
Higher Education for Virginia, State Council of

Nursing, Board of
Protection and Advocacy, Virginia Office for
- Board for Protection and Advocacy
Reduction of Highway Noise Abatement Costs, Joint
Subcommittee Studying
Technology and Science, Joint Commission on
Voting Equipment Certification Process, Joint
Subcommittee Studying the

July 20

Agriculture and Consumer Services, Department of
- Virginia Small Grains Board
Community Colleges, State Board for
Compensation Board
Corrections, Board of
Environmental Quality, Department of
† Health, Department of
- Radiation Advisory Board
- Biosolids Use Regulation Advisory Committee
Medical Assistance Services, Department of
Nursing, Board of
† Small Business Financing Authority, Virginia
Technology and Science, Joint Commission on
Transportation Board, Commonwealth
Treasury Board
Virginia's Polluted Waters, Including the Chesapeake Bay
and its Tributaries, Joint Subcommittee Studying Options
to Provide a Long-Term Funding Source to Clean Up

July 21

† Commonwealth Council on Aging
† Agriculture and Consumer Services, Department of
- Pesticide Control Board
Community Colleges, State Board for
† Conservation and Recreation, Department of
- Virginia Soil and Water Conservation Board
† Contractors, Board for
Corrections, Board of
Design-Build/Construction Management Review Board
Education, Department of
- State Special Education Advisory Committee
† Environmental Quality, Department of
Nursing, Board of
† Real Estate Appraiser Board
† Social Services, Department of
Transportation Board, Commonwealth

July 22

† Agriculture and Consumer Services, Department of
- Virginia Pork Industry Board
Dentistry, Board of
Education, Department of
- State Special Education Advisory Committee
Museum and White House of the Confederacy, Joint
Subcommittee to Examine the Cost and Feasibility of
Relocating the
Opticians, Board for

July 25

† Chesapeake Bay Local Assistance Board
† Public Funding of Higher Education in Virginia (SJR 74,
2004), Joint Subcommittee Studying
† Water Control Board, State

July 26

Accountancy, Board of
† Contractors, Board for

Housing and Community Development, Board of
 † Marine Resources Commission
 Olmstead Oversight Advisory Committee
 Transportation Board, Commonwealth
 † 200th Anniversary Celebration of the Birth of Robert E. Lee (HJR 710/SJR 382), Joint Subcommittee Planning and Coordinating

July 27

Code Commission, Virginia
 † Economic Development Partnership, Virginia
 Education, Board of
 Geology, Board for
 † Housing Development Authority, Virginia
 Medicine, Board of
 - Advisory Board on Radiologic Technology
 Nursing Home Administrators, Board of
 Protection and Advocacy, Virginia Office for
 - Disabilities Advisory Council
 † Real Estate Board
 † Unemployment Compensation Commission
 † Veterinary Medicine, Board of

July 28

Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, Board for
 † Barbers and Cosmetology, Board for
 † Contractors, Board for
 † Real Estate Board

July 29

Branch Pilots, Board for
 Public Records Act, Joint Subcommittee Studying the

August 1

Alcoholic Beverage Control Board

August 2

Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, Board for
 † Jamestown-Yorktown Foundation
 Land Evaluation Advisory Council, State
 Medicine, Board of
 - Advisory Board on Occupational Therapy
 - Advisory Board on Respiratory Care
 Nursing, Board of
 Technology and Science, Joint Commission on

August 3

Deaf and Hard-of-Hearing, Department for the
 Medicine, Board of
 - Advisory Board on Acupuncture
 Technology and Science, Joint Commission on

August 4

Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, Board for
 † Contractors, Board for
 † Environmental Quality, Department of
 Medicine, Board of
 - Advisory Board on Athletic Training
 - Advisory Board on Physician Assistants

August 5

Art and Architectural Review Board

August 8

† Agriculture and Forestry, Secretary of

† Conservation and Recreation, Department of
 - Falls of the James Scenic River Advisory Committee

August 9

Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, Board for
 † Chesapeake Bay Local Assistance Board
 † Environmental Quality, Department of
 Nursing, Board of
 Resources Authority, Virginia
 Water Control Board, State

August 10

Administrative Rules, Joint Commission on
 † State Air Pollution Control Board
 Contractors, Board for
 Sewage Handling and Disposal Appeal Review Board

August 11

Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, Board for
 † Conservation and Recreation, Department of
 - Falls of the James Scenic River Advisory Committee
 Medical Assistance Services, Department of
 Olmstead Oversight Advisory Committee
 Protection and Advocacy, Virginia Office for
 - PAIMI Advisory Council

August 12

Dentistry, Board of
 † Social Services, State Board of

August 15

Alcoholic Beverage Control Board
 Barbers and Cosmetology, Board for

August 16

† Environmental Quality, Department of
 † Medicine, Board of
 Nursing, Board of
 Retirement System, Virginia

August 17

Asbestos, Lead, and Home Inspectors, Virginia Board for
 † Aviation Board, Virginia
 Code Commission, Virginia
 Milk Commission, State
 Retirement System, Virginia
 † Small Business Financing Authority, Virginia
 Social Services, State Board of
 Stem Cell Research, Joint Subcommittee Studying Medical, Ethical, and Scientific Issues Relating to

August 18

Audiology and Speech-Language Pathology, Board of
 Design-Build/Construction Management Review Board
 Retirement System, Virginia
 Social Services, State Board of

August 19

Health Professions, Department of
 - Health Practitioners Intervention Program Committee
 Medicine, Board of
 Physical Therapy, Board of

August 22

Voting Equipment Certification Process, Joint
 Subcommittee Studying the

August 23

† Agriculture and Consumer Services, Department of

Calendar of Events

- Virginia Soybean Board
† Marine Resources Commission
Nursing, Board of
Psychology, Board of
Real Estate Appraiser Board

August 24
† Medicine, Board of
Nursing and Medicine, Joint Boards of

August 25
† Contractors, Board for
Nursing, Board of
Technology Services, Council on
Water Control Board, State

August 26
Dentistry, Board of

August 29
Alcoholic Beverage Control Board
† House and Senate Finance Committees

August 30
Contractors, Board for
Nursing, Board of

August 31
Freedom of Information Advisory Council, Virginia
People with Disabilities, Virginia Board for

September 1
People with Disabilities, Virginia Board for
Polygraph Examiners Advisory Board

September 8
Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers and Landscape Architects,
Board for
† Child Day-Care Council
† Conservation and Recreation, Department of
- Falls of the James Scenic River Advisory Committee
Criminal Justice Services Board

September 9
Art and Architectural Review Board
Child Fatality Review Team, State

September 12
Alcoholic Beverage Control Board
Technology and Science, Joint Commission on

September 13
Gaming Board, Charitable
Land Evaluation Advisory Council, State
Medical Assistance Services, Board of
Olmstead Oversight Advisory Committee
Pharmacy, Board of

September 14
At-Risk Youth and Families, Comprehensive Services for
Community Colleges, State Board for
Information Technologies Agency, Virginia
- E-911 Wireless Services Board
Olmstead Oversight Advisory Committee
Sewage Handling and Disposal Appeal Review Board
Technology and Science, Joint Commission on
† Waterworks and Wastewater Works Operators, Board for

September 15
Community Colleges, State Board for
† Conservation and Recreation, Department of
- Virginia Soil and Water Conservation Board
Design-Build/Construction Management Review Board
Labor and Industry, Department of

- Virginia Apprenticeship Council
† Real Estate Board

September 16
Dentistry, Board of
Medicine, Board of
Social Work, Board of
Water Control Board, State

September 19
† Chesapeake Bay Local Assistance Board
Library Board, State
Nursing, Board of
Professional and Occupational Regulation, Board for

September 20
† Alzheimer's Disease and Related Disorders Commission
Corrections, Board of
Nursing, Board of
Protection and Advocacy, Virginia Office for
-Protection and Advocacy, Board for
Research and Technology Advisory Commission, Virginia

September 21
Code Commission, Virginia
Corrections, Board of
Education, Board of
Medical Assistance Services, Department of
Nursing, Board of
Stem Cell Research, Joint Subcommittee Studying Medical,
Ethical and Scientific Issues Relating to
† Transportation Board, Commonwealth

September 22
Nursing, Board of

September 26
Alcoholic Beverage Control Board

September 27
† Marine Resources Commission

September 29
† Public Guardian and Conservator Advisory Board, Virginia

October 4
† Nursing, Board of

October 6
† Auctioneers Board

October 7
† Art and Architectural Review Board

October 11
† Alcoholic Beverage Control Board
† Nursing, Board of
† Psychology, Board of
† Technology and Science, Joint Commission on
† Transportation Board, Commonwealth

October 19
† Code Commission, Virginia

November 15
† Research and Technology Advisory Commission, Virginia
Stem Cell Research, Joint Subcommittee Studying Medical,
Ethical and Scientific Issues Relating to

November 21
Voting Equipment Certification Process, Joint
Subcommittee Studying the

PUBLIC HEARINGS

July 13

† Audiology and Speech Language Pathology, Board for
Contractors, Board for
Real Estate Board

July 14

Contractors, Board for
Health Professions, Board of
† Medicine, Board of

July 18

Local Government, Commission on

July 19

Nursing, Board of

August 10

Mental Health, Mental Retardation and Substance Abuse
Services, Department of

August 11

Waste Management Facility Operators, Board for
Waterworks and Wastewater Works Operators, Board for

August 15

Barbers and Cosmetology, Board for

August 17

† State Air Pollution Control Board

September 8

† Criminal Justice Services Board

November 9

Juvenile Justice, Board of

Calendar of Events
