



Virginia Register of Regulations

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THE VIRGINIA REGISTER INFORMATION PAGE

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

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

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

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

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

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

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

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

A regulation becomes effective at the conclusion of the 30-day final adoption period, or at any other later date specified by the promulgating agency, unless (i) a legislative objection has been filed, in which event the regulation, unless withdrawn, becomes effective on the date

specified, which shall be after the expiration of the 21-day objection period; (ii) the Governor exercises his authority to require the agency to provide for additional public comment, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the period for which the Governor has provided for additional public comment; (iii) the Governor and the General Assembly exercise their authority to suspend the effective date of a regulation until the end of the next regular legislative session; or (iv) the agency suspends the regulatory process, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the 30-day public comment period and no earlier than 15 days from publication of the readopted action.

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

FAST-TRACK RULEMAKING PROCESS

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.

EMERGENCY REGULATIONS

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

During the time the emergency status is in effect, the agency may proceed with the adoption of permanent regulations through the usual procedures. To begin promulgating the replacement regulation, the agency must (i) file the Notice of Intended Regulatory Action with the Registrar within 60 days of the effective date of the emergency regulation and (ii) file the proposed regulation with the Registrar within 180 days of the effective date of the emergency regulation. If the agency chooses not to adopt the regulations, the emergency status ends when the prescribed time limit expires.

STATEMENT

The foregoing constitutes a generalized statement of the procedures to be followed. For specific statutory language, it is suggested that Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia be examined carefully.

CITATION TO THE VIRGINIA REGISTER

The *Virginia Register* is cited by volume, issue, page number, and date. **23:7 VA.R. 1023-1140 December 11, 2006**, refers to Volume 23, Issue 7, pages 1023 through 1140 of the *Virginia Register* issued on December 11, 2006.

The Virginia Register of Regulations is published pursuant to Article 6 (§ 2.2-4031 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia.

Members of the Virginia Code Commission: **R. Steven Landes**, Chairman; **John S. Edwards**, Vice Chairman; **Ryan T. McDougle**; **Robert Hurt**; **Robert L. Calhoun**; **Frank S. Ferguson**; **E.M. Miller, Jr.**; **Thomas M. Moncure, Jr.**; **James F. Almand**; **S. Bernard Goodwyn**.

Staff of the Virginia Register: **Jane D. Chaffin**, Registrar of Regulations; **June T. Chandler**, Assistant Registrar.

PUBLICATION SCHEDULE AND DEADLINES

This schedule is available on the *Register's* Internet home page (<http://register.state.va.us>).

March 2007 through January 2008

<u>Volume: Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
23:13	February 14, 2007	March 5, 2007
23:14	February 28, 2007	March 19, 2007
INDEX 2 Volume 23		April 2007
23:15	March 14, 2007	April 2, 2007
23:16	March 28, 2007	April 16, 2007
23:17	April 11, 2007	April 30, 2007
23:18	April 25, 2007	May 14, 2007
23:19	May 9, 2007	May 28, 2007
23:20	May 23, 2007	June 11, 2007
INDEX 3 Volume 23		July 2007
23:21	June 6, 2007	June 25, 2007
23:22	June 20, 2007	July 9, 2007
23:23	July 2, 2007 (Monday)	July 23, 2007
23:24	July 18, 2007	August 6, 2007
23:25	August 1, 2007	August 20, 2007
23:26	August 15, 2007	September 3, 2007
FINAL INDEX - Volume 23		October 2007
24:1	August 29, 2007	September 17, 2007
24:2	September 12, 2007	October 1, 2007
24:3	September 26, 2007	October 15, 2007
24:4	October 10, 2007	October 29, 2007
24:5	October 24, 2007	November 12, 2007
24:6	November 7, 2007	November 26, 2007
24:7	November 20, 2007 (Tuesday)	December 10, 2007
INDEX 1 Volume 24		January 2008
24:8	December 5, 2007	December 24, 2007
24:9	December 18, 2007 (Tuesday)	January 7, 2008
24:10	January 2, 2008	January 21, 2008

*Filing deadlines are Wednesdays unless otherwise specified.

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

The table printed below lists regulation sections, by Virginia Administrative Code (VAC) title, that have been amended, added or repealed in the *Virginia Register* since the regulations were originally published or last supplemented in VAC (the Fall 2006 VAC Supplement includes final regulations published through *Virginia Register* Volume 22, Issue 22, dated July 10, 2006). Emergency regulations, if any, are listed, followed by the designation “emer,” and errata pertaining to final regulations are listed. Proposed regulations are not listed here. The table lists the sections in numerical order and shows action taken, the volume, issue and page number where the section appeared, and the effective date of the section.

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
Title 1. Administration			
1 VAC 50-10-10 through 1 VAC 50-10-50	Repealed	22:26 VA.R. 4083	10/4/06
1 VAC 50-10-60 through 1 VAC 50-10-150	Added	22:26 VA.R. 4084-4085	10/4/06
1 VAC 50-20-1	Added	22:26 VA.R. 4085	10/4/06
1 VAC 50-20-5	Added	22:26 VA.R. 4085	10/4/06
1 VAC 50-20-10	Amended	22:26 VA.R. 4086	10/4/06
1 VAC 50-20-20	Repealed	22:26 VA.R. 4086	10/4/06
1 VAC 50-20-30	Repealed	22:26 VA.R. 4086	10/4/06
1 VAC 50-20-40	Amended	22:26 VA.R. 4086	10/4/06
1 VAC 50-20-50	Amended	22:26 VA.R. 4086	10/4/06
1 VAC 50-20-60 through 1 VAC 50-20-90	Repealed	22:26 VA.R. 4086-4087	10/4/06
1 VAC 50-20-100	Amended	22:26 VA.R. 4087	10/4/06
1 VAC 50-20-110	Amended	22:26 VA.R. 4087	10/4/06
1 VAC 50-20-120	Repealed	22:26 VA.R. 4087	10/4/06
1 VAC 50-20-130	Repealed	22:26 VA.R. 4087	10/4/06
1 VAC 50-20-140	Amended	22:26 VA.R. 4087	10/4/06
1 VAC 50-20-142	Added	22:26 VA.R. 4087	10/4/06
1 VAC 50-20-150 through 1 VAC 50-20-180	Amended	22:26 VA.R. 4088	10/4/06
1 VAC 50-20-190 through 1 VAC 50-20-220	Repealed	22:26 VA.R. 4088	10/4/06
1 VAC 50-20-230	Amended	22:26 VA.R. 4089	10/4/06
1 VAC 50-20-240	Repealed	22:26 VA.R. 4089	10/4/06
1 VAC 50-20-250	Repealed	22:26 VA.R. 4089	10/4/06
1 VAC 50-20-260	Repealed	22:26 VA.R. 4089	10/4/06
1 VAC 50-20-270	Amended	22:26 VA.R. 4089	10/4/06
1 VAC 50-20-280	Repealed	22:26 VA.R. 4089	10/4/06
1 VAC 50-20-290	Repealed	22:26 VA.R. 4089	10/4/06
1 VAC 50-20-300	Repealed	22:26 VA.R. 4090	10/4/06
1 VAC 50-20-310	Amended	22:26 VA.R. 4090	10/4/06
1 VAC 50-20-320	Repealed	22:26 VA.R. 4090	10/4/06
1 VAC 50-20-330	Repealed	22:26 VA.R. 4090	10/4/06
1 VAC 50-20-340	Repealed	22:26 VA.R. 4090	10/4/06
1 VAC 50-20-350	Amended	22:26 VA.R. 4090	10/4/06
1 VAC 50-20-360	Repealed	22:26 VA.R. 4090	10/4/06
1 VAC 50-20-370	Repealed	22:26 VA.R. 4091	10/4/06
1 VAC 50-20-380	Repealed	22:26 VA.R. 4091	10/4/06
1 VAC 50-20-382	Added	22:26 VA.R. 4091	10/4/06
1 VAC 50-20-384	Added	22:26 VA.R. 4091	10/4/06
1 VAC 50-20-390	Amended	22:26 VA.R. 4091	10/4/06
1 VAC 50-20-400 through 1 VAC 50-20-530	Repealed	22:26 VA.R. 4091-4093	10/4/06
1 VAC 50-20-540 through 1 VAC 50-20-600	Amended	22:26 VA.R. 4093-4098	10/4/06

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
1 VAC 50-20-601	Added	22:26 VA.R. 4098	10/4/06
1 VAC 50-20-605	Added	22:26 VA.R. 4099	10/4/06
1 VAC 50-20-610	Amended	22:26 VA.R. 4100	10/4/06
1 VAC 50-20-612	Added	22:26 VA.R. 4101	10/4/06
1 VAC 50-20-614	Added	22:26 VA.R. 4101	10/4/06
1 VAC 50-20-616	Added	22:26 VA.R. 4102	10/4/06
1 VAC 50-20-620 through 1 VAC 50-20-670	Amended	22:26 VA.R. 4102-4105	10/4/06
1 VAC 50-20-680	Repealed	22:26 VA.R. 4105	10/4/06
1 VAC 50-20-690	Repealed	22:26 VA.R. 4105	10/4/06
1 VAC 50-20-700	Repealed	22:26 VA.R. 4105	10/4/06
1 VAC 55-30-10 through 1 VAC 55-30-90	Added	23:3 VA.R. 334-337	
Title 2. Agriculture			
2 VAC 5-195-10 through 2 VAC 5-195-180	Added	22:25 VA.R. 3872-3876	8/21/06
2 VAC 5-210-10	Amended	22:24 VA.R. 3579	7/19/06
2 VAC 5-210-20	Amended	22:24 VA.R. 3579	7/19/06
2 VAC 5-210-30	Amended	22:24 VA.R. 3579	7/19/06
2 VAC 5-210-40	Repealed	22:24 VA.R. 3580	7/19/06
2 VAC 5-210-41	Added	22:24 VA.R. 3580	7/19/06
2 VAC 5-210-50	Repealed	22:24 VA.R. 3580	7/19/06
2 VAC 5-210-60	Amended	22:24 VA.R. 3581	7/19/06
2 VAC 5-330-30	Amended	22:24 VA.R. 3587	9/7/06
2 VAC 20-40-10	Amended	22:26 VA.R. 4105	10/5/06
2 VAC 20-40-20	Amended	22:26 VA.R. 4106	10/5/06
2 VAC 20-40-40	Amended	22:26 VA.R. 4107	10/5/06
2 VAC 20-40-60	Amended	22:26 VA.R. 4107	10/5/06
2 VAC 20-40-65	Added	22:26 VA.R. 4107	10/5/06
2 VAC 20-40-70 through 2 VAC 20-40-110	Amended	22:26 VA.R. 4107-4109	10/5/06
2 VAC 20-40-120	Repealed	22:26 VA.R. 4109	10/5/06
Title 4. Conservation and Natural Resources			
4 VAC 5-36-50	Amended	23:6 VA.R. 845	1/1/07
4 VAC 5-36-60	Amended	23:6 VA.R. 848	1/1/07
4 VAC 5-36-70	Amended	23:6 VA.R. 849	1/1/07
4 VAC 5-36-90 through 4 VAC 5-36-120	Amended	23:6 VA.R. 850-856	1/1/07
4 VAC 5-36-150	Amended	23:6 VA.R. 856	1/1/07
4 VAC 5-36-170	Amended	23:6 VA.R. 857	1/1/07
4 VAC 5-36-200	Amended	23:6 VA.R. 858	1/1/07
4 VAC 5-36-210	Amended	23:6 VA.R. 862	1/1/07
4 VAC 15-20-220	Added	23:9 VA.R. 1382	12/15/06
4 VAC 15-320-40	Amended	23:9 VA.R. 1383	1/15/07
4 VAC 15-360-10	Amended	23:9 VA.R. 1383	1/15/07
4 VAC 20-20-20	Amended	23:4 VA.R. 574	10/1/06
4 VAC 20-20-20	Amended	23:8 VA.R. 1161	11/29/06
4 VAC 20-20-50	Amended	23:4 VA.R. 574	10/1/06
4 VAC 20-20-50	Amended	23:8 VA.R. 1161	11/29/06
4 VAC 20-70-100	Amended	23:12 VA.R. 1958	2/1/07
4 VAC 20-150-70	Amended	22:23 VA.R. 3277	6/28/06
4 VAC 20-200-10	Amended	23:11 VA.R. 1659	2/1/07
4 VAC 20-200-20	Amended	23:11 VA.R. 1659	2/1/07
4 VAC 20-200-30	Amended	23:11 VA.R. 1659	2/1/07
4 VAC 20-200-40	Amended	23:11 VA.R. 1660	2/1/07
4 VAC 20-200-50	Amended	23:11 VA.R. 1660	2/1/07

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
4 VAC 20-252-10	Amended	23:8 VA.R. 1162	1/1/07
4 VAC 20-252-20	Amended	23:8 VA.R. 1163	1/1/07
4 VAC 20-252-30	Amended	22:23 VA.R. 3277	7/1/06
4 VAC 20-252-50	Amended	22:23 VA.R. 3278	7/1/06
4 VAC 20-252-115	Added	22:23 VA.R. 3278	7/1/06
4 VAC 20-252-130	Amended	23:8 VA.R. 1163	1/1/07
4 VAC 20-252-135	Amended	23:8 VA.R. 1164	1/1/07
4 VAC 20-252-150	Amended	23:8 VA.R. 1165	1/1/07
4 VAC 20-252-155	Added	23:8 VA.R. 1165	1/1/07
4 VAC 20-252-160	Amended	23:8 VA.R. 1166	1/1/07
4 VAC 20-490-42 emer	Amended	23:8 VA.R. 1168	11/29/06-12/28/06
4 VAC 20-490-42	Amended	23:10 VA.R. 1540	12/21/06
4 VAC 20-510-10	Amended	23:12 VA.R. 1958	2/1/07
4 VAC 20-510-20	Amended	23:12 VA.R. 1958	2/1/07
4 VAC 20-510-33	Added	23:12 VA.R. 1959	2/1/07
4 VAC 20-510-35	Added	23:12 VA.R. 1959	2/1/07
4 VAC 20-510-37	Added	23:12 VA.R. 1959	2/1/07
4 VAC 20-530-10 emer	Amended	23:12 VA.R. 1959	2/1/07-3/1/07
4 VAC 20-530-20 emer	Amended	23:12 VA.R. 1959	2/1/07-3/1/07
4 VAC 20-530-31 emer	Amended	23:12 VA.R. 1960	2/1/07-3/1/07
4 VAC 20-530-32 emer	Amended	23:12 VA.R. 1960	2/1/07-3/1/07
4 VAC 20-566-30	Amended	22:25 VA.R. 3877	8/1/06
4 VAC 20-610-30	Amended	23:4 VA.R. 575	10/1/06
4 VAC 20-610-30	Amended	23:11 VA.R. 1660	2/1/07
4 VAC 20-610-40	Amended	23:4 VA.R. 576	10/1/06
4 VAC 20-610-60	Amended	23:4 VA.R. 576	10/1/06
4 VAC 20-610-60	Amended	23:11 VA.R. 1662	2/1/07
4 VAC 20-720-20	Amended	23:4 VA.R. 578	10/1/06
4 VAC 20-720-40	Amended	23:4 VA.R. 579	10/1/06
4 VAC 20-720-40 emer	Amended	23:10 VA.R. 1540	1/1/07-1/30/07
4 VAC 20-720-50	Amended	23:4 VA.R. 579	10/1/06
4 VAC 20-720-50 emer	Amended	23:10 VA.R. 1541	1/1/07-1/30/07
4 VAC 20-720-60	Amended	23:4 VA.R. 580	10/1/06
4 VAC 20-720-70	Amended	23:4 VA.R. 580	10/1/06
4 VAC 20-720-75	Amended	23:4 VA.R. 580	10/1/06
4 VAC 20-720-80	Amended	23:4 VA.R. 580	10/1/06
4 VAC 20-720-100	Amended	23:4 VA.R. 581	10/1/06
4 VAC 20-900-10 through 4 VAC 20-900-30	Amended	22:23 VA.R. 3279-3280	7/1/06
4 VAC 20-910-45	Amended	23:6 VA.R. 865	11/1/06
4 VAC 20-910-45	Erratum	23:8 VA.R. 1290	--
4 VAC 20-950-40 emer	Amended	23:12 VA.R. 1961	2/1/07-3/1/07
4 VAC 20-950-47 emer	Amended	23:12 VA.R. 1961	2/1/07-3/1/07
4 VAC 20-950-48.2 emer	Amended	23:12 VA.R. 1961	2/1/07-3/1/07
4 VAC 20-1090-20	Repealed	23:4 VA.R. 581	10/1/06
4 VAC 20-1090-30	Amended	23:4 VA.R. 582	10/1/06
4 VAC 20-1090-30	Amended	23:11 VA.R. 1663	2/1/07
4 VAC 25-130-816.11	Amended	22:24 VA.R. 3587	9/6/06
4 VAC 25-130-816.64	Amended	22:24 VA.R. 3588	9/6/06
Title 6. Criminal Justice and Corrections			
6 VAC 20-30-10 through 6 VAC 20-30-60	Amended	23:9 VA.R. 1385-1388	2/9/07

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
6 VAC 20-30-80	Amended	23:9 VA.R. 1388	2/9/07
6 VAC 20-50-10 through 6 VAC 20-50-90	Amended	23:9 VA.R. 1392-1397	7/1/07
6 VAC 20-50-21	Added	23:9 VA.R. 1394	7/1/07
6 VAC 20-50-100	Repealed	23:9 VA.R. 1397	7/1/07
6 VAC 20-50-110	Added	23:9 VA.R. 1397	7/1/07
6 VAC 20-120-80	Amended	22:20 VA.R 2704	7/12/06
6 VAC 20-190-10 through 6 VAC 20-190-200	Repealed	22:10 VA.R. 1556-1559	2/22/06
6 VAC 20-210-10 through 6 VAC 20-210-110	Repealed	22:10 VA.R. 1561-1562	2/22/06
6 VAC 20-220-20 through 6 VAC 20-220-80	Repealed	22:10 VA.R. 1559-1560	2/22/06
6 VAC 20-240-10 through 6 VAC 20-240-120	Added	22:11 VA.R. 1764-1768	3/8/06
6 VAC 20-260-10 through 6 VAC 20-260-360 emer	Added	22:12 VA.R. 2044-2053	2/20/06-2/19/07
6 VAC 35-10-10 through 6 VAC 35-10-50	Amended	23:1 VA.R. 25-26	10/18/06
6 VAC 35-10-60	Repealed	23:1 VA.R. 26	10/18/06
6 VAC 35-10-70 through 100	Amended	23:1 VA.R. 26-27	10/18/06
6 VAC 35-10-105	Added	23:1 VA.R. 27	10/18/06
6 VAC 35-10-110	Amended	23:1 VA.R. 28	10/18/06
6 VAC 35-10-120 through 6 VAC 35-10-150	Added	23:1 VA.R. 28	10/18/06
6 VAC 35-10-120	Amended	23:1 VA.R. 28	10/18/06
6 VAC 40-10-10 through 6 VAC 40-10-90	Added	22:24 VA.R. 3746-3747	10/25/06
6 VAC 40-50-10 through 6 VAC 40-50-80 emer	Added	22:23 VA.R. 3406-3407	7/1/06-6/30/07
Title 8. Education			
8 VAC 20-21-10 through 8 VAC 20-21-730	Repealed	23:3 VA.R. 337	11/28/06
8 VAC 20-22-10 through 8 VAC 20-22-760	Added	23:3 VA.R. 344-376	11/28/06
8 VAC 20-131-5	Added	22:24 VA.R. 3589	9/7/06
8 VAC 20-131-10	Amended	22:24 VA.R. 3590	9/7/06
8 VAC 20-131-20	Amended	22:24 VA.R. 3591	9/7/06
8 VAC 20-131-30	Amended	22:24 VA.R. 3591	9/7/06
8 VAC 20-131-40	Repealed	22:24 VA.R. 3592	9/7/06
8 VAC 20-131-50 through 8 VAC 20-131-110	Amended	22:24 VA.R. 3592-3598	9/7/06
8 VAC 20-131-140	Amended	22:24 VA.R. 3598	9/7/06
8 VAC 20-131-150	Amended	22:24 VA.R. 3598	9/7/06
8 VAC 20-131-160	Repealed	22:24 VA.R. 3599	9/7/06
8 VAC 20-131-170 through 8 VAC 20-131-210	Amended	22:24 VA.R. 3599-3600	9/7/06
8 VAC 20-131-240	Amended	22:24 VA.R. 3600	9/7/06
8 VAC 20-131-260 through 8 VAC 20-131-310	Amended	22:24 VA.R. 3601-3607	9/7/06
8 VAC 20-131-315	Added	22:24 VA.R. 3607	9/7/06
8 VAC 20-131-320	Repealed	22:24 VA.R. 3608	9/7/06
8 VAC 20-131-325	Amended	22:24 VA.R. 3608	9/7/06
8 VAC 20-131-330	Repealed	22:24 VA.R. 3608	9/7/06
8 VAC 20-131-340	Amended	22:24 VA.R. 3608	9/7/06
8 VAC 20-131-350	Added	22:24 VA.R. 3609	9/7/06
8 VAC 20-131-360	Added	22:24 VA.R. 3609	9/7/06
8 VAC 20-131, Appendix I	Repealed	22:24 VA.R. 3609	9/7/06
8 VAC 20-350-10 through 8 VAC 20-350-660	Repealed	23:12 VA.R. 1962	5/8/07
8 VAC 20-521-30	Amended	22:26 VA.R. 4110	10/4/06
8 VAC 20-541-10 through 8 VAC 20-541-60	Repealed	23:3 VA.R. 376	11/29/06
8 VAC 20-542-10 through 8 VAC 20-542-600	Added	23:3 VA.R. 376-434	11/29/06
8 VAC 20-700-10 through 8 VAC 20-700-50	Added	23:10 VA.R. 1541-1543	2/21/07
8 VAC 20-710-10 through 8 VAC 20-710-30	Added	23:10 VA.R. 1543-1544	2/21/07
8 VAC 40-30	Repealed	22:23 VA.R. 3281	8/24/06
8 VAC 40-31-10 through 8 VAC 40-31-320	Added	22:23 VA.R. 3281-3298	8/24/06

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
8 VAC 103-20-10 through 8 VAC 103-20-50	Added	23:7 VA.R. 1045-1050	12/11/06
Title 9. Environment			
9 VAC 5-20-21	Amended	22:26 VA.R. 4111	10/4/06
9 VAC 5-20-21	Erratum	23:5 VA.R. 791	--
9 VAC 5-20-203	Amended	22:23 VA.R. 3299	9/1/06
9 VAC 5-20-204	Amended	22:23 VA.R. 3299	9/1/06
9 VAC 5-20-206	Amended	22:26 VA.R. 4114	10/4/06
9 VAC 5-40-250	Amended	23:5 VA.R. 737	12/15/06
9 VAC 5-40-300	Amended	22:26 VA.R. 4115	10/4/06
9 VAC 5-40-300	Repealed	23:5 VA.R. 737	12/15/06
9 VAC 5-40-310	Repealed	23:5 VA.R. 738	12/15/06
9 VAC 5-40-311	Repealed	23:5 VA.R. 739	12/15/06
9 VAC 5-40-5060	Amended	22:26 VA.R. 4115	10/4/06
9 VAC 5-40-5200	Amended	22:26 VA.R. 4116	10/4/06
9 VAC 5-40-5600	Amended	23:1 VA.R. 29	10/18/06
9 VAC 5-40-5610	Amended	23:1 VA.R. 29	10/18/06
9 VAC 5-40-5620	Amended	23:1 VA.R. 31	10/18/06
9 VAC 5-40-5630	Amended	23:1 VA.R. 31	10/18/06
9 VAC 5-40-5631	Amended	23:1 VA.R. 33	10/18/06
9 VAC 5-40-5641	Amended	23:1 VA.R. 33	10/18/06
9 VAC 5-40-5641	Erratum	23:5 VA.R. 791	--
9 VAC 5-40-5700	Amended	22:26 VA.R. 4116	10/4/06
9 VAC 5-40-5720	Amended	22:26 VA.R. 4117	10/4/06
9 VAC 5-40-5750	Amended	22:26 VA.R. 4118	10/4/06
9 VAC 5-40-6970	Amended	22:26 VA.R. 4118	10/4/06
9 VAC 5-40-7050	Amended	22:26 VA.R. 4118	10/4/06
9 VAC 5-40-7120	Amended	22:26 VA.R. 4119	10/4/06
9 VAC 5-40-7130	Amended	22:26 VA.R. 4119	10/4/06
9 VAC 5-40-7140	Amended	22:26 VA.R. 4122	10/4/06
9 VAC 5-40-7140	Erratum	23:5 VA.R. 791	--
9 VAC 5-40-7210	Amended	22:26 VA.R. 4124	10/4/06
9 VAC 5-40-7240	Amended	22:26 VA.R. 4124	10/4/06
9 VAC 5-40-7250	Amended	22:26 VA.R. 4124	10/4/06
9 VAC 5-40-7260	Amended	22:26 VA.R. 4125	10/4/06
9 VAC 5-40-7260	Erratum	23:5 VA.R. 791	--
9 VAC 5-40-7270	Amended	22:26 VA.R. 4136	10/4/06
9 VAC 5-40-7300	Amended	22:26 VA.R. 4139	10/4/06
9 VAC 5-40-7330	Amended	22:26 VA.R. 4140	10/4/06
9 VAC 5-40-7360	Amended	22:26 VA.R. 4140	10/4/06
9 VAC 5-40-7370 through 9 VAC 5-40-7540	Added	23:5 VA.R. 740-745	12/15/06
9 VAC 5-40-7800	Amended	22:26 VA.R. 4141	10/4/06
9 VAC 5-40-7880	Amended	22:26 VA.R. 4141	10/4/06
9 VAC 5-50-250	Amended	22:23 VA.R. 3301	9/1/06
9 VAC 5-50-270	Amended	22:23 VA.R. 3302	9/1/06
9 VAC 5-50-280	Amended	22:23 VA.R. 3302	9/1/06
9 VAC 5-80-1100	Amended	22:23 VA.R. 3302	9/1/06
9 VAC 5-80-1110	Amended	22:23 VA.R. 3303	9/1/06
9 VAC 5-80-1310	Repealed	22:23 VA.R. 3308	9/1/06
9 VAC 5-80-1605	Added	22:23 VA.R. 3309	9/1/06
9 VAC 5-80-1615	Added	22:23 VA.R. 3310	9/1/06

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
9 VAC 5-80-1625	Added	22:23 VA.R. 3321	9/1/06
9 VAC 5-80-1635	Added	22:23 VA.R. 3321	9/1/06
9 VAC 5-80-1645	Added	22:23 VA.R. 3322	9/1/06
9 VAC 5-80-1655	Added	22:23 VA.R. 3322	9/1/06
9 VAC 5-80-1665	Added	22:23 VA.R. 3322	9/1/06
9 VAC 5-80-1675	Added	22:23 VA.R. 3322	9/1/06
9 VAC 5-80-1685	Added	22:23 VA.R. 3322	9/1/06
9 VAC 5-80-1695	Added	22:23 VA.R. 3323	9/1/06
9 VAC 5-80-1700	Repealed	22:23 VA.R. 3324	9/1/06
9 VAC 5-80-1705	Added	22:23 VA.R. 3324	9/1/06
9 VAC 5-80-1710	Repealed	22:23 VA.R. 3324	9/1/06
9 VAC 5-80-1715	Added	22:23 VA.R. 3324	9/1/06
9 VAC 5-80-1720	Repealed	22:23 VA.R. 3324	9/1/06
9 VAC 5-80-1725	Added	22:23 VA.R. 3324	9/1/06
9 VAC 5-80-1730	Repealed	22:23 VA.R. 3324	9/1/06
9 VAC 5-80-1735	Added	22:23 VA.R. 3324	9/1/06
9 VAC 5-80-1740	Repealed	22:23 VA.R. 3325	9/1/06
9 VAC 5-80-1745	Added	22:23 VA.R. 3325	9/1/06
9 VAC 5-80-1750	Repealed	22:23 VA.R. 3325	9/1/06
9 VAC 5-80-1755	Added	22:23 VA.R. 3325	9/1/06
9 VAC 5-80-1760	Repealed	22:23 VA.R. 3325	9/1/06
9 VAC 5-80-1765	Added	22:23 VA.R. 3325	9/1/06
9 VAC 5-80-1770	Repealed	22:23 VA.R. 3327	9/1/06
9 VAC 5-80-1775	Added	22:23 VA.R. 3327	9/1/06
9 VAC 5-80-1780	Repealed	22:23 VA.R. 3328	9/1/06
9 VAC 5-80-1785	Added	22:23 VA.R. 3328	9/1/06
9 VAC 5-80-1790	Repealed	22:23 VA.R. 3329	9/1/06
9 VAC 5-80-1795	Added	22:23 VA.R. 3329	9/1/06
9 VAC 5-80-1800	Repealed	22:23 VA.R. 3329	9/1/06
9 VAC 5-80-1805	Added	22:23 VA.R. 3329	9/1/06
9 VAC 5-80-1810	Repealed	22:23 VA.R. 3329	9/1/06
9 VAC 5-80-1815	Added	22:23 VA.R. 3329	9/1/06
9 VAC 5-80-1820	Repealed	22:23 VA.R. 3329	9/1/06
9 VAC 5-80-1825	Added	22:23 VA.R. 3329	9/1/06
9 VAC 5-80-1830	Repealed	22:23 VA.R. 3330	9/1/06
9 VAC 5-80-1835	Added	22:23 VA.R. 3330	9/1/06
9 VAC 5-80-1840	Repealed	22:23 VA.R. 3332	9/1/06
9 VAC 5-80-1845	Added	22:23 VA.R. 3332	9/1/06
9 VAC 5-80-1850	Repealed	22:23 VA.R. 3334	9/1/06
9 VAC 5-80-1855	Added	22:23 VA.R. 3334	9/1/06
9 VAC 5-80-1860	Repealed	22:23 VA.R. 3335	9/1/06
9 VAC 5-80-1865	Added	22:23 VA.R. 3335	9/1/06
9 VAC 5-80-1870 through 9 VAC 5-80-1920	Repealed	22:23 VA.R. 3340	9/1/06
9 VAC 5-80-1925	Added	22:23 VA.R. 3340	9/1/06
9 VAC 5-80-1930	Repealed	22:23 VA.R. 3341	9/1/06
9 VAC 5-80-1935	Added	22:23 VA.R. 3341	9/1/06
9 VAC 5-80-1940	Repealed	22:23 VA.R. 3341	9/1/06
9 VAC 5-80-1945	Added	22:23 VA.R. 3341	9/1/06
9 VAC 5-80-1950	Repealed	22:23 VA.R. 3342	9/1/06
9 VAC 5-80-1955	Added	22:23 VA.R. 3342	9/1/06
9 VAC 5-80-1960	Repealed	22:23 VA.R. 3342	9/1/06

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
9 VAC 5-80-1965	Added	22:23 VA.R. 3342	9/1/06
9 VAC 5-80-1970	Repealed	22:23 VA.R. 3342	9/1/06
9 VAC 5-80-1975	Added	22:23 VA.R. 3342	9/1/06
9 VAC 5-80-1985	Added	22:23 VA.R. 3343	9/1/06
9 VAC 5-80-1995	Added	22:23 VA.R. 3343	9/1/06
9 VAC 5-80-2000 through 9 VAC 5-80-2020	Amended	22:23 VA.R. 3343-3355	9/1/06
9 VAC 5-80-2040 through 9 VAC 5-80-2070	Amended	22:23 VA.R. 3355-3358	9/1/06
9 VAC 5-80-2090	Amended	22:23 VA.R. 3358	9/1/06
9 VAC 5-80-2091	Added	22:23 VA.R. 3358	9/1/06
9 VAC 5-80-2110 through 9 VAC 5-80-2140	Amended	22:23 VA.R. 3359-3362	9/1/06
9 VAC 5-80-2141 through 9 VAC 5-80-2143	Added	22:23 VA.R. 3362-3366	9/1/06
9 VAC 5-80-2144	Added	22:23 VA.R. 3367	9/1/06
9 VAC 5-80-2180	Amended	22:23 VA.R. 3372	9/1/06
9 VAC 5-80-2200 through 9 VAC 5-80-2240	Amended	22:23 VA.R. 3373-3375	9/1/06
9 VAC 20-60-18	Amended	22:23 VA.R. 3375	8/23/06
9 VAC 20-85-20	Amended	23:4 VA.R. 584	11/29/06
9 VAC 20-85-30	Amended	23:4 VA.R. 585	11/29/06
9 VAC 20-85-40	Amended	23:4 VA.R. 585	11/29/06
9 VAC 20-85-60 through 9 VAC 20-85-170	Amended	23:4 VA.R. 585-589	11/29/06
9 VAC 20-110-90	Amended	23:11 VA.R. 1665	3/21/07
9 VAC 20-110-110	Amended	23:11 VA.R. 1665	3/21/07
9 VAC 20-200-10 through 9 VAC 20-200-70	Added	23:11 VA.R. 1666-1667	3/21/07
9 VAC 25-31-10	Amended	22:24 VA.R. 3610	9/6/06
9 VAC 25-31-30	Amended	22:24 VA.R. 3619	9/6/06
9 VAC 25-31-80	Amended	22:24 VA.R. 3620	9/6/06
9 VAC 25-31-100	Amended	22:24 VA.R. 3620	9/6/06
9 VAC 25-31-165	Added	22:24 VA.R. 3637	9/6/06
9 VAC 25-31-220	Amended	22:24 VA.R. 3651	9/6/06
9 VAC 25-31-290	Amended	22:24 VA.R. 3656	9/6/06
9 VAC 25-31-770	Amended	22:24 VA.R. 3657	9/6/06
9 VAC 25-31-780	Amended	22:24 VA.R. 3658	9/6/06
9 VAC 25-31-790	Amended	22:24 VA.R. 3662	9/6/06
9 VAC 25-31-800	Amended	22:24 VA.R. 3667	9/6/06
9 VAC 25-31-840	Amended	22:24 VA.R. 3670	9/6/06
9 VAC 25-31-870	Amended	22:24 VA.R. 3677	9/6/06
9 VAC 25-260-5	Amended	23:1 VA.R. 41	*
9 VAC 25-260-30	Amended	22:26 VA.R. 4142	*
9 VAC 25-260-30	Amended	23:1 VA.R. 38	*
9 VAC 25-260-50	Amended	23:1 VA.R. 42	*
9 VAC 25-260-187	Added	23:1 VA.R. 42	*
9 VAC 25-260-310	Amended	23:1 VA.R. 44	*
9 VAC 25-260-480	Amended	23:1 VA.R. 46	*
9 VAC 25-660-90	Erratum	22:23 VA.R. 3424	--
9 VAC 25-680-70	Erratum	22:23 VA.R. 3424	--
9 VAC 25-680-90	Erratum	22:23 VA.R. 3424	--
9 VAC 25-690-70	Erratum	22:23 VA.R. 3424	--
9 VAC 25-720-50	Amended	23:11 VA.R. 1669	3/21/07
9 VAC 25-720-60	Amended	23:12 VA.R. 1966	5/21/07

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

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
9 VAC 25-720-70	Amended	23:6 VA.R. 869	2/26/07
9 VAC 25-720-80	Amended	23:11 VA.R. 1670	3/21/07
9 VAC 25-720-90	Amended	23:11 VA.R. 1671	3/21/07
9 VAC 25-720-100	Amended	23:11 VA.R. 1671	3/21/07
9 VAC 25-820-10 through 9 VAC 25-820-70	Added	23:2 VA.R. 231-251	11/1/06
Title 11. Gaming			
11 VAC 5-20-200	Amended	22:25 VA.R. 3907	11/6/06
11 VAC 5-20-210 through 11 VAC 5-20-520	Repealed	22:25 VA.R. 3907-3914	11/6/06
11 VAC 10-70-20	Amended	22:25 VA.R. 3916	11/4/06
11 VAC 10-70-20	Amended	22:26 VA.R. 4144	9/4/06-11/3/06
11 VAC 10-70-30	Amended	22:25 VA.R. 3917	11/4/06
11 VAC 10-70-30	Amended	22:26 VA.R. 4144	9/4/06-11/3/06
11 VAC 10-70-40	Amended	22:25 VA.R. 3917	11/4/06
11 VAC 10-70-40	Amended	22:26 VA.R. 4144	9/4/06-11/3/06
11 VAC 10-70-50	Repealed	22:25 VA.R. 3917	11/4/06
11 VAC 10-70-50	Repealed	22:26 VA.R. 4144	9/4/06-11/3/06
11 VAC 10-70-60 through 11 VAC 10-70-90	Amended	22:25 VA.R. 3917-3918	11/4/06
11 VAC 10-70-60	Amended	22:26 VA.R. 4144	9/4/06-11/3/06
11 VAC 10-70-70	Amended	22:26 VA.R. 4145	9/4/06-11/3/06
11 VAC 10-70-80	Amended	22:26 VA.R. 4146	9/4/06-11/3/06
11 VAC 10-70-90	Amended	22:26 VA.R. 4146	9/4/06-11/3/06
11 VAC 10-70-170	Amended	22:25 VA.R. 3918	11/4/06
11 VAC 10-70-170	Amended	22:26 VA.R. 4146	9/4/06-11/3/06
11 VAC 10-90-10	Amended	22:25 VA.R. 3919	11/4/06
11 VAC 10-90-10	Amended	22:26 VA.R. 4146	9/4/06-11/3/06
11 VAC 10-90-30	Amended	22:25 VA.R. 3919	11/4/06
11 VAC 10-90-30	Amended	22:26 VA.R. 4146	9/4/06-11/3/06
11 VAC 10-90-50	Amended	22:25 VA.R. 3919	11/4/06
11 VAC 10-90-50	Amended	22:26 VA.R. 4146	9/4/06-11/3/06
11 VAC 10-130-10	Amended	23:11 VA.R. 1672	1/10/07
11 VAC 10-130-60	Amended	23:11 VA.R. 1673	1/10/07
Title 12. Health			
12 VAC 5-31-10	Amended	23:6 VA.R. 870	12/13/06
12 VAC 5-31-50	Amended	23:6 VA.R. 876	12/13/06
12 VAC 5-31-60	Amended	23:6 VA.R. 876	12/13/06
12 VAC 5-31-110	Amended	23:6 VA.R. 877	12/13/06
12 VAC 5-31-140	Amended	23:6 VA.R. 877	12/13/06
12 VAC 5-31-190	Amended	23:6 VA.R. 877	12/13/06
12 VAC 5-31-220	Amended	23:6 VA.R. 878	12/13/06
12 VAC 5-31-230	Amended	23:6 VA.R. 878	12/13/06
12 VAC 5-31-1610	Amended	23:5 VA.R. 745	12/13/06
12 VAC 5-31-2000 through 12 VAC 5-31-2260	Repealed	23:6 VA.R. 879-888	12/13/06
12 VAC 5-60-10 through 12 VAC 5-60-260	Repealed	23:5 VA.R. 745	12/13/06
12 VAC 5-371-10	Amended	23:10 VA.R. 1544	3/1/07
12 VAC 5-371-20	Repealed	23:10 VA.R. 1546	3/1/07
12 VAC 5-371-30	Amended	23:10 VA.R. 1547	3/1/07
12 VAC 5-371-40	Amended	23:10 VA.R. 1547	3/1/07
12 VAC 5-371-50	Repealed	23:10 VA.R. 1548	3/1/07
12 VAC 5-371-60	Amended	23:10 VA.R. 1548	3/1/07
12 VAC 5-371-70 through 12 VAC 5-371-130	Amended	23:10 VA.R. 1548-1551	3/1/07
12 VAC 5-371-150	Amended	23:10 VA.R. 1551	3/1/07

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 5-371-160	Amended	23:10 VA.R. 1551	3/1/07
12 VAC 5-371-190	Amended	23:10 VA.R. 1551	3/1/07
12 VAC 5-371-200	Amended	23:10 VA.R. 1552	3/1/07
12 VAC 5-371-400	Amended	23:10 VA.R. 1552	3/1/07
12 VAC 5-371-410	Amended	23:10 VA.R. 1552	3/1/07
12 VAC 5-410-10	Amended	23:10 VA.R. 1554	3/1/07
12 VAC 5-410-30	Amended	23:10 VA.R. 1555	3/1/07
12 VAC 5-410-70	Amended	23:10 VA.R. 1555	3/1/07
12 VAC 5-410-80	Amended	23:10 VA.R. 1555	3/1/07
12 VAC 5-410-100	Amended	23:10 VA.R. 1555	3/1/07
12 VAC 5-410-110	Amended	23:10 VA.R. 1555	3/1/07
12 VAC 5-410-130	Amended	23:10 VA.R. 1555	3/1/07
12 VAC 5-410-140	Amended	23:10 VA.R. 1555	3/1/07
12 VAC 5-410-150	Amended	23:10 VA.R. 1556	3/1/07
12 VAC 5-410-180	Amended	23:10 VA.R. 1556	3/1/07
12 VAC 5-410-210	Amended	23:10 VA.R. 1556	3/1/07
12 VAC 5-410-220	Amended	23:10 VA.R. 1557	3/1/07
12 VAC 5-410-270	Amended	23:10 VA.R. 1558	3/1/07
12 VAC 5-410-442	Amended	23:10 VA.R. 1558	3/1/07
12 VAC 5-410-445	Amended	23:10 VA.R. 1559	3/1/07
12 VAC 5-410-650	Amended	23:10 VA.R. 1560	3/1/07
12 VAC 5-410-720	Amended	23:10 VA.R. 1560	3/1/07
12 VAC 5-410-760	Amended	23:10 VA.R. 1560	3/1/07
12 VAC 5-410-1150	Amended	23:10 VA.R. 1560	3/1/07
12 VAC 5-410-1170	Amended	23:10 VA.R. 1561	3/1/07
12 VAC 5-410-1350	Amended	23:10 VA.R. 1561	3/1/07
12 VAC 5-410-1380	Amended	23:10 VA.R. 1561	3/1/07
12 VAC 5-480-10 through 12 VAC 5-480-8920	Repealed	22:25 VA.R. 3877	9/20/06
12 VAC 5-481-10 through 12 VAC 5-481-3670	Added	22:25 VA.R. 3877	9/20/06
12 VAC 5-585-70	Amended	23:3 VA.R. 438	11/9/06
12 VAC 5-585-310	Amended	23:9 VA.R. 1406	2/9/07
12 VAC 5-585-460	Amended	23:9 VA.R. 1406	2/9/07
12 VAC 5-585-480	Amended	23:9 VA.R. 1407	2/9/07
12 VAC 5-585-490	Amended	23:9 VA.R. 1408	2/9/07
12 VAC 5-585-510	Amended	23:3 VA.R. 438	11/9/06
12 VAC 5-585-600 through 12 VAC 5-585-630	Amended	23:3 VA.R. 442-450	11/9/06
12 VAC 5-590-10	Amended	22:24 VA.R. 3677	9/6/06
12 VAC 5-590-370	Amended	22:24 VA.R. 3683	9/6/06
12 VAC 5-590-410	Amended	22:24 VA.R. 3708	9/6/06
12 VAC 5-590-440	Amended	22:24 VA.R. 3711	9/6/06
12 VAC 5-590-505	Added	23:1 VA.R. 47	10/18/06
12 VAC 5-590, Appendix N	Amended	22:24 VA.R. 3717	9/6/06
12 VAC 5-590, Appendix O	Erratum	23:7 VA.R. 1112	9/6/06
12 VAC 5-590-545	Amended	22:24 VA.R. 3712	9/6/06
12 VAC 5-590-820	Amended	22:24 VA.R. 3717	9/6/06
12 VAC 30-30-60	Added	23:11 VA.R. 1673	3/7/07
12 VAC 30-40-10	Amended	22:23 VA.R. 3376	8/23/06
12 VAC 30-40-10	Amended	23:11 VA.R. 1674	3/7/07
12 VAC 30-40-290	Amended	22:23 VA.R. 3377	8/23/06
12 VAC 30-40-300	Amended	22:23 VA.R. 3379	8/23/06

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12 VAC 30-40-360	Added	22:23 VA.R. 3385	8/23/06
12 VAC 30-50-35	Added	23:11 VA.R. 1675	3/7/07
12 VAC 30-50-75	Added	23:11 VA.R. 1676	3/7/07
12 VAC 30-50-190	Amended	22:23 VA.R. 3386	8/23/06
12 VAC 30-50-530	Amended	23:11 VA.R. 1676	3/7/07
12 VAC 30-70-221 emer	Amended	22:26 VA.R. 4183	9/4/06-9/3/07
12 VAC 30-70-291	Amended	22:23 VA.R. 3388	8/23/06
12 VAC 30-70-301	Amended	22:25 VA.R. 3921	11/6/06
12 VAC 30-70-425	Amended	22:23 VA.R. 3389	8/23/06
12 VAC 30-70-426	Repealed	22:23 VA.R. 3390	8/23/06
12 VAC 30-80-20	Amended	22:23 VA.R. 3390	8/23/06
12 VAC 30-80-30	Amended	22:23 VA.R. 3393	8/23/06
12 VAC 30-80-75 emer	Added	23:7 VA.R. 1067	11/21/06-11/20/07
12 VAC 30-90-19	Amended	22:23 VA.R. 3395	8/23/06
12 VAC 30-110-90	Amended	22:26 VA.R. 4168	11/20/06
12 VAC 30-110-370	Amended	22:26 VA.R. 4168	11/20/06
12 VAC 30-110-710	Amended	22:23 VA.R. 3385	8/23/06
12 VAC 30-110-960	Amended	22:23 VA.R. 3385	8/23/06
12 VAC 30-120-215	Amended	22:24 VA.R. 3718	9/6/06
12 VAC 30-120-280	Amended	22:26 VA.R. 4170	11/20/06
12 VAC 30-120-290	Amended	22:26 VA.R. 4172	11/20/06
12 VAC 30-120-310	Amended	22:26 VA.R. 4172	11/20/06
12 VAC 30-120-320	Amended	22:26 VA.R. 4173	11/20/06
12 VAC 30-120-380	Amended	22:23 VA.R. 3386	8/23/06
12 VAC 30-120-720	Amended	22:24 VA.R. 3721	9/6/06
12 VAC 30-120-920	Amended	22:24 VA.R. 3724	9/6/06
12 VAC 30-130-900	Amended	23:12 VA.R. 1967	3/21/07
12 VAC 30-130-910	Amended	23:12 VA.R. 1968	3/21/07
12 VAC 30-130-930	Amended	23:12 VA.R. 1968	3/21/07
12 VAC 30-141-10	Amended	22:26 VA.R. 4147	10/4/06
12 VAC 30-141-10	Amended	23:7 VA.R. 1083	1/10/07
12 VAC 30-141-40	Amended	22:26 VA.R. 4149	10/4/06
12 VAC 30-141-100	Amended	22:26 VA.R. 4150	10/4/06
12 VAC 30-141-100	Amended	23:7 VA.R. 1085	1/10/07
12 VAC 30-141-120	Amended	23:7 VA.R. 1086	1/10/07
12 VAC 30-141-150	Amended	23:7 VA.R. 1087	1/10/07
12 VAC 30-141-160	Amended	22:26 VA.R. 4151	10/4/06
12 VAC 30-141-170	Repealed	22:26 VA.R. 4152	10/4/06
12 VAC 30-141-175	Added	22:26 VA.R. 4153	10/4/06
12 VAC 30-141-180	Amended	23:7 VA.R. 1088	1/10/07
12 VAC 30-141-200	Amended	22:23 VA.R. 3387	8/23/06
12 VAC 30-141-200	Amended	22:26 VA.R. 4155	10/4/06
12 VAC 30-141-500	Amended	22:16 VA.R. 2385	7/3/06
12 VAC 30-141-500	Amended	22:23 VA.R. 3387	8/23/06
12 VAC 30-141-650	Amended	23:7 VA.R. 1088	1/10/07
12 VAC 30-141-670 through 12 VAC 30-141-880	Added	23:7 VA.R. 1089-1098	1/10/07
12 VAC 30-150-40	Amended	22:25 VA.R. 3924	11/6/06
12 VAC 30-150-50	Amended	22:25 VA.R. 3925	11/6/06
12 VAC 30-150-70	Amended	22:25 VA.R. 3925	11/6/06
12 VAC 30-150-80	Amended	22:25 VA.R. 3926	11/6/06
12 VAC 30-150-90	Amended	22:25 VA.R. 3926	11/6/06

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12 VAC 35-45-10	Amended	23:10 VA.R. 1562	2/21/07
12 VAC 35-45-25	Added	23:10 VA.R. 1565	2/21/07
12 VAC 35-45-70	Amended	23:10 VA.R. 1564	2/21/07
12 VAC 35-45-80	Amended	23:10 VA.R. 1564	2/21/07
12 VAC 35-45-210	Added	23:10 VA.R. 1564	2/21/07
12 VAC 35-105-20	Amended	23:10 VA.R. 1567	2/21/07
12 VAC 35-105-30	Amended	23:10 VA.R. 1575	2/21/07
12 VAC 35-105-115 emer	Added	23:10 VA.R. 1566	1/3/07-1/2/08
12 VAC 35-105-590	Amended	23:10 VA.R. 1575	2/21/07
12 VAC 35-105-660	Amended	23:10 VA.R. 1576	2/21/07
12 VAC 35-115-10 through 12 VAC 35-115-150	Amended	23:1 VA.R. 50-79	10/18/06
12 VAC 35-115-145	Added	23:1 VA.R. 76	10/18/06
12 VAC 35-115-146	Added	23:1 VA.R. 77	10/18/06
12 VAC 35-115-160	Repealed	23:1 VA.R. 79	10/18/06
12 VAC 35-115-170 through 12 VAC 35-115-250	Amended	23:1 VA.R. 79-91	10/18/06
Title 13. Housing			
13 VAC 5-111-10 through 13 VAC 5-111-40	Repealed	23:12 VA.R. 1971	3/21/07
13 VAC 5-112-10 through 13 VAC 5-112-560	Added	23:12 VA.R. 1971-1994	3/21/07
13 VAC 10-50-10 through 13 VAC 10-50-100	Repealed	23:5 VA.R. 746	11/1/06
13 VAC 10-120-10 through 13 VAC 10-120-80	Amended	23:5 VA.R. 746-748	11/1/06
Title 14. Insurance			
14 VAC 5-30-10 through 14 VAC 5-30-40	Amended	23:9 VA.R. 1409-1413	4/1/07
14 VAC 5-30-20	Erratum	22:24 VA.R. 3755	--
14 VAC 5-30-50	Repealed	23:9 VA.R. 1413	4/1/07
14 VAC 5-30-51	Added	23:9 VA.R. 1413	4/1/07
14 VAC 5-30-55	Added	23:9 VA.R. 1413	4/1/07
14 VAC 5-30-60 through 14 VAC 5-30-90	Amended	23:9 VA.R. 1414-1416	4/1/07
14 VAC 5-30-80	Erratum	22:24 VA.R. 3755	--
14 VAC 5-30-100 and Exhibit A	Repealed	23:9 VA.R. 1416	4/1/07
14 VAC 5-45-10 through 14 VAC 5-45-50	Added	23:9 VA.R. 1423-1424	4/1/07
14 VAC 5-260 (Forms)	Erratum	22:24 VA.R. 3756	--
14 VAC 5-260-10	Amended	23:2 VA.R. 253	10/2/06
14 VAC 5-260-20	Repealed	23:2 VA.R. 253	10/2/06
14 VAC 5-260-30 through 14 VAC 5-260-60	Amended	23:2 VA.R. 253-257	10/2/06
14 VAC 5-260-80	Amended	23:2 VA.R. 257	10/2/06
14 VAC 5-260-90	Amended	23:2 VA.R. 257	10/2/06
14 VAC 5-260-110	Added	23:2 VA.R. 258	10/2/06
14 VAC 5-321-10	Amended	23:10 VA.R. 1577	1/1/07
14 VAC 5-321-20	Amended	23:10 VA.R. 1577	1/1/07
14 VAC 5-321-30	Amended	23:10 VA.R. 1578	1/1/07
14 VAC 5-321-70	Added	23:10 VA.R. 1578	1/1/07
14 VAC 5-322-10 through 14 VAC 5-322-50	Added	23:10 VA.R. 1579-1581	1/1/07
Title 16. Labor and Employment			
16 VAC 25-55-10 and 16 VAC 25-55-20	Added	23:12 VA.R. 1995-1996	3/22/07
16 VAC 25-60-10	Amended	22:25 VA.R. 3878	9/21/06
16 VAC 25-60-30	Amended	22:25 VA.R. 3879	9/21/06
16 VAC 25-60-40	Amended	22:25 VA.R. 3879	9/21/06
16 VAC 25-60-80	Amended	22:25 VA.R. 3879	9/21/06
16 VAC 25-60-90	Amended	22:25 VA.R. 3880	9/21/06
16 VAC 25-60-100	Amended	22:25 VA.R. 3881	9/21/06

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16 VAC 25-60-120 through 16 VAC 25-60-150	Amended	22:25 VA.R. 3882-3883	9/21/06
16 VAC 25-60-190	Amended	22:25 VA.R. 3883	9/21/06
16 VAC 25-60-260	Amended	22:25 VA.R. 3884	9/21/06
16 VAC 25-60-300	Amended	22:25 VA.R. 3885	9/21/06
16 VAC 25-60-320	Amended	22:25 VA.R. 3885	9/21/06
16 VAC 25-60-340	Amended	22:25 VA.R. 3886	9/21/06
16 VAC 25-90-1910.95	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-90-1910.134	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-90-1910.134	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.178	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-90-1910.266	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-90-1910.441	Repealed	22:23 VA.R. 3396	9/1/06
16 VAC 25-90-1910.1000	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-90-1910.1000	Amended	23:12 VA.R. 1996	3/21/07
16 VAC 25-90-1910.1001	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-90-1910.1001	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.1017	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-90-1910.1017	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.1018	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-90-1910.1018	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.1020	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-90-1910.1025	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-90-1910.1025	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.1027	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-90-1910.1027	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.1028	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-90-1910.1028	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.1029	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-90-1910.1029	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.1030	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-90-1910.1043	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-90-1910.1043	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.1044	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.1045	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-90-1910.1045	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.1047	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-90-1910.1047	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.1048	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-90-1910.1048	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.1050	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-90-1910.1050	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.1051	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-90-1910.1052	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-90-1910.1052	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.1450	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-100-1915.5	Amended	23:12 VA.R. 1998	3/21/07
16 VAC 25-100-1915.505	Amended	23:12 VA.R. 1998	3/21/07
16 VAC 25-100-1915.507	Amended	23:12 VA.R. 1998	3/21/07
16 VAC 25-100-1915.1000	Amended	23:12 VA.R. 1996	3/21/07
16 VAC 25-100-1915.1001	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-100-1915.1001	Amended	23:12 VA.R. 1997	3/21/07

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16 VAC 25-175-1926.55	Added	23:12 VA.R. 1996	3/21/07
16 VAC 25-175-1926.60	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-175-1926.60	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-175-1926.62	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-175-1926.62	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-175-1926.754	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-175-1926.1002, Appendix A of Subpart W	Amended	23:12 VA.R. 1999	3/21/07
16 VAC 25-175-1926.1092	Repealed	22:23 VA.R. 3396	9/1/06
16 VAC 25-175-1926.1101	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-175-1926.1101	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-175-1926.1127	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-175-1926.1127	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-190-1928.52	Amended	23:12 VA.R. 1999	3/21/07
16 VAC 25-190-1928.53, Appendix B to Subpart C	Amended	23:12 VA.R. 1999	3/21/07
Title 18. Professional and Occupational Licensing			
18 VAC 5-10-10 through 18 VAC 5-10-90	Amended	23:11 VA.R. 1678-1680	4/23/07
18 VAC 10-20-10	Amended	23:1 VA.R. 96	2/1/07
18 VAC 10-20-15	Amended	23:1 VA.R. 97	2/1/07
18 VAC 10-20-17	Added	23:1 VA.R. 97	2/1/07
18 VAC 10-20-20	Amended	23:1 VA.R. 97	2/1/07
18 VAC 10-20-25	Added	23:1 VA.R. 98	2/1/07
18 VAC 10-20-30	Repealed	23:1 VA.R. 98	2/1/07
18 VAC 10-20-60	Repealed	23:1 VA.R. 99	2/1/07
18 VAC 10-20-35 through 18 VAC 10-20-55	Amended	23:1 VA.R. 98-99	2/1/07
18 VAC 10-20-70	Amended	23:1 VA.R. 99	2/1/07
18 VAC 10-20-75	Amended	23:1 VA.R. 99	2/1/07
18 VAC 10-20-80	Repealed	23:1 VA.R. 99	2/1/07
18 VAC 10-20-85	Added	23:1 VA.R. 99	2/1/07
18 VAC 10-20-90 through 18 VAC 10-20-420	Amended	23:1 VA.R. 99-110	2/1/07
18 VAC 10-20-440 through 18 VAC 10-20-560	Amended	23:1 VA.R. 110-113	2/1/07
18 VAC 10-20-565	Repealed	23:1 VA.R. 114	2/1/07
18 VAC 10-20-570 through 18 VAC 10-20-620	Amended	23:1 VA.R. 113-116	2/1/07
18 VAC 10-20-625	Repealed	23:1 VA.R. 116	2/1/07
18 VAC 10-20-630 through 18 VAC 10-20-660	Amended	23:1 VA.R. 116-117	2/1/07
18 VAC 10-20-665	Repealed	23:1 VA.R. 117	2/1/07
18 VAC 10-20-670 through 18 VAC 10-20-795	Amended	23:1 VA.R. 117-122	2/1/07
18 VAC 15-20-20	Amended	23:3 VA.R. 451	12/1/06
18 VAC 15-20-30	Repealed	23:3 VA.R. 453	12/1/06
18 VAC 15-20-31	Added	23:3 VA.R. 454	12/1/06
18 VAC 15-20-32	Added	23:3 VA.R. 454	12/1/06
18 VAC 15-20-33	Added	23:3 VA.R. 457	12/1/06
18 VAC 15-20-33	Erratum	23:5 VA.R. 791	--
18 VAC 15-20-34	Added	23:3 VA.R. 458	12/1/06
18 VAC 15-20-40	Repealed	23:3 VA.R. 459	12/1/06
18 VAC 15-20-50	Repealed	23:3 VA.R. 459	12/1/06
18 VAC 15-20-51	Added	23:3 VA.R. 459	12/1/06
18 VAC 15-20-52	Added	23:3 VA.R. 459	12/1/06
18 VAC 15-20-53	Added	23:3 VA.R. 459	12/1/06
18 VAC 15-20-60	Amended	23:3 VA.R. 460	12/1/06
18 VAC 15-20-70	Amended	23:3 VA.R. 460	12/1/06

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18 VAC 15-20-80 through 18 VAC 15-20-150	Repealed	23:3 VA.R. 461	12/1/06
18 VAC 15-20-250 through 18 VAC 15-20-361	Repealed	23:3 VA.R. 461-463	12/1/06
18 VAC 15-20-400 through 18 VAC 15-20-451	Amended	23:3 VA.R. 464-466	12/1/06
18 VAC 15-20-453	Amended	23:3 VA.R. 466	12/1/06
18 VAC 15-20-456	Amended	23:3 VA.R. 466	12/1/06
18 VAC 15-20-459.6 through 18 VAC 15-20-460	Repealed	23:3 VA.R. 466-468	12/1/06
18 VAC 15-20-461	Added	23:3 VA.R. 468	12/1/06
18 VAC 15-20-462	Added	23:3 VA.R. 468	12/1/06
18 VAC 15-20-463	Added	23:3 VA.R. 469	12/1/06
18 VAC 15-20-464	Added	23:3 VA.R. 469	12/1/06
18 VAC 15-20-470	Amended	23:3 VA.R. 469	12/1/06
18 VAC 15-30-30	Repealed	23:3 VA.R. 471	12/1/06
18 VAC 15-30-40	Repealed	23:3 VA.R. 471	12/1/06
18 VAC 15-30-50	Repealed	23:3 VA.R. 471	12/1/06
18 VAC 15-30-51 through 18 VAC 15-30-54	Added	23:3 VA.R. 472-475	12/1/06
18 VAC 15-30-100 through 18 VAC 15-30-330	Repealed	23:3 VA.R. 475-481	12/1/06
18 VAC 15-30-161 through 18 VAC 15-30-167	Added	23:3 VA.R. 477-479	12/1/06
18 VAC 15-30-332	Added	23:3 VA.R. 481	12/1/06
18 VAC 15-30-334	Added	23:3 VA.R. 481	12/1/06
18 VAC 15-30-420	Amended	23:3 VA.R. 481	12/1/06
18 VAC 15-30-510	Amended	23:3 VA.R. 482	12/1/06
18 VAC 15-30-810	Amended	23:3 VA.R. 483	12/1/06
18 VAC 15-30-820	Amended	23:3 VA.R. 484	12/1/06
18 VAC 25-21-70	Amended	22:26 VA.R. 4155	11/1/06
18 VAC 25-21 (Forms)	Amended	22:26 VA.R. 4155	--
18 VAC 30-20-80 emer	Amended	22:26 VA.R. 4186	9/1/06-8/31/07
18 VAC 30-20-170 emer	Amended	22:26 VA.R. 4186	9/1/06-8/31/07
18 VAC 30-20-171 emer	Added	22:26 VA.R. 4186	9/1/06-8/31/07
18 VAC 41-30-10 through 18 VAC 41-30-250	Added	23:1 VA.R. 124-131	11/1/06
18 VAC 41-50-10 through 18 VAC 41-50-420	Added	22:25 VA.R. 3887-3900	10/1/06
18 VAC 41-60-10 through 18 VAC 41-60-220	Added	23:12 VA.R. 2000-2009	4/1/07
18 VAC 45-20-10	Amended	23:9 VA.R. 1425	3/1/07
18 VAC 45-20-20	Amended	23:9 VA.R. 1425	3/1/07
18 VAC 50-22-40 emer	Amended	23:1 VA.R. 131	8/21/06-8/20/07
18 VAC 50-22-50 emer	Amended	23:1 VA.R. 132	8/21/06-8/20/07
18 VAC 50-22-60 emer	Amended	23:1 VA.R. 133	8/21/06-8/20/07
18 VAC 50-22-300 through 18 VAC 50-22-350 emer	Added	23:1 VA.R. 134	8/21/06-8/20/07
18 VAC 50-30-10 through 18 VAC 50-30-50	Amended	23:12 VA.R. 2020-2025	4/1/07
18 VAC 50-30-60	Repealed	23:12 VA.R. 2025	4/1/07
18 VAC 50-30-70	Amended	23:12 VA.R. 2025	4/1/07
18 VAC 50-30-80	Repealed	23:12 VA.R. 2025	4/1/07
18 VAC 50-30-90 through 18 VAC 50-30-150	Amended	23:12 VA.R. 2026-2028	4/1/07
18 VAC 50-30-180	Repealed	23:12 VA.R. 2028	4/1/07
18 VAC 50-30-185	Added	23:12 VA.R. 2028	4/1/07
18 VAC 50-30-190	Amended	23:12 VA.R. 2028	4/1/07
18 VAC 50-30-200	Amended	23:12 VA.R. 2029	4/1/07
18 VAC 50-30-210 through 18 VAC 50-30-260	Added	23:12 VA.R. 2030-2031	4/1/07
18 VAC 60-20-10	Amended	22:23 VA.R. 3397	8/23/06
18 VAC 60-20-20	Amended	22:23 VA.R. 3398	8/23/06
18 VAC 60-20-20	Amended	23:7 VA.R. 1098	1/10/07
18 VAC 60-20-30	Amended	23:7 VA.R. 1099	1/10/07

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 60-20-71	Added	22:23 VA.R. 3399	8/23/06
18 VAC 60-20-100	Amended	22:24 VA.R. 3749	10/23/06
18 VAC 60-20-105	Amended	22:23 VA.R. 3399	8/23/06
18 VAC 60-20-106	Amended	22:23 VA.R. 3399	8/23/06
18 VAC 60-20-108	Amended	22:26 VA.R. 4175	11/18/06
18 VAC 60-20-210	Amended	22:23 VA.R. 3400	8/23/06
18 VAC 60-20-230	Amended	22:23 VA.R. 3400	8/23/06
18 VAC 60-20-250	Amended	23:7 VA.R. 1099	1/10/07
18 VAC 60-20 (Forms)	Amended	23:7 VA.R. 1100	1/10/07
18 VAC 65-20-70	Amended	23:7 VA.R. 1102	1/10/07
18 VAC 65-20-130	Amended	23:7 VA.R. 1103	1/10/07
18 VAC 65-20-140	Amended	23:7 VA.R. 1103	1/10/07
18 VAC 65-20-154	Amended	23:7 VA.R. 1103	1/10/07
18 VAC 65-20 (Forms)	Amended	23:7 VA.R. 1103	1/10/07
18 VAC 65-40-10	Amended	23:12 VA.R. 2031	3/21/07
18 VAC 65-40-40	Amended	23:12 VA.R. 2031	3/21/07
18 VAC 65-40-90	Amended	23:12 VA.R. 2032	3/21/07
18 VAC 65-40-110	Amended	23:12 VA.R. 2032	3/21/07
18 VAC 65-40-130	Amended	23:12 VA.R. 2032	3/21/07
18 VAC 65-40-160	Repealed	23:12 VA.R. 2032	3/21/07
18 VAC 65-40-220	Amended	23:12 VA.R. 2032	3/21/07
18 VAC 65-40-250	Amended	23:12 VA.R. 2032	3/21/07
18 VAC 65-40-300	Repealed	23:12 VA.R. 2032	3/21/07
18 VAC 65-40-320	Amended	23:12 VA.R. 2033	3/21/07
18 VAC 65-40-340	Amended	23:12 VA.R. 2033	3/21/07
18 VAC 70-20-30	Amended	22:26 VA.R. 4156	11/1/06
18 VAC 70-20-50	Amended	22:26 VA.R. 4156	11/1/06
18 VAC 70-20 (Forms)	Amended	22:26 VA.R. 4156	--
18 VAC 76-20-10	Amended	22:23 VA.R. 3402	8/23/06
18 VAC 76-20-20	Amended	22:23 VA.R. 3402	8/23/06
18 VAC 76-20-30	Amended	22:23 VA.R. 3402	8/23/06
18 VAC 76-20-50	Amended	22:23 VA.R. 3402	8/23/06
18 VAC 76-20-60	Amended	22:23 VA.R. 3402	8/23/06
18 VAC 76-20-70	Added	22:23 VA.R. 3403	8/23/06
18 VAC 85-20-22 emer	Amended	22:26 VA.R. 4187	9/1/06-8/31/07
18 VAC 85-20-122	Amended	22:26 VA.R. 4157	10/4/06
18 VAC 85-20-226 emer	Added	22:26 VA.R. 4188	9/1/06-8/31/07
18 VAC 85-20-235	Amended	23:11 VA.R. 1692	4/21/07
18 VAC 85-20-330	Amended	22:25 VA.R. 3901	9/20/06
18 VAC 85-40-35 emer	Amended	22:26 VA.R. 4189	9/1/06-8/31/07
18 VAC 85-40-35	Amended	23:9 VA.R. 1429	2/7/07
18 VAC 85-40-65	Amended	23:9 VA.R. 1429	2/7/07
18 VAC 85-40-67 emer	Added	22:26 VA.R. 4190	9/1/06-8/31/07
18 VAC 85-50-35 emer	Amended	22:26 VA.R. 4190	9/1/06-8/31/07
18 VAC 85-50-35	Amended	23:9 VA.R. 1429	2/7/07
18 VAC 85-50-61 emer	Added	22:26 VA.R. 4191	9/1/06-8/31/07
18 VAC 85-80-26 emer	Amended	22:26 VA.R. 4191	9/1/06-8/31/07
18 VAC 85-80-26	Amended	23:9 VA.R. 1430	2/7/07
18 VAC 85-80-73 emer	Added	22:26 VA.R. 4191	9/1/06-8/31/07
18 VAC 85-80-80	Amended	23:9 VA.R. 1430	2/7/07

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 85-101-25 emer	Amended	22:26 VA.R. 4192	9/1/06-8/31/07
18 VAC 85-101-25	Amended	23:9 VA.R. 1430	2/7/07
18 VAC 85-101-153 emer	Added	22:26 VA.R. 4192	9/1/06-8/31/07
18 VAC 85-110-35 emer	Amended	22:26 VA.R. 4193	9/1/06-8/31/07
18 VAC 85-110-35	Amended	23:9 VA.R. 1431	2/7/07
18 VAC 85-110-161 emer	Added	22:26 VA.R. 4193	9/1/06-8/31/07
18 VAC 85-120-100	Amended	23:9 VA.R. 1431	2/7/07
18 VAC 85-120-150	Amended	23:9 VA.R. 1431	2/7/07
18 VAC 85-130-10 through 18 VAC 85-130-170	Added	23:10 VA.R. 1582-1586	2/21/07
18 VAC 90-20-60	Amended	23:12 VA.R. 2033	3/21/07
18 VAC 90-25-15 through 18 VAC 90-25-80	Amended	23:3 VA.R. 487-492	11/14/06
18 VAC 90-25-71	Added	23:3 VA.R. 491	11/14/06
18 VAC 90-25-72	Added	23:3 VA.R. 491	11/14/06
18 VAC 90-25-81	Added	23:3 VA.R. 492	11/14/06
18 VAC 90-25-100 through 18 VAC 90-25-130	Amended	23:3 VA.R. 492-494	11/14/06
18 VAC 90-30-10 emer	Amended	22:26 VA.R. 4194	9/1/06-8/31/07
18 VAC 90-30-80	Amended	22:26 VA.R. 4177	11/18/06
18 VAC 90-30-120 emer	Amended	22:26 VA.R. 4195	9/1/06-8/31/07
18 VAC 90-30-121 emer	Added	22:26 VA.R. 4195	9/1/06-8/31/07
18 VAC 90-30-230	Amended	23:12 VA.R. 2034	3/21/07
18 VAC 90-40-140	Amended	23:12 VA.R. 2034	3/21/07
18 VAC 95-20-220	Amended	22:26 VA.R. 4157	10/4/06
18 VAC 95-20-221	Added	22:26 VA.R. 4158	10/4/06
18 VAC 95-20-310	Amended	22:26 VA.R. 4158	10/4/06
18 VAC 95-20-330	Amended	22:26 VA.R. 4158	10/4/06
18 VAC 95-20-340	Amended	22:26 VA.R. 4159	10/4/06
18 VAC 95-20-380	Amended	22:26 VA.R. 4159	10/4/06
18 VAC 95-20-390	Amended	22:26 VA.R. 4159	10/4/06
18 VAC 105-20-20	Amended	22:26 VA.R. 4159	10/4/06
18 VAC 110-20-20	Amended	22:15 VA.R. 2321	5/3/06
18 VAC 110-20-20	Erratum	22:16 VA.R. 2399	--
18 VAC 110-20-20	Amended	22:24 VA.R. 3726	9/6/06
18 VAC 110-20-20	Erratum	22:25 VA.R. 3935	--
18 VAC 110-20-20	Amended	23:4 VA.R. 635	11/29/06
18 VAC 110-20-70	Amended	22:24 VA.R. 3751	10/23/06
18 VAC 110-20-630	Amended	22:24 VA.R. 3728	9/6/06
18 VAC 110-20-640	Repealed	22:24 VA.R. 3728	9/6/06
18 VAC 110-20-660	Repealed	22:24 VA.R. 3728	9/6/06
18 VAC 110-20-670	Repealed	22:24 VA.R. 3728	9/6/06
18 VAC 110-20-720	Amended	23:4 VA.R. 634	11/29/06
18 VAC 110-30-15	Amended	23:4 VA.R. 637	11/29/06
18 VAC 110-50-10 through 18 VAC 110-50-150	Added	22:24 VA.R. 3729-3735	9/6/06
18 VAC 110-50-20	Amended	23:4 VA.R. 637	11/29/06
18 VAC 112-20-50	Amended	22:23 VA.R. 3404	8/23/06
18 VAC 112-20-65	Amended	22:23 VA.R. 3404	8/23/06
18 VAC 120-30-100	Amended	23:3 VA.R. 497	12/11/06
18 VAC 125-20-30	Amended	23:12 VA.R. 2035	3/21/07
18 VAC 125-30-20	Amended	23:12 VA.R. 2035	3/21/07
18 VAC 155-20-10	Amended	22:26 VA.R. 4160	11/1/06
18 VAC 155-20-110	Amended	22:26 VA.R. 4161	11/1/06
18 VAC 155-20-120	Amended	22:26 VA.R. 4161	11/1/06

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18 VAC 155-20-160	Amended	22:26 VA.R. 4162	11/1/06
18 VAC 155-20-220	Amended	22:26 VA.R. 4163	11/1/06
18 VAC 155-20-280	Amended	22:26 VA.R. 4166	11/1/06
18 VAC 155-20 (Forms)	Amended	22:26 VA.R. 4166	--
18 VAC 160-20-10	Amended	23:1 VA.R. 136	12/1/06
18 VAC 160-20-74	Amended	23:1 VA.R. 137	12/1/06
18 VAC 160-20-76	Amended	22:26 VA.R. 4179	12/1/06
18 VAC 160-20-90	Amended	22:26 VA.R. 4180	12/1/06
18 VAC 160-20-95	Added	23:1 VA.R. 137	12/1/06
18 VAC 160-20-104	Amended	23:1 VA.R. 137	12/1/06
18 VAC 160-20-106	Amended	23:1 VA.R. 137	12/1/06
18 VAC 160-20-109	Amended	23:1 VA.R. 138	12/1/06
18 VAC 160-20-140	Amended	23:1 VA.R. 139	12/1/06
Title 19. Public Safety			
19 VAC 30-20-80	Amended	23:10 VA.R. 1587	3/1/07
Title 20. Public Utilities and Telecommunications			
20 VAC 5-315 (Form)	Amended	23:4 VA.R. 639	--
20 VAC 5-315-10	Amended	23:3 VA.R. 500	9/26/06
20 VAC 5-315-20	Amended	23:3 VA.R. 500	9/26/06
20 VAC 5-315-30	Amended	23:3 VA.R. 500	9/26/06
20 VAC 5-315-40	Amended	23:3 VA.R. 501	9/26/06
20 VAC 5-413-5	Added	23:3 VA.R. 504	12/1/06
20 VAC 5-413-10	Amended	23:3 VA.R. 504	12/1/06
20 VAC 5-413-20	Amended	23:3 VA.R. 505	12/1/06
20 VAC 5-413-25	Added	23:3 VA.R. 505	12/1/06
20 VAC 5-413-30	Amended	23:3 VA.R. 505	12/1/06
20 VAC 5-413-35	Added	23:3 VA.R. 506	12/1/06
20 VAC 5-413-40	Amended	23:3 VA.R. 506	12/1/06
20 VAC 5-413-50	Added	23:3 VA.R. 506	12/1/06
Title 22. Social Services			
22 VAC 15-10-40	Amended	23:10 VA.R. 1587	3/1/07
22 VAC 15-10-50	Amended	23:10 VA.R. 1587	3/1/07
22 VAC 40-35-10 emer	Amended	22:26 VA.R. 4196	9/1/06-8/31/07
22 VAC 40-35-80 emer	Amended	22:26 VA.R. 4198	9/1/06-8/31/07
22 VAC 40-35-90 emer	Amended	22:26 VA.R. 4198	9/1/06-8/31/07
22 VAC 40-35-100 emer	Amended	22:26 VA.R. 4199	9/1/06-8/31/07
22 VAC 40-71	Repealed	23:6 VA.R. 892	12/28/06
22 VAC 40-72-10 through 22 VAC 40-72-1160	Added	23:6 VA.R. 893-952	12/28/06
22 VAC 40-72-789	Erratum	22:26 VA.R. 4207	--
22 VAC 40-72-1060	Erratum	22:26 VA.R. 4207	--
22 VAC 40-80-60	Amended	23:6 VA.R. 952	12/28/06
22 VAC 40-80-120	Amended	23:6 VA.R. 952	12/28/06
22 VAC 40-80-340	Amended	23:6 VA.R. 953	12/28/06
22 VAC 40-80-345	Added	23:6 VA.R. 954	12/28/06
22 VAC 40-80-370	Amended	23:6 VA.R. 955	12/28/06
22 VAC 40-80-430	Amended	23:6 VA.R. 955	12/28/06
22 VAC 40-325-10	Amended	22:25 VA.R. 3901	10/1/06
22 VAC 40-325-20	Amended	22:25 VA.R. 3902	10/1/06
22 VAC 40-740-10	Amended	23:10 VA.R. 1588	3/1/07
22 VAC 40-740-15	Added	23:10 VA.R. 1591	3/1/07

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22 VAC 40-740-20	Repealed	23:10 VA.R. 1592	3/1/07
22 VAC 40-740-21	Added	23:10 VA.R. 1592	3/1/07
22 VAC 40-740-30	Repealed	23:10 VA.R. 1593	3/1/07
22 VAC 40-740-31	Added	23:10 VA.R. 1593	3/1/07
22 VAC 40-740-40	Amended	23:10 VA.R. 1593	3/1/07
22 VAC 40-740-50	Amended	23:10 VA.R. 1594	3/1/07
22 VAC 40-740-60	Amended	23:10 VA.R. 1595	3/1/07
22 VAC 40-740-70	Added	23:10 VA.R. 1596	3/1/07
22 VAC 40-740-80	Added	23:10 VA.R. 1596	3/1/07
22 VAC 40-745-10 through 22 VAC 40-745-70	Amended	23:1 VA.R. 140-145	11/1/06
22 VAC 40-745-90	Amended	23:1 VA.R. 145	11/1/06
22 VAC 40-745-100	Amended	23:1 VA.R. 145	11/1/06
22 VAC 40-745-110	Amended	23:1 VA.R. 145	11/1/06
22 VAC 40-901-10	Amended	22:25 VA.R. 3903	10/1/06
22 VAC 40-901-40 through 22 VAC 40-901-90	Added	22:25 VA.R. 3903-3905	10/1/06
22 VAC 42-10-10 emer	Amended	23:9 VA.R. 1451	12/28/06-12/27/07
22 VAC 42-10-15 emer	Added	23:9 VA.R. 1455	12/28/06-12/27/07
22 VAC 42-10-30 emer	Amended	23:9 VA.R. 1456	12/28/06-12/27/07
22 VAC 42-10-32 emer	Added	23:9 VA.R. 1456	12/28/06-12/27/07
22 VAC 42-10-35 emer	Amended	23:9 VA.R. 1456	12/28/06-12/27/07
22 VAC 42-10-40 emer	Amended	23:9 VA.R. 1456	12/28/06-12/27/07
22 VAC 42-10-85 emer	Added	23:9 VA.R. 1457	12/28/06-12/27/07
22 VAC 42-10-180 emer	Amended	23:9 VA.R. 1458	12/28/06-12/27/07
22 VAC 42-10-200 through 22 VAC 42-10-230 emer	Amended	23:9 VA.R. 1458-1459	12/28/06-12/27/07
22 VAC 42-10-255 emer	Added	23:9 VA.R. 1459	12/28/06-12/27/07
22 VAC 42-10-260 emer	Amended	23:9 VA.R. 1459	12/28/06-12/27/07
22 VAC 42-10-270 emer	Amended	23:9 VA.R. 1459	12/28/06-12/27/07
22 VAC 42-10-330 emer	Amended	23:9 VA.R. 1460	12/28/06-12/27/07
22 VAC 42-10-530 emer	Amended	23:9 VA.R. 1460	12/28/06-12/27/07
22 VAC 42-10-570 emer	Amended	23:9 VA.R. 1460	12/28/06-12/27/07
22 VAC 42-10-580 emer	Amended	23:9 VA.R. 1461	12/28/06-12/27/07
22 VAC 42-10-600 emer	Amended	23:9 VA.R. 1461	12/28/06-12/27/07
22 VAC 42-10-690 through 22 VAC 42-10-720 emer	Amended	23:9 VA.R. 1461	12/28/06-12/27/07
22 VAC 42-10-740 emer	Amended	23:9 VA.R. 1463	12/28/06-12/27/07
22 VAC 42-10-750 emer	Amended	23:9 VA.R. 1464	12/28/06-12/27/07
22 VAC 42-10-780 emer	Amended	23:9 VA.R. 1464	12/28/06-12/27/07
22 VAC 42-10-790 emer	Amended	23:9 VA.R. 1465	12/28/06-12/27/07
22 VAC 42-10-800 emer	Amended	23:9 VA.R. 1465	12/28/06-12/27/07
22 VAC 42-10-820 emer	Amended	23:9 VA.R. 1466	12/28/06-12/27/07
22 VAC 42-10-850 emer	Amended	23:9 VA.R. 1466	12/28/06-12/27/07
22 VAC 42-10-870 emer	Amended	23:9 VA.R. 1466	12/28/06-12/27/07
22 VAC 42-10-880 emer	Amended	23:9 VA.R. 1467	12/28/06-12/27/07
22 VAC 42-10-970 emer	Amended	23:9 VA.R. 1467	12/28/06-12/27/07
22 VAC 42-10-980 emer	Repealed	23:9 VA.R. 1469	12/28/06-12/27/07
22 VAC 42-10-990 emer	Repealed	23:9 VA.R. 1469	12/28/06-12/27/07
22 VAC 42-10-1000 emer	Repealed	23:9 VA.R. 1469	12/28/06-12/27/07
Title 23. Taxation			
23 VAC 10-20-40	Repealed	23:8 VA.R. 1196	3/10/07
23 VAC 10-20-50	Repealed	23:8 VA.R. 1196	3/10/07
23 VAC 10-20-70	Repealed	23:8 VA.R. 1196	3/10/07
23 VAC 10-20-100	Repealed	23:8 VA.R. 1197	3/10/07

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
23 VAC 10-20-120	Repealed	23:8 VA.R. 1197	3/10/07
23 VAC 10-20-150	Repealed	23:8 VA.R. 1197	3/10/07
23 VAC 10-55-10	Repealed	23:8 VA.R. 1199	3/10/07
23 VAC 10-55-20	Repealed	23:8 VA.R. 1199	3/10/07
23 VAC 10-55-30	Repealed	23:8 VA.R. 1199	3/10/07
23 VAC 10-55-60 through 23 VAC 10-55-90	Repealed	23:8 VA.R. 1199	3/10/07
23 VAC 10-60-10	Repealed	23:8 VA.R. 1201	3/10/07
23 VAC 10-60-20	Repealed	23:8 VA.R. 1201	3/10/07
23 VAC 10-60-30	Repealed	23:8 VA.R. 1201	3/10/07
23 VAC 10-60-60 through 23 VAC 10-60-100	Repealed	23:8 VA.R. 1201	3/10/07
23 VAC 10-65-10	Repealed	23:8 VA.R. 1204	3/10/07
23 VAC 10-65-20	Repealed	23:8 VA.R. 1203	3/10/07
23 VAC 10-65-30	Repealed	23:8 VA.R. 1204	3/10/07
23 VAC 10-65-50 through 23 VAC 10-65-100	Repealed	23:8 VA.R. 1204-1205	3/10/07
23 VAC 10-70	Repealed	23:6 VA.R. 956	2/10/07
23 VAC 10-75-10	Repealed	23:8 VA.R. 1206	3/10/07
23 VAC 10-75-30 through 23 VAC 10-75-60	Repealed	23:6 VA.R. 958-959	2/10/07
23 VAC 10-110-10	Repealed	23:8 VA.R. 1208	3/10/07
23 VAC 10-110-50	Repealed	23:8 VA.R. 1208	3/10/07
23 VAC 10-110-100	Repealed	23:8 VA.R. 1209	3/10/07
23 VAC 10-110-120	Repealed	23:8 VA.R. 1209	3/10/07
23 VAC 10-110-140	Repealed	23:8 VA.R. 1209	3/10/07
23 VAC 10-110-150 through 23 VAC 10-110-167	Repealed	23:8 VA.R. 1212-1221	3/10/07
23 VAC 10-110-200	Repealed	23:8 VA.R. 1221	3/10/07
23 VAC 10-110-210	Repealed	23:8 VA.R. 1209	3/10/07
23 VAC 10-110-260	Repealed	23:8 VA.R. 1210	3/10/07
23 VAC 10-110-290	Repealed	23:8 VA.R. 1210	3/10/07
23 VAC 10-110-300	Repealed	23:8 VA.R. 1210	3/10/07
23 VAC 10-112-50 through 23 VAC 10-112-90	Repealed	23:6 VA.R. 960-961	2/10/07
23 VAC 10-115-30	Repealed	23:6 VA.R. 962	2/10/07
23 VAC 10-115-120	Repealed	23:6 VA.R. 962	2/10/07
23 VAC 10-115-130	Repealed	23:6 VA.R. 962	2/10/07
23 VAC 10-120-50 through 23 VAC 10-120-67	Repealed	23:8 VA.R. 1223-1232	3/10/07
23 VAC 10-120-85	Repealed	23:8 VA.R. 1238	3/10/07
23 VAC 10-120-87	Repealed	23:8 VA.R. 1239	3/10/07
23 VAC 10-120-290	Repealed	23:8 VA.R. 1232	3/10/07
23 VAC 10-120-340	Repealed	23:8 VA.R. 1239	3/10/07
23 VAC 10-120-360 through 23 VAC 10-120-364	Repealed	23:8 VA.R. 1233-1236	3/10/07
23 VAC 10-120-370	Repealed	23:8 VA.R. 1239	3/10/07
23 VAC 10-120-450	Repealed	23:8 VA.R. 1240	3/10/07
23 VAC 10-130	Repealed	23:8 VA.R. 1240	3/10/07
23 VAC 10-140-20	Repealed	23:6 VA.R. 963	2/10/07
23 VAC 10-140-30	Repealed	23:6 VA.R. 964	2/10/07
23 VAC 10-140-80	Repealed	23:6 VA.R. 964	2/10/07
23 VAC 10-140-90	Repealed	23:6 VA.R. 964	2/10/07
23 VAC 10-140-120	Repealed	23:6 VA.R. 964	2/10/07
23 VAC 10-140-140 through 23 VAC 10-140-180	Repealed	23:6 VA.R. 964-965	2/10/07
23 VAC 10-140-210	Repealed	23:6 VA.R. 965	2/10/07
23 VAC 10-140-220	Repealed	23:6 VA.R. 965	2/10/07
23 VAC 10-140-240 through 23 VAC 10-140-270	Repealed	23:6 VA.R. 965	2/10/07

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
23 VAC 10-210-60	Repealed	23:8 VA.R. 1243	3/10/07
23 VAC 10-210-110	Repealed	23:8 VA.R. 1243	3/10/07
23 VAC 10-210-150	Repealed	23:8 VA.R. 1243	3/10/07
23 VAC 10-210-180	Repealed	23:8 VA.R. 1243	3/10/07
23 VAC 10-210-200	Repealed	23:8 VA.R. 1243	3/10/07
23 VAC 10-210-210	Repealed	23:8 VA.R. 1243	3/10/07
23 VAC 10-210-240	Repealed	23:8 VA.R. 1243	3/10/07
23 VAC 10-210-260	Repealed	23:8 VA.R. 1243	3/10/07
23 VAC 10-210-270	Repealed	23:8 VA.R. 1244	3/10/07
23 VAC 10-210-300	Repealed	23:8 VA.R. 1244	3/10/07
23 VAC 10-210-330	Repealed	23:8 VA.R. 1244	3/10/07
23 VAC 10-210-370	Repealed	23:8 VA.R. 1251	3/10/07
23 VAC 10-210-460	Repealed	23:8 VA.R. 1244	3/10/07
23 VAC 10-210-510	Repealed	23:8 VA.R. 1245	3/10/07
23 VAC 10-210-520	Repealed	23:8 VA.R. 1245	3/10/07
23 VAC 10-210-540	Repealed	23:8 VA.R. 1245	3/10/07
23 VAC 10-210-640	Repealed	23:8 VA.R. 1245	3/10/07
23 VAC 10-210-710	Repealed	23:8 VA.R. 1245	3/10/07
23 VAC 10-210-740	Repealed	23:8 VA.R. 1245	3/10/07
23 VAC 10-210-890	Repealed	23:8 VA.R. 1246	3/10/07
23 VAC 10-210-950	Repealed	23:8 VA.R. 1246	3/10/07
23 VAC 10-210-1000	Repealed	23:8 VA.R. 1246	3/10/07
23 VAC 10-210-1010	Repealed	23:8 VA.R. 1246	3/10/07
23 VAC 10-210-1040	Repealed	23:8 VA.R. 1246	3/10/07
23 VAC 10-210-1050	Repealed	23:8 VA.R. 1246	3/10/07
23 VAC 10-210-2000	Repealed	23:8 VA.R. 1246	3/10/07
23 VAC 10-210-2010	Repealed	23:8 VA.R. 1246	3/10/07
23 VAC 10-210-2030	Repealed	23:8 VA.R. 1247	3/10/07
23 VAC 10-210-2034	Repealed	23:8 VA.R. 1247	3/10/07
23 VAC 10-210-2040	Repealed	23:8 VA.R. 1248	3/10/07
23 VAC 10-210-3020	Repealed	23:8 VA.R. 1253	3/10/07
23 VAC 10-210-4000	Repealed	23:8 VA.R. 1248	3/10/07
23 VAC 10-210-4030	Repealed	23:8 VA.R. 1248	3/10/07
23 VAC 10-210-4060	Repealed	23:8 VA.R. 1248	3/10/07
23 VAC 10-210-4080 through 23 VAC 10-210-5050	Repealed	23:8 VA.R. 1248-1249	3/10/07
23 VAC 10-210-5080	Repealed	23:8 VA.R. 1249	3/10/07
23 VAC 10-210-5090 through 23 VAC 10-210-5094	Repealed	23:8 VA.R. 1255-1257	3/10/07
23 VAC 10-220-80 and 23 VAC 10-220-90	Repealed	23:6 VA.R. 967	2/10/07
23 VAC 10-230-10	Repealed	23:8 VA.R. 1258	3/10/07
23 VAC 10-230-60	Repealed	23:8 VA.R. 1258	3/10/07
23 VAC 10-230-70	Repealed	23:8 VA.R. 1259	3/10/07
23 VAC 10-230-100	Repealed	23:8 VA.R. 1259	3/10/07
23 VAC 10-230-130	Repealed	23:8 VA.R. 1260	3/10/07
23 VAC 10-230-50	Repealed	23:6 VA.R. 968	2/10/07
23 VAC 10-250	Repealed	23:8 VA.R. 1260	3/10/07
23 VAC 10-300-10	Repealed	23:8 VA.R. 1262	3/10/07
23 VAC 10-300-40	Repealed	23:8 VA.R. 1263	3/10/07
23 VAC 10-300-60	Repealed	23:8 VA.R. 1263	3/10/07
23 VAC 10-300-70	Repealed	23:8 VA.R. 1263	3/10/07
23 VAC 10-310-10	Repealed	23:6 VA.R. 970	2/10/07
23 VAC 10-310-40	Repealed	23:6 VA.R. 970	2/10/07

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
23 VAC 10-330-1 through 23 VAC 10-330-10	Repealed	23:8 VA.R. 1264-1265	3/10/07
23 VAC 10-330-40 through 23 VAC 10-330-130	Repealed	23:8 VA.R. 1265-1267	3/10/07
23 VAC 10-340-10	Repealed	23:8 VA.R. 1268	3/10/07
23 VAC 10-340-50 through 23 VAC 10-340-190	Repealed	23:8 VA.R. 1268-1271	3/10/07
23 VAC 10-350-10 through 23 VAC 10-350-40	Repealed	23:8 VA.R. 1272-1273	3/10/07
23 VAC 10-350-50	Repealed	23:6 VA.R. 971	2/10/07
23 VAC 10-350-60	Repealed	23:6 VA.R. 973	2/10/07
23 VAC 10-350-70	Repealed	23:8 VA.R. 1273	3/10/07
23 VAC 10-350-80	Repealed	23:8 VA.R. 1273	3/10/07
23 VAC 10-350-90	Repealed	23:6 VA.R. 974	2/10/07
23 VAC 10-350-100	Repealed	23:6 VA.R. 974	2/10/07
23 VAC 10-350-110 through 23 VAC 10-350-190	Repealed	23:8 VA.R. 1273-1275	3/10/07
23 VAC 10-360	Repealed	23:6 VA.R. 975	2/10/07
23 VAC 10-370-10	Repealed	23:8 VA.R. 1277	3/10/07
23 VAC 10-370-30	Repealed	23:8 VA.R. 1277	3/10/07
23 VAC 10-370-50	Repealed	23:6 VA.R. 977	2/10/07
23 VAC 10-370-60	Repealed	23:6 VA.R. 977	2/10/07
23 VAC 10-370-130	Repealed	23:8 VA.R. 1277	3/10/07
23 VAC 10-370-140	Repealed	23:8 VA.R. 1277	3/10/07
23 VAC 10-370-150	Repealed	23:6 VA.R. 977	2/10/07
23 VAC 10-370-160	Repealed	23:8 VA.R. 1278	3/10/07
23 VAC 10-370-170	Repealed	23:8 VA.R. 1278	3/10/07
23 VAC 10-370-190 through 23 VAC 10-370-230	Repealed	23:8 VA.R. 1278-1279	3/10/07
23 VAC 10-380	Repealed	23:8 VA.R. 1279	3/10/07
23 VAC 10-390-10	Repealed	23:6 VA.R. 979	2/10/07
23 VAC 10-390-30	Repealed	23:6 VA.R. 979	2/10/07
23 VAC 10-390-50	Repealed	23:6 VA.R. 979	2/10/07
Title 24. Transportation and Motor Vehicles			
24 VAC 30-271-10	Amended	23:2 VA.R. 259	11/1/06
24 VAC 30-271-20	Amended	23:2 VA.R. 259	11/1/06
24 VAC 30-280-10	Repealed	23:8 VA.R. 1281	12/1/06
24 VAC 30-280-20 through 24 VAC 30-280-70	Amended	23:8 VA.R. 1281-1287	12/1/06
24 VAC 30-280-25	Added	23:8 VA.R. 1282	12/1/06
24 VAC 30-280-65	Added	23:8 VA.R. 1287	12/1/06
24 VAC 30-550	Repealed	22:24 VA.R. 3736	9/6/06
24 VAC 30-551-10 through 24 VAC 30-551-100	Added	22:24 VA.R. 3736-3744	9/6/06
24 VAC 30-600	Repealed	22:24 VA.R. 3736	9/6/06

PETITIONS FOR RULEMAKING

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF PHARMACY

Agency Decision

Title of Regulation: **18 VAC 110-20. Regulations Governing the Practice of Pharmacy.**

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.

Name of Petitioner: Suthar Paresh on behalf of Cavalier Pharmacare.

Nature of Petitioner's Request: Amend regulations to permit telepharmacy - one pharmacist to support multiple remote facilities.

Agency Decision: Request denied.

Statement of Reasons for Decision: The board denied the petition based on concerns about patient safety and the risk for error in the dispensing process with one pharmacist in a remote location attempting to provide the check required by law for several technicians in different locations.

Agency Contact: Elizabeth Scott Russell, Executive Director, Board of Pharmacy, 6603 West Broad Street, Richmond, VA 23230-1712, telephone (804) 662-9911, FAX (804) 662-9313, or email scotti.russell@dhp.virginia.gov.

VA.R. Doc. No. R07-20; Filed February 12, 2007, 4:45 p.m.

Agency Decision

Title of Regulation: **18 VAC 110-20. Regulations Governing the Practice of Pharmacy.**

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.

Name of Petitioner: Donald Blevins, RPh.

Nature of Petitioner's Request: Amend regulations to eliminate or suspend the continuing education (CE) requirements for pharmacy technicians as there are no CE programs for technicians.

Agency Decision: Request denied.

Statement of Reasons for Decision: The board has denied the request because the Code of Virginia requires continuing education for renewal of a pharmacy technician registration. Within the next year, providers of continuing education will be required to code courses offerings as appropriate for technicians, so selection of applicable education should improve.

Agency Contact: Elizabeth Scott Russell, Executive Director, Board of Pharmacy, 6603 West Broad Street, Richmond, VA 23230-1712, telephone (804) 662-9911, FAX (804) 662-9313, or email scotti.russell@dhp.virginia.gov.

VA.R. Doc. No. R07-80; Filed February 12, 2007, 4:45 p.m.

BOARD OF VETERINARY MEDICINE

Initial Agency Notice

Title of Regulation: **18 VAC 150-20. Regulations Governing the Practice of Veterinary Medicine.**

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

Name of Petitioner: Danell Beisner-Creasey.

Nature of Petitioner's Request: To amend 18 VAC 150-20-120 on requirements for licensure by endorsement to allow the board to grant a license to a foreign-trained applicant who has completed clinical education in a prescribed formal agreement between an unaccredited veterinary medicine school and an accredited veterinary medicine program, which assures equivalency in length and content to the clinical training received by students in the accredited program.

Agency's Plan for Disposition of the Request: The board will request comment on the petition and, following the comment period, will consider the petitioner's request at its meeting scheduled at 9 a.m. on May 9, 2007, in Conference Room 2 at 6603 West Broad Street, Richmond, Virginia.

Comments may be submitted until April 4, 2007.

Agency Contact: Elizabeth Young, Executive Director, Board of Veterinary Medicine, 6603 West Broad Street, Richmond, VA 23230-1712, telephone (804) 662-9907, FAX (804) 662-9523, or email elizabeth.young@dhp.virginia.gov.

VA.R. Doc. No. R07-150; Filed February 12, 2007, 4:45 p.m.

NOTICES OF INTENDED REGULATORY ACTION

Symbol Key

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

TITLE 3. ALCOHOLIC BEVERAGES

ALCOHOLIC BEVERAGE CONTROL BOARD

† Withdrawal of Notices of Intended Regulatory Actions

Notice is hereby given that the Alcoholic Beverage Control Board is WITHDRAWING the following Notices of Intended Regulatory Action published in 21:7 VA.R. 770-771 December 13, 2004:

- 3 VAC 5-10, Procedural Rules for the Conduct of Hearings Before the Board and its Hearing Officers and the Adoption or Amendment of Regulations
- 3 VAC 5-20, Advertising
- 3 VAC 5-30, Tied-House
- 3 VAC 5-40, Requirements for Product Approval
- 3 VAC 5-50, Retail Operations
- 3 VAC 5-60, Manufacturers and Wholesalers Operations
- 3 VAC 5-70, Other Provisions

Contact: W. Curtis Coleburn III, Chief Operating Officer, Department of Alcoholic Beverage Control, 2901 Hermitage Rd., Richmond, VA 23220, telephone (804) 213-4409, FAX (804) 213-4411 or email curtis.coleburn@abc.virginia.gov.

VA.R. Doc. Nos. R05-79, R05-80, R05-81, R05-82, R05-83, R05-84, R05-85; Filed February 14, 2007; 1:36 p.m.

TITLE 4. CONSERVATION AND NATURAL RESOURCES

VIRGINIA SOIL AND WATER CONSERVATION BOARD

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Virginia Soil and Water Conservation Board intends to consider amending regulations entitled **4 VAC 50-60, Stormwater Management Regulations**. The purpose of the proposed action is to develop a new General Permit for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems. Regulations developed under the federal Clean Water Act (33 USC § 1251 et seq.) and the Virginia Stormwater Management Law (§ 10.1-603.2 et seq. of the Code of Virginia) require that VSMP permits be effective for a fixed term not to exceed five years (§ 10.1-603.2:2 B). The existing

five-year general permit was issued on December 9, 2002, thus necessitating the promulgation of a new general permit by the December 9, 2007, expiration date.

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

Statutory Authority: §§ 10.1-107 and 10.1-603.4 of the Code of Virginia.

Public comments may be submitted until 5 p.m., April 4, 2007.

Contact: David C. Dowling, Policy, Planning, and Budget Director, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-2291, FAX (804) 786-6141, or email david.dowling@dcr.virginia.gov.

VA.R. Doc. No. R07-147; Filed February 13, 2007, 1:21 p.m.

TITLE 9. ENVIRONMENT

STATE WATER CONTROL BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Water Control Board intends to consider amending regulations entitled **9 VAC 25-260, Water Quality Standards**. The purpose of the proposed action is to amend the state's antidegradation policy part of the Water Quality Standards by designating the Hazel River within Rappahannock County from its headwaters downstream to the Shenandoah National Park boundary and that portion of the Hazel River within Culpeper County from its first crossing of the Rappahannock County and Culpeper County boundary line downstream to its confluence with the Rappahannock River as exceptional state waters.

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

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

Public comments may be submitted until 5 p.m. on April 2, 2007.

Contact: David C. Whitehurst, Department of Environmental Quality, P.O. Box 1105, 629 E. Main St., Richmond, VA 23218, telephone (804) 698-4121, FAX (804) 698-4116, or email dcwhitehurst@deq.virginia.gov.

Notices of Intended Regulatory Action

VA.R. Doc. No. R07-138; Filed January 24, 2007, 10:47 a.m.

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TITLE 12. HEALTH

STATE BOARD OF HEALTH

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 Health intends to consider amending regulations entitled **12 VAC 5-90, Regulations for Disease Reporting and Control**. The purpose of the proposed action is to identify the process acute care hospitals shall use in reporting certain healthcare associated infections to the Virginia Department of Health.

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

Statutory Authority: §§ 32.1-12 and 32.1-35.1 of the Code of Virginia.

Public comments may be submitted until March 7, 2007.

Contact: Mary Beth White-Comstock, Nurse Epidemiologist, Division of Surveillance and Investigation, Department of Health, P.O. Box 2448, Suite 516E, Richmond, VA 23218, telephone (804) 864-8141, FAX (804) 864-8129 or email mb.white-comstock@vdh.virginia.gov.

VA.R. Doc. No. R07-116; Filed January 16, 2007, 12:36 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Health intends to consider amending regulations entitled **12 VAC 5-490, Virginia Radiation Protection Regulations: Fee Schedule**. The purpose of the proposed action is to amend existing regulations to include additional types of X-ray machines in the inspection fee schedule, increase the registration fees for X-ray machines and adopt new fees for licensing and inspecting radioactive materials facilities.

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

Statutory Authority: § 32.1-229.1 of the Code of Virginia.

Public comments may be submitted until March 7, 2007.

Contact: Leslie P. Foldesi, Director, Radiological Health, Department of Health, 109 Governor St., Room 732, Richmond, VA 23219, telephone (804) 864-8151, FAX (804) 864-8155, toll-free (800) 468-0138 or email les.foldesi@vdh.virginia.gov.

VA.R. Doc. No. R07-114; Filed January 16, 2007, 9:46 a.m.

STATE MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Mental Health, Mental Retardation and Substance Abuse Services Board intends to consider amending regulations entitled **12 VAC 35-200, Regulations for Respite and Emergency Care Admissions to Mental Retardation Facilities**. The purpose of the proposed action is to revise the regulations to clarify, update and respond to changes in practice related to admissions to state mental retardation facilities.

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

Statutory Authority: §§ 37.2-203 and 37.2-807 of the Code of Virginia.

Public comments may be submitted until March 20, 2007.

Contact: Cynthia Smith, Office of Mental Retardation Services, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218, telephone (804) 786-0946, FAX (804) 692-0077 or email cynthia.smith@co.dmhmrzas.virginia.gov.

VA.R. Doc. No. R07-134; Filed January 19, 2007, 11:39 a.m.

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TITLE 13. HOUSING

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Housing and Community Development intends to consider amending regulations entitled **13 VAC 5-21, Virginia Certification Standards**. The purpose of the proposed action is to update the regulation to incorporate the latest editions of nationally recognized model building codes and standards produced by the International Code Council (ICC).

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

Statutory Authority: § 36-137 of the Code of Virginia.

Public comments may be submitted until March 7, 2007.

Contact: Steve Calhoun, Regulatory Coordinator, Department of Housing and Community Development, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7015, FAX (804) 371-7090 or email steve.calhoun@dhcd.virginia.gov.

Notices of Intended Regulatory Action

VA.R. Doc. No. R07-122; Filed January 17, 2007, 10 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 Housing and Community Development intends to consider amending regulations entitled **13 VAC 5-31, Virginia Amusement Device Regulations**. The purpose of the proposed action is to update the regulation to incorporate the latest editions of nationally recognized model building codes and standards produced by the International Code Council (ICC).

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

Statutory Authority: § 36-98.3 of the Code of Virginia.

Public comments may be submitted until March 7, 2007.

Contact: Steve Calhoun, Regulatory Coordinator, Department of Housing and Community Development, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7015, FAX (804) 371-7090 or email steve.calhoun@dhcd.virginia.gov.

VA.R. Doc. No. R07-123; Filed January 17, 2007, 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 Housing and Community Development intends to consider amending regulations entitled **13 VAC 5-51, Virginia Statewide Fire Prevention Code**. The purpose of the proposed action is to update the regulation to incorporate the latest edition of the applicable nationally recognized model fire code. Since the national code is so comprehensive in its scope, the agency will accept comment on all provisions of the regulations to ensure its compatibility with the model code.

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

Statutory Authority: § 27-97 of the Code of Virginia.

Public comments may be submitted until March 7, 2007.

Contact: Steve Calhoun, Regulatory Coordinator, Department of Housing and Community Development, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7015, FAX (804) 371-7090 or email steve.calhoun@dhcd.virginia.gov.

VA.R. Doc. No. R07-124; Filed January 17, 2007, 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 Housing and Community Development intends to consider amending regulations entitled **13 VAC 5-63, Virginia Statewide Building Code**.

The purpose of the proposed action is to update the regulation to incorporate the latest editions of nationally recognized model building codes and standards produced by the International Code Council (ICC).

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

Statutory Authority: § 36-98 of the Code of Virginia.

Public comments may be submitted until March 7, 2007.

Contact: Steve Calhoun, Regulatory Coordinator, Department of Housing and Community Development, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7015, FAX (804) 371-7090 or email steve.calhoun@dhcd.virginia.gov.

VA.R. Doc. No. R07-125; Filed January 17, 2007, 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 Housing and Community Development intends to consider amending regulations entitled **13 VAC 5-91, Virginia Industrialized Building Safety Regulations**. The purpose of the proposed action is to update the regulation to incorporate the latest edition of the nationally recognized model building codes and standards. Since the national codes are so comprehensive in scope, the agency will accept comment on all provisions of the regulations to ensure compatibility with the model code.

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

Statutory Authority: § 36-73 of the Code of Virginia.

Public comments may be submitted until March 7, 2007.

Contact: Steve Calhoun, Regulatory Coordinator, Department of Housing and Community Development, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7015, FAX (804) 371-7090 or email steve.calhoun@dhcd.virginia.gov.

VA.R. Doc. No. R07-126; Filed January 17, 2007, 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 Housing and Community Development intends to consider amending regulations entitled **13 VAC 5-95, Virginia Manufactured Home Safety Regulations**. The purpose of the proposed action is to update the regulation to incorporate the latest editions of nationally recognized model building codes and standards produced by the International Code Council (ICC).

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

Notices of Intended Regulatory Action

Statutory Authority: § 36-85.7 of the Code of Virginia.

Public comments may be submitted until March 7, 2007.

Contact: Steve Calhoun, Regulatory Coordinator, Department of Housing and Community Development, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7015, FAX (804) 371-7090 or email steve.calhoun@dhcd.virginia.gov.

VA.R. Doc. No. R07-127; Filed January 17, 2007, 10:01 a.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS, CERTIFIED INTERIOR DESIGNERS AND LANDSCAPE ARCHITECTS

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects intends to consider amending regulations entitled **18 VAC 10-20, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects Rules and Regulations**. The purpose of the proposed action is to develop regulations to implement a mandatory continuing education program as required by HB 1054 from the 2006 General Assembly session. Other changes that may be necessary may also be considered.

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

Statutory Authority: §§ 54.1-404 and 54.1-404.2 of the Code of Virginia.

Public comments may be submitted until March 21, 2007.

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, email apelscidla@dpor.virginia.gov.

VA.R. Doc. No. R07-135; Filed January 23, 2007, 11:15 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 for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects intends to consider amending regulations entitled **18 VAC 10-20, Board for Architects,**

Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects Rules and Regulations. The purpose of the proposed action is to amend the regulation to permit architect license applicants who are applying via examination to begin taking divisions of the Architect Registration Examination (ARE) prior to completing the Intern Development Program (IDP). Currently, the board's regulation requires an architect examination applicant to complete the IDP prior to becoming eligible to take the ARE. Other changes that may be necessary may also be considered.

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

Statutory Authority: § 54.1-404 of the Code of Virginia.

Public comments may be submitted until March 21, 2007.

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) 367-0795, email apelscidla@dpor.virginia.gov.

VA.R. Doc. No. R07-136; Filed January 23, 2007, 11:15 a.m.

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 85-10, Public Participation Guidelines**. The purpose of the proposed action is to clarify and update regulations as recommended by periodic review.

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

Statutory Authority: §§ 2.2-4007 and 54.1-2400 of the Code of Virginia.

Public comments may be submitted until 5 p.m. on March 7, 2007.

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 email william.harp@dhp.virginia.gov.

VA.R. Doc. No. R07-117; Filed January 16, 2007, 12:49 p.m.

BOARD OF NURSING

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Nursing intends to consider amending regulations entitled **18 VAC 90-40,**

Notices of Intended Regulatory Action

Regulations for Prescriptive Authority for Nurse Practitioners. The purpose of the proposed action is to establish standards for the management of chronic pain, consistent with proposed standards for medicine.

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

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

Public comments may be submitted until 5 p.m. on March 7, 2007.

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) 662-9943, or email jay.douglas@dhp.virginia.gov.

VA.R. Doc. No. R07-118; Filed January 3, 2007, 12:49 p.m.

BOARDS OF NURSING AND MEDICINE

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Boards of Nursing and Medicine intend to consider amending regulations entitled **18 VAC 90-30, Regulations Governing the Licensure of Nurse Practitioners.** The purpose of the proposed action is to enact changes relating to inactive licensure for registered nurses.

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

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

Public comments may be submitted until 5 p.m. on March 7, 2007.

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) 662-9943, or email jay.douglas@dhp.virginia.gov.

VA.R. Doc. No. R07-129; Filed January 17, 2007, 12:12 p.m.

BOARD OF PHARMACY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Pharmacy intends to consider amending regulations entitled **18 VAC 110-10, Public Participation Guidelines.** The purpose of the proposed action is to clarify and update the board's public participation guidelines pursuant to a periodic review.

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

Statutory Authority: §§ 2.2-4007 and 54.1-2400 of the Code of Virginia.

Public comments may be submitted until 5 p.m. on March 7, 2007.

Contact: Elizabeth Scott Russell, Executive Director, Board of Pharmacy, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9911, FAX (804) 662-9313 or email elizabeth.russell@dhp.virginia.gov.

VA.R. Doc. No. R07-119; Filed January 16, 2007, 12:49 p.m.

BOARD OF SOCIAL WORK

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Social Work intends to consider amending regulations entitled **18 VAC 140-20, Regulations Governing the Practice of Social Work.** The purpose of the proposed action is to consolidate two previous notices of intended regulatory action on practice standards and the examination requirement with a change to allow group supervision in post-graduate training.

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 5 p.m. on March 7, 2007.

Contact: Evelyn B. Brown, Executive Director, Board of Social Work, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9914, FAX (804) 662-9943 or email evelyn.brown@dhp.virginia.gov.

VA.R. Doc. No. R07-120; Filed January 16, 2007, 12:49 p.m.

TITLE 22. SOCIAL SERVICES

DEPARTMENT FOR THE BLIND AND VISION IMPAIRED

† Withdrawal of Notice of Intended Regulatory Action

Notice is hereby given that the Department for the Blind and Vision Impaired has WITHDRAWN the Notice of Intended Regulatory Action to consider amending **22 VAC 45-50, Regulation Governing Provisions of Services in Vocational Rehabilitation,** which was published in 16:19 VA.R. 2340 June 5, 2000.

Notices of Intended Regulatory Action

Contact: Joseph A. Bowman, Commissioner, Department for the Blind and Vision Impaired, 397 Azalea Avenue, Richmond, VA 23227, telephone (804) 371-3140, FAX (804) 371-3351.

VA.R. Doc. No. R00-179; Filed January 26, 2007.



REGULATIONS

For information concerning the different types of regulations, see the Information Page.

Symbol Key

Roman type indicates existing text of regulations. Underscored language indicates proposed new text. Language that has been stricken indicates proposed text for deletion. Brackets are used in final regulations to indicate changes from the proposed regulation.

TITLE 3. ALCOHOLIC BEVERAGES

ALCOHOLIC BEVERAGE CONTROL BOARD

Fast-Track Regulation

Title of Regulation: **3 VAC 5-10. Procedural Rules for the Conduct of Hearings Before the Board and Its Hearing Officers and the Adoption or Amendment of Regulations (amending 3 VAC 5-10-40, 3 VAC 5-10-50, 3 VAC 5-10-60, 3 VAC 5-10-130, 3 VAC 5-10-150, 3 VAC 5-10-230, 3 VAC 5-10-360, 3 VAC 5-10-400, and 3 VAC 5-10-480).**

Statutory Authority: §§ 4.1-103 and 4.1-111 of the Code of Virginia.

Public Hearing Date: N/A -- Public comments may be submitted until 5 p.m. on May 4, 2007.

(See Calendar of Events section for additional information)

Effective Date: May 19, 2007.

Agency Contact: W. Curtis Coleburn III, Chief Operating Officer, Department of Alcoholic Beverage Control, 2901 Hermitage Road, Richmond, VA 23220, telephone (804) 213-4409, FAX (804) 213-4411, or email curtis.coleburn@abc.virginia.gov.

Basis: Title 4.1 of the Code of Virginia gives the Alcoholic Beverage Control Board general authority to regulate the manufacture, distribution and sale of alcoholic beverages within the Commonwealth, including the authority to promulgate regulations that it deems necessary to carry out the provisions of Title 4.1 in accordance with the Administrative Process Act and to hold hearings and make case decisions on license applications, violations of the board's regulations by licensees, and disputes arising under the Wine and Beer Franchise Acts. The code mandates that the board promulgate regulations and hold hearings, but details of the procedural rules are left to the board's discretion.

Subdivision 13 of § 4.1-103 of the Code of Virginia authorizes the board to promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and § 4.1-111 of the Code of Virginia.

Section 4.1-111 of the Code of Virginia authorizes the board to promulgate reasonable regulations, not inconsistent with Title 4.1 of the Code of Virginia or the general laws of the Commonwealth, which it deems necessary to carry out the provisions of Title 4.1 and to prevent the illegal manufacture,

bottling, sale, distribution and transportation of alcoholic beverages.

Purpose: This action is intended to revise the Alcoholic Beverage Control Board's procedural rules for hearings held by hearing officers and the board, to eliminate obsolete references, streamline procedures in cases arising under the Wine and Beer Franchise Acts, incorporate by reference the Supreme Court's discovery rules in franchise cases, and modernize public participation guidelines for the adoption or amendment of regulations by providing for use of the features of the Virginia Regulatory Town Hall for giving notice to the public of regulatory actions.

The goals of this regulation are:

1. To provide an efficient process for the adjudication of contested license applications, disciplinary cases, and disputes under the Wine and Beer Franchise Acts, while protecting the public health, safety, and welfare.
2. To provide a reasonable opportunity for public input in the formation, amendment, or repeal of agency regulations.

Rationale for Using Fast-Track Process: The proposed changes do not involve any material change in policy or procedure. They merely replace outdated references to agency positions, eliminate unnecessary process, and recognize new methods of public participation in the regulatory process.

Substance: The Alcoholic Beverage Control Board is recommending this regulation be amended in several minor respects. Staff review discovered several references to positions or divisions of the agency that no longer exist. Amendments are proposed to correct these obsolete references. In addition, the board recommends that 3 VAC 5-10-400 be rewritten to incorporate Part 4 of the Rules of the Virginia Supreme Court by reference. The current section, which takes up some 20 pages in the administrative code, is closely modeled after the Supreme Court discovery rules. Substitution of the reference will reduce the text of the regulations of the board by almost 20%, while referring practitioners to a rule with which they are already familiar. A screening process for cases arising under the Wine and Beer Franchise Acts will be eliminated as an unnecessary delay. A provision that prohibits the chief hearing officer from presiding over any case in which a consent settlement offer was submitted is recommended for deletion as unnecessary. The board will also proceed with amendments to its public participation guidelines to incorporate the use of new electronic technologies, such as posting actions and meetings

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on the Regulatory Town Hall, and the use of the Town Hall's mailing list capabilities to provide notice.

In 3 VAC 5-10-40, 3 VAC 5-10-60, and 3 VAC 5-10-130, the term "Administrative Hearings Section" is replaced with "Hearings and Appeals Division."

In 3 VAC 5-10-50, "Division of Enforcement and Regulation" is replaced with "Bureau of Law Enforcement Operations."

In 3 VAC 5-10-150, the last sentence in subsection A is deleted.

In 3 VAC 5-10-230, "deputy department director for regulation" is replaced with "Director, Bureau of Law Enforcement Operations," and "Division of Enforcement and Regulation" is replaced with "Bureau of Law Enforcement Operations."

In 3 VAC 5-10-360, after the first sentence, the remainder of the section is deleted.

In 3 VAC 5-10-400, the majority of the text is replaced with language adopting the discovery rules of the Virginia Supreme Court by reference.

In 3 VAC 5-10-480, in the second sentence of subsection B, the language "but shall be initiated at least once each calendar year" is deleted, and references to the use of Internet technology, such as the Regulatory Town Hall, to provide notice of regulatory actions is added.

Issues: There are no particular advantages or disadvantages to the public associated with this action. The changes do not represent any material change in regulatory policy. The primary advantages to the agency or the Commonwealth are (i) deletion of obsolete references and (ii) reduced costs for reproducing the agency's regulations due to incorporation by reference of the Supreme Court discovery rules. There are no disadvantages to the Commonwealth.

Department of Planning and Budget's Economic Impact Analysis:

Summary of the Proposed Regulation. The Alcoholic Beverage Control Board (ABC) proposes to make several amendments to its procedural regulations. ABC proposes to eliminate references to divisions within the agency that no longer exist and eliminate a requirement that complaints made under the Beer and Wine Franchise Act be prescreened. ABC also proposes to repeal a provision which does not allow its chief hearing officer to preside over cases that involve consent settlement offers and to incorporate, by reference, the Supreme Court of Virginia's rules for discovery.

Result of Analysis. The benefits likely exceed the costs for these proposed regulatory changes.

Estimated Economic Impact. Current regulations assign responsibilities to divisions within ABC that have been replaced or renamed (since these regulations were last amended). ABC proposes to replace out-of-date references so that, for instance, individuals who want to lodge a complaint against a licensee will know to direct that complaint to Bureau of Law Enforcement Operations (rather than the, now non-existent, Division of Enforcement and Regulation). This change will benefit the public in that individuals will no longer have the potential to have their interactions with ABC misdirected on account of these regulations.

Current regulations require that complaints lodged against licensees under the Beer and Wine Franchise act only be scheduled for a hearing if the secretary to the board determines that reasonable cause exists to believe that the law has been violated. ABC proposes to drop this requirement because they believe complainants are entitled to have their cases heard without first being filtered. This change will benefit the public in that they will now have more direct access to the hearing board but will also likely increase costs (for staff time and other hearing expenses) for ABC as all cases will now receive a full hearing. Licensees who are the subject of complaints will likely also incur extra costs for defending themselves as more complaints are given a full hearing.

Current regulations specifically preclude the chief hearing officer from presiding over cases in which an offer of a consent settlement has been extended. ABC believes that this provision is unnecessarily restrictive since now the scope of settlement offers is mandated by regulations; the chief hearing officer has no discretion to adjudicate these cases in a manner that is inconsistent with those regulations. This provision will benefit ABC by allowing the board to use staff time more efficiently.

Current regulations include rules for discovery that are 20 pages long and essentially identical to the Supreme Court of Virginia's rules for discovery. ABC proposes to eliminate the rules of discovery that are explicitly listed in current regulatory text and, instead, incorporate the Supreme Court's rules by reference. The public will likely incur a cost because rules will be split between these regulations and the document that will be incorporated but that cost will likely be very small.

Businesses and Entities Affected. These proposed regulatory changes will affect all of the approximately 14,000 establishments that are licensed by ABC as well as any citizen who might, at some point, want to lodge a complaint against a licensee.

Localities Particularly Affected. These proposed regulatory changes will affect all localities in the Commonwealth.

Projected Impact on Employment. These proposed regulatory changes will likely have no measurable effect on employment in the Commonwealth.

Effects on the Use and Value of Private Property. Businesses licensed by ABC that must defend themselves against all lodged complaints will likely incur extra expenses on account of these proposed regulatory changes. To the extent that those costs cannot be passed on to their customers, these businesses will likely earn slightly smaller profits.

Small Businesses: Costs and Other Effects. ABC estimates that at least 95% of their approximately 14,000 licensees are small businesses. These businesses will likely incur greater costs for defending themselves when all complaints lodged with ABC receive a hearing.

Small Businesses: Alternative Method that Minimizes Adverse Impact. There are likely no alternatives to allowing all complaints a full hearing that would not impinge on the ability of complaining citizens to have those complaints carefully considered.

Legal Mandate. 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. Further, if the proposed regulation has an adverse effect on small businesses, § 2.2-4007 H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Alcoholic Beverage Control Board concurs with the economic impact analysis of the Department of Planning and Budget

Summary:

The amendments (i) update references based on the department's organizational structure; (ii) eliminate unnecessary provisions that prohibit the chief hearing officer from presiding over cases in which a consent settlement offer was extended; (iii) require the secretary to prescreen complaints arising under the Beer and Wine Franchise Acts; and (iv) amend the board's public participation guidelines by eliminating the current requirement of annual rulemaking, providing for email notification of regulatory activities and posting notice of regulatory actions on the Virginia Regulatory Town Hall, and updating references to the Administrative Process Act.

3 VAC 5-10-40. Communications.

Communications regarding hearings before hearing officers upon licenses and applications for licenses should be addressed to the Chief Hearing Officer, ~~Administrative Hearings Section~~ Hearings and Appeals Division.

3 VAC 5-10-50. Complaints.

The board, in its discretion and for good cause shown, may arrange a hearing upon the complaint of any aggrieved party(s) against the continuation of a license. The complaint shall be in writing directed to the Director, ~~Division of Enforcement and Regulation~~ Bureau of Law Enforcement Operations, setting forth the name and post office address of the person(s) against whom the complaint is filed, together with a concise statement of all the facts necessary to an understanding of the grievance and a statement of the relief desired.

3 VAC 5-10-60. Continuances.

Motions to continue a hearing will be granted as in actions at law. Requests for continuances should be addressed to the Chief Hearing Officer, ~~Administrative Hearings Section~~ Hearings and Appeals Division, or the hearing officer who will preside over the hearing.

3 VAC 5-10-130. Motions or requests.

Motions or requests for ruling made prior to the hearing before a hearing officer shall be in writing, addressed to the Chief Hearing Officer, ~~Administrative Hearings Section~~ Hearings and Appeals Division, and shall state with reasonable certainty the ground therefor. Argument upon such motions or requests will not be heard without special leave granted by the hearing officer who will preside over the hearing.

3 VAC 5-10-150. Consent settlement.

A. Generally. Disciplinary cases may be resolved by consent settlement if the nature of the proceeding and public interest permit. In appropriate cases, the chief hearing officer will extend an offer of consent settlement, conditioned upon

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approval by the board, to the licensee. ~~The chief hearing officer is precluded from presiding over any case in which an offer of consent settlement has been extended.~~

B. Who may accept. The licensee or his attorney may accept an offer of consent settlement. If the licensee is a corporation, only an attorney or an officer, director or majority stockholder of the corporation may accept an offer of consent settlement. Settlement shall be conditioned upon approval by the board.

C. How to accept. The licensee shall return the properly executed consent order along with the payment in full of any monetary penalty within 15 calendar days from the date of mailing by the board. Failure to respond within the time period will result in a withdrawal of the offer by the agency and a formal hearing will be held on the date specified in the notice of hearing.

D. Effect of acceptance. Upon approval by the board, acceptance of the consent settlement offer shall constitute an admission of the alleged violation of the A.B.C. laws or regulations, and will result in a waiver of the right to a formal hearing and the right to appeal or otherwise contest the charges. The offer of consent settlement is not negotiable; however, the licensee is not precluded from submitting an offer in compromise under 3 VAC 5-10-160 ~~of this part~~.

E. Approval by the board. The board shall review all proposed settlements. Only after approval by the board shall a settlement be deemed final. The board may reject any proposed settlement which is contrary to law or policy or which, in its sole discretion, is not appropriate.

F. Record. Unaccepted offers of consent settlement will become a part of the record only after completion of the hearing process.

3 VAC 5-10-230. Agency representation.

~~The deputy department director for regulation~~ Director, Bureau of Law Enforcement Operations or his designee may (i) represent the ~~Division of Enforcement and Regulation Bureau of Law Enforcement Operations~~ before the board or any hearing officer; (ii) petition the board for modification of the hearing officer's decision; or (iii) request a ruling on other motions as may be necessary. This authority does not extend to complaints under the Franchise Acts.

3 VAC 5-10-360. Complaints.

Complaints shall be referred in writing to the secretary to the board. ~~The secretary's office, in consultation with the deputy department director for regulation, will determine if reasonable cause exists to believe a violation of the Wine or Beer Franchise Acts, Chapter 4 (§ 4.1-400 et seq.) or 5 (§ 4.1-500 et seq.) of Title 4.1 of the Code of Virginia, has occurred; and, if so, a hearing on the complaint will be scheduled in due course. If no reasonable cause is found to exist, the complainant will be informed of the reason for that decision~~

and given the opportunity to request a hearing as provided by statute.

3 VAC 5-10-400. Discovery, prehearing procedures and production at hearings; definitions.

~~A. Introduction. The rules in this section~~ Rules of the Supreme Court of Virginia, Part Four, shall apply in all proceedings under the Wine and Beer Franchise Acts, Chapters 4 (§ 4.1-400 et seq.) and 5 (§ 4.1-500 et seq.) of Title 4.1 of the Code of Virginia, including arbitration proceedings when necessary pursuant to §§ 4.1-409 and 4.1-508 of the Code of Virginia. Any references to a "court" contained in the rules shall be deemed to mean the hearing officer or officers of the board conducting the proceeding.

No provision of ~~any of the rules in~~ this section shall affect the practice of taking evidence at a hearing, but such practice, including that of generally taking evidence ore tenus only at hearings before hearing officers, shall continue unaffected hereby.

~~B. Definitions. The following words and terms, when used in this regulation, shall have the following meanings unless the context clearly indicates otherwise:~~

~~"Board" means the Virginia Alcoholic Beverage Control Board and the agents and employees of the board, including the secretary and the hearing officer(s), unless otherwise specified or unless the context requires otherwise.~~

~~"Commencement" of proceedings under Part III of this chapter (3 VAC 5-10-360 et seq.) means the date of the board's notice to the complainant(s) and the respondent(s), pursuant to 3 VAC 5-10-360, that reasonable cause exists to believe that there has been a violation of either the Wine or Beer Franchise Acts.~~

~~"Manufacturer" means a winery or brewery, as those terms are defined in §§ 4.1-401 and 4.1-500, respectively, of the Code of Virginia.~~

~~"Person" means a winery, brewery, importer or wholesaler, as well as those entities designated as "persons," within the meaning of §§ 4.1-401 and 4.1-500 of the Code of Virginia.~~

~~"Secretary" means the Secretary to the Virginia Alcoholic Beverage Control Board.~~

~~C. General provisions governing discovery.~~

~~1. Discovery methods. Parties may obtain discovery by one or more of the following methods: depositions upon oral examination or written questions; written interrogatories; production of documents or things or permission to enter upon land or other property, for inspection and other purposes; and requests for admission. Unless the board orders otherwise under subdivision 3 of this subsection or subdivision 1 of subsection P, the frequency of use of these methods is not limited.~~

2. Scope of discovery. Unless otherwise limited by order of the board in accordance with this section, the scope of discovery is as follows:

a. In general. Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending proceeding, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party, including the existence, description, nature, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. It is not ground for objection that the information sought will be inadmissible at the hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

b. Applicability. Discovery as provided under this section shall apply to all proceedings or hearings of Wine or Beer Franchise Act cases while pending before hearing officers or arbitrators. Discovery under this section shall not be authorized during the course of appeals to the board, unless the board has first granted leave to proceed with additional discovery.

c. Hearing preparation: materials. Subject to subdivision 2 d, a party may obtain discovery of documents and tangible things otherwise discoverable under subdivision 2 a and prepared in anticipation of litigation or for the hearing by or for another party or by or for that other party's representative, including his attorney, consultant, or agent, only upon a showing that the party seeking discovery has substantial need of the materials in the preparation of his case and that he is unable without undue hardship to obtain the substantial equivalent of the materials by other means. In ordering discovery of such materials when the required showing has been made, the board shall protect against disclosure of the mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of a party concerning the litigation.

A party may obtain without the required showing a statement concerning the proceeding or its subject matter previously made by that party. For purposes of this subdivision, a statement previously made is (i) a written statement signed or otherwise adopted or approved by the person making it, or (ii) a stenographic, mechanical, electrical, or other recording, or a transcription thereof, which is a substantially verbatim recital of an oral statement by the person making it and contemporaneously recorded.

d. Hearing preparation: experts; costs. Discovery of facts known and opinions held by experts, otherwise discoverable under subdivision 2 a and acquired or

developed in anticipation of litigation or for the hearing, may be obtained only as follows:

(1) (i) A party may through interrogatories require any other party to identify each person whom the other party expects to call as an expert witness at the hearing, to state the subject matter on which the expert is expected to testify, and to state the substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion; (ii) upon motion, the board may order further discovery by other means, subject to such restrictions as to scope and such provisions, pursuant to subdivision 2 d (3), concerning fees and expenses as the board may deem appropriate.

(2) A party may discover facts known or opinions held by an expert who has been retained or specially employed by another party in anticipation of litigation or preparation for the hearing and who is not expected to be called as a witness at the hearing, only upon a showing of exceptional circumstances under which it is impracticable for the party seeking discovery to obtain facts or opinions on the same subject by other means.

(3) Unless manifest injustice would result, (i) the board shall require that the party seeking discovery pay the expert a reasonable fee for time spent and his expenses incurred in responding to discovery under subdivisions d(1)(ii) and d(2); and (ii) with respect to discovery obtained under subdivision d(1)(ii) the board may require, and with respect to discovery obtained under subdivision d(2) the board shall require, the party seeking discovery to pay the other party a fair portion of the fees and expenses reasonably incurred by the latter party in obtaining facts and opinions from the expert.

3. Protective orders. Upon motion by a party or by the person from whom discovery is sought, and for good cause shown, the board may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following: (i) that the discovery not be had; (ii) that the discovery may be had only on specified terms and conditions, including a designation of the time or place; (iii) that the discovery may be had only by a method of discovery other than that selected by the party seeking discovery; (iv) that certain matters not be inquired into, or that the scope of the discovery be limited to certain matters; (v) that discovery be conducted with no one present except persons designated by the board; (vi) that a deposition after being sealed be opened only by order of the board; (vii) that a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed

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~~only in a designated way; (viii) that the parties simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the board.~~

~~If the motion for a protective order is denied in whole or in part, the board may, on such terms and conditions as are just, order that any party or person provide or permit discovery. The provisions of subdivision 1 d of subsection O apply to the award of expenses incurred in relation to the motion.~~

~~4. Sequence and timing of discovery. Unless the board upon motion, or pursuant to subsection N of this section, for the convenience of parties and witnesses and in the interests of justice, orders otherwise, methods of discovery may be used in any sequence and the fact that a party is conducting discovery, whether by deposition or otherwise, shall not operate to delay any other party's discovery.~~

~~5. Supplementation of responses. A party who has responded to a request for discovery with a response that was complete when made is under no duty to supplement his response to include information thereafter acquired except as follows:~~

~~a. A party is under a duty seasonably to supplement his response with respect to any question directly addressed to (i) the identity and location of persons having knowledge of discoverable matters, and (ii) the identity of each person expected to be called as an expert witness at a hearing, the subject matter on which he is expected to testify, and the substance of his testimony.~~

~~b. A party is under a duty seasonably to amend a prior response if he obtains information upon the basis of which (i) he knows that the response was incorrect when made, or (ii) he knows that the response though correct when made is no longer true and the circumstances are such that a failure to amend the response is in substance a knowing concealment.~~

~~c. A duty to supplement responses may be imposed by order of the board, agreement of the parties, or at any time prior to the hearing through new requests for supplementation of prior responses.~~

~~6. Service under this part. Except for the service of the notice required under subdivision D 1 b of this section, any notice or document required or permitted to be served under this section by one party upon another shall be served as provided in Rule 1:12 of the Rules of the Supreme Court of Virginia. Any notice or document required or permitted to be served under this section by the board upon one or more parties shall be served as provided in 3 VAC 5-10-70, 3 VAC 5-10-140, 3 VAC 5-10-280, 3 VAC 5-10-320.~~

~~7. Filing. Any request for discovery under this section and the responses thereto, if any, shall be filed with the secretary except as otherwise herein provided.~~

~~(Ref. Rule 4:1, Rules of Virginia Supreme Court.)~~

~~D. Depositions before proceeding or pending appeal.~~

~~1. Before proceeding.~~

~~a. Petition. A person who desires to perpetuate his own testimony or that of another person regarding any matter that may be cognizable before the board under this section may file a verified petition before the board. The petition shall be entitled in the name of the petitioner and shall show: (i) that the petitioner expects to be a party to a proceeding under this part but is presently unable to bring it or cause it to be brought; (ii) the subject matter of the expected action and his interest therein; (iii) the facts which he desires to establish by the proposed testimony and his reasons for desiring to perpetuate it; (iv) the names or a description of the persons he expects will be adverse parties and their addresses so far as known; and (v) the names and addresses of the persons to be examined and the substance of the testimony which he expects to elicit from each, and shall ask for an order authorizing the petitioner to take the depositions of the persons to be examined named in the petition, for the purpose of perpetuating their testimony.~~

~~b. Notice and service. The petitioner shall thereafter serve a notice upon each person named in the petition as an expected adverse party, together with a copy of the petition, stating that the petitioner will apply to the board, at a time and place named therein, for the order described in the petition. At least 21 days before the date of hearing the notice shall be served in the manner provided in 3 VAC 5-10-140, 3 VAC 5-10-320; but if such service cannot with due diligence be made upon any expected adverse party named in the petition, the board may make such order as is just for service by publication or otherwise.~~

~~c. Order and examination. If the board is satisfied that the perpetuation of the testimony may prevent a failure or delay of justice, it shall make an order designating or describing the persons whose depositions may be taken and specifying the subject matter of the examination and whether the depositions shall be taken upon oral examination or written interrogatories. The depositions may then be taken in accordance with this section. The attendance of witnesses may be compelled by subpoena, and the board may make orders of the characters provided for by subsection M of this section.~~

~~d. Cost. The cost of such depositions shall be paid by the petitioner, except that the other parties in interest who produce witnesses on their behalf or who make use of witnesses produced by others shall pay their~~

proportionate part of the cost of the transcribed testimony and evidence taken or given on behalf of each of such parties.

e. Filing. The depositions shall be certified as prescribed in subsection G of this section and then returned to and filed by the secretary.

f. Use of deposition. If a deposition to perpetuate testimony is taken under these provisions or if, although not so taken, it would be admissible in evidence in the courts of the state in which it is taken, it may be used in any proceeding involving the same subject matter subsequently brought before the board pursuant to Part III (3 VAC 5-10-360 et seq.) of this chapter in accordance with subsection C.

2. Pending appeal. If an appeal has been taken from a ruling of the board or before the taking of an appeal if any time therefor has not expired and for good cause shown, the board may allow the taking of the depositions of witnesses to perpetuate their testimony for use in the event of further proceedings. In such case the party who desires to perpetuate the testimony may make a motion before the board for leave to take the depositions, upon the same notice and service thereof as if the proceeding was pending therein. The motion shall show (i) the names and addresses of persons to be examined and the substance of the testimony which he expects to elicit from each; and (ii) the reasons for perpetuating their testimony. If the board finds that the perpetuation of the testimony is proper to avoid a failure or delay of justice, it may make orders of the character provided for by subsection M of this section and thereupon the depositions may be taken and used in the same manner and under the same conditions as are prescribed in this section for depositions taken in pending actions.

3. Perpetuation of testimony. This subsection D provides the exclusive procedure to perpetuate testimony before the board.

(Ref: Rule 4:2, Rules of Virginia Supreme Court.)

E. Persons before whom depositions may be taken.

1. Within this Commonwealth. Within this Commonwealth depositions under this section may be taken before any person authorized by law to administer oaths, and if certified by his hand, may be received without proof of the signature to such certificate.

2. Within the United States. In any other state of the United States or within any territory or insular possession subject to the dominion of the United States, depositions under this section may be taken before any officer authorized to take depositions in the jurisdiction wherein the witness may be, or before any commissioner appointed by the Governor of this Commonwealth.

3. No commission necessary. No commission by the Governor of this Commonwealth shall be necessary to take a deposition under this section whether within or without this Commonwealth.

4. In foreign countries. In a foreign state or country, depositions under this section shall be taken (i) before any American minister plenipotentiary, charge d'affaires, secretary of embassy or legation, consul general, consul, vice consul, or commercial agent of the United States in a foreign country, or any other representative of the United States therein, including commissioned officers of the armed services of the United States, or (ii) before the mayor, or other magistrate of any city, town or corporation in such country, or any notary therein.

5. Certificate when deposition taken outside Commonwealth. Any person before whom a deposition under this section is taken outside this Commonwealth shall certify the same with his official seal annexed; and, if he has none, the genuineness of his signature shall be authenticated by some officer of the same state or country, under his official seal, except that no seal shall be required of a commissioned officer of the armed services of the United States, but his signature shall be authenticated by the commanding officer of the military installation or ship to which he is assigned.

(Ref: Rule 4:3, Rules of Virginia Supreme Court.)

F. Stipulations regarding discovery. Unless the board orders otherwise, the parties may by written stipulation (i) provide that depositions may be taken before any person, at any time or place, upon any notice, and in any manner and when so taken may be used like other depositions and (ii) modify the procedures provided by these rules for other methods of discovery. Such stipulations shall be filed with the deposition.

(Ref: Rule 4:4, Rules of Virginia Supreme Court.)

G. Depositions upon oral examination.

1. When depositions may be taken. Twenty one days after commencement of the proceeding, any party may take the testimony of any person, including a party, by deposition upon oral examination. The attendance of witnesses may be compelled by subpoena. The deposition of a person confined in prison may be taken only by leave of the board upon such terms as the board prescribes, subject to any authorization and limitations that may be imposed by any court within the Commonwealth.

2. Notice of examination. General requirements; special notice; nonstenographic recording; production of documents and things; deposition of organization.

a. A party desiring to take the deposition of any person upon oral examination shall give reasonable notice in writing to every other party to the proceeding. The notice

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shall state the time and place for taking the deposition and the name and address of each person to be examined, if known, and, if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs. If a subpoena duces tecum is to be served on the person to be examined, the designation of the materials to be produced as set forth in the subpoena shall be attached to or included in the notice.

b. (Reserved)

c. The board may for cause shown enlarge or shorten the time for taking the deposition.

d. (Reserved)

e. The notice to a party deponent may be accompanied by a request made in compliance with subsection M of this section for the production of documents and tangible things at the taking of the deposition. The procedure of subsection M of this section shall apply to the request.

f. A party may in his notice name as the deponent a public or private corporation or a partnership or association or governmental agency and designate with reasonable particularity the matters on which examination is requested. The organization so named shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which he will testify. The persons so designated shall testify as to matters known or reasonably available to the organization. This subdivision does not preclude taking a deposition by any other procedure authorized in this section.

g. The parties may stipulate in writing or the board may on motion order that a deposition be taken by telephone. A deposition taken by telephone shall be taken before an appropriate officer in the locality where the deponent is present to answer questions propounded to him.

3. ~~Examination and cross-examination; record of examination; oath; objections. Examination and cross-examination of witnesses may proceed as permitted at the hearing. The officer before whom the deposition is to be taken shall put the witness on oath and shall personally, or by someone acting under his direction and in his presence, record the testimony of the witness. The testimony shall be taken stenographically or recorded by any other means authorized by this section. If requested by one of the parties, the testimony shall be transcribed.~~

All objections made at time of the examination to the qualifications of the officer taking the deposition, or to the manner of taking it, or to the evidence presented, or to the conduct of any party, and any other objection to the proceedings, shall be noted by the officer upon the

deposition. Evidence objected to shall be taken subject to the objections. In lieu of participating in the oral examinations, parties may serve written questions in a sealed envelope on the party taking the deposition and he shall transmit them to the officer, who shall propound them to the witness and record the answers verbatim.

4. ~~Motion to terminate or limit examination. At any time during the taking of the deposition, on motion of a party or of the deponent and upon a showing that the examination is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass, or oppress the deponent or party, the board may order the officer conducting the examination to cease forthwith from taking the deposition, or may limit the scope and manner of the taking of the deposition as provided in subdivision C 3 of this section. If the order made terminates the examination, it shall be resumed thereafter only upon the order of the board. Upon demand of the objecting party or deponent, the taking of the deposition shall be suspended for the time necessary to make a motion for an order. The provisions of subdivision O 1 d apply to the award of expenses incurred in relation to the motion.~~

5. ~~Submission to witness; changes; signing. When the testimony is fully transcribed, the deposition shall be submitted to the witness for examination and shall be read to or by him, unless such examination and reading are waived by the witness and by the parties. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness, unless the parties by stipulation waive the signing or the witness is ill or cannot be found or refuses to sign. If the deposition is not signed by the witness within 21 days of its submission to him, the officer shall sign it and state on the record the fact of the waiver or of the illness or absence of the witness or the fact of the refusal to sign together with the reason, if any, given therefor; and the deposition may then be used as fully as though signed unless on a motion to suppress under subdivision J 4 d of this section the board holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part.~~

6. ~~Certification and filing by officer; exhibits; copies; notice of filing.~~

a. ~~The officer shall certify on the deposition that the witness was duly sworn by him and that the deposition is a true record of the testimony given by the witness. He shall then lodge it with the attorney for the party who initiated the taking of the deposition, notifying the secretary and all parties of such action. Depositions taken pursuant to this subsection G or subsection H shall not be filed with the secretary until the board so directs, either~~

on its own initiative or upon the request of any party prior to or during the hearing.

Documents and things produced for inspection during the examination of the witness shall, upon the request of a party, be marked for identification and annexed to and returned with the deposition, and may be inspected and copied by any party, except that (i) the person producing the materials may substitute copies to be marked for identification, if he affords to all parties fair opportunity to verify the copies by comparison with the originals, and (ii) if the person producing the materials requests their return, the officer shall mark them, give each party an opportunity to inspect and copy them, and return them to the person producing them, and the materials may then be used in the same manner as if annexed to and returned with the deposition. Any party may move for an order that the original be annexed to and returned with the deposition to the board, pending final disposition of the case.

b. Upon payment of reasonable charges therefor, the officer shall furnish a copy of the deposition to any party or to the deponent.

e. The party taking the deposition shall give prompt notice of its filing to all other parties.

7. Failure to attend or to serve subpoena; expenses.

a. If the party giving the notice of the taking of a deposition fails to attend and proceed therewith and another party attends in person or by attorney pursuant to the notice, the board may order the party giving the notice to pay to such other party the reasonable expenses incurred by him and his attorney in attending, including reasonable attorney's fees.

b. If the party giving the notice of the taking of a deposition of a witness fails to serve a subpoena upon him and the witness because of such failure does not attend, and if another party attends in person or by attorney because he expects the deposition of that witness to be taken, the board may order the party giving the notice to pay to such other party the reasonable expenses incurred by him and his attorney in attending, including reasonable attorney's fees.

(Ref: Rule 4:5, Rules of Virginia Supreme Court.)

H. Deposition upon written questions.

1. Serving questions; notice. Twenty one days after commencement of the proceeding, any party may take the testimony of any person, including a party, by deposition upon written questions. The attendance of witnesses may be compelled by the use of subpoena. The deposition of a person confined in prison may be taken only by leave of the board upon such terms as the board prescribes subject to

any authorization and limitations that may be required or imposed by any court within the Commonwealth.

A party desiring to take the deposition upon written questions shall serve them upon every other party with a notice stating that (i) the name and address of the person who is to answer them, if known, and if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs, and (ii) the name or descriptive title and address of the officer before whom the deposition is to be taken. A deposition upon written questions may be taken of a public or private corporation or a partnership or association or governmental agency in accordance with the provisions of subdivision G 2 f of this section.

Within 21 days after the notice and written questions are served, a party may serve cross questions upon all other parties. Within 10 days after being served with cross questions, a party may serve redirect questions upon all other parties. Within 10 days after being served with redirect questions, a party may serve recross questions upon all other parties. The board may for cause shown enlarge or shorten the time.

2. Officer to take responses and prepare record. A copy of the notice and copies of all questions served shall be delivered by the party taking the deposition to the officer designated in the notice, who shall proceed promptly, in the manner provided by subdivisions 3, 4 and 5 of subsection G of this section, to take the testimony of the witness in response to the questions and to prepare, certify, and file or mail the deposition, attaching thereto the copy of the notice and the questions received by him.

3. Notice of filing. When the deposition is filed, the party taking it shall promptly give notice thereof to all other parties.

(Ref: Rule 4:6, Rules of Virginia Supreme Court.)

I. Limitation on depositions. No party shall take the deposition of more than five witnesses for any purpose without leave of the board for good cause shown.

(Ref: Rule 4:6A, Rules of Virginia Supreme Court.)

J. Use of depositions in proceedings under the Wine and Beer Franchise Acts.

1. Use of depositions. At the hearing or upon the hearing of a motion, or during an interlocutory proceeding, any part or all of a deposition, so far as admissible under the rules of evidence applied as though the witness were then present and testifying, may be used against any party who was present or represented at the taking of the deposition or who had reasonable notice thereof, in accordance with any of the following provisions:

a. (Reserved)

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b. Any deposition may be used by any party for the purpose of contradicting or impeaching the testimony of deponent as a witness.

c. The deposition of a party or of anyone who at the time of taking the deposition was an officer, director, or managing agent, or a person designated under subdivision 2 f of subsection G or subdivision 1 of subsection H of this section to testify on behalf of a public or private corporation, partnership or association or governmental agency which is a party may be used by an adverse party for any purpose.

d. The deposition of a witness, whether or not a party, may be used by any party for any purpose if the board finds: (i) that the witness is dead; or (ii) that the witness is at a greater distance than 100 miles from the place of hearing, or is out of this Commonwealth, unless it appears that the absence of the witness was procured by the party offering the deposition; or (iii) that the witness is unable to attend or testify because of age, illness, infirmity, or imprisonment; or (iv) that the party offering the deposition has been unable to procure the attendance of the witness by subpoena; or (v) that the witness is a judge, or is in any public office or service the duties of which prevent his attending hearings before the board provided, however, that if the deponent is subject to the jurisdiction of the board, the board may, upon a showing of good cause or sua sponte, order him to attend and to testify *ore tenus*; or (vi) upon application and notice, that such exceptional circumstances exist as to make it desirable, in the interest of justice and with due regard to the importance of presenting the testimony of witnesses orally, to allow the deposition to be used.

e. If only part of a deposition is offered in evidence by a party, an adverse party may require him to introduce any other part which ought in fairness to be considered with the part introduced, and any party may introduce any other parts.

f. No deposition shall be read in any proceeding against a person under a disability unless it be taken in the presence of the guardian ad litem appointed or attorney serving pursuant to § 8.01-9 of the Code of Virginia, or upon questions agreed on by the guardian or attorney before the taking.

g. In any proceeding, the fact that a deposition has not been offered in evidence prior to an interlocutory decree or order shall not prevent its thereafter being so offered except as to matters ruled upon in such interlocutory decree or order provided, however, that such deposition may be read as to matters ruled upon in such interlocutory decree or order if the principles applicable to after discovered evidence would permit its introduction.

Substitution of parties does not affect the right to use depositions previously taken; and when there are pending before the board several proceedings between the same parties, depending upon the same facts, or involving the same matter of controversy, in whole or in part, a deposition taken in one of such proceedings, upon notice to the same party or parties, may be read in all, so far as it is applicable and relevant to the issue; and, when an action in any court of the United States or of this or any other state has been dismissed and a proceeding before the board involving the same subject matter is afterward brought between the same parties or their representatives or successors in interest, all depositions lawfully taken and duly filed in the one action may be used in a proceeding before the board as if originally taken therefor.

2. Objections to admissibility. Subject to subdivision 4 e, objection may be made at the hearing to receive in evidence any deposition or part thereof for any reason which would require the exclusion of the evidence if the witnesses were then present and testifying.

3. Effect of taking or using depositions. A party does not make a person his own witness for any purpose by taking his deposition. The introduction in evidence of the deposition or any part thereof for any purpose other than that of contradicting or impeaching the deponent makes the deponent the witness of the party introducing the deposition, but this shall not apply to the use by an adverse party of a deposition under subdivision 1 e. At the hearing any party may rebut any relevant evidence contained in a deposition whether introduced by him or by any other party.

4. Effect of errors and irregularities in depositions:

a. As to notice. All errors and irregularities in the notice for taking a deposition are waived unless written objection is promptly served upon the party giving the notice.

b. As to disqualification of officer. Objection to taking a deposition because of disqualification of the officer before whom it is to be taken is waived unless made before the taking of the deposition begins or as soon thereafter as the disqualification becomes known or could be discovered with reasonable diligence.

c. As to taking of deposition:

(1) Objections to the competency of a witness or to the competency, relevancy, or materiality of testimony are not waived by failure to make them before or during the taking of the deposition, unless the ground of the objection is one which might have been obviated or removed if presented at that time.

~~(2) Errors and irregularities occurring at the oral examination in the manner of taking the deposition, in the form of the questions and answers, in the oath or affirmation, or in the conduct of parties, and errors of any kind which might be obviated, removed, or cured if promptly presented, are waived unless reasonable objection thereto is made at the taking of the deposition.~~

~~(3) Objections to the form of written questions submitted under subsection H of this section are waived unless served in writing upon the party propounding them within the time allowed for serving the succeeding cross or other questions and within five days after service of the last questions authorized.~~

~~d. As to completion and return of deposition. Errors and irregularities in the manner in which the testimony is transcribed or the deposition is prepared, signed, certified, sealed, endorsed, transmitted, filed or otherwise dealt with by the officer under subsections G and H of this section are waived unless a motion to suppress the deposition or some part thereof is made with reasonable promptness after such defect is, or with due diligence might have been, ascertained.~~

~~5. (Reserved)~~

~~6. Record. Depositions shall become a part of the record only to the extent that they are offered in evidence.~~

~~(Ref: Rule 4:7, Rules of Virginia Supreme Court.)~~

~~K. Audio visual depositions:~~

~~1. When depositions may be taken by audio visual means. Any depositions permitted under these rules may be taken by audio visual means as authorized by and when taken in compliance with law.~~

~~2. Use of clock. Every audio visual deposition shall be timed by means of a timing device, which shall record hours, minutes and seconds which shall appear in the picture at all times during the taking of the deposition.~~

~~3. Editing. No audio visual deposition shall be edited except pursuant to a stipulation of the parties or pursuant to order of the board and only as and to the extent directed in such order.~~

~~4. Written transcript. If an appeal is taken in the case, the appellant shall cause to be prepared and filed with the secretary a written transcript of that portion of an audio visual deposition made a part of the record at the hearing to the extent germane to an issue on appeal. The appellee may designate additional portions to be so prepared by the appellant and filed.~~

~~5. Use. An audio visual deposition may be used only as provided in subsection J of this section.~~

~~6. Submission, etc. The provisions of subdivision G-5 shall not apply to an audio visual deposition. The other provisions of subsection G of this section shall be applicable to the extent practicable.~~

~~(Ref: Rule 4:7A, Rules of Virginia Supreme Court.)~~

~~L. Interrogatories to parties:~~

~~1. Availability; procedures for use. Upon the commencement of any proceedings under this part, any party may serve upon any other party written interrogatories to be answered by the party served or, if the party served is a public or private corporation or a partnership or association or governmental agency, by any officer or agent, who shall furnish such information as is available to the party.~~

~~2. Form. The party serving the interrogatories shall leave sufficient space between each interrogatory so as to permit the party answering the interrogatories to make a photocopy of the interrogatories and to insert the answers between each interrogatory. The party answering the interrogatories shall use a photocopy to insert answers and shall precede the answer with the word "Answer." In the event the space which is left to fully answer any interrogatory is insufficient, the party answering shall insert the words, "see supplemental sheet" and shall proceed to answer the interrogatory fully on a separate sheet or sheets of paper containing the heading "Supplemental Sheet" and identify the answers by reference to the number of the interrogatory. The party answering the interrogatories shall prepare a separate sheet containing the necessary oath to the answers, which shall be attached to the answers filed with the court to the copies sent to all parties and shall contain a certificate of service.~~

~~3. Filing. The interrogatories and answers and objections thereto shall not be filed in the office of the secretary unless the board directs their filing on its own initiative or upon the request of any party prior to or during the hearing. For the purpose of any consideration of the sufficiency of any answer or any other question concerning the interrogatories, answers or objections, copies of those documents shall be made available to the board by counsel.~~

~~4. Answers. Each interrogatory shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer. The answers are to be signed by the person making them, and the objections signed by the attorney making them. The party upon whom the interrogatories have been served shall serve a copy of the answers, and objections if any, within 21 days after the service of the interrogatories. The board may allow a shorter or longer time. The party submitting the interrogatories may move for an order under subdivision O~~

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~~1 with respect to any objection to or other failure to answer an interrogatory.~~

~~5. Scope; use. Interrogatories may relate to any matters which can be inquired into under subdivision C 2, and the answers may be used to the extent permitted by the rules of evidence. Only such interrogatories and the answers thereto as are offered in evidence shall become a part of the record.~~

~~An interrogatory otherwise proper is not necessarily objectionable merely because an answer to the interrogatory involves an opinion or contention that relates to fact or the application of law to fact, but the board may order that such an interrogatory need not be answered until after designated discovery has been completed or until a prehearing conference or other later time.~~

~~6. Option to produce business records. Where the answer to an interrogatory may be derived or ascertained from the business records of the party upon whom the interrogatory has been served or from an examination, audit or inspection of such business records, or from a compilation, abstract or summary based thereon, and the burden of deriving or ascertaining the answer is substantially the same for the party serving the interrogatory as for the party served, it is a sufficient answer to such interrogatory to specify the records from which the answer may be derived or ascertained and to afford to the party serving the interrogatory reasonable opportunity to examine, audit or inspect such records and to make copies, compilations, abstracts or summaries.~~

~~7. Limitation on interrogatories. No party shall serve upon any other party, at any one time or cumulatively, more than 30 written interrogatories, including all parts and subparts without leave of the board for good cause shown.~~

~~(Ref: Rule 4:8, Rules of Virginia Supreme Court.)~~

M. Production of documents and things and entry on land for inspection and other purposes; production at the hearing.

~~1. Scope. Any party may serve on any other party a request (i) to produce and permit the party making the request, or someone acting on his behalf, to inspect and copy, any designated documents (including writings, drawings, graphs, charts, photographs, phono records, and other data compilations from which information can be obtained, translated, if necessary, by the respondent through detection devices into reasonably usable form), or to inspect and copy, any tangible things which constitute or contain matters within the scope of subdivision 2 of subsection C and which are in the possession, custody, or control of the party upon whom the request is served; or (ii) to produce any such documents to the board at the time of the hearing; or (iii) to permit entry upon designated land or other property in the possession or control of the party upon whom the request is served for the purpose of inspection, surveying, and photographing the property or~~

~~any designated object or operation thereon, within the scope of subdivision C 2 of this section.~~

~~When the physical condition or value of a party's plant, equipment, inventory or other tangible asset is in controversy, the board, upon motion of an adverse party, may order a party to submit same to physical inventory or examination by one or more representatives of the moving party named in the order and employed by the moving party. The order may be made only by agreement or on motion for relevance shown and upon notice to all parties, and shall specify the time, place, manner, conditions, and scope of the examination and the person or persons by whom it is to be made.~~

~~2. Procedure. The request may, without leave of the board, except as provided in subdivision 4, be served after commencement of the proceeding. The request shall set forth the items to be inspected either by individual item or by category, and describe each item and category with reasonable particularity. The request shall specify a reasonable time, place, period and manner of making the inspection and performing the related acts.~~

~~The party upon whom the request is served shall serve a written response within 21 days after the service of the request. The board may allow a shorter or longer time. The response shall state, with respect to each item or category, that inspection and related activities will be permitted as requested, unless the request is objected to, in which event the reasons for objection shall be stated. If objection is made to part of an item or category, the part shall be specified. The party submitting the request may move for an order under subdivision O 1 with respect to any objection to or other failure to respond to the request or any part thereof, or any failure to permit inspection as requested.~~

~~3. Production by a person not a party. Upon written request therefor filed with the secretary by counsel of record for any party or by a party having no counsel in any pending case, with a certificate that a copy thereof has been mailed or delivered to counsel of record and to parties having no counsel, the secretary shall, subject to subdivision 4, issue a person not a party therein a subpoena which shall command the person to whom it is directed, or someone acting on his behalf, to produce the documents and tangible things (including writings, drawings, graphs, charts, photographs, phono records, and other data compilations from which information can be obtained, translated, if necessary, by the respondent through detection devices into reasonably usable form) designated and described in said request, and to permit the party filing such request, or someone acting in his behalf, to inspect and copy any tangible things which constitute or contain matters within the scope of subdivision C 2 which are in the possession, custody or control of such person to whom the subpoena is directed, at~~

a time and place and for the period specified in the subpoena; but, the board, upon written motion promptly made by the person so required to produce, or by the party against whom such production is sought, may (i) quash or modify the subpoena if it is unreasonable and oppressive or (ii) condition denial of the motion to quash or modify upon the advancement by the party in whose behalf the subpoena is issued of the reasonable cost of producing the documents and tangible things so designated and described.

Documents subpoenaed pursuant to this subdivision shall be returnable only to the office of the secretary unless counsel of record agree in writing filed with the secretary as to a reasonable alternative place for such return. Upon request of any party in interest, or his attorney, the secretary shall permit the withdrawal of such documents by such party or his attorney for such reasonable period of time as will permit his inspection, photocopying, or copying thereof.

4. Certain officials. No request to produce made pursuant to subdivision 2 shall be served, and no subpoena provided for in subdivision 3 shall issue, until prior order of the board is obtained when the party upon whom the request is to be served or the person to whom the subpoena is to be directed is the Governor, Lieutenant Governor, or Attorney General of this Commonwealth, or a judge of any court thereof, the President or Vice President of the United States; any member of the President's Cabinet; any ambassador or consul; or any military officer on active duty holding the rank of admiral or general.

5. Proceedings on failure or refusal to comply. If a party fails or refuses to obey an order made under subdivision 2, the board may proceed as provided by subsection O.

6. Filing. Requests to a party pursuant to subdivisions 1 and 2 shall not be filed in the office of the secretary unless requested in a particular case by the board or by any party prior to or during the hearing.

(Ref: Rule 4:9, Rules of Virginia Supreme Court.)

N. Requests for admission.

1. Request for admission. Upon commencement of any proceedings under this part, a party may serve upon any other party a written request for the admission, for purposes of the pending proceeding only, of the truth of any matters within the scope of subdivision C 2 set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Copies of documents shall be served with the request unless they have been or are otherwise furnished or made available for inspection and copying.

Each matter of which an admission is requested shall be separately set forth. The matter is admitted unless, within

21 days after service of the request, or within such shorter or longer time as the board may allow, the party to whom the request is directed serves upon the party requesting the admission a written answer or objection addressed to the matter, signed by the party or by his attorney. If objection is made, the reasons therefor shall be stated. The answer shall specifically deny the matter or set forth in detail the reasons why the answering party cannot truthfully admit or deny the matter. A denial shall fairly meet the substance of the requested admission, and when good faith requires that a party qualify his answer or deny only a part of the matter of which an admission is requested, he shall specify so much of it as is true and qualify or deny the remainder. An answering party may not give lack of information or knowledge as a reason for failure to admit or deny unless he states that he has made reasonable inquiry and that the information known or readily obtainable by him is insufficient to enable him to admit or deny. A party who considers that a matter of which an admission has been requested presents a genuine issue for hearing may not, on that ground alone, object to the request; he may, subject to the provisions of subdivision O 3, deny the matter or set forth reasons why he cannot admit or deny it.

The party who has requested the admissions may move to determine the sufficiency of the answers or objections. Unless the board determines that an objection is justified, it shall order that an answer be served. If the board determines that an answer does not comply with the requirements of this subsection N, it may order either that the matter is admitted or that an amended answer be served. The board may, in lieu of these orders, determine that final disposition of the request be made at a prehearing conference or at a designated time prior to the hearing. The provisions of subdivision 1 d of subsection O apply to the award of expenses incurred in relation to the motion.

2. Effect of admission. Any matter admitted under this rule is conclusively established unless the board on motion permits withdrawal or amendment of the admission. Subject to subsection P governing amendment of a prehearing order, the board may permit withdrawal or amendment when the presentation of the merits of the action will be subserved thereby and the party who obtained the admission fails to satisfy the board that withdrawal or amendment will prejudice him in maintaining his action or defense on the merits. Any admission made by a party under this rule is for the purpose of the pending proceeding only and is not an admission by him for any other purpose nor may it be used against him in any other proceeding.

3. Filing. Requests for admissions and answers or objections shall be served and filed as provided in subsection L.

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4. Part of record. Only such requests for admissions and the answers thereto as are offered in evidence shall become a part of the record.

(Ref. Rule 4:11, Rules of Virginia Supreme Court.)

~~0. Failure to make discovery; sanctions.~~

~~1. Motion for order compelling discovery. A party, upon reasonable notice to other parties and all persons affected thereby, may apply to the board for an order compelling discovery as follows:~~

~~a. (Reserved)~~

~~b. Motion. If a deponent fails to answer a question propounded or submitted under subsections G and H, or a corporation or other entity fails to make a designation under subdivision 2 f of subsection G and subdivision 1 of subsection H, or a party fails to answer an interrogatory submitted under subsection I, or if a party, in response to a request for inspection submitted under subsection M, fails to respond that inspection will be permitted as requested or fails to permit inspection as requested, the discovering party may move for an order compelling an answer, or a designation, or an order compelling inspection in accordance with the request. When taking a deposition or oral examination, the proponent of the question may complete or adjourn the examination before he applies for an order.~~

~~If the board denies the motion in whole or in part, it may make such protective order as it would have been empowered to make on a motion made pursuant to subdivision 3 of subsection C.~~

~~e. Evasive or incomplete answer. For purposes of this subsection an evasive or incomplete answer is to be treated as a failure to answer.~~

~~d. Award of expenses of motion. If the motion is granted and the board finds that the party whose conduct necessitated the motion acted in bad faith, the board shall, after opportunity for hearing, require the party or deponent whose conduct necessitated the motion or the party or attorney advising such conduct or both of them to pay to the moving party the reasonable expenses incurred in obtaining the order, including attorney's fees.~~

~~If the motion is denied and the board finds that the moving party acted in bad faith in making the motion, the board shall, after opportunity for hearing, require the moving party or the attorney advising the motion or both of them to pay to the party or deponent who opposed the motion the reasonable expenses incurred in opposing the motion, including attorney's fees.~~

~~If the motion is granted in part and denied in part, the board may apportion the reasonable expenses incurred in~~

~~relation to the motion among the parties and persons in a just manner.~~

~~2. Failure to comply with order.~~

~~a. Suspension or revocation of licenses; monetary penalties. Failure to comply with any order of the board under this section shall constitute ground for action by the board under § 4.1-225 1 e of the Code of Virginia.~~

~~b. Sanctions by the board. If a party or an officer, director, or managing agent of a party or a person designated under subdivision 2 f of subsection G or subdivision 1 of subsection H to testify on behalf of a party fails to obey an order to provide or permit discovery, including an order made under subdivision 1, the board may make such orders in regard to the failure as are just, and among others the following:~~

~~(1) An order that the matters regarding which the order was made or any other designated facts shall be taken to be established for the purposes of the proceeding in accordance with the claim of the party obtaining the order;~~

~~(2) An order refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting him from introducing designated matters in evidence; and~~

~~(3) An order striking out pleadings or parts thereof, or staying further proceedings until the order is obeyed, or dismissing the proceeding or any part thereof, or rendering a judgment or decision by default against the disobedient party.~~

~~In lieu of any of the foregoing orders or in addition thereto, if the board finds that a party acted in bad faith in failing to obey an order to provide or permit discovery, the board shall require the party failing to obey the order or the attorney advising him or both to pay the reasonable expenses, including attorney's fees, caused by the failure.~~

~~3. Expenses on failure to admit. If a party fails to admit the genuineness of any document or the truth of any matter as requested under subsection N, and if the party requesting the admissions thereafter proves the genuineness of the document or the truth of the matter, he may apply to the board for an order requiring the other party to pay him the reasonable expenses incurred in making that proof, including reasonable attorney's fees. The board shall make the order if it finds that the party failing to admit acted in bad faith. A party will not be found to have acted in bad faith if the board finds that (i) the request was held objectionable pursuant to subdivision 1 of subsection N, or (ii) the admission sought was of no substantial importance, or (iii) the party failing to admit had reasonable ground to~~

believe that he might prevail on the matter, or (iv) there was other good reason for the failure to admit.

~~4. Failure of party to attend at own deposition or serve answers to interrogatories or respond to request for inspection. If a party or an officer, director or managing agent of a party or a person designated under subdivision 2 f of subsection G or subdivision 1 of subsection H to testify on behalf of a party fails (i) to appear before the officer who is to take his deposition, after being served with a proper notice, or (ii) to serve answers or objections to interrogatories submitted under subsection L, after proper service of the interrogatories, or (iii) to serve a written response to the request for inspection submitted under subsection M, after proper service of the request, the board on motion may make such orders in regard to the failure as are just, and among others it may take any action authorized under subdivisions 2 b(1), 2 b(2) and 2 b(3). In lieu of any order or in addition thereto, if the board finds that a party in bad faith failed to act, the board shall require the party failing to act or the attorney advising him or both to pay the reasonable expenses, including attorney's fees, caused by the failure, unless the board finds that the failure was substantially justified or that other circumstances make an award of expenses unjust.~~

The failure to act described in this subsection may not be excused merely on the ground that the discovery sought is objectionable unless the party failing to act has applied for a protective order as provided by subdivision 3 of subsection C.

(Ref: Rule 4:12, Rules of Virginia Supreme Court.)

~~P. Prehearing procedure; formulating issues.~~

~~1. The hearing officer(s) or the board may, in his or its discretion direct the attorneys for the parties to appear before such hearing officer(s) or the board for a conference to consider;~~

- ~~a. A determination or clarification of the issues;~~
- ~~b. A plan and schedule of discovery;~~
- ~~c. Any limitations on the scope and methods of discovery, including deadlines for the completions of discovery;~~
- ~~d. The necessity or desirability of amendments to the pleadings;~~
- ~~e. The possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof, as well as obtaining stipulations as to the evidence;~~
- ~~f. The limitation of the number of expert witnesses;~~
- ~~g. The possibility of filing bills of particulars and grounds of defense by the respective parties; and~~

~~h. Such other matters as may aid in the disposition of the action.~~

~~2. The hearing officer(s) or the board shall make an order which recites the action taken at the conference, the amendments allowed to the pleadings, the agreements made by the parties as to any of the matters considered, and which limits the issues for trial to those not disposed of by admissions or agreements of counsel; and such order when entered controls the subsequent course of the action, unless modified at the hearing to prevent manifest injustice.~~

(Ref: Rule 4:13, Rules of Virginia Supreme Court.)

~~Q. Disposition of discovery material. Any discovery material not admitted in evidence filed in the secretary's office may be destroyed by the secretary after one year after entry of the final order or decision. But if the proceeding is the subject of an appeal, such material shall not be destroyed until the lapse of one year after receipt of the decision or mandate on appeal or the entry of any final judgment or decree thereafter.~~

~~R. Interlocutory appeals to the board. If any party to a proceeding under 3 VAC 5-10-360 et seq. is aggrieved by a decision or order of the hearing officer(s) relating to discovery or other matters contained in this section, such aggrieved party may appeal such interlocutory decision or order to the board pursuant to 3 VAC 5-10-240.~~

(Ref: Rule 4:14, Rules of Virginia Supreme Court.)

3 VAC 5-10-480. Public participation guidelines in regulation development; applicability; initiation of rulemaking; rulemaking procedures.

A. Applicability. These guidelines shall apply to all regulations subject to the Administrative Process Act ~~which~~ that are administered by the Department of Alcoholic Beverage Control, except as provided in subsection G of this section.

B. Initiation of rulemaking (Step 1). The board shall publish notice of the commencement or initiation of any rulemaking process. Rulemaking procedures may be initiated at any time by the board ~~but shall be initiated at least once each calendar year.~~ At the commencement of any rulemaking process, the board may invite proposals for regulations or regulation changes from any interested person or may limit the process to selected proposals. All initial proposals to be considered shall be in the form of a written petition for the adoption, amendment or repeal of any regulation. Petitions shall be filed with the board within any time limitation as may be specified by the board. A petition may be submitted at any time, by any person, but it shall be at the board's discretion to initiate rulemaking procedures as a result of such petition or petitions. All petitions shall be considered and responded to within 180 days. Each petition shall contain the following information, if available:

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1. Name of petitioner;
2. Petitioner's mailing address and telephone number;
3. General description of proposal, with recommendations for adoption, amendment or repeal of specific regulation(s);
4. Why is change needed? What problem is it meant to address?;
5. What is the anticipated effect of not making the change?;
6. Estimated costs or savings, or both, to regulated entities, the public, or others incurred by this change as compared to current regulations;
7. Who is affected by recommended change? How affected?;
8. Draft language; and
9. Supporting documents.

C. Notices - in general.

1. Mailing list. The secretary to the board ~~in conjunction with the deputy department director for regulation~~ shall prepare a general mailing list of those persons and organizations who have demonstrated an interest in specific regulations in the past through the filing of petitions, written comments or attendance at public hearings. The mailing list will be updated at least every two years, and a current copy will be on file in the office of the secretary to the board. Periodically, but not less than every two years, the board shall publish in the Virginia Register, in a newspaper published and of general circulation in the City of Richmond, and in such other newspapers in the Commonwealth as the board may determine, a request that any individual or organization interested in participating in the development of specific rules and regulations so notify the board. Any persons or organizations identified in this process will be placed on the general mailing list. Persons interested in the board's regulations may also register to receive notices through the Virginia Regulatory Town Hall.

2. Notice to listed persons. Each person on the general mailing list shall be sent, by U.S. mail or electronic mail using the agency mailing list feature of the Virginia Regulatory Town Hall, a copy of all notices pertaining to rulemaking for the board as are published in the Virginia Register. In lieu of such copy, the board may notify those on the mailing list of the publication of the notice and, if lengthy, offer to forward a copy upon payment of reasonable costs for copying and mailing.

D. Initial requirement for public comment; participation in regulation development; ad hoc panels; public meetings (Step 2).

1. Notice of Intended Regulatory Action. The board shall solicit comments, data, views and argument from the public as to each regulation proposal and shall encourage

participation of interested persons in the development of regulations and draft language. As to each petition or proposal, the board shall publish a Notice of Intended Regulatory Action. The notice shall specify the date, time and place of any public meeting to consider the proposals, either with or without an ad hoc advisory panel, or with or without consultation with groups and individuals who have expressed an interest in participating in the development of specific rules and regulations and shall contain the following information:

- a. Subject of the proposed action;
- b. Identification of the entities that will be affected;
- c. Discussion of the purpose of the proposed action and the issues involved;
- d. Listing of applicable laws or regulations;
- e. Name of individual, group or entity proposing regulation;
- f. Request for comments, data, views or argument from interested parties, either orally or in writing, to the board or its specially designated subordinate;
- g. Notification of date, time and place of any scheduled public meeting on the proposal; and
- h. Name, address and telephone number of staff person to be contacted for further information.

2. The board shall disseminate the Notice of Intended Regulatory Action to the public via:

- a. Publication in The Virginia Register of Regulations;
- b. Distribution by mail or electronic mail to persons on the general mailing list pursuant to subsection C of this section; ~~and~~
- c. Press release to media throughout the Commonwealth if a public meeting is scheduled; and
- d. Posting on the Virginia Regulatory Town Hall.

3. The board may form an ad hoc advisory panel or consult with groups and individuals who have expressed an interest in participating in the development of specific rules and regulations to consider regulation proposals, to make recommendations, assist in development of draft language, and provide such advice as the board may request. The board may request the panel or interested groups and individuals to participate in a meeting to develop or consider regulation proposals.

The board's use of ad hoc advisory panels or consultation with interested groups and individuals shall be based on, but not limited to, the following criteria: The proposed regulation's:

- a. Complexity;

- b. Controversy;
- c. Degree of substantive change;
- d. Impact on the board, its licensees, and the public; or
- e. Enactment required by state or federal mandate.

4. The board may conduct a regulation development public meeting to receive views and comments and answer questions of the public.

E. Notice of public hearing and publication of proposals pursuant to ~~§ 9-6.14:7.1~~ § 2.2-4007 of the Virginia Administrative Process Act (Step 3).

1. The board shall consider the comments, recommendations, reports and other input from the public, industry and other interested persons received during the initial steps of public participation in the regulation development process, including comments, views, data and argument received during any public meeting, before publishing a final proposed draft regulation and initiating the proceedings required by the Administrative Process Act.

2. The board shall comply with the notice, publication and other requirements of ~~§ 9-6.14:7.1~~ § 2.2-4007 of the Code of Virginia, and final proposed drafts to adopt, amend or repeal regulations, together with any other required statements, shall be published in the Virginia Register, in a newspaper published and of general circulation in the City of Richmond, ~~and~~ in such other newspapers in the Commonwealth as the board may determine, and on the Virginia Regulatory Town Hall. In addition, the board shall comply with the provisions of subdivision C 2 of this section. Such notice shall solicit comments, views, data and argument from the public and shall specify the date, time and place of any scheduled public hearing to consider adoption of such regulation proposals.

F. Public hearing (Step 4). The board shall conduct a public hearing to consider adoption of all proposed regulations. At such hearing, the board may receive and consider such additional written and verbal comment as it deems appropriate prior to any final vote.

G. Notwithstanding the foregoing provisions, the board may elect to dispense with any required public participation or other required procedure to the extent authorized by the Virginia Administrative Process Act, ~~§ 9-6.14:1~~ (§ 2.2-4000 et seq. of the Code of Virginia).

DOCUMENTS INCORPORATED BY REFERENCE

Rules of the Supreme Court of Virginia, Part Four: Pretrial Procedures, Depositions and Production at Trial.

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~~Waiver of Informal Conference.~~

~~Informal Conference Disposition.~~

~~Notice of Informal Conference/Hearing Before Hearing Officer (eff. 2/4/94).~~

VA.R. Doc. No. R07-154; Filed February 14, 2007, 11:07 a.m.

Fast-Track Regulation

Title of Regulation: **3 VAC 5-40. Requirements for Product Approval (amending 3 VAC 5-40-20 and 3 VAC 5-40-50).**

Statutory Authority: §§ 4.1-103 and 4.1-111 of the Code of Virginia.

Public Hearing Date: N/A -- Public comments may be submitted until 5 p.m. on May 4, 2007.

(See Calendar of Events section for additional information)

Effective Date: May 19, 2007.

Agency Contact: W. Curtis Coleburn III, Chief Operating Officer, Department of Alcoholic Beverage Control, 2901 Hermitage Road, Richmond, VA 23220, telephone (804) 213-4409, FAX (804) 213-4411, or email curtis.coleburn@abc.virginia.gov.

Basis: Subdivision 9 of § 4.1-103 of the Code of Virginia authorizes the Alcoholic Beverage Control Board to "determine the nature, form and capacity of all containers used for holding alcoholic beverages to be kept or sold under this title, and prescribe the form and content of all labels and seals to be placed thereon." Section 4.1-111 authorizes the board to promulgate reasonable regulations that it deems necessary to carry out the provisions of Title 4.1 of the Code of Virginia.

Purpose: This action is intended to revise the Alcoholic Beverage Control Board's regulations governing the approval of new alcoholic beverages to be sold in the Commonwealth in order to clarify and simplify the process and eliminate obsolete provisions.

The goals of this regulation are:

1. To determine the nature, form and capacity of all containers used for holding alcoholic beverages and prescribe the form and content of all labels and seals to be placed thereon.
2. To protect consumers of alcoholic beverages from misleading information concerning the identity or contents of alcoholic beverage products sold in the Commonwealth.

The amendments protect the health, safety, or welfare of citizens by maintaining reasonable controls on alcoholic beverage products offered for sale to Virginia consumers,

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while allowing industry members the ability to efficiently get their lawful products to market.

Rationale for Using Fast-Track Process: The proposed changes do not involve any material change in policy or procedure. They merely remove unnecessary label restrictions and create a method to ensure that new products can get to market in a timely fashion.

Substance: Subdivisions B 1, B 3, C 2, C 3, and C 7 of 3 VAC 5-40-20, which place limits on the content of wine labels, are repealed, and a new provision allowing the sale of any wine that has received federal approval unless the department objects within 30 days of receipt of an application for product registration is added.

Subdivisions D 9 and D 10 of 3 VAC 5-40-50, which place limits on the content of beer labels, are repealed and a new provision allowing the sale of any beer that has received federal approval unless the department objects within 30 days of receipt of an application for product registration is added.

Issues: The primary advantages associated with the proposal are the removal of unnecessary restrictions on beer and wine labels and guaranteeing that new wine and beer products may enter the market within 30 days of submission of an application for new product approval. These provisions will benefit alcoholic beverage manufacturers, wholesalers, and retailers, as well as the consuming public. There are no disadvantages to the public, the agency, or the Commonwealth.

Department of Planning and Budget's Economic Impact Analysis:

Summary of the Proposed Regulation. The Alcoholic Beverage Control Board (ABC) proposes to make several amendments to its requirements for product approval. ABC proposes to eliminate several restrictions on the content of beer and wine labels that are either obsolete or duplicative of other state or federal regulations. ABC also proposes to provisionally allow the sale of new beer and wine products 30 days after an application for approval has been filed with the agency, whether or not that application has been acted on.

Result of Analysis. The benefits likely exceed the costs for these proposed regulatory changes.

Estimated Economic Impact. Current regulation prohibits ABC from approving for sale:

- Imitation or substandard wine.
- Wine cocktails that include any ingredient other than wine.
- Wine labeled with the name of a state (named after a state) if the contents of that wine do not conform to the wine standards of the named state.

- Wine with a label that contains any reference to any game of chance.
- Beer labeled in a manner that implies product endorsement by any prominent living person.
- Beer with a label that make any humorous or frivolous reference to any intoxicating drink.

The proposed regulation will eliminate all of these restrictions because, in the case of imitation or substandard wine and wine cocktails, flavoring of wine is now permitted. For all other eliminated restrictions, other sections of either state or federal regulation adequately protect the public against these types of labeling. These proposed regulatory changes will benefit wine manufacturers and importers because this regulation will now conform to current wine additive practices.

Current regulation requires that new wine and beer products not be sold in the Commonwealth until ABC has approved the application for permission to sell these products. Since there is very often a backlog of these applications, manufacturers and importers must frequently delay selling new products for months. Since the vast majority of new products are eventually approved for sale and the products that are disapproved (for labels that contain obscenities or other prohibited language) only threaten consumers' sensibilities and not their health, ABC proposes to allow all new products with pending applications to be sold after 30 days whether or not the board has acted on their applications. If the board does eventually disapprove any product's application, the manufacturer or importer of that product would have to then suspend sales. Wholesalers and retail establishments would be allowed to continue selling the disapproved products until their stock is gone. This proposed change will benefit manufacturers and importers by allowing them to get new products to market more quickly. This change will potentially benefit the public by increasing the choices available to them.

Businesses and Entities Affected. These proposed regulatory changes will generally affect all of the approximately 14,000 establishments that are licensed by ABC and will particularly affect the approximately 550 wine and beer manufacturers and importers who must apply to ABC for product approval.

Localities Particularly Affected. These proposed regulatory changes will affect all localities in the Commonwealth.

Projected Impact on Employment. These proposed regulatory changes will likely have no measurable effect on employment in the Commonwealth.

Effects on the Use and Value of Private Property. Wine and beer manufacturers and importers may see some small decrease in storage and other costs associated with warehousing new products (until they can be shipped to wholesalers or retail establishments) as they will no longer

have to wait longer than 30 days from the time they apply to ABC for product approval. This decreased cost will likely mean slightly increased profits for these businesses.

Small Businesses: Costs and Other Effects. ABC estimates that at least 95% of their approximately 14,000 licensees are small businesses. These businesses are unlikely to incur any new costs on account of the proposed regulation.

Small Businesses: Alternative Method that Minimizes Adverse Impact. ABC estimates that at least 95% of their approximately 14,000 licensees are small businesses. These businesses are unlikely to incur any new costs on account of the proposed regulation.

Legal Mandate. 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. Further, if the proposed regulation has an adverse effect on small businesses, § 2.2-4007 H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Alcoholic Beverage Control Board concurs with the economic impact analysis of the Department of Planning and Budget.

Summary:

The proposed amendments eliminate several existing restrictions on the content of wine and beer labels. These restrictions are either obsolete or unnecessary because of other state or federal regulations covering the same subject matter. In addition, new provisions allow the sale of wine or beer for which approval has been applied, if the board fails to approve or disapprove within 30 days of receipt of the application.

3 VAC 5-40-20. Wines; qualifying procedures; disqualifying factors; samples; exceptions.

A. ~~All~~ Except as provided in subsection F of this section, all wines sold in the Commonwealth shall be first approved by the board as to content, container and label.

1. An application acceptable to the board or on a form prescribed by the board describing the merchandise shall be submitted for each new brand and type of wine offered for sale in the Commonwealth. A registration fee in such amounts as may be established by the board shall be included with each application.
2. All wine sold in this Commonwealth shall conform with regulations adopted by the appropriate federal agency, relating to labels, definitions and standards of identity. Applicants shall submit a certified copy of the approval of the label by such federal agency.

B. While not limited thereto, the board shall withhold approval of any wine:

- ~~1. Which is an imitation or substandard wine as defined under regulations of the appropriate federal agency;~~
- ~~2. If if the alcoholic content exceeds 21% by volume;~~
- ~~3. Which is a wine cocktail containing any ingredient other than wine.~~

C. While not limited thereto, the board may withhold approval of any label:

1. Which implies or indicates that the product contains spirits;
- ~~2. Where the name of a state is used as a designation of the type of wine, but the contents do not conform to the wine standards of that state;~~
- ~~3. Which contains the word "cocktail" without being used in immediate conjunction with the word "wine" in letters of the same dimensions and characteristics, except labels for sherry wine;~~
4. 2. Which contains the word "fortified" or implies that the contents contain spirits, except that the composition and alcoholic content may be shown if required by regulations of an appropriate federal agency;
- ~~5. 3.~~ Which contains any subject matter or illustration of a lewd, obscene or indecent nature;
- ~~6. 4.~~ Which contains subject matter designed to induce minors to drink, or is suggestive of the intoxicating effect of wine;
- ~~7. Which contains any reference to a game of chance;~~
- ~~8. 5.~~ Which contains any design or statement which is likely to mislead the consumer.

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D. A person holding a license as a winery, farm winery or a wine wholesaler shall upon request furnish the board without compensation a reasonable quantity of such brand sold by him for chemical analysis.

E. Any wine whose content, label or container does not comply with all requirements of this section shall be exempt therefrom provided that such wine was sold at retail in this Commonwealth as of December 1, 1960, and remains the same in content, label and container. Any wine sold only by direct shipment to consumers by holders of wine shippers' licenses shall be approved upon compliance with subdivision A 2 of this section.

F. If the board has not approved a wine for sale within 30 days after receipt by the board of a complete application and registration fee, the wine may be sold in the Commonwealth pending a decision from the board on the application. If the application for approval is rejected, the manufacturer or importer shall discontinue sales of the rejected product upon notice from the board. Any wholesale or retail licensee may continue sales until any inventory on hand at the time of notice from the board is depleted.

3 VAC 5-40-50. Beer; qualifying procedures; samples; exceptions; disqualifying label factors.

A. ~~Beer~~ Except as provided in subsection E of this section, beer sold in the Commonwealth shall be first approved by the board as to content, container and label.

1. An application acceptable to the board or on a form prescribed by the board describing the merchandise shall be submitted for each new brand and type of beer offered for sale in the Commonwealth. A registration fee in such amounts as may be established by the board shall be included with each application.

2. All beer sold in the Commonwealth shall conform with regulations adopted by the appropriate federal agency, relating to labels, definitions and standards of identity. Applicants shall submit a certified copy of the approval of the label by such federal agency.

B. A brewery licensee or a wholesale beer licensee shall upon request furnish the board without compensation a reasonable quantity of each brand of beer sold by him for chemical analysis.

C. Any beer whose contents, label or container does not comply with all requirements of this section shall be exempt therefrom provided that such beer was sold at retail in this Commonwealth as of December 1, 1960, and remains the same in content, label and container. Any beer sold only by direct shipment to consumers by holders of beer shippers' licenses shall be approved upon compliance with subdivision A 2 of this section.

D. While not limited thereto, the board may withhold approval of any label which contains any statement, depiction or reference that:

1. Implies or indicates that the product contains wine or spirits;
2. Implies the product contains above average alcohol for beer;
3. Is suggestive of intoxicating effects;
4. Would tend to induce minors to drink;
5. Would tend to induce persons to consume to excess;
6. Is obscene, lewd or indecent;
7. Implies or indicates that the product is government (federal, state or local) endorsed;
8. Implies the product enhances athletic prowess or implies such by any reference to any athlete, former athlete or athletic team except that references to athletes or athletic teams shall be allowed to the extent such references are permitted in point-of-sale advertising pursuant to 3 VAC 5-20-10~~;~~
- ~~9. Implies endorsement of the product by any prominent living person;~~
- ~~10. Makes any humorous or frivolous reference to any intoxicating drink.~~

E. If the board has not approved a beer for sale within 30 days after receipt by the board of a complete application and registration fee, the beer may be sold in the Commonwealth pending a decision from the board on the application. If the application for approval is rejected, the manufacturer or importer shall discontinue sales of the rejected product upon notice from the board. Any wholesale or retail licensee may continue sales until any inventory on hand at the time of notice from the board is depleted.

NOTICE: The forms used in administering 3 VAC 5-40, Requirements for Product Approval, are not being published; however, the name of each form is listed below. The forms are available for public inspection at the Department of Alcoholic Beverage Control, 2901 Hermitage Road, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

FORMS

~~Permit for Release of Alcoholic Beverages Not Under Customs or Internal Revenue Bond, #701-102 (eff. 1/92).~~

Order and Permit for Transportation of Alcohol, #703-69 (eff. 11/87).

Order and Permit for Transportation of Alcoholic Beverages, #703-73.

~~Mixed Beverage Annual Review, #805-43 (eff. 5/92).~~

Mixed Beverage Annual Review-Instructions for Completion, #805-44 (rev. 11/06).

Application for Off Premises Keg Permit, #805-45 (eff. 1/93) (rev. 07/98).

Application for License, #805-52 (rev. 06/04).

Application for Grain Alcohol Permit, #805-75.

~~Mixed Beverage Annual Review, #805-77.~~

Special Event License Application Addendum—Notice to Special Event Licenses Applicants, Form SE-1 (rev. 11/01) (rev. 08/02).

Statement of Income & Expenses for Special Event Licenses (with instructions), Form SE-2 (rev. 11/01) (rev. 08/02).

V.A.R. Doc. No. R07-151; Filed February 14, 2007, 11:06 a.m.

Fast-Track Regulation

Title of Regulation: 3 VAC 5-60. Manufacturers and Wholesalers Operations (amending 3 VAC 5-60-20, 3 VAC 5-60-40 and 3 VAC 5-60-80; adding 3 VAC 5-60-100).

Statutory Authority: §§ 4.1-103 and 4.1-111 of the Code of Virginia.

Public Hearing Date: N/A -- Public comments may be submitted until 5 p.m. on May 4, 2007.

(See Calendar of Events section for additional information)

Effective Date: May 19, 2007.

Agency Contact: W. Curtis Coleburn III, Chief Operating Officer, Department of Alcoholic Beverage Control, 2901 Hermitage Road, Richmond, VA 23220, telephone (804) 213-4409, FAX (804) 213-4411, or email curtis.coleburn@abc.virginia.gov.

Basis: Title 4.1 of the Code of Virginia gives the Alcoholic Beverage Control Board general authority to regulate the manufacture, distribution and sale of alcoholic beverages within the Commonwealth, including the authority to promulgate regulations that it deems necessary to carry out the provisions of Title 4.1 in accordance with the Administrative Process Act. The code mandates that the board promulgate regulations, but details are left to the board's discretion.

Subdivision 13 of § 4.1-103 of the Code of Virginia authorizes the board to promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and § 4.1-111 of the Code of Virginia.

Section 4.1-111 of the Code of Virginia authorizes the board to promulgate reasonable regulations, not inconsistent with

Title 4.1 of the Code of Virginia or the general laws of the Commonwealth, which it deems necessary to carry out the provisions of Title 4.1 and to prevent the illegal manufacture, bottling, sale, distribution and transportation of alcoholic beverages.

Purpose: This action is intended to revise the Alcoholic Beverage Control Board's regulations governing manufacturers' and wholesalers' operations to simplify sales report filing requirements, increase the amount of the indemnifying bond required of wholesale wine licensees from \$1,000 to \$2,500, revise rules for giving away novelty and specialty items bearing spirits advertising, and provide a process for industry members to seek permission to employ persons with certain criminal convictions.

The goals of this regulation are:

1. To maintain reasonable controls on the sales and promotion of alcoholic beverages in the Commonwealth by wholesalers and manufacturers through a permit procedure for solicitor salesmen and mixed beverage solicitors; and
2. To require manufacturer and wholesale licensees of the board to maintain sufficient records of purchases and sales of alcoholic beverages to ensure regulatory compliance and excise tax collection without unreasonable burden.

These amendments protect the health, safety, or welfare of citizens by providing greater protection to wine tax revenues and by maintaining reasonable restrictions on alcoholic beverage promotion, while allowing industry members additional ability to market their products.

Rationale for Using Fast-Track Process: The proposed changes simplify reporting for wine wholesalers. The bond increase has a minimal impact. The remaining provisions are mandated by recent statutory amendments.

Substance: Subdivisions B 1, B 2, and B 3 of 3 VAC 5-60-20 are amended to allow wholesale wine licensees to submit reports in lieu of actual copies of purchase orders and invoices. 3 VAC 5-60-40 is amended to increase the penalty of the indemnifying bond required of wine wholesalers from the current \$1,000 to \$2,500. 3 VAC 5-60-80 D 1 is amended to track language included in a bill recently enacted on the quantity of novelty and specialty items that may be given by a mixed beverage solicitor to a retailer and to allow their display on the licensed premises. 3 VAC 5-60-100 is added to provide a process for manufacturers, wholesalers, or importers to seek permission to employ persons with criminal convictions.

Issues: This proposal has advantages for wine wholesalers, who will be able to file reports in lieu of submission of actual copies of purchase orders and invoices. Wholesalers can process hundreds of purchases and sales each week, and compiling and submitting copies of each paper representing the transactions is labor-intensive. The information contained

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on the documents is captured by most wholesaler's accounting systems, so preparing and filing a report is less of a burden. The primary disadvantage is the increased cost of a higher bond for wine wholesalers, although the amount of the bond is so low that it will be within the range of the minimum premium for a number of bonding companies, resulting in no additional cost for the wholesaler.

The primary advantage to the Commonwealth is added security in its tax collections through the increased bond requirement for wholesalers who collect and remit the wine liter tax.

The action poses no disadvantages to the public or the Commonwealth.

Department of Planning and Budget's Economic Impact Analysis:

Summary of the Proposed Regulation. The Alcoholic Beverage Control Board (ABC) proposes to make several amendments to its manufacturers and wholesalers operations regulation. ABC proposes to:

- Specify a process by which board licensees may request approval for hiring individuals with criminal records.
- Allow wine wholesalers to fill out a weekly report (in board-approved format) of all wine purchased during the previous week in lieu of submitting copies of all purchase orders.
- Allow wine wholesalers to fill out a weekly report (in board-approved format) of all non-taxed or out-of-state wine sales during the previous week in lieu of submitting copies of all invoices.
- Increase bond penalties from \$1,000 to \$2,500 in cases where wine wholesalers have failed to remit wine taxes owed to the Commonwealth.
- Allow retail establishments to display t-shirts and other novelty or specialty items that advertise alcoholic beverages.

Result of Analysis. The benefits likely exceed the costs for these proposed regulatory changes.

Estimated Economic Impact. Currently the Code of Virginia allows ABC to suspend the license of any licensee who knowingly hires any individual convicted of a felony, a misdemeanor that involves moral turpitude or a misdemeanor violation of any alcohol control law. ABC does have internal guidelines for when such a suspension is appropriate but licensees have not had a means to determine whether any individual hire of someone with a criminal background had the potential to get their license suspended. This proposed regulation includes a provision that will allow licensees to apply for approval by the board before hiring an individual

with a criminal conviction when that conviction might be grounds for license suspension. This regulatory change will give the same procedural rights to licensees and potential employees as are afforded licensees when they are charged with violations of the Beer and Wine Franchise Acts. This means that licensees and potential employees will have the right to be represented by council and may call witnesses and present evidence.

This regulatory change will benefit licensee employers in that they will no longer have to choose between not hiring the employees they would prefer to hire and hiring those employees knowing that their license might be at risk. These employers may also see employment costs decrease by a small amount if this change widens the pool of individuals from which they may hire. Individuals who have criminal histories and want to work for businesses licensed by ABC will benefit because they likely stand a greater chance of being hired after promulgation of procedures that will protect licensee employers from possible repercussions of their hiring decisions. ABC will likely incur extra costs associated with the application and approval process being promulgated.

Current regulation requires that wine wholesalers submit copies to ABC of all purchase orders and invoices for non-taxed and out-of-state sales. The board proposes to allow wine wholesalers the option of sending in weekly reports that list all purchases (and non-taxed or out-of-state sales) from the previous week. This option will benefit wine wholesalers in that they will be able to submit required information in the manner that is individually most cost effective.

Currently, all new wine wholesalers must secure a \$1,000 indemnifying bond from a surety company that is authorized to do business in the Commonwealth before they can be licensed by ABC. This bond will be forfeited if the wine wholesaler fails to remit wine taxes that are owed to the Commonwealth. Wine wholesalers who have been licensed may submit a written request to ABC asking that this bond be waived. So long as the requesting entities have a record of paying their taxes in a timely fashion, ABC will not require that they continue to pay to be bonded. The board proposes to increase the value of the indemnifying bond that must be secured to \$2,500 because \$1,000 will not, in most cases, cover the taxes owed by delinquent wine wholesalers. ABC reports that this increase in bond will increase wine wholesaler costs by only a very small amount because the price differential between a \$1,000 bond and a \$2,500 bond is negligible.

Current regulation restricts retail establishments from on-premises display of advertising novelty or specialty items (t-shirts, mugs, etc) given to them by spirits wholesalers. The board proposes to eliminate this restriction because they believe display of such items does not endanger the public.

Businesses and Entities Affected. These proposed regulatory changes will generally affect all of the approximately 14,000

establishments that are licensed by ABC and will particularly affect the portion of that 14,000 that are wine wholesalers.

Localities Particularly Affected. These proposed regulatory changes will affect all localities in the Commonwealth.

Projected Impact on Employment. These proposed regulatory changes may affect who is employed for various jobs at licensed establishments; for instance, more individuals with criminal histories may be hired by licensees. There will likely be no measurable change in total employment in the Commonwealth, however, on account of this proposed regulation.

Effects on the Use and Value of Private Property. These proposed regulatory changes will likely have no measurable effect on the use or value of private property in the Commonwealth.

Small Businesses: Costs and Other Effects. ABC estimates that at least 95% of their approximately 14,000 licensees are small businesses. The portion of this population that consists of wine wholesalers will experience a negligible increase in costs on account of increased bond requirements.

Small Businesses: Alternative Method that Minimizes Adverse Impact. There are likely no alternative methods that would accomplish the same ends as the proposed regulation for less cost to the regulated community.

Legal Mandate. 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. Further, if the proposed regulation has an adverse effect on small businesses, § 2.2-4007 H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Alcoholic Beverage Control Board concurs with the economic impact analysis of the Department of Planning and Budget.

Summary:

The proposed amendments (i) allow reports of purchases and sales by wine wholesalers in lieu of the submission of actual copies of certain purchase orders and invoices currently required to be submitted to the board; (ii) increase the penalty of the indemnifying bond required of wine wholesalers from \$1,000 to \$2,500; (iii) modify language to conform to a statute enacted by the 2006 Session of the General Assembly; (iv) allow the display on licensed retail premises of advertising specialty items provided by solicitors for distilled spirits manufacturers; and (v) provide a process for manufacturers, wholesalers, or importers to seek approval from the board for the employment of persons with certain criminal convictions.

3 VAC 5-60-20. Wines; purchase orders generally; wholesale wine licensees.

A. Purchases of wine between the board, licensees or persons outside the Commonwealth shall be executed only on order forms prescribed by the board and provided at cost if supplied by the department.

B. Wholesale wine licensees shall comply with the following procedures:

1. Purchase orders. A copy of each purchase order for wine and a copy of any change in such order shall be forwarded to the board by the wholesale wine licensee at the time the order is placed or changed. Upon receipt of shipment, one copy of such purchase order shall be forwarded to the board by the licensee reflecting accurately the date received and any changes. In lieu of forwarding copies of purchase orders to the board, a wholesale licensee may submit a report to the board weekly, in a format approved by the board, of all purchase orders for the previous week. The report covering the last week of any calendar month must be submitted to the board on or before the 5th day of the succeeding month.

2. Sales in the Commonwealth. Separate invoices shall be used for all nontaxed wine sales in the Commonwealth and a copy of each such invoice shall be furnished to the board upon completion of the sale. In lieu of forwarding copies of invoices to the board, a wholesale licensee may submit a report to the board weekly, in a format approved by the board, of all invoices for the previous week. The report covering the last week of any calendar month must be submitted to the board on or before the 5th day of the succeeding month.

3. Out-of-state sales. Separate sales invoices shall be used for wine sold outside the Commonwealth and a copy of

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each such invoice shall be furnished to the board upon completion of the sale. In lieu of forwarding copies of invoices to the board, a wholesale licensee may submit a report to the board weekly, in a format approved by the board, of all invoices for the previous week. The report covering the last week of any calendar month must be submitted to the board on or before the 5th day of the succeeding month.

4. Peddling. Wine shall not be peddled to retail licensees.

5. Repossession. Repossession of wine sold to a retailer shall be accomplished on forms prescribed by the board and provided at cost if supplied by the board, and in compliance with the instructions on the forms.

6. Reports to the board. Each month wholesale wine licensees shall, on forms prescribed by the board and in accordance with the instructions set forth therein, report to the board the purchases and sales made during the preceding month, and the amount of state wine tax collected from retailers pursuant to §§ 4.1-234 and 4.1-235 of the Code of Virginia. Each wholesale wine licensee shall on forms prescribed by the board on a quarterly basis indicate the quantity of wine on hand at the close of business on the last day of the last month of the preceding quarter based on actual physical inventory by brands. Reports shall be accompanied by remittance for the amount of taxes collected, less any refunds, replacements or adjustments and shall be postmarked no later than the fifteenth of the month, or if the fifteenth is not a business day, the next business day thereafter.

3 VAC 5-60-40. Indemnifying bond required of wholesale wine licenses.

No wholesale wine license shall be issued unless there shall be on file with the board an indemnifying bond running to the Commonwealth in the penalty of ~~\$1,000~~ \$2,500, with the licensee as principal and some good and responsible surety company authorized to transact business in the Commonwealth as surety, conditioned upon the faithful compliance with requirements of Title 4.1 of the Code of Virginia and the regulations of the board.

A wholesale wine licensee may request in writing a waiver of the surety and the bond by the board. If the waiver is granted, the board may withdraw such waiver of surety and bond at any time for good cause.

3 VAC 5-60-80. Solicitation of mixed beverage licensees by representatives of manufacturers, etc., of spirits.

A. Generally. This section applies to the solicitation, directly or indirectly, of a mixed beverage licensee to sell or offer for sale spirits. Solicitation of a mixed beverage licensee for such purpose other than by a permittee of the board and in the manner authorized by this section shall be prohibited.

B. Permits.

1. No person shall solicit a mixed beverage licensee unless he has been issued a permit. To obtain a permit, a person shall:

a. Register with the board by filing an application on such forms as prescribed by the board;

b. Pay in advance a fee of \$300, which is subject to proration on a quarterly basis, pursuant to § 4.1-230 E of the Code of Virginia;

c. Submit with the application a letter of authorization from the manufacturer, brand owner or its duly designated United States agent, of each specific brand or brands of spirits which the permittee is authorized to represent on behalf of the manufacturer or brand owner in the Commonwealth; and

d. Be an individual at least 21 years of age.

2. Each permit shall expire yearly on June 30, unless sooner suspended or revoked by the board.

3. A permit hereunder shall authorize the permittee to solicit or promote only the brand or brands of spirits for which the permittee has been issued written authorization to represent on behalf of the manufacturer, brand owner, or its duly designated United States agent and provided that a letter of authorization from the manufacturer or brand owner to the permittee specifying the brand or brands he is authorized to represent shall be on file with the board. Until written authorization or a letter of authorization, in a form authorized by the board, is received and filed with the board for a particular brand or brands of spirits, there shall be no solicitation or promotion of such product by the permittee. Further, no amendment, withdrawal or revocation, in whole or in part, of a letter of authorization on file with the board shall be effective as against the board until written notice thereof is received and filed with the board; and, until the board receives notice thereof, the permittee shall be deemed to be the authorized representative of the manufacturer or brand owner for the brand or brands specified on the most current authorization on file with the board.

C. Records. A permittee shall keep complete and accurate records of his solicitation of any mixed beverage licensee for a period of two years, reflecting all expenses incurred by him in connection with the solicitation of the sale of his employer's products and shall, upon request, furnish the board with a copy of such records.

D. Permitted activities. Solicitation by a permittee shall be limited to his authorized brand or brands, may include contact, meetings with, or programs for the benefit of mixed beverage licensees and employees thereof on the licensed premises, and in conjunction with solicitation, a permittee may:

1. Distribute directly or indirectly written educational material (one item per retailer and one item per employee, per visit) which may not be displayed on the licensed premises; distribute novelty and specialty items bearing spirits advertising not in excess of \$10 in wholesale value ~~(one item per retailer and one item per employee, per visit in quantities equal to the number of employees of the retail establishment present at the time the items are delivered) which may not be displayed on the licensed premises;~~ and provide film or video presentations of spirits which are essentially educational to licensees and their employees only, and not for display or viewing by customers;

2. Provide to a mixed beverage licensee sample servings from containers of spirits and furnish one, unopened, 50 milliliter sample container of each brand being promoted by the permittee and not sold by the licensee; such containers and sample containers shall be purchased at a government store and bear the permittee's permit number and the word "sample" in reasonable sized lettering on the container or sample container label; further, the spirits container shall remain the property of the permittee and may not be left with the licensee and any 50 milliliter sample containers left with the licensee shall not be sold by the licensee;

3. Promote their authorized brands of spirits at conventions, trade association meetings, or similar gatherings of organizations, a majority of whose membership consists of mixed beverage licensees or spirits representatives for the benefit of their members and guests, and shall be limited as follows:

- a. To sample servings from containers of spirits purchased from government stores when the spirits donated are intended for consumption during the gathering;
- b. To displays of spirits in closed containers bearing the word "sample" in lettering of reasonable size and informational signs provided such merchandise is not sold or given away except as permitted in this section;
- c. To distribution of informational brochures, pamphlets and the like, relating to spirits;
- d. To distribution of novelty and specialty items bearing spirits advertising not in excess of \$10 in wholesale value; and
- e. To film or video presentations of spirits which are essentially educational;

4. Provide or offer to provide point-of-sale advertising material to licensees as provided in 3 VAC 5-20-20.

E. Prohibited activities. A permittee shall not:

1. Sell spirits to any licensee, solicit or receive orders for spirits from any licensee, provide or offer to provide cash

discounts or cash rebates to any licensee, or to negotiate any contract or contract terms for the sale of spirits with a licensee;

2. Discount or offer to discount any merchandise or other alcoholic beverages as an inducement to sell or offer to sell spirits to licensees;

3. Provide or offer to provide gifts, entertainment or other forms of gratuity to licensees except that a permittee may provide a licensee "routine business entertainment," as defined in 3 VAC 5-30-70, subject to the same conditions and limitations that apply to wholesalers and manufacturers under that section;

4. Provide or offer to provide any equipment, furniture, fixtures, property or other thing of value to licensees except as permitted by this regulation;

5. Purchase or deliver spirits or other alcoholic beverages for or to licensees or provide any services as inducements to licensees, except that this provision shall not preclude the sale or delivery of wine or beer by a licensed wholesaler;

6. Be employed directly or indirectly in the manufacturing, bottling, importing or wholesaling of spirits and simultaneously be employed by a retail licensee;

7. Solicit licensees on any premises other than on their licensed premises or at conventions, trade association meetings or similar gatherings as permitted in subdivision D 3 of this section;

8. Solicit or promote any brand or brands of spirits without having on file with the board a letter from the manufacturer or brand owner authorizing the permittee to represent such brand or brands in the Commonwealth; or

9. Engage in solicitation of spirits other than as authorized by law.

F. Refusal, suspension or revocation of permits.

1. The board may refuse, suspend or revoke a permit if it shall have reasonable cause to believe that any cause exists which would justify the board in refusing to issue such person a license, or that such person has violated any provision of this section or committed any other act that would justify the board in suspending or revoking a license.

2. Before refusing, suspending or revoking such permit, the board shall follow the same administrative procedures accorded an applicant or licensee under Title 4.1 of the Code of Virginia and regulations of the board.

3 VAC 5-60-100. Employees of manufacturers and wholesalers.

If a person licensed as a manufacturer, importer, or wholesaler of alcoholic beverages wishes to employ a person

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who has committed an act that would justify the board in suspending or revoking a license under subdivision 1 i of § 4.1-225 of the Code of Virginia, the licensee may apply to the board for approval of such employment. The board will cause the Bureau of Law Enforcement Operations to conduct an investigation into the suitability of the person for employment and recommend approval or disapproval. Before disapproving the employment of a person, the board shall accord him the same notice and opportunity to be heard and follow the same administrative procedures accorded a licensee cited for a violation of Title 4.1 of the Code of Virginia.

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Fast-Track Regulation

Title of Regulation: 3 VAC 5-70. Other Provisions (amending 3 VAC 5-70-100, 3 VAC 5-70-150 and 3 VAC 5-70-160; adding 3 VAC 5-70-230).

Statutory Authority: §§ 4.1-103 and 4.1-111 of the Code of Virginia.

Public Hearing Date: N/A -- Public comments may be submitted until 5 p.m. on May 4, 2007.

(See Calendar of Events section for additional information)

Effective Date: May 19, 2007.

Agency Contact: W. Curtis Coleburn III, Chief Operating Officer, Department of Alcoholic Beverage Control, 2901 Hermitage Road, Richmond, VA 23220, telephone (804) 213-4409, FAX (804) 213-4411, or email curtis.coleburn@abc.virginia.gov.

Basis: Title 4.1 of the Code of Virginia gives the Alcoholic Beverage Control Board general authority to regulate the manufacture, distribution and sale of alcoholic beverages within the Commonwealth, including the authority to promulgate regulations that it deems necessary to carry out the provisions of Title 4.1 in accordance with the Administrative Process Act. Sections 4.1-103 and 4.1-111 mandate that the board promulgate regulations, but details are left to the board's discretion.

Subdivision 13 of § 4.1-103 of the Code of Virginia authorizes the board to promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and § 4.1-111 of the Code of Virginia.

Section 4.1-111 of the Code of Virginia authorizes the board to promulgate reasonable regulations, not inconsistent with Title 4.1 of the Code of Virginia or the general laws of the Commonwealth, which it deems necessary to carry out the provisions of Title 4.1 and to prevent the illegal manufacture, bottling, sale, distribution and transportation of alcoholic beverages.

Purpose: This action is intended to revise several of the Alcoholic Beverage Control Board's provisions governing manufacturers and wholesalers of alcoholic beverages. The amended sections expand the ability of manufacturers and wholesalers to participate in tasting events at licensed premises as allowed by the 2006 Session of the General Assembly, remove an unnecessary price change reporting requirement for licensees serving as both importer and wholesaler of a product, and increase the number of remote retail locations available to farm wineries in accordance with a recent statutory change. A new section is added creating a procedure for sale by auction of designer or vintage spirits bottles.

The goals of this regulation are:

1. To maintain reasonable controls on the transportation, storage, and sale of alcoholic beverages in the Commonwealth through a permit procedure for transporting alcoholic beverages through the Commonwealth, sacramental wine, culinary uses, hospital, industrial or manufacturing uses, contract distilling, bonded and out of bond warehouse operations, sale of beer in kegs, and grain alcohol;
2. To require licensees of the board to maintain sufficient records of purchases and sales of alcoholic beverages to ensure regulatory compliance without unreasonable burden;
3. To provide a reasonable means for first-time violators of the board's regulations to avoid the expense of an administrative hearing by agreeing to accept a prescribed penalty; and
4. To provide guidance to licensees in situations not covered by other chapters.

The Alcoholic Beverage Control Board has determined that this action will allow industry members greater flexibility in the marketing and sale of their products, while ensuring that the health, safety, or welfare of citizens is protected through the maintenance of adequate controls on the transportation and sale of alcoholic beverages.

Rationale for Using Fast-Track Process: With one exception, these changes merely bring the board's regulations into conformance with mandates of the General Assembly. The changes to the price change reporting eliminate unnecessary reporting by licensees.

Substance: The Alcoholic Beverage Control Board intends to amend three sections of this regulation. 3 VAC 5-70-100 A is amended to allow gifts of alcoholic beverages at tasting events at the premises of retail licensees. Current provisions restrict this activity to wine and beer wholesalers and gourmet shop licensees. This action removes a conflict between current regulations and recent action of the General Assembly. 3 VAC 5-70-150 B is amended by the addition of language exempting licensees who are both the importer and

wholesaler of a product from having to notify themselves of price increases. 3 VAC 5-70-160 C is amended to increase from two to five the number of remote retail outlets allowed a farm winery. This change is necessitated by a recent action of the General Assembly. In addition, a new section is added that prescribes the procedures to be followed in selling designer or vintage spirits bottles at auction.

Issues: There are no disadvantages to the public or the Commonwealth associated with the proposed regulatory action. Most of the changes are designed to conform the board's regulations to statutory amendments passed by the General Assembly. The primary advantages are to manufacturers who will no longer have to provide copies of price increase notices to the board, and to wholesalers who also serve as importers for products who will not have to go through the unnecessary exercise of notifying themselves of price increases.

Department of Planning and Budget's Economic Impact Analysis:

Summary of the Proposed Regulation. The Alcoholic Beverage Control Board (ABC) proposes to make several amendments to its regulation which covers miscellaneous issues not addressed by other agency regulations. ABC proposes to:

- Amend a provision which allows gifts of alcoholic beverages from ABC licensees to reflect recent changes to the Code of Virginia by specifically listing code sections which allow such gifts.
- Exempt individual importers from having to report price increases to themselves.
- As required by the recent acts of the General Assembly, allow farm wineries to operate five remote retail locations.
- Codify board policy that allows the sale of full, unopened designer or vintage spirits bottles at auction.

Result of Analysis. The benefits likely exceed the costs for these proposed regulatory changes.

Estimated Economic Impact. Current regulation allows licensees to give gifts of alcoholic beverages in very limited situations. Licensees may make such gifts to friends. Wholesaler licensees may give samples to retail licensees. Wineries and breweries may give out free samples for on-site consumption (in a board-approved hospitality room). Licensees may donate alcoholic beverages for consumption at a trade association gathering or to an educational institution for the purposes of alcoholism research. Wine and beer wholesalers may participate in wine or beer tastings at gourmet shops licensed by ABC. The board proposes to amend this regulation to reflect recent code changes which

will also allow licensees to participate in wine and beer tastings at licensed retail establishments. This change will benefit the public in that they will not have the potential to get conflicting information about what is allowable from the two sources where they would be most likely to look.

Current regulation requires that importers give written notice of all price increases to their customers that hold wholesaler licenses. No price increase may become effective until at least 30 days after the postmark date on the written notice. The board proposes to amend this provision so that importers who also hold wholesaler licenses do not have to notify themselves in writing when they increase their prices. This change will benefit affected regulations by saving them the costs in time and money (for paper, an envelope and a stamp) of mailing information to themselves.

Current regulation allows farm wineries to operate two remote retail operations (in addition to selling their product on-site). A recent change to the Code of Virginia allows these wineries to operate five remote retail operations. The board proposes to amend this regulation so that this allowance is reflected. This change will benefit the public in that they will not have the potential to get conflicting information about what is allowable from the two sources where they would be most likely to look.

While ABC currently has a policy that allows the sale of designer or vintage spirits bottles at auction (and has had such a policy since 1998), current regulation does not contain any provision for such sales. The board proposes to amend this regulation so that the procedure for these sales is codified. Since it has been ABC's long-standing policy to allow the sale of designer or vintage spirits bottles at auction, this regulatory change will have little or no appreciable effect on regulants.

Businesses and Entities Affected. These proposed regulatory changes will generally affect all of the approximately 14,000 establishments that are licensed by ABC.

Localities Particularly Affected. These proposed regulatory changes will affect all localities in the Commonwealth.

Projected Impact on Employment. These proposed regulatory changes will likely have no measurable effect on employment in the Commonwealth.

Effects on the Use and Value of Private Property. These proposed regulatory changes will likely have no measurable effect on the use or value of private property in the Commonwealth.

Small Businesses: Costs and Other Effects. ABC estimates that at least 95% of their approximately 14,000 licensees are small businesses. These businesses are unlikely to experience any price increase on account of this proposed regulation.

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Small Businesses: Alternative Method that Minimizes Adverse Impact. ABC estimates that at least 95% of their approximately 14,000 licensees are small businesses. These businesses are unlikely to experience any price increase on account of this proposed regulation.

Legal Mandate. 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. Further, if the proposed regulation has an adverse effect on small businesses, § 2.2-4007 H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Alcoholic Beverage Control Board concurs with the economic impact analysis of the Department of Planning and Budget.

Summary:

The proposed amendments (i) conform exceptions to the general prohibition against licensees giving away alcoholic beverages to recent actions of the General Assembly; (ii) remove the requirement that manufacturers give the board a copy of any price increase notice; (iii) provide that in situations where the same person is both the importer and wholesaler, no notice of price increase is required; (iv) increase the number of allowed farm winery remote locations from two to five as allowed by statute; and (v) set forth procedures for auction sales of designer or antique bottles containing distilled spirits.

3 VAC 5-70-100. Gifts of alcoholic beverages generally; exceptions; wine and beer tastings; taxes and records.

A. Gifts of alcoholic beverages by a licensee to any other person are prohibited except as otherwise provided in this

section or as provided in §§ 4.1-201, 4.1-201.1, 4.1-209, 4.1-325, and 4.1-325.2 of the Code of Virginia.

B. Gifts of alcoholic beverages may be made by licensees as follows:

1. Personal friends. Gifts may be made to personal friends as a matter of normal social intercourse when in no wise a shift or device to evade the provisions of this section.

2. Samples. A wholesaler may give a retail licensee a sample serving or a container not then sold by such licensee of wine or beer, which such wholesaler otherwise may sell to such retail licensee, provided that in a case of containers, the container does not exceed 52 fluid ounces in size (1.5 liters if in a metric-sized container) and the label bears the word "Sample" in lettering of reasonable size. Such samples may not be sold. For good cause shown the board may authorize a larger sample container.

3. Hospitality rooms; conventions. A person licensed to manufacture wine or beer may:

a. Give samples of his products to visitors to his winery or brewery for consumption on premises only in a hospitality room approved by the board, provided the donees are persons to whom such products may be lawfully sold; and

b. Host an event at conventions of national, regional or interstate associations or foundations organized and operated exclusively for religious, charitable, scientific, literary, civil affairs, educational or national purposes upon the premises occupied by such licensee, or upon property of the licensee contiguous to such premises, or in a development contiguous to such premises, owned and operated by the licensee or a wholly owned subsidiary.

4. Conventions; educational programs, including wine and beer tastings; research; licensee associations. Licensed manufacturers, bottlers and wholesalers may donate beer or wines to:

a. A convention, trade association or similar gathering, composed of licensees and their guests, when the alcoholic beverages donated are intended for consumption during the convention;

b. Retail licensees attending a bona fide educational program relating to the alcoholic beverages being given away;

c. Research departments of educational institutions, or alcoholic research centers, for the purpose of scientific research on alcoholism;

d. Licensed manufacturers and wholesalers may donate wine to official associations of wholesale wine licensees when conducting a bona fide educational program concerning wine, with no promotion of a particular

brand, for members and guests of particular groups, associations or organizations.

5. Conditions. Exceptions authorized by subdivisions ~~B~~ 3 b and ~~B~~ 4 of this subsection are conditioned upon the following:

- a. That prior written notice of the activity be submitted to the board describing it and giving the date, time and place of such; and
- b. That the activity be conducted in a room or rooms set aside for that purpose and be adequately supervised.

C. Wine and beer wholesalers may participate in a wine or beer tasting sponsored by a gourmet shop licensee for its customers and may provide educational material, oral or written, pertaining thereto, as well as participate in the pouring of such wine or beer.

D. Any gift authorized by this section shall be subject to the taxes imposed on sales by Title 4.1 of the Code of Virginia, and complete and accurate records shall be maintained.

3 VAC 5-70-150. Wholesale alcoholic beverage sales; winery and brewery discounts, price-fixing; price increases; price discrimination; inducements.

A. No winery as defined in § 4.1-401 or brewery as defined in § 4.1-500 of the Code of Virginia shall require a wholesale licensee to discount the price at which the wholesaler shall sell any alcoholic beverage to persons holding licenses authorizing sale of such merchandise at retail. No winery, brewery, bottler or wine or beer importer shall in any other way fix or maintain the price at which a wholesaler shall sell any alcoholic beverage.

B. No winery as defined in § 4.1-401 or brewery as defined in § 4.1-500 of the Code of Virginia shall increase the price charged any person holding a wholesale license for alcoholic beverages except by written notice to the wholesaler signed by an authorized officer or agent of the winery, brewery, bottler or importer which shall contain the amount and effective date of the increase. ~~A copy of such notice shall also be sent to the board and shall be treated as confidential financial information, except in relation to enforcement proceedings for violation of this section.~~

No increase shall take effect prior to 30 calendar days following the date on which the notice is postmarked; provided that the board may authorize such price increases to take effect with less than the aforesaid 30 calendar days' notice if a winery, brewery, bottler or importer so requests and demonstrates good cause therefor.

The provisions of this subsection shall not apply in any case where the importer required to provide notice of a price increase and the wholesaler to whom notice is to be provided are the same person.

C. No winery as defined in § 4.1-401 or brewery as defined in § 4.1-500 of the Code of Virginia shall discriminate in price of alcoholic beverages between different wholesale purchasers and no wholesale wine or beer licensee shall discriminate in price of alcoholic beverages between different retail purchasers except where the difference in price charged by such winery, brewery or wholesale licensee is due to a bona fide difference in the cost of sale or delivery, or where a lower price was charged in good faith to meet an equally low price charged by a competing winery, brewery or wholesaler on a brand and package of like grade and quality. Where such difference in price charged to any such wholesaler or retail purchaser does occur, the board may ask and the winery, brewery or wholesaler shall furnish written substantiation for the price difference.

D. No person holding a license authorizing the sale of alcoholic beverages at wholesale or retail shall knowingly induce or receive a discrimination in price prohibited by subsection C of this section.

3 VAC 5-70-160. Farm wineries; percentage of Virginia products; other agricultural products; remote outlets.

A. No more than 25% of the fruits, fruit juices or other agricultural products used by the farm winery licensee shall be grown or produced outside the Commonwealth, except upon permission of the board as provided in § 4.1-219 of the Code of Virginia. This 25% limitation applies to the total production of the farm winery, not individual brands or labels.

B. The term "other agricultural products," as used in subsection A of this section, includes wine.

C. A farm winery license limits retail sales to the premises of the winery and to ~~two~~ five additional retail establishments ~~which that~~ need not be located on the premises. These ~~two~~ five additional retail outlets may be moved throughout the state as long as advance board approval is obtained for the location, equipment and facilities of each remote outlet.

3 VAC 5-70-230. Sale of designer or vintage spirit bottles.

Collectors of designer or vintage bottles containing distilled spirits may sell them at auction under the following conditions:

1. The seller shall notify the secretary to the board of the date, time, and place of the auction sale.
2. Any bottle sold must be unopened and the manufacturer's seals, marks, or stamps affixed to the bottles must be intact.
3. The auction must be conducted in accordance with the provisions of Chapter 6 (§ 54.1-600 et seq.) of Title 54.1 of the Code of Virginia.

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4. Any purchaser at such auction must be a minimum of 21 years of age.

5. For two years from the date of sale, the auctioneer must keep records, available to the board upon request, of the name and address of each purchaser and a description of the alcoholic beverages purchased.

NOTICE: The forms used in administering 3 VAC 5-70, Other Provisions, are not being published; however, the name of each form is listed below. The forms are available for public inspection at the Department of Alcoholic Beverage Control, 2901 Hermitage Road, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

FORMS

~~Permit for Release of Alcoholic Beverages Not Under Customs or Internal Revenue Bond, #701-102 (eff. 1/92).~~

Order and Permit for Transportation of Alcohol, #703-69 (eff. 11/87).

Order and Permit for Transportation of Alcoholic Beverages, #703-73.

~~Mixed Beverage Annual Review, #805-43 (eff. 5/92).~~

Mixed Beverage Annual Review-Instructions for Completion, #805-44 (rev. 11/06).

Application for Off Premises Keg Permit, #805-45 (eff. 1/93).

Application for Grain Alcohol Permit, #805-75.

~~Mixed Beverage Annual Review, #805-77.~~

Special Event License Application Addendum-Notice to Special Event Licenses Applicants, Form SE-1 (rev. 11/01) (rev.08/02).

Statement of Income & Expenses for Special Event Licenses (with instructions), Form SE-2 (rev. 11/01) (rev.08/02).

VA.R. Doc. No. R07-153; Filed February 14, 2007, 11:03 a.m.



TITLE 4. CONSERVATION AND NATURAL RESOURCES

MARINE RESOURCES COMMISSION

Emergency Regulation

Title of Regulation: **4 VAC 20-530. Pertaining to American Shad (amending 4 VAC 20-530-31 and 4 VAC 20-530-32).**

Statutory Authority: § 28.2-210 of the Code of Virginia.

Effective Dates: February 1, 2007, through March 1, 2007.

Agency Contact: Brandy L. Battle, Agency Regulatory Coordinator, 2600 Washington Avenue, 3rd Floor, Richmond, VA 23607, telephone (757) 247-2248, FAX (757) 247-2002, or email brandy.battle@mrc.virginia.gov.

Preamble:

The amendment changes the chapter to apply to the 2007 fishing season for American Shad.

4 VAC 20-530-31. Bycatch fishery.

A. Any registered commercial fisherman meeting the conditions described in this subsection shall be eligible to participate in the American shad bycatch fishery in 2007:

1. The registered commercial fisherman shall apply for a VMRC American Shad Bycatch Permit and possess that permit while fishing, landing, or selling his catch of American shad.

2. The registered commercial fisherman shall complete the VMRC American Shad Bycatch Survey form to describe his pending fishing activity.

B. It shall be unlawful for any person to possess aboard a vessel more than 10 American shad. When more than one registered and permitted fisherman is fishing on the same vessel, it shall be unlawful to possess more than 10 American shad aboard that vessel.

C. It shall be unlawful for any person to possess aboard a vessel or land any American shad, unless that person possesses at least an equal number of fish of only the following food-grade species: spot, croaker, bluefish, catfish, striped bass or white perch.

D. Possession of American shad by any person permitted in accordance with this section shall be lawful only when those American shad were harvested from the bycatch area. Possession of any American shad harvested in Virginia waters that are outside of the bycatch area shall constitute a violation of this regulation, except as described in 4 VAC 20-530-32.

E. American shad harvested only as bycatch by anchored gill nets and staked gill nets may be possessed or retained for sale in accordance with the provisions of this regulation. It shall be unlawful for any person to harvest, land or possess any American shad taken by any commercial gear, except anchored gill net or staked gill net, or any recreational gear.

F. Every fisherman permitted for the American shad bycatch fishery shall contact the commission's interactive voice response system once weekly to report the following for the preceding weekly period: name, registration number, number of fishing trips taken, water body fished, number of nets set, number of American shad caught and number retained.

4 VAC 20-530-32. Spawning Reaches Bycatch Area fishery.

A. Any registered commercial fisherman meeting the conditions described in this section shall be eligible to participate in the American shad bycatch fishery in the Spawning Reaches Bycatch Area in 2007 as described in 4 VAC 20-530-20:

1. The registered commercial fisherman shall have reported harvests of striped bass from the Spawning Reaches Bycatch Area during the months of February or March in at least five years during the 1996 through 2005 period.

2. The registered commercial fisherman shall apply for a VMRC American Shad Spawning Reaches Bycatch Permit and possess that permit while fishing, landing, or selling his bycatch of American shad.

3. The registered commercial fisherman shall complete the VMRC American Shad Spawning Reaches Bycatch Survey Form to describe his pending fishing activity.

B. Except as described in subsection C of this section, it shall be unlawful for any person to possess aboard a vessel more than five American shad in any one day. When more than one registered and permitted fisherman is fishing on the same vessel, it shall be unlawful to possess more than five American shad aboard that vessel in any one day, except as described in subsection C of this section.

C. In any one day it shall be unlawful for any person permitted to harvest American shad as bycatch from the Spawning Reaches Bycatch Area to possess aboard a vessel or land any American shad if that person takes, harvests or possesses any American shad from the bycatch area described in 4 VAC 20-530-20 during that same day.

D. It shall be unlawful for any person to possess aboard a vessel or land any American shad from the Spawning Reaches Bycatch Area unless that person possesses at least an equal number of fish of only the following food-grade species: spot, croaker, bluefish, catfish, striped bass or white perch.

E. Possession of American shad by any person permitted in accordance with this section shall be lawful only when those American shad were harvested from the Spawning Reaches Bycatch Area, except as provided in 4 VAC 20-530-31 and subsection C of this section.

F. American shad harvested only as bycatch by anchored gill nets and staked gill nets may be possessed or retained for sale in accordance with the provisions of this regulation. It shall be unlawful for any person to harvest, land or possess any American shad taken by any commercial gear, except anchored gill net or staked gill net or any recreational gear.

G. Every fisherman permitted for the bycatch of American shad from the Spawning Reaches Bycatch Area shall contact

the commission's interactive voice response system once weekly to report the following for the preceding weekly period: name, registration number, number of fishing trips taken, water body fished, number of nets set, number of American shad caught, and number retained.

VA.R. Doc. No. R07-148; Filed February 5, 2007, 10:28 a.m.

DEPARTMENT OF MINES, MINERALS AND ENERGY**Final Regulation**

REGISTRAR'S NOTICE: The agency is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4006 A 4 b of the Code of Virginia, which excludes regulations that are required by order of any state or federal court of competent jurisdiction where no agency discretion is involved. The Department of Mines, Minerals and Energy will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 4 VAC 25-20. Board of Coal Mining Examiners Certification Requirements (amending 4 VAC 25-20-420).

Statutory Authority: §§ 45.1-161.28, 45.1-161.29, and 45.1-161.34 of the Code of Virginia.

Effective Date: April 4, 2007.

Agency Contact: David Spears, Program Analyst, Department of Mines, Minerals and Energy, Ninth Street Office Building, 202 N. 9th St., Richmond, VA 23219-3402, telephone (804) 692-3212, FAX (804) 692-3237 or email david.spears@dmme.virginia.gov.

Summary:

The amendments eliminate a provision stating that a party may be represented in formal hearings before the board by an individual of their choice, whether or not that individual is an attorney. The amendment specifies instead that each party has the right to be represented by legal counsel in formal hearings before the board. This change is necessary to comply with UPL Opinion No. 209 of the Supreme Court of Virginia dated February 28, 2006, which states that Virginia Unauthorized Practice of Law Rule 1-101(A) applies to representation before a board of the Department of Mines, Minerals and Energy. The rule states that a nonlawyer shall not represent another before a tribunal. A DMME board meets the definition of "tribunal" "...when it determines the rights and obligations of parties to proceedings before it, as opposed to promulgating rules and regulations of general applicability." The amendment makes allowable representation before the BCME consistent with Rule 1-101(A), and also brings the affected regulation into compliance with Virginia Supreme Court Rule 1A: 4, as

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amended November 28, 2006, regarding out-of-state lawyers. The agency has no discretion in enacting this regulatory change. It is exempt from executive branch review pursuant to §2.2-4006 of the Virginia Administrative Process Act.

4 VAC 25-20-420. Conduct of formal hearings.

A. All hearings shall be heard during scheduled meetings of the board, on a case-by-case basis, in the order the petitions appear on the docket.

B. Hearings shall be held in the DMME, Big Stone Gap office, unless a different location is agreed to by mutual consent of the parties to the hearing and the Chairman of the BCME.

C. Hearings requiring case decisions shall be recorded.

D. Each party ~~may~~ has the right to be represented by ~~an individual of choice or~~ legal counsel.

E. The chairman, with the concurrence of the majority of the board present at a hearing, shall have the authority to limit evidence to that relevant to the issues. Any proofs, rebuttal, and cross examination which are immaterial, insubstantial, privileged, or repetitive may be excluded.

F. The chairman may continue, adjourn and reconvene the hearing as necessary.

G. Decisions of the board shall be made based on a preponderance of the evidence placed before it.

VA.R. Doc. No. R07-149; Filed February 12, 2007, 9:39 a.m.

Final Regulation

Title of Regulation: **4 VAC 25-130. Coal Surface Mining Reclamation Regulations (amending 4 VAC 25-130-700.12, 4 VAC 25-130-773.21, 4 VAC 25-130-775.11, 4 VAC 25-130-775.13, 4 VAC 25-130-784.20, 4 VAC 25-130-800.51, 4 VAC 25-130-816.105, 4 VAC 25-130-817.11, 4 VAC 25-130-817.64, 4 VAC 25-130-817.121, 4 VAC 25-130-842.15, 4 VAC 25-130-843.12, 4 VAC 25-130-843.13, 4 VAC 25-130-843.15, 4 VAC 25-130-843.16, 4 VAC 25-130-845.13, 4 VAC 25-130-845.15, 4 VAC 25-130-845.18, 4 VAC 25-130-845.19, 4 VAC 25-130-846.14).**

Statutory Authority: §§ 45.1-161.3 and 45.1-230 of the Code of Virginia.

Effective Date: April 4, 2007.

Agency Contact: Gavin Bledsoe, Legal Services Officer, Department of Mines, Minerals and Energy, P.O. Drawer 900, Big Stone Gap, Virginia 24219-0900, telephone (276) 523-8157, FAX (276) 523-8163 or email gavin.bledsoe@dmme.virginia.gov.

Summary:

The amendments (i) revise references to sections in the Virginia Administrative Process Act to reflect its current numbering, (ii) provide direction as to where requests for formal administrative review and notices of judicial appeal shall be filed, (iii) maintain consistency with corresponding federal amendments regarding survey requirements and the rebuttable presumption of subsidence determinations, (iv) maintain consistency with federal regulations regarding thick overburden, (v) maintain consistency between requirements for surface mines and underground mines, (vi) and increase the civil penalties for violations of the Virginia Coal Surface Mining Control and Reclamation Act that result in personal injury or fatality consistent with amendments to the Act.

Some technical cross reference changes have been made since the proposed regulation was published.

Summary of Public Comments and Agency's Response: No public comments were received by the promulgating agency.

4 VAC 25-130-700.12. Petitions to initiate rule making.

(a) Any person may petition to initiate a proceeding for the issuance, amendment, or repeal of any regulation under the Act. The petition shall be addressed to either the director of the division or the director of the department and mailed or submitted to the division office at Big Stone Gap.

(b) The petition shall be a concise statement of the facts, technical justification, and law which requires issuance, amendment, or repeal of a regulation under the Act and shall indicate whether the petitioner desires a public hearing.

(c) Upon receipt of the petition, the division shall make a preliminary determination whether the petition sets forth facts, technical justification and law which may provide a reasonable basis for issuance, amendment or repeal of a regulation. Facts, technical justification or law previously considered in a petition or rule making on the same issue shall not provide a reasonable basis. The division shall send the preliminary determination to the director, who may hold a public hearing, conduct an investigation or take other action to determine whether the petition should be granted.

(d) Within 90 days of receipt of the petition, the director shall issue a written decision to either grant or deny the petition.

(e) If the director grants the petition, he shall initiate a rule making proceeding pursuant to the Virginia Administrative Process Act [~~Chapter 1.1-1~~] (~~§ 9-6.14-1 2.2-4000~~ et seq. [~~] of Title 9~~] of the Code of Virginia [~~]~~]. If the director denies the petition, he shall notify the petitioner in writing, setting forth the reasons for the denial.

(f) Nothing herein shall be construed as preventing the director from initiating any rule making proceeding on his own motion.

4 VAC 25-130-773.21. Improvidently issued permits; rescission procedures.

If the division, under 4 VAC 25-130-773.20 (c) (4), elects to rescind an improvidently issued permit, it shall serve on the permittee a notice of proposed suspension and rescission which includes the reasons for the finding of the division under 4 VAC 25-130-773.20 (b) and states that:

(a) Automatic suspension and rescission. After a specified period of time not to exceed 90 days the permit automatically will become suspended, and not to exceed 90 days thereafter rescinded, unless within those periods the permittee submits proof, and the division finds, that:

- (1) The finding of the division under 4 VAC 25-130-773.20 (b) was erroneous;
- (2) The permittee or other person responsible has abated the violation on which the finding was based, or paid the penalty or fee, to the satisfaction of the responsible agency;
- (3) The violation, penalty or fee is the subject of a good faith appeal, or of an abatement plan or payment schedule with which the permittee or other person responsible is complying to the satisfaction of the responsible agency; or
- (4) Since the finding was made, the permittee has severed any ownership or control link with the person responsible for, and does not continue to be responsible for, the violation, penalty or fee:

(b) Cessation of operations. After permit suspension or rescission, the permittee shall cease all surface coal mining and reclamation operations under the permit, except for violation abatement and for reclamation and other environmental protection measures as required by the division; and

(c) Right to appeal. The permittee may file an appeal for administrative review of the notice under [the Administrative Process Act (~~§ 9-6.14:1~~ § 2.2-4000 [~~A~~] et seq. of the Code of Virginia []].

4 VAC 25-130-775.11. Administrative review.

(a) General. Within 30 days after an applicant or permittee is notified of the decision of the division concerning an application for approval of exploration required under Part 772, a permit for surface coal mining and reclamation operations, a permit revision, a permit renewal, or a transfer, assignment, or sale of permit rights, the applicant, permittee, or any person with an interest which is or may be adversely affected by the decision may request, in writing, a formal public hearing to contest such action with the Director of the Division of Mined Land Reclamation, Drawer 900, Big Stone Gap, VA 24219.

(b) Administrative hearings.

(1) The division shall conduct the formal hearing within 30 days from the receipt of the request. The hearing shall be conducted in accordance with ~~§ 9-6.14:12~~ § 2.2-4020 of the Virginia Administrative Process Act. No person who presided at an informal conference under 4 VAC 25-130-773.13 (c) shall either preside at the hearing or participate in the formal hearing decision and any subsequent appeal.

(2) The division may, under such conditions as it prescribes, grant such temporary relief as it deems appropriate, pending final determination of the proceeding, if--

- (i) All parties to the proceeding have been notified and given an opportunity to be heard on a request for temporary relief;
- (ii) The person requesting that relief shows that there is a substantial likelihood that he will prevail on the merits of the final determination of the proceeding;
- (iii) The relief sought will not adversely affect the public health or safety, or cause significant, imminent environmental harm to land, air, or water resources; and
- (iv) The relief sought is not the issuance of a permit where a permit has been denied, in whole or in part, by the division except that continuation under an existing permit may be allowed where the operation has a valid permit issued under § 45.1-238 of the Act.

(3) The hearing shall be conducted under the following conditions:

- (i) The hearing officer may administer oaths and affirmations, subpoena witnesses and written or printed materials, compel attendance of witnesses or production of those materials, compel allowable discovery, and take evidence, including, but not limited to, site inspections of the land to be affected and other surface coal mining and reclamation operations carried on by the applicant in the general vicinity of the proposed operations.
- (ii) A verbatim record of each public hearing required by this section shall be made, and a transcript made available on the motion of any party or by order of the hearing officer.
- (iii) Ex parte contacts between representatives of the parties appearing before the hearing officer and the hearing officer shall be prohibited, unless prior approval is given by the noncontacting party.

(4) Within 30 days after the close of the record, the director shall issue and furnish the applicant and each person who participated in the hearing, a copy of the hearing officer's decision and written findings of fact, and conclusions of law. The decision shall also set forth the right of appeal process.

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(5) The burden of proof at such hearings shall be on the party seeking to reverse the decision of the division.

(c) Within 14 days after the issuance of the hearing officer's decision under [~~subsection subdivision~~] (b) (4) [~~above of this section~~], the applicant, permittee or any other person with an interest which is or may be adversely affected and who appeared and participated in the hearing, may appeal to the director or his designee for review of the record and reconsideration of the hearing officer's decision. The director or his designee may also, on his own motion, with notice to the parties, within the same time period, review the record and reconsider the hearing officer's decision. No further evidence will be allowed in connection with such review and reconsideration but the director or his designee may hear further argument, and may also, after considering the record, remand any case for further hearing if he considers such action necessary to develop the facts. Within 30 days of the appeal or motion for review and reconsideration, the director or his designee shall complete his review of the hearing officer's decision and issue a final decision thereon.

(d) All requests for hearing or appeals for review and reconsideration made under this section shall be filed with the Director, Division of Mined Land Reclamation, Department of Mines, Minerals and Energy, Post Office Drawer 900, Big Stone Gap, Virginia 24219.

4 VAC 25-130-775.13. Judicial review.

(a) General. Any applicant, or any person with an interest which is or may be adversely affected by the final administrative decision and who has participated in the administrative hearings as an objector may appeal as provided in [~~Paragraph subsection~~] (b) of this section if--

(1) The applicant or person is aggrieved by the director or his designee's final order under 4 VAC 25-130-775.11; or

(2) Either the division or the director failed to act within time limits specified in 4 VAC 25-130-775.11.

(b) Judicial review. The final order of the division pursuant to [~~paragraph subsection~~] (a) of 4 VAC 25-130-775.11 shall be subject to judicial review as provided by the Virginia Administrative Process Act and the rules of the Supreme Court of Virginia as promulgated thereto. The availability of such review shall not be construed to limit the operation of the rights established in Section 520 of the Federal Act.

(c) All notices of appeal for judicial review of a hearing officer's final decision, or the final decision on review and reconsideration, shall be filed with the Director, Division of Mined Land Reclamation, Department of Mines, Minerals and Energy, Post Office Drawer 900, Big Stone Gap, Virginia 24219.

4 VAC 25-130-784.20. Subsidence control plan.

(a) Presubsidence survey. Each application must include:

(1) A map of the permit and adjacent areas at a scale of 1:12,000, or larger if determined necessary by the division, showing the location and type of structures and renewable resource lands that subsidence may materially damage or for which the value or reasonably foreseeable use may be diminished by subsidence, and showing the location and type of drinking, domestic, and residential water supplies that could be contaminated, diminished, or interrupted by subsidence.

(2) A narrative indicating whether subsidence, if it occurred, could cause material damage to or diminish the value or reasonably foreseeable use of such structures or renewable resource lands or could contaminate, diminish, or interrupt drinking, domestic, or residential water supplies.

(3) A survey of the ~~condition of all noncommercial buildings or occupied residential dwellings and structures related thereto, that may be materially damaged or for which the reasonably foreseeable use may be diminished by subsidence, within the area encompassed by the applicable angle of draw; as well as a survey of the quantity and quality of all drinking, domestic and residential water supplies within the permit area and adjacent area that could be contaminated, diminished or interrupted by subsidence.~~ If the applicant cannot make this survey because the owner will not allow access to the site, the applicant will notify the owner in writing of the effect that denial of access will have ~~as described in 4 VAC 25-130-817.121 (c) (4) pursuant to § 45.1-258 D of the Code of Virginia, as amended.~~ The applicant must pay for any technical assessment or engineering evaluation used to determine the ~~premining condition or value of such noncommercial buildings or occupied residential dwellings and structures related thereto and the~~ quantity and quality of drinking, domestic, or residential water supplies. The applicant must provide copies of the survey and any technical assessment or engineering evaluation to the property owner and the division.

(b) Subsidence control plan. If the survey conducted under subsection (a) of this section shows that no structures, or drinking, domestic, or residential water supplies, or renewable resource lands exist, or that no material damage or diminution in value or reasonably foreseeable use of such structures or lands, and no contamination, diminution or interruption of such water supplies would occur as a result of mine subsidence, and if the division agrees with this conclusion, no further information need be provided under this section. If the survey shows that structures, renewable resource lands, or water supplies exist and that subsidence could cause material damage or diminution in value or reasonably foreseeable use, or contamination, diminution or interruption of protected water supplies, or if the division determines that damage, diminution, in value or foreseeable use, or contamination, diminution, or interruption could

occur, the application must include a subsidence control plan that contains the following information:

- (1) A description of the method of coal removal, such as longwall mining, room-and-pillar removal or hydraulic mining including the size, sequence and timing of the development of underground workings;
- (2) A map of the underground workings that describes the location and extent of the areas in which planned subsidence mining methods will be used and that identifies all areas where the measures described in subdivisions (b) (4), (b) (5), and (b) (7) of this section will be taken to prevent or minimize subsidence and subsidence related damage; and, when applicable, to correct subsidence related material damage;
- (3) A description of the physical conditions, such as depth of cover, seam thickness and lithology of overlying strata, that affects the likelihood or extent of subsidence and subsidence related damage;
- (4) A description of the monitoring, if any, needed to determine the commencement and degree of subsidence so that, when appropriate, other measures can be taken to prevent, reduce, or correct material damage in accordance with 4 VAC 25-130-817.121 (c).
- (5) Except for those areas where planned subsidence is projected to be used, a detailed description of the subsidence control measures that will be taken to prevent or minimize subsidence and subsidence related damage, such as, but not limited to:
 - (i) Backstowing or backfilling of voids;
 - (ii) Leaving support pillars of coal;
 - (iii) Leaving areas in which no coal is removed, including a description of the overlying area to be protected by leaving coal in place; and
 - (iv) Taking measures on the surface to prevent or minimize material damage or diminution in value of the surface.
- (6) A description of the anticipated effects of planned subsidence, if any.
- (7) For those areas where planned subsidence is projected to be used, a description of methods to be employed to minimize damage from planned subsidence to noncommercial buildings and occupied residential dwellings and structures related thereto; or the written consent of the owner of the structure or facility that minimization measures not be taken; or, unless the anticipated damage would constitute a threat to health or safety, a demonstration that the costs of minimizing damage exceed the anticipated costs or repair.

(8) A description of the measures to be taken in accordance with 4 VAC 25-130-817.41 (j) and 4 VAC 25-130-817.121 (c) to replace adversely affected protected water supplies or to mitigate or remedy any subsidence related material damage to the land and protected structures.

(9) Other information specified by the division as necessary to demonstrate that the operation will be conducted in accordance with 4 VAC 25-130-817.121.

4 VAC 25-130-800.51. Administrative review of performance bond forfeiture.

(a) The permittee or surety, if applicable, may request, in writing, a hearing on the division's determination to forfeit the performance bond within 30 days of receipt of the written determination from the division.

(b) A request for hearing shall not operate as a stay of the bond forfeiture decision. Unless the division decides to withhold forfeiture as provided by 4 VAC 25-130-800.50 (a) (2), it shall take immediate steps to collect the necessary performance bond amounts so that it, or its contractor, may complete the reclamation plan and any other regulatory requirements in the most expeditious manner possible, pending administrative and/or judicial review.

(c) (1) The division shall commence the hearing within 30 days of the hearing request. The hearing shall be conducted in accordance with ~~§ 9-6-14:12~~ § 2.2-4020 of the Code of Virginia by a Hearings Officer appointed by the director.

(2) The burden of proof at such hearing shall be on the party seeking to reverse the decision of the division.

(3) For the purpose of such hearing, the hearings officer may administer oaths and affirmations, subpoena witnesses, written or printed materials, compel attendance of witnesses or production of those materials, compel discovery, and take evidence, including but not limited to site inspections of the land affected.

(4) The hearings officer shall cause an accurate verbatim record of the hearing to be made. The division may charge the reasonable cost of preparing such record to any party who requests a copy of the record.

(5) Ex parte contacts between representatives of the parties to the hearing and the hearings officer shall be prohibited.

(6) Within 30 days after the close of the record, the division shall issue and furnish the permittee, surety (if applicable) and each person who participated in the hearing with the written findings of fact, conclusion of law, and order of the hearings officer with respect to the appeal. The decision of the hearings officer shall be final as of the date of issuance, subject to the review and reconsideration by the director or his designee, provided in subsection (d) [of this section].

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(d) Within 14 days after the issuance of the hearings officer's decision under [~~subsection~~ subdivision] (c) (6) [of this section], the permittee, surety (if applicable), or any person who participated in the hearing and has an interest which is or may be adversely affected by the decision, may appeal to the director or his designee for review of the record and reconsideration of the hearings officer's decision. The director or his designee may also on his own motion, with notice to the parties, review the record and reconsider the hearings officer's decision within the same time period. No further evidence will be allowed in connection with such review and reconsideration, but the director or his designee may hear further arguments and may, after considering the record, remand the case for further hearing if he considers such action necessary to develop the facts. Within 30 days of the appeal or motion for review and reconsideration, the director or his designee shall complete his review of the hearings officer's decision and issue a final decision.

(e) All requests for hearing, or appeals for review and reconsideration made under this section; and all notices of appeal for judicial review of a hearing officer's final decision, or the final decision on review and reconsideration shall be filed with the Director, Division of Mined Land Reclamation, Department of Mines, Minerals and Energy, Post Office Drawer 900, Big Stone Gap, Virginia 24219.

4 VAC 25-130-816.105. Backfilling and grading; thick overburden.

(a) ~~This~~ Thick overburden exists when spoil and other waste materials available from the entire permit area is ~~insufficient~~ more than sufficient to restore the disturbed area to its approximate original contour. ~~Insufficient~~ More than sufficient spoil and other waste materials occur where the overburden thickness times the swell factor, plus the thickness of other available waste materials, is ~~less~~ more than the combined thickness of the overburden and coal bed prior to removing the coal, so that after backfill and grading the surface configuration of the reclaimed area would not:

- (1) Closely resemble the surface configuration of the land prior to mining; or
- (2) Blend into and complement the drainage pattern of the surrounding terrain.

(b) Where ~~this~~ thick overburden occurs within the permit area, the permittee at a minimum shall:

- (1) Restore the approximate original contour and then use the remaining spoil and other waste materials to attain the lowest practicable grade, but not more than the angle of repose;
- (2) Meet the requirements of 4 VAC 25-130-816.102 (a) (2) through (j); and
- (3) Dispose of any excess spoil in accordance with 4 VAC 25-130-816.71 through 4 VAC 25-130-816.75.

4 VAC 25-130-817.11. Signs and markers.

(a) Specifications. Signs and markers required under this part shall--

- (1) Be posted, maintained, and removed by the person who conducts the underground mining activities;
- (2) Be of a uniform design throughout the operation that can be easily seen and read;
- (3) Be made of durable material;
- (4) Be made of or marked with fluorescent or reflective paint or material if the signs are permit boundary markers on areas that are located on steep slopes above private dwellings or other occupied buildings; and
- (4) (5) Conform to local ordinances and codes.

(b) Maintenance. Signs and markers shall be maintained during the conduct of all activities to which they pertain.

(c) Mine and permit identification signs.

- (1) Identification signs shall be displayed at each point of access from public roads to areas of surface operations and facilities on permit areas for underground mining activities.
- (2) Signs shall show the name, business address, and telephone number of the permittee and the identification number of the current permit authorizing underground mining activities.
- (3) Signs shall be retained and maintained until after the release of all bonds for the permit area.

(d) Perimeter markers. The perimeter of a permit area shall be clearly marked prior to the permit review conducted by the division's field enforcement personnel. The perimeter shall be clearly marked by flagging, stakes or signs. All markers shall be easily visible from adjacent markers. The approximate outer perimeter of the solid portion of any pre-existing bench shall be closely marked prior to permit review.

(e) Buffer zone markers. Buffer zones shall be marked along their boundaries, prior to permit review conducted by the division's field enforcement personnel. The boundaries shall be clearly marked by flagging, stakes or signs as required under 4 VAC 25-130-817.57. All markers of the buffer zone shall be easily visible from adjacent markers.

(f) Blasting signs. If blasting is conducted incident to underground mining activities, the person who conducts these activities shall:

- (1) Conspicuously place signs reading "Blasting Area" along the edge of any blasting area that comes within 100 feet of any public road right of way, and at the point where any other road provides access to the blasting area; and
- (2) At all entrances to the permit area from public roads or highways place conspicuous signs which state "Warning!"

Explosives In Use” which clearly list and describe the meaning of the audible blast warning and all clear signals that are in use, and which explain the marking of blasting areas and charged holes awaiting firing within the permit area.

(g) Topsoil markers. Where topsoil or other vegetation-supporting material is segregated and stockpiled as required under 4 VAC 25-130-817.22, the stockpiled material shall be clearly marked.

(h) Incremental bonding markers. When the permittee elects to increment the amount of performance bond during the term of the permit, he shall, if required by the division, identify the initial and successive incremental areas for bonding by clearly marking such areas (with markers different from the perimeter markers) prior to disturbing the incremental area(s).

4 VAC 25-130-817.64. Use of explosives; general performance standards.

(a) The permittee shall notify, in writing, residents within 1/2 mile of the blasting site and local governments of the proposed times and locations of blasting operations. Such notice of times that blasting is to be conducted may be announced weekly, but in no case less than 24 hours before blasting will occur.

(b) Unscheduled blasts may be conducted only where public or permittee health and safety so requires and for emergency blasting actions. When a permittee conducts an unscheduled surface blast incidental to underground coal mining operations, the permittee, using audible signals, shall notify residents within 1/2 mile of the blasting site and document the reason in accordance with 4 VAC 25-130-817.68 (p).

(c) All blasting shall be conducted during daylight hours. The division may specify more restrictive time periods for blasting.

(d) Seismic monitoring shall be conducted when blasting operations on coal surface mining operations are conducted within 1,000 feet of a private dwelling or other occupied building.

4 VAC 25-130-817.121. Subsidence control.

(a) Measures to prevent or minimize damage.

(1) The permittee shall either adopt measures consistent with known technology which prevent subsidence from causing material damage to the extent technologically and economically feasible, maximize mine stability, and maintain the value and reasonably foreseeable use of surface lands; or adopt mining technology which provides for planned subsidence in a predictable and controlled manner. Nothing in this part shall be construed to prohibit the standard method of room-and-pillar mining.

(2) If a permittee employs mining technology that provides for planned subsidence in a predictable and controlled manner, the permittee must take necessary and prudent measures, consistent with the mining method employed, to minimize material damage to the extent technologically and economically feasible to noncommercial buildings and occupied residential dwellings and structures related thereto except that measures required to minimize material damage to such structures are not required if:

(i) The permittee has the written consent of the structure owners;

(ii) Unless the anticipated damage would constitute a threat to health or safety, the costs of such measures exceed the anticipated costs of repair; or

(iii) The structure owners have denied the permittee access to implement the measures specified in subdivision (a) (2) of this section and the permittee has provided written evidence of his good faith efforts to obtain access. The good faith effort shall include documentation apprising the structure owners that such measures are intended to lessen the potential for property damages or personal injury and that denial of access will not prevent mining.

(b) The permittee shall comply with all provisions of the approved subsidence control plan prepared pursuant to 4 VAC 25-130-784.20.

(c) Repair of damage.

(1) Repair of damage to surface lands. The permittee must correct any material damage resulting from subsidence caused to surface lands, to the extent technologically and economically feasible, by restoring the land to a condition capable of maintaining the value and reasonably foreseeable uses that it was capable of supporting before subsidence damage.

(2) Repair or compensation for damage to noncommercial buildings and dwellings and related structures. The permittee must promptly repair, or compensate the owner for, material damage resulting from subsidence caused to any noncommercial building or occupied residential dwelling or structure related thereto that existed at the time of mining. If repair option is selected, the permittee must fully rehabilitate, restore, or replace the damaged structure. If compensation is selected, the permittee must compensate the owner of the damaged structure for the full amount of the decrease in value resulting from the subsidence related damage. The permittee may provide compensation by the purchase, before mining, of a noncancelable premium-prepaid insurance policy. The requirements of this subdivision apply only to subsidence related damage caused by underground mining activities conducted after October 24, 1992.

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(3) Repair or compensation for damage to other structures. The permittee must, to the extent required under applicable provisions of state law, either correct material damage resulting from subsidence caused to any structures or facilities not protected by subdivision (c) (2) of this section by repairing the damage or compensate the owner of the structures or facilities for the full amount of the decrease in value resulting from the subsidence. Repair of damage includes rehabilitation, restoration, or replacement of damaged structures or facilities. Compensation may be accomplished by the purchase before mining of a noncancelable premium-prepaid insurance policy.

~~(4) Rebuttable presumption of causation by subsidence.~~

~~(i) Rebuttable presumption of causation for damage within angle of draw. If damage to any noncommercial building or occupied residential dwelling or structure related thereto occurs as a result of earth movement within an area determined by projecting a specified angle of draw from the outermost boundary of any underground mine workings to the surface of the land, a rebuttable presumption exists that the permittee caused the damage. The presumption will normally apply to a 28-degree angle of draw.~~

~~(ii) Approval of site specific angle of draw. A permittee or permit applicant may request that the presumption apply to an angle of draw different from that established in the state program. The division may approve application of the presumption to a site specific angle of draw different from that contained in the state program based on a site specific analysis submitted by an applicant. To establish a site specific angle of draw, an applicant must demonstrate and the division must determine in writing that the proposed angle of draw has a more reasonable basis than the standard set forth in the state program, based on a site specific geotechnical analysis of the potential surface impacts of the mining operation.~~

~~(iii) No presumption where access for presubsidence survey is denied. If the permittee was denied access to the land or property for the purpose of conducting the presubsidence survey in accordance with 4 VAC 25-130-784.20(a) of this chapter, no rebuttable presumption will exist.~~

~~(iv) Rebuttal of presumption. The presumption will be rebutted if, for example, the evidence establishes that the damage predated the mining in question, the damage was proximately caused by some other factor or factors and was not proximately caused by subsidence, or the damage occurred outside the surface area within which subsidence was actually caused by the mining in question.~~

~~(v) (4) Information to be considered in determination of causation. In a determination whether damage to protected structures was caused by subsidence from underground mining, all relevant and reasonably available information will be considered by the division.~~

(5) Adjustment of bond amount for subsidence damage. When subsidence related material damage to land, structures, or facilities protected under subdivisions (c) (1) through (c) (3) of this section occurs, or when contamination, diminution, or interruption to a water supply protected under 4 VAC 25-130-817.41 (j) occurs, the permittee shall provide additional performance bond in the amount of the estimated cost of the repairs if the permittee will be repairing, or in the amount of the decrease in value if the permittee will be compensating the owner, or in the amount of the estimated cost to replace the protected water supply if the permittee will be replacing the water supply, until the repair, compensation, or replacement is completed. If repair, compensation or replacement is completed within 90 days of the occurrence of damage or if the permittee demonstrates that the liability insurance required under 4 VAC 25-130-800.60 provides applicable to exceed one year, if the permittee demonstrates and the division finds in writing that subsidence is not complete, that not all probable subsidence related material damage has occurred to lands or protected structures, or that not all reasonably anticipated changes have occurred affecting the protected water supply, and that, therefore, it would be unreasonable to complete within 90 days the repair of the subsidence related material damage to lands or protected structures, or the replacement of protected water supply.

(d) Underground mining activities shall not be conducted beneath or adjacent to:

(1) Public buildings and facilities;

(2) Churches, schools, and hospitals; or

(3) Impoundments with a storage capacity of 20 acre-feet or more or bodies of water with a volume of 20 acre-feet or more, unless the subsidence control plan demonstrates that subsidence will not cause material damage to, or reduce the reasonably foreseeable use of, such features or facilities. If the division determines that it is necessary in order to minimize the potential for material damage to the features or facilities described above or to any aquifer or body of water that serves as a significant water source for any public water supply system, it may limit the percentage of coal extracted under or adjacent thereto.

(e) If subsidence causes material damage to any of the features or facilities covered by subsection (d) of this section, the division may suspend mining under or adjacent to such features or facilities until the subsidence control plan is modified to ensure prevention of further material damage to such features or facilities.

(f) The division shall suspend underground mining activities under urbanized areas, cities, towns, and communities, and adjacent to industrial or commercial buildings, major impoundments, or perennial streams, if imminent danger is found to inhabitants of the urbanized areas, cities, towns, or communities.

(g) Within a schedule approved by the division, the permittee shall submit a detailed plan of the underground workings. The detailed plan shall include maps and descriptions, as appropriate, of significant features of the underground mine, including the size, configuration, and approximate location of pillars and entries, extraction ratios, measures taken to prevent or minimize subsidence and related damage, areas of full extraction, and other information required by the division. Upon request of the permittee, information submitted with the detailed plan may be held as confidential, in accordance with the requirements of 4 VAC 25-130-773.13 (d).

4 VAC 25-130-842.15. Review of decision not to inspect or enforce.

(a) Any person who is or may be adversely affected by a coal exploration or surface coal mining and reclamation operation may ask the division to review informally an authorized representative's decision not to inspect or take appropriate enforcement action with respect to any violation alleged by that person in a request for inspection under 4 VAC 25-130-842.12. The request for review shall be in writing and include a statement of how the person is or may be adversely affected and why the decision merits review.

(b) The division shall conduct the review and inform the person, in writing, of the results of the review within 30 days of receipt of the request. The person alleged to be in violation shall also be given a copy of the results of the review, except that the name of the person who is or may be adversely affected shall not be disclosed unless confidentiality has been waived or disclosure is required under the Virginia Freedom of Information Act [~~Chapter 21~~] (§ [~~2.1-340~~ 2.2-3700] et seq. [~~of Title 2.1~~] of the Code of Virginia).

(c) Informal review under this section shall not affect any right to formal review under § 45.1-249 of the Act or to a citizen's suit under § 45.1-246.1 of the Act.

(d) Any person who requested a review of a decision not to inspect or enforce under this section and who is or may be adversely affected by any determination made under subsection (b) of this section may request review of that determination by filing an application for formal review and request for hearing under the Virginia Administrative Process Act [~~, Chapter 1.1:1~~] § ~~9-6.14:1~~ (§ 2.2-4000 [A] et seq. [~~of Title 9~~] of the Code of Virginia).

4 VAC 25-130-843.12. Notices of violation.

(a) An authorized representative of the director shall issue a notice of violation if, on the basis of an inspection pursuant to

§ 45.1-244 of the Act, the representative finds a violation of the Act, this chapter, or any condition of a permit or an exploration approval imposed under the Act, or this chapter, which does not create an imminent danger or harm for which a cessation order must be issued under 4 VAC 25-130-843.11.

(b) A notice of violation issued under this section shall be in writing, signed by the authorized representative who issues it, and shall set forth with reasonable specificity:

- (1) The nature of the violation;
- (2) The remedial action required, which may include interim steps;
- (3) A reasonable time for abatement, which may include time for accomplishment of interim steps; and
- (4) A reasonable description of the portion of the coal exploration or surface coal mining and reclamation operation to which it applies.

(c) An authorized representative of the director may extend the time set for abatement or for accomplishment of an interim step, if the failure to meet the time previously set was not caused by the permittee's lack of diligence. The total time for abatement under a notice of violation, including all extensions, shall not exceed 90 days from the date of issuance, except upon a showing by the permittee that it is not feasible to abate the violation within 90 calendar days due to one or more of the circumstances in [~~paragraph~~ subsection]

(f) of this section. An extended abatement date pursuant to this section shall not be granted when the permittee's failure to abate within 90 days has been caused by a lack of diligence or intentional delay by the permittee in completing the remedial action required.

(d) (1) If the permittee fails to meet the time set for abatement, the authorized representative shall issue a cessation order under 4 VAC 25-130-843.11 (b).

(2) If the permittee fails to meet the time set for accomplishment of any interim step the authorized representative may issue a cessation order under 4 VAC 25-130-843.11 (b).

(e) An authorized representative of the director shall terminate a notice of violation by written notice to the permittee when the representative determines that all violations listed in the notice of violation have been abated. Termination shall not affect the right of the division to assess civil penalties under Part 845 for those violations.

(f) Circumstances which may qualify a coal exploration or a surface coal mining operation for an abatement period of more than 90 days are:

- (1) Where the permittee of an on-going permitted operation has timely applied for and diligently pursued a permit

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renewal or other necessary approval of designs or plans but such permit or approval has not been or will not be issued within 90 days after a valid permit expires or is required, for reasons not within the control of the permittee;

(2) Where there is a valid judicial or administrative order precluding abatement within 90 days as to which the permittee has diligently pursued all rights of appeal and as to which the permittee has no other effective legal remedy;

(3) Where the permittee cannot abate within 90 days due to a labor strike;

(4) Where climatic conditions preclude abatement within 90 days, or where, due to climatic conditions, abatement within 90 days clearly would cause more environmental harm than it would prevent; or

(5) Where abatement within 90 days requires action that would violate safety standards established by statute or regulation under the Mine Safety and Health Act of 1977.

(g) Whenever an abatement time in excess of 90 days is permitted, interim abatement measures shall be imposed to the extent necessary to minimize harm to the public or the environment.

(h) If any of the conditions in [~~paragraph subsection~~] (f) of this section exists, the permittee may request the authorized representative to grant an abatement period exceeding 90 days. The authorized representative shall not grant such an abatement period without the concurrence of the director and the abatement period granted shall not exceed the shortest possible time necessary to abate the violation. The permittee shall have the burden of establishing by clear and convincing proof that he is entitled to an extension under the provisions of 4 VAC 25-130-843.12 (c) and (f). In determining whether or not to grant an abatement period exceeding 90 days the authorized representative may consider any relevant written or oral information from the permittee or any other source. The authorized representative shall promptly and fully document in the file his reasons for granting or denying the request. The authorized representative's immediate supervisor shall review this document before concurring in or disapproving the extended abatement date and shall promptly and fully document the reasons for his concurrence or disapproval in the file.

(i) No extension granted under [~~paragraph subsection~~] (h) of this section may exceed 90 days in length. Where the condition or circumstance which prevented abatement within 90 days exists at the expiration of any such extension, the permittee may request a further extension in accordance with the procedures of [~~paragraph subsection~~] (h) of this section.

(j) Any determination made under subsection (h) of this section shall be subject to formal review pursuant to the provisions of the Virginia Administrative Process Act

[~~section~~] § ~~9-6-14-1~~ [() § 2.2-4000 [~~A~~] et seq.) of the Code of Virginia []].

4 VAC 25-130-843.13. Suspension or revocation of permits; pattern of violations.

(a) (1) The director shall issue a show cause order to a permittee requiring justification as to why his permit and right to mine under the Act should not be suspended or revoked, if the director determines that a pattern of violations of any requirements of the Act, this chapter, or any permit condition required by the Act exists or has existed, and that the violations were caused by the permittee's willful or unwarranted failure to comply with those requirements or conditions, or if the permittee failed to pay the final civil penalty assessment as required by 4 VAC 25-130-845.20. Violations by any person conducting surface coal mining operations on behalf of the permittee shall be attributed to the permittee, unless the permittee establishes that they were acts of deliberate sabotage.

(2) The director may determine that a pattern of violations exists or has existed based upon two or more inspections of the permit area within any 12-month period, after considering the circumstances, including:

(i) The number of violations, cited on more than one occasion, of the same or related requirements of the Act, this chapter, or the permit;

(ii) The number of violations, cited on more than one occasion, of different requirements of the Act, this chapter, or the permit; and

(iii) The extent to which the violations were isolated departures from lawful conduct.

(3) The director shall promptly review the history of violations of any permittee who has been cited for violations of the same or related requirements of the Act, this chapter, or the permit during three or more inspections of the permit area within any 12-month period. If, after such review, the director determines that a pattern of violations exists or has existed, he shall issue a show cause order as provided in [~~paragraph subdivision~~] (a) (1) of this section.

(4) (i) In determining the number of violations within any 12-month period, the director shall consider only violations issued as a result of an inspection carried out pursuant to 4 VAC 25-130-840.11, 4 VAC 25-130-842.11 and 4 VAC 25-130-842.12.

(ii) The director may not consider violations issued as a result of inspections other than those mentioned in [~~paragraph subdivision~~] (a) (4) (i) of this section in determining whether to exercise his discretion under [~~paragraph subdivision~~] (a) (2) of this section, except as evidence of the "willful" or "unwarranted" nature of the permittee's failure to comply.

(5) Whenever a permittee fails to abate a violation contained in a notice of violation or cessation order within the abatement period set in the notice or order or as subsequently extended, the division shall review the permittee's history of violations to determine whether a pattern of violations exists pursuant to this section, and shall issue a show cause order as appropriate pursuant to 4 VAC 25-130-845.15 (b) (2).

(b) The permittee shall have 15 days from receipt of the show cause order to file an answer and request a formal public hearing in writing. The director shall give ~~thirty~~ 30 days written notice of the date, time and place of the hearing to the permittee, and any intervenor. The public hearing shall be conducted in accordance with [~~section~~] ~~§ 9-6-14-12~~ § 2.2-4020 of the Virginia Administrative Process Act. The director shall publish the notice, if practicable, in a newspaper of general circulation in the area of the surface coal mining and reclamation operations, and shall post it at the division's Big Stone Gap office.

(c) Within 30 days after the hearing, the hearing officer shall issue a written decision as to whether a pattern of violations exists, and, if appropriate, an order. The decision and order shall be final, subject to the review and reconsideration by the director or his designee provided in [~~paragraph~~ subsection]

(e) [~~below of this section~~]. If the decision and order revoke or suspend the permit and the permittee's right to mine under the Act, the permittee shall immediately cease surface coal mining operations on the permit area and shall:

(1) If the permit and right to mine under the Act are revoked, complete reclamation within the time specified in the order; or

(2) If the permit and the right to mine under the Act are suspended, complete all affirmative obligations to abate all conditions, practices or violations, as specified in the order.

(d) Within 14 days after the issuance of a decision or order, the permittee, or any person who participated in the hearing and who has an interest which is or may be adversely affected by the hearing officer's decision may appeal to the director, or his designee (who shall not be the same person who issued the show cause order) for review of the record and reconsideration of the hearing officer's decision. The director or his designee may also, on his own motion, with notice to the parties, made within 14 days of the hearing officer's decision, review the record and reconsider the hearing officer's decision. No further evidence will be allowed in connection with such review and reconsideration but the director or his designee may hear further arguments, and may also after considering the record, remand any case for further hearing if he considers such action necessary to develop the facts. Within 30 days of the appeal or motion for review and reconsideration, the director or his designee shall complete

his review of the hearing officer's decision and issue a final decision thereon.

(e) All requests for hearing before a hearing officer, or appeals for review and reconsideration, made under this section, and all notices of appeal for judicial review of a hearing officer's final decision or a final decision on review and reconsideration, shall be filed with the ~~division~~ Director, Division of Mined Land Reclamation, Department of Mines, Minerals and Energy, Post Office Drawer 900, Big Stone Gap, Virginia 24219.

(f) Any person who owns or controls or has owned or controlled any operations on which the permit has been revoked pursuant to this section may apply for reinstatement pursuant to 4 VAC 25-130-800.52.

4 VAC 25-130-843.15. Informal public hearing.

(a) A notice of violation or cessation order which requires cessation of mining, expressly or by necessary implication, shall expire within 30 days after it is served unless an informal public hearing is held or if the notice or order is terminated prior to the hearing. Expiration of a notice or order shall not affect the division's right to assess civil penalties for the violations as set forth in part 845. For purposes of this section, mining includes (1) extracting coal from the earth or coal waste piles and transporting it within or from the permit area, and (2) the processing, cleaning, concentrating, preparing or loading of coal where such operations occur at a place other than at a mine site.

(b) A person issued a notice of violation or cessation order pursuant to this part may request, in writing within 15 days from service of the notice or order, an informal public hearing to review the issuance of the notice or order. The written request must be submitted to the division's Big Stone Gap Office.

(c) The division shall conduct the informal hearing within 30 days from receipt of the hearing request pursuant to ~~§ 9-6-14-11~~ § 2.2-4019 of the Virginia Administrative Process Act. The division shall give as much advance notice as is practicable of the time, place, and subject matter of the informal public hearing to:

- (1) The person to whom the notice or order was issued; and
- (2) Any person who filed a report which led to that notice or order.

(d) The division shall also post notice of the hearing at its Big Stone Gap office and, where practicable, publish it in a newspaper of general circulation in the area of the mine.

(e) An informal public hearing shall be conducted by a representative of the division, who may accept oral or written arguments and any other relevant information from any person attending.

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(f) Within five days after the close of the informal public hearing, the division shall affirm, modify, or vacate the notice or order in writing. The decision shall be sent to-

- (1) The person to whom the notice or order was issued; and
- (2) Any person who filed a report which led to the notice or order.

(g) The granting of an informal public hearing shall not affect the right of any person to formal review under § 45.1-249 of the Act.

(h) The person conducting the hearing for the division shall determine whether or not the mine site should be viewed during the hearing. In making this determination the only consideration shall be whether a view of the mine site will assist the person conducting the hearing in reviewing the appropriateness of the enforcement action or of the required remedial action.

4 VAC 25-130-843.16. Formal review of citations.

(a) A person issued a notice of violation or cessation order under 4 VAC 25-130-843.11 or 4 VAC 25-130-843.12, or a person having an interest which is or may be adversely affected by the issuance, modification, vacation, or termination of a notice or order may request review of that action by filing an application for formal review and request for hearing, under § 45.1-249 of the Act, within 30 days after receiving notice of the action. A person may also request formal review of the decision rendered under 4 VAC 25-130-843.15, if the request is submitted within 15 days of receipt of the informal public hearing decision.

(b) The filing of an application for review and request for a hearing under this section shall not operate as a stay of any notice or order, or of any modification, termination, or vacation of either.

(c) Hearings under subsection (a) of this section shall be conducted by a hearing officer appointed by the director. Within 30 days after the close of the record, the hearing officer shall issue a written decision affirming, modifying, terminating, or vacating the notice or order. The decision shall be final, subject to the review and reconsideration by the director or his designee provided in subsection (d) [below of this section].

(d) Within 14 days after the issuance of a decision the permittee, or any person who participated in the hearing and who has an interest which is or may be adversely affected by the hearing officer's decision, may appeal to the director or his designee for review of the record and reconsideration of the hearing officer's decision. The director or his designee may also, on his own motion, with notice to the parties, made within 14 days of the hearing officer's decision, review the record and reconsider the hearing officer's decision. No further evidence will be allowed in connection with such review and reconsideration but the director or his designee

may hear further arguments and may also, after considering the record remand any case for further hearing if he considers such action necessary to develop the facts. Within 30 days of the appeal or motion for review and reconsideration, the director or his designee shall complete his review of the hearing officer's decision and issue a final decision thereon.

(e) All requests for hearing before a hearing officer, or appeals for review and reconsideration, made under this section, and all notices of appeal for judicial review of a hearing officer's final decision, or a final decision on review and reconsideration, shall be filed with the ~~division~~ Director, Division of Mined Land Reclamation, ~~P.O.~~ Department of Mines, Minerals and Energy, Post Office Drawer 900, Big Stone Gap, Virginia 24219.

4 VAC 25-130-845.13. Point system.

The division shall use the point system described in this section to determine the amount of the penalty.

(a) Seriousness. The division shall assign up to 10 points based on the seriousness of the violation in accordance with the following.

Points:

0 No actual or potential damage to the environment or threat to public health and safety.

1-2 Slight actual or potential damage to the environment and no actual or potential threat to public health and safety; also violations of administrative requirements which can be quickly corrected and which do not obstruct enforcement by the division.

3-4 Moderately significant actual or potential damage to the environment which can be corrected promptly; also actual or potential minor hazard to the public health and safety; also violations of administrative requirements which can be corrected after some delay, and which tend to hamper or obstruct enforcement by the division.

5-6 Moderately significant actual or potential damage to the environment which can be corrected only after a substantial effort or period of time; also actual or potential moderately significant hazard to the public health and safety.

7-8 Substantial actual or potential damage to the environment which can be corrected only after a substantial effort or period of time; also extremely serious potential damage to the environment; also substantial actual or potential damage to the public health and safety.

9-10 Extremely serious actual damage to the environment; also extreme actual or potential hazards to the public health and safety.

(b) Negligence.

(1) The division shall assign up to six points based on the degree of fault of the person to whom the notice or order was issued in causing or failing to correct the violation, condition, or practice which led to the notice or order, either through act or omission. Points shall be assessed as follows:

(A) A violation which occurs through no negligence shall be assigned no penalty points for negligence;

(B) A violation which is caused by negligence shall be assigned three points or less, depending on the degree of negligence;

(C) A violation which occurs through a greater degree of fault than negligence shall be assigned four to six points, depending on the degree of fault.

(2) In determining the degree of negligence, involved in a violation and the number of points to be assigned, the following definitions apply:

(A) No negligence means an inadvertent violation which was unavoidable by the exercise of reasonable care.

(B) Negligence means the failure of a permittee to prevent the occurrence of any violation of the permit or any requirement of the Act or this chapter due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation of such permit or the Act due to indifference, lack of diligence, or lack of reasonable care.

(C) A greater degree of fault than negligence means reckless, knowing, or intentional conduct.

(3) In calculating points to be assigned for negligence, the acts of all persons working on the coal exploration or surface coal mining and reclamation site shall be attributed to the person to whom the notice or order was issued, unless that person establishes that they were acts of deliberate sabotage.

(c) Credit for good faith in attempting to achieve compliance.

(1) The division shall deduct from the total points assigned under subsections (a) and (b) ~~and (e)~~ [of this section] points based on the demonstrated good faith of the permittee in attempting to achieve rapid compliance after notification of the violation. Points shall be deducted as follows:

(i) three to four points shall be deducted when the permittee to whom the notice or order was issued took extraordinary measures to abate the violation in the shortest possible time and that abatement was achieved before the time set for abatement.

(ii) one to two points shall be deducted when the permittee to whom the notice or order was issued took prompt and diligent efforts to promptly abate the

violation and that abatement was achieved before the time set for abatement.

(2) If the consideration of this criterion is impractical because of the length of the abatement period, the calculation of points may be made without considering this criterion and may be re-calculated after the violation has been abated.

(d) Determination of base penalty.

The division shall determine the base amount of any civil penalty by converting the total number of points calculated under subsections (a), (b), and (c); ~~and (d)~~ of this section to a dollar amount, according to the following schedule:

Points	Dollars	Points	Dollars
1	50	9	1050
2	100	10	1350
3	175	11	1700
4	250	12	2050
5	325	13	2400
6	400	14	2750
7	475	15	3100
8	750	16	3500

(e) Credit and additional penalties for previous history.

(1) Except for a violation that resulted in personal injury or fatality to any person, the division shall reduce the base penalty determined under subsection (d) [of this section] by 10% if the permittee has had no violations cited by the division within the preceding 12-month period.

(2) The division shall add to the base penalty determined under subsection (d) [of this section] additional sums for the permittee's previous history of violations as follows:

(i) Twenty dollars for each violation contained in a notice of violation, up to 10 of such violations;

(ii) Fifty dollars for each violation contained in a notice of violation, in excess of 10 violations;

(iii) One hundred dollars for each violation contained in a cessation order.

(3) A violation shall not be counted if the notice or order is the subject of pending administrative or judicial review or if the time to request such review has not expired, and thereafter it shall be counted for only one year; provided however, that a violation which is subject to administrative or judicial review, or for which the time to request such review has not expired, shall not be disregarded for the purpose of obtaining a 10% reduction pursuant to [~~subsection subdivision~~] (e) (1) [of this section], unless such administrative or judicial review results in the vacation of the penalty.

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(4) No violation for which the notice or order has been vacated shall be counted.

(5) Each violation shall be counted without regard to whether it led to a civil penalty assessment.

(f) The maximum penalty which the division may assess under this section for each cessation order or notice of violation shall be \$5,000, except that if the violation resulted in a personal injury or fatality to any person, then the civil penalty determined under subsection (d) [of this section] shall be multiplied by a factor of 20, not to exceed \$70,000. As provided in 4 VAC 25-130-845.15, each day of continuing violation may be deemed a separate violation for the purpose of assessing penalties.

4 VAC 25-130-845.15. Assessment of separate violations for each day.

(a) The division may assess separately a civil penalty for each day from the date of issuance of the notice of violation or cessation order to the date set for abatement of the violation. In determining whether to make such an assessment, the division shall consider the factors listed in 4 VAC 25-130-845.13 and may consider the extent to which the person to whom the notice or order was issued gained any economic benefit as a result of a failure to comply. For any violation which continues for two or more days and which has been assigned a penalty of \$5,000 or more under 4 VAC 25-130-845.13, the division shall assess a penalty for a minimum of two separate days.

(b) In addition to the civil penalty provided for in [~~Paragraph subsection~~] (a) [of this section], whenever a violation contained in a notice of violation or cessation order has not been abated within the abatement period set in the notice or order or as subsequently extended pursuant to § 45.1-245 B of the Act, a civil penalty of not less than \$750 shall be assessed for each day during which such failure to abate continues, except that:

(1) (i) If suspension of the abatement requirements of the notice or order is ordered in a temporary relief proceeding under § 45.1-249 C of the Act, after a determination that the person to whom the notice or order was issued will suffer irreparable loss or damage from the application of the requirements, the period permitted for abatement shall not end until the date on which the director or his authorized representative issues a final order with respect to the violation in question; and

(ii) If the person to whom the notice or order was issued initiates review proceedings under § 45.1-251 B of the Act with respect to the violation, in which the obligations to abate are suspended by the court pursuant to § 45.1-251 B of the Act, the daily assessment of a penalty shall not be made for any period before entry of a final order by the court;

(2) Such penalty for the failure to abate the violation shall not be assessed for more than 30 days for each such violation. If the permittee has not abated the violation within the 30 day period, the division shall take appropriate action pursuant to §§ 45.1-245 and 45.1-246 of the Act within 30 days to ensure that abatement occurs or to ensure that there will not be a reoccurrence of the failure to abate.

4 VAC 25-130-845.18. Procedures for assessment conference.

(a) The division shall arrange for a conference to review the proposed assessment or reassessment, upon written request of the person to whom notice or order was issued, if the request is received within 30 days from the date the proposed assessment or reassessment is served.

(b) (1) The division shall assign a conference officer to hold the assessment conference. The assessment conference shall be conducted as an informal proceeding in accordance with ~~§ 9-6.14:11~~ § 2.2-4019 of the Code of Virginia. The assessment conference shall be held within 60 days from the date the conference request is received or the end of the abatement period, whichever is later. Provided that a failure by the division to hold such conference within 60 days shall not be grounds for dismissal of all or part of an assessment unless the person against whom the proposed penalty has been assessed proves actual prejudice as a result of the delay.

(2) The division shall post notice of the time and place of the conference at the division's office in Big Stone Gap or field office located closest to the mine at least five days before the conference. Any person shall have a right to attend and participate in the conference.

(3) The conference officer shall consider all relevant information on the violation. Within 30 days after the conference is held, the conference officer shall either:

(i) Settle the issue, in which case a settlement agreement shall be prepared and signed by the division and by the person assessed; or

(ii) Affirm, raise, lower, or vacate the penalty.

(4) An increase or reduction of a proposed civil penalty assessment of more than 25% and more than \$500 shall not be final and binding on the division, until approved by the director or his designee.

(c) The division shall promptly serve the person assessed with a notice of the conference decision in the manner provided in 4 VAC 25-130-845.17 (b) and shall include a worksheet if the penalty has been raised or lowered. The reasons for the conference officer's action shall be fully documented in the file.

(d) (1) If a settlement agreement is entered into, the person assessed will be deemed to have waived all rights to further review of the violation or penalty in question, except as

otherwise expressly provided for in the settlement agreement. The settlement agreement shall contain a clause to this effect.

(2) If full payment of the amount specified in the settlement agreement is not received by the division within 30 days after that date of signing, the division may enforce the agreement or rescind it and proceed according to [paragraph subdivision] (b) (3) (ii) [with of this section within] 30 days from the date of the rescission.

(e) The conference officer may terminate the conference if it is determined that the issues cannot be resolved or that the person assessed is not diligently working toward resolution of the issues.

(f) At any formal review proceedings under §§ 45.1-245 C, 45.1-246 and 45.1-249 of the Act, no evidence as to statements made or evidence produced by one party at a conference shall be introduced as evidence by another party or to impeach a witness.

4 VAC 25-130-845.19. Request for hearing.

(a) The person charged with the violation may contest the proposed penalty or the fact of the violation by submitting a petition and an amount equal to the proposed penalty or, if a conference has been held, the reassessed or affirmed penalty to the division (to be held in escrow as provided in [paragraph subsection] (b) of this section) within 30 days from receipt of the proposed assessment or reassessment or 30 days from the date of service of the assessment conference decision, whichever is later. The fact of the violation may not be contested if it has been decided in a review proceeding commenced under 4 VAC 25-130-843.16.

(b) The division shall transfer all funds submitted under [paragraph subsection] (a) [of this section] to the State Treasurer's Office which shall hold them in escrow pending completion of the administrative and judicial review process, at which time it shall disburse them as provided in 4 VAC 25-130-845.20.

(c) The hearing requested pursuant to a petition filed under [paragraph subsection] (a) of this section shall be conducted as a formal hearing in accordance with the provisions of ~~§ 9-6.14.12~~ § 2.2-4020 of the Code of Virginia. The hearing officer shall cause an accurate verbatim record of the hearing to be made. The division may charge the reasonable cost of preparing such record to any party to the hearing who requests a copy of the record.

(d) All requests for hearing, or appeals for review and reconsideration made under this section; and all notices of appeal for judicial review of a hearing officer's final decision, or the final decision on review and reconsideration shall be filed with the Director, Division of Mined Land Reclamation, Department of Mines, Minerals and Energy, Post Office Drawer 900, Big Stone Gap, Virginia 24219.

4 VAC 25-130-846.14. Amount of the individual civil penalty.

(a) In determining the amount of an individual civil penalty, the division shall consider the criteria specified in § 45.1-246 [() A ()] of the Act, including:

- (1) The individual's history of authorizing, ordering or carrying out previous violations, failures or refusals at the particular surface coal mining operation;
- (2) The seriousness of the violation, failure or refusal (as indicated by the extent of damage and/or the cost of reclamation), including any irreparable harm to the environment and any hazard to the health or safety of the public; and,
- (3) The demonstrated good faith of the individual charged in attempting to achieve rapid compliance after notice of the violation, failure or refusal.

(b) The penalty shall not exceed \$5,000 for each violation, except that if the violation resulted in a personal injury or fatality to any person, then the civil penalty determined under 4 VAC 25-130-845.13 (d) shall be multiplied by a factor of 20, not to exceed \$70,000. Each day of a continuing violation may be deemed a separate violation and the division may assess a separate individual civil penalty for each day the violation, failure or refusal continues, from the date of service of the underlying notice of violation, cessation order or other order incorporated in a final decision issued by the director, until abatement or compliance is achieved.

VA.R. Doc. No. R06-38; Filed February 13, 2007, 11:33 a.m.



TITLE 9. ENVIRONMENT

STATE AIR POLLUTION CONTROL BOARD

Final Regulation

REGISTRAR'S NOTICE: The following regulatory action is exempt from the Administrative Process Act in accordance with § 2.2-4006 A 4 c of the Code of Virginia, which excludes regulations that are necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation. The State Air Pollution Control Board will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 9 VAC 5-140. Regulation for Emissions Trading Programs (Rev. C06) (adding 9 VAC 5-140-5010 through 9 VAC 5-140-5750).

Regulations

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

Effective Date: April 4, 2007.

Agency Contact: Mary E. Major, Environmental Program Manager, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4423, FAX (804) 698-4510 or email memajor@deq.virginia.gov.

Summary:

The amendment adds a new part, Hg Trading Program for Coal-Fired Electric Steam Generating Units, which addresses the following substantive provisions: applicability, permitting, allowance methodology, monitoring, banking, and compliance determination. Virginia's Hg annual trading budgets are 1,184 pounds in 2010 through 2017 and 468 pounds in 2018 and thereafter.

Beginning January 1, 2010, coal-fired electric generating units with a nameplate capacity greater than 25 MWe will be subject to the provisions of this part. To accommodate the Hg emissions from the affected units, the units are allocated from the budget a specific limited number of allowances (measured in ounces per year) during the months of January 1 through December 31, otherwise known as the control period. The Hg allocations are determined through a methodology based upon heat input for existing units and electrical output for new units. January 1, 2001, is the cutoff for determining whether a unit is new or existing. An initial set-aside of 4.0% of the Hg trading budget is provided for use by new units for each control period in the first five years, dropping to 1.0% in subsequent years.

A set-aside for new energy efficiency/renewable energy units consisting of 1.0% of the Hg trading budget is provided for each control period. Procedures are included for the allocation of the allowances in the set-aside budget. The allocated allowances must be retired permanently, are not capable of being lawfully traded under the Hg Budget Trading Program, and are not to be submitted to EPA; the unallocated allowances expire after three years.

If a unit does not use all of its allowances for a specific control period, those extra ounces may be banked for future use or sold. If a unit exceeds the allocated allowances, additional allowances may be purchased or the source may use banked allowances to offset the amount of Hg generated above the allocated allowances.

Sources found to be out of compliance will be forced to surrender allowances for the next year on a ratio of 3:1; i.e., for every ounce over its allocations, three ounces will be forfeited from the next year's allocation.

Emissions will need to be monitored according to 40 CFR Part 75 for all sources subject to the regulation and for any sources wishing to opt into the program.

CHAPTER 140.

REGULATION FOR EMISSIONS TRADING PROGRAMS.

PART VI.

Hg BUDGET TRADING PROGRAM FOR COAL-FIRED ELECTRIC STEAM GENERATING UNITS.

Article 1.

Hg Budget Trading Program General Provisions.

9 VAC 5-140-5010. Purpose.

This part establishes the general provisions and the designated representative, permitting, allowance, and monitoring provisions for the Mercury (Hg) Budget Trading Program, under § 111 of the Clean Air Act (CAA) and 40 CFR 60.24(h)(6), as a means of reducing Hg emissions. The board authorizes the administrator to assist the board in implementing the Hg Budget Trading Program by carrying out the functions set forth for the administrator in this part.

9 VAC 5-140-5020. Definitions.

A. As used in this part, 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 part and any related use, the words or terms shall have the meanings given them in this section.

"Administrator" means the administrator of the United States Environmental Protection Agency or the administrator's duly authorized representative.

"Allocate" or "allocation" means, with regard to Hg allowances, the determination by a permitting authority or the administrator of the amount of Hg allowances to be initially credited to a Hg Budget unit, a new unit set-aside, a new energy efficiency/renewable energy unit set-aside, or other entity.

"Allowance transfer deadline" means, for a control period, midnight of March 1 (if it is a business day), or midnight of the first business day thereafter (if March 1 is not a business day), immediately following the control period and is the deadline by which a Hg allowance transfer must be submitted for recordation in a Hg Budget source's compliance account in order to be used to meet the source's Hg Budget emissions limitation for such control period in accordance with 9 VAC 5-140-5540.

"Alternate Hg designated representative" means, for a Hg Budget source and each Hg Budget unit at the source, the natural person who is authorized by the owners and operators of the source and all such units at the source, in accordance with Article 2 (9 VAC 5-140-5100 et seq.) of this part, to act

on behalf of the Hg designated representative in matters pertaining to the Hg Budget Trading Program. If the Hg Budget source is also a CAIR NO_x source, then this natural person shall be the same person as the alternate CAIR designated representative under the CAIR NO_x Annual Trading Program. If the Hg Budget source is also a CAIR SO₂ source, then this natural person shall be the same person as the alternate CAIR designated representative under the CAIR SO₂ Trading Program. If the Hg Budget source is also a CAIR NO_x Ozone Season source, then this natural person shall be the same person as the alternate CAIR designated representative under the CAIR NO_x Ozone Season Trading Program. If the Hg Budget source is also subject to the Acid Rain Program, then this natural person shall be the same person as the alternate designated representative under the Acid Rain Program.

“Automated data acquisition and handling system” or “DAHS” means that component of the continuous emission monitoring system (CEMS), or other emissions monitoring system approved for use under Article 8 (9 VAC 5-140-5700 et seq.) of this part, designed to interpret and convert individual output signals from pollutant concentration monitors, flow monitors, diluent gas monitors, and other component parts of the monitoring system to produce a continuous record of the measured parameters in the measurement units required under Article 8 (9 VAC 5-140-5700 et seq.) of this part.

“Biomass energy” means energy derived from the combustion or electro-chemical reaction (as with a fuel cell) of hydrocarbon materials of a biogenic origin using a solid, liquid or gaseous fuel. Biomass fuel materials include, but are not limited to, animal wastes (e.g., manure) and clean plant materials (e.g., wood chips, waste paper and crop wastes). Biomass fuels exclude products that have emissions that include heavy metals and other neurotoxins (e.g., municipal solid wastes). Biomass fuel materials may be converted to a gaseous fuel, such as landfills (i.e., landfill gas) or waste treatment facilities (i.e., digester gas), or to liquid fuels (e.g., biodiesel). To be considered a biomass facility, the facility must (i) employ maximum achievable control technology and continuous emission stack monitors for all chemical emissions of concern to human health and (ii) be listed in one of the following categories: anaerobic digestion systems operating on animal or plant wastes, methane gas, combustion of clean wood, bark or other plant material; or on combustion of fuels derived entirely from processing of clean wood, bark, or other plant or animal material, including processing by gasification, pyrolysis, fermentation, distillation, or densification.

“Boiler” means an enclosed fossil- or other-fuel-fired combustion device used to produce heat and to transfer heat to recirculating water, steam, or other medium.

“Bottoming-cycle cogeneration unit” means a cogeneration unit in which the energy input to the unit is first used to produce useful thermal energy and at least some of the reject heat from the useful thermal energy application or process is then used for electricity production.

“CAIR NO_x Annual Trading Program” means a multi-state nitrogen oxides air pollution control and emission reduction program approved and administered by the administrator in accordance with Part II (9 VAC 5-140-1010 et seq.) of this chapter and 40 CFR 51.123(o)(1) or (2) or established by the administrator in accordance with Part II (9 VAC 5-140-1010 et seq.) of this chapter and 40 CFR 51.123(p) and 40 CFR 52.35, as a means of mitigating interstate transport of fine particulates and nitrogen oxides.

“CAIR NO_x Ozone Season source” means a source that is subject to the CAIR NO_x Ozone Season Trading Program.

“CAIR NO_x Ozone Season Trading Program” means a multi-state nitrogen oxides air pollution control and emission reduction program approved and administered by the administrator in accordance with Part III (9 VAC 5-140-2010 et seq.) of this chapter and 40 CFR 51.123(aa)(1) or (2) and (bb)(1), (bb)(2), or (dd) or established by the administrator in accordance with Part III (9 VAC 5-140-2010 et seq.) of this chapter and 40 CFR 51.123(ee) and 40 CFR 52.35, as a means of mitigating interstate transport of ozone and nitrogen oxides.

“CAIR NO_x source” means a source that is subject to the CAIR NO_x Annual Trading Program.

“CAIR SO₂ source” means a source that is subject to the CAIR SO₂ Trading Program.

“CAIR SO₂ Trading Program” means a multi-state sulfur dioxide air pollution control and emission reduction program approved and administered by the administrator in accordance with Part IV (9 VAC 5-140-3010 et seq.) of this chapter and 40 CFR 51.124(o)(1) or (2) or established by the administrator in accordance with Part IV (9 VAC 5-140-3010 et seq.) of this chapter and 40 CFR 51.124(r) and 40 CFR 52.36, as a means of mitigating interstate transport of fine particulates and sulfur dioxide.

“Clean Air Act” or “CAA” means the Clean Air Act, 42 USC 7401 et seq.

“Coal” means any solid fuel classified as anthracite, bituminous, subbituminous, or lignite by the American Society of Testing and Materials (ASTM) “Standard Classification of Coals by Rank” (see 9 VAC 5-20-21).

“Coal-derived fuel” means any fuel (whether in a solid, liquid, or gaseous state) produced by the mechanical, thermal, or chemical processing of coal.

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“Coal-fired” means combusting any amount of coal or coal-derived fuel, alone or in combination with any amount of any other fuel, during any year.

“Cogeneration unit” means a stationary, coal-fired boiler or stationary, coal-fired combustion turbine:

1. Having equipment used to produce electricity and useful thermal energy for industrial, commercial, heating, or cooling purposes through the sequential use of energy; and
2. Producing during the 12-month period starting on the date the unit first produces electricity and during any calendar year after the calendar year in which the unit first produces electricity:

a. For a topping-cycle cogeneration unit,

- (1) Useful thermal energy not less than 5.0% of total energy output; and
- (2) Useful power that, when added to one-half of useful thermal energy produced, is not less than 42.5% of total energy input, if useful thermal energy produced is 15% or more of total energy output, or not less than 45% of total energy input, if useful thermal energy produced is less than 15% of total energy output.

b. For a bottoming-cycle cogeneration unit, useful power not less than 45% of total energy input.

“Combustion turbine” means:

1. An enclosed device comprising a compressor, a combustor, and a turbine and in which the flue gas resulting from the combustion of fuel in the combustor passes through the turbine, rotating the turbine; and
2. If the enclosed device under subdivision 1 of this definition is combined cycle, any associated duct burner, heat recovery steam generator, and steam turbine.

“Commence commercial operation” means, with regard to a unit:

1. To have begun to produce steam, gas, or other heated medium used to generate electricity for sale or use, including test generation, except as provided in 9 VAC 5-140-5050.
 - a. For a unit that is a Hg Budget unit under 9 VAC 5-140-5040 on the later of November 15, 1990, or the date the unit commences commercial operation as defined in subdivision 1 of this definition and that subsequently undergoes a physical change (other than replacement of the unit by a unit at the same source), such date shall remain the date of commencement of commercial operation of the unit, which shall continue to be treated as the same unit.

b. For a unit that is a Hg Budget unit under 9 VAC 5-140-5040 on the later of November 15, 1990, or the date the unit commences commercial operation as defined in subdivision 1 of this definition and that is subsequently replaced by a unit at the same source (e.g., repowered), such date shall remain the replaced unit’s date of commencement of commercial operation, and the replacement unit shall be treated as a separate unit with a separate date for commencement of commercial operation as defined in subdivision 1 or 2 of this definition as appropriate.

2. Notwithstanding subdivision 1 of this definition and except as provided in 9 VAC 5-140-5050, for a unit that is not a Hg Budget unit under 9 VAC 5-140-5040 on the later of November 15, 1990, or the date the unit commences commercial operation as defined in subdivision 1 of this definition, the unit’s date for commencement of commercial operation shall be the date on which the unit becomes a Hg Budget unit under 9 VAC 5-140-5040.

a. For a unit with a date for commencement of commercial operation as defined in subdivision 2 of this definition and that subsequently undergoes a physical change (other than replacement of the unit by a unit at the same source), such date shall remain the date of commencement of commercial operation of the unit, which shall continue to be treated as the same unit.

b. For a unit with a date for commencement of commercial operation as defined in subdivision 2 of this definition and that is subsequently replaced by a unit at the same source (e.g., repowered), such date shall remain the replaced unit’s date of commencement of commercial operation, and the replacement unit shall be treated as a separate unit with a separate date for commencement of commercial operation as defined in subdivision 1 or 2 of this definition as appropriate.

“Commence operation” means:

1. To have begun any mechanical, chemical, or electronic process, including, with regard to a unit, start-up of a unit’s combustion chamber.
2. For a unit that undergoes a physical change (other than replacement of the unit by a unit at the same source) after the date the unit commences operation as defined in subdivision 1 of this definition, such date shall remain the date of commencement of operation of the unit, which shall continue to be treated as the same unit.
3. For a unit that is replaced by a unit at the same source (e.g., repowered) after the date the unit commences operation as defined in subdivision 1 of this definition, such date shall remain the replaced unit’s date of commencement of operation and the replacement unit shall be treated as a separate unit with a separate date for

commencement of operation as defined in subdivision 1 of this definition, as appropriate.

“Common stack” means a single flue through which emissions from 2 or more units are exhausted.

“Compliance account” means a Hg Allowance Tracking System account, established by the administrator for a Hg Budget source under Article 6 (9 VAC 5-140-5500 et seq.) of this part, in which any Hg allowance allocations for the Hg Budget units at the source are initially recorded and in which are held any Hg allowances available for use for a control period in order to meet the source’s Hg Budget emissions limitation in accordance with 9 VAC 5-140-5540.

“Continuous emission monitoring system” or “CEMS” means the equipment required under Article 8 (9 VAC 5-140-5700 et seq.) of this part to sample, analyze, measure, and provide, by means of readings recorded at least once every 15 minutes (using an automated data acquisition and handling system (DAHS)), a permanent record of Hg emissions, stack gas volumetric flow rate, stack gas moisture content, and oxygen or carbon dioxide concentration (as applicable), in a manner consistent with 40 CFR Part 75. The following systems are the principal types of continuous emission monitoring systems required under Article 8 (9 VAC 5-140-5700 et seq.) of this part:

1. A flow monitoring system, consisting of a stack flow rate monitor and an automated data acquisition and handling system and providing a permanent, continuous record of stack gas volumetric flow rate, in standard cubic feet per hour (scfh);
2. A Hg concentration monitoring system, consisting of a Hg pollutant concentration monitor and an automated data acquisition and handling system and providing a permanent, continuous record of Hg emissions in micrograms per dry standard cubic meter ($\mu\text{g}/\text{dscm}$);
3. A moisture monitoring system, as defined in 40 CFR 75.11(b)(2) and providing a permanent, continuous record of the stack gas moisture content, in percent H_2O .
4. A carbon dioxide monitoring system, consisting of a CO_2 concentration monitor (or an oxygen monitor plus suitable mathematical equations from which the CO_2 concentration is derived) and an automated data acquisition and handling system and providing a permanent, continuous record of CO_2 emissions, in percent CO_2 ; and
5. An oxygen monitoring system, consisting of an O_2 concentration monitor and an automated data acquisition and handling system and providing a permanent, continuous record of O_2 , in percent O_2 .

“Control period” means the period beginning January 1 of a calendar year, except as provided in 9 VAC 5-140-5060 C 2, and ending on December 31 of the same year, inclusive.

“Emissions” means air pollutants exhausted from a unit or source into the atmosphere, as measured, recorded, and reported to the administrator by the Hg designated representative and as determined by the administrator in accordance with Article 8 (9 VAC 5-140-5700 et seq.) of this part.

“EERE proponent” means any person who owns, leases, operates or controls an energy efficiency unit or a renewable energy unit, or an EERE representative.

“EERE representative” means a party that aggregates one or more energy efficiency units or renewable energy units. An EERE representative may include, without limitation, a common owner of projects, an energy service company, an emission trading broker or a state or municipal entity.

“Energy efficiency unit” means an end-use energy efficiency project implemented after January 1, 2001, that reduces electricity consumption at a building or facility located in Virginia according to an energy efficiency verification protocol acceptable to the permitting authority. Projects resulting in energy savings at a Hg Budget unit are not encompassed within this definition.

“Excess emissions” means any ounce of mercury emitted by the Hg Budget units at a Hg Budget source during a control period that exceeds the Hg Budget emissions limitation for the source.

“General account” means a Hg Allowance Tracking System account, established under 9 VAC 5-140-5510, that is not a compliance account.

“Generator” means a device that produces electricity.

“Gross electrical output” means, with regard to a cogeneration unit, electricity made available for use, including any such electricity used in the power production process (which process includes, but is not limited to, any on-site processing or treatment of fuel combusted at the unit and any on-site emission controls).

“Heat input” means, with regard to a specified period of time, the product (in MMBtu/time) of the gross calorific value of the fuel (in Btu/lb) divided by 1,000,000 Btu/MMBtu and multiplied by the fuel feed rate into a combustion device (in lb of fuel/time), as measured, recorded, and reported to the administrator by the Hg designated representative and determined by the administrator in accordance with Article 8 (9 VAC 5-140-5700 et seq.) of this part and excluding the heat derived from preheated combustion air, recirculated flue gases, or exhaust from other sources.

“Heat input rate” means the amount of heat input (in MMBtu) divided by unit operating time (in hr) or, with regard to a specific fuel, the amount of heat input attributed to the fuel (in MMBtu) divided by the unit operating time (in hr) during which the unit combusts the fuel.

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"Hg allowance" means a limited authorization issued by a permitting authority or the administrator under Article 5 (9 VAC 5-140-5400 et seq.) of this part, or under 40 CFR 62.15940 through 62.15943, to emit one ounce of mercury during a control period of the specified calendar year for which the authorization is allocated or of any calendar year thereafter under the Hg Budget Trading Program. An authorization to emit mercury that is not issued under Article 5 (9 VAC 5-140-5400 et seq.) of this part or or under 40 CFR 62.15940 through 62.15943 shall not be a Hg allowance. No provision of the Hg Budget Trading Program, the Hg Budget permit application, the Hg Budget permit, or an exemption under 9 VAC 5-140-5040 B or 9 VAC 5-140-5050 and no provision of law shall be construed to limit the authority of the United States or board to terminate or limit such authorization, which does not constitute a property right.

"Hg allowance deduction" or "deduct Hg allowances" means the permanent withdrawal of Hg allowances by the administrator from a compliance account, e.g., in order to account for a specified number of ounces of total mercury emissions from all Hg Budget units at a Hg Budget source for a control period, determined in accordance with Article 8 (9 VAC 5-140-5700 et seq.) of this part, or to account for excess emissions. No provision of the Hg Budget Trading Program, the Hg permit application, the Hg permit, or an exemption under 9 VAC 5-140-5040 A 2 or 9 VAC 5-140-5050 and no provision of law shall be construed to limit the authority of the United States or state to terminate or limit such authorization, which does not constitute a property right.

"Hg allowances held" or "hold Hg allowances" means the Hg allowances recorded by the administrator, or submitted to the administrator for recordation, in accordance with Article 6 (9 VAC 5-140-5500 et seq.) and Article 7 (9 VAC 5-140-5600 et seq.) of this part, in a Hg Allowance Tracking System account.

"Hg Allowance Tracking System" means the system by which the administrator records allocations, deductions, and transfers of Hg allowances under the Hg Budget Trading Program. Such allowances will be allocated, held, deducted, or transferred only as whole allowances.

"Hg Allowance Tracking System account" means an account in the Hg Allowance Tracking System established by the administrator for purposes of recording the allocation, holding, transferring, or deducting of Hg allowances.

"Hg authorized account representative" means, with regard to a general account, a responsible natural person who is authorized, in accordance with Article 2 (9 VAC 5-140-5100 et seq.) and Article 6 (9 VAC 5-140-5500 et seq.), to transfer and otherwise dispose of Hg allowances held in the general account and, with regard to a compliance account, the Hg designated representative of the source.

"Hg Budget emissions limitation" means, for a Hg Budget source, the equivalent, in ounces of Hg emissions in a control period, of mercury of the Hg allowances available for deduction for the source under 9 VAC 5-140-5540 A and B for the control period.

"Hg Budget permit" means the terms and conditions in a title V operating permit or state operating permit, issued by the permitting authority under Article 3 (9 VAC 5-140-5200 et seq.) of this part, including any permit revisions, specifying the Hg Budget Trading Program requirements applicable to a Hg Budget source, to each Hg Budget unit at the source, and to the owners and operators and the Hg designated representative of the source and each such unit.

"Hg Budget source" means a source that includes one or more Hg Budget units.

"Hg Budget Trading Program" means a multi-state Hg air pollution control and emission reduction program approved and administered by the administrator in accordance with this part and 40 CFR 60.24(h)(6) or established by the administrator in accordance with Subpart LLL of 40 CFR Part 62, 40 CFR 60.24(h)(9), and 40 CFR 62.13(f), as a means of reducing national Hg emissions.

"Hg Budget unit" means a unit that is subject to the Hg Budget Trading Program under 9 VAC 5-140-5040.

"Hg core trading budget" means the amount of ounces (pounds multiplied by 16 ounces/lb) of Hg emissions in the Hg trading budget for the control period minus the new unit set-aside budget and the new energy efficiency/renewable energy unit set-aside budget.

"Hg designated representative" means, for a Hg Budget source and each Hg Budget unit at the source, the natural person who is authorized by the owners and operators of the source and all such units at the source, in accordance with Article 2 (9 VAC 5-140-5100 et seq.) of this part, to represent and legally bind each owner and operator in matters pertaining to the Hg Budget Trading Program. If the Hg Budget source is also a CAIR NO_x source, then this natural person shall be the same person as the CAIR designated representative under the CAIR NO_x Annual Trading Program. If the Hg Budget source is also a CAIR SO₂ source, then this natural person shall be the same person as the CAIR designated representative under the CAIR SO₂ Trading Program. If the Hg Budget source is also a CAIR NO_x Ozone Season source, then this natural person shall be the same person as the CAIR designated representative under the CAIR NO_x Ozone Season Trading Program. If the Hg Budget source is also subject to the Acid Rain Program, then this natural person shall be the same person as the designated representative under the Acid Rain Program.

"Hg Trading Budget" means the total number of mercury pounds set forth in 9 VAC 5-140-5400 and apportioned to all Hg Budget units and energy efficiency/renewable energy

units in accordance with the Hg Trading Budget Program, for use in a given control period.

"Implementation plan" means the portion or portions of the state implementation plan, or the most recent revision thereof, which has been approved in subpart VV of 40 CFR Part 52 by the administrator under § 110 of the CAA, or promulgated under § 110(c) of the CAA, or promulgated or approved pursuant to regulations promulgated under § 301(d) of the CAA and which implements the relevant requirements of the CAA.

"Life-of-the-unit, firm power contractual arrangement" means a unit participation power sales agreement under which a utility or industrial customer reserves, or is entitled to receive, a specified amount or percentage of nameplate capacity and associated energy generated by any specified unit and pays its proportional amount of such unit's total costs, pursuant to a contract:

1. For the life of the unit;
2. For a cumulative term of no less than 30 years, including contracts that permit an election for early termination; or
3. For a period no less than 25 years or 70 percent of the economic useful life of the unit determined as of the time the unit is built, with option rights to purchase or release some portion of the nameplate capacity and associated energy generated by the unit at the end of the period.

"Lignite" means coal that is classified as lignite A or B according to the American Society of Testing and Materials (ASTM) "Standard Classification of Coals by Rank" (see 9 VAC 5-20-21).

"Maximum design heat input" means the maximum amount of fuel per hour (in Btu/hr) that a unit is capable of combusting on a steady-state basis as of the initial installation of the unit as specified by the manufacturer of the unit.

"Monitoring system" means any monitoring system that meets the requirements of Article 8 (9 VAC 5-140-5700 et seq.) of this part, including a continuous emissions monitoring system, an alternative monitoring system, or an excepted monitoring system under 40 CFR Part 75.

"Municipal waste" means municipal waste as defined in § 129(g)(5) of the Clean Air Act.

"Nameplate capacity" means, starting from the initial installation of a generator, the maximum electrical generating output (in MWe) that the generator is capable of producing on a steady-state basis and during continuous operation (when not restricted by seasonal or other deratings) as of such installation as specified by the manufacturer of the generator or, starting from the completion of any subsequent physical change in the generator resulting in an increase in the maximum electrical generating output (in MWe) that the generator is capable of producing on a steady-state basis and

during continuous operation (when not restricted by seasonal or other deratings), such increased maximum amount as of such completion as specified by the person conducting the physical change.

"New energy efficiency/renewable energy unit set-aside budget" means the amount of ounces (pounds multiplied by 16 ounces/lb) of Hg emissions in the Hg trading budget for each control period in 2010 and thereafter multiplied by 1.0%, rounded to the nearest whole allowance as appropriate.

"New unit set-aside budget" means the amount of ounces (pounds multiplied by 16 ounces/lb) of Hg emissions in the Hg trading budget for the control period to which the new unit set-aside applies multiplied by the new unit set-aside percentage, rounded to the nearest whole allowance as appropriate.

"New unit set-aside percentage" means 4.0% for each control period in 2010 through 2014, or 1.0% for each control period in 2015 and thereafter.

"Operator" means any person who operates, controls, or supervises a Hg Budget unit or a Hg Budget source and shall include, but not be limited to, any holding company, utility system, or plant manager of such a unit or source.

"Ounce" means 2.84×10^7 micrograms. For the purpose of determining compliance with the Hg Budget emissions limitation, total ounces of mercury emissions for a control period shall be calculated as the sum of all recorded hourly emissions (or the mass equivalent of the recorded hourly emission rates) in accordance with Article 8 (9 VAC 5-140-5700 et seq.) of this part, but with any remaining fraction of an ounce equal to or greater than 0.50 ounces deemed to equal one ounce and any remaining fraction of an ounce less than 0.50 ounces deemed to equal zero ounces.

"Owner" means any of the following persons:

1. With regard to a Hg Budget source or a Hg Budget unit at a source, respectively:
 - a. Any holder of any portion of the legal or equitable title in a Hg Budget unit at the source or the Hg Budget unit;
 - b. Any holder of a leasehold interest in a Hg Budget unit at the source or the Hg Budget unit; or
 - c. Any purchaser of power from a Hg Budget unit at the source or the Hg Budget unit under a life-of-the-unit, firm power contractual arrangement; provided that, unless expressly provided for in a leasehold agreement, owner shall not include a passive lessor, or a person who has an equitable interest through such lessor, whose rental payments are not based (either directly or indirectly) on the revenues or income from such Hg Budget unit; or

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2. With regard to any general account, any person who has an ownership interest with respect to the Hg allowances held in the general account and who is subject to the binding agreement for the Hg authorized account representative to represent the person's ownership interest with respect to Hg allowances.

"Permitting authority" means the state air pollution control agency, local agency, other State agency, or other agency authorized by the administrator to issue or revise permits to meet the requirements of the Hg Budget Trading Program or, if no such agency has been so authorized, the administrator. For the Commonwealth of Virginia, the permitting authority shall be the State Air Pollution Control Board.

"Potential electrical output capacity" means 33% of a unit's maximum design heat input, divided by 3,413 Btu/kWh, divided by 1,000 kWh/MWh, and multiplied by 8,760 hr/yr.

"Receive" or "receipt of" means, when referring to the permitting authority or the administrator, to come into possession of a document, information, or correspondence (whether sent in hard copy or by authorized electronic transmission), as indicated in an official log, or by a notation made on the document, information, or correspondence, by the permitting authority or the administrator in the regular course of business.

"Recordation," "record," or "recorded" means, with regard to Hg allowances, the movement of Hg allowances by the administrator into or between Hg Allowance Tracking System accounts, for purposes of allocation, transfer, or deduction.

"Reference method" means any direct test method of sampling and analyzing for an air pollutant as specified in 40 CFR 75.22.

"Renewable energy unit" means an electric generator that began commercial operation after January 1, 2001 and is powered by (i) wind, solar, ocean thermal, wave, tidal, geothermal, or biomass energy, or (ii) fuel cells powered by hydrogen generated by a renewable energy source. Renewable energy does not include energy derived from: (i) material that has been treated or painted or derived from demolition or construction material; (ii) municipal, industrial or other multiple source solid waste; and (iii) co-firing of biomass with fossil fuels or solid waste.

"Replacement," "replace," or "replaced" means, with regard to a unit, the demolishing of a unit, or the permanent shutdown and permanent disabling of a unit, and the construction of another unit (the replacement unit) to be used instead of the demolished or shutdown unit (the replaced unit).

"Repowered" means, with regard to a unit, replacement of a coal-fired boiler with one of the following coal-fired technologies at the same source as the coal-fired boiler:

1. Atmospheric or pressurized fluidized bed combustion;
2. Integrated gasification combined cycle;
3. Magnetohydrodynamics;
4. Direct and indirect coal-fired turbines;
5. Integrated gasification fuel cells; or
6. As determined by the administrator in consultation with the Secretary of Energy, a derivative of one or more of the technologies under subdivisions 1 through 5 of this definition and any other coal-fired 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 January 1, 2005.

"Section 111(d) plan" means the portion or portions of the plan, or the most recent revision thereof, which has been approved under 40 CFR 60.24(h)(6) in accordance with § 111(d)(1) of the Clean Air Act, or promulgated under 40 CFR 60.24(h)(6) in accordance with § 111(d)(2) of the Clean Air Act, and which implements the relevant requirements of the Clean Air Act.

"Sequential use of energy" means:

1. For a topping-cycle cogeneration unit, the use of reject heat from electricity production in a useful thermal energy application or process; or
2. For a bottoming-cycle cogeneration unit, the use of reject heat from useful thermal energy application or process in electricity production.

"Serial number" means, for a Hg allowance, the unique identification number assigned to each Hg allowance by the administrator.

"Solid waste incineration unit" means a stationary, coal-fired boiler or stationary, coal-fired combustion turbine that is a "solid waste incineration unit" as defined in § 129(g)(1) of the Clean Air Act.

"Source" means all buildings, structures, or installations located in one or more contiguous or adjacent properties under common control of the same person or persons. For purposes of § 502(c) of the Clean Air Act, a "source," including a "source" with multiple units, shall be considered a single "facility."

"State" means the Commonwealth of Virginia. The term "state" shall have its conventional meaning where such meaning is clear from the context.

"State operating permit" means a permit issued under Article 5 (9 VAC 5-80-800 et seq.) of Part II of 9 VAC 5 Chapter 80.

“State operating permit regulations” means the regulations codified in Article 5 (9 VAC 5-80-800 et seq.) of Part II of 9 VAC 5 Chapter 80.

“Subbituminous” means coal that is classified as subbituminous A, B, or C, according to the American Society of Testing and Materials (ASTM) “Standard Classification of Coals by Rank” (see 9 VAC 5-20-21).

“Submit” or “serve” means to send or transmit a document, information, or correspondence to the person specified in accordance with the applicable regulation:

1. In person;
2. By United States Postal Service; or
3. By other means of dispatch or transmission and delivery. Compliance with any “submission” or “service” deadline shall be determined by the date of dispatch, transmission, or mailing and not the date of receipt.

“Title V operating permit” means a permit issued under Article 1 (9 VAC 5-80-50 et seq.) or Article 3 (9 VAC 5-80-360 et seq.) of Part II of 9 VAC 5 Chapter 80.

“Title V operating permit regulations” means the regulations 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 Part II of 9 VAC 5 Chapter 80.

“Topping-cycle cogeneration unit” means a cogeneration unit in which the energy input to the unit is first used to produce useful power, including electricity, and at least some of the reject heat from the electricity production is then used to provide useful thermal energy.

“Total energy input” means, with regard to a cogeneration unit, total energy of all forms supplied to the cogeneration unit, excluding energy produced by the cogeneration unit itself.

“Total energy output” means, with regard to a cogeneration unit, the sum of useful power and useful thermal energy produced by the cogeneration unit.

“Unit” means a stationary coal-fired boiler or a stationary coal-fired combustion turbine.

“Unit operating day” means a calendar day in which a unit combusts any fuel.

“Unit operating hour” or “hour of unit operation” means an hour in which a unit combusts any fuel.

“Useful power” means, with regard to a cogeneration unit, electricity or mechanical energy made available for use, excluding any such energy used in the power production process (which process includes, but is not limited to, any on-site processing or treatment of fuel combusted at the unit and any on-site emission controls).

“Useful thermal energy” means, with regard to a cogeneration unit, thermal energy that is:

1. Made available to an industrial or commercial process (not a power production process), excluding any heat contained in condensate return or makeup water;
2. Used in a heating application (e.g., space heating or domestic hot water heating); or
3. Used in a space cooling application (i.e., thermal energy used by an absorption chiller).

“Utility power distribution system” means the portion of an electricity grid owned or operated by a utility and dedicated to delivering electricity to customers.

9 VAC 5-140-5030. Measurements, abbreviations, and acronyms.

Measurements, abbreviations, and acronyms used in this part are defined as follows:

Btu - British thermal unit.

CO₂ - carbon dioxide.

H₂O - water.

Hg - mercury.

hr - hour.

kW - kilowatt electrical.

kWh - kilowatt hour.

lb - pound.

MMBtu - million Btu.

MWe - megawatt electrical.

MWh - megawatt hour.

NO_x - nitrogen oxides.

O₂ - oxygen.

ppm - parts per million.

scfh - standard cubic feet per hour.

SO₂ - sulfur dioxide.

yr - year.

9 VAC 5-140-5040. Applicability.

A. Except as provided in subsection B of this section:

1. The following units shall be Hg Budget units, and any source that includes one or more such units shall be a Hg Budget source, subject to the requirements of this part: Any stationary, coal-fired boiler or stationary, coal-fired combustion turbine serving at any time, since the later of November 15, 1990, or the start-up of the unit's combustion

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chamber, a generator with nameplate capacity of more than 25 MWe producing electricity for sale.

2. If a stationary boiler or stationary combustion turbine that, under subdivision 1 of this subsection, is not a Hg Budget unit begins to combust coal or coal-derived fuel or to serve a generator with nameplate capacity of more than 25 MWe producing electricity for sale, the unit shall become a Hg Budget unit as provided in subdivision 1 of this subsection on the first date on which it both combusts coal or coal-derived fuel and serves such generator.

B. The units that meet the requirements set forth in subdivision 1 a or 2 of this subsection shall not be Hg Budget units:

1. a. Any unit that is a Hg Budget unit under subdivision A 1 or 2 of this section:

(1) Qualifying as a cogeneration unit during the 12-month period starting on the date the unit first produces electricity and continuing to qualify as a cogeneration unit; and

(2) Not serving at any time, since the later of November 15, 1990, or the start-up of the unit's combustion chamber, a generator with nameplate capacity of more than 25 MWe supplying in any calendar year more than one-third of the unit's potential electric output capacity or 219,000 MWh, whichever is greater, to any utility power distribution system for sale.

b. If a unit qualifies as a cogeneration unit during the 12-month period starting on the date the unit first produces electricity and meets the requirements of subdivision 1 a of this subsection for at least one calendar year, but subsequently no longer meets all such requirements, the unit shall become an Hg Budget unit starting on the earlier of January 1 after the first calendar year during which the unit first no longer qualifies as a cogeneration unit or January 1 after the first calendar year during which the unit no longer meets the requirements of subdivision 1 a (2) of this subsection.

2. Any unit that is an Hg Budget unit under subdivision A 1 or 2 of this section, is a solid waste incineration unit combusting municipal waste, and is subject to the requirements of:

a. Article 54 (9 VAC 5-40-7950 et seq.) of Part II of 9 VAC 5 Chapter 40 (emission standards for large municipal waste combustors);

b. Subpart Eb in 9 VAC 5-50-410 (standards of performance for large municipal waste combustors);

c. Subpart AAAA in 9 VAC 5-50-410 (standards of performance for small municipal waste combustors); or

d. Article 46 (9 VAC 5-40-6550) of Part II of 9 VAC 5 Chapter 40 (emission standards for small municipal waste combustors).

9 VAC 5-140-5050. Retired unit exemption.

A. 1. Any Hg Budget unit that is permanently retired shall be exempt from the Hg Budget Trading Program, except for the provisions of this section, 9 VAC 5-140-5020, 9 VAC 5-140-5030, 9 VAC 5-140-5040, 9 VAC 5-140-5060 C 4 through 7, 9 VAC 5-140-5070, 9 VAC 5-140-5080, Article 2 (9 VAC 5-10-5100 et seq.) of this part, and 9 VAC 5-140-5400.

2. The exemption under subdivision 1 of this subsection shall become effective the day on which the Hg Budget unit is permanently retired. Within 30 days of the unit's permanent retirement, the Hg designated representative shall submit a statement to the permitting authority and shall submit a copy of the statement to the administrator. The statement shall state, in a format acceptable to the permitting authority, that the unit was permanently retired on a specific date and will comply with the requirements of subsection B of this section.

3. After receipt of the statement under subdivision 2 of this subsection, the permitting authority will amend any permit under Article 3 (9 VAC 5-140-5200 et seq.) of this part covering the source at which the unit is located to add the provisions and requirements of the exemption under subdivision 1 of this subsection and subsection B of this section.

B. Special provisions for exempt units shall be as follows.

1. A unit exempt under subsection A of this section shall not emit any mercury, starting on the date that the exemption takes effect.

2. The permitting authority will allocate Hg allowances under Article 5 (9 VAC 5-140-5400 et seq.) of this part to a unit exempt under subsection A of this section.

3. For a period of five years from the date the records are created, the owners and operators of a unit exempt under subsection A of this section shall retain, at the source that includes the unit, records demonstrating that the unit is permanently retired. The five-year period for keeping records may be extended for cause, at any time before the end of the period, in writing by the permitting authority or the administrator. The owners and operators bear the burden of proof that the unit is permanently retired.

4. The owners and operators and, to the extent applicable, the Hg designated representative of a unit exempt under subsection A of this section shall comply with the requirements of the Hg Budget Trading Program concerning all periods for which the exemption is not in effect, even if such requirements arise, or must be complied with, after the exemption takes effect.

5. A unit exempt under subsection A of this section and located at a source that is required, or but for this exemption would be required, to have a title V operating permit shall not resume operation unless the Hg designated representative of the source submits a complete Hg Budget permit application under 9 VAC 5-140-5220 for the unit not less than 18 months (or such lesser time provided by the permitting authority) before the later of January 1, 2010, or the date on which the unit resumes operation.

6. On the earlier of the following dates, a unit exempt under subsection A of this section shall lose its exemption:

a. The date on which the Hg designated representative submits a Hg Budget permit application for the unit under subdivision 5 of this subsection;

b. The date on which the Hg designated representative is required under subdivision 5 of this subsection to submit a Hg Budget permit application for the unit; or

c. The date on which the unit resumes operation, if the Hg designated representative is not required to submit a Hg Budget permit application for the unit.

7. For the purpose of applying monitoring, reporting, and recordkeeping requirements under Article 8 (9 VAC 5-140-5700 et seq.) of this part, a unit that loses its exemption under subsection A of this section shall be treated as a unit that commences commercial operation on the first date on which the unit resumes operation.

9 VAC 5-140-5060. Standard requirements.

A. Permit requirements shall be as follows.

1. The Hg designated representative of each Hg Budget source required to have a title V operating permit and each Hg Budget unit required to have a title V operating permit at the source shall:

a. Submit to the permitting authority a complete Hg Budget permit application under 9 VAC 5-140-5220 in accordance with the deadlines specified in 9 VAC 5-140-5210; and

b. Submit in a timely manner any supplemental information that the permitting authority determines is necessary in order to review a Hg Budget permit application and issue or deny a Hg Budget permit.

2. The owners and operators of each Hg Budget source required to have a title V operating permit and each Hg Budget unit required to have a title V operating permit at the source shall have a Hg Budget permit issued by the permitting authority under Article 3 (9 VAC 5-140-5200 et seq.) of this part for the source and operate the source and the unit in compliance with such Hg Budget permit.

3. The owners and operators of a Hg Budget source that is not otherwise required to have a title V operating permit

and each Hg Budget unit that is not otherwise required to have a title V operating permit are not required to submit a Hg Budget permit application, and to have a Hg Budget permit, under Article 3 (9 VAC 5-140-5200 et seq.) of this part for such Hg Budget source and such Hg Budget unit.

B. Monitoring, reporting, and recordkeeping shall be performed as follows:

1. The owners and operators, and the Hg designated representative, of each Hg Budget source and each Hg Budget unit at the source shall comply with the monitoring, reporting, and recordkeeping requirements of Article 8 (9 VAC 5-140-5700 et seq.) of this part.

2. The emissions measurements recorded and reported in accordance with Article 8 (9 VAC 5-140-5700 et seq.) of this part shall be used to determine compliance by each Hg Budget source with the Hg Budget emissions limitation under subsection C of this section.

C. Mercury emission requirements shall be as follows:

1. As of the allowance transfer deadline for a control period, the owners and operators of each Hg Budget source and each Hg Budget unit at the source shall hold, in the source's compliance account, Hg allowances available for compliance deductions for the control period under 9 VAC 5-140-5540 A in an amount not less than the ounces of total mercury emissions for the control period from all Hg Budget units at the source, as determined in accordance with Article 8 (9 VAC 5-140-5700 et seq.) of this part.

2. A Hg Budget unit shall be subject to the requirements under subdivision 1 of this subsection for the control period starting on the later of January 1, 2010, or the deadline for meeting the unit's monitor certification requirements under 9 VAC 5-140-5700 C 1 or 2 and for each control period thereafter.

3. A Hg allowance shall not be deducted, for compliance with the requirements under subdivision 1 of this subsection, for a control period in a calendar year before the year for which the Hg allowance was allocated.

4. Hg allowances shall be held in, deducted from, or transferred into or among Hg Allowance Tracking System accounts in accordance with Article 6 (9 VAC 5-140-5500 et seq.) and Article 7 (9 VAC 5-140-5600 et seq.) of this part.

5. A Hg allowance is a limited authorization to emit one ounce of mercury in accordance with the Hg Budget Trading Program. No provision of the Hg Budget Trading Program, the Hg Budget permit application, the Hg Budget permit, or an exemption under 9 VAC 5-140-5050 and no provision of law shall be construed to limit the authority of the board or the United States to terminate or limit such authorization.

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6. A Hg allowance does not constitute a property right.

7. Upon recordation by the administrator under Article 5 (9 VAC 5-140-5400 et seq.), Article 6 (9 VAC 5-140-5500 et seq.) and Article 7 (9 VAC 5-140-5600 et seq.) of this part, every allocation, transfer, or deduction of a Hg allowance to or from a Hg Budget source's compliance account is incorporated automatically in any Hg Budget permit of the source.

D. If a Hg Budget source emits mercury during any control period in excess of the Hg Budget emissions limitation:

1. The owners and operators of the source and each Hg Budget unit at the source shall surrender the Hg allowances required for deduction under 9 VAC 5-140-5540 D 1 and pay any fine, penalty, or assessment or comply with any other remedy imposed, for the same violations, under the Clean Air Act or the Virginia Air Pollution Control Law; and

2. Each ounce of such excess emissions and each day of such control period shall constitute a separate violation of this part, the Clean Air Act, and the Virginia Air Pollution Control Law.

E. Recordkeeping and reporting shall be performed as follows.

1. Unless otherwise provided, the owners and operators of the Hg Budget source and each Hg Budget unit at the source shall keep on site at the source each of the following documents for a period of five years from the date the document is created. This period may be extended for cause, at any time before the end of five years, in writing by the permitting authority or the administrator.

a. The certificate of representation under 9 VAC 5-140-5130 for the Hg designated representative for the source and each Hg Budget unit at the source and all documents that demonstrate the truth of the statements in the certificate of representation; provided that the certificate and documents shall be retained on site at the source beyond such five-year period until such documents are superseded because of the submission of a new certificate of representation under 9 VAC 5-140-5130 changing the Hg designated representative.

b. All emissions monitoring information, in accordance with Article 8 (9 VAC 5-140-5700 et seq.) of this part, provided that to the extent that Article 8 (9 VAC 5-140-5700 et seq.) of this part provides for a three-year period for recordkeeping, the three-year period shall apply.

c. Copies of all reports, compliance certifications, and other submissions and all records made or required under the Hg Budget Trading Program.

d. Copies of all documents used to complete a Hg Budget permit application and any other submission under the

Hg Budget Trading Program or to demonstrate compliance with the requirements of the Hg Budget Trading Program.

2. The Hg designated representative of a Hg Budget source and each Hg Budget unit at the source shall submit the reports required under the Hg Budget Trading Program, including those under Article 8 (9 VAC 5-140-5700 et seq.) of this part.

F. Liability shall be assigned as follows.

1. Each Hg Budget source and each Hg Budget unit shall meet the requirements of the Hg Budget Trading Program.

2. Any provision of the Hg Budget Trading Program that applies to a Hg Budget source or the Hg designated representative of a Hg Budget source shall also apply to the owners and operators of such source and of the Hg Budget units at the source.

3. Any provision of the Hg Budget Trading Program that applies to a Hg Budget unit or the Hg designated representative of a Hg Budget unit shall also apply to the owners and operators of such unit.

G. No provision of the Hg Budget Trading Program, a Hg Budget permit application, a Hg Budget permit, or an exemption under 9 VAC 5-140-5050 shall be construed as exempting or excluding the owners and operators, and the Hg designated representative, of a Hg Budget source or Hg Budget unit from compliance with any other provision of the applicable, approved implementation plan, a federally enforceable permit, the Virginia Air Pollution Control Law or the Clean Air Act.

9 VAC 5-140-5070. Computation of time.

A. Unless otherwise stated, any time period scheduled, under the Hg Budget Trading Program, to begin on the occurrence of an act or event shall begin on the day the act or event occurs.

B. Unless otherwise stated, any time period scheduled, under the Hg Budget Trading Program, to begin before the occurrence of an act or event shall be computed so that the period ends the day before the act or event occurs.

C. Unless otherwise stated, if the final day of any time period, under the Hg Budget Trading Program, falls on a weekend or a state or federal holiday, the time period shall be extended to the next business day.

9 VAC 5-140-5080. Appeal procedures.

The appeal procedures for decisions of the administrator under the Hg Budget Trading Program are set forth in 40 CFR Part 78.

9 VAC 5-140-5090. (Reserved.)Article 2.Hg Designated Representative for Hg Budget Sources.**9 VAC 5-140-5100. Authorization and responsibilities of Hg designated representative.**

A. Except as provided under 9 VAC 5-140-5110, each Hg Budget source, including all Hg Budget units at the source, shall have one and only one Hg designated representative, with regard to all matters under the Hg Budget Trading Program concerning the source or any Hg Budget unit at the source.

B. The Hg designated representative of the Hg Budget source shall be selected by an agreement binding on the owners and operators of the source and all Hg Budget units at the source and shall act in accordance with the certification statement in 9 VAC 5-140-5130 A 4 d.

C. Upon receipt by the administrator of a complete certificate of representation under 9 VAC 5-140-5130, the Hg designated representative of the source shall represent and, by his or her representations, actions, inactions, or submissions, legally bind each owner and operator of the Hg Budget source represented and each Hg Budget unit at the source in all matters pertaining to the Hg Budget Trading Program, notwithstanding any agreement between the Hg designated representative and such owners and operators. The owners and operators shall be bound by any decision or order issued to the Hg designated representative by the permitting authority, the administrator, or a court regarding the source or unit.

D. No Hg Budget permit will be issued, no emissions data reports will be accepted, and no Hg Allowance Tracking System account will be established for a Hg Budget unit at a source, until the administrator has received a complete certificate of representation under 9 VAC 5-140-5130 for a Hg designated representative of the source and the Hg Budget units at the source.

E. 1. Each submission under the Hg Budget Trading Program shall be submitted, signed, and certified by the Hg designated representative for each Hg Budget source on behalf of which the submission is made. Each such submission shall include the following certification statement by the Hg designated representative: "I am authorized to make this submission on behalf of the owners and operators of the source or units for which the submission is made. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false

statements and information or omitting required statements and information, including the possibility of fine or imprisonment."

2. The permitting authority and the administrator will accept or act on a submission made on behalf of owners or operators of a Hg Budget source or a Hg Budget unit only if the submission has been made, signed, and certified in accordance with subdivision 1 of this subsection.

9 VAC 5-140-5110. Alternate Hg designated representative.

A. A certificate of representation under 9 VAC 5-140-5130 may designate one and only one alternate Hg designated representative, who may act on behalf of the Hg designated representative. The agreement by which the alternate Hg designated representative is selected shall include a procedure for authorizing the alternate Hg designated representative to act in lieu of the Hg designated representative.

B. Upon receipt by the administrator of a complete certificate of representation under 9 VAC 5-1140-5130, any representation, action, inaction, or submission by the alternate Hg designated representative shall be deemed to be a representation, action, inaction, or submission by the Hg designated representative.

C. Except in this section and 9 VAC 5-140-5020, 9 VAC 5-140-5100 A and D, 9 VAC 5-140-5120, 9 VAC 5-140-5130, 9 VAC 5-140-5150, and 9 VAC 5-140-5510, whenever the term "Hg designated representative" is used in this part, the term shall be construed to include the Hg designated representative or any alternate Hg designated representative.

9 VAC 5-140-5120. Changing Hg designated representative and alternate Hg designated representative; changes in owners and operators.

A. The Hg designated representative may be changed at any time upon receipt by the administrator of a superseding complete certificate of representation under 9 VAC 5-140-5130. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous Hg designated representative before the time and date when the administrator receives the superseding certificate of representation shall be binding on the new Hg designated representative and the owners and operators of the Hg Budget source and the Hg Budget units at the source.

B. The alternate Hg designated representative may be changed at any time upon receipt by the administrator of a superseding complete certificate of representation under 9 VAC 5-140-5130. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous alternate Hg designated representative before the time and date when the administrator receives the superseding certificate of representation shall be binding on the new alternate Hg designated representative and the owners and

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operators of the Hg Budget source and the Hg Budget units at the source.

C. Changes in owners and operators shall be established as follows.

1. In the event an owner or operator of a Hg Budget source or a Hg Budget unit is not included in the list of owners and operators in the certificate of representation under 9 VAC 5-140-5130, such owner or operator shall be deemed to be subject to and bound by the certificate of representation, the representations, actions, inactions, and submissions of the Hg designated representative and any alternate Hg designated representative of the source or unit, and the decisions and orders of the permitting authority, the administrator, or a court, as if the owner or operator were included in such list.

2. Within 30 days following any change in the owners and operators of a Hg Budget source or a Hg Budget unit, including the addition of a new owner or operator, the Hg designated representative or any alternate Hg designated representative shall submit a revision to the certificate of representation under 9 VAC 5-140-5130 amending the list of owners and operators to include the change.

9 VAC 5-140-5130. Certificate of representation.

A. A complete certificate of representation for a Hg designated representative or an alternate Hg designated representative shall include the following elements in a format prescribed by the administrator:

1. Identification of the Hg Budget source, and each Hg Budget unit at the source, for which the certificate of representation is submitted, including identification and nameplate capacity of each generator served by each such unit.

2. The name, address, e-mail address (if any), telephone number, and facsimile transmission number (if any) of the Hg designated representative and any alternate Hg designated representative.

3. A list of the owners and operators of the Hg Budget source and of each Hg Budget unit at the source.

4. The following certification statements by the Hg designated representative and any alternate Hg designated representative:

a. "I certify that I was selected as the Hg designated representative or alternate Hg designated representative, as applicable, by an agreement binding on the owners and operators of the source and each Hg Budget unit at the source."

b. "I certify that I have all the necessary authority to carry out my duties and responsibilities under the Hg Budget Trading Program on behalf of the owners and operators of the source and of each Hg Budget unit at the

source and that each such owner and operator shall be fully bound by my representations, actions, inactions, or submissions."

c. "I certify that the owners and operators of the source and of each Hg Budget unit at the source shall be bound by any order issued to me by the administrator, the permitting authority, or a court regarding the source or unit."

d. "Where there are multiple holders of a legal or equitable title to, or a leasehold interest in, a Hg Budget unit, or where a utility or industrial customer purchases power from a Hg Budget unit under a life-of-the-unit, firm power contractual arrangement, I certify that: I have given a written notice of my selection as the 'Hg designated representative' or 'alternate Hg designated representative,' as applicable, and of the agreement by which I was selected to each owner and operator of the source and of each Hg Budget unit at the source; and Hg allowances and proceeds of transactions involving Hg allowances will be deemed to be held or distributed in proportion to each holder's legal, equitable, leasehold, or contractual reservation or entitlement, except that, if such multiple holders have expressly provided for a different distribution of Hg allowances by contract, Hg allowances and proceeds of transactions involving Hg allowances will be deemed to be held or distributed in accordance with the contract."

5. The signature of the Hg designated representative and any alternate Hg designated representative and the dates signed.

B. Unless otherwise required by the permitting authority or the administrator, documents of agreement referred to in the certificate of representation shall not be submitted to the permitting authority or the administrator. Neither the permitting authority nor the administrator shall be under any obligation to review or evaluate the sufficiency of such documents, if submitted.

9 VAC 5-140-5140. Objections concerning Hg designated representative.

A. Once a complete certificate of representation under 9 VAC 5-140-5130 has been submitted and received, the permitting authority and the administrator will rely on the certificate of representation unless and until a superseding complete certificate of representation under 9 VAC 5-140-5130 is received by the administrator.

B. Except as provided in 9 VAC 5-140-5120 A or B, no objection or other communication submitted to the permitting authority or the administrator concerning the authorization, or any representation, action, inaction, or submission, of the Hg designated representative shall affect any representation, action, inaction, or submission of the Hg designated representative or the finality of any decision or order by the

permitting authority or the administrator under the Hg Budget Trading Program.

C. Neither the permitting authority nor the administrator will adjudicate any private legal dispute concerning the authorization or any representation, action, inaction, or submission of any Hg designated representative, including private legal disputes concerning the proceeds of Hg allowance transfers.

9 VAC 5-140-5150. Delegation by Hg designated representative and alternate Hg designated representative.

A. A Hg designated representative may delegate, to one or more natural persons, his or her authority to make an electronic submission to the administrator provided for or required under this part.

B. An alternate Hg designated representative may delegate, to one or more natural persons, his or her authority to make an electronic submission to the administrator provided for or required under this part.

C. In order to delegate authority to make an electronic submission to the administrator in accordance with subsection A or B of this section, the Hg designated representative or alternate Hg designated representative, as appropriate, must submit to the administrator a notice of delegation, in a format prescribed by the administrator, that includes the following elements:

1. The name, address, e-mail address, telephone number, and facsimile transmission number (if any) of such Hg designated representative or alternate Hg designated representative;
2. The name, address, e-mail address, telephone number, and facsimile transmission number (if any) of each such natural person (referred to as an "agent");
3. For each such natural person, a list of the type or types of electronic submissions under subsections A or B of this section for which authority is delegated to him or her; and
4. The following certification statements by such Hg designated representative or alternate Hg designated representative:
 - a. "I agree that any electronic submission to the administrator that is by an agent identified in this notice of delegation and of a type listed for such agent in this notice of delegation and that is made when I am a Hg designated representative or alternate Hg designated representative, as appropriate, and before this notice of delegation is superseded by another notice of delegation under 9 VAC 5-140-5150 D shall be deemed to be an electronic submission by me."

b. "Until this notice of delegation is superseded by another notice of delegation under 9 VAC 5-140-5150 D, I agree to maintain an e-mail account and to notify the administrator immediately of any change in my e-mail address, unless all delegation of authority by me under 9 VAC 5-140-5150 is terminated."

D. A notice of delegation submitted under subsection C of this section shall be effective, with regard to the Hg designated representative or alternate Hg designated representative identified in such notice, upon receipt of such notice by the administrator and until receipt by the administrator of a superseding notice of delegation submitted by such Hg designated representative or alternate Hg designated representative, as appropriate. The superseding notice of delegation may replace any previously identified agent, add a new agent, or eliminate entirely any delegation of authority.

E. Any electronic submission covered by the certification in subdivision C 4 a of this section and made in accordance with a notice of delegation effective under subsection D of this section shall be deemed to be an electronic submission by the Hg designated representative or alternative Hg designated representative submitting such notice of delegation.

9 VAC 5-140-5160 through 9 VAC 5-140-5190. (Reserved.)

Article 3.
Permits.

9 VAC 5-140-5200. General Hg Budget Trading Program permit requirements.

A. For each Hg Budget source required to have a title V operating permit, such permit shall include a Hg Budget permit administered by the permitting authority for the title V operating permit. The Hg Budget portion of the title V permit shall be administered in accordance with the permitting authority's title V operating permit regulations, except as provided otherwise by subsection B of this section, 9 VAC 5-140-5050, and 9 VAC 5-140-5210 through 9 VAC 5-140-5240.

B. Each Hg Budget permit shall contain, with regard to the Hg Budget source and the Hg Budget units at the source covered by the Hg Budget permit, all applicable Hg Budget Trading Program requirements and shall be a complete and separable portion of the title V operating permit.

9 VAC 5-140-5210. Submission of Hg Budget permit applications.

A. The Hg designated representative of any Hg Budget source required to have a title V operating permit shall submit to the permitting authority a complete Hg Budget permit application under 9 VAC 5-140-5220 for the source covering each Hg Budget unit at the source at least 18 months (or such lesser

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time provided by the permitting authority) before the later of January 1, 2010, or the date on which the Hg Budget unit commences commercial operation.

B. For a Hg Budget source required to have a title V operating permit, the Hg designated representative shall submit a complete Hg Budget permit application under 9 VAC 5-140-5220 for the source covering each Hg Budget unit at the source to renew the Hg Budget permit in accordance with the permitting authority's title V operating permits regulations addressing permit renewal.

9 VAC 5-140-5220. Information requirements for Hg Budget permit applications.

A complete Hg Budget permit application shall include the following elements concerning the Hg Budget source for which the application is submitted, in a format prescribed by the permitting authority:

1. Identification of the Hg Budget source;
2. Identification of each Hg Budget unit at the Hg Budget source; and
3. The standard requirements under 9 VAC 5-140-5060.

9 VAC 5-140-5230. Hg Budget permit contents and term.

A. Each Hg Budget permit will contain, in a format prescribed by the permitting authority, all elements required for a complete Hg Budget permit application under 9 VAC 5-140-5220.

B. Each Hg Budget permit is deemed to incorporate automatically the definitions of terms under 9 VAC 5-140-5020 and, upon recordation by the administrator under Article 5 (9 VAC 5-140-5400 et seq.), Article 6 (9 VAC 5-140-5500 et seq.) and Article 7 (9 VAC 5-140-5600 et seq.) of this part, every allocation, transfer, or deduction of a Hg allowance to or from the compliance account of the Hg Budget source covered by the permit.

C. The term of the Hg Budget permit will be set by the permitting authority, as necessary to facilitate coordination of the renewal of the Hg Budget permit with issuance, revision, or renewal of the Hg Budget source's title V operating permit.

9 VAC 5-140-5240. Hg Budget permit revisions.

Except as provided in 9 VAC 5-140-5230 B, the permitting authority will revise the Hg Budget permit, as necessary, in accordance with the permitting authority's title V operating permits regulations addressing permit revisions.

9 VAC 5-140-5250 through 9 VAC 5-140-5290. (Reserved.)

Article 4.
(Reserved.)

9 VAC 5-140-5300 through 9 VAC 5-140-5390. (Reserved.)

Article 5.
Hg Allowance Allocations.

9 VAC 5-140-5400. Hg trading budgets.

The Hg trading budgets for annual allocations of Hg allowances apportioned to all Hg Budget units and energy efficiency units and renewable energy units for the control periods are as follows:

1. For use in each control period in 2010 - 2017, the total number of Hg pounds is 1,184.
2. For use in each control period in 2018 and thereafter, the total number of Hg pounds is 468.

9 VAC 5-140-5410. Timing requirements for Hg allowance allocations.

A. By November 17, 2006, the permitting authority will submit to the administrator the Hg allowance allocations, in a format prescribed by the administrator and in accordance with 9 VAC 5-140-5420 A and B, for the control periods in 2010, 2011, 2012, 2013, and 2014.

B. By October 31, 2009, and October 31 of each year thereafter, the permitting authority will submit to the administrator the Hg allowance allocations, in a format prescribed by the administrator and in accordance with 9 VAC 5-140-5420 A and B, for the control period in the sixth year after the year of the applicable deadline for submission under this section.

C. By October 31, 2010, and October 31 of each year thereafter, the permitting authority will submit to the administrator the Hg allowance allocations, in a format prescribed by the administrator and in accordance with 9 VAC 5-140-5420 A, C, and D, for the control period in the year of the applicable deadline for submission under this section.

9 VAC 5-140-5420. Hg allowance allocations.

A. 1. The baseline heat input (in MMBtu) used with respect to Hg allowance allocations under subsection B of this section for each Hg Budget unit will be:

- a. For units commencing operation before January 1, 2001, the average of the three highest amounts of the unit's control period heat input for 2000 through 2004.
- b. For units commencing operation on or after January 1, 2001 and operating each calendar year during a period of 5 or more consecutive calendar years, the average of the

3 highest amounts of the unit's total converted control period heat input over the first such 5 years.

2. a. A unit's control period heat input for a calendar year under subdivision 1 a of this subsection, and a unit's total ounces of Hg emissions during a calendar year under subdivision C 3 of this section, will be determined in accordance with 40 CFR Part 75, to the extent the unit was otherwise subject to the requirements of 40 CFR Part 75 for the year, or will be based on the best available data reported to the permitting authority for the unit, to the extent the unit was not otherwise subject to the requirements of 40 CFR Part 75 for the year. The unit's types and amounts of fuel combusted, under subdivision 1 a of this subsection, will be based on the best available data reported to the permitting authority for the unit.

b. A unit's converted control period heat input for a calendar year specified under subdivision 1 b of this subsection equals:

(1) Except as provided in subdivision 2 b (2) of this subsection, the control period gross electrical output of the generator or generators served by the unit multiplied by 7,900 Btu/kWh and divided by 1,000,000 Btu/MMBtu, provided that if a generator is served by two or more units, then the gross electrical output of the generator will be attributed to each unit in proportion to the unit's share of the total control period heat input of such units for the year;

(2) For a unit that has equipment used to produce electricity and useful thermal energy for industrial, commercial, heating, or cooling purposes through the sequential use of energy, the control period gross electrical output of the unit multiplied by 7,900 Btu/kWh, plus the useful thermal energy (in Btu) produced during the control period, divided by 0.8, and with the sum divided by 1,000,000 Btu/MMBtu.

B. 1. For each control period in 2010 and thereafter, the permitting authority will allocate to all Hg Budget units that have a baseline heat input (as determined under subsection A of this section) a total amount of Hg allowances equal to the Hg core trading budget (except as provided in subsection D of this section).

2. The permitting authority will allocate Hg allowances to each Hg Budget unit under subdivision 1 of this subsection in an amount determined by multiplying the total amount of Hg allowances allocated under subdivision 1 of this subsection by the ratio of the baseline heat input of such Hg Budget unit to the total amount of baseline heat input of all such Hg Budget units and rounding to the nearest whole allowance as appropriate.

C. For each control period in 2010 and thereafter, the permitting authority will allocate Hg allowances to Hg

Budget units that are not allocated Hg allowances under subsection B of this section because the units do not yet have a baseline heat input under subsection A of this section or because the units have a baseline heat input but all Hg allowances available under subsection B of this section for the control period are already allocated, in accordance with the following procedures:

1. The permitting authority will establish a separate new unit set-aside for each control period. Each new unit set-aside will be allocated Hg allowances equal to the new unit set-aside budget.

2. The Hg designated representative of such a Hg Budget unit may submit to the permitting authority a request, in a format acceptable to the permitting authority, to be allocated Hg allowances, starting with the later of the control period in 2010 or the first control period after the control period in which the Hg Budget unit commences commercial operation and until the first control period for which the unit is allocated Hg allowances under subsection B of this section. A separate Hg allowance allocation request for each control period for which Hg allowances are sought must be submitted on or before May 1 of such control period and after the date on which the Hg Budget unit commences commercial operation.

3. In a Hg allowance allocation request under subdivision 2 of this subsection, the Hg designated representative may request for a control period Hg allowances in an amount not exceeding the Hg Budget unit's total ounces of Hg emissions during the calendar year immediately before such control period.

4. The permitting authority will review each Hg allowance allocation request under subdivision 2 of this subsection and will allocate Hg allowances for each control period pursuant to such request as follows:

a. The permitting authority will accept an allowance allocation request only if the request meets, or is adjusted by the permitting authority as necessary to meet, the requirements of subdivisions 2 and 3 of this subsection.

b. On or after May 1 of the control period, the permitting authority will determine the sum of the Hg allowances requested (as adjusted under subdivision 4 a of this subsection) in all allowance allocation requests accepted under subdivision 4 a of this subsection for the control period.

c. If the amount of Hg allowances in the new unit set-aside for the control period is greater than or equal to the sum under subdivision 4 b of this subsection, then the permitting authority will allocate the amount of Hg allowances requested (as adjusted under subdivision a of this subsection) to each Hg Budget unit covered by an

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allowance allocation request accepted under subdivision 4 a of this subsection.

d. If the amount of Hg allowances in the new unit set-aside for the control period is less than the sum under subdivision 4 b of this subsection, then the permitting authority will allocate to each Hg Budget unit covered by an allowance allocation request accepted under subdivision 4 a of this subsection the amount of the Hg allowances requested (as adjusted under subdivision 4 a of this subsection), multiplied by the amount of Hg allowances in the new unit set-aside for the control period, divided by the sum determined under subdivision 4 b of this subsection, and rounded to the nearest whole allowance as appropriate.

e. The permitting authority will notify each Hg designated representative that submitted an allowance allocation request of the amount of Hg allowances (if any) allocated for the control period to the Hg Budget unit covered by the request.

D. If, after completion of the procedures under subdivision C 4 of this section for a control period, any unallocated Hg allowances remain in the new unit set-aside for the control period, the permitting authority will allocate to each Hg Budget unit that was allocated Hg allowances under subsection B of this section an amount of Hg allowances equal to the total amount of such remaining unallocated Hg allowances, multiplied by the unit's allocation under subsection B of this section, divided by the Hg core trading budget, and rounded to the nearest whole allowance as appropriate.

E. For each control period in 2010 and thereafter, the permitting authority will allocate Hg allowances not to exceed the new energy efficiency/renewable energy unit set-aside budget to qualifying energy efficiency units and renewable energy units in accordance with the following procedures:

1. The EERE proponent of an energy efficiency unit or a renewable energy unit may submit to the permitting authority a request, in a format acceptable to the permitting authority, to be allocated Hg allowances, starting with the later of the control period in 2010 or the first control period after the control period in which the energy efficiency unit is implemented or the renewable energy unit commences commercial operation. The Hg allowance allocation request must be submitted on or before July 1 of each control period for which the Hg allowances are requested and after the date on which the energy efficiency unit is implemented or the renewable energy unit commences commercial operation.

2. EERE proponents may submit an application that aggregates two or more energy efficiency units or renewable energy units. The permitting authority will not

allocate Hg allowances for energy efficiency units or renewable energy units totaling less than one whole allowance or any fraction thereof. If more than one proponent submits an application for allowances for the same energy efficiency unit or renewable energy unit for the same calendar year, the permitting authority, at its discretion, may refuse to accept the applications.

3. In a Hg allowance allocation request under subdivisions 1 and 2 of this subsection, the EERE proponent may request for a control period Hg allowances in an amount not exceeding:

a. For a renewable energy unit, the control period gross electrical output of the facility during the calendar year immediately before such control period multiplied by 20×10^{-6} lb/MWh and multiplied by 16 and rounded to nearest whole allowance as appropriate.

b. For an energy efficiency unit, the control period verified reduction in electricity consumption during the calendar year immediately before such control period multiplied by 20×10^{-6} lb/MWh and multiplied by 16 and rounded to the nearest whole allowance as appropriate.

4. The permitting authority will review each Hg allowance allocation request under subdivisions 1 and 2 of this subsection and will allocate Hg allowances for each control period pursuant to such request as follows:

a. The permitting authority will accept an allowance allocation request only if the request meets, or is adjusted by the permitting authority as necessary to meet, the requirements of subdivisions 1, 2 and 3 of this subsection.

b. On or after October 1 of the control period, the permitting authority will determine the sum of the Hg allowances requested (as adjusted under subdivision 4 a of this subsection) in all allowance allocation requests accepted under subdivision 4 a of this subsection for the control period.

c. If the amount of Hg allowances in the new energy efficiency/renewable energy unit set-aside budget for the control period is greater than or equal to the sum under subdivision 4 b of this subsection, the permitting authority will allocate the amount of Hg allowances requested (as adjusted under subdivision 4 a of this subsection) to each energy efficiency unit or renewable energy unit covered by an allowance allocation request accepted under subdivision 4 a of this subsection.

d. If the amount of Hg allowances in the new energy efficiency/renewable energy unit set-aside budget for the control period is less than the sum under subdivision 4 b of this subsection, the permitting authority will allocate to each energy efficiency unit or renewable energy unit covered by an allowance allocation request accepted

under subdivision 4 a of this subsection the amount of the Hg allowances requested (as adjusted under subdivision 4 a of this subsection), multiplied by the amount of Hg allowances in the new energy efficiency/renewable energy unit set-aside budget for the control period, divided by the sum determined under subdivision 4 b of this subsection, and rounded to the nearest whole allowance as appropriate.

5. By October 31, 2009, and October 31 of each year thereafter, the permitting authority will notify each EERE proponent that submitted an allowance allocation request under subdivisions 1 and 2 of this subsection of the amount of Hg allowances (if any) allocated under subdivision 4 of this subsection for the control period to the energy efficiency unit or renewable energy unit covered by the request.

6. If, after completion of the procedures under subdivisions 4 and 5 of this subsection for a control period, any unallocated Hg allowances have remained in the new energy efficiency/renewable energy unit set-aside budget for more than three control periods, the permitting authority will permanently retire those allowances, and they will not be available for compliance for any Hg budget unit.

7. The permitting authority will not submit to the administrator the Hg allowance allocations under subdivision 4 of this subsection.

8. Hg allowances allocated under subdivision 4 of this subsection shall (i) be retired permanently by the EERE proponent making the request under subdivision 2 of this subsection, (ii) shall not be considered valid or capable of being lawfully traded under the Hg Budget Trading Program, and (iii) shall not be available for compliance for any Hg budget unit.

9 VAC 5-140-5430 through 9 VAC 5-140-5490. (Reserved.)

Article 6.

Hg Allowance Tracking System.

9 VAC 5-140-5500. (Reserved.)

9 VAC 5-140-5510. Establishment of accounts.

A. Upon receipt of a complete certificate of representation under 9 VAC 5-140-5130, the administrator will establish a compliance account for the Hg Budget source for which the certificate of representation was submitted unless the source already has a compliance account.

B. General accounts shall be established as follows.

1. Applications for general accounts shall be submitted as follows.

a. Any person may apply to open a general account for the purpose of holding and transferring Hg allowances.

An application for a general account may designate one and only one Hg authorized account representative and one and only one alternate Hg authorized account representative who may act on behalf of the Hg authorized account representative. The agreement by which the alternate Hg authorized account representative is selected shall include a procedure for authorizing the alternate Hg authorized account representative to act in lieu of the Hg authorized account representative.

b. A complete application for a general account shall be submitted to the administrator and shall include the following elements in a format prescribed by the administrator:

(1) Name, mailing address, e-mail address (if any), telephone number, and facsimile transmission number (if any) of the Hg authorized account representative and any alternate Hg authorized account representative;

(2) Organization name and type of organization, if applicable;

(3) A list of all persons subject to a binding agreement for the Hg authorized account representative and any alternate Hg authorized account representative to represent their ownership interest with respect to the Hg allowances held in the general account;

(4) The following certification statement by the Hg authorized account representative and any alternate Hg authorized account representative: "I certify that I was selected as the Hg authorized account representative or the alternate Hg authorized account representative, as applicable, by an agreement that is binding on all persons who have an ownership interest with respect to Hg allowances held in the general account. I certify that I have all the necessary authority to carry out my duties and responsibilities under the Hg Budget Trading Program on behalf of such persons and that each such person shall be fully bound by my representations, actions, inactions, or submissions and by any order or decision issued to me by the administrator or a court regarding the general account."

(5) The signature of the Hg authorized account representative and any alternate Hg authorized account representative and the dates signed.

c. Unless otherwise required by the permitting authority or the administrator, documents of agreement referred to in the application for a general account shall not be submitted to the permitting authority or the administrator. Neither the permitting authority nor the administrator shall be under any obligation to review or evaluate the sufficiency of such documents, if submitted.

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2. Hg authorized account representatives and alternate Hg authorized account representatives shall be authorized as follows.

a. Upon receipt by the administrator of a complete application for a general account under subdivision 1 of this subsection:

(1) The administrator will establish a general account for the person or persons for whom the application is submitted.

(2) The Hg authorized account representative and any alternate Hg authorized account representative for the general account shall represent and, by his or her representations, actions, inactions, or submissions, legally bind each person who has an ownership interest with respect to Hg allowances held in the general account in all matters pertaining to the Hg Budget Trading Program, notwithstanding any agreement between the Hg authorized account representative or any alternate Hg authorized account representative and such person. Any such person shall be bound by any order or decision issued to the Hg authorized account representative or any alternate Hg authorized account representative by the administrator or a court regarding the general account.

(3) Any representation, action, inaction, or submission by any alternate Hg authorized account representative shall be deemed to be a representation, action, inaction, or submission by the Hg authorized account representative.

b. Each submission concerning the general account shall be submitted, signed, and certified by the Hg authorized account representative or any alternate Hg authorized account representative for the persons having an ownership interest with respect to Hg allowances held in the general account. Each such submission shall include the following certification statement by the Hg authorized account representative or any alternate Hg authorized account representative: "I am authorized to make this submission on behalf of the persons having an ownership interest with respect to the Hg allowances held in the general account. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment."

c. The administrator will accept or act on a submission concerning the general account only if the submission has been made, signed, and certified in accordance with subdivision 2 b of this subsection.

3. Hg authorized account representatives, alternate Hg authorized account representatives, and persons with ownership interest shall be changed as follows.

a. The Hg authorized account representative for a general account may be changed at any time upon receipt by the administrator of a superseding complete application for a general account under subdivision 1 of this subsection. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous Hg authorized account representative before the time and date when the administrator receives the superseding application for a general account shall be binding on the new Hg authorized account representative and the persons with an ownership interest with respect to the Hg allowances in the general account.

b. The alternate Hg authorized account representative for a general account may be changed at any time upon receipt by the administrator of a superseding complete application for a general account under subdivision 1 of this subsection. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous alternate Hg authorized account representative before the time and date when the administrator receives the superseding application for a general account shall be binding on the new alternate Hg authorized account representative and the persons with an ownership interest with respect to the Hg allowances in the general account.

c. (1) In the event a person having an ownership interest with respect to Hg allowances in the general account is not included in the list of such persons in the application for a general account, such person shall be deemed to be subject to and bound by the application for a general account, the representation, actions, inactions, and submissions of the Hg authorized account representative and any alternate Hg authorized account representative of the account, and the decisions and orders of the administrator or a court, as if the person were included in such list.

(2) Within 30 days following any change in the persons having an ownership interest with respect to Hg allowances in the general account, including the addition of a new person, the Hg authorized account representative or any alternate Hg authorized account representative shall submit a revision to the application for a general account amending the list of persons having an ownership interest with respect to the Hg allowances in the general account to include the change.

4. Objections concerning Hg authorized account representative and alternate Hg authorized account representative are subject to the following:

a. Once a complete application for a general account under subdivision 1 of this subsection has been submitted and received, the administrator will rely on the application unless and until a superseding complete application for a general account under subdivision 1 of this subsection is received by the administrator.

b. Except as provided in subdivision 3 a or b of this subsection, no objection or other communication submitted to the administrator concerning the authorization, or any representation, action, inaction, or submission of the Hg authorized account representative or any alternate Hg authorized account representative for a general account shall affect any representation, action, inaction, or submission of the Hg authorized account representative or any alternate Hg authorized account representative or the finality of any decision or order by the administrator under the Hg Budget Trading Program.

c. The administrator will not adjudicate any private legal dispute concerning the authorization or any representation, action, inaction, or submission of the Hg authorized account representative or any alternate Hg authorized account representative for a general account, including private legal disputes concerning the proceeds of Hg allowance transfers.

5. Delegation by Hg authorized account representative and alternate Hg authorized account representative shall be accomplished as follows.

a. A Hg authorized account representative may delegate, to one or more natural persons, his or her authority to make an electronic submission to the administrator provided for or required under Article 6 (9 VAC 5-140-5500 et seq.) and Article 7 (9 VAC 5-140-5600 et seq.) of this part.

b. An alternate Hg authorized account representative may delegate, to one or more natural persons, his or her authority to make an electronic submission to the administrator provided for or required under Article 6 (9 VAC 5-140-5500 et seq.) and Article 7 (9 VAC 5-140-5600 et seq.) of this part.

c. In order to delegate authority to make an electronic submission to the administrator in accordance with subdivision 5 a or b of this subsection, the Hg authorized account representative or alternate Hg authorized account representative, as appropriate, must submit to the administrator a notice of delegation, in a format prescribed by the administrator, that includes the following elements:

(1) The name, address, e-mail address, telephone number, and facsimile transmission number (if any) of such Hg authorized account representative or alternate Hg authorized account representative;

(2) The name, address, e-mail address, telephone number, and, facsimile transmission number (if any) of each such natural person (referred to as an "agent");

(3) For each such natural person, a list of the type or types of electronic submissions under subdivision 5 a or b of this subsection for which authority is delegated to him;

(4) The following certification statement by such Hg authorized account representative or alternate Hg authorized account representative: "I agree that any electronic submission to the Administrator that is by an agent identified in this notice of delegation and of a type listed for such agent in this notice of delegation and that is made when I am a Hg authorized account representative or alternate Hg authorized representative, as appropriate, and before this notice of delegation is superseded by another notice of delegation under 9 VAC 5-140-5510 B 5 d shall be deemed to be an electronic submission by me.;" and

(5) The following certification statement by such Hg authorized account representative or alternate Hg authorized account representative: "Until this notice of delegation is superseded by another notice of delegation under 9 VAC 5-140-5510 B 5 d, I agree to maintain an email account and to notify the Administrator immediately of any change in my e-mail address unless all delegation of authority under 9 VAC 5-140-5510 B 5 is terminated."

d. A notice of delegation submitted under subdivision 5 c of this subsection shall be effective, with regard to the Hg authorized account representative or alternate Hg authorized account representative identified in such notice, upon receipt of such notice by the administrator and until receipt by the administrator of a superseding notice of delegation submitted by such Hg authorized account representative or alternate Hg authorized account representative, as appropriate. The superseding notice of delegation may replace any previously identified agent, add a new agent, or eliminate entirely any delegation of authority.

e. Any electronic submission covered by the certification in subdivision 5 c (4) of this subsection and made in accordance with a notice of delegation effective under subdivision 5 d of this subsection shall be deemed to be an electronic submission by the Hg designated representative or alternate Hg designated representative submitting such notice of delegation.

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C. The administrator will assign a unique identifying number to each account established under subsection A or B of this section.

9 VAC 5-140-5520. Responsibilities of Hg authorized account representative.

Following the establishment of a Hg Allowance Tracking System account, all submissions to the administrator pertaining to the account, including, but not limited to, submissions concerning the deduction or transfer of Hg allowances in the account, shall be made only by the Hg authorized account representative for the account.

9 VAC 5-140-5530. Recordation of Hg allowance allocations.

A. By December 1, 2007, the administrator will record in the Hg Budget source's compliance account the Hg allowances allocated for the Hg Budget units at the source, as submitted by the permitting authority in accordance with 9 VAC 5-140-5410 A, for the control periods in 2010, 2011, 2012, 2013, and 2014.

B. By December 1, 2009, the administrator will record in the Hg Budget source's compliance account the Hg allowances allocated for the Hg Budget units at the source, as submitted by the permitting authority in accordance with 9 VAC 5-140-5410 B, for the control period in 2015.

C. By December 1, 2010, and December 1 of each year thereafter, the administrator will record in the Hg Budget source's compliance account the Hg allowances allocated for the Hg Budget units at the source, as submitted by the permitting authority in accordance with 9 VAC 5-140-5410 B, for the control period in the sixth year after the year of the applicable deadline for recordation under this section.

D. By December 1, 2010, and December 1 of each year thereafter, the administrator will record in the Hg Budget source's compliance account the Hg allowances allocated for the Hg Budget units at the source, as submitted by the permitting authority in accordance with 9 VAC 5-140-5410 C, for the control period in the year of the applicable deadline for recordation under this section.

E. When recording the allocation of Hg allowances for a Hg Budget unit in a compliance account, the administrator will assign each Hg allowance a unique identification number that will include digits identifying the year of the control period for which the Hg allowance is allocated.

9 VAC 5-140-5540. Compliance with Hg Budget emissions limitation.

A. The Hg allowances are available to be deducted for compliance with a source's Hg Budget emissions limitation for a control period in a given calendar year only if the Hg allowances:

1. Were allocated for the control period in the year or a prior year; and

2. Are held in the compliance account as of the allowance transfer deadline for the control period or are transferred into the compliance account by a Hg allowance transfer correctly submitted for recordation under 9 VAC 5-140-5600 and 9 VAC 5-140-5610 by the allowance transfer deadline for the control period.

B. Following the recordation, in accordance with 9 VAC 5-140-5610, of Hg allowance transfers submitted for recordation in a source's compliance account by the allowance transfer deadline for a control period, the administrator will deduct from the compliance account Hg allowances available under subsection A of this section in order to determine whether the source meets the Hg Budget emissions limitation for the control period, as follows:

1. Until the amount of Hg allowances deducted equals the number of ounces of total Hg emissions, determined in accordance with Article 8 (9 VAC 5-140-5700 et seq.) of this part, from all Hg Budget units at the source for the control period; or

2. If there are insufficient Hg allowances to complete the deductions in subdivision 1 of this subsection, until no more Hg allowances available under subsection A of this section remain in the compliance account.

C. 1. The Hg authorized account representative for a source's compliance account may request that specific Hg allowances, identified by serial number, in the compliance account be deducted for emissions or excess emissions for a control period in accordance with subsection B or D of this section. Such request shall be submitted to the administrator by the allowance transfer deadline for the control period and include, in a format prescribed by the administrator, the identification of the Hg Budget source and the appropriate serial numbers.

2. The administrator will deduct Hg allowances under subsection B or D of this section from the source's compliance account, in the absence of an identification or in the case of a partial identification of Hg allowances by serial number under subdivision 1 of this subsection, on a first-in, first-out accounting basis in the following order:

a. Any Hg allowances that were allocated to the units at the source, in the order of recordation; and then

b. Any Hg allowances that were allocated to any entity and transferred and recorded in the compliance account pursuant to 9 VAC 5-140-5600 and 9 VAC 5-140-5610, in the order of recordation.

D. Deductions for excess emissions shall meet the following:

1. After making the deductions for compliance under subsection B of this section for a control period in a calendar year in which the Hg Budget source has excess

emissions, the administrator will deduct from the source's compliance account an amount of Hg allowances, allocated for the control period in the immediately following calendar year, equal to three times the number of ounces of the source's excess emissions.

2. Any allowance deduction required under subdivision 1 of this subsection shall not affect the liability of the owners and operators of the Hg Budget source or the Hg Budget units at the source for any fine, penalty, or assessment, or their obligation to comply with any other remedy, for the same violations, as ordered under the Clean Air Act or the Virginia Air Pollution Control Law.

E. The administrator will record in the appropriate compliance account all deductions from such an account under subsections B and D of this section.

F. The administrator's action on submissions may include the following.

1. The administrator may review and conduct independent audits concerning any submission under the Hg Budget Trading Program and make appropriate adjustments of the information in the submissions.

2. The administrator may deduct Hg allowances from or transfer Hg allowances to a source's compliance account based on the information in the submissions, as adjusted under subdivision 1 of this subsection, and record such deductions and transfers.

9 VAC 5-140-5550. Banking.

A. Hg allowances may be banked for future use or transfer in a compliance account or a general account in accordance with subsection B of this section.

B. Any Hg allowance that is held in a compliance account or a general account will remain in such account unless and until the Hg allowance is deducted or transferred under 9 VAC 5-140-5540, 9 VAC 5-140-5560, or Article 7 (9 VAC 5-140-5600 et seq.) of this part.

9 VAC 5-140-5560. Account error.

The administrator may, at his or her sole discretion and on his or her own motion, correct any error in any Hg Allowance Tracking System account. Within 10 business days of making such correction, the administrator will notify the Hg authorized account representative for the account.

9 VAC 5-140-5570. Closing of general accounts.

A. The Hg authorized account representative of a general account may submit to the administrator a request to close the account, which shall include a correctly submitted allowance transfer under 9 VAC 5-140-5600 and 9 VAC 5-140-5610 for any Hg allowances in the account to one or more other Hg Allowance Tracking System accounts.

B. If a general account has no allowance transfers in or out of the account for a 12-month period or longer and does not contain any Hg allowances, the administrator may notify the Hg authorized account representative for the account that the account will be closed following 20 business days after the notice is sent. The account will be closed after the 20-day period unless, before the end of the 20-day period, the administrator receives a correctly submitted transfer of Hg allowances into the account under 9 VAC 5-140-5600 and 9 VAC 5-140-5610 or a statement submitted by the Hg authorized account representative demonstrating to the satisfaction of the administrator good cause as to why the account should not be closed.

9 VAC 5-140-5580 and 9 VAC 5-140-5590. (Reserved.)

Article 7.

Hg Allowance Transfers.

9 VAC 5-140-5600. Submission of Hg allowance transfers.

An Hg authorized account representative seeking recordation of a Hg allowance transfer shall submit the transfer to the administrator. To be considered correctly submitted, the Hg allowance transfer shall include the following elements, in a format specified by the administrator:

1. The account numbers for both the transferor and transferee accounts;
2. The serial number of each Hg allowance that is in the transferor account and is to be transferred; and
3. The name and signature of the Hg authorized account representative of the transferor account and the date signed.

9 VAC 5-140-5610. EPA recordation.

A. Within five business days (except as provided in subsection B of this section) of receiving a Hg allowance transfer, the administrator will record a Hg allowance transfer by moving each Hg allowance from the transferor account to the transferee account as specified by the request, provided that:

1. The transfer is correctly submitted under 9 VAC 5-140-5600; and
2. The transferor account includes each Hg allowance identified by serial number in the transfer.

B. A Hg allowance transfer that is submitted for recordation after the allowance transfer deadline for a control period and that includes any Hg allowances allocated for any control period before such allowance transfer deadline will not be recorded until after the administrator completes the deductions under 9 VAC 5-140-5540 for the control period immediately before such allowance transfer deadline.

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C. Where a Hg allowance transfer submitted for recordation fails to meet the requirements of subsection A of this section, the administrator will not record such transfer.

9 VAC 5-140-5620. Notification.

A. Within five business days of recordation of a Hg allowance transfer under 9 VAC 5-140-5610, the administrator will notify the Hg authorized account representatives of both the transferor and transferee accounts.

B. Within 10 business days of receipt of a Hg allowance transfer that fails to meet the requirements of 9 VAC 5-140-5610 A, the administrator will notify the Hg authorized account representatives of both accounts subject to the transfer of:

1. A decision not to record the transfer; and
2. The reasons for such nonrecordation.

C. Nothing in this section shall preclude the submission of a Hg allowance transfer for recordation following notification of nonrecordation.

9 VAC 5-140-5630 through 9 VAC 5-140-5690. (Reserved.)

Article 8. Monitoring and Reporting.

9 VAC 5-140-5700. General requirements.

A. The owners and operators, and to the extent applicable, the Hg designated representative, of a Hg Budget unit shall comply with the monitoring, recordkeeping, and reporting requirements as provided in this article and subpart I of 40 CFR Part 75. For purposes of complying with such requirements, the definitions in 9 VAC 5-140-5020 and in 40 CFR 72.2 shall apply, and the terms “affected unit,” “designated representative,” and “continuous emission monitoring system (CEMS)” in 40 CFR Part 75 shall be deemed to refer to the terms “Hg Budget unit,” “Hg designated representative,” and “continuous emission monitoring system (CEMS)” respectively, as defined in 9 VAC 5-140-5020. The owner or operator of a unit that is not a Hg Budget unit but that is monitored under 40 CFR 75.82(b)(2)(i) shall comply with the same monitoring, recordkeeping, and reporting requirements as a Hg Budget unit.

B. The owner or operator of each Hg Budget unit shall:

1. Install all monitoring systems required under this article for monitoring Hg mass emissions and individual unit heat input (including all systems required to monitor Hg concentration, stack gas moisture content, stack gas flow rate, and CO₂ or O₂ concentration, as applicable, in accordance with 40 CFR 75.81 and 75.82);
2. Successfully complete all certification tests required under 9 VAC 5-140-5710 and meet all other requirements

of this article, and subpart I of 40 CFR Part 75 applicable to the monitoring systems under subdivision 1 of this subsection; and

3. Record, report, and quality-assure the data from the monitoring systems under subdivision 1 of this subsection.

C. Except as provided in subsection F of this section, the owner or operator shall meet the monitoring system certification and other requirements of subdivisions B 1 and 2 of this section on or before the following dates. The owner or operator shall record, report, and quality-assure the data from the monitoring systems under subdivision B 1 of this section on and after the following dates.

1. For the owner or operator of a Hg Budget unit that commences commercial operation before July 1, 2008, by January 1, 2009.

2. For the owner or operator of a Hg Budget unit that commences commercial operation on or after July 1, 2008, by the later of the following dates:

a. January 1, 2009; or

b. Ninety unit operating days or 180 calendar days, whichever occurs first, after the date on which the unit commences commercial operation.

3. For the owner or operator of a Hg Budget unit for which construction of a new stack or flue or installation of add-on Hg emission controls, a flue gas desulfurization system, a selective catalytic reduction system, or a compact hybrid particulate collector system is completed after the applicable deadline under subdivision 1 or 2 of this subsection, by 90 unit operating days or 180 calendar days, whichever occurs first, after the date on which emissions first exit to the atmosphere through the new stack or flue, add-on Hg emissions controls, flue gas desulfurization system, selective catalytic reduction system, or compact hybrid particulate collector system.

D. The owner or operator of a Hg Budget unit that does not meet the applicable compliance date set forth in subsection C of this section for any monitoring system under subdivision B 1 of this section shall, for each such monitoring system, determine, record, and report maximum potential (or, as appropriate, minimum potential) values for Hg concentration, stack gas flow rate, stack gas moisture content, and any other parameters required to determine Hg mass emissions and heat input in accordance with 40 CFR 75.80(g).

E. The following prohibitions shall apply:

1. No owner or operator of a Hg Budget unit shall use any alternative monitoring system, alternative reference method, or any other alternative to any requirement of this article without having obtained prior written approval in accordance with 9 VAC 5-140-5750.

2. No owner or operator of a Hg Budget unit shall operate the unit so as to discharge, or allow to be discharged, Hg emissions to the atmosphere without accounting for all such emissions in accordance with the applicable provisions of this article, and subpart I of 40 CFR Part 75.

3. No owner or operator of a Hg Budget unit shall disrupt the continuous emission monitoring system, any portion thereof, or any other approved emission monitoring method, and thereby avoid monitoring and recording Hg mass emissions discharged into the atmosphere or heat input, except for periods of recertification or periods when calibration, quality assurance testing, or maintenance is performed in accordance with the applicable provisions of this article, and subpart I of 40 CFR Part 75.

4. No owner or operator of a Hg Budget unit shall retire or permanently discontinue use of the continuous emission monitoring system, any component thereof, or any other approved monitoring system under this article, except under any one of the following circumstances:

a. During the period that the unit is covered by an exemption under 9 VAC 5-140-5050 that is in effect;

b. The owner or operator is monitoring emissions from the unit with another certified monitoring system approved, in accordance with the applicable provisions of this article, and subpart I of 40 CFR Part 75, by the permitting authority for use at that unit that provides emission data for the same pollutant or parameter as the retired or discontinued monitoring system; or

c. The Hg designated representative submits notification of the date of certification testing of a replacement monitoring system for the retired or discontinued monitoring system in accordance with 9 VAC 5-140-5710 C 3 a.

F. The owner or operator of a Hg Budget unit is subject to the applicable provisions of 40 CFR Part 75 concerning units in long-term cold storage.

9 VAC 5-140-5710. Initial certification and recertification procedures.

A. The owner or operator of a Hg Budget unit shall be exempt from the initial certification requirements of this section for a monitoring system under 9 VAC 5-140-5700 B 1 if the following conditions are met:

1. The monitoring system has been previously certified in accordance with 40 CFR Part 75; and

2. The applicable quality-assurance and quality-control requirements of 40 CFR 75.21 and appendix B to 40 CFR Part 75 are fully met for the certified monitoring system described in subdivision 1 of this subsection.

B. The recertification provisions of this section shall apply to a monitoring system under 9 VAC 5-140-5700 B 1 exempt from initial certification requirements under subsection A of this section.

C. Except as provided in subsection A of this section, the owner or operator of a Hg Budget unit shall comply with the following initial certification and recertification procedures for a continuous monitoring system (i.e., a continuous emission monitoring system and an excepted monitoring system (sorbet trap monitoring system) under 40 CFR 75.15) under 9 VAC 5-140-5700 B 1. The owner or operator of a unit that qualifies to use the Hg low mass emissions excepted monitoring methodology under 40 CFR 75.81(b) or that qualifies to use an alternative monitoring system under subpart E of 40 CFR Part 75 shall comply with the procedures in subsection D or E of this section respectively.

1. The owner or operator shall ensure that each continuous monitoring system under 9 VAC 5-140-5700 B 1 (including the automated data acquisition and handling system) successfully completes all of the initial certification testing required under 40 CFR 75.20 by the applicable deadline in 9 VAC 5-140-5700 C. In addition, whenever the owner or operator installs a monitoring system to meet the requirements of this part in a location where no such monitoring system was previously installed, initial certification in accordance with 40 CFR 75.20 is required.

2. Whenever the owner or operator makes a replacement, modification, or change in any certified continuous emission monitoring system, or an excepted monitoring system (sorbet trap monitoring system) under 40 CFR 75.15, under 9 VAC 5-140-5700 B 1 that may significantly affect the ability of the system to accurately measure or record Hg mass emissions or heat input rate or to meet the quality-assurance and quality-control requirements of 40 CFR 75.21 or appendix B to 40 CFR Part 75, the owner or operator shall recertify the monitoring system in accordance with 40 CFR 75.20(b). Furthermore, whenever the owner or operator makes a replacement, modification, or change to the flue gas handling system or the unit's operation that may significantly change the stack flow or concentration profile, the owner or operator shall recertify each continuous emission monitoring system, and each excepted monitoring system (sorbet trap monitoring system) under 40 CFR 75.15, whose accuracy is potentially affected by the change, in accordance with 40 CFR 75.20(b). Examples of changes to a continuous emission monitoring system that require recertification include: replacement of the analyzer, complete replacement of an existing continuous emission monitoring system, or change in location or orientation of the sampling probe or site.

3. Subdivisions 3 a through d of this subsection apply to both initial certification and recertification of a continuous

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monitoring system under 9 VAC 5-140-5700 B 1. For recertifications, replace the words “certification” and “initial certification” with the word “recertification,” replace the word “certified” with the word “recertified,” and follow the procedures in 40 CFR 75.20(b)(5) in lieu of the procedures in subdivision 3 e of this subsection.

a. The Hg designated representative shall submit to the permitting authority, the appropriate EPA Regional Office, and the administrator written notice of the dates of certification testing, in accordance with 9 VAC 5-140-5730.

b. The Hg designated representative shall submit to the permitting authority a certification application for each monitoring system. A complete certification application shall include the information specified in 40 CFR 75.63.

c. The provisional certification date for a monitoring system shall be determined in accordance with 40 CFR 75.20(a)(3). A provisionally certified monitoring system may be used under the Hg Budget Trading Program for a period not to exceed 120 days after receipt by the permitting authority of the complete certification application for the monitoring system under subdivision 3 b of this subsection. Data measured and recorded by the provisionally certified monitoring system, in accordance with the requirements of 40 CFR Part 75, will be considered valid quality-assured data (retroactive to the date and time of provisional certification), provided that the permitting authority does not invalidate the provisional certification by issuing a notice of disapproval within 120 days of the date of receipt of the complete certification application by the permitting authority.

d. The permitting authority will issue a written notice of approval or disapproval of the certification application to the owner or operator within 120 days of receipt of the complete certification application under subdivision 3 b of this subsection. In the event the permitting authority does not issue such a notice within such 120-day period, each monitoring system that meets the applicable performance requirements of 40 CFR Part 75 and is included in the certification application will be deemed certified for use under the Hg Budget Trading Program.

(1) If the certification application is complete and shows that each monitoring system meets the applicable performance requirements of 40 CFR Part 75, then the permitting authority will issue a written notice of approval of the certification application within 120 days of receipt.

(2) If the certification application is not complete, then the permitting authority will issue a written notice of incompleteness that sets a reasonable date by which the Hg designated representative shall submit the

additional information required to complete the certification application. If the Hg designated representative does not comply with the notice of incompleteness by the specified date, then the permitting authority may issue a notice of disapproval under subdivision 3 d (3) of this subsection. The 120-day review period shall not begin before receipt of a complete certification application.

(3) If the certification application shows that any monitoring system does not meet the performance requirements of 40 CFR Part 75 or if the certification application is incomplete and the requirement for disapproval under subdivision 3 d (2) of this subsection is met, then the permitting authority will issue a written notice of disapproval of the certification application. Upon issuance of such notice of disapproval, the provisional certification is invalidated by the permitting authority and the data measured and recorded by each uncertified monitoring system shall not be considered valid quality-assured data beginning with the date and hour of provisional certification (as defined under 40 CFR 75.20(a)(3)). The owner or operator shall follow the procedures for loss of certification in subdivision 3 e of this subsection for each monitoring system that is disapproved for initial certification.

(4) The permitting authority may issue a notice of disapproval of the certification status of a monitor in accordance with 9 VAC 5-140-5720.

e. If the permitting authority issues a notice of disapproval of a certification application under subdivision 3 d (3) of this subsection or a notice of disapproval of certification status under subdivision 3 d (4) of this subsection, then:

(1) The owner or operator shall substitute the following values, for each disapproved monitoring system, for each hour of unit operation during the period of invalid data specified under 40 CFR 75.20(a)(4)(iii) or 40 CFR 75.21(e) and continuing until the applicable date and hour specified under 40 CFR 75.20(a)(5)(i):

(a) For a disapproved Hg pollutant concentration monitor and disapproved flow monitor, respectively, the maximum potential concentration of Hg and the maximum potential flow rate, as defined in sections 2.1.7.1 and 2.1.4.1 of appendix A to 40 CFR Part 75.

(b) For a disapproved moisture monitoring system and disapproved diluent gas monitoring system, respectively, the minimum potential moisture percentage and either the maximum potential CO₂ concentration or the minimum potential O₂ concentration (as applicable), as defined in sections

2.1.5, 2.1.3.1, and 2.1.3.2 of appendix A to 40 CFR Part 75.

(c) For a disapproved excepted monitoring system (sorber trap monitoring system) under 40 CFR 75.15 and disapproved flow monitor, respectively, the maximum potential concentration of Hg and maximum potential flow rate, as defined in sections 2.1.7.1 and 2.1.4.1 of appendix A to 40 CFR Part 75.

(2) The Hg designated representative shall submit a notification of certification retest dates and a new certification application in accordance with subdivisions 3 a and b of this subsection.

(3) The owner or operator shall repeat all certification tests or other requirements that were failed by the monitoring system, as indicated in the permitting authority's notice of disapproval, no later than 30 unit operating days after the date of issuance of the notice of disapproval.

D. The owner or operator of a unit qualified to use the Hg low mass emissions (HgLME) excepted methodology under 40 CFR 75.81(b) shall meet the applicable certification and recertification requirements in 40 CFR 75.81(c) through (f).

E. The Hg designated representative of each unit for which the owner or operator intends to use an alternative monitoring system approved by the administrator under subpart E of 40 CFR Part 75 shall comply with the applicable notification and application procedures of 40 CFR 75.20(f).

9 VAC 5-140-5720. Out of control periods.

A. Whenever any monitoring system fails to meet the quality-assurance and quality-control requirements or data validation requirements of 40 CFR Part 75, data shall be substituted using the applicable missing data procedures in subpart D of 40 CFR Part 75.

B. Whenever both an audit of a monitoring system and a review of the initial certification or recertification application reveal that any monitoring system should not have been certified or recertified because it did not meet a particular performance specification or other requirement under 9 VAC 5-140-5710 or the applicable provisions of 40 CFR Part 75, both at the time of the initial certification or recertification application submission and at the time of the audit, the permitting authority will issue a notice of disapproval of the certification status of such monitoring system. For the purposes of this section, an audit shall be either a field audit or an audit of any information submitted to the permitting authority or the administrator. By issuing the notice of disapproval, the permitting authority revokes prospectively the certification status of the monitoring system. The data measured and recorded by the monitoring system shall not be considered valid quality-assured data from the date of issuance of the notification of the revoked certification status

until the date and time that the owner or operator completes subsequently approved initial certification or recertification tests for the monitoring system. The owner or operator shall follow the applicable initial certification or recertification procedures in 9 VAC 5-140-5710 for each disapproved monitoring system.

9 VAC 5-140-5730. Notifications.

The Hg designated representative for a Hg Budget unit shall submit written notice to the permitting authority and the administrator in accordance with 40 CFR 75.61.

9 VAC 5-140-5740. Recordkeeping and reporting.

A. The Hg designated representative shall comply with all recordkeeping and reporting requirements in this section, the applicable recordkeeping and reporting requirements of 40 CFR 75.84, and the requirements of 9 VAC 5-140-5100 E 1.

B. The owner or operator of a Hg Budget unit shall comply with requirements of 40 CFR 75.84(e).

C. The Hg designated representative shall submit an application to the permitting authority within 45 days after completing all initial certification or recertification tests required under 9 VAC 5-140-5710, including the information required under 40 CFR 75.63.

D. The Hg designated representative shall submit quarterly reports, as follows:

1. The Hg designated representative shall report the Hg mass emissions data and heat input data for the Hg Budget unit, in an electronic quarterly report in a format prescribed by the administrator, for each calendar quarter beginning with:

a. For a unit that commences commercial operation before July 1, 2008, the calendar quarter covering January 1, 2009, through March 31, 2009; or

b. For a unit that commences commercial operation on or after July 1, 2008, the calendar quarter corresponding to the earlier of the date of provisional certification or the applicable deadline for initial certification under 9 VAC 5-140-5700 C, unless that quarter is the third or fourth quarter of 2008, in which case reporting shall commence in the quarter covering January 1, 2009, through March 31, 2009.

2. The Hg designated representative shall submit each quarterly report to the administrator within 30 days following the end of the calendar quarter covered by the report. Quarterly reports shall be submitted in the manner specified in 40 CFR 75.84(f).

3. For Hg Budget units that are also subject to an Acid Rain emissions limitation or the CAIR NO_x Annual Trading Program, CAIR SO₂ Trading Program, or CAIR NO_x Ozone Season Trading Program, quarterly reports shall

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include the applicable data and information required by subparts F through H of 40 CFR Part 75 as applicable, in addition to the Hg mass emission data, heat input data, and other information required by this section, 9 VAC 5-140-5700 through 9 VAC 5-140-5730, and 9 VAC 5-140-5750.

E. The Hg designated representative shall submit to the administrator a compliance certification (in a format prescribed by the administrator) in support of each quarterly report based on reasonable inquiry of those persons with primary responsibility for ensuring that all of the unit's emissions are correctly and fully monitored. The certification shall state that:

1. The monitoring data submitted were recorded in accordance with the applicable requirements of this section, 9 VAC 5-140-5700 through 9 VAC 5-140-5730, 9 VAC 5-140-5750, and 40 CFR Part 75, including the quality assurance procedures and specifications; and

2. For a unit with add-on Hg emission controls, a flue gas desulfurization system, a selective catalytic reduction system, or a compact hybrid particulate collector system and for all hours where Hg data are substituted in accordance with 40 CFR 75.34(a)(1),

a. (1) The Hg add-on emission controls, flue gas desulfurization system, selective catalytic reduction system, or compact hybrid particulate collector system were operating within the range of parameters listed in the quality assurance/quality control program under appendix B to 40 CFR Part 75; or

(2) With regard to a flue gas desulfurization system or a selective catalytic reduction system, quality-assured SO₂ emission data recorded in accordance with 40 CFR Part 75 document that the flue gas desulfurization system was operating properly, or quality-assured NO_x emission data recorded in accordance with 40 CFR Part 75 document that the selective catalytic system was operating properly, as applicable, and

b. The substitute data values do not systematically underestimate Hg emissions.

9 VAC 5-140-5750. Petitions.

The Hg designated representative of a Hg Budget unit may submit a petition under 40 CFR 75.66 to the administrator requesting approval to apply an alternative to any requirement of 9 VAC 5-140-5700 through 9 VAC 5-140-5740. Application of an alternative to any requirement of 9 VAC 5-140-5700 through 9 VAC 5-140-5740 is in accordance with this section and 9 VAC 5-140-5700 through 9 VAC 5-140-5740 only to the extent that the petition is approved in writing by the administrator, in consultation with the permitting authority.

VA.R. Doc. No. R07-139; Filed January 25, 2007; 3:33 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.

Final Regulation

Title of Regulation: **10 VAC 5-160. Rules Governing Mortgage Lenders and Brokers (amending 10 VAC 5-160-40).**

Statutory Authority: §§ 6.1-420 and 12.1-13 of the Code of Virginia.

Effective Date: February 10, 2007.

Agency Contact: Gerald E. Fallen, Assistant Commissioner, Bureau of Financial Institutions, State Corporation Commission, P.O. Box 640, Richmond, VA 23218, telephone (804) 371-9699, FAX (804) 371-9416, toll free 1-800-552-7945, or email gerald.fallen@scc.virginia.gov.

Summary:

The regulation makes certain technical changes to 10 VAC 5-160-40, including rounding each annual fee down to the nearest whole dollar, updating the annual report due date to conform to § 6.1-418 of the Mortgage Lender and Broker Act, and adjusting the cutoff date for assessing mortgage lenders and mortgage brokers that were granted a license or additional authority after January 1.

AT RICHMOND, FEBRUARY 2, 2007

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. BFI-2006-00131

Ex Parte: In re: annual fees for mortgage lenders and mortgage brokers

ORDER ADOPTING A REGULATION

By Order entered in this case on December 4, 2006, the State Corporation Commission ("Commission") directed that notice be given of its proposal, acting pursuant to § 6.1-421 of the Mortgage Lender and Broker Act (the "Act"), to make certain technical changes to 10 VAC 5-160-40, which sets forth the schedule of annual fees to be paid by licensed mortgage lenders and mortgage brokers. The proposed

changes would round each annual fee down to the nearest whole dollar, update the annual report due date in order to conform to § 6.1-418 of the Act, and adjust the cutoff date for assessing mortgage lenders and mortgage brokers that are granted a license or additional authority after January 1. Notice of the proposed regulation was published in the Virginia Register on December 25, 2006, posted on the Commission's website, and sent by the Commissioner of Financial Institutions to all licensed mortgage lenders and mortgage brokers. Interested parties were afforded the opportunity to file written comments on or before January 19, 2007. No comments were filed.

NOW THE COMMISSION, having considered the record, the proposed regulation, and Staff recommendations, concludes that the proposed regulation should be adopted as proposed.

THEREFORE, IT IS ORDERED THAT:

- (1) The proposed regulation, 10 VAC 5-160-40, attached hereto is adopted effective February 10, 2007.
- (2) The regulation shall be posted on the Commission's website at <http://www.scc.virginia.gov/caseinfo.htm>.
- (3) AN ATTESTED COPY hereof, together with a copy of the regulation, shall be sent to the Registrar of Regulations for publication in the Virginia Register.
- (4) This case is dismissed from the Commission's docket of active cases.

AN ATTESTED COPY hereof shall be sent to the Commissioner of Financial Institutions, who shall forthwith mail a copy of this Order, together with a copy of the regulation, to all licensed mortgage lenders and mortgage brokers and such other interested parties as he may designate.

10 VAC 5-160-40. Schedule prescribing of annual fees paid for the examination, supervision, and regulation of mortgage lenders and mortgage brokers.

Pursuant to § 6.1-420 of the Code of Virginia, the Commission sets the following schedule of annual fees to be paid by mortgage lenders and mortgage brokers required to be licensed under Chapter 16 (§ 6.1-408 et seq.) of Title 6.1 of the Code of Virginia. Such fees are to defray the costs of examination, supervision and regulation of such lenders and brokers by the Bureau of Financial Institutions. The fees are related to the actual costs of the Bureau, to the ~~assets (i.e., loans) of the lenders, to the~~ volume of business of the lenders and brokers, and to other factors relating to supervision and regulation.

SCHEDULE

LENDER LICENSEE: Minimum fee - \$800, plus \$6.60 per loan

BROKER LICENSEE: Minimum fee - \$400, plus \$6.60 per loan

DUAL AUTHORITY (LENDER/BROKER): Minimum fee - \$1,200, plus \$6.60 per loan

The annual fee for each mortgage lender ~~will~~ shall be computed on the basis of the number of mortgage loans, as defined in § 6.1-409 of the Code of Virginia, made or originated during the calendar year preceding the year of assessment. The annual fee ~~of for~~ for each mortgage broker ~~will~~ shall be based on the number of such loans brokered. The annual fee ~~of for~~ for each mortgage lender/broker ~~will~~ shall be based on the total number of mortgage loans made or originated and mortgage loans brokered. The annual fee computed using the above schedule shall be rounded down to the nearest whole dollar.

Fees ~~will~~ shall be assessed on or before April 25 for the current calendar year. By law the fee must be paid on or before May 25.

The annual report, ~~due March 25, 1991,~~ of each licensee ~~provides~~ shall be due March 1 of each year and shall provide the basis for ~~its~~ licensee assessment, i.e., the number of loans made or brokered. If the annual report of a licensee has not been filed by the assessment date, a provisional fee, subject to ~~the~~ adjustment when the report is filed, ~~will~~ shall be assessed. In cases where a license or additional authority has been granted between January 1 and ~~April 25~~ March 31, one of the following fees or additional fee ~~will~~ shall be assessed: lender - \$400; broker - \$200; lender/broker - \$600.

Fees prescribed and assessed by this schedule are apart from, and do not include, the reimbursement for expenses permitted by subsection B of § 6.1-420 of the Code of Virginia.

VA.R. Doc. No. R07-79; Filed February 2, 2007, 2:56 p.m.

TITLE 12. HEALTH

STATE BOARD OF HEALTH

Final Regulation

Titles of Regulations: **12 VAC 5-70. Regulations Governing the Newborn Screening and Treatment Program (repealing 12 VAC 5-70-10 through 12 VAC 5-70-50).**

12 VAC 5-71. Regulations Governing Virginia Newborn Screening Services (adding 12 VAC 5-71-10 through 12 VAC 5-71-190).

Statutory Authority: § 32.1-12 and Article 7 (§ 32.1-65 et seq.) of Chapter 2 of Title 32.1 of the Code of Virginia.

Effective Date: April 4, 2007.

Regulations

Agency Contact: Nancy Ford, Division of Child and Adolescent Health, Department of Health, 109 Governor Street, Richmond, VA 23219, telephone (804) 864-7691, FAX (804) 864-7647, or email nancy.ford@vdh.virginia.gov.

Summary:

This regulatory action repeals the existing newborn screening regulations and promulgates new regulations that conform to Chapter 721 of the 2005 Acts of Assembly. The regulations establish rules for the newborn screening services in the Commonwealth of Virginia. The proposed regulations (i) provide additional (relevant) definitions, (ii) expand the panel of diseases for which newborns are screened from 12 to 29, (iii) clarify the roles and responsibilities of different entities involved in the newborn screening and (iv) establish an income eligibility criterion for publicly provided formula and food benefits.

One change has been made between the proposed and final permanent text addressing licensed nurse midwives redrawing unsatisfactory specimens.

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

CHAPTER 71.

REGULATIONS GOVERNING VIRGINIA NEWBORN SCREENING SERVICES.

12 VAC 5-71-10. Definitions.

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

"Attending physician" means the physician in charge of the infant's care.

"Board" means the State Board of Health.

"Business days" means Monday through Friday from 9 a.m. to 5 p.m., excluding federal and state holidays.

"Care Connection for Children" means a statewide network of centers of excellence for children with special health care needs (CSHCN) that provides leadership in the enhancement of specialty medical services, care coordination, medical insurance benefits evaluation and coordination, management of the CSHCN Pool of Funds, information and referral to CSHCN resources, family-to-family support, and training and consultation with community providers on CSHCN issues.

"Care coordination" means a process that links individuals and their families to services and resources in a coordinated effort to maximize their potential and provide them with optimal health care.

"Certified nurse midwife" means a person licensed to practice as a nurse practitioner in the Commonwealth pursuant to

§ 54.1-2957 of the Code of Virginia and in accordance with Part II (18 VAC 90-30-60 et seq.) of 18 VAC 90-30 and 18 VAC 90-30-120 and 18 VAC 90-30-160.

"Chief executive officer" means a job descriptive term used to identify the individual appointed by the governing body to act in its behalf in the overall management of the hospital. Job titles may include administrator, superintendent, director, executive director, president, vice-president, and executive vice-president.

"Child" means a person less than 18 years of age and includes a biological or an adopted child, and a child placed for adoption or foster care unless otherwise treated as a separate unit for the purposes of determining eligibility and charges under these regulations.

"Commissioner" means the State Health Commissioner, his duly designated officer, or agent.

"Confirmatory testing" means a test or a panel of tests performed following a screened-abnormal result to verify a diagnosis.

"Core panel conditions" means those heritable disorders and genetic diseases considered appropriate for newborn screening. The conditions in the core panel are similar in that they have (i) specific and sensitive screening tests, (ii) a sufficiently well understood natural history, and (iii) available and efficacious treatments.

"Department" means the state Department of Health.

"Dried-blood-spot specimen" means a clinical blood sample collected from an infant by heel stick method and placed directly onto specially manufactured absorbent specimen collection (filter) paper.

"Guardian" means a parent-, court-, or clerk-appointed guardian of the person.

"Healthcare provider" means a person who is licensed to provide health care as part of his job responsibilities and who has the authority to order newborn dried-blood-spot screening tests.

"Heritable disorders and genetic diseases" means pathological conditions (i.e., interruption, cessation or disorder of body functions, systems, or organs) that are caused by an absent or defective gene or gene product, or by a chromosomal aberration.

"Hospital" means a medical care facility licensed as a hospital by the Virginia Department of Health.

"Infant" means a child less than 12 months of age.

"Low protein modified foods" means foods that are (i) specially formulated to have less than one gram of protein per serving, (ii) intended to be used under the direction of a physician for the dietary treatment of an inherited metabolic disease, (iii) not natural foods that are naturally low in

protein, and (iv) prescribed as medically necessary for the therapeutic treatment of inherited metabolic diseases.

"Metabolic formula" means nutritional substances that are (i) prescribed by a health professional with appropriate prescriptive authority; (ii) specifically designed and formulated to be consumed or administered internally under the supervision of such health professional; (iii) specifically designed, processed, or formulated to be distinct in one or more nutrients that are present in natural food; and (iv) intended for the medical and nutritional management of patients with limited capacity to metabolize ordinary foodstuffs or limited capacity to metabolize certain nutrients contained in ordinary foodstuffs.

"Metabolic supplements" means certain dietary or nutritional substances intended to be used under the direction of a physician for the nutritional management of inherited metabolic diseases.

"Midwife" means a person licensed as a nurse practitioner in the category of certified nurse midwife by the Boards of Nursing and Medicine or licensed as a midwife by the Board of Medicine.

"Newborn" means an infant who is 28 days old or less.

"Nurse" means a person holding a current license as a registered nurse or licensed practical nurse by the Virginia Board of Nursing or a current multistate licensure privilege to practice in Virginia as a registered nurse or licensed practical nurse.

"Parent" means a biological, adoptive, or stepparent.

"Pediatric Comprehensive Sickle Cell Clinic Network" means a statewide network of clinics that are located in major medical centers and provide comprehensive medical and support services for newborns and children living with sickle cell disease and other genetically related hemoglobinopathies.

"Physician" means a person licensed to practice medicine or osteopathic medicine in the Commonwealth pursuant to Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1 of the Code of Virginia and in accordance with applicable regulations.

"Pool of funds" means funds designated for payment of direct health care services. Access to the pool is not an entitlement and is subject to availability of funds and guidelines that govern its eligibility and coverage of services. Pool of funds is a mix of federal Title V funds and state match.

"Population-based" means preventive interventions and personal health services developed and available for the entire infant and child health population of the Commonwealth rather than for individuals in a one-on-one situation.

"Preterm infant" means a neonate whose birth occurs through the end of the last day of the 36th week following the onset of the last menstrual period.

"Repeat specimen" means an additional newborn dried-blood-spot screening specimen submitted to the testing laboratory voluntarily or by request.

"Resident" means an individual who resides within the geographical boundaries of the Commonwealth.

"Satisfactory specimen" means a newborn dried-blood-spot screening specimen that has been determined to be acceptable for laboratory analyses by the testing laboratory.

"Screened-abnormal" means a newborn dried-blood-spot screening test result that is outside the established normal range or normal value for that test method.

"Testing laboratory" means the laboratory that has been selected by the department to perform newborn dried-blood-spot screening tests services.

"Total parenteral nutrition (TPN)" means giving nutrients through a vein for babies who cannot be fed by mouth.

"Treatment" means appropriate management including genetic counseling, medical consultation, and pharmacological and dietary management for infants diagnosed with a disease listed in 12 VAC 5-71-30 D.

"Unsatisfactory specimen" means a newborn dried-blood-spot screening specimen that is inadequate for performing an accurate analysis.

"Virginia Genetics Advisory Committee" means a formal group that advises the department on issues pertaining to access to clinical genetics services across the Commonwealth and the provision of genetic awareness, quality services, and education for consumers and providers.

"Virginia Newborn Screening System" means a coordinated and comprehensive group of services, including education, screening, follow up, diagnosis, treatment and management, and program evaluation, managed by the department's Virginia Newborn Screening Services and Virginia Early Hearing Detection and Intervention Program for safeguarding the health of children born in Virginia.

"Virginia Sickle Cell Awareness Program" means a statewide program for the education and screening of individuals for the disease of sickle cell anemia or sickle cell trait and for such other genetically related hemoglobinopathies.

12 VAC 5-71-20. Administration of chapter.

This chapter is administered by the commissioner.

The commissioner may issue a guidance document that interprets these regulations and provides guidance for their implementation. Such a document shall be reviewed and revised whenever the regulations of this chapter are reviewed and may also be amended or revised as needed to meet changing circumstances.

Regulations

Guidance documents shall include procedures for accessing program services including available assistance when not otherwise addressed in these regulations or the Code of Virginia.

12 VAC 5-71-30. Core panel of heritable disorders and genetic diseases.

A. The Virginia Newborn Screening System, which includes Virginia Newborn Screening Services and the Virginia Early Hearing and Intervention Program, shall ensure that the core panel of heritable disorders and genetic diseases for which newborn screening is conducted is consistent with but not necessarily identical to the recommendations for screening by the American College of Medical Genetics in its 2005 report "Newborn Screening: Toward a Uniform Screening Panel and System."

B. The department shall review, at least biennially, national recommendations and guidelines and may propose changes to the core panel of heritable disorders and genetic diseases for which newborn dried-blood-spot screening tests are conducted.

C. The Virginia Genetics Advisory Committee may be consulted and provide advice to the commissioner on proposed changes to the core panel of heritable disorders and genetic diseases for which newborn dried-blood-spot screening tests are conducted.

D. Infants under six months of age who are born in Virginia shall be screened in accordance with the provisions set forth in this chapter for the following heritable disorders and genetic diseases, which are identified through newborn dried-blood-spot screening tests:

1. Argininosuccinic acidemia (ASA);
2. Beta-ketothiolase deficiency (BKT);
3. Biotinidase deficiency (BIOT);
4. Carnitine uptake defect (CUD);
5. Citrullinemia (CIT);
6. Congenital adrenal hyperplasia (CAH);
7. Congenital hypothyroidism (CH);
8. Cystic fibrosis (CF);
9. Galactosemia (GALT);
10. Glutaric acidemia type I (GA I);
11. Hemoglobin Sickle/Beta-thalassemia (Hb S/BTh);
12. Hemoglobin Sickle/C disease (Hb S/C);
13. Homocystinuria (HCY);
14. Isovaleric acidemia (IVA);

15. Long chain hydroxyacyl-CoA dehydrogenase deficiency (LCHAD);

16. Maple syrup urine disease (MSUD);

17. Medium-chain acyl-CoA dehydrogenase deficiency (MCAD);

18. Methylmalonic acidemia (mutase deficiency) (MUT);

19. Methylmalonic acidemia (Cbl A,B);

20. Multiple carboxylase deficiency (MCD);

21. Phenylketonuria (PKU);

22. Propionic acidemia (PROP);

23. Sickle cell anemia (Hb SS disease) (Hb SS);

24. Tyrosinemia type I (TYR I);

25. Trifunctional protein deficiency (TFP);

26. Very long-chain acyl-CoA dehydrogenase deficiency (VLCAD);

27. 3-hydroxy 3-methyl glutaric aciduria (HMG); and

28. 3-Methylcrotonyl-CoA carboxylase deficiency (3MCC).

E. Infants born in Virginia shall be screened for hearing loss in accordance with provisions set forth in §§ 32.1-64.1 and 32.1-64.2 of the Code of Virginia and as governed by 12 VAC 5-80.

12 VAC 5-71-40. Religious exemption from newborn dried-blood-spot screening requirements.

Refusal by the infant's parent or guardian to consent to the collection and submission of a newborn dried-blood-spot screening specimen because the test conflicts with his religious practices or tenets shall be documented in the medical record and communicated to the department.

12 VAC 5-71-50. Responsibilities of the physician or midwife.

For every live birth in the Commonwealth, the physician or midwife in charge of the infant's care after delivery shall cause the initial collection and submission of a newborn dried-blood-spot screening specimen for testing of those heritable disorders and genetic diseases listed in 12 VAC 5-71-30 D and in accordance with 12 VAC 5-71-70 or 12 VAC 5-71-80.

12 VAC 5-71-60. Responsibilities of the first attending healthcare provider.

In the event that a physician or midwife does not attend the birth and newborn dried-blood-spot screening tests have not been performed, the first attending healthcare provider shall cause the initial collection and submission of a newborn dried-blood-spot screening specimen for testing of those

heritable disorders and genetic diseases listed in 12 VAC 5-71-30 D in accordance with 12 VAC 5-71-110.

12 VAC 5-71-70. Newborn dried-blood-spot screening specimen collection, specimen submission, and notification for hospital deliveries.

A. Newborn dried-blood-spot specimen collection and submission shall be done in accordance with requirements that are determined by the department's designated testing laboratory.

B. Newborn dried-blood-spot specimen collection shall occur after 24 hours of age or immediately before the newborn's discharge, whichever comes first.

C. If the initial newborn dried-blood-spot specimen is collected before 24 hours of age, a repeat specimen shall be collected at the time of discharge or no later than 14 days of age, regardless of earlier test results.

D. If the newborn is a preterm infant, the newborn dried-blood-spot specimen shall be collected at seven days of age or at the time of discharge from the hospital, whichever occurs first.

E. If the newborn requires a blood transfusion or total parenteral nutrition (TPN) or if the newborn is suspected of having a heritable disorder or genetic disease that is listed in 12 VAC 5-71-30 D:

1. The newborn dried-blood-spot specimen may be collected before 24 hours of age and subsequently submitted; and
2. A repeat newborn dried-blood-spot specimen shall be collected at the time of discharge or no later than 14 days of age, regardless of earlier test results, and subsequently submitted.

F. On notification by the hospital that the infant was discharged before a newborn dried-blood-spot specimen was collected, the healthcare provider in charge of the infant's care or his designee shall:

1. Notify the infant's parent that the infant was discharged before a newborn dried-blood-spot specimen was collected;
2. Cause the collection of a specimen within 48 hours of that parental notification; and
3. Cause the submission of the specimen.

G. If the newborn is to be transferred to another hospital and is less than 24 hours of age:

1. The physician or certified nurse midwife in charge of the infant's care at the hospital of birth shall:
 - a. Cause the collection a newborn dried-blood-spot specimen before the newborn is transferred to another hospital;

b. Cause the submission of the specimen; and

c. Notify the receiving physician or healthcare provider that a newborn dried-blood-spot specimen was collected before 24 hours of age.

2. The receiving physician or healthcare provider shall:

- a. Cause the collection of a repeat specimen at the time of discharge or no later than 14 days of age, regardless of earlier test results; and
- b. Cause the submission of the specimen.

H. If the infant is transferred to another hospital and is 24 hours of age or older, the physician in charge of the infant's care at the hospital of birth shall:

1. Cause the initial collection and submission of a newborn dried-blood-spot specimen for the infant who is being transferred;
2. Notify the receiving physician or physician of record on transfer that the infant's specimen has been collected; and
3. Notify the receiving physician or physician of record if a newborn dried-blood-spot specimen needs to be repeated or if confirmatory testing is required.

I. The healthcare provider in charge of the infant's care, on receiving notice from the testing laboratory that the infant's newborn dried-blood-spot specimen is unsatisfactory, shall:

1. Cause the collection of a repeat specimen as soon as possible but no later than two business days after notice; and
2. Cause the submission of the specimen.

J. The healthcare provider in charge of the infant's care, on receiving notice of the results of the infant's newborn dried-blood-spot screening test, shall place or cause to be placed the results in the infant's medical record and cause parental notification of test results.

K. The healthcare provider in charge of the infant's care, on receiving notice of the infant's screened-abnormal result, shall:

1. Cause the collection of a repeat newborn dried-blood-spot specimen for repeat or confirmatory testing as soon as possible but no later than two business days after notice;
2. Cause the submission of the specimen; and
3. Take immediate action, as instructed, when notified of a critically abnormal screening result.

12 VAC 5-71-80. Newborn dried-blood-spot screening specimen collection, specimen submission, and notification for deliveries outside of the hospital.

A. In the event that the infant is born outside of a hospital, the attending physician or midwife shall ensure that:

Regulations

1. Newborn dried-blood-spot specimen collection and submission is done in accordance with requirements that are determined by the department's designated testing laboratory.

2. Newborn dried-blood-spot specimen collection occurs after 24 hours of age.

3. If the initial newborn dried-blood-spot specimen is collected before 24 hours of age, a repeat specimen shall be collected no later than 14 days of age, regardless of earlier test results.

4. If the newborn is hospitalized, the infant's healthcare provider shall cause the newborn dried-blood-spot screening specimen collection and submission in accordance with 12 VAC 5-71-70.

B. The healthcare provider in charge of the infant's care, on receiving notice of the results of the infant's newborn dried-blood-spot screening test, shall place or cause to be placed the results in the infant's medical record and cause parental notification of test results.

C. The healthcare provider in charge of the infant's care, on receiving notice from the testing laboratory that the infant's newborn dried-blood-spot specimen is unsatisfactory, shall:

1. Cause the collection of a repeat specimen as soon as possible but no later than two business days after notice; and

2. Cause the submission of the specimen.

D. The healthcare provider in charge of the infant's care, on receiving notice of the infant's screened-abnormal result, shall:

1. Cause the collection of a repeat newborn dried-blood-spot specimen for repeat or confirmatory testing as soon as possible but no later than two business days after notice;

2. Cause the submission of the specimen; and

3. Take immediate action, as instructed, when notified of a critically abnormal screening result.

If a licensed midwife has ordered the newborn-dried-blood-spot screening test and is notified that the results are unsatisfactory or abnormal, the infant shall be immediately referred to a physician or health care facility for repeat collection and submission and for care and treatment as necessary.

[The licensed midwife shall cause the collection and submission of a repeat newborn dried-blood-spot specimen if the specimen is unsatisfactory and referring the infant to a physician or health care facility for repeat collection will result in a delay of more than two business days.]

12 VAC 5-71-90. Responsibilities of the chief executive officer.

The chief executive officer shall assure that the hospital providing birthing services develops and implements policies and procedures to make certain that the following steps take place:

1. Collection of newborn dried-blood-spot screening specimens shall occur after 24 hours of birth, and collection and submission of the specimens shall meet the standards required by the testing laboratory;

2. Notification of the newborn's physician of record or designee shall occur within one business day in the event that the infant is discharged before the newborn dried-blood-spot screening specimen has been collected;

3. Communication of the newborn dried-blood-spot screening test results to the newborn's physician of record or designee shall occur so that test results may become part of the infant's medical record on file with the physician;

4. Information relative to newborn screening dried-blood-spot results and treatment shall be recorded in the patient's medical record, and retention of the information shall comply with applicable medical record retention requirements; and

5. Training of staff on newborn dried-blood-spot screening specimen collection and submission and parental notification shall be implemented in a way that ensures an adequately trained and knowledgeable workforce is maintained for implementing specimen collection and submission and parental notification according to standards required by the testing laboratory and guidance from the department.

12 VAC 5-71-100. Responsibilities of the testing laboratory providing newborn dried-blood-spot screening tests.

A. Newborn dried-blood-spot screening tests shall be performed by the Division of Consolidated Laboratory Services or other laboratory the department has contracted with to provide this service in accordance § 32.1-65 of the Code of Virginia.

B. The testing laboratory shall maintain accreditation under the Clinical Laboratory Improvement Amendments as defined in 42 CFR Part 493.

C. The testing laboratory shall perform required initial and secondary tests using validated analytical test methods and establish normal ranges and notification protocols as defined in the contract with the department. The testing laboratory may seek the advice of the Newborn Screening Subcommittee of the Virginia Genetics Advisory Committee.

D. On completion of newborn dried-blood-spot screening tests for the infant, the testing laboratory shall provide the

completed test results to the submitting facility and to the infant's healthcare provider, as indicated on the newborn screening sample.

E. The testing laboratory shall provide the department's newborn screening services with the newborn dried-blood-spot screening test data that are necessary to carry out follow-up services.

F. The testing laboratory shall manage the distribution of newborn dried-blood-spot screening specimen collection kits.

G. The testing laboratory is authorized to set the fee charged to birthing hospitals and physicians for purchase of newborn dried-blood-spot screening specimen collection kits in consultation with the department and in accordance with applicable state statutes and regulations.

H. The testing laboratory shall maintain an information management system capable of electronic data exchange between the laboratory and the department's newborn screening services.

12 VAC 5-71-110. Reporting to the commissioner.

A. Physicians, midwives, public health nurses and other nurses who receive newborn dried-blood-spot screening test results, and administrators of hospitals in the Commonwealth shall make or cause to be made a report to the commissioner of a person under the age of two diagnosed as having a heritable disorder or genetic disease for which newborn dried-blood-spot screening tests are conducted.

B. The diagnosed cases shall be reported in accordance with § 32.1-69.1 of the Code of Virginia.

12 VAC 5-71-120. Scope and content of Virginia Newborn Screening Services.

A. The mission of Virginia Newborn Screening Services is to prevent mental retardation, permanent disability, or death through early identification and treatment of infants who are affected by those heritable disorders and genetic diseases listed in 12 VAC 5-71-30 D.

B. The scope of newborn screening services shall include the following:

1. Ensure that infants born in the Commonwealth receive newborn dried-blood-spot screening, confirmatory testing, and follow-up services for selected heritable disorders or genetic diseases;
2. Locate and track infants with screened-abnormal results or unsatisfactory results, a short-term process of ensuring that the identified healthcare provider is informed of results, in a timely matter, by at least six months of age, to determine if the infant has a selected heritable disorder or genetic disease;

3. Ensure that the department receives all diagnostic test results, both normal and screened-abnormal results, from healthcare providers;

4. Ensure that appropriate diagnostic data are collected, stored, and organized in a secure data management information system that allows for efficient extraction of appropriate data from the testing laboratory to newborn screening services in accordance with federal and state laws and regulations;

5. Assess and evaluate newborn screening services follow-up activities by collecting and reporting data required annually for Title V national performance measures that address how well the system functions;

6. Educate healthcare providers, parents, and the general public by electronic or written materials and educational sessions, as deemed necessary by the department;

7. Facilitate the entry of infants with screened-abnormal results into medical and dietary management services as needed upon receiving notification from the contracted lab of such results;

8. Ensure that residents of the Commonwealth who are diagnosed with selected heritable disorders or genetic diseases identified through newborn screening services are referred to the Care Connection for Children network for care coordination services; and

9. Provide information to residents of the Commonwealth who are diagnosed with selected heritable disorders or genetic diseases identified through newborn screening services regarding available assistance for obtaining metabolic formula, low protein modified foods, and metabolic supplements that are medically necessary to manage their diagnosed heritable disorder or genetic disease listed in 12 VAC 5 71-30-D.

C. To ensure full implementation of newborn screening services, the department may establish contracts with, but not be limited to, the following entities, and the established contracts shall comply with all federal assurances:

1. A designated testing laboratory;
2. Medical facilities to provide metabolic treatment and genetic services; and
3. Other entities as needed.

D. The Title V national performance measures, as required by the federal Government Performance and Results Act (GPRA; Public Law 103-62), shall be used to establish newborn screening services goals. The following goals shall change as needed to be consistent with applicable Title V national performance measures: All infants who are born in the Commonwealth and who are residents of Virginia will receive appropriate newborn dried-blood-spot screening,

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confirmatory testing, and follow-up services. All infants who are born in the Commonwealth and who are not residents of Virginia will receive appropriate newborn dried-blood-spot screening and be referred to their state of residence for confirmatory testing and follow-up services.

12 VAC 5-71-130. Responsibilities of the Pediatric Comprehensive Sickle Cell Clinic Network.

A. Upon notification by Virginia Newborn Screening Services of an infant diagnosed with sickle cell disease, the Virginia Sickle Cell Awareness Program shall track infants identified with sickle cell disease and related hemoglobinopathies to ensure that they receive care and refer the infants to the Pediatric Comprehensive Sickle Cell Clinic Network.

B. The Pediatric Comprehensive Sickle Cell Clinic Network shall provide the following services:

1. Consultation on screened-abnormal results to primary care providers and parents;
2. Family counseling and support;
3. Regularly scheduled clinics, which meet the needs of the population served; and
4. Referral to appropriate inpatient care facilities.

C. The Pediatric Comprehensive Sickle Cell Clinic Network shall provide data as needed by the department's newborn screening services.

12 VAC 5-71-140. Responsibilities of metabolic treatment and genetic centers facilities.

A. The department's contracted metabolic treatment and genetic centers facilities shall collaborate with a specialized testing laboratory or laboratories for performing diagnostic testing on infants referred by the department's newborn screening services in accordance with § 32.1-65 of the Code of Virginia.

B. The department's contracted metabolic treatment and genetic centers facilities shall provide the following clinical services:

1. Consultation on screened-abnormal results to healthcare providers;
2. Family counseling and support;
3. Regularly scheduled clinics;
4. Appropriate inpatient care facilities;
5. Clinical genetic services; and
6. Nutritional counseling and support.

C. The department's contracted metabolic treatment and genetic centers facilities shall provide written diagnostic and

other related case information to the department's newborn screening services.

12 VAC 5-71-150. Responsibilities of the Care Connection for Children network.

A. The Care Connection for Children network shall provide the following services:

1. Care coordination services for residents of the Commonwealth who are diagnosed with selected heritable disorders or genetic diseases and are referred to the network by Virginia Newborn Screening Services.
2. Other network services for eligible individuals in accordance with the § 32.1-77 of the Code of Virginia and applicable regulations.

B. The Care Connection for Children network shall provide data as needed by the department's newborn screening services.

12 VAC 5-71-160. Availability of assistance for obtaining metabolic formula, low protein modified foods, and metabolic supplements.

A. The department shall maintain a procedure to assist eligible persons in obtaining metabolic formula, low protein modified foods, and metabolic supplements.

B. Expenditures shall be limited to available funding.

C. Resident children under the age of 21 who have a diagnosis of a heritable disorder or genetic disease listed in 12 VAC 5-71-30 D and meet financial eligibility criteria for the Children with Special Health Care Needs Program pool of funds in accordance with the State Board of Health Regulations Governing Eligibility Standards and Charges for Medical Care Services to Individuals (12 VAC 5-200) may qualify to receive metabolic formula at no cost. Applicants who qualify must demonstrate that they are not eligible for available state and federal medical assistance programs and must demonstrate that they do not have insurance coverage for metabolic formula.

D. Resident children under the age of 21 who have a diagnosis of a heritable disorder or genetic disease listed in 12 VAC 5 71-30 D and do not meet financial eligibility criteria for the Children with Special Health Care Needs Program pool of funds in accordance with the State Board of Health Regulations Governing Eligibility Standards and Charges for Medical Care Services to Individuals (12 VAC 5-200) may be eligible to purchase metabolic formula through the Virginia Department of Health.

E. Resident adults ages 21 or older who have a diagnosis of a heritable disorder or genetic disease listed in 12 VAC 5-71-30 D and who have a gross family income at or below 300% of the federal poverty level in accordance with the State Board of Health Regulations Governing Eligibility Standards and Charges for Medical Care Services to Individuals (12 VAC 5-

200) may qualify to receive metabolic formula at no cost. Applicants who qualify must demonstrate that they are not eligible for available state and federal medical assistance programs and must demonstrate that they do not have current insurance coverage for metabolic formula.

F. Resident adults ages 21 or older who have a diagnosis of a heritable disorder or genetic disease listed in 12 VAC 5-71-30 D and who do not meet financial criteria or other eligibility criteria in accordance with the State Board of Health Regulations Governing Eligibility Standards and Charges for Medical Care Services to Individuals (12 VAC 5-200) may qualify to purchase metabolic formula through the Virginia Department of Health.

G. Residents who have a diagnosis of a heritable disorder or genetic disease listed in 12 VAC 5-71-30 D and who have a gross family income at or below of 300% of the federal poverty level in accordance with the State Board of Health Regulations Governing Eligibility Standards and Charges for Medical Care Services to Individuals (12 VAC 5-200) may be eligible to receive reimbursement from the department up to \$1,500 per year for purchase of low protein modified foods and metabolic supplements. Applicants who qualify must demonstrate that they are not eligible for available state and federal medical assistance programs and must demonstrate that they do not have current insurance coverage for low protein modified foods or metabolic supplements for which they are seeking reimbursement.

12 VAC 5-71-170. Emergency suspension of assistance.

The commissioner may suspend any portion of the assistance plan to ensure the financial integrity of Virginia Newborn Screening Services. The commissioner shall report any action taken under the provisions of this section to the Board of Health at its next scheduled meeting.

12 VAC 5-71-180. Use of federal, state, or other resources.

A. The commissioner or his designee may seek, receive, and expend federal, state general, or other nongeneral funds for the department necessary to administer newborn screening services.

B. Federal Title V funds received for the Children with Special Health Care Needs Program, authorized by § 32.1-77 of the Code of Virginia, may be used to support the department's newborn screening services, in accordance with applicable federal and state laws and regulations.

12 VAC 5-71-190. Confidentiality of information.

The department's newborn screening services and its contractors shall maintain, store, and safeguard client records from unauthorized access as required by law.

VA.R. Doc. No. R06-97; Filed February 8, 2007, 2:48 p.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD FOR CONTRACTORS

Proposed Regulation

Title of Regulation: **18 VAC 50-30. Tradesman Rules and Regulations (amending 18 VAC 50-30-10, 18 VAC 50-30-40, 18 VAC 50-30-90, 18 VAC 50-30-100, 18 VAC 50-30-120, 18 VAC 50-30-130, 18 VAC 50-30-190, 18 VAC 50-30-200; adding 18 VAC 50-30-210 through 18 VAC 50-30-260).**

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

Public Hearing Date:

April 17, 2007 - 1 p.m. (Roanoke)

April 18, 2007 - 1 p.m. (Richmond)

Public comments may be submitted until May 5, 2007.

(See Calendar of Events section for additional information)

Agency Contact: Kevin E. Hoefft, Regulatory Boards Administrator, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-6166, FAX (804) 367-0674, or email contractor@dpor.virginia.gov.

Basis: Section 54.1-201 of the Code of Virginia provides general authority to regulatory boards to promulgate regulations.

As provided in Chapter 792 of the 2005 Acts of Assembly, § 54.1-1130 B of the Code of Virginia provides the authority for the board to issue certificates to practice as a water well systems provider in the Commonwealth.

As provided in Chapter 792 of the 2005 Acts of Assembly, § 54.1-1129.1 of the Code of Virginia provides the authority for the board to establish three levels of certification to practice as a water well systems provider: (i) trainee, (ii) journeyman, and (iii) master, and provides the authority for the board to require the completion of continuing education as a prerequisite to renewal or reinstatement as a certified water well systems provider.

As provided in Chapter 792 of the 2005 Acts of Assembly, § 54.1-1130 B of the Code of Virginia provides the authority for the board to require applicants to take an examination to determine the applicant's general knowledge of water well systems, and provides the authority for the board to certify without examination applicants who provide proof of being actively and continuously engaged in water well construction activities immediately prior to July 1, 2007, as follows: (i) at least one year for trainee certification, (ii) at least three years for journeyman certification, and (iii) at least six years for master certification.

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The content of the regulations is up to the discretion of the board, but shall not be in conflict with the purposes of the statutory authority.

Purpose: First, after studying data relative to inspection reports and the certification/education requirements in other states, the General Assembly determined the need to certify water well systems providers in Virginia to protect the health, safety and welfare of the public by protecting the Commonwealth's domestic water supply.

Second, this certification program will ensure that the installation and repair of water wells and water well systems in Virginia are performed by individuals who have sufficient educational training and practical experience to be competent in this field. This legislation also requires continuing education to apprise certified individuals of safety issues associated with the advances and changes in water well systems work. By ensuring that water well systems providers meet minimum educational and practical experience standards as a condition for certification, and by ensuring that these certification holders receive continuing education on the advances and changes in their field of expertise, Virginia and its citizens' domestic water supply will be adequately protected from the many hazards associated with contaminated domestic water.

Substance: Chapter 792 of the 2005 Acts of Assembly added Article 3 to Chapter 11 of Title 54.1 of the Code of Virginia. This amendment to the statutes introduces certified water well systems providers to the regulatory authority of the board. These regulations will define entry requirements, list fees, set certificate maintenance procedures and establish three levels of certification for this new program. Since this is a new program, all changes made to the existing regulations are substantive.

Many of these changes are administrative in nature and merely add the term "water well systems provider" to existing language that includes all of the individual regulatory programs referenced in these regulations. This includes definitions and references to administrative actions such as renewal and reinstatement that are common to the other programs.

Other changes outline entry, examination, and continuing education requirements for those individuals applying for certification, renewal and reinstatement as water well systems providers, including formal vocational training hours, acceptable levels of practical experience and continuing education hours. Fees applicable for this new certification program are incorporated into the sections that contain fees for all other programs within these regulations.

This program establishes three levels of individual certification as a water well systems provider: (i) trainee, (ii) journeyman, and (iii) master.

Issues: In amending these regulations, the board is complying with the 2005 law establishing a program to certify water well systems providers. After studying data relative to inspection reports and the certification and education requirements in other states, the General Assembly determined a need for this level of regulation to protect the public. The primary advantage of the program is to ensure that the installation and repair of water wells and water well systems in Virginia are performed by individuals who have received sufficient training and demonstrated enough experience to be competent. This legislation also requires continuing education to apprise certified individuals of safety issues associated with advances and changes in water well systems work.

The only possible disadvantage to the program will involve the availability of formal vocational training and continuing education classes for applicants and regulants in areas geographically remote to population centers. Such difficulties may occur during the first renewal cycle, but should become less problematic as more training programs are approved by the board, and the physical location of the regulant population is identified. Furthermore, the board approved its first Internet-based formal vocational training program for the electrical trade in 2005, thereby establishing a precedent to accept Internet-based educational programs for other regulatory programs, such as water well systems providers.

This program is predicted to have a moderate impact on the board and its licensing staff. Water well systems providers will be the board's third individual certification program, so the initial licensing of approximately 2,500 water well systems providers in July 2007 should not require significant staff training or modifications to existing software. However, monitoring compliance with the biennial continuing education requirement for water well systems providers will require fairly significant staff training and time.

The development of this program, through the legislative process, was supported by many within the water well industry, local and state government officials, and the public. Testimony provided at legislative committee meetings indicated that the majority of those individuals currently employed in the water well systems provider field already belong to organizations that have substantive training and continuing education programs in place and would welcome a requirement that all individuals performing this type of work meet those same standards of training and continuing education. All of Virginia's border states already license or certify individuals who perform this type of work.

Department of Planning and Budget's Economic Impact Analysis:

Summary of the Proposed Regulation. Pursuant to Chapter 792 (2005 Acts of Assembly), the Board of Contractors proposes to add Certified Well Systems Providers to the list

of entities regulated under the board's Tradesman Regulations.

Result of Analysis. The benefits likely exceed the costs for these proposed regulatory changes.

Estimated Economic Impact. Currently, water well systems providers are not regulated under the board's tradesman regulations. However, businesses undertaking water well systems work are required to have a contractor's license of the appropriate level for the dollar worth of the work being provided. Businesses that hold a class C contractors license must, among other requirements, have a qualified individual that has at least two years of experience working on any job. Businesses with a class C contractors license may only work on individual jobs that are worth \$7,500 or less and may only have aggregate yearly total job earnings of \$150,000. Businesses with class B licenses must have a qualified individual with at least three years of experience on any job: individual jobs must be worth less than \$120,000 and total yearly job earnings may not exceed \$750,000. Businesses with class A licenses must have a qualified individual with at least five years of experience on any job: there are no dollar limits either per job or per year to which class A licensees must adhere.

Pursuant to Chapter 792 (2005 Acts of Assembly), the board proposes to implement a three-tier certification (license) program for water well systems providers. As of July 1, 2007, all individuals that provide for-pay water well systems work will have to be certified as a trainee water well systems provider, a journeyman water well systems provider or a master water well systems provider (contractor license requirements will still be in effect).

At the onset of enforcement of this regulation, individuals seeking any level of certification will have to meet set experience requirements that vary according to the level of certification being sought; they will not, however, have to pass a competency exam to attain their initial level of certification. Trainees will have had to have at least one year of continuous experience working with water well systems before July 1, 2007, to gain initial certification without examination; journeymen will have to have at least three years of continuous experience working with water well systems before July 1, 2007; masters will have to have at least six years of continuous experience working with water well systems before July 1, 2007.

Whatever an individual's initial certification level as of July 1, 2007, he will be able to work independently until June 30, 2012, so long as contractor licensure requirements are adhered to. After June 30, 2012, all water well systems work must be done under the supervision of a water well systems provider master. This means, at least theoretically, that both journeymen who otherwise qualify for a class B or C license and masters could work independently without supervision

until mid-2012. In practice, journeymen who want to gain certification as a master will have to adhere to certification by examination requirements (explained below) which limits them to working under the supervision of a master. Journeymen do have the option of working independently until mid-2012, but they would then have to find employment with a master and "re-do" the years of practical experience required for master licensure.

After this initial "grandfather" period, individuals seeking to enter the field or advance to a higher level of certification will have to meet experience and education requirements and will have to pass a competency examination.

Applicant trainee water well systems providers will have to have one year of full-time practical experience under the direct supervision of a certified master water well systems provider and will have to pass a competency examination. The explicit costs of gaining certification as a trainee include an estimated \$100 examination fee and a \$90 certificate fee. The implicit costs of this certification process are likely very minimal and would likely only encompass the opportunity cost of time spent filling out paperwork and taking the examination.

Applicant journeyman water well systems providers will have to have three years of full-time practical experience under the direct supervision of a certified master water well systems provider, 24 hours of formal vocational training in the trade and pass a competency examination. The explicit costs of gaining certification as a journeyman include training costs that the Department of Professional and Occupational Regulation (DPOR) estimates will be approximately \$150 to \$225, a \$100 examination fee and a \$90 certificate fee. The implicit costs of this certification process will encompass the opportunity cost of time spent filling out paperwork, participating in training and taking the examination and any income differential that might exist between wages earned while working for a master water well systems provider as required and the profit that could have been earned as an independent class B or C contractor.

Applicant master water well systems providers will have to have six years of full-time practical experience under the direct supervision of a certified master water well systems provider, 48 hours of formal vocational training in the trade and pass a competency examination. The explicit costs of gaining certification as a master include training costs that DPOR estimates will be approximately \$300 to \$450, a \$100 examination fee and a \$90 certificate fee. The implicit costs of this certification process will encompass the opportunity cost of time spent filling out paperwork, participating in training and taking the examination and any income differential that might exist between wages earned while working for a master water well systems provider as required and the profit that could have been earned as an independent class A, B or C contractor.

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All experience requirements of certification run concurrently; so, for instance, an individual who has had one year of experience as a water well systems provider and has gained trainee certification would only have to work two additional years to meet the experience requirement for journeyman licensure.

Water well systems providers will have to be recertified biannually. Individuals seeking recertification will pay a \$40 recertification fee and will have had eight hours of continuing education that DPOR estimates will cost \$50 to \$75 biannually. In addition to these fees, water well systems providers will incur implicit costs equal to the value of time spent training rather than on some other activity. Currently, education requirements can be met by attending one of several of the seminars held by the Virginia Water Well Association annually. Each seminar includes eight hours of training that will count toward certification or recertification. DPOR plans to also, eventually, offer online classes that water well systems providers can use to meet education requirements.

This regulatory change will ensure a minimum competency level in the pool of water well systems providers that will, hopefully, reduce instances of improperly drilled wells that can become contaminated or even contaminate other, neighboring, wells. This should, in turn, help ensure that the portion of Virginia's citizenry that is not connected into a municipal sewer system has access to clean water that will not make them ill. Of the states that have already implemented some sort of licensure program for well drillers, Maryland and North Carolina have seen a decrease in the number of complaints stemming from improperly drilled wells. Kentucky, South Carolina and Tennessee do not have data from the years before regulation and so are unable to say whether there are fewer complaints since regulation. Texas has seen an increase in complaints about improperly drilled wells; Texas Licensing and Regulation believe they have received more complaints since implementation of regulation because the public is better educated as to where they need to lodge complaints. In any case, if regulation leads to fewer health problems for users of well water, the benefits of this regulatory change that accrue to the citizens of the Commonwealth likely outweigh the costs that will be incurred by water well systems providers.

In addition, this regulatory change may benefit water well systems providers in that better training may reduce the liability costs of insurance premiums and payouts for shoddy work.

Businesses and Entities Affected. The board estimates that approximately 2,500 individuals will apply, under grandfather provisions, for initial certification on or about July 1, 2007. After that, DPOR anticipates approximately 500 individuals per year will seek some level of initial or additional certification under this program.

Localities Particularly Affected. The proposed regulation will affect all localities in the Commonwealth.

Projected Impact on Employment. To the extent that this new certification program increases the costs an individual must incur, and the time it takes, to begin practicing as an independent water well system provider, this regulation may serve as a barrier to entry that will decrease employment in the field. To a lesser extent, the cost of continuing education and recertification will increase the fixed cost of continuing to practice in this field and may, in the long run, induce some water well system providers to stop practicing. This will likely only be an issue for very inefficient water well systems providers who have a difficult time earning a profit now.

Effects on the Use and Value of Private Property. To the extent that higher fixed costs will tend to decrease profits (by a small amount), the value of Water Well System businesses will decrease.

Small Businesses: Costs and Other Effects. All of the approximately 2,500 individuals immediately affected by this regulatory amendment are owners or employees of small businesses. There are approximately 300 of these businesses in the Commonwealth. These businesses will incur extra explicit costs for training and certification (see Estimated Economic Impact above) as well as implicit costs for time spent meeting regulatory requirements and for opportunities foregone because of regulatory restrictions. These costs are likely outweighed by the benefits, such as lower risk of wells being drilled improperly and becoming contaminated, that are likely to accrue to the public in general.

Small Businesses: Alternative Method that Minimizes Adverse Impact. The proposed regulation likely minimizes the adverse impact on the regulated community given the constraints mandated by the legislature.

Legal Mandate. 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. Further, if the proposed regulation has an adverse effect on small businesses, § 2.2-4007 H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for

preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The agency concurs with this report.

Summary:

The proposed amendments establish a three-level certification program for water well systems providers. The amendments define entry requirements, list fees and set certificate maintenance procedures for this new program.

18 VAC 50-30-10. Definitions.

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

"Affidavit" means a written statement of facts, made voluntarily, and confirmed by the oath or affirmation of the party making it, taken before a notary or other person having the authority to administer such oath or affirmation.

"Apprentice" means a person who assists tradesmen while gaining knowledge of the trade through on-the-job training and related instruction in accordance with the Virginia Voluntary Apprenticeship Act (§ 40.1-117 et seq. of the Code of Virginia).

"Approved" means approved by the Department of Professional and Occupational Regulation.

"Backflow prevention device testing" means performing functional procedures to ascertain that the device is still providing the necessary backflow protection in accordance with the Virginia Uniform Statewide Building Code.

"Backflow prevention device work" consists of and is limited to the following: (i) maintenance; (ii) repair; (iii) testing; or (iv) periodic inspection of cross connection control devices, including but not limited to reduced pressure principle backflow preventors, double check-valve assemblies, double-detector check-valve assemblies, pressure type vacuum breaker assemblies, and other such devices designed, installed, and maintained in such a manner so as to prevent the contamination of the potable water supply by the introduction of nonpotable liquids, solids, or gases, thus ensuring that the potable water supply remains unaltered and free from impurities, odor, discoloration, bacteria, and other contaminants which would make the potable water supply unfit or unsafe for consumption and use.

"Backflow prevention device worker" means any individual who engages in, or offers to engage in, the maintenance,

repair, testing or periodic inspection of cross connection control devices.

"Board" means the Board for Contractors.

"Building official/inspector" is an employee of the state, a local building department or other political subdivision who enforces the Virginia Uniform Statewide Building Code.

"Department" means the Department of Professional and Occupational Regulation.

"Division" means a limited subcategory within any of the trades, as approved by the department.

"Electrical work" consists of, but is not limited to, the following: (i) planning and layout of details for installation or modifications of electrical apparatus and controls including preparation of sketches showing location of wiring and equipment; (ii) measuring, cutting, bending, threading, assembling and installing electrical conduits; (iii) performing maintenance on electrical systems and apparatus; (iv) observation of installed systems or apparatus to detect hazards and need for adjustments, relocation or replacement; and (v) repairing faulty systems or apparatus.

"Electrician" means a tradesman who does electrical work including the construction, repair, maintenance, alteration or removal of electrical systems in accordance with the National Electrical Code and the Virginia Uniform Statewide Building Code.

"Formal vocational training" means courses in the trade administered at an accredited educational facility; or formal training, approved by the department, conducted by trade associations, businesses, the military, correspondence schools or other similar training organizations.

"Gas fitter" means a tradesman who does gas fitting-related work usually as a division within the HVAC or plumbing trades in accordance with the Virginia Uniform Statewide Building Code. This work includes the installation, repair, improvement or removal of liquefied petroleum or natural gas piping, tanks, and appliances annexed to real property.

"Helper" or "laborer" means a person who assists a licensed tradesman.

"HVAC tradesman" means an individual whose work includes the installation, alteration, repair or maintenance of heating systems, ventilating systems, cooling systems, steam and hot water heating systems, boilers, process piping, backflow prevention devices, and mechanical refrigeration systems, including tanks incidental to the system.

"Incidental" means work that is necessary for that particular repair or installation.

"Journeyman" means a person who possesses the necessary ability, proficiency and qualifications to install, repair and maintain specific types of materials and equipment, utilizing a

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working knowledge sufficient to comply with the pertinent provisions of the Virginia Uniform Statewide Building Code and according to plans and specifications.

"Licensed tradesman" means an individual who meets the requirements for licensure that relate to the trade which he practices.

"Liquefied petroleum gas fitter" means any individual who engages in, or offers to engage in, work for the general public for compensation in work that includes the installation, repair, improvement, alterations or removal of piping, liquefied petroleum gas tanks and appliances (excluding hot water heaters, boilers and central heating systems that require a heating, ventilation and air conditioning or plumbing certification) annexed to real property.

"Maintenance" means the reconstruction or renewal of any part of a backflow device for the purpose of maintaining its proper operation. This does not include the actions of removing, replacing or installing, except for winterization.

"Master" means a person who possesses the necessary ability, proficiency and qualifications to plan and lay out the details for installation and supervise the work of installing, repairing and maintaining specific types of materials and equipment utilizing a working knowledge sufficient to comply with the pertinent provisions of the Virginia Uniform Statewide Building Code.

"Natural gas fitter provider" means any individual who engages in, or offers to engage in, work for the general public for compensation in the incidental repair, testing, or removal of natural gas piping or fitting annexed to real property, excluding new installation of gas piping for hot water heaters, boilers, central heating systems, or other natural gas equipment that requires heating, ventilation and air conditioning or plumbing certification.

"Periodic inspection" means to examine a cross connection control device in accordance with the requirements of the locality to be sure that the device is in place and functioning in accordance with the standards of the Virginia Uniform Statewide Building Code.

"Plumber" means a tradesman who does plumbing work in accordance with the Virginia Uniform Statewide Building Code.

"Plumbing work" means work that includes the installation, maintenance, extension, or alteration or removal of piping, fixtures, appliances, and appurtenances in connection with any of the following:

1. Backflow prevention devices;
2. Boilers;
3. Domestic sprinklers;
4. Hot water baseboard heating systems;

5. Hydronic heating systems;
6. Process piping;
7. Public/private water supply systems within or adjacent to any building, structure or conveyance;
8. Sanitary or storm drainage facilities;
9. Steam heating systems;
10. Storage tanks incidental to the installation of related systems;
11. Venting systems; or
12. Water heaters.

These plumbing tradesmen may also install, maintain, extend or alter the following:

1. Liquid waste systems;
2. Sewerage systems;
3. Storm water systems; and
4. Water supply systems.

"Regulant" means ~~a tradesman license or backflow prevention device certification card holder~~ an individual licensed as a tradesman, liquefied petroleum gas fitter, or natural gas fitter provider or certified as a backflow prevention device worker or water well systems provider.

"Reinstatement" means having a ~~tradesman license or backflow prevention device worker certification card~~ restored to effectiveness after the expiration date has passed.

"Renewal" means continuing the effectiveness of a ~~tradesman license or a backflow prevention device worker certification card~~ for another period of time.

"Repair" means the reconstruction or renewal of any part of a backflow prevention device for the purpose of returning to service a currently installed device. This does not include the removal or replacement of a defective device by the installation of a rebuilt or new device.

"Supervisor" means the licensed master or journeyman tradesman who has the responsibility to ensure that the installation is in accordance with the applicable provisions of the Virginia Uniform Statewide Building Code, one of whom must be on the job site at all times during installation.

"Testing organization" means an independent testing organization whose main function is to develop and administer examinations.

"Trade" means any of the following: electrical, gas fitting, HVAC (heating, ventilation and air conditioning), liquefied petroleum gas fitting, natural gas fitting, plumbing, and divisions within them.

"Tradesman" means a person who engages in or offers to engage in, for the general public for compensation, any of the trades covered by this chapter.

"Water distribution systems" include fire sprinkler systems, highway/heavy, HVAC, lawn irrigation systems, plumbing, or water purveyor work.

18 VAC 50-30-40. Evidence of ability and proficiency.

A. Applicants for examination to be licensed as a journeyman shall furnish evidence that one of the following experience and education standards has been attained:

1. Four years of practical experience in the trade and 240 hours of formal vocational training in the trade. Experience in excess of four years may be substituted for formal vocational training at a ratio of one year of experience for 80 hours of formal training, but not to exceed 200 hours;
2. Four years of practical experience and 80 hours of vocational training for liquefied petroleum gas fitters and natural gas fitter providers except that no substitute experience will be allowed for liquefied petroleum gas and natural gas workers;
3. An associate degree or a certificate of completion from at least a two-year program in a tradesman-related field from an accredited community college or technical school as evidenced by a transcript from the educational institution and two years of practical experience in the trade for which licensure is desired;
4. A bachelor's degree received from an accredited college or university in an engineering curriculum related to the trade and one year of practical experience in the trade for which licensure is desired; or
5. On or after July 1, 1995, an applicant with 10 years of practical experience in the trade as verified by reference letters of experience from any of the following: building officials, building inspectors, current or former employers, contractors, engineers, architects or current or past clients attesting to the applicant's work in the trade, may be granted permission to sit for the journeyman's level examination without having to meet the educational requirements.

B. Applicants for examination to be licensed as a master shall furnish evidence that one of the following experience standards has been attained:

1. Evidence that they have one year of experience as a licensed journeyman; or
2. On or after July 1, 1995, an applicant with 10 years of practical experience in the trade, as verified by reference letters of experience from any of the following: building officials, building inspectors, current or former employers, contractors, engineers, architects or current or past clients,

attesting to the applicant's work in the trade, may be granted permission to sit for the master's level examination without having to meet the educational requirements.

C. Individuals who have successfully passed the Class A contractors trade examination prior to January 1, 1991, administered by the Virginia Board for Contractors in a certified trade shall be deemed qualified as a master in that trade in accordance with this chapter.

D. Applicants for examination to be certified as a backflow prevention device worker shall furnish evidence that one of the following experience and education standards has been attained:

1. Four years of practical experience in water distribution systems and 40 hours of formal vocational training in a school approved by the board; or
2. Applicants with seven or more years of experience may qualify with 16 hours of formal vocational training in an approved school.

The board accepts the American Society of Sanitary Engineers' (ASSE) standards for testing procedures. Other programs could be approved after board review. The board requires all backflow training to include instruction in a wet lab.

E. Pursuant to § 54.1-1129 D of the Code of Virginia, an applicant for examination as a certified water well systems provider shall provide satisfactory proof to the board of at least:

1. One year of full-time practical experience in the drilling, installation, maintenance, or repair of water wells or water well systems under the supervision of a certified master water well systems provider to qualify for examination as a trainee water well systems provider;
2. Three years of practical experience in the drilling, installation, maintenance, or repair of water wells or water well systems under the supervision of a certified master water well systems provider and 24 hours of formal vocational training in the trade to qualify for examination as a journeyman water well systems provider; or
3. Six years of practical experience in the drilling, installation, maintenance, or repair of water wells or water well systems under the supervision of a certified master water well systems provider and 48 hours of formal vocational training in the trade to qualify for examination as a master water well systems provider.

18 VAC 50-30-90. Fees for licensure, and certification and examination.

A. Each check or money order shall be made payable to the Treasurer of Virginia. All fees required by the board are nonrefundable and ~~the~~ shall not be prorated. The date of

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receipt by the department or its agent is the date that will be used to determine whether or not it is on time. Fees remain active for a period of one year from the date of receipt and all applications must be completed within that time frame.

~~B. In the event that a check, money draft or similar instrument for payment of a fee required by statute or regulation is not honored by the bank or financial institution named, the applicant or regulant shall be required to remit fees sufficient to cover the original fee, plus an additional processing charge set by the department.~~

~~C. Tradesman license original fee by examination. The fee for an initial tradesman license shall be \$90.~~

~~D. Tradesman license original fee without an examination, through successful completion of an appropriate apprenticeship program offered through the Virginia Voluntary Apprenticeship Act. The fee for an initial tradesman license shall be \$90.~~

~~E. Commencing July 1, 1995, the Department of Professional and Occupational Regulation will institute a program of issuing tradesmen's cards. Those tradesmen who hold valid tradesmen cards issued by local governing bodies prior to July 1, 1978, or by the Department of Housing and Community Development prior to July 1, 1995, must replace the old cards with new cards issued by the Board for Contractors.~~

~~In order to obtain the tradesman card issued by the Board for Contractors, the individual must use the current application form provided by the Department of Professional and Occupational Regulation. The fee for card exchange application and processing is \$40. As a matter of administrative necessity, the department will assign expiration dates in a manner that will stagger renewals for these applicants. Once the initial period ends, all renewals will be for a period of 24 months.~~

~~F. Commencing July 1, 1998, the Department of Professional and Occupational Regulation will institute a voluntary program of issuing backflow prevention device worker certification cards. Those individuals who hold valid backflow prevention device worker certifications issued by local governing bodies or the Virginia Department of Health prior to that date may replace those cards with new cards issued by the board.~~

~~In order to obtain the backflow prevention device worker certification card issued by the board, the individual must use the current application form provided by the department. The fee for the card exchange application and processing is \$40. The term of certification will be for a period of 24 months.~~

~~G. Backflow prevention device worker certification through the "grandfather" clause of § 54.1-1131 B 2 of the Code of Virginia expired on July 1, 1999.~~

~~H. Commencing on November 1, 2001, the Department of Professional and Occupational Regulation will add the trades of liquefied petroleum gas fitter and natural gas fitter provider to the trades regulated by the Board for Contractors. The fee for the initial licensure shall be \$90.~~

B. Fees are as follows:

<u>Original tradesman license by examination</u>	<u>\$90</u>
<u>Original tradesman license without examination</u>	<u>\$90</u>
<u>Card exchange (exchange of locality-issued card for state-issued Virginia tradesman license)</u>	<u>\$40</u>
<u>Liquefied petroleum gas fitter</u>	<u>\$90</u>
<u>Natural gas fitter provider</u>	<u>\$90</u>
<u>Backflow prevention device worker certification</u>	<u>\$90</u>
<u>Elevator mechanic certification</u>	<u>\$90</u>
<u>Water well systems provider certification</u>	<u>\$90</u>

18 VAC 50-30-100. Fees for examinations.

The examination fee shall consist of the administration expenses of the department resulting from the board's examination procedures and contract charges. Exam service contracts shall be established through competitive negotiation, in compliance with the Virginia Public Procurement Act (§ 2.2-4300 et seq. of the Code of Virginia). The current examination shall not exceed a cost of \$100 for the journeyman exam, \$125 for the ~~master~~ master's exam for any of the trades, or \$100 for the backflow prevention device worker ~~exam~~ or water well systems provider exams.

18 VAC 50-30-120. Renewal.

~~A. Tradesman licenses or backflow prevention device worker Licenses and certification cards issued under this chapter shall expire two years from the last day of the month in which they were issued as indicated on the tradesman license or the backflow prevention device worker certification card.~~

~~B. The fee for renewal of a tradesman license is \$40. The fee for renewal of a backflow prevention device worker certification card is \$40. All fees required by the board are nonrefundable and shall not be prorated.~~

B. Certified water well systems providers, as a condition of renewal or reinstatement and pursuant to § 54.1-1129 B of the Code of Virginia, shall be required to satisfactorily complete eight hours of continuing education in the specialty of technical aspects of water well construction, applicable statutory and regulatory provisions, and business practices related to water well construction from a provider approved by the board in accordance with the provisions of this chapter.

C. Renewal fees are as follows:

<u>Tradesman license</u>	<u>\$40</u>
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<u>Liquefied petroleum gas fitter license</u>	\$40
<u>Natural gas fitter provider license</u>	\$40
<u>Backflow prevention device worker certification</u>	\$40
<u>Water well systems provider certification</u>	\$40

All fees are nonrefundable and shall not be prorated.

D. The board will mail a renewal notice to the regulant outlining procedures for renewal. Failure to receive this notice, however, shall not relieve the regulant of the obligation to renew. If the regulant fails to receive the renewal notice, a photocopy of the ~~tradesman~~ license or ~~backflow prevention device worker~~ certification card may be submitted with the required fee as an application for renewal within 30 days of the expiration date.

E. The date on which the renewal fee is received by the department or its agent will determine whether the regulant is eligible for renewal or required to apply for reinstatement.

F. The board may deny renewal of a ~~tradesman~~ license or a ~~backflow prevention device worker~~ certification card for the same reasons as it may refuse initial issuance or to discipline a regulant. The regulant has a right to appeal any such action by the board under the Virginia Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

G. Failure to timely pay any monetary penalty, reimbursement of cost, or other fee assessed by consent order or final order shall result in delaying or withholding services provided by the department such as, but not limited to, renewal, reinstatement, processing of a new application, or exam administration.

18 VAC 50-30-130. Reinstatement.

A. Should the Department of Professional and Occupational Regulation fail to receive the renewal application or fees within 30 days of the expiration date, the regulant will be required to apply for reinstatement of the ~~tradesman~~ license or ~~backflow prevention device worker~~ certification card.

B. ~~The fee for reinstatement of a tradesman license (all designations) is \$90 (this is in addition to the \$40 renewal fee, which makes the total fee for reinstatement \$130). The reinstatement fee for a backflow prevention device worker certification card is \$90 (this is in addition to the \$40 renewal fee, which makes the total reinstatement fee \$130). All fees required by the board are nonrefundable and shall not be prorated.~~ Reinstatement fees are as follows:

<u>Tradesman license</u>	\$130*
<u>Liquefied petroleum gas fitter license</u>	\$130*
<u>Natural gas fitter provider license</u>	\$130*
<u>Backflow prevention device worker certification</u>	\$130*
<u>Water well systems provider certification</u>	\$130*

*Includes renewal fee listed in 18 VAC 50-30-120.

All fees required by the board are nonrefundable and shall not be prorated.

C. Applicants for reinstatement shall meet the requirements of 18 VAC 50-30-30.

D. The date on which the reinstatement fee is received by the department or its agent will determine whether the license or certification card is reinstated or a new application is required.

E. In order to ensure that license or certification card holders are qualified to practice as tradesmen ~~or liquefied petroleum gas fitters, natural gas fitter providers,~~ backflow prevention device workers or water well systems providers, no reinstatement will be permitted once one year from the expiration date has passed. After that date the applicant must apply for a new ~~tradesman~~ license or ~~backflow prevention device worker~~ certification card and meet the then current entry requirements.

F. Any ~~tradesman, liquefied petroleum gas fitter, or natural gas fitter provider~~ activity conducted subsequent to the expiration of the license may constitute unlicensed activity and may be subject to prosecution under Title 54.1 of the Code of Virginia. Further, any person who holds himself out as a certified backflow prevention device worker, as defined in § 54.1-1128 of the Code of Virginia, or as a water well systems provider as defined in § 54.1-1129.1 of the Code of Virginia, without the appropriate certification, may be subject to ~~persecution~~ prosecution under Title 54.1 of the Code of Virginia.

~~C.~~ G. The board may deny reinstatement of a ~~tradesman~~ license or a ~~backflow prevention device worker~~ certification card for the same reasons as it may refuse initial issuance or to discipline a regulant. The regulant has a right to appeal any such action by the board under the Virginia Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

H. Failure to timely pay any monetary penalty, reimbursement of cost, or other fee assessed by consent order or final order shall result in delaying or withholding services provided by the department, such as, but not limited to, renewal, reinstatement, processing of a new application, or exam administration.

18 VAC 50-30-190. Prohibited acts.

Any of the following are cause for disciplinary action:

1. Failure in any material way to comply with provisions of Chapter 1 (§ 54.1-100 et seq.) or Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1 of the Code of Virginia or the regulations of the board;
2. Furnishing substantially inaccurate or incomplete information to the board in obtaining, renewing, reinstating, or maintaining a ~~tradesman~~ license or ~~backflow prevention device worker~~ certification card;

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3. Where the regulant has failed to report to the board, in writing, the suspension or revocation of a tradesman license, certificate or card, or backflow prevention device worker or water well systems provider certification card, by another state or a conviction in a court of competent jurisdiction of a building code violation;

4. Gross negligence in the practice of a ~~trade or tradesman~~, liquefied petroleum gas fitter, natural gas fitter provider, backflow prevention device worker, or water well systems provider;

5. Misconduct in the practice of a ~~trade or tradesman~~, liquefied petroleum gas fitter, natural gas fitter provider, backflow prevention device worker, or water well systems provider;

6. A finding of improper or dishonest conduct in the practice of ~~the trade or a tradesman~~, liquefied petroleum gas fitter, natural gas fitter provider, backflow prevention device worker, or water well systems provider, by a court of competent jurisdiction;

7. For licensed tradesmen, liquefied petroleum gas fitters, or natural gas fitter providers performing jobs under \$1,000, or backflow prevention device workers or water well systems providers performing jobs of any amount, abandonment, the intentional and unjustified failure to complete work contracted for, or the retention or misapplication of funds paid, for which work is either not performed or performed only in part (unjustified cessation of work under the contract for a period of 30 days or more shall be considered evidence of abandonment);

8. Making any misrepresentation or making a false promise of a character likely to influence, persuade, or induce;

9. Aiding or abetting an unlicensed contractor to violate any provision of Chapter 1 or Chapter 11 of Title 54.1 of the Code of Virginia, or these regulations; or combining or conspiring with or acting as agent, partner, or associate for an unlicensed contractor; or allowing one's license or certification to be used by an unlicensed or uncertified individual;

10. Where the regulant has offered, given or promised anything of value or benefit to any federal, state, or local government employee for the purpose of influencing that employee to circumvent, in the performance of his duties, any federal, state, or local law, regulation, or ordinance governing the construction industry;

11. Where the regulant has been convicted or found guilty, after initial licensure or certification, regardless of adjudication, in any jurisdiction of any felony or of a misdemeanor involving lying, cheating or stealing, sexual offense, drug distribution, physical injury, or relating to the practice of the profession, there being no appeal pending therefrom or the time of appeal having elapsed. Any pleas

of guilty or nolo contendere shall be considered a conviction for the purposes of this subdivision. The record of a conviction certified or authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such guilt;

12. Having failed to inform the board in writing, within 30 days, that the regulant has pleaded guilty or nolo contendere or was convicted and found guilty of any felony or a misdemeanor involving lying, cheating, stealing, sexual offense, drug distribution, physical injury, or relating to the practice of the profession;

13. Having been disciplined by any county, city, town, or any state or federal governing body for actions relating to the practice of any trade ~~or~~, backflow prevention device work, or water well systems provider work, which action shall be reviewed by the board before it takes any disciplinary action of its own;

14. Failure to comply with the Virginia Uniform Statewide Building Code, as amended; ~~and~~

15. Practicing in a classification or specialty service for which the tradesman is not licensed or certified; ~~and~~

16. Failure to obtain any document required by the Virginia Department of Health for the drilling, installation, maintenance, repair, construction, or removal of water wells, water well systems, water well pumps, or other water well equipment.

18 VAC 50-30-200. Professional education.

A. Pursuant to § 54.1-1130 of the Code of Virginia, unless certified through exemption, candidates for licensure as journeymen are required to (i) complete 240 hours classroom hours of tradesman educational courses in their specialty or 80 classroom hours of training for liquefied petroleum gas fitters and natural gas fitter providers and four years of practical experience in the trade for which licensure is desired to qualify to sit for the licensing examination, (ii) have an associate degree or a certificate of completion from at least a two-year program in a trade-related field from an accredited community college or technical school as evidenced by a transcript from the educational institution and two years of practical experience in the trade for which licensure is desired, or (iii) have a bachelor's degree received from an accredited college or university in an engineering curriculum related to the trade and one year of practical experience in the trade for which licensure is desired (see Part II, 18 VAC 50-30-20 et seq., of this chapter).

Tradesman courses must be completed through accredited colleges, universities, junior and community colleges; adult distributive, marketing and formal vocational training as defined in this chapter; Virginia Apprenticeship Council

programs; or proprietary schools approved by the Virginia Department of Education.

B. Backflow prevention device worker courses must be completed through schools approved by the board. The board accepts the American Society of Sanitary Engineers' (ASSE) standards for testing procedures. Other programs could be approved after board review. The board requires all backflow training to include instruction in a wet lab.

C. Water well systems provider courses must be completed through schools or programs approved by the board.

18 VAC 50-30-210. Continuing education providers.

A. Application requirements for continuing education providers. Each provider of a continuing education course shall submit an application for approval on a form provided by the board. The application shall include but is not limited to:

1. The name of the provider;
2. Provider contact person, address and telephone number;
3. Course contact hours;
4. Schedule of courses, if established, including dates, time and locations;
5. Name(s) of instructor(s).

B. Continuing education providers shall have their subject(s) approved by the board prior to initially offering the course. Correspondence and other distance learning courses must include appropriate testing procedures to verify completion of the course.

C. All providers must establish and maintain a record for each student. The record shall include the student's name and address and social security number or current license number, the course name and clock hours attended, the course syllabus or outline, the name or names of the instructor, the date of successful completion, and the board's course code. Records shall be available for inspection during normal business hours by authorized representatives of the board. Providers must maintain class records for a minimum of five years.

18 VAC 50-30-220. Continuing education courses.

A. Courses offered by continuing education providers for water well systems providers shall cover the specialty of technical aspects of water well construction, applicable statutory and regulatory provisions, and business practices related to water well construction.

B. Approved continuing education providers shall submit an application for course approval on a form provided by the board. The application shall include but is not limited to:

1. The name of the provider and the approved provider number;

2. The name of the course;

3. The date(s), time(s), and location(s) of the course;

4. Instructor information, including name, license number(s) if applicable, and a list of other appropriate trade designations;

5. Course and material fees;

6. Course syllabus.

C. Courses may be approved retroactively; however, no regulant will receive credit toward the continuing education requirements of renewal until such approval is received from the board.

18 VAC 50-30-230. Reporting of course completion.

All continuing education providers shall electronically transmit course completion data to the board in an approved format within seven days of the completion of each individual course. The transmittal will include each student's name and social security number or current license number, the date of successful completion of the course, and the board's course code.

18 VAC 50-30-240. Posting continuing education provider and course certificates of approval.

Copies of continuing education provider and course certificates of approval must be available at the location a course is taught.

18 VAC 50-30-250. Reporting of changes.

Any change in the information provided in 18 VAC 50-30-210 A must be reported to the board within 30 days of the change with the exception of changes in the schedule of courses, which must be reported within 10 days of the change. Failure to report the changes as required may result in the withdrawal of approval of a continuing education provider by the board.

18 VAC 50-30-260. Withdrawal of approval.

The board may withdraw approval of any continuing education provider for the following reasons:

1. The courses being offered no longer meet the standards established by the board.
2. The provider, through an agent or otherwise, advertises its services in a fraudulent or deceptive way.
3. The provider, instructor, or designee of the provider falsifies any information relating to the application for approval, course information, or student records or fails to produce records required by 18 VAC 50-30-210 C.

VA.R. Doc. No. R06-54; Filed February 5, 2007, 11:47 a.m.

Regulations

BOARD OF MEDICINE

Final Regulation

Title of Regulation: **18 VAC 85-20. Regulations Governing the Practice of Medicine, Osteopathic Medicine, Podiatry, and Chiropractic (amending 18 VAC 85-20-290).**

Statutory Authority: §§ 54.1-2400 and 54.1-2910.1 of the Code of Virginia.

Effective Date: April 4, 2007.

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 email william.harp@dhp.virginia.gov.

Summary:

The amendments clarify ambiguous provisions and specify more clearly the timing of a malpractice report, the reported data the board may release, and the definition of a malpractice paid claim.

Summary of Public Comments and Agency's Response: No public comments were received by the promulgating agency.

18 VAC 85-20-290. Reporting of malpractice paid claims and board actions.

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 report all malpractice paid claims in the most recent 10-year period within 30 days of the initial payment. Each report of a settlement or judgment shall indicate:

1. The year the claim was paid.
2. The specialty in which the doctor was practicing at the time the incident occurred that resulted in the paid claim.
3. The total amount of the paid claim in United States dollars.
4. The city, state, and country in which the paid claim occurred.

B. The board shall not release individually identifiable numeric values of reported paid claims but shall use the information provided to determine the relative frequency of paid claims described in terms of the number of doctors in each specialty and the percentage ~~who have made malpractice payments with malpractice paid claims~~ within the most recent 10-year period. The statistical methodology used will include any specialty with more than 10 paid claims. For each specialty with more than 10 paid claims, the top 16% of the paid claims will be displayed as above average payments, the next 68% of the paid claims will be displayed as average payments, and the last 16% of the paid claims will be displayed as below average payments.

C. For purposes of reporting required under this section, a malpractice paid claim shall mean a payment for the benefit of a doctor of medicine, osteopathic medicine, or podiatry in satisfaction in whole or in part of a settlement or a judgment in response to a written demand for monetary payment for damages based on the provision of health care or professional services rendered, or that should have been rendered. A malpractice paid claim shall include:

1. A lump sum payment or the first payment of multiple payments;
2. A payment made from personal funds;
3. A payment on behalf of a doctor of medicine, osteopathic medicine, or podiatry by a corporation or entity comprised solely of that doctor of medicine, osteopathic medicine, or podiatry; or
4. A payment on behalf of a doctor of medicine, osteopathic medicine or podiatry named in the claim where that doctor is dismissed as a condition of, or in consideration of the settlement, judgment or release. If [the a] doctor is dismissed independently of the settlement, judgment or release, then the payment is not reportable.

VA.R. Doc. No. R05-236; Filed February 12, 2007, 4:45 p.m.

TITLE 23. TAXATION

DEPARTMENT OF TAXATION

Notice of Objection to Fast-Track Rulemaking

REGISTRAR'S NOTICE: Pursuant to § 2.2-4012.1 of the Code of Virginia, the Department of Taxation has filed a notice of objection to the repeal of 23 VAC 10-70 published in 23:6 VA.R. 956-957 November 27, 2006. The department intends to proceed with the normal promulgation process set out in Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of the Administrative Process Act with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

Title of Regulation: **23 VAC 10-70. Virginia Slaughter Hog and Feeder Pig Excise Tax Regulations (REPEAL).**

Fast-Track Publication Date: 23:6 VA.R. 956-957 November 27, 2006.

The Department of Taxation is hereby filing a Notice of Objection to the fast-track rulemaking action for 23 VAC 10-70, Virginia Slaughter Hog and Feeder Pig Excise Tax Regulations. The fast-track action was published in 23:6 VA.R. 956-957 November 27, 2006. A 60-day comment period was provided with public comment received until January 26, 2007. Members of the pork industry feel that the

Slaughter Hog and Feeder Pig Excise Tax Regulation is necessary for the administration of the Slaughter Hog and Feeder Pig Excise Tax in the event that the federal tax that preempts it becomes unenforceable due to pending litigation.

Effective November 1, 1986, federal law (The Pork, Promotion Research, and Consumer Information Act of 1985, 7 USC § 4801) ceded to the federal government the sole right to levy an excise tax on pork. As a result, the Virginia Slaughter Hog and Feeder Pig Excise Tax provided for by § 3.1-763.9 of the Code of Virginia is no longer imposed. The Department of Taxation submitted a regulatory action to repeal the Virginia Slaughter Hog and Feeder Pig Excise Tax Regulations under the fast-track process based upon this federal preemption statute. The department has received 10 letters objecting to the repeal of these regulations, based on the concern that if the federal preemption statute is invalidated, the state pork industry will be unable to continue with its check off programs.

The Department of Taxation has determined that the regulation provides no additional guidance to the existing statute, and will therefore continue with this regulatory action under the full Administrative Process Act.

Agency Contact: Mark Haskins, Director of Policy Development, Department of Taxation, 600 East Main Street, Richmond, VA 23219, telephone (804) 371-2296, FAX (804) 371-2355, or email mark.haskins@tax.virginia.gov.

VA.R. Doc. No. R07-36; Filed February 5, 2007, 2:05 p.m.

GENERAL NOTICES/ERRATA

STATE CORPORATION COMMISSION

Bureau of Insurance

January 24, 2007

Administrative Letter 2007-01

To: All Property and Casualty Insurers and Insurance Agents authorized to transact Property and Casualty Insurance in the Commonwealth of Virginia

Re: Flood Insurance Training Requirements for Insurance Agents with a Property and Casualty License or Personal Lines License Selling through the National Flood Insurance Program (NFIP)

Please distribute to the appropriate personnel within your company and notify your appointed agents of this change.

The purpose of this Administrative Letter is to advise Insurers and Virginia resident insurance agents of training requirements for selling flood insurance through NFIP. If you do not issue flood insurance policies as an insurer or you do not hold the requisite Virginia license to sell flood insurance to your clients, the following information will not apply.

Section 207 of the Flood Insurance Reform Act of 2004 (the Act) requires all agents selling flood insurance policies under the NFIP to be properly trained and educated about the NFIP to ensure agents may best serve their clients.

The Act directs the Director of the Federal Emergency Management Agency (FEMA), in cooperation with the insurance industry, state insurance regulators, and other interested parties to establish minimum training and education requirements for all insurance agents who sell flood insurance policies. FEMA and state approved continuing education providers are developing courses related to NFIP. An insurance agent who sells flood insurance may satisfy the minimum training and education requirements by completing a course related to the NFIP which has been approved for three hours of continuing education credit by the Virginia Insurance Continuing Education Board. The failure to comply with this education requirement may jeopardize the agent's authority to write insurance through the NFIP.

The federal law requires all resident Virginia licensed insurance agents who sell federal flood insurance policies to comply with the minimum training requirements of Section 207 of the Flood Insurance Reform Act of 2004, and basic flood education as outlined at 70 Fed. Reg., 52117 (Sept. 1, 2005), or such later requirements as are published by FEMA.

Licensed insurers shall demonstrate, upon request, that licensed and appointed agents who sell federal flood insurance policies have complied, on their behalf, with the minimum federal flood insurance training requirements.

Should you have any question please direct them to: J. Preston Winn, Supervisor, Agent Licensing Section, P.O.

Box 1157, Richmond, Virginia 23218, telephone (804) 371-9631, FAX (804) 371-9290.

/s/ Alfred W. Gross
Commissioner of Insurance

DEPARTMENT OF ENVIRONMENTAL QUALITY

Water Quality Improvement Study - Banister River Watershed in Halifax and Pittsylvania Counties

Purpose of notice: To announce a public meeting and seek public comment on a water quality improvement study by the Department of Environmental Quality for the Banister River watershed in Halifax and Pittsylvania Counties in Virginia.

Public meeting: Chatham USDA Service Center, 1 Center St., Chatham, Virginia, on March 20, 2007, in the service center conference room from 7 p.m. to 9 p.m. The rain date is March 22, 2007 at the same time and location.

Public comment period: March 21, 2007, to April 20, 2007. Should inclement weather result in the meeting being held on the rain date (March 22), the public comment period will extend from March 21, 2007, to April 23, 2007.

Meeting description: This is a public meeting to discuss a study to restore water quality in stream segments in the Banister River watershed.

Description of study: Virginia agencies are working to identify sources of bacteria contamination in stream segments in the Banister River watershed in Central Virginia. This contamination exceeds water quality standards, thus prohibiting swimming and other forms of primary contact recreation. The contamination impairs or decreases the quality of the water.

The following is a list of the "impaired" waters, the length of the impaired segment, the type of impairment, and the segment location:

Banister River (11.67 miles), Pittsylvania County, fecal coliform bacteria

Whitehorn Creek (24.73miles), Pittsylvania County, E. coli

Cherrystone Creek (8.44 miles), Pittsylvania County, fecal coliform bacteria

Bearskin Creek (9.31 miles), Pittsylvania County, E. coli

Banister River (13.18 miles), Halifax County, E. coli

Stinking River (8.99 miles), Halifax County, fecal coliform bacteria

Polecat Creek (9.66), Halifax County, fecal coliform bacteria

Sandy Creek (11.78 miles), Halifax County, fecal coliform bacteria

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.

Contact for additional information: Lauren Theodore, Virginia Department of Environmental Quality, 7705 Timberlake Road, Lynchburg, VA 24502, telephone (434) 582-6216, FAX (434) 582-5125, or email lmtheodore@deq.virginia.gov.

Water Quality Improvement Study - Second Steering Committee Meeting - Banister River Watershed in Halifax and Pittsylvania Counties

Purpose of notice: To announce a local steering committee meeting on a water quality improvement study by the Department of Environmental Quality for the Banister River watershed in Halifax and Pittsylvania Counties in Virginia.

Technical advisory meeting: Chatham USDA Service Center, 1 Center St., Chatham, Virginia, on March 12, 2007, in the service center conference room from 1:30 to 3:30 p.m. The rain date is March 15, 2007, at the same time and location.

Meeting description: This is the second steering committee meeting regarding a study to restore water quality in various streams within the Banister River watershed. We will be continuing discussion of the study and presenting preliminary results of the study.

Description of study: Virginia agencies are working to identify sources of bacteria contamination in stream segments from the Banister River watershed in Central Virginia. This contamination exceeds water quality standards, which prohibits swimming. The contamination impairs or decreases the quality of the water.

The following is a list of the "impaired" waters, the length of the impaired segment, their location, and the reason for the impairment:

Banister River (11.67 miles), Pittsylvania County, fecal coliform bacteria

Whitehorn Creek (24.73miles), Pittsylvania County, E. coli

Cherrystone Creek (8.44 miles), Pittsylvania County, fecal coliform bacteria

Bearskin Creek (9.31 miles), Pittsylvania County, E. coli

Banister River (13.18 miles), Halifax County, E. coli

Stinking River (8.99 miles), Halifax County, fecal coliform bacteria

Polecat Creek (9.66), Halifax County, fecal coliform bacteria

Sandy Creek (11.78 miles), Halifax County, fecal coliform bacteria

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 to have to be reduced to the TMDL amount.

Contact for additional information: Lauren Theodore, Virginia Department of Environmental Quality, 7705 Timberlake Road, Lynchburg, VA 24502, telephone (434) 582-6216, FAX (434) 582-5125, or email lmtheodore@deq.virginia.gov.

Total Maximum Daily Load (TMDL) - James River and Tributaries in Richmond City and Chesterfield, Henrico, and Powhatan Counties

Announcement of the second Technical Advisory Committee Meeting for the Total Maximum Daily Load (TMDL) study to restore water quality in the James River and tributaries in Richmond City, Chesterfield, Henrico, and Powhatan Counties, Virginia.

Purpose of notice: The Virginia Department of Environmental Quality and the Department of Conservation and Recreation announce the second Technical Advisory Committee (TAC) Meeting to update members of the TAC and other interested stakeholders on the progress of the TMDL study.

Technical Advisory Committee meeting: Virginia Department of Environmental Quality, Piedmont Regional Office, 4949 Cox Road, Glen Allen, VA 23060, Tuesday, March 13, 2007, 2 p.m. to 4 p.m.

Meeting description: This is the second Technical Advisory Committee meeting for the metro Richmond bacterial TMDL Project. The TMDL study addresses elevated levels of bacteria in the James River and surrounding tributaries.

Description of study: Virginia agencies are working to identify sources of the bacterial contamination in the waters of the James River and it's tributaries in the following jurisdictions -

Stream	County/City	Length (mi.)	Impairment
Bernards Creek	Chesterfield, Powhatan	6.97	Bacteria
Powwhite Creek	Chesterfield, Richmond City	8.12	Bacteria
Reedy Creek	Richmond City	3.68	Bacteria
James River	Richmond City, Henrico, Chesterfield	10.06	Bacteria

General Notices/Errata

James River	Richmond City	6.34	Bacteria
Gillies Creek	Richmond City, Henrico	5.79	Bacteria
Almond Creek	Henrico	2.26	Bacteria
Goode Creek	Richmond City	1.23	Bacteria
Falling Creek	Chesterfield	3.81	Bacteria
No Name Creek	Chesterfield	1.83	Bacteria
James River	Chesterfield, Henrico, Richmond City	10.84 Sq.Miles	Bacteria

These streams are impaired for failure to meet the Primary Contact (Recreational) designated use because of bacterial standard violations.

The study reports the sources of bacterial contamination and recommends total maximum daily loads, or 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, bacterial levels have to be reduced to the TMDL amount.

How to comment: The public comment period on the materials presented at this meeting will extend from March 13, 2007, to April 12, 2007. DEQ accepts written comments by email, 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.

Contact for additional information: Chris French, TMDL Coordinator, Virginia Department of Environmental Quality, Piedmont Regional Office, 4949A Cox Road, Glen Allen, VA 23060, telephone (804) 527-5124, FAX (804)-527-5106, or email rcfrench@deq.virginia.gov.

Restore Water Quality in Streams Located in the Upper Rappahannock River Basin

Announcement of a Total Maximum Daily Load (TMDL) study to restore water quality in streams located in the Upper Rappahannock River Basin that are contaminated with bacteria.

Purpose of notice: The Virginia Department of Environmental Quality (DEQ) and the Virginia Department of Conservation and Recreation (DCR) announce the second series of public meetings on the Upper Rappahannock River Basin TMDL study.

Public meetings:

Public Meeting # 1, Monday, March 19, 2007

7 p.m. to 9 p.m. - Culpeper Train Depot, 109 S. Commerce Street, Culpeper, Virginia, 22701

**In case of inclement weather, an alternative meeting date has been set for Wednesday, March 21, 2007, at the Culpeper Train Depot. The meeting time will be the same as listed above.

Public Meeting # 2, Thursday, March 22, 2007

7 p.m. to 9 p.m. - Rappahannock County Library, 4 Library Road, Washington, Virginia 22747

**In case of inclement weather, an alternative meeting date has been set for Monday, March 26, 2007, at the Rappahannock County Library. The meeting time will be the same as listed above.

Public Meeting # 3, Tuesday, March 27, 2007

7 p.m. to 9 p.m. - Mt. Nebo Church, 3890 Jacks Shop Road, Rochelle, Virginia 22738

**In case of inclement weather, an alternative meeting date has been set for Wednesday March 28, 2007, at Mt. Nebo Church in Rochelle, VA. The meeting time will be the same as listed above.

Meeting description: These meetings are the second series of public meetings for this study. The purpose of these meetings is to introduce the draft TMDL report to the public, and solicit comments and feedback on the draft allocations. The TMDL study addresses elevated levels of bacteria in 16 stream segments in the Upper Rappahannock River Basin.

Description of study: DEQ and DCR are working together to identify sources of bacteria contamination in stream segments in the Upper Rappahannock River Basin. The impaired stream segments are located in parts of Albemarle, Culpeper, Fauquier, Greene, Madison, Orange, Rappahannock, and Spotsylvania counties, and their location is set forth in the table below.

Impaired Stream Segments Addressed in the Upper Rappahannock TMDL					
Stream Name	Locality	Impairment	Length (miles)	Upstream Limit	Downstream Limit
Hughes River	Culpeper Rappahannock	Bacteria	3.68	Kilbys Run	Hazel River
Hazel River	Culpeper	Bacteria	16.67	Rt. 707 Bridge	Unnamed Tributary
Hazel River	Culpeper	Bacteria	3.32	Indian Run	Muddy Run
Rush River	Rappahannock	Bacteria	4.55	Unnamed Tributary	Big Branch
Impaired Stream Segments Addressed in the Upper Rappahannock TMDL (continued)					
Stream Name	Locality	Impairment	Length (miles)	Upstream Limit	Downstream Limit
Rappahannock River	Fauquier Rappahannock	Bacteria	2.17	Jordan River	UT
Marsh Run	Fauquier	Bacteria	8.35	Craig Run	Rappahannock River
Browns Run	Fauquier	Bacteria	2.39	Unnamed Tributary	Marsh Run
Craig Run	Fauquier	Bacteria	3.61	Headwaters of Craig Run	Marsh Run
Rappahannock River	Culpeper Fauquier	Bacteria	2.02	Ruffans Run	Tinpot Run
Rappahannock River	Culpeper Fauquier	Bacteria	2.85	Unnamed Tributary	Marsh Run
Blue Run	Orange Albemarle	Bacteria	11.61	Headwaters of Blue Run	Rapidan River
Rapidan River	Culpeper Madison Orange	Bacteria	7.5	Poplar Run	Robinson River
Marsh Run	Greene Madison Orange	Bacteria	5.19	Headwaters of Marsh Run	Rapidan River
Unnamed Tributary to Rapidan River	Madison Orange	Bacteria	2.57	Headwaters of Unnamed Tributary	Rapidan River
Cedar Run	Culpeper Orange	Bacteria	5.4	Buck Run	Rapidan River
Rapidan River	Culpeper Spotsylvania	Bacteria	2.68	Wilderness Run	Middle Run

During the study, DEQ developed a total maximum daily load, or a TMDL, for each of the impaired stream segments. 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 allocated amount. The draft TMDL document will be presented at these public meetings.

How to comment: The public comment period for the draft TMDL report will extend from March 19, 2007, to April 18, 2007. DEQ accepts written comments by email, 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. Please send all comments to the contact listed below.

Contact for additional information: Katie Conaway, Department of Environmental Quality, 13901 Crown Court, Woodbridge, VA 22193, telephone (703) 583-3804, email mkconaway@deq.virginia.gov.

Total Maximum Daily Load (TMDL) - Westmoreland County

The Department of Environmental Quality (DEQ), Virginia Department of Health (VDH) and the Department of Conservation and Recreation (DCR) seek written and oral comments from interested persons on the development of a Total Maximum Daily Load (TMDL) for fecal coliform bacteria in shellfish propagation waters located in the Westmoreland County Virginia.

General Notices/Errata

The impaired segments are located in VDH Growing Area 4 containing:

Growing Area 4 - 82A	Pierce Creek
Growing Area 4 - 82B	Upper Nomini Creek
Growing Area 4 - 82C	Barnes Creek
Growing Area 4 - 82D	Buckner Creek
Growing Area 4 - 82E	North Prong
Growing Area 4 - 184A	Cold Harbor Creek
Growing Area 4 - 184B	Currioman Creek

All waters are tributaries to the Potomac River and the Chesapeake Bay.

The affected water body segments are identified in Virginia's 1998 § 303(d) TMDL Priority List and Report as impaired due to violations of the state's water quality standard for fecal coliform bacteria in shellfish waters. Section 303(d) of the Clean Water Act and § 62.1-44.19:7 C of the Code of Virginia, require DEQ to develop TMDLs for pollutants responsible for each impaired water contained in Virginia's § 303(d) TMDL Priority List and Report.

This is the second public meeting, to provide information and solicit participation of citizens and local government in the review of the draft fecal coliform TMDL report to be held on March 20 from 7 p.m. to 9 p.m. at the Johnson Recreation Center, 18849 Kings Highway, Montross, Virginia. Directions can be obtained by calling Chester Bigelow at (804) 698-4554.

The public comment period will begin on March 20, 2007, and end April 20, 2007. A copy of the draft report may be found on the DEQ website at http://gisweb.deq.virginia.gov/tmdlapp/tmdl_draft_reports.cfm. Questions, comments and information requests should be addressed to Chester Bigelow and should include the name, address, and telephone number of the person submitting the comments. Requests should be sent to Chester Bigelow, Department of Environmental Quality, 629 East Main Street, Richmond, VA 23240, telephone (804) 698-4554, FAX (804) 698-4116, or email ccbigeLOW@deq.virginia.gov.

STATE LOTTERY DEPARTMENT

Director's Orders

The following Director's Orders of the State Lottery Department were filed with the Virginia Registrar of Regulations on February 9, 2007. The orders may be viewed at the State Lottery Department, 900 E. Main Street, Richmond, Virginia, or at the office of the Registrar of Regulations, 910 Capitol Street, 2nd Floor, Richmond, Virginia.

Final Rules for Game Operation:

Director's Order Number One (07)

Virginia's Instant Game Lottery 734; "Beginners Luck" (effective 2/06/07)

Director's Order Number Two (07)

Virginia's Instant Game Lottery 770; "Green Thumb" (effective 2/06/07)

Director's Order Number Four (07)

Virginia's Instant Game Lottery 772; "Blackjack Doublor" (effective 2/06/07)

Director's Order Number Five (07)

Virginia's Instant Game Lottery 774; "American Idol" (effective 2/06/07)

Director's Order Number Seven (07)

Virginia's Instant Game Lottery 775; "Mini Ruby Red 7's" (effective 2/06/07)

Director's Order Number Eight (07)

Virginia's Instant Game Lottery 776; "Junior Ruby Red 7's" (effective 2/06/07)

Director's Order Number Nine (07)

Virginia's Instant Game Lottery 777; "Super Ruby Red 7's" (effective 2/06/07)

Director's Order Number Six (07)

Certain Virginia Instant Game Lotteries; End of Games.

In accordance with the authority granted by §§ 2.2-4002 B (15) and 58.1-4006 A of the Code of Virginia, I hereby give notice that the following Virginia Lottery instant games will officially end at midnight on February 9, 2007:

Game 286	Easy 10's
Game 297	Money Train
Game 299	Gone Fishin'
Game 330	Red Hot 7's Bingo
Game 685	Wild Card Tripler
Game 696	Blue Payline Cashword
Game 701	3 Times Lucky
Game 706	Winner Take All
Game 710	Jackpot Riches
Game 711	Ultimate Ride
Game 717	Lucky X 5
Game 719	4 Of A Kind
Game 728	\$500,000 Cash
Game 740	Fuelin' Around
Game 741	Creepy Cash
Game 744	Hallo Win!
Game 746	Santa Paws
Game 754	Red Hot Cherries

The last day for lottery retailers to return for credit unsold tickets from any of these games will be March 16, 2007. The last day to redeem winning tickets for any of these games will be August 8, 2007, 180 days from the declared official end of the game. Claims for winning tickets from any of these games will not be accepted after that date. Claims that are mailed and received in an envelope bearing a postmark of the United States Postal Service or another sovereign nation of August 8, 2007, or earlier, will be deemed to have been received on time. This notice amplifies and conforms to the duly adopted State Lottery Board regulations for the conduct of lottery games.

This order is available for inspection and copying during normal business hours at the Virginia Lottery headquarters, 900 East Main Street, Richmond, Virginia; and at any Virginia Lottery regional office. A copy may be requested by mail by writing to Director's Office, Virginia Lottery, 900 East Main Street, Richmond, Virginia 23219.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further Director's Order.

/s/ Shelia Hill-Christian
Executive Director
February 5, 2007

STATE WATER CONTROL BOARD

Proposed Consent Special Order - Fauquier County Water and Sanitation Authority

Purpose of notice: To invite citizens to comment on a proposed amended consent order for a facility in Fauquier County, Virginia.

Public comment period: March 5, 2007, through April 4, 2007.

Consent order description: The State Water Control Board proposes to issue an amended consent order to Fauquier County Water and Sanitation Authority to address alleged violations of the Vint Hill Farms Station Wastewater Treatment Facility governed by permit number VA0020460. The location of the facility where the alleged violation occurred is Vint Hill Farms Station, Building 398, Warrenton, VA 20187. The amended consent order describes changes to the terms and schedule of the original order.

How to comment: DEQ accepts comments from the public by email, 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. The public may review the proposed consent order at the DEQ office named below or on the DEQ website at www.deq.virginia.gov.

Contact for public comments, document requests, and additional information: Sarah Baker, Department of Environmental Quality, Northern Virginia Regional Office, 13901 Crown Court, Woodbridge, VA 22193, telephone (703) 583-3850, FAX (703) 583-3841, or email sbaker@deq.virginia.gov.

Proposed Consent Special Order - Stafford County Board of Supervisors

Purpose of notice: To invite citizens to comment on a proposed amended consent order for a facility in Stafford County, Virginia.

Public comment period: March 5, 2007, through April 4, 2007.

Consent order description: The State Water Control Board proposes to issue an amended consent order to Stafford County Board of Supervisors to address alleged violations of the Aquia Advanced Wastewater Treatment Facility governed by permit number VA0060968. The location of the facility where the alleged violation occurred is 75 Coal Landing Road, Stafford, VA 22554. The amended consent order describes a settlement to resolve various permit limit exceedences.

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. The public may review the proposed consent order at the DEQ office named below or on the DEQ website at www.deq.virginia.gov.

Contact for public comments, document requests, and additional information: Sarah Baker, Department of Environmental Quality, Northern Virginia Regional Office, 13901 Crown Court, Woodbridge, VA 22193, telephone (703) 583-3850, FAX (703) 583-3841, or email sbaker@deq.virginia.gov.

VIRGINIA CODE COMMISSION

Notice to State Agencies

Mailing Address: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219.

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.

General Notices/Errata

Internet: Forms and other Virginia Register resources may be printed or downloaded from the Virginia Register web page: <http://register.state.va.us>.


FORMS:


NOTICE of INTENDED REGULATORY ACTION-RR01
NOTICE of COMMENT PERIOD-RR02
PROPOSED (Transmittal Sheet)-RR03
FINAL (Transmittal Sheet)-RR04
EMERGENCY (Transmittal Sheet)-RR05
NOTICE of MEETING-RR06
AGENCY RESPONSE TO LEGISLATIVE
OBJECTIONS-RR08
RESPONSE TO PETITION FOR RULEMAKING-RR13
FAST-TRACK RULEMAKING ACTION-RR14

CALENDAR OF EVENTS

Symbol Key


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

 Location accessible to persons with disabilities

 Teletype (TTY)/Voice Designation

NOTICE

Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and the *Virginia Register* deadline may preclude a notice of such cancellation. If you are unable to find a meeting notice for an organization in which you are interested, please check the Commonwealth Calendar at www.virginia.gov 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 website's Legislative Information System (<http://leg1.state.va.us/lis.htm>) and select "Meetings."

VIRGINIA CODE COMMISSION

EXECUTIVE

BOARD OF ACCOUNTANCY

April 6, 2007 - 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 Accountancy intends to consider amending regulations entitled **18 VAC 5-10, Public Participation Guidelines**. The purpose of the proposed action is to revise the regulation solely for the purpose of updating the statutory citations contained therein referencing the Administrative Process Act (APA), and bringing the language in line with the current APA requirements. Such changes are noncontroversial and are intended to increase the public's input into the regulation promulgation process in the most efficient and effective manner possible.

Statutory Authority: §§ 2.2-4007 and 54.1-4403 of the Code of Virginia.

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 or email boa@boa.virginia.gov.

BOARD OF AGRICULTURE AND CONSUMER SERVICES

March 22, 2007 - 9 a.m. -- Open Meeting
Oliver Hill Building, 102 Governor Street, 220 Board Room, 2nd Floor Richmond, Virginia 

A meeting to discuss issues related to Virginia agriculture. 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 Seward, Board Secretary, Department of Agriculture and Consumer Services, Oliver Hill Bldg., 102 Governor St., Suite 219 Richmond, VA 23219, telephone (804) 786-3538, FAX (804) 371-2945, email roy.seward@vdacs.virginia.gov.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Virginia Agricultural Council

March 26, 2007 - 8:30 a.m. -- Open Meeting
March 27, 2007 - 8 a.m. -- Open Meeting
Courtyard by Marriott, 1201 West Main Street, Charlottesville, Virginia 

A meeting to hear and act upon agricultural project proposals for financial assistance through the Virginia Agricultural Council. The council 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 Donald Ayers at least five days before the meeting date so that suitable arrangements can be made.

Contact: Donald Ayers, Executive Director, Virginia Agricultural Council, 7163 Ayersby Dr., New Kent, VA 23124, telephone (804) 779-3493, FAX (804) 779-2581, (800) 828-1120/TTY , email don.ayers@vdacs.virginia.gov.

Calendar of Events

April 8, 2007 - 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 Agriculture and Consumer Services intends to amend regulations entitled **2 VAC 5-490, Regulations Governing Grade "A" Milk**. The purpose of the proposed action is adopt the requirements contained in the 2005 revision of the Pasteurized Milk Ordinance (PMO). The PMO is a federal model regulation for adoption by the states to governing the production, processing, distribution and sale of milk and milk products in the United States. The current Regulations Governing Grade "A" Milk adopted the 1989 revision of the PMO.

Statutory Authority: § 3.1-530.1 of the Code of Virginia.

Contact: John A. Beers, Program Supervisor, 102 Governor St., Suite 349, Richmond, VA 23219, telephone (804) 786-1452, FAX (804) 371-7792 or email john.beers@vdacs.virginia.gov.

Virginia Cotton Board

March 7, 2007 - 9:30 a.m. -- Open Meeting
Tidewater Agriculture Research and Extension Center, 6321 Holland Road, Suffolk, Virginia. ☎

A meeting to (i) discuss and approve contractual arrangements with national and regional organizations; (ii) receive reports of programs and projects funded over the past year; (iii) hear Project Proposal Grant Requests on cotton by VPI&SU, VSU, and other groups for the year 2007-08; and (iv) receive and review financial reports. 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 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: Gail Moody Milteer, Program Director, Virginia Cotton Board, 1100 Armory Dr., Suite 120, Franklin, VA 23851, telephone (757) 569-1100, FAX (757) 562-6104, email gail.moodymilteer@vdacs.virginia.gov.

Virginia Marine Products Board

† April 3, 2007 - 6 p.m. -- Open Meeting
Sunset Beach Resort, 32246 Lankford Highway, Cape Charles, Virginia. ☎

A meeting to (i) hear and approve the minutes of the previous board meeting; (ii) hear and evaluate the board's financial report; and (iii) hear reports on trade shows, industry tours, and cooperative programs with the Virginia

Department of 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 Shirley Estes at least five days before the meeting date so that suitable arrangements can be made.

Contact: Shirley Estes, Executive Director, Virginia Marine Products Board, 554 Denbigh Boulevard, Suite B, Newport News, VA 23608, telephone (757) 874-3474, FAX (757) 886-0671, email shirley.estes@vdacs.virginia.gov.

Virginia Peanut Board

† March 29, 2007 - 10:30 a.m. -- Open Meeting
Tidewater Agriculture Research and Extension Center, 6321 Holland Road, Suffolk, Virginia. ☎

A meeting to (i) hear and approve the minutes of the last meeting; (ii) receive research proposals by Virginia Tech researchers and approve projects for FY08; (iii) discuss availability of funds to be allocated for research for 2007; and (iv) review the financial status of the association. 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 Thomas R. Cotton, Jr., at least five days before the meeting date so that suitable arrangements can be made.

Contact: Thomas R. (Dell) Cotton, Jr., Program Director, Virginia Peanut Board, 1001 Campbell Ave., P.O. Box 59, Franklin, VA 23851-0059, telephone (757) 569-0249, FAX (757) 562-0744.

STATE AIR POLLUTION CONTROL BOARD

State Advisory Board on Air Pollution

† March 6, 2007 - 10 a.m. -- Open Meeting
Dominion Resources' Innsbrook Technical Center, Dominion Boulevard, Glen Allen, Virginia. ☎

A regular meeting.

Contact: Alma Banks, State Air Pollution Control Board, 629 E. Main St., P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4070, FAX (804) 698-4510, email abbanks@deq.virginia.gov.

ALCOHOLIC BEVERAGE CONTROL BOARD

† May 4, 2007 - 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 Alcoholic Beverage Control Board intends to amend regulations entitled **3 VAC 5-10, Procedural Rules for the Conduct of Hearings Before**

the Board and Its Hearing Officers and the Adoption or Amendment of Regulations. The purpose of the proposed action is to adopt several amendments to the regulation governing its procedures in hearings and public participation in the promulgation of regulations. Since the last action adopting or amending the regulation, various reorganizations within the agency have abolished positions referenced or reassigned certain duties. Several of the changes proposed involve correcting obsolete references to such eliminated or renamed positions. Other amendments eliminate unnecessary provisions that prohibit the chief hearing officer from presiding over cases in which a consent settlement offer was extended, and require the secretary to prescreen complaints arising under the Beer and Wine Franchise Acts. Amendments to the board's public participation guidelines eliminate the current requirement of annual rulemaking, and recognize advancing technology by providing for email notification of regulatory activities and posting notice of regulatory actions on the Virginia Regulatory Town Hall.

Statutory Authority: §§ 4.1-103 and 4.1-111 of the Code of Virginia

Contact: W. Curtis Coleburn, III, Secretary to the Board, Alcoholic Beverage Control Board, 2901 Hermitage Rd., Richmond, VA 23220, telephone (804) 213-4409, FAX (804) 213-4411, (804) 213-4687/TTY☎, email curtis.coleburn@abc.virginia.gov.

† **May 4, 2007** - 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 Alcoholic Beverage Control Board intends to amend regulations entitled **3 VAC 5-40, Requirements for Product Approval.** The purpose of the proposed action is to amend the board's regulation governing the approval of new wine and beer products for sale in the Commonwealth. It proposes to eliminate several existing restrictions on the content of wine and beer labels. These restrictions are either obsolete or unnecessary because of other state or federal regulations covering the same subject matter. In addition, new provisions allow the sale of wine or beer for which approval has been applied, if the board fails to approve or disapprove within 30 days of receipt of the application.

Statutory Authority: §§ 4.1-103 and 4.1-111 of the Code of Virginia

Contact: W. Curtis Coleburn, III, Secretary to the Board, Alcoholic Beverage Control Board, 2901 Hermitage Rd., Richmond, VA 23220, telephone (804) 213-4409, FAX (804) 213-4411, (804) 213-4687/TTY☎, email curtis.coleburn@abc.virginia.gov.

† **May 4, 2007** - 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 Alcoholic Beverage Control Board intends to amend regulations entitled **3 VAC 5-60, Manufacturers and Wholesalers Operations.** The purpose of the proposed action is to amend three sections of the board's regulations governing wine wholesalers and solicitors for distilled spirits manufacturers. Changes to 3 VAC 5-60-20 are designed to make reporting of purchases and sales by wine wholesalers easier by allowing reports in lieu of the submission of actual copies of certain purchase orders and invoices currently required to be submitted to the board. It is proposed that 3 VAC 5-60-40 be amended to increase the penalty of the indemnifying bond required of wine wholesalers from \$1,000 to \$2,500. 3 VAC 5-60-80 is proposed to be amended by modifying language to conform to a statute enacted by the 2006 Session of the General Assembly, and to allow the display on licensed retail premises of advertising specialty items provided by solicitors for distilled spirits manufacturers. In addition, a new section 3 VAC 5-60-100 is added, providing a process for manufacturers, wholesalers, or importers to seek approval from the board for the employment of persons with certain criminal convictions.

Statutory Authority: §§ 4.1-103 and 4.1-111 of the Code of Virginia

Contact: W. Curtis Coleburn, III, Secretary to the Board, Alcoholic Beverage Control Board, 2901 Hermitage Rd., Richmond, VA 23220, telephone (804) 213-4409, FAX (804) 213-4411, (804) 213-4687/TTY☎, email curtis.coleburn@abc.virginia.gov.

† **May 4, 2007** - 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 Alcoholic Beverage Control Board intends to amend regulations entitled **3 VAC 5-70, Other Provisions.** The purpose of the proposed action is to (i) conform exceptions to the general prohibition against licensees giving away alcoholic beverages to recent actions of the General Assembly; (ii) remove the requirement that manufacturers give the board a copy of any price increase notice; (iii) provide that in situations where the same person is both the importer and wholesaler, no notice of price increase is required; (iv) increase the number of allowed farm winery remote locations from two to five as allowed by statute; and (v) set forth procedures for auction sales of designer or antique bottles containing distilled spirits.

Calendar of Events

Statutory Authority: §§ 4.1-103 and 4.1-111 of the Code of Virginia

Contact: W. Curtis Coleburn, III, Secretary to the Board, Alcoholic Beverage Control Board, 2901 Hermitage Rd., Richmond, VA 23220, telephone (804) 213-4409, FAX (804) 213-4411, (804) 213-4687/TTY ☎, email curtis.coleburn@abc.virginia.gov.

March 5, 2007 - 9 a.m. -- Open Meeting

March 19, 2007 - 9 a.m.-- Open Meeting

April 2, 2007 - 9 a.m. -- Open Meeting

April 16, 2007 - 9 a.m. -- Open Meeting

May 7, 2007 - 9 a.m. -- Open Meeting

† May 21, 2007 - 9 a.m. -- Open Meeting

† June 4, 2007 - 9 a.m. -- Open Meeting

Department of Alcoholic Beverage Control, 2901 Hermitage Road, Richmond, Virginia. ♿

An executive staff meeting to receive and discuss reports and activities from staff members and to discuss other matters as necessary.

Contact: W. Curtis Coleburn, III, Secretary to the Board, Alcoholic Beverage Control Board, 2901 Hermitage Rd., Richmond, VA 23220, telephone (804) 213-4409, FAX (804) 213-4411, (804) 213-4687/TTY ☎, email curtis.coleburn@abc.virginia.gov.

BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS, CERTIFIED INTERIOR DESIGNERS AND LANDSCAPE ARCHITECTS

March 15, 2007 - 9 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. ♿

A meeting of the full board to conduct board business. 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 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 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475 or email apelscidla@dpor.virginia.gov.

March 15, 2007 - 1 p.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Room 453, Richmond, Virginia. ♿

An informal fact-finding conference.

Contact: 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 ☎, email apelscidla@dpor.virginia.gov.

† April 3, 2007 - 9 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, 5th Floor, Richmond, Virginia. ♿

A meeting of the Continuing Education Committee to develop draft wording for the board's consideration for implementing the mandatory continuing education program.

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 ☎, email apelscidla@dpor.virginia.gov.

† May 8, 2007 - 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. 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 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 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475 or email apelscidla@dpor.virginia.gov.


May 10, 2007 - 9 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, 5th Floor, Richmond, Virginia. ♿

A meeting of the Professional Engineers Section to conduct board business. 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 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 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475 or email apelscidla@dpor.virginia.gov.


May 14, 2007 - 9 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, 5th Floor, Virginia. 

A meeting of the Landscape Architects Section to conduct board business. 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 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 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475 or email apelscidla@dpor.virginia.gov.


† May 22, 2007 - 9 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, 5th Floor, Richmond, Virginia. 

A meeting of the Interior Designers Section to conduct board business. 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 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 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475 or email apelscidla@dpor.virginia.gov.


† May 24, 2007 - 9 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, 5th Floor, Richmond, Virginia. 

A meeting of the Land Surveyors Section to conduct board business. 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 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 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475 or email apelscidla@dpor.virginia.gov.


ART AND ARCHITECTURAL REVIEW BOARD**April 6, 2007 - 10 a.m.** -- Open Meeting**May 4, 2007 - 10 a.m.** -- Open Meeting**† June 1, 2007 - 10 a.m.** -- Open Meeting

Science Museum of Virginia, 2500 West Broad Street, Forum Room, 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.virginia.gov. 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: Brian H. Ohlinger, Chairman, Art and Architectural Review Board, 700 W. Grace St., Suite 2200, Richmond, VA 23284, telephone (804) 827-9647, FAX (804) 827-1288 or email bjohlinger@vcu.edu.

VIRGINIA BOARD FOR ASBESTOS, LEAD, AND HOME INSPECTORS**May 9, 2007 - 9 a.m.** -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Room 453, Richmond, Virginia. 


A general business meeting including consideration of regulatory issues as may be presented on the agenda. A portion of the board's business may be discussed in closed session. Public comment will be heard at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: David Dick, Executive Director, Virginia Board for Asbestos, Lead, and Home Inspectors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8507, FAX (804) 367-2475, (804) 367-9753/TTY , email alhi@dpor.virginia.gov.

AUCTIONEERS BOARD

NOTE: CHANGE IN MEETING DATE

April 19, 2007 - 10 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, 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. Any person desiring to attend the meeting and requiring special accommodations

Calendar of Events

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: Marian H. Brooks, Regulatory Board Administrator, Auctioneers Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-0795, (804) 367-9753/TTY ☎, email auctioneers@dpor.virginia.gov.

BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

† **May 24, 2007 - 9:30 a.m.** -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia. ♿

A meeting to discuss general business matters including consideration of regulatory issues as may be presented on the agenda. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Public comment will be heard at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Lisa R. Hahn, Executive Director, Board of Audiology and Speech-Language Pathology, Alcoa Building, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9111, FAX (804) 662-9523, (804) 662-7197/TTY ☎, email lisa.hahn@dhp.virginia.gov.

BOARD FOR BARBERS AND COSMETOLOGY

† **March 12, 2007 - 1 p.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Room 453, Richmond, Virginia. ♿

An informal fact-finding conference.

Contact: William H. Ferguson, II, Executive Director, Board for Barbers and Cosmetology, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8590, FAX (804) 367-2474, (804) 367-9753/TTY ☎, email barbercosmo@dpor.state.va.us.

NOTE: CHANGE IN MEETING DATE

† **April 30, 2007 - 9 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. ♿

A general business meeting to include consideration of regulatory issues as may be presented on the agenda. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Public

comment will be heard at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: William H. Ferguson, II, Executive Director, Board for Barbers and Cosmetology, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-6295, (804) 367-9753/TTY ☎, email barbercosmo@dpor.virginia.gov.

BOARD FOR THE BLIND AND VISION IMPAIRED

April 17, 2007 - 1 p.m. -- Open Meeting
Department for the Blind and Vision Impaired, 397 Azalea Avenue, Richmond, Virginia. ♿

A meeting to review information regarding the Department for the Blind and Vision Impaired's activities and operations, review expenditures from board endowment funds, and discuss other issues raised by the board members.

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 ☎, email kathy.proffitt@dbvi.virginia.gov.

BOARD FOR BRANCH PILOTS

May 1, 2007 - 8:30 a.m. -- Open Meeting
Virginia Port Authority, 600 World Trade Center, Norfolk, Virginia. ♿

A meeting of the Examination Administrators 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. 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 ☎, email branchpilots@dpor.virginia.gov.

May 2, 2007 - 9:30 a.m. -- Open Meeting
Virginia Port Authority, 600 World Trade Center, Norfolk, Virginia. ♿

A meeting to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. All meetings are subject to cancellation. 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 ☎, email branchpilots@dpor.virginia.gov.

CHARITABLE GAMING BOARD

March 15, 2007 - 10 a.m. -- Open Meeting
Science Museum of Virginia, 2500 West Broad Street, RF and P Forum Room Richmond, Virginia.

A regular board meeting.

Contact: Harry M. Durham, Interim Director, Department of Charitable Gaming, James Monroe Bldg., 101 N. 14th St., 17th Floor, Richmond, VA 23219, telephone (804) 786-2444, FAX (804) 786-1079, email harry.durham@dcg.virginia.gov.

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

† **March 26, 2007 - 10 a.m.** -- Open Meeting
Location to be announced.

A Policy Committee meeting.

Contact: David C. Dowling, Policy, Planning, and Budget Director, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-2291, FAX (804) 786-6141, email david.dowling@dcr.virginia.gov.

NOTE: CHANGE IN MEETING TIME

March 26, 2007 - 1 p.m. -- Open Meeting
Location to be announced.

A regular business meeting to review local programs.

Contact: David C. Dowling, Policy, Planning, and Budget Director, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-2291, FAX (804) 786-6141, email david.dowling@dcr.virginia.gov.

May 8, 2007 - 10 a.m. -- Open Meeting
James Monroe Building, 101 North 14th Street, 17th Floor Conference Room, Richmond, Virginia.

A regular meeting of the Northern Area Review Committee to review local programs.

Contact: David C. Dowling, Policy, Planning, and Budget Director, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-2291, FAX (804) 786-6141, email david.dowling@dcr.virginia.gov.

May 8, 2006 - 2 p.m. -- Open Meeting
James Monroe Building, 101 North 14th Street, 17th Floor Conference Room, Richmond, Virginia.

A regular meeting of the Southern Area Review Committee to review local programs.

Contact: David C. Dowling, Policy, Planning, and Budget Director, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-2291, FAX (804) 786-6141, email david.dowling@dcr.virginia.gov.

CHILD DAY-CARE COUNCIL

March 8, 2007 - 9 a.m. -- Open Meeting
Department of Social Services, 7 North 8th Street, 6th Floor Conference Room, Richmond, Virginia.

A council work session will begin at 9 a.m. The full council will meet at 11 a.m.

Contact: Pat Rengnerth, Board Liaison, Child Day-Care Council, 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 ☎, email patricia.rengnerth@dss.virginia.gov.

STATE BOARD FOR COMMUNITY COLLEGES

March 21, 2007 - 1:30 p.m. -- Open Meeting
Lord Fairfax Community College, Middletown Campus, 173 Skirmisher Lane, Middletown, Virginia.

Meetings of the Academic Committee, Student Affairs and Workforce Development Committee, Budget and Finance Committee, Facilities Committee, Audit Committee, Personnel Committee, and Executive Committee.

Contact: D. Susan Hayden, Director of Public Affairs, Virginia Community College System, 101 N. 14th St., 15th Floor, Richmond, VA 23219, telephone (804) 819-4961, FAX (804) 819-4768, (804) 371-8504/TTY ☎

March 22, 2007 - 9 a.m. -- Open Meeting
Lord Fairfax Community College, Middletown Campus, 173 Skirmisher Lane, Middletown, Virginia.

May 17, 2007 - 9 a.m. -- Open Meeting
James Monroe Building, 101 North 14th Street, 15th Floor, Godwin-Hamel Board Room, Richmond, Virginia. ♿
(Interpreter for the deaf provided upon request)

A meeting of the full board. Public comment may be received upon written notification at least five working days prior to the meeting.

Contact: D. Susan Hayden, Director of Public Affairs, Virginia Community College System, 101 N. 14th St., 15th Floor, Richmond, VA 23219, telephone (804) 819-4961, FAX (804) 819-4768, (804) 371-8504/TTY ☎

Calendar of Events

COMPENSATION BOARD

March 28, 2007 - 11 a.m. -- Open Meeting
102 Governor Street, Lower Level, Room LL22, Richmond,
Virginia. ♿

A monthly board meeting.

Contact: Cindy Waddell, Compensation Board, P.O. Box 710, Richmond, VA 23218, telephone (804) 225-3308, FAX (804) 371-0235, email cindy.waddell@scb.virginia.gov.

DEPARTMENT OF CONSERVATION AND RECREATION

Virginia Cave Board

† **March 24, 2007 - 1 p.m.** -- Open Meeting
The Stone Lodge Grand Caverns, Grottoes, Virginia.

A regular meeting. Committees will meet at 11 a.m.

Contact: David C. Dowling, Policy, Planning, and Budget Director, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-2291, FAX (804) 786-6141, email david.dowling@dcr.virginia.gov.

Virginia Soil and Water Conservation Board

March 15, 2007 - 9:30 a.m. -- Open Meeting
May 17, 2007 - 9:30 a.m. -- Open Meeting
Location to be announced.

A regular board meeting.

Contact: David C. Dowling, Policy, Planning, and Budget Director, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-2291, FAX (804) 786-6141, email david.dowling@dcr.virginia.gov.

BOARD FOR CONTRACTORS

March 6, 2007 - 9 a.m. -- Open Meeting
March 8, 2007 - 9 a.m. -- Open Meeting
† **March 29, 2007 - 9 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. ♿

An informal fact-finding conference.

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 ☎, email contractors@dpor.virginia.gov.

March 27, 2007 - 9 a.m. -- Open Meeting
April 24, 2007 - 9 a.m. -- Open Meeting
† **May 22, 2007 - 9 a.m.** -- Open Meeting
Department of Professional and Occupational Regulations,
3600 West Broad Street, 4th Floor, Richmond, Virginia. ♿

A 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 discussed in closed session. 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: 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 ☎, email contractors@dpor.virginia.gov.

† **April 17, 2007 - 1 p.m.** -- Public Hearing
Noel C. Taylor Municipal Building, 215 Church Avenue,
S.W., Roanoke, Virginia.

† **April 18, 2007 - 1 p.m.** -- Public Hearing
Department of Professional and Occupational Regulations,
3600 West Broad Street, 4th Floor, Richmond, Virginia. ♿

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 50-30, Tradesman Rules and Regulations**. The purpose of the proposed action is to amend current regulations to add certified water well systems providers as a program within the Board for Contractors Tradesman Program.

Statutory Authority: §§ 54.1-201, 54.1-1129, 54.1-1129.1, and 54.1-1130 of the Code of Virginia.


Public comments may be submitted until May 5, 2007.

Contact: Kevin Hoeft, Regulatory Boards Administrator, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2785, FAX (804) 367-2474, (804) 367-9753/TTY ☎, email contractors@dpor.virginia.gov.

† **May 22, 2007 - 1 p.m.** -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, 4th Floor, Richmond, Virginia. ♿

A quarterly meeting of the Board for Contractors Committee. The meeting starts at the conclusion of the Board for Contractors regular meeting.


Contact: Kevin Hoeft, Regulatory Boards Administrator, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2785, FAX (804) 367-2474,

(804) 367-9753/TTY  email
 contractors@dpor.virginia.gov.

BOARD OF CORRECTIONS

March 20, 2007 - 10 a.m. -- Open Meeting

May 15, 2007 - 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, email barbara.woodhouse@vadoc.virginia.gov.

March 20, 2007 - 11 a.m. -- Open Meeting

May 15, 2007 - 11 a.m. -- Open Meeting


Department of Corrections, 6900 Atmore Drive, 3rd Floor Board Room, 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, email barbara.woodhouse@vadoc.virginia.gov.

March 21, 2007 - 9:30 a.m. -- Open Meeting

May 16, 2007 - 9:30 a.m. -- Open Meeting


Department of Corrections, 6900 Atmore Drive, 3rd Floor, Room 3054, 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, email barbara.woodhouse@vadoc.virginia.gov.

March 21, 2007 - 10 a.m. -- Open Meeting

May 16, 2007 - 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 presentation to and 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, email barbara.woodhouse@vadoc.virginia.gov.

CRIMINAL JUSTICE SERVICES BOARD

March 8, 2007 - 9 a.m. -- Public Hearing

General Assembly Building, 9th and Broad Street, House Room D, Richmond, Virginia. 

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 20-250, Regulations Relating to Property and Surety Bail Bondsmen**. The purpose of the proposed action is promulgate regulations for property and surety bail bondsmen. The regulation establishes a licensure process, training standards, fee schedule, and the administration of the regulatory system.

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

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, or email lbaker@dcjs.virginia.gov.

March 8, 2007 - 11 a.m. -- Open Meeting

General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia.

A general business meeting.

Contact: Leon D. Baker, Jr., Division Director, Criminal Justice Services Board, 9th Street Office Bldg., 202 N. 9th St., 5th Floor, Richmond, VA 23219, telephone (804) 225-4086, FAX (804) 786-0588, email leon.baker@dcjs.virginia.gov.


BOARD OF DENTISTRY

March 8, 2007 - 9 a.m. -- Open Meeting

† March 23, 2007 - 9 a.m. -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 

Formal hearings. There will not be a public comment period.

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) 662-7246, (804) 662-7197/TTY , email sandra.reen@dhp.virginia.gov.

March 9, 2007 - 9 a.m. -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 

A meeting to discuss board business. There will be a 15-minute public comment period at the beginning of the meeting.

Calendar of Events

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) 662-7246, (804) 662-7197/TTY ☎, email sandra.reen@dhp.virginia.gov.

NOTE: CHANGE IN MEETING TIME

March 23, 2007 - 1 p.m. -- Open Meeting

May 11, 2007 - 9 a.m. -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. ♿

Informal conferences of Special Conference Committee C. There will not be a public comment period.

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) 662-7246, (804) 662-7197/TTY ☎, email sandra.reen@dhp.virginia.gov.

March 30, 2007 - 9 a.m. -- Open Meeting

† **May 25, 2007 - 9 a.m.** -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. ♿

A meeting of the Special Conference Committee A to hold informal conferences. There will not be a public comment period.

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) 662-7246, (804) 662-7197/TTY ☎, email sandra.reen@dhp.virginia.gov.

April 20, 2007 - 9:30 a.m. -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. ♿

A meeting of the Credentials Committee to hold informal conferences. There will not be a public comment period.

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) 662-7246, (804) 662-7197/TTY ☎, email sandra.reen@dhp.virginia.gov.

April 27, 2007 - 9 a.m. -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. ♿

Informal conferences of Special Conference Committee B. There will not be a public comment period.

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) 662-7246, (804) 662-7197/TTY ☎, email sandra.reen@dhp.virginia.gov.

DESIGN BUILD/CONSTRUCTION MANAGEMENT REVIEW BOARD

March 15, 2007 - 11 a.m. -- Open Meeting

April 19, 2007 - 11 a.m. -- Open Meeting

May 17, 2007 - 11 a.m. -- Open Meeting

Department of General Services, 202 North Ninth Street, Room 412, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A monthly meeting to review requests submitted by localities to use the design build or construction management type contracts. Contact the Division of Engineering and Buildings to confirm this meeting. Board rules and regulations can be obtained on-line at www.dgs.virginia.gov under DGS Forms, Form #DGS-30-904.

Contact: Kristy H. Martin, Administrative Assistant, Division of Engineering and Buildings, Department of General Services, 202 N. Ninth St., Richmond, VA 23219, telephone (804) 786-3263, FAX (804) 371-7934, (804) 786-6152/TTY ☎, email rhonda.bishton@dgs.virginia.gov.

BOARD OF EDUCATION

March 28, 2007 - 9 a.m. -- Open Meeting

April 23, 2007 - 9 a.m. -- Open Meeting

† **May 30, 2007 - 9 a.m.** -- Open Meeting

James Monroe Building, 101 North 14th Street, 22nd Floor, Jefferson Conference Room, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular business meeting of the board. Public comment will be received. The agenda and the supporting materials will be posted on the Friday prior to the meeting on the following website:
http://www.doe.virginia.gov/VDOE/VA_Board/bd-sched.html

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, email margaret.roberts@doe.virginia.gov.

April 18, 2007 - 9 a.m. -- Open Meeting

April 19, 2007 - 9 a.m. -- Open Meeting

April 20, 2007 - 9 a.m. -- Open Meeting

Crossroad Inn and Conference Center, 911 East Atlantic Street, South Hill, Virginia.

A meeting of the State Special Education Advisory Committee. For more information on times and agendas go to <http://www.doe.virginia.gov/VDOE/Instruction/Sped/sseac.html> or call the Department of Education Special Education and Student Services office at 804-225-3252 or (TTY) 800-422-1098.


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, email margaret.roberts@doe.virginia.gov.

April 23, 2007 - 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 Education intends to repeal regulations entitled **8 VAC 20-350, Regulations Governing the Operation of Proprietary Schools and Issuing of Agent Permits**. The purpose of the proposed action is to repeal the regulation because it is no longer needed and is outdated. Oversight and legal authority for the two types of schools governed by this regulation are no longer under the Board of Education pursuant to recent legislative changes. The private career schools have been transferred to the State Council of Higher Education for Virginia. That agency promulgated regulations to govern the private day schools and they became effective on July 26, 2006. The private day schools for students with disabilities remain under the purview of the Department of Education. New regulations were promulgated governing those schools and they became effective on September 10, 2004.

Statutory Authority: §§ 22.1-16, 22.1-321 and 22.1-327 of the Code of Virginia.

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, email margaret.roberts@doe.virginia.gov.

April 24, 2007 - 9 a.m. -- Open Meeting
James Monroe Building, 101 North 14th Street, 22nd Floor, Jefferson Conference Room, Richmond, Virginia. 
(Interpreter for the deaf provided upon request)

A planning session of the board. The president may call additional meetings and special meetings of the full board and its committees, as deemed necessary. Public comment will be received. The agenda and the supporting materials will be posted on the Friday prior to the meeting on the following website:
http://www.doe.virginia.gov/VDOE/VA_Board/bd-sched.html

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, email margaret.roberts@doe.virginia.gov.

Advisory Board on Teacher Education and Licensure

March 19, 2007 - 9 a.m. -- Open Meeting

April 23, 2007 - 9 a.m. -- Open Meeting

Richmond Marriott West Hotel, 4240 Dominion Boulevard, Glen Allen, Virginia.

A regular meeting. For additional information, contact Patty Pitts, Director of Teacher Licensure at the Department of Education, (804) 371-2471, email patty.pitts@doe.virginia.gov.


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, email margaret.roberts@doe.virginia.gov.

LOCAL EMERGENCY PLANNING COMMITTEE - WINCHESTER

† **March 7, 2007 - 3 p.m.** -- Open Meeting


Timbrook Public Safety Center, 231 East Piccadilly Street, Winchester, Virginia.

A regular meeting.

Contact: L.A. Miller, Emergency Management Coordinator, Winchester Fire and Rescue Department, 231 E. Piccadilly St., Suite 330, Winchester, VA 22601, telephone (540) 662-2298, FAX (540) 542-1318, (540) 662-4131/TTY 

DEPARTMENT OF ENVIRONMENTAL QUALITY


March 6, 2007 - 7 p.m. -- Open Meeting

Ripberger Public Library, 117 South Broad Street, Kenbridge, Virginia. 

A public meeting on the development of TMDLs to address bacteria contamination in stream segments in the Flat Rock Creek Watershed located in Lunenburg County. The public notice appears in the Virginia Register of Regulations on February 19, 2007. The public comment period begins on March 7, 2007, and ends on April 6, 2007. In the event of inclement weather the meeting will be held on March 15, 2007.

Contact: Lauren Theodore, Department of Environmental Quality, 7705 Timberlake Road, Lynchburg, VA 24502, telephone (434) 582-6216, FAX (434) 582-5125, email lmtheodore@deq.virginia.gov.

March 6, 2007 - 7 p.m. -- Open Meeting


Page Middle School, 5628 George Washington Memorial Highway, Library, Gloucester, Virginia. 

The second and final public meeting on the development of fecal coliform TMDLs for shellfish propagation waters in Gloucester County. The public notice appears in the Virginia Register of Regulations on February 19, 2007. The

Calendar of Events


public comment period begins on March 7, 2007, and ends on April 5, 2007.

Contact: Chester Bigelow, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4554, FAX (804) 698-4116, email ccbigeLOW@deq.virginia.gov.

March 8, 2007 - 10 a.m. -- Open Meeting
Chesterfield County Airport, Iron Bridge Road, Conference Room, Chesterfield County, Virginia. 


A regular meeting of the Recycling Markets Development Council.

Contact: Thomas J. Smith, PE, 5 County Complex Court, Suite 250, Prince William, VA 22192, telephone (703) 792-6252, email tsmith@pwcgov.org.

March 8, 2007 - 7 p.m. -- Open Meeting
Bracey Community Center, Intersection of Bracey Lane and Nelly Jones Road, Bracey, Virginia. 


A public meeting on the development of TMDLs for the Great Creek Watershed in Mecklenburg County to address bacteria contamination in stream segments in the watershed. The public notice appears in the Virginia Register of Regulations on February 19, 2007. The public comment period begins on March 9, 2007, and ends on April 9, 2007. In the event of inclement weather the meeting will be March 13, 2007.

Contact: Lauren Theodore, Department of Environmental Quality, 7705 Timberlake Rd., Lynchburg, VA 24502, telephone (434) 582-6216, FAX (434) 582-5125, email lmtheodore@deq.virginia.gov.

† March 12, 2007 - 1:30 p.m. -- Open Meeting
Chatham USDA Service Center, 1 Center Street, Chatham, Virginia. 

A meeting of the advisory committee assisting with the development of fecal coliform TMDLs for stream segments in the Banister River watershed in Halifax and Pittsylvania Counties. The public notice appears in the Virginia Register of Regulations on March 5, 2007.


Contact: Lauren Theodore, Department of Environmental Quality, 7705 Timberlake Rd., Lynchburg, VA 24502, telephone (434) 582-6216, FAX (434) 582-5125, email lmtheodore@deq.virginia.gov.

† March 13, 2007 - 2 p.m. -- Open Meeting
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. 

A meeting of the advisory committee on the TMDL study to address bacteria impairments in the James River and tributaries in the City of Richmond and the Counties of Chesterfield, Henrico and Powhatan. The public notice


appears in the Virginia Register of Regulations on March 5, 2007.


Contact: Chris French, Department of Environmental Quality, 4949-A Cox Rd., Glen Allen, VA 23060, telephone (804) 527-5124, FAX (804) 527-5106, email rcfrench@deq.virginia.gov.


March 15, 2007 - 7 p.m. -- Open Meeting
Albemarle County 5th Street Office Building, Room 100, 1600 5th Street, Charlottesville, Virginia. 

The first public meeting on the development of TMDLs within the Rivanna River Basin in Albemarle, Greene and Orange counties. The public notice appears in the Virginia Register of Regulations on February 19, 2007. The public comment period begins on March 15, 2006, and ends on April 19, 2007. The inclement weather date is March 19, 2007.

Contact: Robert Brent, Department of Environmental Quality, 4411 Early Rd., P.O. Box 3000, Harrisonburg, VA 22801, telephone (540) 574-7848, FAX (540) 574-7878, email rbrent@deq.virginia.gov.


† March 19, 2007 - 7 p.m. -- Open Meeting
Culpeper Train Depot, 109 South Commerce Street, Culpeper, Virginia. 

† March 22, 2007 - 7 p.m. -- Open Meeting
Rappahannock County Library, 4 Library Road, Washington, Virginia. 

† March 27, 2007 - 7 p.m. -- Open Meeting
Mt. Nebo Church, 3890 Jacks Shop Road, Rochelle, Virginia. 


The second series of public meetings on the development of bacteria TMDLs for streams in the Upper Rappahannock River Basin. The public notice appears in the Virginia Register of Regulations on March 5, 2007. The public comment period begins on March 19, 2007, and ends on April 18, 2007.

Contact: Katie Conaway, Department of Environmental Quality, 13901 Crown Court, Woodbridge, VA 22193, telephone (703) 583-3804, email mkconaway@deq.virginia.gov.

March 20, 2007 - 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 1105, Richmond, VA 23218, telephone (804) 698-4042, email mamassie@deq.virginia.gov.

† **March 20, 2007 - 7 p.m.** -- Open Meeting
Chatham USDA Service Center, 1 Center Street, Chatham, Virginia. 

A public meeting to discuss the development of a bacteria TMDL for the Banister River watershed in Halifax and Pittsylvania Counties. The public notice appears in the Virginia Register of Regulations on March 5, 2007. The public comment period begins on March 20, 2007, and ends on April 20, 2007.

Contact: Lauren Theodore, Department of Environmental Quality, 7705 Timberlake Rd., Lynchburg, VA 24502, telephone (434) 582-6216, FAX (434) 582-5125, email lmtheodore@deq.virginia.gov.

† **March 20, 2007 - 7 p.m.** -- Open Meeting
Johnson Recreation Center, 18849 Kings Highway, Montross, Virginia. 


The second public meeting on the development of fecal coliform TMDLs for shellfish propagation waters in Westmoreland County. The public notice appears in the Virginia Register of Regulations on March 5, 2007. The public comment period begins on March 20, 2007, and ends on April 20, 2007.

Contact: Chester Bigelow, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4554, FAX (804) 698-4116, email cbigelow@deq.virginia.gov.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS


March 13, 2007 - 8 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 

A meeting of the Task Force on Cremation Laws to discuss the laws relating to cremation.

Contact: Elizabeth Young, Executive Director, Board of Funeral Directors and Embalmers, Alcoa Building, 6603 West Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9907, FAX (804) 662-9523, (804) 662-7197/TTY , email elizabeth.young@dhp.virginia.gov.


March 13, 2007 - 10 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 

A board meeting to discuss issues that relate to the practice of funeral directing and embalming.

Contact: Elizabeth Young, Executive Director, Board of Funeral Directors and Embalmers, Alcoa Building, 6603 West Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9907, FAX (804) 662-9523, (804) 662-7197/TTY , email elizabeth.young@dhp.virginia.gov.


March 13, 2007 - 2 p.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 

A formal hearing to discuss the reinstatement case.


Contact: Elizabeth Young, Executive Director, Board of Funeral Directors and Embalmers, Alcoa Building, 6603 West Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9907, FAX (804) 662-9523, (804) 662-7197/TTY , email elizabeth.young@dhp.virginia.gov.

March 22, 2007 - 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 review and discuss discipline cases.

Contact: Elizabeth Young, Executive Director, Board of Funeral Directors and Embalmers, Alcoa Building, 6603 West Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9907, FAX (804) 662-9523, (804) 662-7197/TTY , email elizabeth.young@dhp.virginia.gov.


BOARD FOR GEOLOGY

April 25, 2007 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 

A general business meeting to include consideration of regulatory issues as may be presented on the agenda. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Public comment will be heard at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: David E. Dick, Executive Director, Board for Geology, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8507, (804) 367-9753/TTY , email geology@dpor.virginia.gov.

GEORGE MASON UNIVERSITY

May 9, 2007 - 9 a.m. -- Open Meeting
George Mason University, Mason Pond Drive, Mason Hall, Fairfax, Virginia. 

A meeting of the Board of Visitors. Agenda items will be posted 10 days prior to the meeting.

Calendar of Events

Contact: Mary Roper, Secretary Pro Tem, George Mason University, 4400 University Dr., Fairfax, VA 22030, telephone (703) 993-8703, toll-free (703) 993-8707, email mroper@gmu.edu.

OFFICE OF GOVERNOR

Community Integration Advisory Commission

† **March 6, 2007 - 11 a.m.** -- Open Meeting
Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, Virginia.

† **March 20, 2007 - 1 p.m.** -- Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, Richmond, Virginia.

A meeting of the Community Integration Advisory Commission. No public comment session will be held.

Contact: Julie A. Stanley, Director, Community Integration for People with Disabilities, Office of the Governor, 1111 E. Broad St., Richmond, VA 23219, telephone (804) 371-0828, FAX (804) 371-6984, email julie.stanley@governor.virginia.gov.

GOVERNOR'S HEALTHCARE REFORM COMMISSION

March 26, 2007 - 1 p.m. -- Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, 7th Floor, Conference Room 7B, Richmond, Virginia.
♿ (Interpreter for the deaf provided upon request)

A meeting of the Quality, Transparency, and Prevention Workgroup to focus on quality, specifically pay for performance (P4P) initiatives in Medicaid and nursing homes. The goal of the meeting will be to develop ideas and solutions for how the Commonwealth can best implement P4P in Medicaid.

Contact: Aryana Khalid, Assistant Secretary of Health and Human Resources, Office of the Governor, 1111 E. Broad St., Richmond, VA 23219, telephone (804) 692-2575, email aryana.khalid@governor.virginia.gov.

March 29, 2007 - 10 a.m. -- Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, Room 7 B, Richmond, Virginia.

A meeting of the Workforce Workgroup to focus on workforce issues for physicians. The goal of the meeting will be to develop ideas and solutions for how the Commonwealth can increase the workforce from both supply and demand perspectives as well as how to retain and reengage the workforce we already have in the Commonwealth.

Contact: Aryana Khalid, Assistant Secretary of Health and Human Resources, Office of the Governor, 1111 East Broad

St., Richmond, VA 23219, telephone (804) 692-2575, email aryana.khalid@governor.virginia.gov.

April 18, 2007 - 1 p.m. -- Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, Room 7 B, Richmond, Virginia.

A meeting of the Workforce Workgroup to focus on final recommendations to the commission concerning the physician, nurse, and nurse aide workforce.

Contact: Aryana Khalid, Assistant Secretary of Health and Human Resources, Office of the Governor, 1111 East Broad St., Richmond, VA 23219, telephone (804) 692-2575, email aryana.khalid@governor.virginia.gov.

DEPARTMENT OF HEALTH

March 23, 2007 - 10 a.m. -- Open Meeting

April 24, 2007 - 10 a.m. -- Open Meeting

May 18, 2007 - 10 a.m. -- Open Meeting

Department of Health, 109 Governor Street, 5th Floor Conference Room, Richmond, Virginia.

A meeting of the Sewage Handling and Disposal Regulations Advisory Committee to make recommendations to the commissioner regarding sewage handling and disposal policies, procedures and programs of the department.

Contact: Donald Alexander, Division Director, Division of Onsite Sewage and Water Services, Department of Health, 109 Governor St., 5th Floor, Richmond, VA 23219, telephone (804) 864-7452, FAX (804) 864-7476, email donald.alexander@vdh.virginia.gov.

April 17, 2007 - 9 a.m. -- Open Meeting
Department of Health, 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 and programs. The meeting will also be scheduled in remote locations via video conference.

Contact: Dwayne Roadcap, Program Manager, Department of Health, 109 Governor St., Richmond, VA 23219, telephone (804) 864-7462, FAX (804) 864-7476, email dwayne.roadcap@vdh.virginia.gov.

April 17, 2007 - 10 a.m. -- Open Meeting
Division of Consolidated Laboratory Services, 600 North 5th Street, Training Room T-23, Richmond, Virginia. ♿

A meeting of the Genetics Advisory Committee to advise the Department of Health on coordinating access to clinical genetics services across the Commonwealth and assuring the provision of genetic awareness and quality services and education for consumers and providers taking into consideration issues of confidentiality, privacy and consent.


Contact: Nancy Ford, Director of Pediatric Screening and Genetics Services, Department of Health, 109 Governor St., 8th Floor, Richmond, VA 23219, telephone (804) 864-7691, email nancy.ford@vdh.virginia.gov.

May 11, 2007 - 10 a.m. -- Open Meeting
Virginia Hospital and Healthcare Association, 4200 Innslake Drive, Glen Allen, Virginia. 

A meeting of the Virginia Early Hearing Detection and Intervention Program Advisory Committee to assist the Department of Health in the implementation of the Virginia Early Hearing Detection and Intervention Program.


Contact: Pat Dewey, M.Ed, Program Manager, Department of Health, 109 Governor St., Richmond, VA 23219, telephone (804) 864-7713, email pat.dewey@vdh.virginia.gov.

Emergency Medical Services Advisory Board

May 17, 2007 - 1 p.m. -- Open Meeting
Richmond Marriott West 4240 Dominion Boulevard, Glen Allen, Virginia. 


A meeting of the Financial Assistance Review Committee (FARC). The FARC is responsible for recommending to the Commissioner of Health monetary awards as stipulated in the Code of Virginia. Quarterly meeting to discuss upcoming grant cycle and initiatives, problems with past grants and Rescue Squad Assistance Fund (RSAF) finances.

Contact: Amanda Davis, Grants Administrator, Department of Health, 109 Governor St., Suite UB-55, Richmond, VA 23219, telephone (804) 864-7600, FAX (804) 864-7580, toll-free (800) 523-6019, email amanda.davis@vdh.virginia.gov.

May 18, 2007 - 9 a.m. -- Open Meeting
Richmond Marriott West, 4240 Dominion Boulevard, Glen Allen, Virginia. 

A quarterly meeting of the Communications Committee to review and recommend policies on EMS communications and coordinate the development and implementation of communications and associated technology that support EMS operations at the local, regional and state level.

Contact: Ken Crumpler, Communications Coordinator, Department of Health, 109 Governor St., Suite UB-55, Richmond, VA 23219, telephone (804) 864-7600, FAX (804) 864-7580, toll-free (800) 523-6019, email ken.crumpler@vdh.virginia.gov.


May 18, 2007 - 1 p.m. -- Open Meeting
Richmond Marriott West, 4240 Dominion Boulevard, Glen Allen, Virginia. 

A quarterly meeting to provide advice and counsel regarding methods and procedures for planning, developing


and maintaining a statewide emergency medical services (EMS) systems to OEMS and the State Board of Health.

Contact: Gary R. Brown, Director, Office of Emergency Medical Services, 109 Governor St., Suite UB-55, Richmond, VA 23219, telephone (804) 864-7600, FAX (804) 864-7580, toll-free (800) 523-6019, email gary.brown@vdh.virginia.gov.


DEPARTMENT OF HEALTH PROFESSIONS

April 18, 2007 - 11 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 2, Richmond, Virginia. 


A meeting of the Prescription Monitoring Program Advisory Committee to review collected data for the program evaluation workplan and to receive a progress report on the enhancement and expansion of the program. The committee will discuss the development of criteria to provide these reports and the resource information that will be provided with them. Public comments will be received during the meeting.


Contact: Ralph A. Orr, Prescription Monitoring Program Manager, Department of Health Professions, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9133, FAX (804) 662-9240, (804) 662-7197/TTY , email ralph.orr@dhp.virginia.gov.

BOARD FOR HEARING AID SPECIALISTS

March 14, 2007 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. 

A general business meeting that will include consideration of regulatory issues as may be presented on the agenda. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Public comment will be heard at the beginning of the meeting. Person desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: William H. Ferguson, II, Executive Director, Board for Hearing Aid Specialists, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-6295, (804) 367-9753/TTY , email hearingaidspec@dpor.virginia.gov.

March 14, 2007 - 1 p.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Room 453, Richmond, Virginia. 

An informal fact-finding conference.

Calendar of Events

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 ☎, email hearingaidspec@dpor.virginia.gov.

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

March 12, 2007 - 4 p.m. -- Open Meeting
Richard Bland College Petersburg, Virginia ♿

Strategic Planning Committee and Executive Committee meetings of the council.

Contact: Lee Ann Rung, State Council of Higher Education for Virginia, James Monroe Bldg., 101 N. 14th St., 9th Floor, Richmond, VA 23219, telephone (804) 225-2602, FAX (804) 371-7911, email LeeAnnRung@schev.edu.

March 13, 2007 - 8:30 a.m. -- Open Meeting
Richard Bland College, Petersburg, Virginia ♿

May 8, 2007 - 8:30 a.m. -- Open Meeting
Location to be determined.

Meeting times are approximate and subject to change. Committee meetings will begin at approximately 8:30 a.m. The council meeting will begin at 11:30 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, James Monroe Bldg., 101 N. 14th St., 9th Floor, Richmond, VA 23219, telephone (804) 225-2602, FAX (804) 371-7911, email LeeAnnRung@schev.edu.

DEPARTMENT OF HISTORIC RESOURCES

State Review and Historic Resources Boards

March 7, 2007 - 10 a.m. -- Open Meeting
Virginia Historical Society, 428 North Boulevard, Richmond, Virginia ♿

The State Review Board will consider nominations for recommendation to the Director of the Department of Historic Resources for listing in the National Register of Historic Places, as well as considering and commenting on the Preliminary Information Forms. The Historic Resources Board will consider nominations for listing in the Virginia

Landmarks Register. They will also consider Virginia Highway Marker texts and Historic Preservation Easements.

Contact: Jean McRae, State and National Register Program Specialist, Department of Historic Resources, 2801 Kensington Ave., Richmond, VA 23221, telephone (804) 367-2323, FAX (804) 367-2391, (804) 367-2386/TTY ☎, email jean.mcrae@dhr.virginia.gov.

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

March 26, 2007 - 10 a.m. -- Open Meeting
The Jackson Center, 501 North 2nd Street, 1st Floor Boardroom, Richmond, Virginia ♿

A regular business meeting.

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 ☎, email steve.calhoun@dhcd.virginia.gov.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

State Building Code Technical Review Board

March 16, 2007 - 10 a.m. -- Open Meeting
Department of Housing and Community Development, 501 North 2nd Street, Richmond, Virginia ♿ (Interpreter for the deaf provided upon request)

A meeting to hear appeals concerning the application of state building and fire regulations and consider interpretations of the regulations to develop recommendations to the Board of Housing and Community Development for future amendments to the regulations.

Contact: Vernon W. Hodge, Secretary, Department of Housing and Community Development, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7150.

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

† **March 20, 2007 - 11 a.m.** -- Open Meeting
The Inn at Virginia Tech and Skelton Conference Center, 901 Prices Fork Road, Blacksburg, Virginia ♿

A regular meeting of the Board of Commissioners to review and, if appropriate, approve the minutes from the prior meeting; possibly consider for approval and ratification mortgage loan commitments under its various programs; review the authority's operations; and consider such other matters and take such other actions as they may deem appropriate. The Board of Commissioners will hold a retreat meeting on March 18, 2007, commencing at 2 p.m. at the above address, and will continue such retreat meeting

on March 19, 2007, commencing at 8:30 a.m., at the above address. The Board of Commissioners may also meet during meals that are scheduled on March 18-20, 2007. Various committees of the Board of Commissioners, including the Programs Committee, the Audit Committee, the Operations Committee, the Executive Committee, and the Committee of the Whole may meet at the above address during March 19, 2007, and before and after the regular meeting on March 20, 2007, and may consider matters within their purview. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting.

Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 S. Belvidere St., Richmond, VA 23220, telephone (804) 343-5540, FAX (804) 783-6701, toll-free (800) 968-7837, (804) 783-6705/TTY ☎

VIRGINIA COUNCIL ON HUMAN RESOURCES

March 22, 2007 - 9:30 a.m. -- Open Meeting
James Monroe Building, 101 North 14th Street, PDS #4, Richmond, Virginia.

A quarterly meeting.

Contact: Barbara Tanner, Executive Assistant, Department of Human Resource Management, James Monroe Bldg., 101 N. 14th St., 13th Floor, Richmond, VA 23219, telephone (804) 225-2237, FAX (804) 371-7401, email barbara.tanner@dhrm.virginia.gov.

JAMESTOWN-YORKTOWN FOUNDATION

April 23, 2007 - 10 a.m. -- Open Meeting
April 24, 2007 - 8 a.m. -- Open Meeting
Williamsburg Hospitality House, Williamsburg, Virginia. ♿
(Interpreter for the deaf provided upon request)

A semiannual two-day Board of Trustees meeting. Public comment will be received on April 24. Contact the Foundation for schedule.

Contact: Laura W. Bailey, Executive Assistant to the Boards, Jamestown-Yorktown Foundation, P.O. Box 1607, Williamsburg, VA 23187, telephone (757) 253-4840, FAX (757) 253-5299, toll-free (888) 593-4682, (757) 253-7236/TTY ☎, email laura.bailey@jyf.virginia.gov.

STATE BOARD OF JUVENILE JUSTICE

April 11, 2007 - 10 a.m. -- Open Meeting
Department of Juvenile Justice, 7th and Franklin Streets, Richmond, Virginia.

The Secure Services Committee and Nonsecure Services Committee meet at 9 a.m. to receive certification audit reports of several residential and nonresidential programs. The full board meets at 10 a.m. to take action on the

certification reports and hear other such business as comes before the board. The board will receive public comment at each of its regular meetings. In order to allow the board sufficient time for its other business, the total time allotted to public comment will be limited to 30 minutes at the beginning of the meeting with additional time allotted at the end of the meeting for individuals who have not had a chance to be heard. Speakers will be limited to 10 minutes each with shorter time frames provided at the Chairman's discretion to accommodate large numbers of speakers. Those wishing to speak to the board are strongly encouraged to contact Deborah Hayes at 804-371-0704 three or more business days prior to the meeting. Persons not registered prior to the day of the board meeting will speak after those who have preregistered. Normally, speakers will be scheduled in the order that their requests are received. Where issues involving a variety of views are presented before the board, the board reserves the right to allocate the time available so as to insure that the board hears from different points of view on any particular issue. Groups wishing to address a single subject are urged to designate a spokesperson. Speakers are urged to confine their comments to topics relevant to the board's purview. In order to make the limited time available most effective, speakers are urged to provide multiple written copies of their comments or other material amplifying their views. Please provide at least 15 written copies if you are able to do so.

Contact: Deborah C. Hayes, Administrative Assistant, Department of Juvenile Justice, 700 Centre, 700 E. Franklin St., 4th Floor, Richmond, VA 23219, telephone (804) 371-0704, FAX (804) 371-0725.

DEPARTMENT OF LABOR AND INDUSTRY

Virginia Apprenticeship Council

† **March 15, 2007 - 10 a.m.** -- Open Meeting
New Horizons Regional Education Center, 520 Butler Farm Road, Hampton, Virginia. ♿

A regular business meeting.

Contact: Beverley Donati, Program Director, Virginia Apprenticeship Council, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 786-2382, FAX (804) 786-8418, (804) 786-2376/TTY ☎, email bgd@doli.state.va.us.

STATE LIBRARY BOARD

March 19, 2007 - 10:30 a.m. - Open Meeting
The Library of Virginia, 800 East Broad Street, Richmond, Virginia. ♿

A meeting to discuss matters pertaining to the Library of Virginia and the Library Board.

Calendar of Events

Contact: Jean H. Taylor, Executive Secretary Senior, The Library of Virginia, 800 E. Broad St., Richmond, VA 23219-8000, telephone (804) 692-3525, FAX (804) 692-3594, (804) 692-3976/TTY ☎, email jtaylor@lva.lib.va.us.

BOARD OF LONG-TERM CARE ADMINISTRATORS

March 13, 2007 - 10:30 a.m. -- Open Meeting
Department of Health Professions, Alcoa Building, 6603 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia. ♿

A meeting to discuss general business matters including consideration of regulatory issues as may be presented on the agenda. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Public comment will be heard at the beginning of the meeting. Person desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at (804) 662-9924 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: Lisa Russell Hahn, Executive Director, Board of Long-Term Care Administrators, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9930, FAX (804) 662-9523, (804) 662-7197/TTY ☎, email lisa.hahn@dhp.virginia.gov.

April 17, 2007 - 9 a.m. -- CANCELED
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. ♿

A meeting to discuss board matters. There will be a public comment period at the beginning of the meeting.

Contact: Lisa Russell Hahn, Executive Director, Board of Long-Term Care Administrators, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9930, FAX (804) 662-9943, (804) 662-7197/TTY ☎, email lisa.hahn@dhp.virginia.gov.

VIRGINIA MANUFACTURED HOUSING BOARD

March 15, 2007 - 10 a.m. -- Open Meeting
Department of Housing and Community Development, 501 North 2nd Street, 1st Floor Boardroom, Richmond, Virginia. ♿

A regular meeting to carry out administration of the Manufactured Housing Licensing and Transaction Recovery Fund Regulations.

Contact: Curtis McIver, State Building Code Administrator, Department of Housing and Community Development, The Jackson Center, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7161, FAX (804) 371-7092, (804) 371-7089/TTY ☎, email curtis.mciver@dhcd.virginia.gov.

MARINE RESOURCES COMMISSION

† **March 12, 2007 - 2 p.m.** -- Public Hearing
Southwest Virginia Community College, 369 College Road, Russell Hall Rooms 146 and 147, Richlands, Virginia. ♿
(Interpreter for the deaf provided upon request)

A public hearing regarding Consol Virginia Coal Company (#05-2233). Public testimony to be taken at SWCC location only.

Contact: Randy Owen, Environmental Engineer, Sr., Marine Resources Commission, 2600 Washington Ave., 4th Floor, Newport News, VA 23607, telephone (757) 247-2251, FAX (757) 247-8062, toll-free (800) 541-4646, (757) 247-2292/TTY ☎, email randy.owen@mrc.virginia.gov.

March 27, 2007 - 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 meeting.

Contact: Jane McCroskey, Commission Secretary, Marine Resources Commission, 2600 Washington Ave., 3rd Floor, Newport News, VA 23607, telephone (757) 247-2215, FAX (757) 247-8101, toll-free (800) 541-4646, (757) 247-2292/TTY ☎, email jane.mccroskey@mrc.virginia.gov.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

† **March 21, 2007 - 1 p.m.** -- Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, Richmond, Virginia. ♿

A meeting of the Medicaid Transportation Advisory Committee.

Contact: Robert Knox, Transportation Supervisor, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8854, FAX (804) 786-1680, (800) 343-0634/TTY ☎, email robert.knox@dmas.virginia.gov.

† **March 22, 2007 - 2 p.m.** -- Open Meeting

† **May 10, 2007 - 2 p.m.** -- Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, Richmond, Virginia. ♿

A meeting of the Drug Utilization Committee.

Contact: Rachel Cain, Pharmacist, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-0318, FAX (804) 786-1680, (800) 343-0634/TTY ☎, email rachel.cain@dmas.virginia.gov.

April 17, 2007 - 9 a.m. -- Open Meeting
 Department of Medical Assistance Services, 600 East Broad Street, Richmond, Virginia. ☎

A meeting of the Pharmacy and Therapeutics Committee to review PDL Phase II and new drugs in PDL Phase I.

Contact: Katina Goodwyn, Pharmacy Contract Manager, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-0428, FAX (804) 786-0973, (800) 343-0634/TTY ☎, email PDLinput@dmas.virginia.gov.

† **April 24, 2007 - 10 a.m.** -- Open Meeting
 Department of Medical Assistance Services, 600 East Broad Street, Richmond, Virginia. ☎

A meeting of the Pharmacy Liaison Committee.

Contact: Rachel Cain, Pharmacist, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-0918, FAX (804) 786-1680, (800) 343-0634/TTY ☎, email rachel.cain@dmas.virginia.gov.

BOARD OF MEDICINE

March 7, 2007 - 9 a.m. -- Open Meeting
 † **April 4, 2007 - 9 a.m.** -- Open Meeting
 Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. ☎

† **March 14, 2007 - 9:15 a.m.** -- Open Meeting
 Williamsburg Marriott, 50 Kingsmill Road, Williamsburg, Virginia. ☎

March 20, 2007 - 9 a.m. -- Open Meeting
 Holiday Inn Select, 2801 Plank Road, Fredericksburg, Virginia. ☎

† **March 29, 2007 - 9:30 a.m.** -- Open Meeting
 Courtyard Marriott, 3301 Ordway Drive, Roanoke, Virginia. ☎

A special conference committee will convene informal conferences to inquire into allegations that certain practitioners of medicine or 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 sessions pursuant to the Code of Virginia. Public comment will not be received.

Contact: Renee S. Dixon, Discipline Case Manager, Department of Health Professions, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-7009, FAX (804) 662-9517, (804) 662-7197/TTY ☎, email renee.dixon@dhp.virginia.gov.

April 6, 2007 - Public comment 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 set requirements for mixing, diluting or reconstituting sterile drug products by physicians or persons under their supervision.

Statutory Authority: §§ 54.1-2400 and 54.1-3401 of the Code of Virginia.

Public comments may be submitted until April 6, 2007, to William L. Harp, M.D., Executive Director, Board of Medicine, 6603 West Broad Street, Richmond, VA 23230.

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

April 6, 2007 - Public comment 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 eliminate the requirement that 15 of the 30 hours of Type I continuing education be face-to-face.

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

Public comments may be submitted until April 6, 2007, to William L. Harp, M.D., Executive Director, Board of Medicine, 6603 West Broad Street, Richmond, VA 23230.

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

April 6, 2007 - Public comment 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 waive the board's continuing

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education requirements for persons practicing solely as medical examiners.

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

Public comments may be submitted until April 6, 2007, to William L. Harp, M.D., Executive Director, Board of Medicine, Department of Health Professions, 6603 West Broad Street, Richmond, VA 23230.

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

April 6, 2007 - Public comment 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 require that applicants who sat for the United States Medical Licensing Examination (USMLE) must pass Steps 1, 2, and 3 within a 10-year period, unless the applicant is board certified in a specialty. The current requirement is passage within a seven-year period except for "good cause shown."

Statutory Authority: §§ 54.1-2400 and 54.1-2930 of the Code of Virginia.

Public comments may be submitted until April 6, 2007, to William L. Harp, M.D., Executive Director, Board of Medicine, 6603 West Broad Street, Richmond, VA 23230.

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

April 6, 2007 - Public comment 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 Type 1 (verifiable) hours of chiropractic continuing education must be clinical hours that are approved by a college or university accredited by the Council on Chiropractic Education or any other organization approved by the board.

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

Public comments may be submitted until April 6, 2007, to William L. Harp, M.D., Executive Director, Board of Medicine, 6603 West Broad Street, Richmond, VA 23230.

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

April 6, 2007 - Public comment 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 clarify requirements for evidence of competency to return to active practice for applicants for reinstatement or reactivation.

Statutory Authority: §§ 54.1-2400 and 54.1-2954.1 of the Code of Virginia.

Public comments may be submitted until April 6, 2007, to William L. Harp, M.D., Executive Director, Board of Medicine, 6603 West Broad Street, Richmond, VA 23230.

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

April 6, 2007 - 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 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 ☎, email william.harp@dhp.virginia.gov.

April 6, 2007 - Public comment 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 85-120, Regulations**

Governing the Licensure of Athletic Trainers. The purpose of the proposed action is to specify the supervisory responsibility for a provisional licensee should be daily and on site.


Statutory Authority: §§ 54.1-2400 and 54.1-2957.4 of the Code of Virginia.


Public comments may be submitted until April 6, 2007, to William L. Harp, M.D., Executive Director, Board of Medicine, 6603 West Broad Street, Richmond, VA 23230.

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


May 18, 2007 - 8:30 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room, Richmond, Virginia. 

A meeting of the Legislative Committee to consider regulatory matters as 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, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY , email william.harp@dhp.virginia.gov.

May 18, 2007 - 1:30 p.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 2, Richmond, Virginia. 

The Credentials Committee will meet to consider applicants for licensure and other matters of the board. 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 , email william.harp@dhp.virginia.gov.

Advisory Board on Midwifery

† March 9, 2007 - 10 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 regulations of midwifery. Public comment on agenda items will be received at the beginning of the meeting.


Contact: Colanthia Morton Opher, Operations Manager, Advisory Board on Midwifery, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804)

662-9908, FAX (804) 662-9943, (804) 662-7197/TTY , email coco.morton@dhp.virginia.gov.

Advisory Board on Occupational Therapy

† June 5, 2007 - 10 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 regulations of occupational therapy. 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 , email william.harp@dhp.virginia.gov.


Advisory Board on Respiratory Care

† June 5, 2007 - 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 regulations of respiratory care. 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 , email william.harp@dhp.virginia.gov.

MOTOR VEHICLE DEALER BOARD

† March 12, 2007 - 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 five to 45 minutes following Transaction Recovery Fund

NOTE: 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.

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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, email dboard@mvdv.virginia.gov.

DEPARTMENT OF MOTOR VEHICLES

Motorcycle Advisory Council

† **March 15, 2007 - 10 a.m.** -- Open Meeting
Department of Motor Vehicles, 2300 West Broad Street
Richmond, Virginia.

A make-up meeting for the February 13th cancelled meeting.

Contact: Audrey Odum, Management Analyst, Department of Motor Vehicles, P.O. Box 27412, Richmond, VA 23269-0001, telephone (804) 367-8140, FAX (804) 367-6631, toll-free (800) 272-9268, (800) 272-9268/TTY ☎, email audrey.odum@dmv.virginia.gov.

VIRGINIA MUSEUM OF FINE ARTS

March 6, 2007 - 8 a.m. -- Open Meeting

April 5, 2007 - 8 a.m. -- Open Meeting

May 1, 2007 - 8 a.m. -- Open Meeting

Virginia Museum of Fine Arts, 200 North Boulevard, The Pauley Center, Dining Room, Richmond, Virginia. ♿

A meeting for staff to update the Executive Committee. Public comment will not be received.

Contact: Suzanne Broyles, Secretary of the Museum, Virginia Museum of Fine Arts, 200 N. Boulevard, Richmond, VA 23220, telephone (804) 340-1503, FAX (804) 340-1502, (804) 340-1401/TTY ☎, email suzanne.broyles@vmfa.museum.

March 6, 2007 - 9:30 a.m. -- Open Meeting

Virginia Museum of Fine Arts, Pauley Center 2, 200 North Boulevard, Richmond, Virginia. ♿

A meeting of the Nominating and Governance Committee for staff to update the committee in closed session. Public comment will not be received.

Contact: Suzanne Broyles, Virginia Museum of Fine Arts, 200 N. Boulevard, Richmond, VA 23220, telephone (804) 340-1503, FAX (804) 340-1502, email suzanne.broyles@vmfa.museum.

March 6, 2007 - 5 p.m. -- Open Meeting

May 9, 2007 - 2 p.m. -- Open Meeting

Virginia Museum of Fine Arts, Pauley Center 2, 200 North Boulevard, Richmond, Virginia. ♿

A meeting of the Marketing and Branding Committee for staff to update the trustees. Public comment will not be received.

Contact: Suzanne Broyles, Virginia Museum of Fine Arts, 200 N. Boulevard, Richmond, VA 23220, telephone (804) 340-1503, email suzanne.broyles@vmfa.museum.

VIRGINIA COMMISSION FOR NATIONAL AND COMMUNITY SERVICE

April 11, 2007 - 3 p.m. -- Open Meeting

Holiday Inn Select Koger South, 1021 Koger Center Boulevard, Richmond, Virginia.

A regular business meeting of the commission.

Contact: Susan Patton, Virginia Commission for National and Community Service, 7 N. 8th St., Richmond, VA 23219, telephone (804) 726-7065, FAX (804) 726-7024, toll-free (800) 638-3839, (804) 828-1120/TTY ☎, email susan.c.patton@dss.virginia.gov.

BOARD OF NURSING

March 6, 2007 - 9 a.m. -- Open Meeting

March 8, 2007 - 9 a.m. -- Open Meeting

March 28, 2007 - 9 a.m. -- Open Meeting

March 30, 2007 - 9 a.m. -- Open Meeting

April 10, 2007 - 9 a.m. -- Open Meeting

April 13, 2007 - 9 a.m. -- Open Meeting

April 17, 2007 - 9 a.m. -- Open Meeting

April 19, 2007 - 9 a.m. -- Open Meeting

April 24, 2007 - 9 a.m. -- Open Meeting

April 26, 2007 - 9 a.m. -- Open Meeting

May 8, 2007 - 9 a.m. -- CANCELED

May 11, 2007 - 9 a.m. -- CANCELED

† **May 31, 2007 - 9 a.m.** -- Open Meeting

† **June 4, 2007 - 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 ☎, email nursebd@dhp.virginia.gov.

March 19, 2007 - 9 a.m. -- Open Meeting

May 14, 2007 - 9 a.m. -- Open Meeting


Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 2, Richmond, Virginia. 

A panel will conduct informal conferences with licensees and/or certificate holders. A formal hearing may also be held. Public comment will not be received.


Contact: Jay P. Douglas, RN, MSM, CSAS, 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 , email nursebd.@dhp.virginia.gov.

March 20, 2007 - 9 a.m. -- Open Meeting


May 15, 2007 - 9 a.m. -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. 

A general business meeting to include receipt of 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) 662-9949, FAX (804) 662-9512, (804) 662-7197/TTY , email jay.douglas@dhp.virginia.gov.


March 20, 2007 - 11:30 a.m. -- Public Hearing

Department of Health Professions, 6603 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. 

April 6, 2007 - Public comment 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 90-20, Regulations Governing the Practice of Nursing**. The purpose of the proposed action is to implement provisions for issuance of an inactive license or reactivation of such a license.

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

Public comments may be submitted until April 6, 2007, to Jay P. Douglas, R.N., Executive Director, Board of Nursing, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9949, FAX (804) 662-9512, (804) 662-7197/TTY , email jay.douglas@dhp.virginia.gov.

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


March 20, 2007 - 11:30 a.m. -- Public Hearing

Department of Health Professions, 6603 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. 

April 6, 2007 - Public comment 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 90-20, Regulations Governing the Practice of Nursing**. The purpose of the proposed action is to revise the regulation relating to nursing education to provide more specificity to the requirements for nursing education programs, add an application fee for program approval, set a minimum NCLEX passage rate for approved programs and a minimum number of clinical hours, and clarify the responsibilities in the clinical practice of students. Additional grounds for disciplinary action are proposed to address issues relating to unprofessional conduct for nurses. The amendments also increase the number of hours for an approved medication administration program from 24 to 32.

Statutory Authority: §§ 54.1-2400 and 54.1-3005 of the Code of Virginia.

Public comments may be submitted until April 6, 2007, to Jay P. Douglas, R.N., Executive Director, Board of Nursing, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9949, FAX (804) 662-9512, (804) 662-7197/TTY , email jay.douglas@dhp.virginia.gov.


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

March 21, 2007 - 9 a.m. -- Open Meeting


March 22, 2007 - 9 a.m. -- Open Meeting

May 16, 2007 - 9 a.m. -- Open Meeting

May 17, 2007 - 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 of Nursing will conduct formal hearings with licensees and/or certificate holders. Public comment will not be received.


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) 662-9949, FAX (804) 662-9512, (804) 662-7197/TTY , email jay.douglas@dhp.virginia.gov.

Calendar of Events

OLD DOMINION UNIVERSITY

March 19, 2007 - Noon -- Open Meeting


† **May 21, 2007 - Noon** -- Open Meeting

Old Dominion University, Webb University Center, Norfolk, Virginia. 

A regular meeting of the Executive Committee of the Board of Visitors to discuss business of the board and the institution as determined by the rector and the president. Public comment will not be received by the board.

Contact: Donna Meeks, Executive Secretary to the Board of Visitors, Old Dominion University, 204 Koch Hall, Norfolk, VA 23529, telephone (757) 683-3072, FAX (757) 683-5679, email dmeeks@odu.edu.

April 6, 2007 - 1:30 p.m. -- Open Meeting


Webb University Center, Old Dominion University, Norfolk, Virginia. 

A regular meeting of the Board of Visitors to discuss business of the board and the institution as determined by the rector and the president. Public comment will not be received by the board.


Contact: Donna Meeks, Executive Secretary to the Board of Visitors, Old Dominion University, 204 Koch Hall, Old Dominion University, Norfolk, VA 23529, telephone (757) 683-3072, FAX (757) 683-5679, email dmeeks@odu.edu.

BOARD FOR OPTICIANS

April 6, 2007 - 9:30 a.m. -- Open Meeting


Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. 

A general business meeting including consideration of regulatory issues as may be presented on the agenda. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Public comment will be heard at the beginning of the meeting. Person desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.


Contact: William H. Ferguson, II, Executive Director, Board for Opticians, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-6295, (804) 367-9753/TTY , email opticians@dpor.virginia.gov.

BOARD OF OPTOMETRY


† **March 15, 2007 - 8:45 a.m.** -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Room 4, Richmond, Virginia. 


Informal conference hearings. This is a public meeting; however, public comment will not be received.

Contact: Elizabeth A. Carter, Ph.D., Executive Director, Board of Optometry, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9910, FAX (804) 662-7098, (804) 662-7197/TTY , email elizabeth.carter@dhp.virginia.gov.

† **March 15, 2007 - 10 a.m.** -- Open Meeting

Alcoa Building, 6603 West Broad Street, 5th Floor, Room 4, Richmond, Virginia. 


A meeting to receive a Continuing Education Committee report, adopt CE Notice of Intended Regulatory Action, Fast Track of Public Participation Guidelines Amendments, Contact Lens Regulations, CPT Codes, Council on Endorsed Licensure Mobility for Optometrists (CELMO) and OE Tracker, Sanction Reference Study Update and conduct other general board business as required. Public comment will be received at the beginning of the meeting.

Contact: Elizabeth A. Carter, Ph.D., Executive Director, Board of Optometry, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9910, FAX (804) 662-7098, (804) 662-7197/TTY , email elizabeth.carter@dhp.virginia.gov.

VIRGINIA OUTDOORS FOUNDATION

† **March 7, 2007 - 1 p.m.** -- Open Meeting

† **March 8, 2007 - 9 a.m.** -- Open Meeting


Department of Forestry, 900 Natural Resources Drive, 2nd Floor, Board Room, Charlottesville, Virginia. 

A quarterly meeting for policy and easement consideration. Public comment will be received.


Contact: Trisha Cleary, Executive Assistant, Department of Conservation and Recreation, 101 N. 14th St., 17th Floor, Richmond, VA 23219, telephone (804) 225-2147, FAX (804) 371-4810, email tcleary@vofonline.org.

VIRGINIA BOARD FOR PEOPLE WITH DISABILITIES


March 15, 2007 - 10 a.m. -- Open Meeting

Wyndham Hotel, 4700 South Laburnum Avenue, 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) 786-9368, FAX (804) 786-1118, toll-free (800) 846-4464, (804) 786-0016/TTY , email sandra.smalls@vbpd.virginia.gov.

March 16, 2007 - 8:30 a.m. -- Open Meeting

Wyndham Hotel, 4700 South Laburnum Avenue, Richmond, Virginia. 

A quarterly board meeting. The following committees will also meet: Community Integration, Community Living and Transportation, Education, and Employment.

Contact: Sandra Smalls, Executive Assistant, Virginia Board for People with Disabilities, 202 N. 9th St., 9th Floor, Richmond, VA 23219, telephone (804) 786-9368, FAX (804) 786-1118, toll-free (800) 846-4464, (804) 786-0016/TTY ☎, email sandra.smalls@vbpd.virginia.gov.

BOARDS OF PHARMACY AND MEDICINE

April 6, 2007 - Public comment 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 110-40, Regulations Governing Collaborative Practice Agreements**. The purpose of the proposed action is to amend requirements for collaborative practice agreements between doctors of medicine, osteopathy or podiatry and pharmacists directly involved in patient care in order to clarify certain provisions and modify others that are unnecessarily cumbersome or burdensome.

Statutory Authority: §§ 54.1-2400 and 54.1-3300.1 of the Code of Virginia.

Public comments may be submitted until April 6, 2007, to Elizabeth Scott Russell, Executive Director, Board of Pharmacy, 6603 West Broad Street, Richmond, VA 23230.

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

BOARD OF PHARMACY

† **March 7, 2007 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia. 🗺

A meeting of the Ad Hoc Committee on Periodic Review of Regulations to conduct periodic review of the regulations. Public comment will be received.

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 ☎, email scotti.russell@dhp.virginia.gov.

† **March 8, 2007 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Room 1, Richmond, Virginia. 🗺

A meeting of the Special Conference Committee to discuss disciplinary matters. This is a public meeting, however, public comment will not be received.

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 ☎, email scotti.russell@dhp.virginia.gov.

March 14, 2007 - 9:30 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia 23230 🗺

A panel will discuss disciplinary matters. No public comments will be received.

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 ☎, email scotti.russell@dhp.virginia.gov.

BOARD OF PHYSICAL THERAPY

March 9, 2007 - 9 a.m. -- Open Meeting
Department of Health Professions, Alcoa Building, 6603 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia 🗺

A meeting of the Regulatory/Legislative Committee to discuss the laws and regulations pertaining to the practice of physical therapy.

Contact: Lisa R. Hahn, Executive Director, Board of Physical Therapy, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9924, FAX (804) 662-9523, (804) 662-7197/TTY ☎, email lisa.hahn@dhp.virginia.gov.

March 9, 2007 - 2 p.m. -- CANCELED
Department of Health Professions, 6603 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia. 🗺

A meeting of the Special Conference Committee has been canceled.

Contact: Lisa R. Hahn, Executive Director, Board of Physical Therapy, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9924, FAX (804) 662-9523, (804) 662-7197/TTY ☎, email lisa.hahn@dhp.virginia.gov.

April 27, 2007 - 9 a.m. -- Open Meeting
Department of Health Professions, Alcoa Building, 6603 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia 🗺

A meeting to discuss general business matters including consideration of regulatory issues as may be presented on the agenda. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Public comment will be heard at the beginning of the meeting. Person desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at (804) 662-9924 at least 10 days prior to this meeting so that suitable

Calendar of Events

arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Lisa R. Hahn, Executive Director, Board of Physical Therapy, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9924, FAX (804) 662-9523, (804) 662-7197/TTY ☎, email lisa.hahn@dhp.virginia.gov.

April 27, 2007 - 1 p.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia. ♿

A formal hearing to inquire into allegations that a licensee may have violated certain laws and regulations governing the practice of physical therapy. The board will meet in open and closed sessions pursuant to § 2.2-3711 A (7), (15), and/or (28) of the Code of Virginia. Public comment will not be received.

Contact: Lisa R. Hahn, Executive Director, Board of Physical Therapy, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9924, FAX (804) 662-9523, (804) 662-7197/TTY ☎, email lisa.hahn@dhp.virginia.gov.

POLYGRAPH EXAMINERS ADVISORY BOARD

April 5, 2007 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, 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 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: Kevin Hoeft, Regulatory Boards Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2785, FAX (804) 367-0674, (804) 367-9753/TTY ☎, email kevin.hoeft@dpor.virginia.gov.

BOARD FOR PROFESSIONAL AND OCCUPATIONAL REGULATION

March 5, 2007 - 10 a.m. -- Open Meeting
† **June 4, 2007 - 10 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 5th Floor, Richmond, Virginia. ♿

A regular board meeting.

Contact: Mark N. Courtney, Executive Director, Board for Professional and Occupational Regulation, 3600 W. Broad

St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, email mark.courtney@dpor.virginia.gov.

BOARD OF PSYCHOLOGY

March 5, 2007 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. ♿

Informal conferences held pursuant to § 2.2-4019 of the Code of Virginia.

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 ☎, email evelyn.brown@dhp.virginia.gov.

April 10, 2007 - 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 ☎, email evelyn.brown@dhp.virginia.gov.

VIRGINIA PUBLIC GUARDIAN AND CONSERVATOR ADVISORY BOARD

March 22, 2007 - 10 a.m. -- Open Meeting
Department for the Aging, 1610 Forest Avenue, Suite 100, Richmond, Virginia. ♿

An Executive Committee meeting.

Contact: Faye D. Cates, MSSW, Guardianship Program Specialist, Department for the Aging, 1610 Forest Ave., Suite 100, Richmond, VA 23229, telephone (804) 662-9310, FAX (804) 662-9354, toll-free (800) 552-3402, (804) 662-9333/TTY ☎, email faye.cates@vda.virginia.gov.

REAL ESTATE APPRAISER BOARD

† **March 16, 2007 - 1 p.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Room 453, Richmond, Virginia. ♿

An informal fact-finding conference.

Contact: Christine Martine, Executive Director, Real Estate Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-6946, (804) 367-9753/TTY ☎, email reboard@dpor.virginia.gov.

May 1, 2007 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, 4th Floor, Richmond, Virginia.

A meeting to discuss board business.

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 ☎, email reboard@dpor.virginia.gov.

REAL ESTATE BOARD

† **March 21, 2007 - 9 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, 4th Floor, Room 453, Richmond,
Virginia. ♿

Informal fact-finding conferences.

Contact: Christine Martine, Executive Director, Real Estate Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-6946, (804) 367-9753/TTY ☎, email reboard@dpor.virginia.gov.

March 21, 2007 - 3 p.m. -- Open Meeting

May 9, 2007 - 3 p.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, 5th Floor, Richmond, Virginia.

A meeting of the Education Committee to discuss education issues.

Contact: Christine Martine, Executive Director, Real Estate Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-6946, (804) 367-9753/TTY ☎, email reboard@dpor.virginia.gov.

March 22, 2007 - 9 a.m. -- Open Meeting

May 10, 2007 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, 4th Floor, Richmond, Virginia.

A meeting to discuss board business.

Contact: Christine Martine, Executive Director, Real Estate Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-6946, (804) 367-9753/TTY ☎, email reboard@dpor.virginia.gov.

REFORESTATION OF TIMBERLANDS BOARD

March 22, 2007 - 9:30 a.m. -- Open Meeting
Holiday Lake 4-H Center, Appomattox Virginia.

A general business meeting and budget discussion.

Contact: Todd Groh, Assistant Director, Forest Management, Department of Forestry, 900 Natural Resources Dr., #800, Charlottesville, VA 22903, telephone (434) 220-9044, FAX (434) 296-2369, email todd.groh@dof.virginia.gov.

DEPARTMENT OF REHABILITATIVE SERVICES

State Rehabilitation Council

March 12, 2007 - 9 a.m. -- Open Meeting
Sheraton Norfolk Waterside, 777 Waterside Drive, Norfolk
Virginia. ♿

A quarterly meeting. Interpreters and materials in alternate format will be provided upon prior requests. Public comments will be received at approximately 9:15 a.m.

Contact: Barbara Tyson, Administrative Support Staff, Department of Rehabilitative Services, 8004 Franklin Farms Dr., Richmond, VA 23229, telephone (804) 662-7010, FAX (804) 662-7644, toll-free (800) 552-5019, (804) 662-9040/TTY ☎, email Barbara.Tyson@drs.virginia.gov.

Virginia Brain Injury Council

April 27, 2007 - 1 p.m. -- Open Meeting
8004 Franklin Farms Drive, Conference Room 101/103/105,
Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A quarterly meeting. Materials provided in alternate format upon request. Public comment will be received at approximately 1:15 p.m.

Contact: Kristie Chamberlain, BI/SCI Services Unit, Department of Rehabilitative Services, 8004 Franklin Farms Dr., P.O. Box K-300, Richmond, VA 23229, telephone (804) 662-7154, FAX (804) 662-7663, toll-free (800) 552-5019, (800) 464-9950/TTY ☎, email Kristie.chamberlain@drs.virginia.gov.

VIRGINIA RESEARCH AND TECHNOLOGY ADVISORY COMMISSION

March 20, 2007 - 1 p.m. -- Open Meeting
Northern Virginia.

† **May 22, 2007 - 1 p.m.** -- Open Meeting
Blacksburg, Virginia.

A quarterly meeting. Specific time and location to be determined.

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, email nvorona@cit.org.

VIRGINIA RESOURCES AUTHORITY


† **March 13, 2007 - 9 a.m.** -- Open Meeting
Virginia Resources Authority, 1111 East Main Street, 24th
Floor Boardroom, Richmond, Virginia. ♿

A regular business meeting.

Calendar of Events

Contact: Dr. Sheryl D. Bailey, Executive Director, Virginia Resources Authority, 1111 E. Main St., Suite 1920, Richmond, VA 23219, telephone (804) 644-3100, FAX (804) 644-3109, email sdean@virginiaresources.org.

VIRGINIA SMALL BUSINESS FINANCING AUTHORITY

† **March 21, 2007 - Noon** -- Open Meeting
Department of Business Assistance, 707 East Main Street, 3rd Floor Board Room, Richmond, Virginia. 

A meeting to review applications for loans submitted to the authority for approval and to conduct general business of the board. The meeting time is subject to change depending upon the board's agenda.

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, email scott.parsons@dba.virginia.gov.

STATE BOARD OF SOCIAL SERVICES

March 9, 2007 - 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 adopt 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 home providers approved by local departments of social services. The new regulation will ensure compliance with changes to federal and state laws and regulations regarding resource, foster and adoptive family homes.

Statutory Authority: §§ 63.2-217 and 63.2-901.1 of the Code of Virginia.

Contact: Tamara Temoney, Foster Care Policy Specialist, Department of Social Services, 7 N. 8th St., Richmond, VA 23219, telephone (804) 726-7538, FAX (804) 726-7499 or email tamara.temoney@dss.virginia.gov.


March 9, 2007 - 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 repeal regulations entitled **22 VAC 40-770, Standards and Regulations for Agency Approved Providers**, and adopt regulations entitled **22 VAC 40-771, Adult Services Approved Providers**. The purpose of the proposed action is to repeal 22 VAC 40-770 and establish a

new regulation, 22 VAC 40-771, Adult Services Approved Providers, to address standards for providers contracted through local department adult services programs.

Statutory Authority: §§ 63.2-217 and 63.2-1600 of the Code of Virginia.


Contact: Gail Nardi, Adult Services/Adult Protective Services Program Manager, Department of Social Services, 7 N. 8th St., 4th Floor, Richmond, VA 23219, telephone (804) 726-7537, FAX (804) 726-7895 or email gail.nardi@dss.virginia.gov.

† **March 9, 2007 - 10 a.m.** -- Open Meeting
Department of Social Services, 7 North 8th Street, Richmond, Virginia. 

A meeting of the Adoption Subsidy Workgroup to study issues regarding the State Adoption Assistance Program. The group will identify issues, analyze data, and make recommendations for changes to code, policy and procedures.

Contact: Lenora Metts, Administrative Assistant, Department of Social Services, 7 N. 8th St., Richmond, VA 23219, telephone (804) 726-7572, FAX (804) 726-7895, email lenora.metts@dss.virginia.gov.

† **April 18, 2007 - 9 a.m.** -- Open Meeting

† **April 19, 2007 - 9 a.m.** -- Open Meeting
Pittsylvania County Community Action One Stop Center, 707 Piney Forest Road Shopping Center, Route 29, Danville, Virginia. 


A regular meeting.

Contact: Pat Rengnerth, Board Liaison, Office of Legislative and Regulatory Affairs, Department of Social Services, 7 N. 8th St., Room 5214, Richmond, VA 23219, telephone (804) 726-7905, FAX (804) 726-7906, (800) 828-1120/TTY , email patricia.rengnerth@dss.virginia.gov.

BOARD OF SOCIAL WORK

† **March 16, 2007 - 10 a.m.** -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 


A meeting of the HB 1146 Committee to discuss House Bill 1146 of the 2006 Session of the General Assembly, which directs the board to evaluate the education and training requirements for social workers.

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 , email evelyn.brown@dhp.virginia.gov.

April 20, 2006 - 9:30 a.m. -- CANCELED


Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 

A regular business meeting has 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 , email evelyn.brown@dhp.virginia.gov.

BOARD FOR PROFESSIONAL SOIL SCIENTISTS AND WETLAND PROFESSIONALS

April 17, 2007 - 10 a.m. -- Open Meeting


Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, 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 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 Professional Soil Scientists and Wetland Professionals, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-0795, (804) 367-9753/TTY , email soilscientist@dpor.virginia.gov.

COMMONWEALTH TRANSPORTATION BOARD

† March 21, 2007 - 5 p.m. -- Open Meeting

Prince George County Administration Bldg. Board of Supervisor's Meeting Room 6602 Court Drive Prince George, Virginia.2387 

A meeting to evaluate the Route 460 Public-Private Transportation Act (PPTA) proposal. In September 2006, three firms submitted proposals to build a new Route 460 using private investments, user fees, including tolls and other innovative financing methods. The firms were Cintra, Itinere and 460 Virginia Corridor Partners (VCP). An independent review panel made up of citizens, Commonwealth Transportation Board (CTB) members, state government officials and representatives from planning organizations along the Route 460 corridor will make recommendations to the Commissioner and Commonwealth Transportation Board on the feasibility of these proposals. Proposals will be evaluated according to criteria established in the Code of Virginia and guidelines approved by the CTB. All meetings will be open to the public and held in the corridor. For more information on the PPTA process and guidelines, and to read the proposals,

visit www.VirginiaDOT.org/projects/ppta-US-Route460.asp.

Contact: Donna Purcell Mayes, Acting Chief of Communications/Assistant Director for Outreach, Department of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-2717, FAX (804) 786-6250, email donna.mayes@vdot.virginia.gov.

TREASURY BOARD

March 21, 2007 - 9 a.m. -- Open Meeting**April 18, 2007 - 9 a.m. -- Open Meeting****May 16, 2007 - 9 a.m.-- Open Meeting**

James Monroe Building, 101 North 14th Street, 3rd Floor, Richmond, Virginia.


A regular meeting.

Contact: Kathi B. Searce, Secretary to the Board, Treasury Board, James Monroe Bldg., 101 N. 14th St., 3rd Floor, Richmond, VA 23219, telephone (804) 371-6011, email kathi.searce@trs.virginia.gov.

DEPARTMENT OF VETERANS SERVICES

Board of Veterans Services

March 19, 2007 - 11:30 a.m. -- Open Meeting

American Legion, 1708 Commonwealth Avenue, Richmond, Virginia. 

Pre-registered public comments for the first public comment period may be made through Rhonda Earman.


Contact: Rhonda Earman, Special Assistant to the Commissioner, Department of Veterans Services, 900 E. Main St., Richmond, VA 23219, telephone (804) 786-0286, email rhonda.earman@dvs.virginia.gov.

BOARD OF VETERINARY MEDICINE


† March 8, 2007 - 9 a.m. -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 

Informal hearings (disciplinary hearings).

Contact: Elizabeth Young, Executive Director, Board of Veterinary Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9915, FAX (804) 662-7098, (804) 662-7197/TTY , email elizabeth.young@dhp.virginia.gov.

† March 8, 2007 - 12:30 p.m. -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 

A meeting of the Legislative/Regulatory Review Committee to continue periodic review of the regulations governing the practice of veterinary medicine

Calendar of Events

Contact: Elizabeth Young, Executive Director, Board of Veterinary Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9915, FAX (804) 662-7098, (804) 662-7197/TTY ☎, email elizabeth.young@dhp.virginia.gov.

STATE WATER CONTROL BOARD

† **March 10, 2007 - 10 a.m.** -- Open Meeting
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. 📍

An advisory committee meeting to assist in the development of appropriate and necessary permitting requirements for discharges of wastewater from water treatment plant.

Contact: George Cosby, State Water Control Board, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4067, FAX (804) 698-4032, email gecosby@deq.virginia.gov.

March 21, 2007 - 10 a.m. -- Open Meeting

April 18, 2007 - 10 a.m. -- Open Meeting

May 9, 2007 - 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 to be established to assist in the development of amendments to the water quality standards for the triennial review. The notice of intent appeared in the Virginia Register of Regulations on September 18, 2006.

Contact: Eleanore M. Daub, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4111, FAX (804) 698-4116, email emdaub@deq.virginia.gov.

March 27, 2007 - 5 p.m. -- Open Meeting

Culpeper County Board of Supervisors Meeting Room, 302 North Main Street, Culpeper, Virginia. 📍

A public meeting to receive comments on the notice of intended regulatory action to amend the Water Quality Standards regulation (9 VAC 25-260) to designate portions of the Hazel River as exceptional state resource waters (Tier III). The notice of intent will be published in the Virginia Register of Regulations on February 19, 2007. The public comment period begins on February 19, 2007, and ends on April 2, 2007.

Contact: David C. Whitehurst, Department of Environmental Quality, 629 E. Main St., P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4121, FAX (804) 698-4116, email dcwhitehurst@deq.virginia.gov.

April 3, 2007 - 1:30 p.m. -- Public Hearing
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. 📍

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Water Control Board intends to amend regulations entitled **9 VAC 25-720, Water Quality Management Planning Regulation**. The purpose of the proposed action is to amend the total phosphorus allocation for Tyson Foods - Glen Allen facility.

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

Public comments may be submitted until April 20, 2007.

Contact: John M. Kennedy, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4312, FAX (804) 698-4116, email jmkennedy@deq.virginia.gov.

BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

March 7, 2007 - 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 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: David E. Dick, Executive Director, Board for Waterworks and Wastewater Works Operators, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595, (804) 367-9753/TTY ☎, email waterwasteoper@dpor.virginia.gov.

INDEPENDENT

VIRGINIA OFFICE FOR PROTECTION AND ADVOCACY


April 24, 2007 - 9 a.m. -- Open Meeting

Location to be determined. 📍 (Interpreter for the deaf provided upon request)


A meeting of the Board of Directors. Updated information will be posted as soon as it is available.

Contact: Lisa Shehi, Executive 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 ☎, email lisa.shehi@vopa.virginia.gov.


Disability Advisory Council

March 21, 2007 - 10 a.m. -- Open Meeting
1910 Byrd Avenue, Suite 5, Richmond, Virginia. 
(Interpreter for the deaf provided upon request)


A regular meeting. Public comment is welcome and will be received shortly after 10 a.m. Public comment will also be accepted by telephone. If you wish to provide public comments via telephone call Tracy Manley, Administrative Assistant at 1-800-552-3962 (Voice/TTY) or via email at tracy.manley@vopa.virginia.gov no later than March 7, 2007. Ms. Manley will take your name and phone number and you will be telephoned during the public comment period. For further information, directions to the meeting, or interpreter services or other accommodations, please contact Ms. Manley no later than March 7, 2007.


Contact: Tracy Manley, Administrative Assistant, Virginia Office for Protection and Advocacy, 1910 Byrd Ave., Richmond, VA 23230, telephone (804) 225-2042, FAX (804) 662-7431, toll-free (800) 552-3962, (804) 225-2042/TTY , email tracy.manley@vopa.virginia.gov.

VIRGINIA RETIREMENT SYSTEM


April 10, 2007 - Noon -- Open Meeting
Location to be determined. 


A meeting of the Optional Retirement Plan for Higher Education Advisory Committee. No public comment will be received at the meeting.

Contact: Patty Atkins-Smith, Legislative Liaison and Policy Analyst, Virginia Retirement System, 1200 E. Main St., Richmond, VA 23219, telephone (804) 344-3123, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY , email psmith@varetire.org.


April 11, 2007 - 1:30 p.m. -- Open Meeting
Virginia Retirement System Headquarters, 1200 East Main Street, Richmond, Virginia. 


A regular meeting of the Benefits and Actuarial Committee. No public comment will be received at the meeting.

Contact: LaShaunda King, Executive Assistant, Virginia Retirement System, 1200 E. Main St., Richmond, VA 23219, telephone (804) 344-3119, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY , email Lking@varetire.org.


April 12, 2007 - 1 p.m. -- Open Meeting
Virginia Retirement System, 1111 East Main Street, 3rd Floor Conference Room, Richmond, Virginia. 

A regular meeting of the Board of Trustees. No public comment will be received at the meeting.

Contact: LaShaunda King, Executive Assistant, Virginia Retirement System, 1200 E. Main St., Richmond, VA 23219, telephone (804) 344-3119, FAX (804) 786-1541, (804) 344-3190/TTY , email lking@varetire.org.

May 9, 2007 - 10 a.m. -- Open Meeting
Virginia Retirement System, 1111 East Main Street, 3rd Floor Conference Room, Richmond, Virginia. 

A regular meeting of the Investment Advisory Committee. No public comment will be received at the meeting.

Contact: Linda Ritchey, Executive Assistant, Virginia Retirement System, 1111 E. Main St., Richmond, VA 23219, telephone (804) 697-6673, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY , email lritchey@varetire.org.

LEGISLATIVE

Notice

Legislative meetings held during the Session of the General Assembly are exempted from publication in the *Virginia Register of Regulations*. You may call Legislative Information at (804) 698-1500 for information on standing committee meetings or check the legislative meetings calendar on the General Assembly's website (legis.state.va.us).

CHRONOLOGICAL LIST

OPEN MEETINGS

March 5

Alcoholic Beverage Control Board
Professional and Occupational Regulation, Board for Psychology, Board of

March 6

† Air Pollution Control Board, State
- State Advisory Board on Air Pollution Contractors, Board for Environmental Quality, Department of
† Governor, Office of the
- Community Integration Advisory Commission
Museum of Fine Arts, Virginia
Nursing, Board of

March 7

Agriculture and Consumer Services, Department of
- Virginia Cotton Board
† Emergency Planning Committee, Local - Winchester
Historic Resources, Department of
- State Review and Historic Resources Board
Medicine Board of
† Outdoors Foundation, Virginia
† Pharmacy, Board of
Waterworks and Wastewater Works Operators, Board for

Calendar of Events

March 8

Child Day-Care Council
Contractors, Board for
Criminal Justice Services Board
Dentistry, Board of
Environmental Quality, Department of
Nursing, Board of
† Outdoors Foundation, Virginia
† Pharmacy, Board of
† Veterinary Medicine, Board of

March 9

Dentistry, Board of
† Medicine, Board of
- Advisory Board on Midwifery
Physical Therapy, Board of
† Social Services, Department of

March 10

† Water Control Board, State

March 12

† Barbers and Cosmetology, Board for
† Environmental Quality, Department of
Higher Education for Virginia, State Council of
† Motor Vehicle Dealer Board
Rehabilitative Services, Department of
- State Rehabilitation Council

March 13

† Environmental Quality, Department of
Funeral Directors and Embalmers, Board of
Higher Education for Virginia, State Council of
Long-Term Care Administrators, Board of
† Resources Authority, Virginia

March 14

Hearing Aid Specialists, Board for
† Medicine, Board of
Pharmacy, Board of

March 15

Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers and Landscape Architects,
Board for
Charitable Gaming Board
Conservation and Recreation, Department of
- Virginia Soil and Water Conservation Board
Design-Build/Construction Management Review Board
Environmental Quality, Department of
† Labor and Industry, Department of
- Virginia Apprenticeship Council
Manufactured Housing Board, Virginia
† Motor Vehicles, Department of
- Motorcycle Advisory Council
† Optometry, Board of
People with Disabilities, Virginia Board for

March 16

Housing and Community Development, Department of
- State Building Code Technical Review Board
People with Disabilities, Virginia Board for

† Real Estate Appraiser Board
† Social Work, Board of

March 19

Alcoholic Beverage Control Board
Education, Board of
- Advisory Board on Teacher Education and Licensure
† Environmental Quality, Department of
Library Board, State
Nursing, Board of
Old Dominion University
Veterans Services, Department of
- Board of Veterans Services

March 20

Corrections, Board of
† Environmental Quality, Department of
† Governor, Office of the
† Housing Development Authority, Virginia
Medicine, Board of
Nursing, Board of
Research and Technology Advisory Commission, Virginia

March 21

Community Colleges, State Board for
Corrections, Board of
† Medical Assistance Services, Department of
Nursing, Board of
Protection and Advocacy, Virginia Office for
- Disability Advisory Council
† Real Estate Board
† Small Business Financing Authority, Virginia
† Transportation Board, Commonwealth
Treasury Board
Water Control Board, State

March 22

Agriculture and Consumer Services, Board of
Community Colleges, State Board for
† Environmental Quality, Department of
Funeral Directors and Embalmers, Board of
Human Resources, Virginia Council on
† Medical Assistance Services, Department of
Nursing, Board of
Public Guardian and Conservator Advisory Board, Virginia
Real Estate Board
Reforestation Timberlands Board

March 23

† Dentistry, Board of
Health, Department of

March 24

† Conservation and Recreation, Department of
- Virginia Cave Board

March 26

Agriculture and Consumer Services, Department of
- Virginia Agricultural Council
† Chesapeake Bay Local Assistance Board
Governor's Healthcare Reform Commission
Housing and Community Development, Board of

March 27

Agriculture and Consumer Services, Department of
- Virginia Agricultural Council
Contractors, Board for
† Environmental Quality, Department of
Marine Resources Commission
Water Control Board, State

March 28

Compensation Board
Education, Board of
Nursing, Board of

March 29

† Agriculture and Consumer Services, Department of
- Virginia Peanut Board
† Contractors, Board for
Governor's Healthcare Reform Commission
† Medicine, Board of

March 30

Dentistry, Board of
Nursing, Board of

April 2

Alcoholic Beverage Control Board

April 3

† Agriculture and Consumer Services, Department of
- Virginia Marine Products Board
† Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers and Landscape Architects,
Board for

April 4

† Medicine, Board of

April 5

Museum of Fine Arts, Virginia
Polygraph Examiners Advisory Board

April 6

Art and Architectural Review Board
Medicine, Board of
Old Dominion University
Opticians, Board for

April 10

Nursing, Board of
Psychology, Board of
Retirement System, Virginia

April 11

Juvenile Justice, State Board of
National and Community Service, Governor's Commission
for
Retirement System, Virginia

April 12

Retirement System, Virginia

April 13

Nursing, Board of

April 16

Alcoholic Beverage Control Board

April 17

Blind and Vision Impaired, Board for the

Health, Department of
Medical Assistance Services, Department of
Nursing, Board of
Soil Scientists and Wetland Professionals, Board for

April 18

Education, Board of
Governor's Healthcare Reform Commission
Health Professions, Department of
† Social Services, State Board of
Treasury Board
Water Control Board, State

April 19

Auctioneers Board
Design-Build/Construction Management Review Board
Education, Board of
Nursing, Board of
† Social Services, State Board of

April 20

Dentistry, Board of
Education, Board of

April 23

Education, Board of
Jamestown-Yorktown Foundation

April 24

Contractors, Board for
Education, Board of
- Advisory Board on Teacher Education and Licensure
Health, Department of
Jamestown-Yorktown Foundation
† Medical Assistance Services, Department of
Nursing, Board of
Protection and Advocacy, Virginia Office for

April 25

Geology, Board for

April 26

Nursing, Board of

April 27

Dentistry, Board of
Rehabilitative Services, Department of
- Virginia Brain Injury Council
Physical Therapy, Board of

April 30

† Barbers and Cosmetology, Board for

May 1

Branch Pilots, Board for
Museum of Fine Arts, Virginia
Real Estate Appraiser Board

May 2

Branch Pilots, Board for

May 4

Art and Architectural Review Board

May 7

Alcoholic Beverage Control Board

Calendar of Events

May 8

Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers and Landscape Architects,
Board for

Chesapeake Bay Local Assistance Board
Higher Education for Virginia, State Council of
Nursing, Board of

May 9

Asbestos, Lead, and Home Inspectors, Virginia Board for
George Mason University
Museum of Fine Arts, Virginia
Real Estate Board
Retirement System, Virginia
Water Control Board, State

May 10

Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers and Landscape Architects,
Board for
† Medical Assistance Services, Department of
Real Estate Board

May 11

Dentistry, Board of
Health, Department of
Nursing, Board of

May 14

Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers and Landscape Architects,
Board for
Nursing, Board of

May 15

Corrections, Board of
Nursing, Board of

May 16

Corrections, Board of
Nursing, Board of
Treasury Board

May 17

Community Colleges, State Board for
Conservation and Recreation, Department of
- Virginia Soil and Water Conservation Board
Design-Build/Construction Management Review Board
Health, Department of
- State Emergency Medical Services Advisory Board
Nursing, Board of

May 18

Health, Department of
- State Emergency Medical Services Advisory Board
Medicine, Board of

May 21

† Alcoholic Beverage Control Board
† Old Dominion University

May 22

† Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers and Landscape Architects,
Board for
† Contractors, Board for

May 24

† Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers and Landscape Architects,
Board for
† Audiology and Speech Language Pathology, Board of

May 25

† Dentistry, Board of

May 28

† Nursing, Board of

May 30

† Education, Board of

May 31

† Nursing, Board of

June 1

† Art and Architectural Review Board

June 4

† Alcoholic Beverage Control Board
† Nursing, Board of
† Professional and Occupational Regulation, Board of

June 5

† Medicine, Board of
- Advisory Board on Occupational Therapy
- Advisory Board on Respiratory Care

PUBLIC HEARINGS

March 8

Criminal Justice Services Board

March 12

† Marine Resources Commission

March 20

Nursing, Board of

April 3

Water Control Board, State

April 17

† Contractors, Board for

April 18

† Contractors, Board for