

---

# TABLE OF CONTENTS

---

## CUMULATIVE TABLE OF VIRGINIA ADMINISTRATIVE CODE SECTIONS ADOPTED, AMENDED, OR REPEALED

Cumulative Table..... 1419

## PETITIONS FOR RULEMAKING

### TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

#### BOARD OF DENTISTRY

##### Initial Agency Notice

Regulations Governing the Practice of Dentistry and Dental  
Hygiene (18 VAC 60-20) ..... 1430

## NOTICES OF INTENDED REGULATORY ACTION

### TITLE 2. AGRICULTURE

Pesticide Control Board..... 1431

### TITLE 9. ENVIRONMENT

State Water Control Board ..... 1431

### TITLE 12. HEALTH

Department of Medical Assistance Services ..... 1432

### TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

Board of Accountancy ..... 1433

Board for Contractors ..... 1433

Fair Housing Board..... 1433

### TITLE 22. SOCIAL SERVICES

Boards of Education; Juvenile Justice; Mental Health, Mental  
Retardation and Substance Abuse Services; and Social  
Services..... 1434

## PROPOSED REGULATIONS

### TITLE 6. CRIMINAL JUSTICE AND CORRECTIONS

#### CRIMINAL JUSTICE SERVICES BOARD

Regulations for the Implementation of the Law Permitting DNA  
Analysis Upon Arrest for all Violent Felonies and Certain  
Burglaries (adding 6 VAC 20-210-10 through 6 VAC 20-210-  
110). ..... 1435

### TITLE 9. ENVIRONMENT

#### STATE WATER CONTROL BOARD

Policy for Waste Treatment and Water Quality Management  
for the Dulles Area Watershed (repealing 9 VAC 25-400-10).  
..... 1439

Sewage Treatment in the Dulles Area Watershed (adding  
9 VAC 25-401-10 through 9 VAC 25-401-50). ..... 1439

### TITLE 12. HEALTH

#### STATE BOARD OF HEALTH

Regulations Governing Eligibility Standards and Charges for  
Medical Care Services to Individuals (amending 12 VAC 5-  
200-10 through 12 VAC 5-200-50, 12 VAC 5-200-80 through  
12 VAC 5-200-190, 12 VAC 5-200-220, 12 VAC 5-200-230,  
12 VAC 5-200-270, and 12 VAC 5-200-280; repealing 12 VAC  
5-200-70 and 12 VAC 5-200-210; adding 12 VAC 5-200-105  
and 12 VAC 5-200-290). ..... 1444

Charges and Payment Requirements By Income Levels  
(repealing 12 VAC 5-210-10 and 12 VAC 5-210-20)..... 1444

### TITLE 16. LABOR AND EMPLOYMENT

#### SAFETY AND HEALTH CODES BOARD

Virginia Construction Industry General Requirements for  
Clearances, Construction of Electric Transmission and  
Distribution Lines and Equipment (adding 16 VAC 25-155-10).  
..... 1454

Federal Identical Construction Industry Standards: Subpart V--  
Power Transmission and Distribution - General Requirements  
- Clearances (repealing 16 VAC 25-175-1926.950(c)(1)). 1454

### TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

#### BOARD FOR PROFESSIONAL SOIL SCIENTISTS

Professional Soil Scientists Regulations (amending 18 VAC  
145-20-151). ..... 1458

#### BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

Board for Waterworks and Wastewater Works Operators  
Regulations (amending 18 VAC 160-20-102). ..... 1460

## FINAL REGULATIONS

### TITLE 2. AGRICULTURE

#### BOARD OF AGRICULTURE AND CONSUMER SERVICES

Rules and Regulations for Enforcement of the Virginia Pest  
Law - Cotton Boll Weevil Quarantine (amending 2 VAC 5-440-  
10 through 2 VAC 5-440-60; repealing 2 VAC 5-440-80 and  
2 VAC 5-440-90). ..... 1471

---

# Table of Contents

---

## TITLE 9. ENVIRONMENT

### **STATE AIR POLLUTION CONTROL BOARD**

General Provisions (amending 9 VAC 5-20-21). .....	1476
Existing Stationary Sources (amending 9 VAC 5-40-3260; adding 9 VAC 5-40-5700 through 9 VAC 5-40-5770, and 9 VAC 5-40-6820 through 9 VAC 5-40-7230). .....	1476
General Provisions (Rev. G02) (amending 9 VAC 5-20-206). .....	1498
General Provisions (Rev. C03) (amending 9 VAC 5-20-206). .....	1498
Existing Stationary Sources (amending 9 VAC 5-40-240, 9 VAC 5-40-310, 9 VAC 5-40-5200, and 9 VAC 5-40-5220).. .....	1498
Regulation for Emissions Trading (Rev. H02) (amending 9 VAC 5-140-550). .....	1504

### **STATE WATER CONTROL BOARD**

Underground Storage Tanks: Technical Standards and Corrective Action Requirements (amending 9 VAC 25-580-10, 9 VAC 25-580-50, 9 VAC 25-580-130, 9 VAC 25-580-270, 9 VAC 25-580-320; repealing 9 VAC 25-580-290). .....	1505
--	------

## TITLE 16. LABOR AND EMPLOYMENT

### **SAFETY AND HEALTH CODES BOARD**

Safety Standards for Fall Protection in Steel Erection, Construction Industry (adding 16 VAC 25-145-10 through 16 VAC 25-145-50). .....	1505
---	------

### **EMERGENCY REGULATIONS**

## TITLE 9. ENVIRONMENT

### **STATE AIR POLLUTION CONTROL BOARD**

Regulations for the Control of Motor Vehicle Emissions in the Northern Virginia Area (amending 9 VAC 5-91-20, 9 VAC 5-91-160, 9 VAC 5-91-180, 9 VAC 5-91-750, 9 VAC 5-91-760). .....	1507
--	------

## TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

### **FAIR HOUSING BOARD**

Fair Housing Board Certification Regulations (adding 18 VAC 62-20-10 through 18 VAC 62-20-180). .....	1515
---	------

### **GENERAL NOTICES/ERRATA**

#### **DEPARTMENT OF ENVIRONMENTAL QUALITY**

Total Maximum Daily Loads (TMDLs) to Address Multiple Impairments in the Upper Appomattox River Basin and its Tributaries .....	1523
---	------

Total Maximum Daily Load (TMDL) for Flat Creek.....	1523
Total Maximum Daily Load (TMDL) to Address a Bacteria Impairment in the Limestone Branch Watershed .....	1523
Total Maximum Daily Load (TMDL) for Long Glade Run and Mossy Creek.....	1524
Total Maximum Daily Load (TMDL) to Address a Bacteria Impairment in the Piney Run Watershed .....	1524
Notice of Availability of the Final 2004 305(b)/303(d) Water Quality Assessment Guidance Manual .....	1524

### **STATE LOTTERY DEPARTMENT**

Director's Orders.....	1525
------------------------	------

### **STATE WATER CONTROL BOARD**

Proposed Consent Special Order - Honeywell International Incorporated.....	1525
Proposed Consent Special Order - Town of Pocahontas - Wastewater Treatment Plant .....	1525
Proposed Consent Special Order - W. H. M. Corporation .....	1525

### **VIRGINIA CODE COMMISSION**

Notice to State Agencies.....	1525
Forms for Filing Material for Publication in <i>The Virginia Register of Regulations</i> .....	1525

## **ERRATA**

### **STATE BOARD OF SOCIAL SERVICES**

Regulation for Criminal Record Checks for Child Welfare Agencies (REPEAL) (22 VAC 40-190).....	1526
Background Checks for Child Welfare Agencies (22 VAC 40-191).....	1526

### **STATE WATER CONTROL BOARD**

Sewage Collection and Treatment Regulations (9 VAC 25-790.).....	1526
--	------

## **CALENDAR OF EVENTS**

### EXECUTIVE

Open Meetings and Public Hearings .....	1527
---	------

### INDEPENDENT

Open Meetings and Public Hearings. ....	1553
---	------

### LEGISLATIVE

Open Meetings and Public Hearings .....	1553
---	------

### CHRONOLOGICAL LIST

Open Meetings .....	1554
Public Hearings.....	1556

# 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 2003 VAC Supplement includes final regulations published through *Virginia Register* Volume 19, Issue 24, dated August 11, 2003). Emergency regulations, if any, are listed, followed by the designation "emer," and errata pertaining to final regulations are listed. Proposed regulations are not listed here. The table lists the sections in numerical order and shows action taken, the volume, issue and page number where the section appeared, and the effective date of the section.

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
<b>Title 1. Administration</b>			
1 VAC 55-10-10	Amended	20:5 VA.R. 454	12/17/03
1 VAC 55-10-20	Amended	20:5 VA.R. 454	12/17/03
1 VAC 55-10-30	Amended	20:5 VA.R. 454	12/17/03
1 VAC 55-20-320 emer	Amended	19:25 VA.R. 3829	10/1/03-9/30/04
<b>Title 2. Agriculture</b>			
2 VAC 5-320-10	Amended	20:10 VA.R. 1010	2/26/04
2 VAC 5-325-10 through 2 VAC 5-325-120	Added	20:9 VA.R. 886	12/15/03
2 VAC 5-360	Erratum	20:11 VA.R. 1387	--
2 VAC 5-360-10 through 2 VAC 5-360-100	Amended	20:9 VA.R. 889	2/12/04 *
2 VAC 5-360-110 through 2 VAC 5-360-140	Repealed	20:9 VA.R. 889	2/12/04 *
2 VAC 20-30	Erratum	20:1 VA.R. 39	--
<b>Title 4. Conservation and Natural Resources</b>			
4 VAC 15-30-40	Amended	19:25 VA.R. 3780	7/30/03
4 VAC 20-252-50	Amended	20:10 VA.R. 1011	1/5/04
4 VAC 20-252-55	Amended	20:10 VA.R. 1011	1/5/04
4 VAC 20-252-60	Amended	20:10 VA.R. 1011	1/5/04
4 VAC 20-252-70	Amended	20:10 VA.R. 1012	1/5/04
4 VAC 20-252-90	Amended	20:10 VA.R. 1012	1/5/04
4 VAC 20-252-100	Amended	20:10 VA.R. 1012	1/5/04
4 VAC 20-252-130	Amended	20:10 VA.R. 1012	1/5/04
4 VAC 20-252-150	Amended	20:10 VA.R. 1013	1/5/04
4 VAC 20-252-160	Amended	20:10 VA.R. 1014	1/5/04
4 VAC 20-490-35	Added	20:6 VA.R. 584	11/1/03
4 VAC 20-490-40	Amended	20:6 VA.R. 584	11/1/03
4 VAC 20-490-45	Added	20:6 VA.R. 584	11/1/03
4 VAC 20-620-30	Amended	20:4 VA.R. 342	10/15/03
4 VAC 20-620-40	Amended	20:4 VA.R. 342	10/15/03
4 VAC 20-650-10 through 4 VAC 20-650-40	Amended	20:6 VA.R. 585	11/1/03
4 VAC 20-720-20	Amended	20:6 VA.R. 585	11/1/03
4 VAC 20-720-40	Amended	20:6 VA.R. 586	11/1/03
4 VAC 20-720-40 through 4 VAC 20-720-80	Amended	20:4 VA.R. 344-346	10/8/03
4 VAC 20-720-50 through 4 VAC 20-720-90	Amended	20:6 VA.R. 587-588	11/1/03
4 VAC 20-720-40	Amended	20:10 VA.R. 1014	1/1/04
4 VAC 20-720-50	Amended	20:10 VA.R. 1015	1/1/04
4 VAC 20-720-60	Amended	20:10 VA.R. 1015	1/1/04
4 VAC 20-720-80	Amended	20:10 VA.R. 1016	1/1/04
4 VAC 20-752-20	Amended	19:25 VA.R. 3780	7/23/03
4 VAC 20-950-46	Amended	20:6 VA.R. 589	11/1/03
4 VAC 20-950-47	Amended	20:6 VA.R. 589	11/1/03

\* Effective date changed in 20:11

## Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
4 VAC 20-950-48	Amended	20:6 VA.R. 589	11/1/03
4 VAC 20-1070-10 through 4 VAC 20-1070-50	Added	19:25 VA.R. 3781	8/1/03
4 VAC 25-10-10 through 4 VAC 25-10-80	Amended	20:10 VA.R. 1016	2/26/04
4 VAC 25-31 (Forms)	Amended	20:2 VA.R. 135	--
4 VAC 25-31 (Forms)	Amended	20:5 VA.R. 487	--
4 VAC 25-130 (Forms)	Amended	20:1 VA.R. 33	--
4 VAC 25-130-700.5	Amended	20:10 VA.R. 1017	2/25/04
4 VAC 25-130-800.21	Amended	20:10 VA.R. 1017	2/25/04
<b>Title 6. Criminal Justice and Corrections</b>			
6 VAC 20-171-10	Amended	20:3 VA.R. 214	11/19/03
6 VAC 20-171-20	Amended	20:3 VA.R. 217	11/19/03
6 VAC 20-171-30	Amended	20:3 VA.R. 217	11/19/03
6 VAC 20-171-40	Repealed	20:3 VA.R. 217	11/19/03
6 VAC 20-171-50 through 6 VAC 20-171-130	Amended	20:3 VA.R. 217-221	11/19/03
6 VAC 20-171-140	Repealed	20:3 VA.R. 221	11/19/03
6 VAC 20-171-150	Repealed	20:3 VA.R. 222	11/19/03
6 VAC 20-171-170 through 6 VAC 20-171-200	Amended	20:3 VA.R. 222-223	11/19/03
6 VAC 20-171-220	Amended	20:3 VA.R. 224	11/19/03
6 VAC 20-171-230	Amended	20:3 VA.R. 225	11/19/03
6 VAC 20-171-240	Amended	20:3 VA.R. 226	11/19/03
6 VAC 20-171-250 through 6 VAC 20-171-280	Amended	20:3 VA.R. 227-229	11/19/03
6 VAC 20-171-300	Amended	20:3 VA.R. 230	11/19/03
6 VAC 20-171-310	Amended	20:3 VA.R. 231	11/19/03
6 VAC 20-171-320	Amended	20:3 VA.R. 232	11/19/03
6 VAC 20-171-325	Repealed	20:3 VA.R. 233	11/19/03
6 VAC 20-171-330	Repealed	20:3 VA.R. 233	11/19/03
6 VAC 20-171-340	Repealed	20:3 VA.R. 233	11/19/03
6 VAC 20-171-350 through 6 VAC 20-171-400	Amended	20:3 VA.R. 234-241	11/19/03
6 VAC 20-171-420	Amended	20:3 VA.R. 241	11/19/03
6 VAC 20-171-430	Amended	20:3 VA.R. 241	11/19/03
6 VAC 20-171-440	Amended	20:3 VA.R. 241	11/19/03
6 VAC 20-171-460	Amended	20:3 VA.R. 241	11/19/03
6 VAC 20-171-480	Amended	20:3 VA.R. 241	11/19/03
6 VAC 20-171-500	Amended	20:3 VA.R. 241	11/19/03
6 VAC 20-171-510	Amended	20:3 VA.R. 241	11/19/03
6 VAC 20-171-540	Amended	20:3 VA.R. 241	11/19/03
6 VAC 20-171-560	Amended	20:3 VA.R. 241	11/19/03
6 VAC 20-190	Erratum	20:8 VA.R. 850	--
6 VAC 20-190-10	Amended	20:4 VA.R. 346	12/3/03
6 VAC 20-190-40	Amended	20:4 VA.R. 347	12/3/03
6 VAC 20-190-60	Amended	20:4 VA.R. 347	12/3/03
6 VAC 20-190-90	Amended	20:4 VA.R. 347	12/3/03
6 VAC 20-190-100	Amended	20:4 VA.R. 347	12/3/03
6 VAC 20-190-120	Amended	20:4 VA.R. 347	12/3/03
6 VAC 20-190-150	Amended	20:4 VA.R. 348	12/3/03
6 VAC 20-190-160	Amended	20:4 VA.R. 348	12/3/03
6 VAC 20-190-170	Amended	20:4 VA.R. 348	12/3/03
6 VAC 20-200	Repealed	20:4 VA.R. 348	12/3/03
6 VAC 20-220-10 through 6 VAC 20-220-80	Added	20:4 VA.R. 348-350	12/3/03
6 VAC 20-230-10 through 6 VAC 20-230-99 emer	Added	20:9 VA.R. 905-915	1/12/04-1/11/05
<b>Title 7. Economic Development</b>			
7 VAC 10-20-10	Amended	20:10 VA.R. 1018	2/15/04
7 VAC 10-20-120	Amended	20:10 VA.R. 1020	2/15/04
7 VAC 10-20-300	Amended	20:10 VA.R. 1020	2/15/04

# Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
<b>Title 8. Education</b>			
8 VAC 20-70-10	Amended	20:7 VA.R. 656	1/14/04
8 VAC 20-70-30	Amended	20:7 VA.R. 657	1/14/04
8 VAC 20-70-40	Amended	20:7 VA.R. 657	1/14/04
8 VAC 20-70-70	Amended	20:7 VA.R. 657	1/14/04
8 VAC 20-70-80	Amended	20:7 VA.R. 657	1/14/04
8 VAC 20-70-100 through 8 VAC 20-70-170	Amended	20:7 VA.R. 657-658	1/14/04
8 VAC 20-70-190	Amended	20:7 VA.R. 658	1/14/04
8 VAC 20-70-200	Amended	20:7 VA.R. 658	1/14/04
8 VAC 20-70-210	Amended	20:7 VA.R. 658	1/14/04
8 VAC 20-70-220	Amended	20:7 VA.R. 658	1/14/04
8 VAC 20-70-230	Amended	20:7 VA.R. 658	1/14/04
8 VAC 20-70-235	Added	20:7 VA.R. 658	1/14/04
8 VAC 20-70-240 through 8 VAC 20-70-270	Repealed	20:7 VA.R. 658	1/14/04
8 VAC 20-70-280	Amended	20:7 VA.R. 658	1/14/04
8 VAC 20-70-290	Amended	20:7 VA.R. 659	1/14/04
8 VAC 20-70-300	Amended	20:7 VA.R. 659	1/14/04
8 VAC 20-70-340 through 8 VAC 20-70-380	Amended	20:7 VA.R. 659-660	1/14/04
8 VAC 20-70-390	Repealed	20:7 VA.R. 660	1/14/04
8 VAC 20-70-400 through 8 VAC 20-70-440	Amended	20:7 VA.R. 660	1/14/04
8 VAC 20-70-460	Amended	20:7 VA.R. 660	1/14/04
8 VAC 20-70-470	Amended	20:7 VA.R. 660	1/14/04
8 VAC 20-70-510	Amended	20:7 VA.R. 660	1/14/04
8 VAC 20-70-520	Repealed	20:7 VA.R. 660	1/14/04
8 VAC 20-70-525	Added	20:7 VA.R. 660	1/14/04
8 VAC 20-70-530 through 8 VAC 20-70-1510	Repealed	20:7 VA.R. 660	1/14/04
8 VAC 20-680-10 emer	Added	20:7 VA.R. 675	11/7/03-11/6/04
<b>Title 9. Environment</b>			
9 VAC 5-10-20	Amended	20:6 VA.R. 590	1/1/04
9 VAC 5-40	Erratum	19:25 VA.R. 3844	--
9 VAC 5-40-5800	Amended	20:8 VA.R. 808	1/29/04
9 VAC 5-40-5810	Amended	20:8 VA.R. 808	1/29/04
9 VAC 5-40-5820	Amended	20:8 VA.R. 810	1/29/04
9 VAC 5-40-5822	Amended	20:8 VA.R. 810	1/29/04
9 VAC 5-40-5824	Amended	20:8 VA.R. 811	1/29/04
9 VAC 5-40-5850	Amended	20:8 VA.R. 811	1/29/04
9 VAC 5-40-5855	Amended	20:8 VA.R. 811	1/29/04
9 VAC 5-40-5860	Amended	20:8 VA.R. 811	1/29/04
9 VAC 5-40-5870	Amended	20:8 VA.R. 811	1/29/04
9 VAC 5-40-5880	Amended	20:8 VA.R. 812	1/29/04
9 VAC 5-40-5890	Amended	20:8 VA.R. 812	1/29/04
9 VAC 5-40-5910	Amended	20:8 VA.R. 813	1/29/04
9 VAC 5-40-5920	Amended	20:8 VA.R. 813	1/29/04
9 VAC 5-140-421 emer	Added	20:11 VA.R. 1222	1/12/04-1/11/05
9 VAC 20-80-150	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-160	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-170	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-180	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-190	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-205	Added	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-210	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-240	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-250	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-260	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-270	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-280	Amended	19:25 VA.R. 3782	9/24/03

## Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
9 VAC 20-80-300	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-310	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-330	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-340	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-360	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-370	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-460	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-485	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-500	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-510	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-520	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-530	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-550	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-570	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-580	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-600	Repealed	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-620	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-640	Added	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-650	Added	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-670	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-730	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-740	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-760	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-770	Repealed	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-780	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-790	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-170-70	Added	20:3 VA.R. 242	11/19/03
9 VAC 20-170-195	Added	20:3 VA.R. 243	11/19/03
9 VAC 25-260	Erratum	19:26 VA.R. 3926	--
9 VAC 25-260	Erratum	20:11 VA.R. 1387	--
9 VAC 25-260-5 through 9 VAC 25-260-30	Amended	19:25 VA.R. 3785	2/12/04 *
9 VAC 25-260-50	Amended	19:25 VA.R. 3785	2/12/04 *
9 VAC 25-260-140	Amended	19:25 VA.R. 3785	2/12/04 *
9 VAC 25-260-150	Repealed	19:25 VA.R. 3785	2/12/04 *
9 VAC 25-260-155	Amended	20:9 VA.R. 890	2/12/04
9 VAC 25-260-170	Amended	19:25 VA.R. 3785	2/12/04 *
9 VAC 25-260-190 through 9 VAC 25-260-240	Repealed	19:25 VA.R. 3785	2/12/04 *
9 VAC 25-260-300	Amended	19:25 VA.R. 3785	2/12/04 *
9 VAC 25-260-310	Amended	19:25 VA.R. 3785	2/12/04 *
9 VAC 25-260-320	Amended	19:25 VA.R. 3785	2/12/04 *
9 VAC 25-260-340	Repealed	19:25 VA.R. 3785	2/12/04 *
9 VAC 25-260-380 through 9 VAC 25-260-450	Amended	19:25 VA.R. 3785	2/12/04 *
9 VAC 25-260-415	Added	19:25 VA.R. 3785	2/12/04 *
9 VAC 25-260-470 through 9 VAC 25-260-540	Amended	19:25 VA.R. 3785	2/12/04 *
9 VAC 25-280-10 through 9 VAC 25-280-90	Added	19:25 VA.R. 3785	2/12/04 *
9 VAC 25-790-10 through 9 VAC 25-790-1000	Added	20:9 VA.R. 891	2/12/04
<b>Title 10. Finance and Financial Institutions</b>			
10 VAC 5-200-90	Added	20:2 VA.R. 128	9/11/03
<b>Title 11. Gaming</b>			
11 VAC 10-20-410 through 11 VAC 10-20-417 emer	Added	19:26 VA.R. 3913-3919	8/13/03-8/12/04
11 VAC 10-130-77	Amended	20:4 VA.R. 350	10/14/03
11 VAC 10-150-130	Amended	20:4 VA.R. 351	11/17/03

\* Notice of effective date published in 20:9 VA.R. 890.

# Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
<b>Title 12. Health</b>			
12 VAC 5-218-10 through 12 VAC 5-218-60	Added	19:26 VA.R. 3911	10/8/03
12 VAC 5-220-200	Amended	20:2 VA.R. 129	11/5/03
12 VAC 5-400-10 through 12 VAC 5-400-90	Repealed	20:6 VA.R. 597	12/31/03
12 VAC 5-407-10 through 12 VAC 5-407-120	Added	19:26 VA.R. 3911	10/8/03
12 VAC 5-550-5	Added	19:26 VA.R. 3912	10/8/03
12 VAC 5-550-10	Repealed	19:26 VA.R. 3912	10/8/03
12 VAC 5-550-30	Amended	19:26 VA.R. 3912	10/8/03
12 VAC 5-550-40	Repealed	19:26 VA.R. 3912	10/8/03
12 VAC 5-550-70	Amended	19:26 VA.R. 3912	10/8/03
12 VAC 5-550-90 through 12 VAC 5-550-120	Amended	19:26 VA.R. 3912	10/8/03
12 VAC 5-550-125	Added	19:26 VA.R. 3912	10/8/03
12 VAC 5-550-130	Amended	19:26 VA.R. 3912	10/8/03
12 VAC 5-550-140	Amended	19:26 VA.R. 3912	10/8/03
12 VAC 5-550-150	Amended	19:26 VA.R. 3912	10/8/03
12 VAC 5-550-190	Amended	19:26 VA.R. 3912	10/8/03
12 VAC 5-550-200	Amended	19:26 VA.R. 3912	10/8/03
12 VAC 5-550-210	Amended	19:26 VA.R. 3912	10/8/03
12 VAC 5-550-230 through 12 VAC 5-550-260	Amended	19:26 VA.R. 3912	10/8/03
12 VAC 5-550-280 through 12 VAC 5-550-330	Amended	19:26 VA.R. 3912	10/8/03
12 VAC 5-550-350 through 12 VAC 5-550-410	Amended	19:26 VA.R. 3912	10/8/03
12 VAC 5-550-430 through 12 VAC 5-550-470	Amended	19:26 VA.R. 3912	10/8/03
12 VAC 5-550-510	Amended	19:26 VA.R. 3912	10/8/03
12 VAC 5-550-520	Amended	19:26 VA.R. 3912	10/8/03
12 VAC 5-581	Repealed	20:9 VA.R. 891	2/12/04
12 VAC 30-10-650 emer	Amended	20:10 VA.R. 1049	1/4/04-1/3/05
12 VAC 30-40-100	Amended	20:4 VA.R. 351	12/3/03
12 VAC 30-40-140	Amended	20:4 VA.R. 351	12/3/03
12 VAC 30-40-240	Amended	20:4 VA.R. 351	12/3/03
12 VAC 30-40-280	Amended	20:4 VA.R. 351	12/3/03
12 VAC 30-40-290	Amended	20:4 VA.R. 351	12/3/03
12 VAC 30-50-10	Amended	20:1 VA.R. 25	10/22/03
12 VAC 30-50-20	Amended	20:1 VA.R. 26	10/22/03
12 VAC 30-50-50	Amended	20:1 VA.R. 26	10/22/03
12 VAC 30-50-60	Amended	20:1 VA.R. 27	10/22/03
12 VAC 30-50-120	Amended	20:1 VA.R. 27	10/22/03
12 VAC 30-50-130	Amended	20:7 VA.R. 661	2/1/04
12 VAC 30-50-140	Amended	20:1 VA.R. 27	10/22/03
12 VAC 30-50-140	Amended	20:1 VA.R. 29	10/22/03
12 VAC 30-50-150	Amended	20:1 VA.R. 30	10/22/03
12 VAC 30-50-210 emer	Amended	20:8 VA.R. 836	1/4/04-1/3/05
12 VAC 30-50-210 emer	Amended	20:10 VA.R. 1054	1/4/04-1/3/05
12 VAC 30-50-530	Amended	20:1 VA.R. 28	10/22/03
12 VAC 30-50-226	Amended	20:7 VA.R. 661	2/1/04
12 VAC 30-50-420	Amended	20:7 VA.R. 664	2/1/04
12 VAC 30-50-430	Amended	20:7 VA.R. 664	2/1/04
12 VAC 30-50-510	Amended	20:7 VA.R. 667	2/1/04
12 VAC 30-60-61	Amended	20:7 VA.R. 669	2/1/04
12 VAC 30-60-143	Amended	20:7 VA.R. 669	2/1/04
12 VAC 30-60-147	Amended	20:7 VA.R. 673	2/1/04
12 VAC 30-70-201	Amended	20:5 VA.R. 455	1/4/04
12 VAC 30-70-291 emer	Amended	19:26 VA.R. 3920	8/13/03-8/12/04
12 VAC 30-70-301 emer	Amended	19:26 VA.R. 3921	8/13/03-8/12/04
12 VAC 30-70-331 emer	Amended	19:26 VA.R. 3922	8/13/03-8/12/04
12 VAC 30-70-425	Added	20:8 VA.R. 814	1/28/04

## Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 30-70-426	Added	20:8 VA.R. 814	1/28/04
12 VAC 30-80-20	Amended	20:8 VA.R. 815	1/28/04
12 VAC 30-80-30	Amended	20:8 VA.R. 817	1/28/04
12 VAC 30-80-40	Amended	20:2 VA.R. 132	11/6/03
12 VAC 30-80-40 emer	Amended	20:8 VA.R. 839	1/4/04-1/3/05
12 VAC 30-120-140 through 12 VAC 30-120-190	Amended	20:11 VA.R. 1178	3/11/04
12 VAC 30-120-165	Added	20:11 VA.R. 1178	3/11/04
12 VAC 30-120-195	Added	20:11 VA.R. 1178	3/11/04
12 VAC 30-120-200	Repealed	20:11 VA.R. 1178	3/11/04
12 VAC 30-120-201	Added	20:11 VA.R. 1178	3/11/04
12 VAC 30-120-350 emer	Amended	20:8 VA.R. 843	12/4/03-12/3/04
12 VAC 30-120-370 emer	Amended	20:8 VA.R. 845	12/15/03-12/14/04
12 VAC 30-120-380 emer	Amended	20:8 VA.R. 847	12/15/03-12/14/04
12 VAC 30-120-420 emer	Amended	20:8 VA.R. 847	12/15/03-12/14/04
12 VAC 30-120-700	Amended	19:25 VA.R. 3786	10/1/03
12 VAC 30-120-710	Amended	19:25 VA.R. 3789	10/1/03
12 VAC 30-120-720	Amended	19:25 VA.R. 3789	10/1/03
12 VAC 30-130-290 through 12 VAC 30-130-340 emer	Amended	20:10 VA.R. 1050-1054	1/4/04-1/3/05
12 VAC 30-130-335 emer	Added	20:10 VA.R. 1053	1/4/04-1/3/05
12 VAC 30-130-400 emer	Amended	20:10 VA.R. 1054	1/4/04-1/3/05
12 VAC 30-130-550	Repealed	20:7 VA.R. 673	2/1/04
12 VAC 30-130-565	Amended	20:7 VA.R. 673	2/1/04
12 VAC 30-130-570	Repealed	20:7 VA.R. 673	2/1/04
12 VAC 30-130-1000 emer	Added	20:8 VA.R. 840	1/4/04-1/3/05
12 VAC 30-135-10 through 12 VAC 30-135-90	Added	19:25 VA.R. 3789-3791	10/1/03
12 VAC 35-105	Erratum	19:25 VA. R. 3844	--
12 VAC 35-180-10	Amended	20:9 VA.R. 892	2/11/04
12 VAC 35-180-20	Repealed	20:9 VA.R. 894	2/11/04
12 VAC 35-180-30 through 12 VAC 35-180-110	Amended	20:9 VA.R. 894-899	2/11/04
12 VAC 35-180-130 through 12 VAC 35-180-150	Amended	20:9 VA.R. 899	2/11/04
<b>Title 13. Housing</b>			
13 VAC 5-21-10	Amended	19:25 VA.R. 3791	10/1/03
13 VAC 5-21-20	Amended	19:25 VA.R. 3792	10/1/03
13 VAC 5-21-31	Amended	19:25 VA.R. 3792	10/1/03
13 VAC 5-21-41	Amended	19:25 VA.R. 3793	10/1/03
13 VAC 5-21-51	Amended	19:25 VA.R. 3795	10/1/03
13 VAC 5-21-61	Amended	19:25 VA.R. 3795	10/1/03
13 VAC 5-21-70	Amended	19:25 VA.R. 3796	10/1/03
13 VAC 5-31-10	Amended	19:25 VA.R. 3796	10/1/03
13 VAC 5-31-40	Amended	19:25 VA.R. 3796	10/1/03
13 VAC 5-31-50	Amended	19:25 VA.R. 3796	10/1/03
13 VAC 5-31-60	Amended	19:25 VA.R. 3796	10/1/03
13 VAC 5-31-90	Amended	19:25 VA.R. 3796	10/1/03
13 VAC 5-31-110	Amended	19:25 VA.R. 3797	10/1/03
13 VAC 5-31-180	Amended	19:25 VA.R. 3797	10/1/03
13 VAC 5-31-190	Added	19:25 VA.R. 3797	10/1/03
13 VAC 5-51	Erratum	20:1 VA.R 39	--
13 VAC 5-51-11	Amended	19:25 VA.R. 3798	10/1/03
13 VAC 5-51-21	Amended	19:25 VA.R. 3798	10/1/03
13 VAC 5-51-31	Amended	19:25 VA.R. 3799	10/1/03
13 VAC 5-51-41	Amended	19:25 VA.R. 3799	10/1/03
13 VAC 5-51-51	Amended	19:25 VA.R. 3800	10/1/03
13 VAC 5-51-61	Amended	19:25 VA.R. 3801	10/1/03
13 VAC 5-51-71	Repealed	19:25 VA.R. 3801	10/1/03
13 VAC 5-51-81	Amended	19:25 VA.R. 3802	10/1/03
13 VAC 5-51-85	Added	19:25 VA.R. 3810	10/1/03

## Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
13 VAC 5-51-91	Amended	19:25 VA.R. 3812	10/1/03
13 VAC 5-51-101	Amended	19:25 VA.R. 3813	10/1/03
13 VAC 5-51-111	Amended	19:25 VA.R. 3814	10/1/03
13 VAC 5-51-121	Amended	19:25 VA.R. 3814	10/1/03
13 VAC 5-51-129	Added	19:25 VA.R. 3815	10/1/03
13 VAC 5-51-130	Amended	19:25 VA.R. 3815	10/1/03
13 VAC 5-51-131	Amended	19:25 VA.R. 3815	10/1/03
13 VAC 5-51-132	Added	19:25 VA.R. 3816	10/1/03
13 VAC 5-51-133	Amended	19:25 VA.R. 3816	10/1/03
13 VAC 5-51-135	Amended	19:25 VA.R. 3816	10/1/03
13 VAC 5-51-136	Amended	19:25 VA.R. 3817	10/1/03
13 VAC 5-51-140	Amended	19:25 VA.R. 3817	10/1/03
13 VAC 5-51-150	Amended	19:25 VA.R. 3818	10/1/03
13 VAC 5-51-155	Added	19:25 VA.R. 3822	10/1/03
13 VAC 5-51-160	Repealed	19:25 VA.R. 3822	10/1/03
13 VAC 5-51-170	Repealed	19:25 VA.R. 3822	10/1/03
13 VAC 5-51-180	Repealed	19:25 VA.R. 3823	10/1/03
13 VAC 5-51-181	Repealed	19:25 VA.R. 3823	10/1/03
13 VAC 5-51-182	Repealed	19:25 VA.R. 3824	10/1/03
13 VAC 5-51-190	Repealed	19:25 VA.R. 3824	10/1/03
13 VAC 5-51-200	Repealed	19:25 VA.R. 3824	10/1/03
13 VAC 5-61-11 through 13 VAC 5-61-460	Repealed	19:25 VA.R. 3824	10/1/03
13 VAC 5-62	Erratum	20:2 VA.R. 140	--
13 VAC 5-62-10 through 13 VAC 5-62-480	Added	19:25 VA.R. 3824	10/1/03
13 VAC 5-62-260 L	Suspended	20:2 VA.R. 133	<sup>1</sup>
13 VAC 5-62-260 M	Suspended	20:2 VA.R. 133	<sup>1</sup>
13 VAC 5-62-260 N	Suspended	20:2 VA.R. 133	<sup>1</sup>
13 VAC 5-80-10	Amended	19:25 VA.R. 3796	10/1/03
13 VAC 5-80-20	Repealed	19:25 VA.R. 3796	10/1/03
13 VAC 5-80-30	Repealed	19:25 VA.R. 3796	10/1/03
13 VAC 5-80-40 through 13 VAC 5-80-140	Amended	19:25 VA.R. 3796	10/1/03
13 VAC 5-80-150	Repealed	19:25 VA.R. 3796	10/1/03
13 VAC 5-91-10	Amended	19:25 VA.R. 3825	10/1/03
13 VAC 5-91-40	Amended	19:25 VA.R. 3825	10/1/03
13 VAC 5-91-50	Amended	19:25 VA.R. 3825	10/1/03
13 VAC 5-91-60	Amended	19:25 VA.R. 3825	10/1/03
13 VAC 5-91-100	Amended	19:25 VA.R. 3825	10/1/03
13 VAC 5-91-110	Amended	19:25 VA.R. 3825	10/1/03
13 VAC 5-91-120	Amended	19:25 VA.R. 3825	10/1/03
13 VAC 5-91-140	Amended	19:25 VA.R. 3825	10/1/03
13 VAC 5-91-160	Amended	19:25 VA.R. 3825	10/1/03
13 VAC 5-91-180	Amended	19:25 VA.R. 3826	10/1/03
13 VAC 5-91-200	Amended	19:25 VA.R. 3826	10/1/03
13 VAC 5-91-210	Amended	19:25 VA.R. 3826	10/1/03
13 VAC 5-91-230	Repealed	19:25 VA.R. 3826	10/1/03
13 VAC 5-91-245	Added	19:25 VA.R. 3826	10/1/03
13 VAC 5-91-250	Amended	19:25 VA.R. 3826	10/1/03
13 VAC 5-91-260	Amended	19:25 VA.R. 3826	10/1/03
13 VAC 5-91-270	Amended	19:25 VA.R. 3826	10/1/03
13 VAC 10-10-10	Amended	19:25 VA.R. 3826	8/1/03
13 VAC 10-10-20	Amended	19:25 VA.R. 3826	8/1/03
13 VAC 10-40-10	Amended	19:25 VA.R. 3827	8/1/03
13 VAC 10-40-30 through 13 VAC 10-40-70	Amended	19:25 VA.R. 3827	8/1/03

<sup>1</sup> Effective date suspended for further public comment.

## Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
13 VAC 10-40-90	Amended	19:25 VA.R. 3827	8/1/03
13 VAC 10-40-100	Amended	19:25 VA.R. 3827	8/1/03
13 VAC 10-40-120	Amended	19:25 VA.R. 3827	8/1/03
13 VAC 10-40-120	Amended	20:3 VA.R. 244	9/25/03
13 VAC 10-40-130	Amended	19:25 VA.R. 3827	8/1/03
13 VAC 10-40-130	Amended	20:3 VA.R. 244	9/25/03
13 VAC 10-40-140	Amended	19:25 VA.R. 3827	8/1/03
13 VAC 10-40-160	Amended	19:25 VA.R. 3827	8/1/03
13 VAC 10-40-160	Amended	20:3 VA.R. 244	9/25/03
13 VAC 10-40-170	Amended	19:25 VA.R. 3827	8/1/03
13 VAC 10-40-190 through 13 VAC 10-40-230	Amended	19:25 VA.R. 3827	8/1/03
13 VAC 10-40-190	Amended	20:3 VA.R. 244	9/25/03
13 VAC 10-40-210	Amended	20:3 VA.R. 244	9/25/03
13 VAC 10-40-230	Amended	20:3 VA.R. 244	9/25/03
13 VAC 10-180-10	Amended	20:10 VA.R. 1021	1/12/04
13 VAC 10-180-50	Amended	20:10 VA.R. 1022	1/12/04
13 VAC 10-180-60	Amended	20:10 VA.R. 1023	1/12/04
<b>Title 14. Insurance</b>			
14 VAC 5-71 (Forms)	Added	20:11 VA.R. 1223	--
14 VAC 5-71-10	Amended	20:5 VA.R. 457	11/1/03
14 VAC 5-71-20	Amended	20:5 VA.R. 458	11/1/03
14 VAC 5-71-30	Repealed	20:5 VA.R. 459	11/1/03
14 VAC 5-71-31	Added	20:5 VA.R. 460	11/1/03
14 VAC 5-71-35	Added	20:5 VA.R. 463	11/1/03
14 VAC 5-71-40	Amended	20:5 VA.R. 464	11/1/03
14 VAC 5-71-60	Amended	20:5 VA.R. 464	11/1/03
14 VAC 5-71-70	Amended	20:5 VA.R. 465	11/1/03
14 VAC 5-71-80	Repealed	20:5 VA.R. 466	11/1/03
14 VAC 5-71-90	Amended	20:5 VA.R. 466	11/1/03
14 VAC 5-71-91	Added	20:5 VA.R. 467	11/1/03
14 VAC 5-71-92	Added	20:5 VA.R. 467	11/1/03
14 VAC 5-71-93	Added	20:5 VA.R. 467	11/1/03
14 VAC 5-310	Erratum	20:8 VA.R. 850	--
14 VAC 5-310-10	Amended	20:5 VA.R. 469	12/31/03
14 VAC 5-310-20	Amended	20:5 VA.R. 469	12/31/03
14 VAC 5-310-30	Amended	20:5 VA.R. 469	12/31/03
14 VAC 5-310-40	Amended	20:5 VA.R. 470	12/31/03
14 VAC 5-310-50	Amended	20:5 VA.R. 470	12/31/03
14 VAC 5-310-60	Repealed	20:5 VA.R. 472	12/31/03
14 VAC 5-310-70	Repealed	20:5 VA.R. 473	12/31/03
14 VAC 5-310-80	Amended	20:5 VA.R. 475	12/31/03
14 VAC 5-310-90	Amended	20:5 VA.R. 479	12/31/03
14 VAC 5-310-100	Amended	20:5 VA.R. 481	12/31/03
14 VAC 5-310-105	Added	20:5 VA.R. 482	12/31/03
14 VAC 5-310-110	Repealed	20:5 VA.R. 482	12/31/03
<b>Title 16. Labor and Employment</b>			
16 VAC 25-85-1904.12	Repealed	20:7 VA.R. 673	1/15/04
16 VAC 25-85-1904.29	Amended	20:7 VA.R. 673	1/15/04
<b>Title 18. Professional and Occupational Licensing</b>			
18 VAC 5-21-10 through 18 VAC 5-21-40 emer	Amended	20:9 VA.R. 915-921	12/15/03-12/14/04
18 VAC 5-21-170 emer	Amended	20:9 VA.R. 921	12/15/03-12/14/04
18 VAC 10-10-10	Amended	20:11 VA.R. 1190	4/24/04
18 VAC 10-10-30	Amended	20:11 VA.R. 1190	4/24/04
18 VAC 10-10-40	Amended	20:11 VA.R. 1190	4/24/04
18 VAC 10-10-90	Amended	20:11 VA.R. 1190	4/24/04

## Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 15-10-10 through 18 VAC 15-10-90	Amended	20:11 VA.R. 1191-1192	4/24/04
18 VAC 15-30	Erratum	19:26 VA.R. 3926	--
18 VAC 25-10-10 through 18 VAC 25-10-90	Amended	20:11 VA.R. 1193-1195	4/24/04
18 VAC 30-20-10	Amended	20:8 VA.R. 821	1/28/04
18 VAC 30-20-150	Amended	20:8 VA.R. 821	1/28/04
18 VAC 30-20-170	Amended	20:8 VA.R. 821	1/28/04
18 VAC 30-20-240	Amended	20:8 VA.R. 821	1/28/04
18 VAC 30-20-280	Amended	20:8 VA.R. 821	1/28/04
18 VAC 41-10-10 through 18 VAC 41-10-60	Amended	20:11 VA.R. 1195-1196	4/24/04
18 VAC 41-10-80	Amended	20:11 VA.R. 1196	4/24/04
18 VAC 41-10-90	Amended	20:11 VA.R. 1196	4/24/04
18 VAC 47-10-10 through 18 VAC 47-10-90	Amended	20:11 VA.R. 1198	4/24/04
18 VAC 50-10-10 through 18 VAC 50-10-90	Amended	20:11 VA.R. 1200-1201	4/24/04
18 VAC 60-20-50	Amended	20:9 VA.R. 902	4/1/04
18 VAC 65-20	Erratum	20:10 VA.R. 1060	--
18 VAC 65-20-10	Amended	20:8 VA.R. 822	1/28/04
18 VAC 65-20-50	Amended	20:8 VA.R. 822	1/28/04
18 VAC 65-20-70	Amended	20:8 VA.R. 822	1/28/04
18 VAC 65-20-170	Amended	20:8 VA.R. 823	1/28/04
18 VAC 65-20-350	Amended	20:8 VA.R. 823	1/28/04
18 VAC 65-20-400	Amended	20:8 VA.R. 823	1/28/04
18 VAC 65-20-440	Amended	20:8 VA.R. 824	1/28/04
18 VAC 65-20-570	Amended	20:8 VA.R. 824	1/28/04
18 VAC 65-20-580	Amended	20:8 VA.R. 824	1/28/04
18 VAC 65-20-590	Amended	20:8 VA.R. 824	1/28/04
18 VAC 65-20-700	Amended	20:8 VA.R. 824	1/28/04
18 VAC 70-10-10 through 18 VAC 70-10-90	Amended	20:11 VA.R. 1203-1204	4/24/04
18 VAC 76-40-10 emer	Added	19:25 VA.R. 3831	8/6/03-8/5/04
18 VAC 76-40-20 emer	Added	19:25 VA.R. 3831	8/6/03-8/5/04
18 VAC 76-40-30 emer	Added	19:25 VA.R. 3832	8/6/03-8/5/04
18 VAC 76-40-30 emer (Forms)	Added	19:25 VA.R. 3833	--
18 VAC 80-20-70	Amended	19:25 VA.R. 3827	10/1/03
18 VAC 85-20-10	Amended	20:10 VA.R. 1042	2/25/04
18 VAC 85-20-22	Amended	20:10 VA.R. 1042	2/25/04
18 VAC 85-20-30	Amended	20:10 VA.R. 1042	2/25/04
18 VAC 85-20-120	Amended	20:10 VA.R. 1042	2/25/04
18 VAC 85-20-121	Amended	20:10 VA.R. 1042	2/25/04
18 VAC 85-20-131	Amended	20:10 VA.R. 1042	2/25/04
18 VAC 85-20-140	Amended	20:10 VA.R. 1042	2/25/04
18 VAC 85-20-150	Repealed	20:10 VA.R. 1042	2/25/04
18 VAC 85-20-210	Amended	20:10 VA.R. 1042	2/25/04
18 VAC 85-20-230	Amended	20:10 VA.R. 1042	2/25/04
18 VAC 85-20-235	Amended	20:10 VA.R. 1042	2/25/04
18 VAC 85-20-236	Amended	20:10 VA.R. 1042	2/25/04
18 VAC 85-20-240	Amended	20:10 VA.R. 1042	2/25/04
18 VAC 85-110-50	Amended	20:10 VA.R. 1046	4/26/04
18 VAC 85-110-60	Amended	20:10 VA.R. 1047	4/26/04
18 VAC 100-10-10 through 18 VAC 100-10-90	Amended	20:11 VA.R. 1205-1206	4/24/04
18 VAC 120-10-100 through 18 VAC 120-10-180	Amended	20:11 VA.R. 1208-1209	4/24/04
18 VAC 130-10-10 through 18 VAC 130-10-90	Amended	20:11 VA.R. 1210-1211	4/24/04
18 VAC 135-10-10 through 18 VAC 135-10-90	Amended	20:11 VA.R. 1213-1214	4/24/04
18 VAC 140-20-105	Amended	20:8 VA.R. 825	1/28/04
18 VAC 140-20-150	Amended	20:8 VA.R. 826	1/28/04
18 VAC 145-10-10 through 18 VAC 145-10-90	Amended	20:11 VA.R. 1215-1217	4/24/04
18 VAC 155-10-5	Added	20:11 VA.R. 1217-1218	4/24/04
18 VAC 155-10-10 through 18 VAC 155-10-80	Amended	20:11 VA.R. 1218-1219	4/24/04

# Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 160-10-10 through 18 VAC 160-10-90	Amended	20:11 VA.R. 1220-1221	4/24/04
<b>Title 19. Public Safety</b>			
19 VAC 30-20-80	Amended	20:4 VA.R. 352	1/2/04
19 VAC 30-80-20	Amended	20:2 VA.R. 134	11/5/03
19 VAC 30-80-40	Added	20:2 VA.R. 134	11/5/03
<b>Title 20. Public Utilities and Telecommunications</b>			
20 VAC 5-10-20	Amended	20:10 VA.R. 1044	12/23/04
<b>Title 21. Securities and Retail Franchising</b>			
21 VAC 5-120-50	Amended	20:1 VA.R. 32	9/2/03
<b>Title 22. Social Services</b>			
22 VAC 30-20-90	Amended	20:7 VA.R. 674	1/15/04
22 VAC 30-30-10	Amended	20:9 VA.R. 899	2/11/04
22 VAC 30-30-20	Amended	20:9 VA.R. 899	2/11/04
22 VAC 30-30-30	Repealed	20:9 VA.R. 899	2/11/04
22 VAC 30-30-31	Added	20:9 VA.R. 899	2/11/04
22 VAC 30-30-40	Repealed	20:9 VA.R. 899	2/11/04
22 VAC 30-30-50 through 22 VAC 30-30-120	Amended	20:9 VA.R. 899	2/11/04
22 VAC 30-30-130	Repealed	20:9 VA.R. 899	2/11/04
22 VAC 30-30-131	Added	20:9 VA.R. 899	2/11/04
22 VAC 30-30-140	Repealed	20:9 VA.R. 899	2/11/04
22 VAC 30-30-141	Added	20:9 VA.R. 899	2/11/04
22 VAC 30-30-160	Amended	20:9 VA.R. 899	2/11/04
22 VAC 30-30-170 through 22 VAC 30-30-210	Repealed	20:9 VA.R. 899	2/11/04
22 VAC 30-30-171	Added	20:9 VA.R. 899	2/11/04
22 VAC 30-30-181	Added	20:9 VA.R. 899	2/11/04
22 VAC 30-30-191	Added	20:9 VA.R. 899	2/11/04
22 VAC 30-30-201	Added	20:9 VA.R. 899	2/11/04
22 VAC 30-30-211	Added	20:9 VA.R. 899	2/11/04
22 VAC 30-30-220	Amended	20:9 VA.R. 899	2/11/04
22 VAC 30-30-230	Repealed	20:9 VA.R. 901	2/11/04
22 VAC 30-30-240	Repealed	20:9 VA.R. 901	2/11/04
22 VAC 30-30-241	Added	20:9 VA.R. 901	2/11/04
22 VAC 30-30-250	Amended	20:9 VA.R. 901	2/11/04
22 VAC 30-30-260	Added	20:9 VA.R. 901	2/11/04
22 VAC 30-30-270	Added	20:9 VA.R. 901	2/11/04
22 VAC 30-30-280	Added	20:9 VA.R. 901	2/11/04
22 VAC 40-190-10 through 22 VAC 40-190-70	Repealed	20:11 VA.R. 1178	4/10/04 *
22 VAC 40-191-10 through 22 VAC 40-191-150	Added	20:11 VA.R. 1179-1188	4/10/04 *
22 VAC 40-250-10	Amended	20:8 VA.R. 827	2/1/04
22 VAC 40-250-20	Amended	20:8 VA.R. 827	2/1/04
22 VAC 40-260-10	Amended	20:8 VA.R. 827	2/1/04
22 VAC 40-260-20	Amended	20:8 VA.R. 828	2/1/04
22 VAC 40-270	Repealed	20:8 VA.R. 831	2/1/04
22 VAC 40-675-10 through 22 VAC 40-675-220	Added	20:8 VA.R. 832-835	2/1/04
22 VAC 40-705-60	Amended	20:5 VA.R. 483	1/1/04
22 VAC 40-705-130	Amended	20:5 VA.R. 483	1/1/04
22 VAC 40-730-115	Added	20:5 VA.R. 484	1/1/04
<b>Title 24. Transportation and Motor Vehicles</b>			
24 VAC 30-71	Erratum	20:7 VA.R. 678	--
24 VAC 30-71-10	Amended	20:4 VA.R. 353	12/3/03
24 VAC 30-71-20	Amended	20:4 VA.R. 353	12/3/03
24 VAC 30-71-30	Amended	20:4 VA.R. 354	12/3/03

\* Effective date corrected in 20:12

---

## Cumulative Table of VAC Sections Adopted, Amended, or Repealed

---

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
24 VAC 30-71-50	Amended	20:4 VA.R. 354	12/3/03
24 VAC 30-71-70	Amended	20:4 VA.R. 354	12/3/03
24 VAC 30-71-80	Amended	20:4 VA.R. 354	12/3/03
24 VAC 30-71-90	Amended	20:4 VA.R. 355	12/3/03
24 VAC 30-71-100	Amended	20:4 VA.R. 355	12/3/03
24 VAC 30-71-110	Amended	20:4 VA.R. 355	12/3/03
24 VAC 30-71-120	Amended	20:4 VA.R. 355	12/3/03
24 VAC 30-71-130	Amended	20:4 VA.R. 355	12/3/03
24 VAC 30-71-150	Amended	20:4 VA.R. 357	12/3/03
24 VAC 30-71-160	Amended	20:4 VA.R. 357	12/3/03
24 VAC 30-71-170	Amended	20:4 VA.R. 362	12/3/03
24 VAC 30-580-10 through 24 VAC 30-580-40	Amended	20:5 VA.R. 485-486	10/28/03

---

# PETITIONS FOR RULEMAKING

---

## TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

### BOARD OF DENTISTRY

#### Initial Agency Notice

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

Statutory Authority: §§ 54.1-2400 and 54.1-2715 of the Code of Virginia.

Name of Petitioner: Stephanie D. Sawyer.

Nature of Petitioner's Request: To amend 18 VAC 60-20-90 on temporary licensure to allow a person who has not passed the licensing examination to continue practice with a temporary license provided he continues to work for a nonprofit organization.

Agency's Plan for Disposition of Request: The board will consider the petition and any comment received at its meeting on April 9, 2004.

Written comments may be submitted until April 1, 2004.

Agency Contact: Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114, or e-mail [elaine.yeatts@dhp.state.va.us](mailto:elaine.yeatts@dhp.state.va.us).

VA.R. Doc. No. R04-111; Filed February 4, 2004, 10:24 a.m.

---

# NOTICES OF INTENDED REGULATORY ACTION

---

## Symbol Key

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

---

## TITLE 2. AGRICULTURE

### PESTICIDE CONTROL BOARD

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Pesticide Control Board intends to consider amending regulations entitled **2 VAC 20-51, Regulations Governing Pesticide Applicator Certification Under Authority of the Virginia Pesticide Control Act**. The purpose of the proposed action is to review the regulation for effectiveness and continued need, including amending the regulation (i) to help reduce fraudulent examination activities by eliminating proctoring by private individuals; (ii) to more clearly define application and training requirements; (iii) to establish applicator categories in areas where needed for industry; (iv) to meet EPA requirements; and (v) for housekeeping purposes. The agency invites comment on whether there should be an advisor.

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

Statutory Authority: § 3.1-249.30 of the Code of Virginia.

Public comments may be submitted until March 12, 2004.

**Contact:** Marvin A. Lawson, Ph.D., Executive Secretary, Pesticide Control Board, 1100 Bank St., 11th Floor, Richmond, VA 23219, telephone (804) 786-3534, FAX (804) 786-5112, toll-free 1-800-552-9963 or e-mail mlwson@vdacs@state.va.us.

VA.R. Doc. No. R04-77; Filed December 30, 2003, 11:16 a.m.



## TITLE 9. ENVIRONMENT

### STATE WATER CONTROL BOARD

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Water Control Board intends to consider amending regulations entitled **9 VAC 25-40, Policy for Nutrient Enriched Waters**. The purpose of the proposed action is to establish numerical limitations for the discharge of total nitrogen, and the possible revision of numerical limitations for the discharge of total phosphorus, for certain discharges located within the Chesapeake Bay watershed.

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; § 303 of the Clean Water Act.

Public comments may be submitted until 5 p.m. on March 12, 2004.

**Contact:** John Kennedy, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4312, FAX (804) 698-4116 or e-mail jmkennedy@deq.state.va.us.

VA.R. Doc. No. R04-78; Filed December 31, 2003, 11:48 a.m.

#### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State 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 (9 VAC 25-260-30), part of the Water Quality Standards, by designating portions of the following 11 waters located on federal land within Shenandoah National Park: Big Run, Brokenback Run, Doyles River, East Branch Naked Creek, East Hawksbill Creek, Hughes River, Jeremys Run, North Fork Thornton River, Piney River, Rose River, and White Oak Canyon Run as Exceptional State Waters (9 VAC 25-260-30 A 3 c). The Exceptional State Waters category of the Antidegradation Policy allows the board to designate waters that display exceptional environmental settings and either exceptional aquatic communities or exceptional recreational opportunities for added protection. Once designated, the Antidegradation Policy provides that no water quality degradation would be allowed in the Exceptional State Waters. The only exception would be temporary, limited impact activities. By ensuring that no water quality degradation is allowed to occur in waters with exceptional environmental settings and either exceptional recreational opportunities or exceptional aquatic communities, the board is protecting these special waters at their present quality for use and enjoyment by future generations of Virginians.

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 9, 2004.

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

VA.R. Doc. No. R04-110; Filed February 4, 2004, 10:57 a.m.

---

# Notices of Intended Regulatory Action

---

## Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Water Control Board intends to consider amending regulations entitled **9 VAC 25-660, Virginia Water Protection General Permit for Impacts Less Than One-Half of an Acre**. The purpose of the proposed action is to allow for revisions to the above-referenced general permit regulation to correct several administrative procedures, clarify application and permitting requirements and allow for a more efficient application review process.

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; § 401 of the Clean Water Act (33 USC § 1251 et seq.).

Public comments may be submitted until 5 p.m. on March 15, 2004.

**Contact:** Ellen Gilinsky, Virginia Water Protection Program Manager, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4375, FAX (804) 698-4032 or e-mail [egilinsky@deq.state.va.us](mailto:egilinsky@deq.state.va.us).

VA.R. Doc. No. R04-100; Filed January 20, 2004, 2:55 p.m.

## Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Water Control Board intends to consider amending regulations entitled **9 VAC 25-670, Virginia Water Protection General Permit for Facilities and Activities of Utility and Public Service Companies Regulated by the Federal Energy Regulatory Commission or the State Corporation Commission and Other Utility Line Activities**. The purpose of the proposed action is to allow for revisions to the above-referenced general permit regulation to correct several administrative procedures, clarify application and permitting requirements and allow for a more efficient application review process.

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; § 401 of the Clean Water Act (33 USC § 1251 et seq.).

Public comments may be submitted until 5 p.m. on March 15, 2004.

**Contact:** Ellen Gilinsky, Virginia Water Protection Program Manager, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4375, FAX (804) 698-4032 or e-mail [egilinsky@deq.state.va.us](mailto:egilinsky@deq.state.va.us).

VA.R. Doc. No. R04-101; Filed January 20, 2004, 2:55 p.m.

## Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Water Control Board intends to consider amending regulations entitled **9 VAC 25-680, Virginia Water Protection General Permit for Linear Transportation Projects**. The purpose of the proposed action

is to allow for revisions to the above-referenced general permit regulation to correct several administrative procedures, clarify application and permitting requirements and allow for a more efficient application review process.

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; § 401 of the Clean Water Act (33 USC § 1251 et seq.).

Public comments may be submitted until 5 p.m. on March 15, 2004.

**Contact:** Ellen Gilinsky, Virginia Water Protection Program Manager, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4375, FAX (804) 698-4032 or e-mail [egilinsky@deq.state.va.us](mailto:egilinsky@deq.state.va.us).

VA.R. Doc. No. R04-102; Filed January 20, 2004, 2:55 p.m.

## Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Water Control Board intends to consider amending regulations entitled **9 VAC 25-690, Virginia Water Protection General Permit for Impacts from Development Activities**. The purpose of the proposed action is to allow for revisions to the above-referenced general permit regulation to correct several administrative procedures, clarify application and permitting requirements and allow for a more efficient application review process.

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; § 401 of the Clean Water Act (33 USC § 1251 et seq.).

Public comments may be submitted until 5 p.m. on March 15, 2004.

**Contact:** Ellen Gilinsky, Virginia Water Protection Program Manager, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4375, FAX (804) 698-4032 or e-mail [egilinsky@deq.state.va.us](mailto:egilinsky@deq.state.va.us).

VA.R. Doc. No. R04-104; Filed January 20, 2004, 2:55 p.m.



## TITLE 12. HEALTH

### DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

## Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Medical Assistance Services intends to consider amending regulations entitled **12 VAC 30-10, State Plan Under Title XIX of the Social Security Act Medical Assistance Program, and 12 VAC 30-130, Amount, Duration and Scope of Selected Services**. The purpose of the proposed action is to permit DMAS to

---

# Notices of Intended Regulatory Action

---

deny payment for pharmacy claims that conflict with standards of drug utilization review.

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

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

Public comments may be submitted until February 25, 2004, to Javier Menendez, R.Ph., Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219.

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

VA.R. Doc. No. R04-73; Filed December 24, 2003, 11:51 a.m.

## Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Medical Assistance Services intends to consider amending regulations entitled **12 VAC 30-50, Amount, Duration and Scope of Medical and Remedial Care Services**. The purpose of the proposed action is to implement a program of prospective and retrospective utilization review and prior authorization of pharmacy services for noninstitutionalized and institutionalized (nursing facility) recipients who are prescribed large numbers of different prescription (legend) drugs within specific time periods. Such utilization review of covered services is permitted by 42 CFR 440.230 (d).

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

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

Public comments may be submitted until February 25, 2004, to Javier Menendez, R.Ph., Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219.

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

VA.R. Doc. No. R04-71; Filed December 24, 2003, 11:53 a.m.

---

## TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

### BOARD OF ACCOUNTANCY

#### Notice of Intended Regulatory Action

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 5-21, Board**

**of Accountancy Regulations**. The purpose of the proposed action is to make changes incorporating amendments about the qualifications for, and implementation of, the new computerized CPA exam, and the new annual requirements for two CPE credits in ethics.

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

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

Public comments may be submitted until February 25, 2004.

**Contact:** Mark D'Amato, Regulatory Coordinator, Board of Accountancy, 3600 W. Broad St., Suite 696, Richmond, VA 23230-4916, telephone (804) 367-0502, FAX (804) 367-2174 or e-mail mark@boa.state.va.us.

VA.R. Doc. No. R04-76; Filed January 5, 2004, 10:49 a.m.

## BOARD FOR CONTRACTORS

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board for Contractors intends to consider amending regulations entitled **18 VAC 50-30, Tradesman Rules and Regulations**. The purpose of the proposed action is to amend the current regulations to clarify eligibility requirements for licensure, implement continuing education requirements permitted by statute, reflect statutory changes, respond to changes in the industry, and revise language for clarity and ease of use.

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

Statutory Authority: §§ 54.1-204 and 54.1-1102 of the Code of Virginia.

Public comments may be submitted until March 24, 2004.

**Contact:** Eric L. Olson, Executive Director, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2785, FAX (804) 367-2474 or e-mail eric.olson@dpor.virginia.gov.

VA.R. Doc. No. R04-107; Filed February 2, 2004, 1:47 p.m.

## FAIR HOUSING BOARD

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Fair Housing Board intends to consider promulgating regulations entitled **18 VAC 62-20, Fair Housing Certification Regulations**. The purpose of the proposed action is to promulgate regulations for establishing an education-based certification program for persons subject to the fair housing law who are involved in the business or activity of selling or renting dwellings.

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

---

# Notices of Intended Regulatory Action

---

Statutory Authority: § 54.1-2344 of the Code of Virginia.

Public comments may be submitted until March 24, 2004.

**Contact:** Christine Martine, Executive Director, Fair Housing Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-6946 or e-mail [hncertification@dpor.virginia.gov](mailto:hncertification@dpor.virginia.gov).

VA.R. Doc. No. R04-108; Filed February 2, 2004, 1:47 p.m.

---

◆ ————— ◆

## TITLE 22. SOCIAL SERVICES

### BOARDS OF EDUCATION; JUVENILE JUSTICE; MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES; AND SOCIAL SERVICES

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Boards of Education; Juvenile Justice; Mental Health, Mental Retardation and Substance Abuse Services; and Social Services intend to consider repealing regulations entitled **22 VAC 42-10, Standards for Interdepartmental Regulation of Children's Residential Facilities**; and adopting regulations entitled **22 VAC 42-11, Standards for Interdepartmental Regulation of Children's Residential Facilities**. The purpose of the proposed action is to promulgate revised standards that protect the vulnerable children who are separated from their families and reside in children's residential facilities and to assure that a acceptable level of care, treatment, and education are provided. The regulation will also (i) meet federal regulations, (ii) ensure that services provided to residents are appropriate for their needs (iii) bring the standards in line with current industry standards and needs, (iv) clarify frequently misinterpreted standards and (v) delete unnecessary requirements.

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

Statutory Authority: §§ 16.1-309.9, 22.1-321, 22.1-323.2, 37.1-182, 37.1-189.1, 63.2-203, 63.2-217, 63.2-1737, 66-10, 66-24 of the Code of Virginia.

Public comments may be submitted until 5 p.m. on February 25, 2004.

**Contact:** Charlene Vincent, Coordinator, Department of Social Services, Office of Interdepartmental Regulation, 7 N. 8th St., Richmond, VA 23219, telephone (804) 726-7097, FAX (804) 726-7095, or e-mail [charlene.vincent@dss.virginia.gov](mailto:charlene.vincent@dss.virginia.gov).

VA.R. Doc. Nos. R04-80 and R04-81; Filed January 5, 2004, 3:10 p.m.

---

# PROPOSED REGULATIONS

---

For information concerning Proposed Regulations, see Information Page.

---

## Symbol Key

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

---

## TITLE 6. CRIMINAL JUSTICE AND CORRECTIONS

### CRIMINAL JUSTICE SERVICES BOARD

**Title of Regulation:** **6 VAC 20-210. Regulations for the Implementation of the Law Permitting DNA Analysis Upon Arrest for all Violent Felonies and Certain Burglaries (adding 6 VAC 20-210-10 through 6 VAC 20-210-110).**

**Statutory Authority:** §§ 9.1-102 and 19.2-310.3:1 of the Code of Virginia.

**Public Hearing Date:** May 13, 2004.

Public comments may be submitted until April 23, 2004.

(See Calendar of Events section for additional information)

**Agency Contact:** Katya Newton, Counsel for Division of Forensic Science, Department of Criminal Justice Services, 700 North 5th St., Richmond, VA 23219, telephone (804) 786-6848, FAX (804) 786-6857, or e-mail [knewton@dfs.state.va.us](mailto:knewton@dfs.state.va.us).

**Basis:** Section 9.1-102 of the Code of Virginia authorizes the Criminal Justice Services Board to adopt regulations "for any provisions of the Code as they relate to the responsibilities of the Division of Forensic Science."

**Purpose:** The purpose of the regulation is to comply with §§ 19.2-310.2:1 and 19.2-310.3:1 of the Code of Virginia, effective January 1, 2003, which require DNA sampling of persons arrested for all violent felonies and certain burglaries. The regulation is essential to protect the safety and welfare of the public because it will help to identify and remove persons whose violent behaviors have hurt members of the public and commit those offenders to the correctional system.

**Substance:** The proposed regulation provides guidance to agencies responsible for collecting DNA samples from persons arrested for any violent felony and for certain burglaries as specified in §§ 19.2-310.2:1 and 19.2-310.3:1 of the Code of Virginia. The regulation describes when a sample is required, who is responsible for collecting the sample, how the sample is to be collected and labeled, and how to transport the sample to the Division of Forensic Science for analysis.

**Issues:** Public safety will be greatly enhanced through use of this regulation. The primary advantage to the public is the opportunity for earlier identification of persons who have committed previously unsolved crimes. DNA data bank "hits" will occur between evidence collected at crime scenes and the DNA profiles of persons sampled upon arrest. This swift identification will often prevent the release from custody of arrestees who have been linked to these unsolved crimes. Additionally, innocent persons will be exonerated when true

perpetrators are identified through DNA evidence. There are no disadvantages to the public or the Commonwealth.

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

**Summary of the proposed regulation.** The General Assembly requires in Chapters 753 and 773 of the 2002 Acts of Assembly the taking of a saliva or tissue sample for DNA analysis following an arrest for a violent felony and certain types of burglary. The DNA analysis is to be performed by the Division of Forensic Science or another entity designated by it. The identification characteristics of the profile resulting from the DNA analysis are to be stored and maintained by the Division of Forensic Science in a DNA data bank and are to be made available to federal, state, and local law-enforcement officers upon request as part of an official investigation of any criminal offense. If the charge for which the tissue or saliva sample was taken is dismissed or the defendant is acquitted at trial, the Division of Forensic Science is to destroy the sample and all records relating to the sample. Section 9.1-102 of the Code of Virginia authorizes the Department of Criminal Justice Services to adopt regulations for any provisions of the Code as they relate to the responsibilities of the Division of Forensic Science.

The proposed regulation establishes when a tissue or saliva sample is to be collected, where and how the sample is to be collected, sealing and labeling requirements once the sample has been collected, procedure for transporting the sample to the Division of Forensic Science, and requirements regarding the notification of final disposition of criminal proceedings to the Division of Forensic Science. An emergency regulation to this effect has been in place since January 2003. Prior to this date, DNA samples were only collected from felons (violent and nonviolent) once they were convicted.

**Estimated economic impact.** The Code of Virginia requires the collection of tissue or saliva samples from individuals arrested for committing violent felonies and certain types of burglaries. The proposed regulation establishes procedures and guidelines for collecting, handling, storing, and transporting tissue or saliva samples for qualifying offenses to the Division of Forensic Science (DFS). The proposed

---

## Proposed Regulations

---

regulation also establishes guidelines for notification to DFS of final disposition of criminal proceeding. In cases when charges against the defendant are dropped or reduced or the defendant is acquitted, DFS is required to destroy the sample and all records relating to it.

For qualifying offenses (all violent felonies and certain types of burglaries), the regulation establishes that saliva or tissue samples are to be taken at the time of arrest following a query to the DNA sample tracking application to check if there is a DNA sample of the arrestee already in the data bank. Following a determination that the arrestee is not already in the system, a tissue or saliva sample is to be collected during booking by the sheriff's office, police department, or regional jail responsible for booking upon arrest. The samples are to be collected using buccal sample kits provided by DFS and in accordance with instructions enclosed in the kit. All samples so collected are to be sealed in tamper resistant containers along with identifying information specified in the regulation, such as the arrestee's name, social security number, date of birth, the name of the person collecting the sample(s), and the date and place of collection. If a buccal sample kit is unavailable, tissue or saliva samples are to be collected using sterile swabs and are to be sealed and labeled in the same manner as the buccal sample kits. The samples are to be transported to DFS in sealed containers (by mail or in person) no later than 15 days after collection and are required to include a copy of the arrest warrant. A timely submission of the final disposition of the criminal proceedings to the Central Criminal Records Exchange is to serve as notification to DFS. Notification of the final disposition will determine whether DFS saves the defendant's DNA profile permanently to the DNA data bank or destroys it.

Prior to the adoption of an emergency regulation to this effect, DNA samples had been collected from all felons (violent and nonviolent) once they were convicted of the felony. Following January 1, 2003, tissue or saliva samples are to be collected from qualifying offenders at the time of arrest (as long as the offender is not already in the data bank). The proposed change is likely to produce economic costs and benefits for the Commonwealth.

Costs: Requiring DNA samples at the time of arrest rather than at the time of conviction is likely to impose additional costs on DFS and on localities. DNA now has to be collected and a profile generated of individuals who might subsequently be acquitted or have the charges against them dropped or reduced. Buccal sample kits for taking saliva and/or tissue samples are provided by DFS to the localities free of charge. Each buccal sample kit costs DFS \$4.25. DFS will also incur additional costs in producing DNA profiles for individuals arrested for qualifying offenses who might not eventually be convicted of that offense. According to DFS, it costs the division approximately \$50 to produce a DNA profile<sup>1</sup>. DFS will also incur some additional costs in maintaining and updating the arrestee DNA data bank. However, the Department of Criminal Justice Services (DCJS) does not believe this to be a significant additional cost as DFS already

maintains and updates the DNA data bank for convicted felons. Finally, localities are also likely to incur additional costs in collecting, sealing, labeling, storing, and transporting tissue or saliva samples for individuals who are arrested but not convicted of the charges against them.

According to DCJS, currently localities bill individuals convicted of a felony \$25, of which \$12.50 is to cover the cost incurred by the locality in collecting, handling, storing, and transporting the tissue or saliva samples and \$12.50 is put into the general fund. However, individuals charged with a crime but never convicted are not charged a fee to cover the cost associated with collecting DNA samples and producing a profile. In cases when charges against the individual are dropped or reduced or the individual is acquitted, the cost of collecting, handling transporting, and analyzing the DNA samples are borne by the localities and the state.

Since the arrestee DNA data bank was created, DFS has analyzed 5,416 samples (as of the end of August). Of the samples analyzed, 1,645 (or approximately 30% of the samples collected) have since been removed from the system and their records destroyed<sup>2</sup>. Extrapolating from these figures, DFS can expect to analyze 8,124 arrestee DNA samples in a year, of which 2,468 are likely to be subsequently expunged from the system. Assuming that it costs DFS \$4.25 to supply buccal sample kits to localities and \$50 to produce a DNA profile, the division is likely to incur additional costs of approximately \$134,000 per year.

Localities will also incur additional costs of collecting, handling, storing, and transporting the DNA samples of individuals who are subsequently acquitted or against whom charges are dropped or reduced. Based on the above calculations, the localities would have to collect DNA samples from 2,468 individuals in a given year who are eventually not convicted of the offense with which they are charged. As these individuals are never convicted of the offense, they are not charged the \$25 fee charged to convicted felons to meet the cost of collecting and analyzing DNA samples. The cost of collecting, handling, storing, and transporting the samples will have to be met by the localities themselves. A precise estimate of the cost is not available at this time.

Benefits: The use of DNA profiling provides law enforcement with another tool for solving crimes. DNA data banks are currently being compiled and used by several countries other than the United States, including the United Kingdom, Australia, and Canada. In the United States, all 50 states have DNA database laws. In 2000, all 50 states had laws covering offenders convicted of sex offenses and more than half also had laws covering individuals convicted of other violent crimes such as murder, manslaughter, arson, kidnapping, and robbery<sup>3</sup>. Prior to January 1, 2003, Virginia collected samples and produced DNA profiles of all convicted felons, violent and nonviolent. The profiles were stored in a DNA data bank. Between 1990 (when the data bank was

---

<sup>1</sup> The estimate is based on what private companies charge to produce a DNA profile.

<sup>2</sup> 957 had the charges against them dismissed, 505 were found guilty of a lesser non-qualifying charge, 159 were found to have been charged with non-qualifying offenses, and 24 were acquitted.

<sup>3</sup> Congressional Statement by the Federal Bureau of Investigation on Forensic DNA Analysis, March 23, 2000

created) and 2002, it has provided law-enforcement agencies with 1,039 hits. A hit occurs when DNA analysis of a crime scene sample with no suspects matches a profile in the database of previously convicted offenders or a database of other crime scene profiles. The number of hits per year has increased as the size of the database has increased and the use of DNA in forensics has proliferated. In 2000 the data bank provided 178 hits, in 2001 it provided 308 hits, and in 2002 it provided 445 hits. Following the adoption of the emergency regulation, an arrestee DNA data bank was created containing the DNA profiles of all individuals arrested for committing qualifying offenses. Since then there have been 357 hits (a hit is now defined as when DNA analysis of a crime scene sample with no suspects matches a profile in the database of previously convicted offenders, a database of other crime scene profiles, or a database of samples from those individuals arrested for specified crimes). Thus, in addition to the existing DNA data bank, the arrestee DNA data bank can now be used by law enforcement to aid in solving crimes, both unsolved cold cases and new crimes.

The primary advantage of the change in policy is that DNA information is available earlier for comparison. Rather than waiting until conviction for that information to be available, law-enforcement agencies will have the DNA profile available following the arrest of the individual. Moreover, the DNA profile of individuals against whom charges are eventually dropped or reduced or who are eventually acquitted will be available for comparison until such time as the charges are dropped or reduced or the individual is acquitted. Thus, even if the individual is never convicted of the crime for which the DNA sample was collected, their DNA profile can be compared against DNA evidence from crime scenes while they await adjudication. According to DFS, the arrestee DNA data bank has yielded 36 hits since it was created on January 1, 2003 (9 for rape and sexual assault cases and 4 for homicide cases). Under previous policy, some of these DNA profiles would not have been available for comparison until the individual had been convicted of the crime and some profiles would never have entered the system as charges against these individuals were dropped or reduced or they were acquitted.

Thus, requiring DNA samples to be collected at the time of arrest rather than at the time of conviction is likely to produce some economic benefits. Some crimes may be solved sooner than they would have been otherwise. Moreover, some crimes may now be solved that might have remained unsolved or would require a lot more resources in order to solve.

The net economic impact of the proposed change will depend on whether the additional cost imposed by the policy change is outweighed by its benefits. The change is likely to cost DFS an additional \$134,000 a year. An exact estimate of the cost to localities is not known. Benefits are likely to arise out of more crimes being solved and more crimes being solved expediently. However, while the arrestee DNA data bank produced 36 hits in the year to date, an exact estimate of the number of crimes solved and the number of crimes prevented is not known.

Businesses and entities affected. The proposed regulation will affect all individuals arrested for qualifying offenses

(violent felonies and certain types of burglaries). Arrestees who are eventually convicted of the crime will now have to submit a DNA sample at the time of arrest rather than at the time of conviction. Arrestees who are not eventually convicted of the crime with which they are charged will be required to submit DNA samples at the time of arrest. If the charges are dropped or reduced or if the individual is acquitted, the samples and all records relating to it are destroyed. However, until that time, the arrestee's DNA profile will be available to law-enforcement agencies to compare against DNA evidence found at crime scenes. Between January 1, 2003, and August 31, 2003, 5,416 individuals were arrested and had their DNA samples collected and sent for analysis. DNA samples and records for 1,645 of these arrestees were then expunged.

Localities particularly affected. The proposed regulation will affect all localities in the Commonwealth. Localities will now be required to collect tissue or saliva samples from all individuals arrested for violent felonies and certain types of burglaries. Under previous policy, DNA samples would be collected only from those individuals who were convicted of these violent felonies and burglaries. Between January 1, 2003, and August 31, 2003, 5,416 were arrested for these crimes and had their DNA samples taken and sent for analysis. Of these, 1,645 were subsequently removed from the data bank as charges against most of the 1,645 were dropped or reduced or the individual was acquitted. Localities would have to bear the cost of collecting, handling, storing, and transporting the DNA samples of individuals who are arrested but not convicted of the crime with which they are charged. A precise estimate of the cost incurred by localities in collecting, handling, storing, and transporting the DNA samples is not available at this time.

Projected impact on employment. The proposed regulation is not likely to have a significant impact on employment. While DFS has been authorized to create 10 unfunded positions to handle the additional analysis, the overall impact of the change on employment in Virginia is not likely to be significant.

Effects on the use and value of private property. The proposed regulation is likely to lead to more crimes being solved and more crimes being solved expediently in Virginia. To the extent that this improves public safety by creating a safer environment and acting as a deterrent, it is likely to have a positive effect on the use and value of private property. For example, more crimes being solved and fewer crimes being committed are likely to have a positive effect on property values.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Department of Criminal Justice Services, Division of Forensic Science, concurs with the economic impact analysis prepared by the Department of Planning and Budget.

Summary:

*The proposed regulation provides guidance to agencies responsible for collecting DNA samples from persons arrested for any violent felony and for certain burglaries as specified in §§ 19.2-310.2:1 and 19.2-310.3:1 of the Code of Virginia. The regulation describes when a sample is*

---

# Proposed Regulations

---

required, who is responsible for collecting the sample, how the sample is to be collected and labeled, and how to transport the sample to the Division of Forensic Science for analysis.

## CHAPTER 210.

### REGULATIONS FOR THE IMPLEMENTATION OF THE LAW PERMITTING DNA ANALYSIS UPON ARREST FOR ALL VIOLENT FELONIES AND CERTAIN BURGLARIES.

#### PART I.

##### DEFINITIONS AND GENERAL PROVISIONS.

#### **6 VAC 20-210-10. Definitions.**

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

"Arrestee" means a person arrested for a qualifying offense under § 19.2-310.2:1 of the Code of Virginia.

"Buccal sample" means a sample taken by swabbing the cheek inside an arrestee's mouth.

"Buccal sample kit" means a kit specified by the division for the collection of buccal cell samples.

"CCRE" means the Central Criminal Records Exchange operated by the Virginia State Police.

"Clerk" means the clerk of court of any general district, juvenile and domestic relations or circuit court in the Commonwealth, and includes deputy clerks.

"Data bank" means the database of DNA profiles from biological samples maintained by the division for convicted felons and arrestees.

"Division" means the Division of Forensic Science, Department of Criminal Justice Services.

"DNA" means deoxyribonucleic acid.

"DNA analysis" means the analysis conducted on saliva or tissue samples to obtain a genetic profile of identification characteristics.

"DNA sample" means a biological sample taken for DNA analysis.

"DNA sample tracking application" means an application that can be queried to determine whether an arrestee has a sample in the data bank.

"Document control number" means the number that is preprinted on the fingerprint card (CCRE arrest forms SP179 and SP180) or assigned by Live-Scan.

"LIDS" means the Local Inmate Data System administered by the State Compensation Board.

"Qualifying offense" means an offense requiring a saliva or tissue sample to be taken upon arrest as described in § 19.2-310.2:1 of the Code of Virginia.

#### **6 VAC 20-210-20. Substantial compliance.**

These regulations and the procedures set forth herein relating to the taking, handling and identification of saliva or tissue samples, and the completion or filing of any form or record

prescribed by these regulations, are procedural in nature and not substantive. Substantial compliance therewith shall be deemed sufficient.

#### PART II.

##### QUALIFYING OFFENSE WARRANTS

#### **6 VAC 20-210-30. Qualifying offense warrants.**

All warrants for qualifying offenses shall contain the following language: "Take buccal sample if LIDS shows no DNA sample in Data Bank."

#### PART III.

##### DNA SAMPLE TRACKING APPLICATION.

#### **6 VAC 20-210-40. Use of LIDS.**

An Internet accessible DNA sample tracking application developed by the State Compensation Board through LIDS shall be accessible through the State Compensation Board's website at [www.scb.state.va.us](http://www.scb.state.va.us). Access to the DNA sample tracking application shall be located under the website's "Restricted Access" section. User identifications and passwords shall be assigned to all law-enforcement agencies responsible for taking saliva or tissue samples from arrestees.

#### **6 VAC 20-210-50. Screening for duplicates.**

Prior to taking the saliva or tissue sample, the LIDS DNA sample tracking application, or any such other DNA sample tracking application approved by the division and permitted by the Code of Virginia, shall be queried to determine if there is a DNA sample already in the data bank for the arrestee. If the DNA sample tracking application indicates that a sample previously has been taken from the arrestee, no additional sample shall be taken. If the DNA sample tracking application indicates no sample has been taken from the arrestee, a saliva or tissue sample shall be taken in accordance with the procedures outlined in this chapter.

#### PART IV.

##### PROCEDURES FOR TAKING SALIVA OR TISSUE SAMPLE.

#### **6 VAC 20-210-60. Collection of samples.**

The samples shall be collected during booking by the sheriff's office, police department or regional jail responsible for booking upon arrest.

#### **6 VAC 20-210-70. Buccal sample kits.**

Saliva and tissue samples shall be collected using buccal sample kits specified and distributed by the division. Each buccal sample kit shall contain a submission form, at least one buccal sample collection device and instructions on the procedure for using the device. These instructions shall be followed when collecting the buccal samples.

#### **6 VAC 20-210-80. When buccal sample kits are unavailable.**

In circumstances where a buccal sample kit is unavailable, the division may accept samples collected without using the buccal sample collection devices contained in the buccal sample kits. These samples shall be collected through the use of sterile swabs and satisfy the sealing and labeling requirements of 6 VAC 20-210-90.

**6 VAC 20-210-90. Sealing and labeling samples.**

All saliva and tissue samples collected shall be placed in sealed, tamper-resistant containers. Samples shall be submitted with the following identifying information: the arrestee's name, social security number, date of birth, race and gender; the name of the person collecting the samples; the date and place of collection; information identifying the arresting or accompanying officer; the qualifying offense; and the document control number (DCN).

**6 VAC 20-210-100. Transportation of samples to the division.**

Samples shall be transported to the division in sealed containers not more than 15 days following collection. A copy of the arrest warrant or *capias* shall be included with the sample when it is transported to the division. Samples may be hand delivered or mailed to the division.

PART V.  
NOTIFICATION OF FINAL DISPOSITION.

**6 VAC 20-210-110. Notification of final disposition.**

Timely submission of the final disposition of a qualifying offense to CCRE by the clerk shall satisfy the requirement that the clerk notify the division of final disposition of the criminal proceedings under § 19.2-310.2:1 of the Code of Virginia.

VA.R. Doc. No. R03-111; Filed January 30, 2004, 12:29 p.m.



**TITLE 9. ENVIRONMENT**

**STATE WATER CONTROL BOARD**

Titles of Regulations: **9 VAC 25-400. Policy for Waste Treatment and Water Quality Management for the Dulles Area Watershed (repealing 9 VAC 25-400-10).**

**9 VAC 25-401. Sewage Treatment in the Dulles Area Watershed (adding 9 VAC 25-401-10 through 9 VAC 25-401-50).**

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

Public Hearing Date: March 31, 2004 - 7 p.m.  
Public comments may be submitted until 5 p.m. on April 23, 2004.  
(See Calendar of Events section for additional information)

Agency Contact: Thomas A. Faha, Department of Environmental Quality, 13901 Crown Court, Woodbridge, VA 22193, telephone (703) 583-3846, or e-mail tafaha@deq.state.va.us.

Basis: The regulation was adopted pursuant to authority vested in the State Water Control Board by §§ 62.1-44.15(3) and 62.1-44.15(13) of the State Water Control Law. Section 62.1-44.15(3a) gives the State Water Control Board the authority to establish standards of quality and policies for state waters. Section 62.1-44.15(13) gives the board authority to establish policies for areawide water quality plans and to

consider the feasibility of combined sewage treatment plants with consultation from local authorities.

There is no federal or state mandate for this regulation. The requirements of the regulation exceed the minimum requirements of the Clean Water Act and the State Water Control Law.

The regulation is similar to a water quality management plan in that it limits the number of sewage treatment plants. Federal regulations require states to have a continuing planning process for water quality management of major river basins or waterbodies (40 CFR 130.5). However, federal regulations do not specify the level of detail or requirements that must be in a plan. The requirements and conditions in the regulation are very detailed, restrictive, and stringent.

The following aspects of the regulation exceed the requirements that have been set for the state generally:

- The number of sewage treatment plants are limited to two and ownership is specified;
- The two sewage treatment plants must be a minimum of 10 miles upstream of a drinking water intake or proposed intake;
- The effluent limitations are very stringent, far exceeding what might otherwise be required to protect water quality standards.

Purpose: The regulation addresses a significant public health, safety, and welfare issue. Its purpose is to provide additional protection of water quality in proximity to the drinking water intakes located on the Potomac River and on Goose Creek. The streams draining the Dulles area watersheds enter the Potomac River near the withdrawal points for three major Washington area water utilities, Washington Aqueduct Division, Fairfax County Water Authority, and Washington Suburban Sanitary Commission. These utilities serve over three million people in Washington, D.C., and its surrounding suburbs in Northern Virginia and Maryland.

Sewage treatment discharges located upstream of drinking water intakes are not uncommon in Virginia. The Department of Health, Office of Water Programs (VDH), usually requires a minimum of five miles separation between a discharge and intake. When a discharge does occur to a public water supply the Department of Environmental Quality (DEQ) applies additional water quality standards (9 VAC 25-260-140) and may require additional wastewater treatment.

The net goal of the regulation is to provide additional assurance that the drinking water supply is protected. The affected jurisdictions believe this regulation provides an added level of protection above the statewide water quality standards used by DEQ in preparing VPDES permits to protect water quality.

Substance: The DEQ received comments that the regulation be changed for two reasons.

1. To rewrite it so that it reads like a regulation. The current regulation reads like a planning document with language that requires much interpretation of its intent and instruction. As

---

## Proposed Regulations

---

written, it is difficult for DEQ to implement. A draft version of the new regulation contains clear and concise language.

2. To update the effluent limits prescribed by the regulation so that they reflect state-of-the-science and the experiences gained over the past 25 years in water quality management. The effluent limits in the current version of the regulation were adopted over 25 years ago and they are outdated and unachievable with even the most advanced treatment technologies. Those effluent limits do not reflect the current state of wastewater treatment and water quality management and need to be changed to match the requirements of the Occoquan Policy, 9 VAC 25-410, a regulation that has worked well in protecting the Occoquan reservoir drinking water supply for the past 25 years. The draft version of the new proposed regulation contains the effluent limitations prescribed by the Occoquan Policy.

**Issues:** The primary advantage of the regulation is added protection to the drinking water supply. It is generally accepted that a few large regional sewage treatment plants provide better assurance of water quality protection than multiple smaller plants. The disadvantages is that the prohibition of other sewage treatment plants that discharge to surface waters is counter to how most of the state is managed and removes an option often used to provide sewage treatment. The regulation does not provide any advantage or disadvantage to DEQ.

Locality particularly affected. The following localities have surface waters within the defined watersheds: The counties of Arlington, Loudoun, and Fairfax; cities of Fairfax and Falls Church; and Towns of Leesburg, Herndon and Vienna.

Public participation. In addition to any other comments, the State Water Control Board is seeking comments on the costs and benefits of the proposed regulation and the impacts of the regulation on farm or forest lands.

Anyone wishing to submit written comments for the public comment file may do so at the public hearing or by mail. Written comments should be signed by the commenter and include the name and address of the commenter. In order to be considered the comments must be received by the close of the comment period. Oral comments may be submitted at the public hearing.

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

Summary of the proposed regulation. The General Assembly mandates in § 62.1-44.15 of the Code of Virginia that the

State Water Control Board establish standards of quality and policies for state waters consistent with the standards set forth in Chapter 3.1 of Title 62.1 of the Code of Virginia. Section 62.1-44.15 of the Code of Virginia also gives the State Water Control Board the authority to establish policies and programs for effective area-wide or basin-wide water quality control and management. It requires the State Water Control Board to consider the feasibility of combined sewage treatment plants when developing these policies and programs.

The proposed regulation replaces an existing regulation that deals with waste treatment and water quality management in the Dulles watershed area. The existing regulation is being repealed and a new regulation is being adopted because of the extensive editing and rewriting required to update and clarify the regulation. While most of the requirements of the proposed regulation are not significantly different from the requirements of the existing regulation, the proposed regulation modifies the effluent limits on discharges from regional sewage treatment plants. It relaxes the maximum effluent limit for TSS (total suspended solids), modifies the total nitrogen discharge requirements, and deletes effluent limits for BOD (biochemical oxygen demand), MBAS (methyl blue activated substance), and viruses. Modifications to the effluent limits apart, the proposed regulation does not differ significantly from the existing regulation. Some of the other minor changes include additional language that clarifies the intent of the existing regulation, the inclusion of two exceptions to the requirements of the regulation, the removal of language and requirements that are outdated, redundant, or unnecessary, and the reorganization of the regulation in an effort to improve its clarity.

Estimated economic impact. The proposed regulation is intended to replace an existing regulation dealing with waste treatment and water quality management in the Dulles watershed area. The existing regulation, which was promulgated in 1975, is being repealed. The existing regulation is organized and written along the lines of a planning document. Due to the amount of interpretation required regarding its intent and instruction, the Department of Environmental Quality (DEQ) has found the regulation difficult to implement in its current form. Moreover, the effluent limits for discharges from regional sewage treatment plants are outdated and need to be updated to reflect current technology and water quality management techniques. The editing and rewriting required in order to improve the clarity of the regulation and update the effluent limits was so extensive that DEQ decided to repeal the existing regulation and adopt the proposed regulation.

The proposed regulation differs significantly from the existing regulation only in the maximum effluent limits on surface water discharges from regional sewage treatment plants. It modifies the effluent limits established in the existing regulation to reflect the current state of wastewater treatment and water quality management. Some of the effluent limits established in the existing regulation are either unachievable and/or not possible to measure accurately at the sewage treatment plant (STP) level. For example, the existing regulation establishes effluent limits for viruses and TSS (total suspended solids) of 0.0 mg/l. However, according to DEQ, it is not possible for

STPs to accurately measure and hence, achieve these effluent limits.

The proposed regulation adopts all but one of the effluent limits prescribed in the wastewater treatment and water quality management policy for the Occoquan watershed (9 VAC 25-410). According to DEQ, the Occoquan policy has worked well in protecting the Occoquan reservoir drinking water supply for the last 25 years and the effluent limits prescribed by it are adequate to protect water quality in the Dulles watershed area. Effluent limits for MBAS (methyl blue activated substance), a parameter used to measure surfactants such as soaps and detergents, are not included in the proposed regulation even though they appear in the Occoquan policy. DEQ believes that improved wastewater treatment technologies and the phosphate ban since 1988 have made this requirement unnecessary.

The effluent limits prescribed in the proposed regulation differ from existing policy in the following ways.

- The maximum effluent limit for TSS in the proposed regulation is 1.0 mg/l as compared to 0.0 mg/l in the existing regulation. DEQ believes that a TSS effluent limit of 0.0 mg/l is unachievable for STPs and a TSS effluent limit of 1.0 mg/l will be adequate to protect the water quality in the Dulles watershed area.
- The proposed regulation modifies the nitrogen requirement. It prescribes a TKN (unoxidized nitrogen) effluent limit of 1.0 mg/l. It requires owners of regional sewage treatment plants to monitor nitrate concentrations in the vicinity of the Fairfax County Water Authority intake on the Potomac River. In the event that nitrate concentrations at the intake exceed 5.0 mg/l, owners of the STPs are required to take corrective action. The proposed regulation also requires owners of the regional sewage treatment plants to implement an in-stream monitoring program to assess the impact of their discharges on downstream water quality. Under the existing regulation, an effluent limit of 1.0 mg/l was established for total nitrogen, not just unoxidized nitrogen, and there were no monitoring requirements for owners of regional STPs. DEQ believes that a total nitrogen effluent limit of 1.0 mg/l is unachievable for STPs and the effluent limit for TKN coupled with the monitoring requirements are a more effective and appropriate way of controlling the amount of nitrogen being discharged.
- The proposed regulation does not include an effluent limit for BOD (biochemical oxygen demand). It is not possible for an STP to accurately measure BOD of 1.0 mg/l (the BOD limit in the existing regulation). DEQ believes that a COD (chemical oxygen demand) effluent limit of 10.0 mg/l is equivalent to having a BOD limit of 1.0 mg/l and that removing the BOD limit will not have a significant impact on water quality.
- The proposed regulation does not include an MBAS effluent limit. MBAS is a parameter used to measure pollutants such as soaps and detergents. As improved wastewater treatment technologies and the phosphate ban in Virginia since 1988 have largely dealt with the problem of detergents being discharged, DEQ believes

that MBAS effluent limits are no longer necessary. Under the existing regulation, the MBAS limit is set at 0.1 mg/l.

- The proposed regulation does not include effluent limits for viruses. The existing regulation requires a virus effluent limit of 0.0 mg/l. However, DEQ believes the virus effluent limit to be unachievable for sewage treatment plants due to the uncertainty and inaccuracies associated with measuring it.

In most cases, the proposed regulation actually relaxes the effluent limits to be met by regional sewage treatment plants while not significantly increasing the risk to water quality in the Dulles watershed area. However, the regulation does impose additional monitoring requirements on the owners of these STPs. Rather than meeting an effluent limit for total nitrogen, owners of regional sewage treatment plants will be required to meet an effluent limit for TKN and implement in-stream and nitrate monitoring programs. DEQ believes that a TKN effluent limit of 1.0 mg/l coupled with the monitoring requirements will cost STPs significantly less than trying to comply with a total nitrogen limit of 1.0 mg/l. It is not possible to quantify the exact amount of the cost saving to STPs as it will vary depending on the size and type of program the STP and the water authority develop.

Currently, there are no regional sewage treatment plants that discharge into the Dulles watershed area. The Loudon county regional sewage treatment plant is currently under construction and will be subject to these requirements once it becomes operational. The proposed regulation allows for the construction of another regional sewage treatment plant under the authority of the city of Leesburg, but no such STP is currently under construction.

In addition to modifications to the effluent limits, the proposed regulation also includes language that clarifies the intent of the existing regulation. For example, the proposed regulation prohibits the establishment of new STPs that discharge into the Dulles watershed area other than two regional sewage treatment plants, one under the authority of the city of Leesburg and the other under the authority of Loudon County. While the existing regulation did not specifically prohibit the setting up of new STPs, it did not authorize any new plants other than the two regional sewage treatment plants. The proposed regulation also includes other changes that improve the clarity of the proposed regulation compared to the existing regulation such as clearly identifying the watersheds subject to the regulation.

The proposed regulation allows for exceptions from these requirements in two cases: one for existing STPs that discharge into the Dulles watershed area and cannot hook up to a regional sewage treatment plant and the other for failing septic drain field systems at existing facilities such as residential homes, industrial and commercial operations, and public facilities when it can be demonstrated that it is not feasible to connect to a publicly owned sewage treatment plant and that there is no feasible alternative except to discharge into the watershed. While the existing regulation did not authorize the setting of new STPs that discharge into the Dulles watershed area, it allowed existing STPs to continue operating. The exception clause in the proposed regulation has been added in order to allow these STPs to

---

## Proposed Regulations

---

continue operating. Currently, there are three STPs that were set up before January 1975 and that discharge into the Dulles area watershed.

The proposed regulation also removes language and requirements that are outdated, redundant, or unnecessary. The existing regulation was adopted before Virginia promulgated the sewerage regulations. Thus, aspects of the existing regulation that dealt with the design, construction, and operation of STPs and pump stations that are now included in the Sewage Collection and Treatment regulations have been removed from the proposed regulation. Other changes include deleting language in the existing regulation that provides nonregulatory background discussion and staff recommendations and leaving out language in the existing regulation that is outdated and no longer applicable such as the section establishing an interim plan for the Dulles watershed area.

The proposed regulation is reorganized compared to the existing regulation in an effort to improve its clarity. The existing regulation is organized and written along the lines of a planning document. This has led to problems in the interpretation and implementation of the regulation. The proposed regulation is divided into five distinct sections and uses more clear and concise regulatory language.

The proposed regulation is likely to have a net positive economic impact. By deleting or modifying effluent limits not possible for STPs to meet, the proposed regulation is likely to produce economic benefits for regional sewage treatment plants discharging into the Dulles area watershed. Specifically, modifying the nitrogen requirement from meeting a total nitrogen effluent limit of 1.0 mg/l to meeting a TKN effluent limit of 1.0 mg/l and an in-stream and nitrate monitoring requirement is likely to produce significant cost savings for regional sewage treatment plants. Moreover, to the extent that modifying the effluent limits for discharge, updating the regulation, and improving its clarity provides for better implementation of the regulation and for better water quality management in the Dulles watershed area, the proposed regulation will have a positive economic impact.

Businesses and entities affected. The proposed is likely to affect regional sewage treatment plants that discharge into the Dulles area watershed. By updating the effluent requirements to reflect current technology and water management practices, the proposed regulation is likely to produce economic benefits for regional sewage treatment plants. Specifically, modifying the nitrogen requirement is likely to produce significant cost savings for these plants. Moreover, modifying the effluent limits for discharge, updating the regulation, and improving its clarity is likely to lead to better implementation of the regulation and provide for better water quality management in the Dulles watershed area and produce economic benefits for all businesses and entities, not just STPs, operating in the affected area.

Localities particularly affected. The proposed regulation will affect localities that have surface waters within the Dulles watershed area. These include the counties of Arlington, Loudon, and Fairfax, the cities of Fairfax and Falls Church, and the towns of Leesburg, Vienna, and Herndon.

Projected impact on employment. The proposed regulation is not likely to have a significant impact on employment in Virginia.

Effects on the use and value of private property. To the extent that modifying the effluent limits for discharge, updating the regulation, and improving its clarity provides for better implementation of the regulation and for better water quality management in the Dulles watershed area, the proposed regulation will have a net positive economic impact on the value of property in the affected area.

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

### Summary:

*The proposed regulation replaces an existing regulation that deals with waste treatment and water quality management in the Dulles watershed area. The existing regulation is being repealed and a new regulation is being adopted because of the extensive editing and rewriting required to update and clarify the regulation. The proposed regulation modifies the effluent limits on discharges from regional sewage treatment plants. It relaxes the maximum effluent limit for TSS (total suspended solids), modifies the total nitrogen discharge requirements, and deletes effluent limits for BOD (biochemical oxygen demand), MBAS (methyl blue activated substance), and viruses. Modifications to the effluent limits apart, the proposed regulation does not differ significantly from the existing regulation. Some of the other minor changes include additional language that clarifies the intent of the existing regulation, the inclusion of two exceptions to the requirements of the regulation, the removal of language and requirements that are outdated, redundant, or unnecessary, and the reorganization of the regulation in an effort to improve its clarity.*

#### CHAPTER 401.

#### SEWAGE TREATMENT IN THE DULLES AREA WATERSHED.

#### **9 VAC 25-401-10. Purpose and authority.**

*This chapter is established by the State Water Control Board to regulate the discharge of sewage treatment effluent to surface waters in the Dulles Area Watershed, which is located upstream of several major public water supply intakes serving the Washington, D.C., metropolitan area. The Dulles Area Watershed is composed of the southeastern portion of Loudoun County, the northwestern portion of Fairfax County, and a small northwestern portion of Arlington County. This regulation does not restrict or affect sewage treatment plants within the Dulles Area Watershed that do not discharge to surface waters within the watershed.*

*This chapter is adopted pursuant to authority vested in the State Water Control Board by §§ 62.1-44.15 (3a) and 62.1-44.15 (13) of the State Water Control Law.*

#### **9 VAC 25-401-20. Affected waters.**

*This regulation applies to all tributaries and their headwaters of the Potomac River from, and including, Goose Creek in*

Loudoun County to, and including, Pimmit Run in Arlington County. The mainstem of Goose Creek west of State Route 15 and tributaries to that portion of Goose Creek, and the mainstream of Little River west of State Route 15 and the tributaries to that portion of Little River, are not subject to this regulation.

**9 VAC 25-401-30. Sewage treatment plant restrictions and requirements.**

A. The number of sewage treatment plants discharging effluent to surface waters identified in 9 VAC 25-401-20 shall be no more than two, one to be under the authority of the Town of Leesburg and one under the authority of Loudoun County. The discharge from the treatment plants shall be in the Broad Run and Goose Creek Watersheds a minimum of 10 stream miles upstream from the Fairfax County Water Authority water supply intake on the Potomac River.

B. The following maximum effluent limitations shall apply for the sewage treatment plants prescribed in subsection A of this section:

Parameter	Monthly Average
COD	10.0 mg/l
TSS	1.0 mg/l
TKN	1.0 mg/l
Total Phosphous	0.1 mg/l
Turbidity	0.5 NTU
E. coli	less than 2 per 100 ml

The above parameters and all other pollutants shall also be monitored and limited as necessary in accordance with the VPDES Permit Regulation.

The owners of the sewage treatment plants are responsible for knowing nitrate concentrations in the vicinity of Fairfax County Water Authority's intake on the Potomac River. Should nitrate concentrations at the intake reach 5 mg/l, the owners shall evaluate measures they can take to minimize impacts their discharge has on the nitrate concentrations and implement those measures deemed feasible and effective.

C. Requirements for sewage treatment plants in subsection A of this section.

1. The design shall be such that expansions and maintenance of any unit can be accomplished without bypassing wastes to the receiving waters and without degrading treatment.

2. The mechanical and fluid system design shall be such that a single failure of a component or unit shall not interrupt plant operations that are required to meet the final effluent requirements in subsection B of this section.

3. There shall be one independent source of outside power supply and one on-site power supply. Both the off-site and on-site electrical distributions shall be such that the failure of any one given component (mechanical or electrical) in the distribution system shall not cause an interruption of electrical service to parts of the plant that are essential to meet the effluent requirements.

4. The treatment plants shall be staffed 24 hours a day, seven days a week.

D. Design requirements for pumping stations for sewage treatment plants in subsection A of this section. Pumping stations on all sewage collection systems that are connected to the plants identified in subsection A of this section shall meet the Reliability Classification 1 requirements as described in the Virginia Sewage Collection and Treatment Regulations (9 VAC 25-790), and shall have retention basins with a minimum of one-day capacity. A waiver from the retention basin requirement may be obtained from the Department of Environmental Quality if the owner of the pump station can demonstrate that a sewer system tributary to the pump station meets the infiltration/inflow criteria established by the Virginia Sewage Collection and Treatment Regulations, and any other such information that the department may require.

**9 VAC 25-401-40. Exceptions.**

The following exceptions to 9 VAC 25-401-30 A may be allowed on a case-by-case basis after review and approval by the Department of Environmental Quality:

1. Existing sewage treatment plants. Existing sewage treatment plants located in the affected waters and not authorized by 9 VAC 25-400-30 A may continue to discharge to surface waters provided they were constructed prior to January 1975. Such discharges may continue only as long as the Department of Environmental Quality determines that it is not feasible for them to connect to a publicly owned sewage treatment plant. Expansions of these treatment works may be allowed as long as pollutant quantities or loadings are not increased.

2. Failing septic systems. Existing residential homes, industrial and commercial operations, public facilities, and any other operation where a septic drain field system has failed may discharge treated sewage effluent provided that the applicant demonstrates that it is not feasible to connect to a publicly owned sewage treatment plant and that there is no feasible alternative except to discharge. Discharge permits shall be issued in conformance with the State Water Control Law, the Virginia VPDES Permit Regulation (9 VAC 25-31), and the Water Quality Standards (9 VAC 25-260).

**9 VAC 25-400-50. Stream monitoring.**

The owners of the sewage treatment plants identified in 9 VAC 25-401-30 A shall develop and implement an instream monitoring program. The purpose of the monitoring program shall be to assess any impacts the discharge may have on down stream water quality and the water quality at the Fairfax County Water Authority's intake in the Potomac River. The owners of the sewage treatment plants shall consult with the Fairfax County Water Authority in developing the monitoring program.

VA.R. Doc. No. R03-140; Filed February 4, 2004, 10:57 a.m.



---

# Proposed Regulations

---

## TITLE 12. HEALTH

### STATE BOARD OF HEALTH

Titles of Regulations: **12 VAC 5-200. Regulations Governing Eligibility Standards and Charges for Medical Care Services to Individuals (amending 12 VAC 5-200-10 through 12 VAC 5-200-50, 12 VAC 5-200-80 through 12 VAC 5-200-190, 12 VAC 5-200-220, 12 VAC 5-200-230, 12 VAC 5-200-270, and 12 VAC 5-200-280; repealing 12 VAC 5-200-70 and 12 VAC 5-200-210; adding 12 VAC 5-200-105 and 12 VAC 5-200-290).**

**12 VAC 5-210. Charges and Payment Requirements By Income Levels (repealing 12 VAC 5-210-10 and 12 VAC 5-210-20).**

Statutory Authority: §§ 32.1-11 and 32.1-12 of the Code of Virginia.

Public Hearing Date: N/A -- Public comments may be submitted until April 26, 2004.

(See Calendar of Events section for additional information)

Agency Contact: James Burns, M.D., Deputy Commissioner for Public Health, Department of Health, 109 Governor St., 13th Floor, Richmond, VA 23219, telephone (804) 864-7001, FAX (804) 864-7022, or e-mail jim.burns@vdh.virginia.gov.

Basis: Subsection A of § 32.1-11 of the Code of Virginia provides that "[t]he [State] Board [of Health] may formulate a program of . . . preventive, curative and restorative medical care services . . . on a regional, district or local basis."

Subsection B of that section authorizes the board to define the income limitations within which a person shall be deemed to be medically indigent, to prescribe the charges to be paid for the medical care services of the department by persons who are not deemed to be medically indigent, and prescribe a scale of such charges based upon ability to pay.

Further, subsection C of the same section provides that "[t]he Board shall review periodically the program and charges adopted pursuant to this section."

The proposed regulatory action revises and updates the board's regulations pertaining to the eligibility of persons for services rendered in local health departments across Virginia, within the scope of the law, set forth above. The authority to accomplish this action is clearly mandatory.

Purpose: The existing regulations have not been revised in 10 years and need to be updated to correct deficiencies, to adjust to changing practice, and to adjust to changes in the medical environment. The proposed regulations will benefit public health and welfare by, among other things, making medical services more available to Virginians in need of such service.

Substance:

1. A distinction is made between services and goods. Services are sliding scale and goods are flat rate with a local option for sliding scale. This will allow charging the agency's cost for lab and pharmacy services.

2. Charge tables are eliminated and rates are tied to Medicaid, then Medicare, and then a cost study if no Medicaid or Medicare charges are available. This will make maintenance of charges simpler.

3. Applicants who do not apply for Medicaid or a children's medical insurance program within 30 days of receiving services may be assessed the established charge for the medical care and related goods and services provided. This will encourage patients to obtain appropriate funding for their care.

4. Denial of services. Denial of services is clarified and restricted to better protect patients.

5. Flat rate charges authorized for mass encounters, but patients have the option of appearing at a different time and possibly a different place for eligibility determination and possible discounted service. This simplifies access to services such as flu shots while allowing indigent patients the right of access to discounted services.

6. Establishes contracted prices. Districts will be able to establish prices for certain procedures and for a defined population by contract with a community organization. This enhances public health activities by improving access based on community need.

7. Ties the list of nonchargeable STD to the Code of Virginia citation for venereal diseases (§ 32.1-57)

8. Application to Medicaid, Medicare, etc. will be required before issuing a waiver. The authority to grant waivers cannot be delegated beyond the health director. Waivers can be granted for up to 180 days. Makes this process more orderly and practical.

9. Definition of a family is adjusted to reflect household economic realities. Unrelated adults living together and sharing income are in the same economic unit.

10. Acknowledge that the Commissioner of Health may interpret and implement these regulations in a guidance document.

Issues: The proposed regulation poses two main advantages to the public and the agency:

1. Patients are encouraged to apply for Medicaid and state-sponsored children's health insurance and, if enrolled, they will have substantially increased access to medical care services. Waivers are made more likely to be granted so those with financial hardships will not incur additional charges. Some patients may receive higher charges, but some may receive lower charges. The discounted fee schedule (sliding scale) is not changed.

2. These changes provide for administrative simplifications and clarifications. They allow for charges to be more rational, to adjust more rapidly to Medicaid reimbursement levels, and encourage application for Medicaid and state-sponsored children's health insurance, which will increase agency revenue.

There are no known disadvantages to the public, the agency, or the Commonwealth associated with the proposed regulation.

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

Summary of the proposed regulation. Section 32.1-11 of the Code of Virginia allows the State Board of Health to formulate a program of environmental health services, laboratory services, and preventive, curative, and restorative medical care services to be provided by the Virginia Department of Health (VDH) on a regional, district, or local basis. Section 32.1-11 of the Code of Virginia also allows the State Board of Health to prescribe a scale of charges for medical care services provided by VDH based on the ability to pay. The State Board of Health is required to periodically review the program and charges adopted by the board.

The regulations propose the following changes: (1) The phrase "health care services" is replaced by the phrase "medical care services" in order to distinguish between services provided by VDH or a contractor hired by VDH and goods and services not directly provided by VDH but purchased on behalf of patients. The cost to patients of medical care services provided directly by VDH or an entity contracted by VDH will continue to be determined by a sliding scale that rises as the patient's income level rises. The cost of medical care services not directly provided by VDH but purchased on behalf of a patient can now be priced at a flat rate based on the cost incurred by VDH in purchasing these goods and services. (2) The proposed regulations modify the definition of a family or family unit (defined as an individual and other household members who together constitute one economic unit) to include not just individuals legally and biologically related, but also unrelated adults living together and sharing income. The regulation also specifies that a husband and wife who are separated and not living together will be considered separate family units. (3) Income scales used to calculate how much a patient is required to pay for medical care services provided directly by VDH or by an entity contracted by VDH are modified to bring the regulation in compliance with federal regulations. An additional income level eligible for a 5% discount on medical care services provided directly by VDH has been added to the sliding scale. (4) Districts are now allowed to charge flat rates with no discounting for certain high-volume events, such as influenza immunizations, as long as convenient alternate times and venues are provided for eligible individuals to obtain these services at a discount. The flat rate charge has to be approved by VDH prior to being implemented. (5) All eligible applicants are required to apply for Medicaid or other medical insurance programs within 60 days of receiving services from VDH under these regulations. Failure to do so could result in

the cost of medical care and related goods and services being assessed at the nondiscounted rate and the individual becoming ineligible for a waiver of charges. (6) The length of time for which a waiver of charges can be requested is increased from 90 days to 180 days and the circumstances under which a waiver might be granted are clarified.

The proposed regulations include a number of administrative changes that improve the efficiency and effectiveness of the regulations including: (i) The chapter dealing with the charges and payment requirements by income level is amended. Charts listing the various charges, including the minimum required payment, by income level have been removed from the regulation and will be available at VDH headquarters and district and local health department offices of VDH. The change will allow VDH to update existing charges based on changes in Medicaid and Medicare reimbursement levels and add new charges based on current health needs without having to modify regulatory language. (ii) Changes are made to the process for determining charges for medical care services provided by VDH or an entity contracted by VDH. In the absence of Medicaid reimbursement, charges are to be based on the appropriate Medicare reimbursement levels. In instances when neither Medicaid nor Medicare reimburse for a service, VDH is allowed to base charges on the cost of providing the medical care services. The proposed change is intended to simplify the calculation and maintenance of charges. (iii) Provisions are incorporated into the proposed regulations that allow for the issuance of a guidance document by VDH which interprets the regulation and provides guidance regarding its implementation.

Additional language is added to the proposed regulations formalizing current practice regarding charges for goods and services provided by contract and specifying the circumstances under which medical care services can be denied. The proposed regulations also streamline the appeals process, add clarifying language, make corrections, and remove redundant language from the existing regulations.

Estimated economic impact. (1) The proposed regulations replace the phrase "health care services" by the phrase "medical care services" in order to distinguish between services provided by VDH or a contractor hired by VDH and goods and services not directly provided by VDH but purchased on behalf of patients. Medical care services are defined in the regulation to exclude laboratory tests, pharmaceutical and biological products, radiological and other imaging studies, and other goods, products, and medical services not directly provided by VDH or by an entity contracted by VDH. The cost of medical care services provided directly by VDH or an entity contracted by VDH will continue to be determined by a sliding scale that rises as the patient's income rises.

The Code of Virginia requires that all medical care services be provided free of charge to medically indigent individuals and allows VDH to develop a sliding scale of charges by income level for individuals not classified as medically indigent. By defining medical care services to exclude goods and services not directly provided by VDH or an entity contracted by VDH, the proposed regulation allows VDH and the local health departments to charge a flat rate regardless of income based

---

## Proposed Regulations

---

on the cost of purchasing these services on behalf of the patient.

According to VDH, the new requirement will apply to pass-through costs incurred by VDH in providing certain goods and services. For example, in instances when tests are conducted at a private laboratory, the patient will be charged the amount paid by VDH to the laboratory to conduct the test. Under existing policy, VDH gets reimbursed, based on the patient's income, for a fraction of the total pass-through cost.

The proposed change will transfer the cost of purchasing goods and services on behalf of patients from VDH and the local health departments to the patients themselves. VDH will no longer subsidize the cost of these goods and services and individuals currently receiving them at a discounted rate will be required to pay full price for them. While the additional cost to patients as a result of the proposed change will be balanced by the additional savings to VDH and local health departments, the proposed change could impose further economic costs. For example, individuals in the lower income brackets would have to do without certain health-related goods and services due to an inability to pay full price for them. However, VDH believes that this cost is not likely to be significant as these goods and services tend not to be offered by VDH and the local health departments currently due to the costs associated with providing these services.

The proposed change is also likely to produce some economic benefits. Under current policy, individuals requiring these goods and services are more likely to purchase them privately, if at all. By allowing districts to charge the cost incurred by them in providing these goods and services, VDH believes that it will encourage districts to offer to purchase these services on behalf of patients. Moreover, VDH believes that these services, if purchased by VDH or local health departments on behalf of patients, are likely to be offered at a lower cost than if the individual were to purchase these services privately.

The net economic impact of the proposed change will depend on whether economic costs (such as low income individuals not having access to certain goods and services due to an inability to pay) associated with the proposed change are outweighed by the benefits of encouraging districts to purchase these services on behalf of patients and the benefits arising out of any ability VDH might have to provide these services at a lower cost than what it would cost an individual to purchase these goods and services privately. VDH does not have data on the number of patients currently receiving these goods and services at a discounted price and their ability to pay full price, if required, for these goods and services. Information on potential cost savings to patients from purchasing these goods and services through VDH as opposed to purchasing them privately and on the number of patients that would benefit from having VDH or the local health departments purchase these services on behalf of them is also not available. While it is likely that VDH will be able to negotiate a lower price with the provider for these goods and services than if they were to be bought privately, a precise estimate of the cost savings is not possible at this time.

(2) The proposed regulations modify the definition of a family or family unit to include not just individuals legally and

biologically related, but also unrelated adults living together and sharing income. Under existing policy, only household members among whom legal responsibilities of support exist can be considered a family unit. The proposed regulations have not been revised in ten years. According to VDH, the proposed change is being made in order to update the regulations to reflect current living patterns, where individuals living together may not be bound by legal or biological relationships. The regulations also specify that a husband and wife who have separated and are not living together will be considered separate family units. The existing regulation states that only couples that are separated and not dependent of each other for support are to be considered separate family units. VDH does not believe that a reference to whether a separated couple is dependent on each other for support needs to be included in the definition of a family unit. Financial support between spouses who are separated is incorporated into the income eligibility criteria used to determine the charges for medical care services provided by VDH.

Expanding the definition of a family unit to beyond individuals legally or biologically related is likely to reduce the discount on medical care services that some patients are eligible for based on their income. Income calculations will now be required to include all shared income regardless of whether a legal or biological relationship exists between members of the household. For example, an applicant living with individual who is not legally or biologically related to them will be required to include the income of that person when seeking discounted medical care services. As a result of this change, some individuals may be moved into a higher income bracket and thus, become ineligible for the level of discount they had been receiving in the past. While precise estimates of the number of individuals likely to be affected by the proposed change are not available, VDH believes that the proposed change is not likely to provide more than \$50,000 in cost savings to VDH, with actual savings likely to be significantly lower.

Apart from transferring some of the cost of providing medical care services from the VDH to the patients themselves, the proposed change is likely to produce some additional economic costs and benefits. Potential economic costs associated with the proposed change include individuals choosing not to seek medical care due to the increased cost they would have to pay for these services because of the proposed change. For example, individuals previously classified as income level A (medically indigent) and receiving a 100% discount on medical care services might choose not to avail themselves of these services if they are now classified as income level B and eligible to receive only a 90% discount on these services. The proposed change could also produce additional economic benefits. The proposed change updates the regulations to reflect current economic and social realities. By requiring that income being reported by applicants include all forms of economic support, including but not limited to legal or biological responsibilities of support, the proposed change will allow a better evaluation of an applicant's economic situation and ensure that discounts are provided based on the applicant's true income and need.

The cost savings to VDH will be balanced by the additional costs to some patients arising from the proposed change. Thus, the net economic impact of the proposed change will depend on whether additional costs imposed by the regulations (such as some individuals not being able to afford medical care services under the new requirements) are greater than or less than the additional benefits of better enforcement of the regulations.

(3) The proposed regulations modify the income scales used to calculate how much a patient is required to pay for medical care services provided directly by VDH or by an entity contracted by VDH. The change is being made in order to bring the regulations in compliance with federal family planning regulations. An additional income bracket eligible for a 5.0% discount on medical care services has been created. Rather than the six income brackets provided for under the existing regulations, the proposed regulations establish seven income brackets. Individuals with income between 200% and 250% of the poverty income guidelines (classified as income level F) will qualify for a 5.0% discount on medical care services provided by VDH. In northern Virginia, individuals with income between 233.33% and 283.3% of the federal poverty income guidelines will qualify for the 5.0% discount. Under existing policy, these individuals were required to pay full price for the services.

The proposed change will impose additional costs on VDH and local health departments while providing individuals falling under income level F additional savings. VDH estimates that the proposed change is likely to cost between \$500 and \$1,000 per district (182-185 local health departments implement these regulations).

Apart from the transferring some of the cost of medical care services from patients to VDH and local health departments, the proposed change is likely to produce some additional economic benefits. Noncompliance with federal requirements could result in federal grant money being withheld. Thus, by bringing these regulations into compliance with federal family planning regulations, the proposed change is likely to ensure that federal grant money is not withdrawn or withheld.

Thus, the proposed change is likely to have a net positive economic impact. The additional cost incurred by VDH will be balanced by the additional discount provided to patients in income level F. In addition, the proposed change will ensure compliance with federal regulations and continued availability of federal funds to support medical care services being provided by VDH at a discounted rate.

(4) Districts are now allowed to charge flat rates with no discounting for certain high-volume events, such as influenza immunizations, as long as convenient alternate times and venues are provided for eligible individuals to obtain these services at a discount. The flat rate charge has to be approved by VDH prior to being implemented. The proposed change is intended to simplify the organization and execution of events where medical services are provided to large numbers of people. These events are usually organized in order to promote the use of these services (such as an influenza vaccine) by the public.

The proposed change is likely to produce some economic benefits by increasing the efficiency with which such high-volume events are conducted. Districts will be able to organize high-volume events more efficiently and provide these medical care services at a lower cost. The increased efficiency is also likely to encourage more people to avail of these services, as less time and effort would need to be expended in order to receive these services.

The additional benefits are likely to be provided at little additional cost. Districts will be required to provide convenient alternative times and venues where applicants can request an eligibility determination and obtain these services at a discounted rate. Thus, while there might be a small cost associated with receiving these services at alternate venues or times, it is not likely to be significant.

The net economic impact of the proposed change is likely to be positive. Any additional costs arising out of the proposed change are likely to be outweighed by the increase in efficiency in conducting high-volume events.

(5) The proposed regulations require all applicants to apply for Medicaid or a children's medical insurance program within 60 days of receiving services from VDH. Failure to do so could result in the cost of medical care and related goods and services being assessed at the nondiscounted rate and the individual becoming ineligible for a waiver of charges.

The proposed change is intended to encourage eligible individuals to apply for financial help under other programs for which they might be eligible. Requiring applicants to apply for Medicaid or other medical insurance program will allow VDH to get reimbursed by the federal government or another state agency for the services provided. Reimbursement from another state agency will involve the transfer of costs from VDH to the other agency and is not likely to have a net economic impact on Virginia. However, requiring eligible individuals to participate in federal programs is likely to produce economic benefits. The proposed change will allow VDH to get reimbursed by the federal government for medical care services provided to an individual eligible for support under federal programs.

The additional benefits are likely to accrue at no significant additional cost to the individual or the state. The individual or the state may incur some additional costs in filling out and filing the required paperwork in order to claim benefits under federal programs. However, these costs are not likely to be significant and are likely to be outweighed by the benefits of federal reimbursement of the costs incurred by VDH in providing these services. Thus, the proposed change is likely to have a net positive economic impact.

(6) The length of time for which a waiver of charges can be requested is increased from 90 days to 180 days and the circumstances under which a waiver might be granted are clarified. VDH believes that 90 days is too short a period of time for waivers to be granted. Waivers tend to be granted when the patients face unusually serious health problems or extraordinary financial hardship. In these instances, VDH believes that 90 days is too short to expect a change in either of these circumstances. Thus, by increasing the period for which the waiver is granted to 180 days, VDH hopes that the

---

## Proposed Regulations

---

regulations will encourage individuals facing unusually serious health problems or extraordinary financial hardship to apply for waivers and ensure better implementation and use of the waiver provision. According to VDH, in fiscal year 2003, 28 waivers were granted in the amount of \$3,975.15.

As more people take advantage of the waiver provision, the proposed change is likely to impose additional costs on VDH and local health departments and provide additional benefits to patients eligible for waivers. Given the lack of information regarding the number of people likely to apply for a waiver under the proposed regulations, it is not possible to estimate of the additional cost to VDH and the local health departments and the additional benefits to patients from the proposed change.

Apart from transferring some of the cost of medical care services provided from patients to VDH and local health departments, the proposed change is also likely to produce some additional economic benefits. The 90-day period for which waivers are issued under the existing regulations could have discouraged some individuals from seeking the required health care or completing the required course of treatment. The fear that they might have to bear some of the costs of treatment once the 90-day period was over could conceivably have kept some people from seeking treatment or from completing the required course of treatment. By increasing the length of time for which waivers are valid to 180 days, the proposed change may encourage individuals to seek the treatment and complete the course of treatment they need who might otherwise have chosen not to do so.

Thus, the proposed change is likely to have a net positive economic impact. The additional cost incurred by VDH will be balanced by the additional benefits to patients from the proposed change. In addition, the proposed change may encourage individuals to seek and complete the required the required treatment who might otherwise not have done so.

In addition to the changes discussed above, the proposed regulation also include a number of administrative changes aimed at improving efficiency and effectiveness of the regulations and other changes that simplify, correct, and improve the clarity of the regulations. These changes are not likely to have a significant economic impact. However, to the extent that they lead to better understanding and implementation of these regulations, these changes are likely to produce some economic benefits.

Businesses and entities affected. The proposed regulation is likely to affect individuals seeking health care services from VDH or local health departments under this regulation. While some changes (such as requiring patients to pay the full cost of services not provided directly by VDH and the modification to the definition of a family unit) are likely to increase costs for patients, they are likely to provide cost savings to VDH and local health departments. Other changes such as the creation of the additional income category eligible for discounted medical care services and the increase in length of time for which waivers are granted are likely to provide economic benefits to patients but increase costs for VDH and the local health departments. Apart from transferring costs between VDH and patients, these changes are also likely to have additional costs and benefits associated with them (as

discussed in the previous section). Changes such as requiring eligible patients to apply for other medical insurance programs and allowing for flat fees with no discounting to be charged at certain high-volume events are likely to produce economic benefits for the state without imposing significant additional costs of patients. Remaining changes, such as the administrative changes, changes formalizing and clarifying current practice, and changes streamlining the appeals process, are likely to produce additional economic benefits by improving the understanding and implementation of the regulations.

Based on information provided by VDH, the following table summarizes the number of people and the total established charges (prior to the discount being applied) for each income classification for fiscal year 2003.

Income Classification	Number of Patients	Established Charges
Income Level A (100% discount)	155,900	\$19,691,349.65
Income Level B (90% discount)	8,588	\$1,241,102.47
Income Level C (75% discount)	13,478	\$1,770,489.85
Income Level D (50% discount)	11,201	\$1,247,097.34
Income Level E (25% discount)	5,965	\$614,440.09
Income Level F (0% discount)	34,596	\$1,970,145.44
Income Level G (0% discount)	4	\$58.29
Total	229,728	\$26,534,624.84

Localities particularly affected. The proposed regulation will affect all localities providing health-related services under these regulations. According to VDH, between 182 and 185 local health departments are currently providing services under these regulations. As mentioned in the previous sections, some of the proposed changes are likely to increase costs while others are likely to lower costs to localities associated with providing services under these regulations. It is not possible to calculate the net impact of all the proposed changes at this time.

Projected impact on employment. The proposed regulation is not likely to have a significant impact on employment.

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

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: VDH substantially concurs with the economic impact assessment of this regulatory action prepared by DPB.

Summary:

*The existing regulations govern how Virginia's local health departments determine charges paid by patients who receive health services and have not been revised in 10 years. The proposed revision simplifies the charging*

*structure by tying it to Medicaid, allows goods and purchased services to be priced at their costs, encourages patients to apply for insurance for which they may be eligible, clarifies the family economic unit, and provides for the issuance of a guidance document that interprets and provides guidance for implementing the regulations. The sliding fee scale is not changed.*

CHAPTER 200.  
REGULATIONS GOVERNING ELIGIBILITY STANDARDS  
AND CHARGES FOR HEALTH MEDICAL CARE SERVICES  
TO INDIVIDUALS.

PART I.  
DEFINITIONS.

**12 VAC 5-200-10. Definitions.**

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

"Applicant" means the person requesting ~~health medical~~ care services for himself or on whose behalf a request is made.

"Board" means the State Board of Health. ~~The Board of Health is the policy board of the state Department of Health.~~

"Child" means *a person under 18 years of age and includes any biological or adopted child, and any child placed for adoption or foster care unless otherwise treated as a separate unit by for the purposes of determining eligibility and charges under these regulations.*

"Commissioner" means the Commissioner of Health. ~~The commissioner is the chief executive officer of the state Department of Health. The commissioner has the authority to act for the Board of Health when it is not in session.~~

"Department" means the state Department of Health and includes *the central office, regional offices, health districts, and local health departments.*

"Eligibility determination" means the process of obtaining required information regarding family size, income, and other related data in order to establish charges to the applicant.

*"Extraordinary financial hardship" includes hardship due to such events as natural disasters, damage to or the loss of uninsured real or personal property, unpaid legal liabilities, and obligatory and unavoidable expenditures for close relatives outside the family unit.*

"Family" or "family unit" means the applicant and other such household members who together constitute one economic unit. ~~The economic unit shall include the constellation of persons among whom legal responsibilities of support exist, or an individual, even if otherwise within such a constellation, if he independently receives subsistence funds in his own right.~~ *An economic unit is one or more individuals who generally reside together and share income. The economic unit shall count in its income any contributions to the unit from persons not necessarily living with the constellation unit.*

A parent ~~includes may be~~ a biological, adoptive, or ~~step-parent~~ stepparent.

A woman who is pregnant may be counted as a multiple beneficiary when the pregnancy has been verified by a physician or a nurse practitioner working under the supervision of a physician.

A husband and wife who ~~have been~~ are separated and are not living together, ~~and who are not dependent on each other for support~~ shall be considered *to be* separate family units.

"Flat rate charges" means charges for specified *goods or services which that* are to be charged to all clients regardless of income and with no eligibility determination.

"Gross income" means total cash receipts before taxes from all sources. These include money wages and salaries before any deductions, but do not include food or rent in lieu of wages. These receipts include net receipts from nonfarm or farm self-employment (e.g., receipts from *an applicant's* own business or farm expenses) income, plus any depreciation shown on income tax forms. They include regular payments from social security or railroad retirement, unemployment and workers' compensation, strike benefits from union funds, veterans' benefits, training stipends, alimony, child support, and military family allotments or other regular support from an absent family member or someone not living in the household; private pensions, government employee pensions (including military retirement pay), and regular insurance or annuity payments; and income from dividends, interest, net rental income, net royalties, or periodic receipts from estates or trusts, lump sum settlements, and net gambling or lottery winnings.

"Gross income" does not include the value of food stamps, *Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)* checks, fuel assistance payments, housing assistance, money borrowed, tax refunds, gifts, withdrawal of bank deposits from earned income, earnings of minor children, money received from the sale of property, general relief from the Department of Social Services, or college or university scholarships, grants, fellowships, and assistantships *when provided to pay for, or in the form of, tuition, fees, other direct educational expenses, housing, or meals.*

"Income scales" means scales based on individual or family gross income. They shall be based on the official *federal* poverty guidelines updated annually by the U.S. Department of Health and Human Services in accordance with §§ 652 and 6763(2) of the Omnibus Reconciliation Act of 1981 (Public Law 97-35). There shall be two income scales: one for Northern Virginia and one for the remainder of the Commonwealth as follows:

Income Level A - those clients with incomes up to and including 100% of the *federal* poverty income guidelines will qualify as Income Level A clients, except for Northern Virginia where the Income Level A will be up to and including 110% of the federal poverty income guidelines ~~will qualify as Income Level A clients.~~

Income Level B - those clients with incomes above 100% and no more than 110% of the *federal* poverty guidelines will qualify as Income Level B clients, except for Northern Virginia where the Income Level B will be above 110% and

---

# Proposed Regulations

---

no more than 133.3% of the federal poverty income guidelines.

Income Level C - those clients with incomes above 110% and no more than 133.3% of the *federal* poverty income guidelines will qualify as Income Level C clients, except for Northern Virginia where the Income Level C will be above 133.3% and no more than 166.6% of the federal poverty income guidelines.

Income Level D - those clients with incomes above 133.3% and no more than 166.6% of the *federal* poverty income guidelines will qualify as Income Level D clients, except for Northern Virginia where the Income Level D will be above 166.6% and no more than 200% of the federal poverty income guidelines.

Income Level E - those clients with incomes above 166.6% and less than 200% of the *federal* poverty income guidelines will qualify as Income Level E clients, except for Northern Virginia where the Income Level E will be above 200% and less than 233.3% of the federal poverty income guidelines.

Income Level F - those clients with incomes equal to or above 200% and less than 250% of the *federal* poverty income guidelines will qualify as Income Level F clients, except for Northern Virginia where *the* Income Level F will be equal to or above 233.3% and less than ~~266.6%~~ 283.3% of the federal poverty income guidelines.

Income Level G - those clients with incomes equal to or above 250% of the *federal* poverty level guidelines will qualify as Income Level G clients, except for Northern Virginia where income level G will be equal to or above ~~266.6%~~ 283.3% of the federal poverty income guidelines.

~~"Legally responsible" means the biological or adoptive parent(s), or those parents whose parentage has been admitted by affidavit or by order of the court.~~

*"Medical care services" means clinical medical, dental, and nursing services provided to patients by physicians, dentists, nurses, and other health care providers employed by health districts or contracted by health districts to provide these services. It does not include laboratory tests, pharmaceutical and biological products, radiological or other imaging studies, other goods or products, or other medical services that a health district does not directly provide.*

"Medically indigent" means applicants whose individual or family gross income is defined ~~at~~ as Income Level A.

"Minor" means a person less than 18 years of age whose parents are responsible for his care. A minor will be considered a separate family unit when married or not living with any relative or deemed an adult.

A minor shall be deemed an adult for the purposes of consenting to:

1. Medical or health services needed to determine the presence of or to treat venereal disease or any infectious or contagious disease which the State Board of Health requires to be reported.

2. Medical and health services required for birth control, pregnancy, or family planning except for the purposes of sexual sterilization.

"Nonchargeable services" means the ~~health~~ *medical care and related goods and services* ~~which that~~ the department has determined will be provided without charge and without an eligibility determination to all citizens regardless of income. ~~There is no charge for WIC services, but WIC services do require an eligibility determination.~~

"Northern Virginia" means the area which includes the cities of Alexandria, Fairfax, Falls Church, Manassas, Manassas Park, and the counties of Arlington, Fairfax, Loudoun, and Prince William.

*"Venereal disease" is synonymous with "sexually transmitted infection."*

## PART II. GENERAL INFORMATION.

### **12 VAC 5-200-20. Authority for regulations.**

~~Section 32-1-12~~ 32.1-11 of the Code of Virginia establishes the responsibility of the board as follows: "The board may formulate a program of environmental health services, laboratory services and preventive, curative and restorative medical care services, including home and clinic health services described in Titles V, XVIII and XIX of the United States Social Security Act and amendments thereto, to be provided by the department on a district or local basis. The board shall define the income limitations within which a person shall be deemed to be medically indigent. Persons so deemed to be medically indigent shall receive the medical care services of the department without charge. The board may also prescribe the charges to be paid for the medical care services of the department by persons who are not deemed to be medically indigent and may, in its discretion and within the limitations of available funds, prescribe a scale of such charges based upon ability to pay. Funds received in payment of such charges are hereby appropriated to the board for the purpose of carrying out the provisions of this title. The board shall review periodically the program and charges adopted pursuant to this section."

### **12 VAC 5-200-30. Purpose of chapter.**

The board has promulgated this chapter to: (i) establish financial eligibility criteria to determine if a person is medically indigent and therefore qualified to receive ~~health~~ *medical* care services from the department without charge; (ii) establish income scales and a mechanism for determining charges for ~~health~~ *medical* care provided by the department to individuals who are not medically indigent, based upon their ability to pay; (iii) establish a mechanism for handling appeals and waivers; and (iv) establish continuity of eligibility among state agencies. The regulations are constructed to assure that eligibility criteria remain appropriate for changing economic conditions.

### **12 VAC 5-200-40. Administration of chapter.**

This chapter is administered by the commissioner.

The commissioner shall assure uniformity and consistency by interpreting and implementing the rules of the department for ~~health~~ *the provision of medical care and related goods and*

services. *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.*

*Whenever possible, charges for services shall use the most appropriate current Medicaid charges (and matching Medicaid codes). If there is no Medicaid code for a particular service, the most appropriate current Medicare charge (and matching code) shall be used. If both Medicaid and Medicare charges (and codes) exist for the same service, the Medicaid charge (and code) will be used. If neither a Medicaid nor a Medicare code exists for a particular service, the commissioner, or a designee, shall determine an appropriate charge and develop a matching code. A guidance document shall include procedures for determining the costs and establishing the charges for medical care and related goods and services when any of these are not otherwise addressed in these regulations or the Code of Virginia.*

The commissioner shall publish specific income levels expressed in dollar amounts for determining eligibility for health medical care services of the department in accordance with the income scales defined in 12 VAC 5-200-10.

**12 VAC 5-200-50. Recipients of services.**

This chapter shall apply to all persons seeking health medical care services provided by the department, except where other eligibility criteria are required for programs administered under federal statute.

~~**12 VAC 5-200-70. Powers and procedures of chapter not exclusive. (Repealed.)**~~

~~The board reserves the right to authorize any procedure necessary for the enforcement of the provisions set forth herein under the provisions of § 32.1-12 of the Code of Virginia.~~

PART III.  
APPLICATION AND CHARGES.

**12 VAC 5-200-80. Application process.**

Upon an applicant's request for health medical care services (excepting those services described in 12 VAC 5-200-150, 12 VAC 5-200-160, and 12 VAC 5-200-170) the department will require information as to the family size, financial status and other related data as described on the application for health medical care. The applicant must be informed during the interviewing process of the provisions as described in this section of the regulations.

An application date is established when the applicant completes and signs the application for health medical care services.

When an applicant is in need of emergency medical services, the district director, or his designee, shall waive this application process for that individual until such time as the individual is able to respond normally to participate in the interviewing process.

It is the applicant's responsibility to furnish the department with the proof of the applicant's financial data in order to be appropriately classified according to income level and family size so that eligibility for discounts for health medical care services can be determined.

Any individual who is acting on behalf of an applicant will be responsible for the accuracy of all financial data provided to the department.

*Individuals who have failed to make any payment within the past 90 days for medical care services or other goods or services they have received may have their medical care services terminated. The district director may terminate services only following notice to the individual that such services will be terminated and only after determining that terminating services would not be detrimental to the individual's health. Medical care services cannot be terminated for individuals receiving ongoing care without making a good faith effort to secure alternative care.*

**12 VAC 5-200-90. Charges for services.**

Charges for services means the reasonable charges established by the board for health medical care services. *No charge shall be established outside the provisions of these regulations.* The department may prescribe a scale of discounts for certain health medical care services. Charges will be based on current published Medicaid reimbursement levels. In those instances where Medicaid does not reimburse for a service provided by the department, charges shall be based on the costs of providing the services the appropriate current Medicare reimbursement levels. *Where neither Medicaid nor Medicare reimburse for a service, the commissioner shall establish charges based on the costs of providing the medical care services. Charges for goods and services not directly provided by the agency may be based on the agency's cost.*

*Directors of health districts may request permission from the commissioner, or commissioner's designee, to round charges to a convenient value.*

*On selected occasions it may be desirable to provide certain medical services, e.g., influenza immunization, to large numbers of people quickly and conveniently and thereby promote their use by the public. In order to accomplish this, districts may charge a flat rate charge for these services under these circumstances. This provision includes services that are otherwise available at a discounted charge. No eligibility determination will be done and all service recipients will be charged the same flat rate charge. However, the district must also provide convenient alternative times and venues where applicants can request an eligibility determination and obtain these services at a discounted rate if eligible. The commissioner or commissioner's designee must approve such flat rate charge arrangements in advance, including approval of the specific flat rate charge.*

**12 VAC 5-200-100. Flat rate fees charges.**

*Except as otherwise set out in this chapter, charges for certain health goods and medical care services that are not essential for public health protection may be set at a flat rate charge not subject to discounting. All flat rate fees charges must be*

---

# Proposed Regulations

---

expressly approved by the commissioner or commissioner's designee prior to their implementation.

## **12 VAC 5-200-105. Charges for services and goods provided by contract.**

The department, health districts, and local health departments may enter into contracts with agencies external to the department whereby the department, health district, or local health department provides medical services and goods. Charges for such services and goods will be determined by the contract. If a patient copayment is required in the contract, the patient shall pay the full copayment to the department, district, or local health department regardless of the patient's income status. The patient shall not be required to pay if state or federal law precludes a copayment.

## **12 VAC 5-200-110. Income levels for charges.**

The department shall annually publish specific income levels expressed in dollar amounts for determining eligibility for discounts to the charges for health medical care services.

The charges made to the applicant shall be subject to 100% discounting for those who are found to be medically indigent as defined in Part I.

Applicants for health medical care services, including those in Northern Virginia as defined in Part I, whose family income exceeds Income Level A shall be assessed a charge as follows:

1. Income Level A - 100% discount of the established charge for the service.
2. Income Level B - 90% discount of the established charge for the service.
3. Income Level C - 75% discount of the established charge for the service.
4. Income Level D - 50% discount of the established charge for the service.
5. Income Level E - 25% discount of the established charge for the service.
6. Income Level F - 5.0% discount of the established charge for the service.
7. Income Level G - No discount will be given.

## **12 VAC 5-200-120. Automatic eligibility.**

Applicants receiving the following public assistance program will receive services as Income Level A patients without additional income verification.

General Relief

Title XIX - Medicaid

National School Lunch Program for children receiving school meals at no cost. Only used for child dental services.

Applicants who are eligible for services under this section, and are not participating in Medicaid or any other children's medical insurance program sponsored by the state, should apply for these programs. Applicants who do not apply for Medicaid or a children's medical insurance program within 60

days of receiving services may be assessed the undiscounted charge for the medical care and related goods and services provided.

## **12 VAC 5-200-130. Explanation of charges.**

Prior to services being rendered, an explanation of the estimated charges, applicable discounts, and expected payment shall be provided to the applicant.

## **12 VAC 5-200-140. Redetermination of eligibility.**

Eligibility to receive discounts from established charges must be redetermined at least every 12 months, or when income or family status changes, unless otherwise dictated required by law or regulation.

### PART IV. NONCHARGEABLE SERVICES.

## **12 VAC 5-200-150. Services provided at no charge to the patient.**

The following services are provided at no charge:

1. Those immunizations for children as required by § 32.1-46 of the Code of Virginia, and of persons up to the age of 21 when the person lacks evidence of complete and appropriate immunizations for the diseases covered by that section of the Code of Virginia.
2. Examination and testing of persons suspected of having or known to have tuberculosis as required by § 32.1-50 of the Code of Virginia.
3. Examination, testing and treatment of persons for sexually transmitted diseases as required by § 32.1-57 of the Code of Virginia.
4. Anonymous or confidential testing for human immunodeficiency virus as required by § 32.1-55.1 of the Code of Virginia.

## **12 VAC 5-200-160. Immunization services.**

The department may provide immunization services free of charge to all appropriate individuals in the event of an epidemic or when declared necessary by the commissioner or district health director to protect the public health of all citizens of the Commonwealth.

## **12 VAC 5-200-170. Other health care services.**

The department may elect to provide other health care medical services at no charge to all appropriate citizens of the Commonwealth when directed by the board or, the commissioner or a district health director.

### PART V. EXCEPTIONS.

## **12 VAC 5-200-180. Exceptions.**

A continuing exception to the above standard principles regulations for assessing charges for health medical care services will exist for patients determined to be eligible for services provided under those programs of the department specified in the Code of Virginia or published in separate state plans.

**12 VAC 5-200-190. Limitations**

A. The district director ~~or program director~~ can limit the provision of ~~certain health~~ *health medical care* services based on an assessment of public need and available department resources.

B. The district director ~~or program director~~ may establish policies to limit the provision of ~~certain health~~ *health medical care* services provided by the department based on legal residence and visa status except where federal funds are appropriated for the service.

**12 VAC 5-200-210. Changes. (Repealed.)**

~~The district director, with department approval, may establish appropriate charges for services that are provided in the district and for which no statewide charges are identified.~~

PART VI.  
WAIVER OF CHARGES.

**12 VAC 5-200-220. General.**

In instances when patients have ~~unusually serious health problems or extraordinary~~ financial hardships ~~are demonstrated to exist~~, and there are no other avenues of care, the patient, guardian or other authorized person may request a waiver of charges for up to ~~90~~ 180 calendar days. A waiver shall be requested in writing to the ~~program or~~ district director. *If a waiver is granted, it shall be for the duration of the financial hardship or 180 days, whichever is shorter.*

If the waiver request is approved, the patient will receive a full discount for all ~~services charged to him~~ charges while covered by the waiver. If the waiver request is denied, the charges will continue as before.

**12 VAC 5-200-230. Waivers.**

A. The commissioner of Health is ~~designated to act for the Board of Health~~ authorized to grant or deny requested waivers and may delegate ~~the~~ this authority to the ~~program or~~ district directors ~~who may then designate the authority to individuals under their supervision to grant or deny the waiver.~~ *A waiver to all or a portion of a charge may be granted for reasons of unusually serious health problems or extraordinary financial hardship. A resulting waived or partially waived charge shall be determined by the commissioner or designee, and reviewed and revised as needed. The commissioner or designee shall also identify those expenses that are considered to be medical bills, and shall review and revise this determination as needed.*

B. In the event of an adverse decision, the patient, guardian or other authorized person will be advised of their rights to appeal under Part VII.

C. Waivers will not be continued past ~~90~~ 180 days. Additional waivers ~~can~~ may be granted, but the applicant ~~will have to~~ must reapply at least every ~~90~~ 180 days.

D. No person believed to be eligible for Medicaid *or any state-sponsored children's medical insurance program* and ~~having failed to complete a Medicaid application~~ *who has failed to complete an application for these programs* will be eligible for a waiver.

PART VII.  
APPEAL PROCESS.

**12 VAC 5-200-270. Rights.**

If *an* applicant for or recipient of ~~health~~ *health medical* care services as defined in these regulations is denied such services, has services terminated, wishes to contest the determined income level, or is denied a waiver as defined in Part VI of these regulations, the applicant/recipient is entitled to appeal that action as set forth under this part. There are no further rights of appeal except as set forth in this part.

A. 1. The applicant/recipient has the right to be informed in writing of the appeal process, including time limits, and the right to receive a written statement of the reasons for denial. If a person already receiving services is denied those services, a written notice of termination shall be given 30 days in advance of discontinuing services. The person has the right to confront any witnesses who may have testified against him.

B. 2. An individual or his representative may make a written or oral appeal to the district or program director within 30 days of the denial of service.

C. 3. Upon receipt of the appeal, the district director shall review and make written recommendations to the ~~operations director and~~ commissioner, *or commissioner's designee*, within 15 days. ~~The operations director shall submit his recommendations to the commissioner within 15 days of the receipt of the district director's recommendations.~~ Within 45 days following the date on which an appeal is filed, the commissioner, *or commissioner's designee*, shall make a final decision.

~~D. Upon receipt of the appeal, the program director shall review and make written recommendations to the deputy commissioner and the commissioner within 15 days. The deputy commissioner shall submit his recommendations to the commissioner within 15 days of the receipt of the program director's recommendation. Within 45 days following the date on which an appeal is filed, the commissioner shall make a final decision.~~

E. Services to applicants/recipients shall continue during the appeal process.

PART VIII.  
FRAUD.

**12 VAC 5-200-280. Fraud.**

If the district director ~~or program director~~ identifies a patient willfully misrepresenting himself, or withholding or falsifying information in an attempt to obtain ~~health~~ *health medical* services free or at a reduced rate, the director may discontinue services to the affected person 30 days after notifying the person that services will be discontinued. Such recipient is entitled to the appeal process set forth in Part VII of this chapter.

---

# Proposed Regulations

---

PART IX.  
CHARGES AND PAYMENT REQUIREMENTS BY INCOME LEVELS.

**12 VAC 5-200-290. Charges and payment requirements.**

*This part shall be administered by the commissioner. The commissioner shall establish a procedure for the ongoing development; maintenance, revision, and updating; and promulgation of these charges and payments schedules. There shall be two sets of schedules, one for Northern Virginia as defined in 12 VAC 5-200-10 and one for the remainder of the Commonwealth.*

*By the provisions of the "Regulations Governing Eligibility Standards and Charges for Medical Care Services to Individuals" (12 VAC 5-200) promulgated by the Board of Health in accordance with §§ 32.1-11 and 32.1-12 of the Code of Virginia, the charges for medical care services, stating the minimum required payments to be made by patients or other responsible persons toward their charges, according to income levels are available to the public for inspection and copying at the headquarters, district, and local health department offices of the department.*

VA.R. Doc. No. R03-119; Filed February 3, 2004, 12:18 p.m.

◆ ————— ◆  
**TITLE 16. LABOR AND EMPLOYMENT**

**SAFETY AND HEALTH CODES BOARD**

Titles of Regulations: **16 VAC 25-155. Virginia Construction Industry General Requirements for Clearances, Construction of Electric Transmission and Distribution Lines and Equipment (adding 16 VAC 25-155-10).**

**16 VAC 25-175. Federal Identical Construction Industry Standards: Subpart V--Power Transmission and Distribution - General Requirements - Clearances (repealing 16 VAC 25-175-1926.950(c)(1)).**

Statutory Authority: § 40.1-22 of the Code of Virginia.

Public Hearing Date: April 21, 2004 -- 10 a.m.

Public comments may be submitted until 5 p.m. on April 26, 2004.

(See Calendar of Events section for additional information)

Agency Contact: John J. Crisanti, Policy Analyst Senior, Department of Labor and Industry, Powers-Taylor Building, 13 South 13th St., Richmond, VA 23219, telephone (804) 786-4300, FAX (804) 786-8418, or e-mail [jjc@doli.state.va.us](mailto:jjc@doli.state.va.us).

Basis: The Safety and Health Codes Board is authorized by § 40.1-22(5) to: "...adopt, alter, amend, or repeal rules and regulations to further, protect and promote the safety and health of employees in places of employment over which it has jurisdiction and to effect compliance with the federal OSH Act of 1970...as may be necessary to carry out its functions established under this title."

Purpose: The need for this proposed regulation was made evident to the Department of Labor and Industry during the

investigation of a fatal accident in the Commonwealth. A construction electrical transmission employee who was wearing properly rated insulating gloves and sleeves was fatally electrocuted when he apparently touched an uninsulated 7,600 volt power line with his neck/shoulder. The victim was working on one energized electrical part, and was effectively insulated from it through the use of gloves with sleeves. However, he was not protected from accidental contact with other live electrical parts in the immediate work area.

The department conducted a legal review of federal Occupational Safety and Health Review Commission cases involving facts very similar to the above-cited fatality. Those federal decisions concluded that no OSHA violation occurred as long as employees were wearing the appropriate gloves and sleeves, even though the employees were killed due to contact with other live parts of the power lines. (J & L Utilities Service Company (6 OSHC 1225 (1977)); Sawnee Electric Membership Corporation (5 OSHC 1059 (1977)); Utilities Line Construction Company, 4 OSHC 1681 (1976))

In the case of the Virginia fatality, the department initially issued a serious violation and the maximum \$7,000 penalty. However, because of the court's interpretation of federal OSHA's § 1926.950(c)(1)(i) standard, the violation and penalty had to be vacated.

Given the similarity of situational exposure, VOSH believes that equivalent safety precautions are both appropriate and necessary to eliminate greater construction employee exposure to the equivalent hazards.

The purpose of the proposed change is to promulgate a unique regulation for the construction industry that will provide the same degree of protection to construction employees doing similar job tasks on power lines as their counterparts in general industry.

Substance: 16 VAC 25-175-1926.950(c)(1), Clearances, will be repealed and replaced with the new Virginia unique regulation, 16 VAC 25-155, General Requirements for Clearances, Construction of Electric Transmission and Distribution Lines and Equipment, Construction Industry - Subpart V (1926.950 (c)(1)(i)). This new unique regulation will include subsection A, which specifies that the wearing of protective gloves and sleeves only qualifies as insulation for the live electrical part upon which the employee is actually working. The new subsection B, Alternating Current - Minimum Distance, includes Table V-1, which covers the voltage range and the corresponding minimum working and clear hot stick distance.

Issues: This proposed action would require employers to further assure the safety of their employees during work on power lines. The regulation would necessitate construction employers to implement protective measures for its electrical transmission workers equivalent to those afforded general industry transmission workers.

Since construction electrical transmission workers are already required to be trained on methods for de-energizing or isolating or insulating themselves from live electrical parts through the use of blankets and other protective measures, no

significant additional cost or implementation impact for employers is anticipated.

Note: The proposed action would not affect the minimum approach distances in the Construction Standard referenced in 16 VAC 25-175-1926.950(c)(1) and contained in Table V-1; or the minimum distance requirements referenced in 16 VAC 25-175-1926.955(e), Live-line Bare-Hand Work on Overhead Lines, and contained in Table V-2.

Construction employees while engaged in work on power lines would benefit from increased protection equivalent to that of workers in general industry engaged in the same activity.

The existing regulation allows the employee to be exposed to many uninsulated live electrical parts in his work area, but only actually be protected from touching them with his hands and arms through the use of gloves with sleeves. The effect of the proposed regulation is that, except for the live electrical part the employee is working on, all other live or "hot" electrical parts and power lines would have to be insulated so an employee could not accidentally contact an energized part or power line with some other uninsulated part of his body, or other conductive object(s).

The primary advantage to the agency is the uniformity of the regulations for general industry and construction industry workers performing the same type of electrical transmission work. There are no disadvantages to the agency.

There are no anticipated disadvantages to the public or the Commonwealth.

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

Summary of the proposed regulation. The General Assembly authorizes the Safety and Health Codes Board in § 40.1-22 of the Code of Virginia to adopt, alter, amend, or repeal rules and regulations to further, protect, and promote the safety and health of employees in places of employment over which it has jurisdiction and to effect compliance with the federal Occupational Safety and Health Act of 1970, and as maybe necessary to carry out its functions. The Code requires the standards promulgated by the Safety and Health Codes Board to be at least as stringent as the standards promulgated by the federal Occupational Safety and Health Act of 1970.

The proposed regulation modifies standards for the protection of construction industry employees working on live electricity transmission lines such that they are identical to the standards of protection afforded to general industry electrical

transmission workers. Employers will now be required to provide construction industry employees working on live electricity transmission lines with protection not only against the energized part of the wire the employee is working on, but also against any surrounding live electrical parts and power lines.

Estimated economic impact. The proposed regulation tightens standards for the protection of construction employees working on live electrical transmission lines. The existing regulation prohibits electrical transmission workers in the construction industry from approaching or taking a conductive object without an approved insulated handle to within a minimum distance from an exposed energized part unless (i) they are insulated against the energized part(s) through the use of insulated gloves or insulated gloves with sleeves, (ii) the energized part is insulated from the worker and other conductive objects in the area, or (iii) the employee is insulated from exposed conductive objects in the area. Thus, under existing policy, the use of insulated gloves or insulated gloves with sleeves would be considered adequate protection against energized parts and the worker would be permitted to operate in closer proximity to these energized parts than the minimum distance specified by the regulation. Under the proposed regulation, however, the use of insulated gloves or insulated gloves with sleeves will be considered adequate protection only against the energized parts the individual is working on. In order to perform work inside of the regulation-specified minimum distance, employers will be required to provide their workers with additional protection and insulation against any surrounding live electrical parts and power lines.

The proposed change will make the safety standards for construction industry employees working with live electrical transmission lines consistent with standards for workers performing electrical transmission work under general industry standards. According to the Department of Labor and Industry (DOLI), the need for the proposed change was felt when a worker wearing the appropriate insulation gloves and sleeves was electrocuted in February 2000 when his neck/shoulder touched an uninsulated 7,600 volt power line. In September 1999, another worker suffered burns as a result of failing to properly insulate against some power lines. In both cases, the incidents occurred when the workers made accidental contact with an unprotected portion of the power lines. Insulated gloves or insulated gloves with sleeves only protect the individual from the energized part they are working on, leaving them vulnerable to contact with live electrical parts and power lines in adjacent areas. The existing regulation is based on federal standards (29 CFR 1926 Subpart V: Safety and Health Regulations for Construction, Power Transmission and Distribution) that have proved inadequate in protecting workers from live electrical parts and power lines in areas other than the energized part being worked on. There have been several Occupational Safety and Health Review Commission cases in Massachusetts and Georgia in which workers have been injured or killed due to inadequate insulation against all live electrical parts and power lines in the immediate vicinity of where electrical work is being performed. By making the proposed change, DOLI intends to provide electrical transmission workers in the construction industry with the same safeguards as those enjoyed by electrical

---

# Proposed Regulations

---

transmission workers that fall under the general industry classification and reduce the likelihood of accidents in the future occurring as a result of unprotected contact with live electrical parts and power lines.

The proposed change is likely to impose additional costs on employers not currently complying with the general industry standards for employees working with live electrical transmission wires, i.e., not protecting their employees against all live electrical parts and power lines they might be exposed to.<sup>1</sup> According to the regulatory impact and regulatory flexibility analysis conducted by the Occupational Safety and Health Administration (OSHA) at the time the general industry standards were adopted, the first-year cost of implementing the standards was estimated at approximately \$41 million with recurring costs of approximately \$21 million in each following year. The cost included the cost of purchasing and maintaining the required equipment, conducting inspections, and providing training to employees and was to be distributed across 12,074 entities including utility companies, independent power producers and generators, contract tree trimmers, and high voltage contractors. Based on the study, on average it would cost a firm approximately \$3,400 in the first year and \$1,800 in each subsequent year to comply with the standards. The study estimated that the impact of implementing the general industry standards is likely to range from less than 0.1% to 1.1% of a company's pre-tax profits.

While the proposed change may impose additional costs on some employers, it is also likely to produce economic benefits. The OSHA analysis states that implementing the general industry standards is "expected to significantly reduce the number of fatalities and injuries involving electrical contact, flash burns, and thermal burns, as well as other accidents involving uncontrolled exposure to occupational hazards". The study estimates that the standards are likely to prevent at least 61 fatalities and 1,633 lost-workday injuries compared to a baseline estimate of accidents and lost-workday injuries of 86 and 12,977, respectively.<sup>2</sup> Work place accidents generate losses for companies through time lost to injuries and fatalities, damage to equipment and cost incurred in repairing or replacing it, increased insurance costs, and higher wage and salary costs required to compensate workers for the increased risk of death or injury.

However, the costs and benefits of the change being proposed are likely to be smaller than that estimated by the OSHA analysis. Employees working in the electric power generation, transmission, and distribution industry face a variety of occupational hazards including electrocution. While inadvertent contact with high-voltage electricity is the most common source of occupational injuries and fatalities, it is not the only source. The general industry standards for which the regulatory impact analysis was conducted included the costs and benefits of providing workers with adequate protection against all sources of occupational injuries and fatalities,

including but not limited to electrocution. The change being proposed, however, only deals with protection against injuries and fatalities arising out of exposure to high-voltage electricity. Moreover, as most of the requirements of the general industry standards for protecting workers specifically against electrocution are already required under existing policy, the impact of the proposed change is likely to be significantly less than indicated by the OSHA analysis (which includes the costs and benefits of implementing all the various standards required to protect workers against electrocution).

DOLI estimates that there are 195 entities operating in Virginia that could be affected by the proposed regulation. However, the agency does not believe that the overall effect of the proposed change is likely to be significant. A majority of the 195 affected entities also perform work that falls under the general industry classification and thus already have the required equipment, perform the required maintenance, and provide the required training to their workers. The incremental cost of the proposed change on these entities is likely to be negligible.

Only entities not currently complying with the general industry standards will have to incur the additional cost of providing the necessary equipment and training to their employees. These companies are likely to have chosen not to comply with these standards as the costs associated with doing so outweigh the benefits of doing so (such as reduced losses from time lost to injuries and fatalities, damage to equipment, increased insurance costs, and higher wage and salary costs required to compensate workers for the increased risk of death or injury). There could be two reasons why expected costs are higher than expected benefits: the costs imposed by the regulation are higher than warranted by the risk of injury and death or that the benefits firms expect from implementing the standards are not large enough to justify doing it.

Expected costs: If we assume that the proposed change and the cost associated with implementing it is disproportionately high given the risks faced by workers, the proposed regulation is likely to have a negative economic impact. Based on the OSHA analysis, net present value of the cost per entity of implementing the general industry standards is approximately \$32,000 (using a discount rate of 6.31%, the average yield on 30-year treasury bonds in the past three years). Net present value of the cost of implementing the proposed change is likely to be significantly lower than \$32,000 per entity. Evidence provided by DOLI indicates that there have been several cases of death of injury occurring as a result of improper insulation of workers against all energized parts. The cost effectiveness of the regulation will depend on the number of lives saved and injuries prevented in the future as a direct result of the regulation. A \$32,000 lifetime cost per entity for lives saved and injuries prevented is well within the range commonly used to justify expenditures on reducing morbidity and mortality. Moreover, as most companies are currently complying with these standards, the cost on the industry as a whole of implementing the proposed change is not likely to be significant, especially compared to other life-saving policies implemented by state and federal governments. Thus, there is no reason to conclude that the costs imposed by this rule are excessive.

---

<sup>1</sup> The general industry standards are included in 29 CFR 1910.269: Occupational Safety and Health Standards for Electric Power Generation, Transmission, and Distribution

<sup>2</sup> The baseline refers to electric utility practices prior to the implementation of the general industry standards for electric power generation, transmission, and distribution.

Expected benefits: If, on the other hand, we assume that the safety standards and hence the costs imposed by the proposed change constitute minimum safety standards given the risk of injury or death, companies that are not voluntarily enforcing these standards are doing so because the expected benefits from implementing the standards are less than the costs of doing so. By having employees work without adequate insulation and protection, these companies are putting their employees in a potentially hazardous situation. Market forces (through various costs such as time lost to injuries and fatalities, damage to equipment as a result of accidents, and wage and insurance costs) work to ensure that these companies provide a certain minimum level of protection to their workers. If expected benefits (such as less time lost to injury, less damage to equipment, and lower insurance and wage costs) are outweighed by the expected costs of meeting the proposed standards, companies would not voluntarily choose to enforce these standards.

Expected benefits could be low because the level of risk deemed acceptable by the market is higher than what is provided under this regulation. For example, the insurance and compensation (wages and benefits) costs incurred by companies might reflect the cost of reducing the risk of death or injury to workers to a level considered appropriate by the market. However, the change being proposed by this regulation might seek to reduce the risk even further. Under these circumstances, companies would prefer to incur the insurance and compensation costs rather than incur the costs of voluntarily meeting the safety standards.

Expected benefits could also be low because the potential benefits of meeting these safety requirements are not an accurate reflection of the actual benefits. Compensation costs and insurance costs faced by these companies may not accurately reflect the risk of injury or death to workers and hence companies' perception of the risk posed to workers is likely to be lower than the actual risk. Under these circumstances, companies would not choose to voluntarily implement the safety standard being proposed.

Thus, if there is reason to believe that these occupational risks are not being set at the optimal level through market forces, and if the safety requirements being proposed in the regulation are minimum safety standards required in order to reduce the risk of injuries and fatalities to a level deemed appropriate, the proposed regulation is likely to have a positive economic impact.

Conclusion: The proposed regulation will impose no significant additional costs on businesses and entities currently complying with the proposed standard. However, it is likely to impose additional costs on companies not currently complying with these requirements. The proposed regulation is likely to have significant economic benefits by preventing future injuries and fatalities among employees in the construction industry working with live electrical parts. These benefits include less time lost to injuries and fatalities, less damage to equipment and lower costs incurred in replacing or repairing it, and lower insurance and compensation costs.

The net economic impact of the proposed regulation will depend on whether the standards being proposed in the regulation are excessive or constitute minimum safety

standards in order to provide electrical transmission workers with a level of protection that is deemed adequate. If the standards being proposed are excessive, the proposed regulation will impose unnecessary costs on businesses and entities in the electric power generation, transmission, and distribution industry and have a net negative economic impact. If, on the other hand, these standards are the minimum safety standards required in order to provide a reasonable degree of protection to workers against injuries and fatalities, the proposed regulation is likely to have a positive economic impact. The cost of implementing the proposed change appears to be well within the range of expenditures made to prevent morbidity and mortality in other industrial sectors.

Businesses and entities affected. The proposed regulation is likely to affect 195 businesses and entities in Virginia including utility companies, independent power producers and generators, contract tree trimmers, and high voltage contractors. These businesses will now be required to protect their employees not only against the energized parts that they are working on, but also against any surrounding live electrical parts and power lines. Most of the 195 businesses mentioned above already provide their employees with the required equipment and training and are not likely to be significantly affected by the proposed change. Businesses that do not currently comply with the standard being proposed are likely to face some additional costs as a result of this regulation.

Localities particularly affected. The proposed regulation will affect all localities in Virginia.

Projected impact on employment. The proposed regulation is not likely to have a significant impact on employment in Virginia. While some companies may have to incur additional costs in complying with the requirements of the regulation, it is not likely to be large enough to affect the number of employees they hire.

Effects on the use and value of private property. The proposed regulation is likely to affect businesses and entities providing electrical power generation, transmission, and distribution services in Virginia. While most of these businesses are already complying with the requirements of the regulation, some that are not will incur additional costs in providing their employees with the required equipment and training. However, these costs have to be balanced against the benefit to the power generation, transmission, and distribution industry of having a reputation for safe operation plus any additional savings on insurance costs and labor compensation costs.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Department of Labor and Industry and the Safety and Health Codes Board concur with the economic impact analysis of the Department of Planning and Budget for the proposed "General Requirements for Clearances, Construction of Electric Transmission and Distribution Lines and Equipment, Construction Industry - Subpart V (1926.950 (c)(1)(i)," 16 VAC 25-155.

Summary:

*The proposed regulation modifies standards for the protection of construction industry employees working on*

# Proposed Regulations

live electricity transmission lines such that they are identical to the standards of protection afforded to general industry electrical transmission workers. Employers will now be required to provide construction industry employees working on live electricity transmission lines with protection not only against the energized part of the wire the employee is working on, but also against any surrounding live electrical parts and power lines.

CHAPTER 155.  
VIRGINIA CONSTRUCTION INDUSTRY GENERAL  
REQUIREMENTS FOR CLEARANCES, CONSTRUCTION  
OF ELECTRIC TRANSMISSION AND DISTRIBUTION LINES  
AND EQUIPMENT.

**16 VAC 25-155-10. General requirements.**

A. No employee shall be permitted to approach or take any conductive object without an approved insulating handle closer to exposed energized parts than shown in subsection B of this section (Table V-1) unless:

1. The employee is insulated or guarded from the energized part (insulating gloves or insulating gloves and sleeves worn in accordance with 16 VAC 25-90-1910.269 (l)(3) are considered insulation of the employee only with regard to the energized part upon which work is being performed);

2. The energized part is insulated or guarded from him and any other conductive object at a different potential; or

3. The employee is isolated, insulated, or guarded from any other exposed conductive object(s), as during live-line bare-hand work.

B. Alternating current - minimum distance.

TABLE V-1 - ALTERNATING CURRENT - MINIMUM  
DISTANCES

Voltage range (phase to phase) (kilovolt)	Minimum working and clear hot stick distance
2.1 to 15	2 ft. 0 in.
15.1 to 35	2 ft. 4 in.
35.1 to 46	2 ft. 6 in.
46.1 to 72.5	3 ft. 0 in.
72.6 to 121	3 ft. 4 in.
138 to 145	3 ft. 6 in.
161 to 169	3 ft. 8 in.
230 to 242	5 ft. 0 in.
345 to 362	(1) 7 ft. 0 in.
500 to 552	(1) 11 ft. 0 in.
700 to 765	(1) 15 ft. 0 in.

(1) NOTE: For 345-362 kv., 500-552 kv., and 700-765 kv., minimum clear hot stick distance may be reduced provided that such distances are not less than the shortest distance between the energized part and the grounded surface.

**16 VAC 25-175-1926.950. General requirements.**

\*\*\*

(c) Clearances. The provisions of paragraph ~~(e)~~(1) or (2) of this section shall be observed.

~~1) No employee shall be permitted to approach or take any conductive object without an approved insulating handle closer to exposed energized parts than shown in Table V-1 unless:~~

~~(i) The employee is insulated or guarded from the energized part (gloves or gloves with sleeves rated for the voltage involved shall be considered insulation of the employee from the energized part), or~~

~~(ii) The energized part is insulated or guarded from him and any other conductive object at a different potential, or~~

~~(iii) The employee is insulated from any other exposed conductive object(s), as during live-line bare-hand work.~~

\*\*\*

VA.R. Doc. No. R03-176; Filed February 2, 2004, 2:33 p.m.

## TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

### BOARD FOR PROFESSIONAL SOIL SCIENTISTS

Title of Regulation: **18 VAC 145-20. Professional Soil Scientists Regulations (amending 18 VAC 145-20-151).**

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

Public Hearing Date: April 14, 2004 - 10 a.m.

Public comments may be submitted until April 23, 2004.  
(See Calendar of Events section  
for additional information)

Agency Contact: Mark N. Courtney, Executive Director, Department of Professional and Occupational Regulations, 3600 West Broad St., Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475, or e-mail SoilScientist@dpor.virginia.gov.

Basis: Section 54.1-113 of the Code of Virginia (Callahan Act). Regulatory boards to adjust fees - Following the close of any biennium, when the account for any regulatory board within the Department of Professional and Occupational Regulation or the Department of Health Professions maintained under § 54.1-308 or § 54.1-2505 shows expenses allocated to it for the past biennium to be more than 10% greater or less than moneys collected on behalf of the board, it shall revise the fees levied by it for certification or licensure and renewal thereof so that the fees are sufficient but not excessive to cover expenses.

Section 54.1-201 describes each regulatory board's power and duty to "levy and collect fees for the certification or licensure and renewal that are sufficient to cover all expenses for the administration and operation of the regulatory board and a proportionate share of the expenses of the Department...."

Section 54.1-304 describes the power and duty of the director to "collect and account for all fees prescribed to be paid into each board and account for and deposit the moneys so collected into a special fund from which the expenses of the board, regulatory boards, and the department shall be paid...."

Section 54.1-308 provides for compensation of the director, employees, and board members to be paid out of the total funds collected. This section also requires the director to maintain a separate account for each board showing moneys collected on its behalf and expenses allocated to the board.

Fee adjustments are mandatory in accordance with these code sections. The board exercises discretion in how the fees are adjusted by determining the amount of the adjustment for each type of fee. The board makes its determination based on the adequacy of the fees to provide sufficient revenue for upcoming operating cycles.

**Purpose:** The intent of the proposed changes in regulations is to increase fees for applicants and regulants of the Board for Professional Soil Scientists. The board must establish fees adequate to support the costs of board operations and a proportionate share of the department's operations. By the close of the current biennium, fees will not provide adequate revenue for those costs.

The Department of Professional and Occupational Regulation (DPOR) receives no general fund money, but instead is funded from revenue collected for applications, renewals, examination fees, and other fees. The department is self-supporting, and must collect adequate revenue to support its mandated and approved activities and operations. Fees must be established at amounts that will provide that revenue. Fee revenues collected on behalf of the boards fund the department's authorized special revenue appropriation.

The ability of the board to continue to process applications in a timely and accurate manner increases the level of public safety and welfare by ensuring that only those applicants that meet or exceed the requirements set forth in the statutes and regulations are granted certificates.

The Board for Professional Soil Scientists has no other source of revenue from which to fund its operations.

**Substance:** Fees will be increased as necessary to comply with § 54.1-113 of the Code of Virginia. Any other changes which may be necessary may also be considered.

**Issues:** The primary issue for the proposed fee increase is the department's statutory requirement to comply with the Callahan Act (§ 54.1-113 of the Code of Virginia).

The advantage of these changes is that the regulatory program will be able to continue to function in order to protect the public. The disadvantage is that these changes will increase the cost of the certificate to the regulated population; however, the impact of these changes on the income of the regulated population should not be of a great significance compared to level of income.

**Department of Planning and Budget's Economic Impact Analysis:** The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007 H of the Administrative Process

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

**Summary of the proposed regulation.** The Board for Professional Soil Scientists and Wetland Professionals (board) proposes to raise licensure fees for soil scientists.

**Estimated economic impact.** The board's expenditures have increased significantly in the current biennium. The Department of Professional and Occupational Regulation estimates that current (2002-04) biennial expenditures will be \$41,106, compared to \$12,463 in the last biennium (2000-02). The new expenditures are primarily due to the introduction of a new profession to the board (wetlands delineators), and a higher indirect cost classification for the board. When the number of soil scientists rose (from 88) to more than 100, it caused the soil scientist program to jump a step in the cost allocation system, and thereby increased the indirect expenditures attributed to this board.

A part of the increase in the board's expenditures is due to the department's development of a new computer licensing system. Among other attributes, the new system will permit citizens to apply for licenses and license renewals online. The use of online applications should speed licensure application; mailing time will be eliminated. Also, the cost of mailing materials and postage will be saved. The resulting reduction in licensing transaction costs provides an economic benefit that offsets at least part of the increased fees.

In order to maintain sufficient revenue to cover expenditures, the board proposes to double the certification application fee from \$150 to \$300, increase the certification renewal fee from \$175 to \$260, and increase the reinstatement fee from \$200 to \$300. The higher fees will reduce the net worth of certified soil scientists and certification applicants. Since certification is not legally required to sell soil science services, the significant fee increases may compel a small number of certified individuals to choose not to renew their certification, and may discourage some potential applicants from applying for certification.

**Businesses and entities affected.** The proposed regulations affect the 114<sup>1</sup> soil scientists certified by the Commonwealth, as well as individuals considering applying for certification.

**Localities particularly affected.** All localities in the Commonwealth are affected.

**Projected impact on employment.** Higher fees may discourage some individuals, particularly individuals considering part-time work, from seeking certification and

---

<sup>1</sup> Estimated figure provided by the Department of Professional and Occupational Regulation

---

# Proposed Regulations

---

offering their services. The impact of the increased fees is reduced somewhat by the lower licensing transaction costs resulting from the new online licensing system.

Effects on the use and value of private property. The higher fees will reduce the net worth of certified soil scientists (who choose to remain certified) and certification applicants by the amount of the fee changes, minus the reduced licensing transaction costs.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: Concur.

Summary:

*The proposed amendments increase application, renewal and reinstatement fees for soil scientists.*

CHAPTER 20.

BOARD FOR PROFESSIONAL SOIL SCIENTISTS  
REGULATIONS.

**18 VAC 145-20-151. Fees.**

Checks or money orders shall be made payable to the Treasurer of Virginia. All fees required by the board are nonrefundable. 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 the additional processing charge specified below:

Fee Type	When due	Amount due
New application	With application	<del>\$150</del> \$300
Examination fee	Upon approval for exam	\$150
Reexamination fee	Upon request to be rescheduled for exam	\$75 for each part
Renewal fee	With renewal card	<del>\$175</del> \$260
Late renewal fee	30 days after date of expiration	\$25
Reinstatement fee	180 days after date of expiration	<del>\$200</del> \$300
Dishonored check fee	With replacement check	\$25

VA.R. Doc. No. R03-178; Filed January 22, 2004, 12:59 p.m.

**BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS**

Title of Regulation: **18 VAC 160-20. Board for Waterworks and Wastewater Works Operators Regulations (amending 18 VAC 160-20-102).**

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

Public Hearing Date: May 12, 2004 - 10 a.m.

Public comments may be submitted until May 25, 2004 at 5 p.m.

(See Calendar of Events section for additional information)

Agency Contact: David E. Dick, Executive Director, Department of Professional and Occupational Regulation, 3600 West Broad St., Richmond, VA 23230, telephone (804) 367-8507, FAX (804) 367-6128, or e-mail David.Dick@dpor.virginia.gov.

Basis: Section 54.1-113 of the Code of Virginia (Callahan Act). Regulatory boards to adjust fees – Following the close of any biennium, when the account for any regulatory board within the Department of Professional and Occupational Regulation or the Department of Health Professions maintained under § 54.1-308 or § 54.1-2505 shows expenses allocated to it for the past biennium to be more than 10% greater or less than moneys collected on behalf of the board, it shall revise the fees levied by it for certification or licensure and renewal thereof so that the fees are sufficient but not excessive to cover expenses.

Section 54.1-201 describes each regulatory board's power and duty to "levy and collect fees for the certification or licensure and renewal that are sufficient to cover all expenses for the administration and operation of the regulatory board and a proportionate share of the expenses of the Department..."

Section 54.1-304 describes the power and duty of the director to "collect and account for all fees prescribed to be paid into each board and account for and deposit the moneys so collected into a special fund from which the expenses of the Board, regulatory boards, and the Department shall be paid..."

Section 54.1-308 provides for compensation of the director, employees, and board members to be paid out of the total funds collected. This section also requires the director to maintain a separate account for each board showing moneys collected on its behalf and expenses allocated to the board.

Fee adjustments are mandatory in accordance with these code sections. The board exercises discretion in how the fees are adjusted by determining the amount of the adjustment for each type of fee. The board makes its determination based on the adequacy of the fees to provide sufficient revenue for upcoming operating cycles.

Purpose: The intent of the proposed changes in regulations is to increase fees for applicants and regulants of the Board for Waterworks and Wastewater Works Operators. The board must establish fees adequate to support the costs of board operations and a proportionate share of the department's operations. By the close of the current biennium, fees will not provide adequate revenue for those costs.

The Department of Professional and Occupational Regulation (DPOR) receives no general fund money, but instead is funded almost entirely from revenue collected for applications, renewals, examination fees, and other fees. The department is self-supporting, and must collect adequate revenue to support its mandated and approved activities and operations. Fees must be established at amounts that will provide that revenue. Fee revenues collected on behalf of the boards fund the department's authorized special revenue appropriation.

The ability of the board to continue to process applications in a timely and accurate manner increases the level of public safety and welfare by ensuring that only those applicants that

meet or exceed the requirements set forth in the statutes and regulations are granted licenses, certificates, or registrations.

The Board for Waterworks and Wastewater Works Operators has no other source of revenue from which to fund its operations.

**Substance:** Fees will be increased as necessary to comply with the § 54.1-113 of the Code of Virginia. Any other changes which may be necessary may also be considered.

**Issues:** The primary issue for the proposed fee increase is the department's statutory requirement to comply with the Callahan Act (§ 54.1-113 of the Code of Virginia).

The advantage of these changes is that the regulatory program will be able to continue to function in order to protect the public. The disadvantage is that these changes will increase the cost of the license to the regulated population; however, the impact of these changes on the income of the regulated population should not be of a great significance compared to level of income.

**Department of Planning and Budget's Economic Impact Analysis:**

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

**Summary of the proposed regulation.** The Board for Waterworks and Wastewater Works Operators (board) proposes to raise its licensure fees.

**Estimated economic impact.** Currently, the board's expenditures exceed its revenues; during the 2000-2002 biennium, expenditures exceeded revenues by \$33,135. The Department of Professional and Occupational Licensing (department) projects that during the 2002-2004 biennium expenditures will exceed revenues by \$99,193, and that the board's cash balance will turn negative. In order to avoid negative cash balances, the board proposes to raise fees. The following table displays current and proposed fees:

Fee Type	Current Fee	Proposed Fee
Application Fee	\$85	\$100
Examination Fee	N/A	by contract
Renewal Fee	\$45	\$80
Late Renewal Fee	\$25	\$25
Reexamination Fee	\$75	by contract
Bad Check Fee	\$25	\$25

Currently, there is no examination fee. The application fee covers the cost of the exam. The board proposes to introduce an examination fee that will be "subject to charges to the

department by an outside vendor based on a contract entered into in compliance with the Virginia Public Procurement Act (§ 2.2-4300 et seq. of the Code of Virginia)." The department currently has a contract with a vendor who charges \$48.15 per exam. Due to proctoring and room arrangement costs, the department plans to charge applicants the contractor charge plus approximately \$10 as the examination fee. Thus, if the proposed fee structure existed today, applicants would pay a \$100 application fee plus an examination fee of about \$58. This compares to the \$80 application fee and no examination fee under the current regulations.

In contrast, the reexamination fee would decrease if the proposed fee structure existed today. The current reexamination fee is \$75; while under the proposed regulations, the reexamination fee would be the contractor charge plus approximately \$10, i.e., about \$58. Reexamination occurs when an applicant previously fails the licensure exam.

Part of the increase in the board's expenditures is due to the department's development of a new computer licensing system. Among other attributes, the new system will permit citizens to apply for licenses and license renewals online. The use of online applications should speed licensure application; mailing time will be eliminated. Also, the cost of mailing materials and postage will be saved. Lowering the transaction costs of licensing is economically beneficial and offsets at least part of the proposed fee increases.

**Businesses and entities affected.** The proposed regulations affect the 5,460<sup>1</sup> individuals licensed as either waterworks operators or wastewater works operators in Virginia, as well as individuals considering applying for licensure.

**Localities particularly affected.** All localities in the Commonwealth are affected.

**Projected impact on employment.** Though the fee increases may marginally reduce the net worth of licensees, the amounts involved are unlikely to discourage many individuals from seeking employment or continuing employment in waterworks and wastewater works operation. In addition, the impact of these increases is reduced by the reduction in licensing transaction costs that these fees will make possible.

**Effects on the use and value of private property.** The higher fees will reduce the net worth of licensees and license applicants by the amount of the fee changes.

**Agency's Response to the Department of Planning and Budget's Economic Impact Analysis:** The agency concurs with the Economic Impact Analysis performed by the Department of Planning and Budget.

**Summary:**

*The proposed amendments increase licensure fees for waterworks and wastewater works operators.*

**18 VAC 160-20-102. Fees.**

A. All fees are nonrefundable.

<sup>1</sup> Estimated figure provided by the Department of Professional and Occupational Licensing

---

# Proposed Regulations

---

B. The date of receipt of the fee by the board *or its agent* is the date that shall be used to determine whether the fee is timely received.

C. The following fees shall apply:

<del>Application fee</del>	\$85
<del>Renewal fee</del>	\$45
<del>Late renewal fee</del>	\$25
<del>Reexamination fee</del>	\$75
<del>Bad check or other instrument penalty</del>	\$25

1. *The license application fee shall be \$100.*
2. *The license renewal fee shall be \$80.*
3. *The license renewal late penalty fee shall be \$25, in addition to the license renewal fee.*
4. *The fee for examination or reexamination is subject to charges to the department by an outside vendor based on a contract entered into in compliance with the Virginia Public Procurement Act (§ 2.2-4300 et seq. of the Code of Virginia). Fees may be adjusted and charged to the candidate in accordance with this contract.*

D. A fee of \$25 will be charged, in addition to the fees established in this section, for submitting a check to the board which is dishonored by the institution upon which it is drawn.

**NOTICE:** The forms used in administering 18 VAC 160-20, Board for Waterworks and Wastewater Works Operators Regulations, are listed below. Any amended or added forms are reflected in the listing and are published following the listing.

## FORMS

License Application, 19LIC (~~eff. 11/99~~ rev. 7/01).

~~Re-Examination Application, 19REEX (rev. 9/99).~~

*Continuing Professional Education (CPE) Certificate of Completion, 19CPE (eff. 3/01).*

Application for Training Course Approval, 19CRS (rev. ~~9/99~~ 7/01).

Experience Verification Form, 19EXP (~~eff. 9/99~~ rev. 1/03).

Exam Location Request Form, ~~19EXPLOC~~ 19EXLOC (~~eff. 11/00~~ rev. 12/03).

*Out-of-State Facility Description Form, 19OOSFAC (eff. 1/03).*



# Proposed Regulations

- 8 Do you have a waterworks or wastewater works operator license, certification or registration issued by another state?
- No
- Yes  If yes list all the licenses, certificates and registrations in the following table *and* attach a Certification of Licensure/Letter of Good Standing, dated within the last 60 days from each state Skip to Question #13

State/Jurisdiction	License Number	Expiration Date

- 9 Indicate the *highest* level of education you have completed Check only **one**

High School or GED  Skip to #13  
 Associate Degree   
 Bachelors Degree   
 Other

Name & Location of Educational Institution \_\_\_\_\_  
 \_\_\_\_\_

***Attach an official school transcript or degree verification***

- 10 Do you hold a bachelor's degree in engineering, engineering technology, physical science, biological science, or chemical science?

No   
 Yes  If yes, skip to #13

- 11 Have you completed any formal education courses at a post-secondary level in physical, biological or chemical science, engineering or engineering technology, waterworks or wastewater works operation, or public health?

No   
 Yes  If yes, attach an official school transcript or course verification

- 12 Have you obtained any training credits? *Please refer to the list of Virginia Approved Training Programs/Courses (included in your application package) for a list of accepted training*

No   
 Yes  If yes, attach all Training Certificates that identify the subject matter and number of training credits received

- 13 Have you ever been subject to a disciplinary action imposed by any (including Virginia) local, state or national regulatory body?

No   
 Yes  If yes, list the name of the jurisdiction in which the disciplinary action took place and the license number Provide an explanation of events, including a description of the disciplinary proceeding and the type of sanctions that were imposed (i.e., suspension, revocation, voluntary surrender of license, monetary penalty, fine, reprimand, etc.) Attach copies of any correspondence or documentation (including a copy of the final order, decree or case decision) related to this matter If necessary, you may attach a separate sheet of paper

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

- 14 A Have you ever been convicted in any jurisdiction of any felony? Any guilty plea or plea of nolo contendere must be disclosed on this application Do not disclose violations that were adjudicated as a minor in the juvenile court system  
No  Yes  If yes, please provide the information requested in #14 C
- B Have you ever been convicted in any jurisdiction of any misdemeanor? Any guilty plea or plea of nolo contendere must be disclosed on this application Do not disclose violations that were adjudicated as a minor in the juvenile court system  
No  Yes  If yes, please provide the information requested in #14 C
- C If you answered "yes" to either question #14 A or #14 B, list the felony and/or misdemeanor conviction(s) Attach a copy of all applicable criminal conviction, state police and court records, information on the current status of incarceration, parole, probation, etc, and any other information you wish to have considered with this application (i.e., reference letters, documentation of rehabilitation, etc) If necessary, you may attach a separate sheet of paper

---

---

---

---

- 15 I, the undersigned, certify that the foregoing statements and answers are true, and I have not suppressed any information that might affect the Board's decision to approve this application I certify that I will notify the Department if I am subject to any disciplinary action, or convicted of any felony or misdemeanor charges (in any jurisdiction) prior to receiving my license I also certify that I understand, and have complied with, all the laws of Virginia related to Waterworks and Wastewater Works Operators under the provisions of Title 54 1, Chapter 23 of the Code of Virginia and the Virginia Board for Waterworks and Wastewater Works Operators Regulations

Signature \_\_\_\_\_ Date \_\_\_\_\_

\* State law requires every applicant for a license certificate registration or other authorization to engage in a business trade profession or occupation issued by the Commonwealth to provide a social security number or a control number issued by the Virginia Department of Motor Vehicles

**Additional Information**

- ☛ You must attach completed and signed Experience Verification Forms to document the required years of experience for the category and classification you are requesting based on your educational (formal and occupational training) background

---

# Proposed Regulations

---

## Continuing Professional Education (CPE) Certificate of Completion

\_\_\_\_\_  
Participant's Full Name

attended \_\_\_\_\_ Hours of continuing professional education (CPE) training conducted at  
\_\_\_\_\_  
(location) on \_\_\_\_\_ (date).

Course Title \_\_\_\_\_

Description \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Sponsor's/Sponsor's Agent Signature \_\_\_\_\_ Date \_\_\_\_\_

Sponsor/Sponsor's Agent Information (please print or type)

Sponsor's/Sponsor's Agent Name \_\_\_\_\_ Title \_\_\_\_\_

Organization/Company \_\_\_\_\_ Telephone \_\_\_\_\_ - -

### Instructions

#### Sponsor/Sponsor's Agent (Instructor, Proctor or Coordinator)

Please provide the requested information by typing or printing in ink. Certificates completed in pencil will not be accepted.

Please provide all of the requested information. If the certificate is incomplete, the training may not be accepted as meeting the continuing professional education requirements of the Virginia Board for Waterworks and Wastewater Works Operators regulations.

Each certificate must contain an original sponsor/sponsor's agent signature and signature date.

To minimize the time/effort required to issue the certificates, training providers are encouraged to complete as much as possible of the other required information prior to conducting the training.

#### Participants

Make sure all of the required information is contained on the certificate and that the sponsor/sponsor's agent has signed and dated the certificate.

File the certificate in a safe place. It is your responsibility to retain this certificate for at least one year after the completion of the license renewal period in which the training is taken. You may be required to submit a copy of this certificate to verify you have completed the required number of hours of continuing professional development training.

Commonwealth of Virginia  
 Department of Professional and Occupational Regulation  
 3600 West Broad Street  
 Post Office Box 11066  
 Richmond, Virginia 23230-1066  
 (804) 367-2176



Board for Waterworks and Wastewater Works Operators  
 APPLICATION FOR TRAINING COURSE APPROVAL

To obtain board approval of your waterworks and wastewater works operator specialized training course your application package must include the following documentation. See 18 VAC 160-20-160 for further details.

- \* Audio-visual support materials
- \* Course objectives
- \* Course outline (hour by hour detail including breaks)
- \* Course reference materials
- \* Handouts
- \* Instructor resume(s)
- \* Sponsor's mission statement & staff information
- \* Policy on retention & release of training course records

1. Name of Training Provider/Sponsor \_\_\_\_\_
2. Federal Employer Identification Number  -
3. Street Address (PO Box not accepted) \_\_\_\_\_  
 City, State, Zip Code \_\_\_\_\_
4. E-mail Address \_\_\_\_\_
5. Telephone & Facsimile Numbers ( ) - ( ) - ( ) -  
 Telephone Facsimile Beeper/Cellular
6. Name & Title of Contact Person \_\_\_\_\_
7. Course Title \_\_\_\_\_
8. Planned audience \_\_\_\_\_
9. Will this course be offered more than one time?  
 No  Scheduled course date \_\_\_\_\_  
 Yes  Scheduled course dates \_\_\_\_\_
10. Location(s) where course will be taught. \_\_\_\_\_
11. Instructor(s) information

Instructor's Name	Title	Employer	Phone Number
			( ) -
			( ) -
			( ) -

12. Describe the relevancy of the course to waterworks or wastewater works operator licensing.  
 \_\_\_\_\_
13. How will satisfactory completion of this course be determined? Please check **all that apply**.  
 Attendance   
 Examination   
 Site visits   
 Skill demonstrations   
 Other

14. Contact Person's Signature \_\_\_\_\_ Date \_\_\_\_\_



**BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS**  
**Exam Location Request Form**

**This form does not apply to Waterworks Class VI examination candidates.**

The Board will assign each applicant a permanent examination location. Listed below are the five locations at which the Board normally administers the examination.

By filing this form with the Board, you have an opportunity to choose your location. If you do not return this form, you will be assigned a location based on your residence and business address 30 days prior to each examination.

Applicant's Name

\_\_\_\_\_

First Middle Last Generation  
(SR, JR, etc.)

Social Security Number \*    -   -

Requested Location

- Northern Virginia – Leesburg
- Central Virginia – Richmond
- Tidewater Virginia – Suffolk
- Western Virginia – Roanoke
- Southwest Virginia – Abingdon

Do you require any special assistance or consideration due to a special physical, mental or emotional condition?

No

Yes  If yes, provide information on your condition and the assistance you require.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\* State law requires every applicant for a license, certificate, registration or other authorization to engage in a business, trade, profession or occupation issued by the Commonwealth to provide a social security number or a control number issued by the Virginia Department of Motor Vehicles.



---

# FINAL REGULATIONS

---

For information concerning Final Regulations, see Information Page.

---

## Symbol Key

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

---

## TITLE 2. AGRICULTURE

### BOARD OF AGRICULTURE AND CONSUMER SERVICES

Title of Regulation: **2 VAC 5-440. Rules and Regulations for Enforcement of the Virginia Pest Law - Cotton Boll Weevil Quarantine (amending 2 VAC 5-440-10 through 2 VAC 5-440-60; repealing 2 VAC 5-440-80 and 2 VAC 5-440-90).**

Statutory Authority: § 3.1-188.23 of the Code of Virginia.

Effective Date: March 25, 2004.

Agency Contact: Frank M. Fulgham, Program Manager, Department of Agriculture and Consumer Services, 1100 Bank Street, Room 703, Richmond, VA 23219, telephone (804) 786-3515, FAX (804) 371-7793 or e-mail fulgham@vdacs.state.va.us.

#### Summary:

*This regulation requires all cotton farm operators in Virginia to participate in the eradication program, which includes reporting of acreage planted in cotton and field locations, compliance with all cotton boll weevil regulations, and payment of per-acre fees to support the trapping of all cotton fields. This regulation also restricts the movement of regulated articles, such as seed cotton, gin trash, and used cotton harvesting equipment to prevent the reintroduction of the boll weevil into Virginia by the use of inspections, certificates, permits, compliance agreements, and treatments, if necessary.*

*The amendments (i) establish the fixed date of July 1 as the official reporting and payment date for acreage assessments rather than requiring the commissioner to set the date annually, (ii) reduce penalties assessed on farm operators for the late payment or nonpayment of fees from \$10 per acre to \$5.00 per acre, (iii) eliminate the mandate for the destruction of the cotton crop for nonpayment of program fees, (iv) clarify that in addition to eradication, the regulation prevents reintroduction of the boll weevil into Virginia, and (v) combine certain sections to improve upon the clarity and intent of the regulation.*

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

#### **2 VAC 5-440-10. Definitions.**

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

[ "Authorized inspector" means any person employed by a state or federal regulatory plant pest agency and trained to inspect for and identify boll weevil in any living stage. ]

*"Board" means the Board of the Virginia Department of Agriculture and Consumer Services.*

*"Boll weevil" means the live insect, "Anthonomus grandis grandis" Boheman, in any stage of development.*

~~*"Board" means the Board of the Virginia Department of Agriculture and Consumer Services.*~~

*"Boll Weevil Eradication and Exclusion Program" means the program conducted by the Virginia Department of Agriculture and Consumer Services and the Southeastern Boll Weevil Eradication Foundation, Inc., to eradicate the boll weevil and subsequently prevent its reintroduction into areas where it has been eradicated.*

*"Certificate" means a document issued or authorized by an inspector to be issued under this chapter to allow the movement of regulated articles to any destination.*

~~*"CFSA" means United States Department of Agriculture, Consolidated Farm Service Agency.*~~

~~*"Compliance agreement" means a written agreement between a grower, dealer, or mover of regulated articles and the Virginia Department of Agriculture and Consumer Services, in which the former agrees to comply with conditions specified in the agreement by the inspector who executes the agreement on behalf of the department, to prevent the spread of the boll weevil.*~~

*"Commissioner" means the Commissioner of the Virginia Department of Agriculture and Consumer Services or his designee.*

*"Compliance agreement" means a written agreement between a grower, dealer, or mover of regulated articles, and the Virginia Department of Agriculture and Consumer Services, United States Department of Agriculture, or both, wherein the former agrees to comply with the requirements of the compliance agreement.*

*"Cotton" means parts and products of plants of the genus "Gossypium," before processing.*

*"Cottonseed" means cottonseed from which the lint has been removed.*

*"Department" means the Virginia Department of Agriculture and Consumer Services.*

*"FSA" means the United States Department of Agriculture, Farm Service Agency.*

*"Gin trash" means all of the material produced during the cleaning and ginning of seed cotton, bollies, or snapped cotton, except for the lint, cottonseed, and gin waste.*

*"Grower" means a farm operator or producer, whether the owner of the land or not.*

---

# Final Regulations

---

"*Infestation*" means the presence of the boll weevil, or the existence of circumstances that make it reasonable to believe that boll weevil is present.

"*Inspector*" means any employee of the Virginia Department of Agriculture and Consumer Services, or other person authorized by the commissioner to enforce the provisions of the quarantine and regulations.

"*Limited permit*" means a document issued by an inspector to allow the movement of noncertifiable regulated articles to a specified destination for limited handling, use, processing, or treatment.

"*Lint*" means all forms of raw ginned cotton, either baled or unbaled, except linters and waste.

"*Moved (movement, move)*" means shipped; offered for shipment to a common carrier; received for transportation or transported by a common carrier; or carried, transported, moved, or allowed to be moved by any means.

"*Person*" means any individual, corporation, company, society, or association or other organized group.

"*Regulated area*" means ~~the entire Commonwealth of Virginia~~ any state or country in which the boll weevil is known to exist or areas where circumstances make it reasonable to believe that the boll weevil is present.

"*Scientific permit*" means a document issued by the Virginia Department of Agriculture and Consumer Services to authorize movement of regulated articles to a specified destination for scientific purposes.

"*Seed cotton*" means cotton as it comes from the field prior to ginning.

"*Used cotton harvesting equipment*" means equipment previously used to harvest, strip, transport or destroy cotton.

## 2 VAC 5-440-20. Notice of quarantine.

Under the authority of §§ 3.1-188.20 through 3.1-188.31:2 of the Code of Virginia, a quarantine of the Commonwealth of Virginia and all cotton producing states and countries infested with the boll weevil is hereby established to control, eradicate, and prevent the spread *or reintroduction* of the cotton boll weevil, "*Anthonomus grandis grandis*" Boheman.

## 2 VAC 5-440-30. Regulated articles.

A. ~~The following shall not be moved from outside Virginia into this Commonwealth, or between points within Virginia, or interstate~~ any regulated area [ *into Virginia* ], in any manner or method, except in compliance with the conditions prescribed in this chapter:

1. The boll weevil, "*Anthonomus grandis grandis*" Boheman, in any living state of development.
2. Seed cotton.
3. Gin trash.
4. Used cotton harvesting equipment.
5. Any other products, articles, or means of conveyance of any kind not covered by subdivisions 1 through 4 ~~above of~~

*this section*, when it is determined by an inspector that they present a hazard of spread of the boll weevil and the person in possession is notified.

## 2 VAC 5-440-40. Requirements for program participation.

A. All cotton farm operators in Virginia are hereby required to participate in the eradication/*exclusion* program. Participation shall include timely reporting of acreage and field locations, compliance with regulations, and payment of fees. Farm operators within the Commonwealth shall be notified through either the extension offices, ~~VDACS the department~~, ~~CFSA FSA~~, or newspapers of their program costs on a per acre basis on or before ~~March 15~~ April 1 of each year. The following procedures are required for participation in the program:

1. ~~Completing a Cotton Acreage Reporting Form at the CFSA office and the payment of a fee based on the measured or certified acreage. The fee and the reporting date to be set by March 1 of each year by the Commissioner of Agriculture and Consumer Services after consultation with the growers FSA office by July 1 of the current growing season for which participation is required. At this time the farm operator shall pay a nonrefundable fee in an amount sufficient to cover estimated program costs as determined by the commissioner. [ The commissioner shall set this fee following consultation with state, federal, and private organizations responsible for implementation and funding of boll weevil eradication/exclusion programs conducted in the Commonwealth. Such fee shall be based upon prior year's expenses and projected cotton acreage for the current growing season. ] Those farm operators not reporting their acreage by July 1 will not be considered as program participants and will be subject to a penalty.~~

2. All fees shall be paid by the farm operator. Fees shall be made payable to Treasurer of Virginia and collected by ~~CFSA FSA~~.

3. Noncommercial cotton shall not be planted in Virginia unless the grower applies for and receives an exemption to grow cotton. Applications, in writing, shall be made to the ~~State Entomologist Program Manager, Office of Plant and Pest Services, 1100 Bank Street, Room 703, Richmond, VA 23219~~, stating the conditions under which the grower requests such exemption. The decision whether all or part of these requirements shall be exempted shall be based on the following:

- a. Location of growing area,
- b. Size of growing area,
- c. Pest conditions in the growing area,
- d. Accessibility of growing area,
- e. Any stipulations set forth in a compliance agreement between the individual and the Department of Agriculture and Consumer Services that are necessary for the effectuation of the program.

B. Farm operators whose ~~CFSA FSA~~ measured acreage exceeds the grower reported acreage by more than 10%, shall be assessed an additional \$5.00 per acre on that acreage in

excess of the reported acreage. Any person whose reported acreage exceeds the CFSA measured acreage by more than 10% due to emergency or hardship conditions may apply for a waiver of the additional assessment. Any farm operator applying for a waiver of the additional assessment shall make application in writing to the State Entomologist stating the conditions under which the waiver is requested.

~~C. Failure to pay all fees on or before the date established by the commissioner will result in an additional assessment of \$10 per acre. Failure by a farm operator to pay all program costs as of August 1 or upon notification of CFSA measured acreage, whichever is later, shall be a violation of The Virginia Cotton Boll weevil Quarantine. The farm operator when found in violation and upon notification shall completely destroy all cotton not found to be in compliance with the provisions of this section. If such farm operator fails to comply with this chapter, the Commissioner of Agriculture and Consumer Services, through his duly authorized agents, shall proceed to destroy such cotton, and shall compute the actual costs of labor and materials used, and the farm operator shall pay to the commissioner such assessed costs. No damage shall be awarded the grower of such cotton for entering thereon and destroying any cotton when done by the order of the commissioner.~~

~~D. C. A farm operator may apply for a waiver requesting delayed payment under conditions of financial hardship. Any farm operator applying for a waiver shall make application in writing to the Program Manager, Office of Plant and Pest Services, 1100 Bank Street, Richmond, VA 23219. This request must be accompanied by a financial statement from a state or federally chartered bank or lending agency supporting such request. The decision of whether to waive all or part of these additional assessments or payment dates shall be made by the State Entomologist program manager and notification given to the farm operator within two weeks after receipt of such application. The decision shall be based on the following: (i) meteorological conditions, (ii) economic conditions, and (iii) any other uncontrollable destructive forces. If a waiver is granted, payment shall be due at the time the cotton is sold, or by December 1, whichever is sooner.~~

~~D. Failure to pay all fees on or before July 1 will result in a penalty of \$5.00 per acre. Failure by a farm operator to pay all program costs by August 1 shall be a violation of The Virginia Cotton Boll Weevil Quarantine. [The farm operator when found in violation and upon notification shall completely destroy all cotton not found to be in compliance with the provisions of this section. If such farm operator fails to comply with these regulations, the Commissioner of Agriculture and Consumer Services, through his duly authorized agents, may proceed to destroy such cotton, and shall compute the actual costs of labor and materials used, and the farm operator shall pay to the commissioner such assessed costs. No damage shall be awarded the grower of such cotton for entering thereon and destroying any cotton when done by the order of the commissioner. If such farm operator fails to comply with these regulations, the Commissioner of Agriculture and Consumer Services, through his duly authorized agents, may proceed to trap all cotton acreage found in violation and initiate actions to recover all trapping program costs through established policies and procedures identified in the Virginia~~

*Debt Collection Act (§ 2.2-4800 et seq. of the Code of Virginia). ]*

E. Acreage subject to emergency or hardship conditions after all the growers' share of the program have been paid and prior to the initiation of field operations may be considered for a refund. The refund amount will be determined by the actual program cost per acre up to the time of emergency or hardship.

F. The commissioner may purchase growing cotton when he deems it in the best interest of the program. Purchase price shall be based on the CFSA FSA farm established yield for the current year.

*[ G. If necessary to prevent boll weevil reinfestation of the Commonwealth, the farm operator, upon notification by the commissioner, shall completely destroy all cotton determined to threaten the safety of Virginia's cotton industry. If such farm operator fails to comply with these regulations, the Commissioner of Agriculture and Consumer Services, through his duly authorized agents, shall proceed to destroy such cotton and shall compute the actual costs of labor and materials used, and the farm operator shall pay to the commissioner such assessed costs. No damage shall be awarded the grower of such cotton for entering thereon and destroying any cotton when done by the order of the commissioner. ]*

## **2 VAC 5-440-50. Conditions governing the issuance of certificates and permits to allow the movement of regulated articles.**

A. Certificates shall be issued by ~~the~~ *an authorized* inspector for movement of the regulated articles designated in 2 VAC 5-440-30 under any of the following conditions when:

1. In the judgment of the inspector, they have not been exposed to ~~infestation~~ *boll weevil in any living stage.*
2. They have been examined by the inspector and found to be free of ~~infestation~~ *boll weevil in any living stage.*
3. They have been treated *to destroy boll weevil*, under the observation of the inspector, ~~in compliance with~~ *according to* methods selected by him ~~from procedures known to be effective under the conditions in which applied.~~
4. Grown, produced, stored, or handled in such manner that, in the judgment of the inspector, no ~~infestation~~ *boll weevil* would be transmitted.

B. Limited permit. Limited permits may be issued by ~~the~~ *an authorized* inspector for the movement of noncertified regulated articles specified under 2 VAC 5-440-30 to specified destinations for limited handling, use, processing, or treatment, when he determines that no hazard of spread of the boll weevil exists.

C. Special permits. Special permits may be issued by the Virginia Department of Agriculture and Consumer Services to allow the movement of boll weevil in any living stage and any other regulated articles for scientific purposes, under conditions prescribed in each specific case.

---

# Final Regulations

---

D. Compliance agreement. Compliance agreements may be issued by ~~the~~ *an authorized* inspector. As a condition of receiving a certificate or limited permit for the movement of regulated articles, any person engaged in purchasing, assembling, exchanging, handling, processing, utilizing, treating, or moving such article may be required to sign a compliance agreement. The agreement shall stipulate that the required safeguards against the establishment and spread of infestation will be maintained and will comply with the conditions governing the maintenance of identity, handling, and subsequent movement of such articles, and the cleaning and treatment of means of conveyance and containers.

*E. Use of certificates or permits with shipments. If a certificate or permit is required for the movement of regulated articles, the regulated articles are required to have a certificate or permit attached when offered for movement. If a certificate or permit is attached to the invoice or way-bill, and the articles are adequately described on the certificate, the attachment of a certificate or limited permit to the regulated article will not be required. Certificates or permits attached to the invoice, way-bill or other shipping document, shall be given by the carrier to the consignee at the destination of the shipment, or to an inspector when requested.*

*F. Assembly of articles for inspection. Persons intending to move any regulated articles shall apply for inspection as far in advance as possible. They shall safeguard the articles from infestation. The articles shall be assembled at a place and in a manner designated by the inspector to facilitate inspection.*

*G. Disposition of certificates and permits. In all cases, certificates and permits shall be furnished by the carrier to the consignee at the destination of the shipment.*

## **2 VAC 5-440-60. Cancellation of certificates and permits.**

Any certificate or permit which has been issued or authorized may be withdrawn by the inspector if determined that the holder has not complied with any condition for ~~the~~ *their* use of ~~the documents~~ *or with any applicable compliance agreement.*

## **~~2 VAC 5-440-80. Assembly and inspection of regulated articles. (Repealed.)~~**

~~Persons who desire to move regulated articles shall, as far in advance as possible, request an inspector to examine the articles prior to movement. The articles shall be assembled at a place and in a manner designated by the inspector to facilitate inspection.~~

## **~~2 VAC 5-440-90. Attachment and disposition of certificates or permits. (Repealed.)~~**

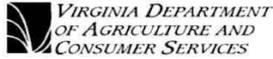
~~A. If a certificate or permit is required for the movement of regulated articles, the certificate or permit shall be securely attached to the outside of the container in which the articles are moved. However, if the certificate or permit is attached to the way bill or other shipping document, and the regulated articles are adequately described on the certificate, permit, or shipping document, then the certificate or permit need not be attached to each container.~~

~~B. In all cases, certificates, or permits shall be given by the carrier to the consignee at the destination of the shipment.~~

<p><b>NOTICE:</b> The form used in administering 2 VAC 5-440, Rules and Regulations for Enforcement of the Virginia Pest Law - Cotton Boll Weevil Quarantine, is listed and published below.</p>
--

### FORMS

~~Boll Weevil Eradication Program~~ Cotton Acreage Reporting Form (rev. 3/99).



**COTTON ACREAGE REPORTING FORM**

**Boll Weevil Eradication Program**

Revenue Code: 814-02-09060

Name & Address: (PLEASE PRINT)	Social Security or FIN #
	Phone:
	Program Year:
	County : (where cotton is planted)
<p><b>TOTAL ACRES:</b> _____ <b>*ATTACH ITEMIZED FSA ACREAGE REPORTS*</b></p> <p>I certify to the best of my knowledge and belief that the total acreage of cotton listed herein is true and correct.</p> <p>Grower=s Signature: _____ Date: _____</p>	
<p><b><u>PAYMENT DUE JULY 1</u></b></p> <p>A. Total acres..... _____</p> <p>B. Amount due (total acres X fee per acre)..... _____</p> <p>C. Assessment for late payment after July 1 (acres X \$10.00)..... _____</p> <p><b>TOTAL PAID (B+C)</b>..... _____</p>	
<p>(FSA Office) Fee Collected By:</p> <p>Signature: _____ Date: _____</p> <p>Title: _____ Check No. _____</p>	

Office of Plant & Pest Services, P. O. Box 1163, Richmond, VA 23218  
804/786-3515

rev. 3/99

VDACS Office Copy

VA.R. Doc. No. R01-110; Filed January 21, 2004, 2:33 p.m

---

# Final Regulations

---

## TITLE 9. ENVIRONMENT

### STATE AIR POLLUTION CONTROL BOARD

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

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

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

Effective Date: March 24, 2004.

Agency Contact: Robert A. Mann, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4419, FAX (804) 698-4510, or e-mail ramann@deq.state.va.us.

Summary:

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

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

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

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

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

*The regulations establish emission standards, consisting of emission limits and control technology requirements, and other requirements that control levels of VOCs being emitted into the ambient air. They also establish source surveillance requirements which (i) provide the enforcement basis, specify test methods and procedures, and specify procedures for monitoring for determining compliance with the emission standards; and (ii) require the owner to provide certain notifications, records and reports in order that the department*

*may determine compliance with emission standards and other applicable requirements.*

*The final regulation differs from the proposal in that clarifications and corrections are made to 9 VAC 5-40-5700, 9 VAC 5-40-6970, and 9 VAC 5-40-6990 and throughout Rule 4-49. In addition, in 9 VAC 5-40-7130 definitions are added or revised, a VOC content limit for extreme durability coatings is added in 9 VAC 5-40-7140, and the technical documents incorporated by reference in 9 VAC 5-40-7220 is eliminated with the exception of added provisions relating to exempt compounds.*

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.

<p><b>REGISTRAR'S NOTICE:</b> The proposed regulation was adopted as published 19:22 VA.R. 3155-3188 July 14, 2003, with the changes identified below. Pursuant to § 2.2-4031 A of the Code of Virginia, the adopted regulation is not published at length; however the sections that have changes since publication of the proposed are set out.</p>
---

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

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

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

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

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

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

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

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

## 1. Code of Federal Regulations.

a. The provisions specified below from the Code of Federal Regulations (CFR) are incorporated herein by reference.

(1) 40 CFR Part 50--National Primary and Secondary Ambient Air Quality Standards.

(a) Appendix A--Reference Method for the Determination of Sulfur Dioxide in the Atmosphere (Pararosaniline Method).

(b) Appendix B--Reference Method for the Determination of Suspended Particulate Matter in the Atmosphere (High-Volume Method).

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

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

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

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

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

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

(i) Appendix I--Reserved.

(j) Appendix J--Reference Method for the Determination of Particulate Matter as PM<sub>10</sub> in the Atmosphere.

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

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

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

Appendix S--Emission Offset Interpretive Ruling.

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

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

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

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

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

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

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

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

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

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

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

(9) *40 CFR Part 72, Permits Regulation.*

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

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

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

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

(14) *40 CFR Part 77, Excess Emissions.*

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

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

## 2. U.S. Environmental Protection Agency.

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

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

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

---

# Final Regulations

---

number 055-000-00587-7, 1997; Supplement D, 1998; Supplement E, 1999.

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

### 3. U.S. government.

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

b. Copies may be obtained from: Superintendent of Documents, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954; phone (202) 512-1800.

### 4. American Society for Testing and Materials (ASTM).

a. The documents specified below from the American Society for Testing and Materials are incorporated herein by reference.

(1) D323-99a, "Standard Test Method for Vapor Pressure of Petroleum Products (Reid Method)."

(2) D97-96a, "Standard Test Method for Pour Point of Petroleum Products."

(3) D129-00, "Standard Test Method for Sulfur in Petroleum Products (General Bomb Method)."

(4) D388-99, "Standard Classification of Coals by Rank."

(5) D396-98, "Standard Specification for Fuel Oils."

(6) D975-98b, "Standard Specification for Diesel Fuel Oils."

(7) D1072-90(1999), "Standard Test Method for Total Sulfur in Fuel Gases."

(8) D1265-97, "Standard Practice for Sampling Liquefied Petroleum (LP) Gases (Manual Method)."

(9) D2622-98, "Standard Test Method for Sulfur in Petroleum Products by Wavelength Dispersive X-Ray Fluorescence Spectrometry."

(10) D4057-95(2000), "Standard Practice for Manual Sampling of Petroleum and Petroleum Products."

(11) D4294-98, "Standard Test Method for Sulfur in Petroleum and Petroleum Products by Energy-Dispersive X-Ray Fluorescence Spectroscopy."

(12) D523-89, "Standard Test Method for Specular Gloss" (1999).

(13) D1613-02, "Standard Test Method for Acidity in Volatile Solvents and Chemical Intermediates Used in Paint, Varnish, Lacquer and Related Products" (2002).

(14) D1640-95, "Standard Test Methods for Drying, Curing, or Film Formation of Organic Coatings at Room Temperature" (1999).

(15) E119-00a, "Standard Test Methods for Fire Tests of Building Construction Materials" (2000).

(16) E84-01, "Standard Test Method for Surface Burning Characteristics of Building Construction Materials" (2001).

(17) D4214-98, "Standard Test Methods for Evaluating the Degree of Chalking of Exterior Paint Films" (1998).

b. Copies may be obtained from: American Society for Testing Materials, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428-2959; phone (610) 832-9585.

### 5. American Petroleum Institute (API).

a. The following document from the American Petroleum Institute is incorporated herein by reference: Evaporative Loss from Floating Roof Tanks, API MPMS Chapter 19, April 1, 1997.

b. Copies may be obtained from: American Petroleum Institute, 1220 L Street, Northwest, Washington, D.C. 20005; phone (202) 682-8000.

### 6. American Conference of Governmental Industrial Hygienists (ACGIH).

a. The following document from the ACGIH is incorporated herein by reference: Threshold Limit Values for Chemical Substances 1991-1992 and Physical Agents and Biological Exposure Indices (ACGIH Handbook).

b. Copies may be obtained from: ACGIH, 1330 Kemper Meadow Drive, Suite 600, Cincinnati, Ohio 45240; phone (513) 742-2020.

### 7. National Fire Prevention Association (NFPA).

a. The documents specified below from the National Fire Prevention Association are incorporated herein by reference.

(1) NFPA 385, Standard for Tank Vehicles for Flammable and Combustible Liquids, 2000 Edition.

(2) NFPA 30, Flammable and Combustible Liquids Code, 2000 Edition.

(3) NFPA 30A, Code for Motor Fuel Dispensing Facilities and Repair Garages, 2000 Edition.

b. Copies may be obtained from the National Fire Prevention Association, One Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts 02269-9101; phone (617) 770-3000.

### 8. American Society of Mechanical Engineers (ASME).

a. The documents specified below from the American Society of Mechanical Engineers are incorporated herein by reference.

(1) ASME Power Test Codes: Test Code for Steam Generating Units, Power Test Code 4.1-1964 (R1991).

(2) ASME Interim Supplement 19.5 on Instruments and Apparatus: Application, Part II of Fluid Meters, 6th edition (1971).

(3) Standard for the Qualification and Certification of Resource Recovery Facility Operators, ASME QRO-1-1994.

b. Copies may be obtained from the American Society of Mechanical Engineers, Three Park Avenue, New York, New York 10016; phone (800) 843-2763.

## 9. American Hospital Association (AHA).

a. The following document from the American Hospital Association is incorporated herein by reference: An Ounce of Prevention: Waste Reduction Strategies for Health Care Facilities, AHA Catalog no. W5-057007, 1993.

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

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

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

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

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

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

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

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

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

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

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

## 12. California Air Resources Board (CARB).

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

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

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

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

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

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

## [ 13. American Architectural Manufacturers Association.

a. The following documents from the American Architectural Manufacturers Association are incorporated herein by reference:

(1) Voluntary Specification 2604-02, "Performance Requirements and Test Procedures for High Performance Organic Coatings on Aluminum Extrusions and Panels" (2002).

(2) Voluntary Specification 2605-02, "Performance Requirements and Test Procedures for Superior Performing Organic Coatings on Aluminum Extrusions and Panels" (2002).

b. Copies may be obtained from: American Architectural Manufacturers Association, 1827 Walden Office Square, Suite 550, Schaumburg, IL 60173, phone (847) 303-5664. ]

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

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

B. The provisions of this article apply only to sources of volatile organic compounds in volatile organic compound emissions control areas designated in 9 VAC 5-20-206. They do not apply to sources in the Northern Virginia volatile organic compound emissions control area designated in 9 VAC 5-20-206. These sources are subject to Article 47 [ (9 VAC 5-40-6820 et seq.). of this part ].

---

# Final Regulations

---

## Article 42.

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

### **9 VAC 5-40-5700. Applicability.**

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

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

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

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

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

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

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

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

[ I. For purposes of this article, the terms "supply" or "supplied" do not include internal transactions within a business or governmental entity. These terms only apply to transactions between manufacturers/commercial distributors that sell, or otherwise provide, products to business/governmental entities/individuals. ]

**9 VAC 5-40-5710 through 9 VAC 5-40-6820. [ No change from proposed. ]**

### **9 VAC 5-40-6830. Definitions.**

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

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

C. Terms defined.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Superheated vapor system" means a system that heats the solvent vapor to a temperature 10 [<sup>o</sup>F degrees Fahrenheit] above the solvent's boiling point. Parts are held in the superheated vapor before exiting the machine to evaporate the liquid solvent on the parts.

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

"Vapor cleaning machine primary condenser" means a series of circumferential cooling coils on a vapor cleaning machine through which a chilled substance is circulated or recirculated to provide continuous condensation of rising solvent vapors, and thereby, create a concentrated vapor zone.

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

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

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

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

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

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

---

# Final Regulations

---

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

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

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

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

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

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

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

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

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

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

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

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

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

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

a. The name and address of the solvent supplier.

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

c. The vapor pressure of the solvent measured in mm Hg at 20 [~~°C~~ (68°F)] degrees Centigrade (68 degrees Fahrenheit).

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

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

1. Batch vapor cleaning machines shall be equipped with:

a. Either a fully enclosed design or a working and downtime mode cover that completely covers the cleaning machine openings when in place, is free of cracks, holes and other defects, and can be readily opened or closed without disturbing the vapor zone. If the solvent cleaning machine opening is greater than 10 square feet, the cover shall be powered. If a lip exhaust is used, the closed cover shall be below the level of the lip exhaust.

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

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

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

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

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

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

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

- i. Each vapor cleaning machine that uses a lip exhaust shall be designed and operated to route all collected solvent vapors through a properly operated and maintained carbon adsorber such that the concentration of organic solvent in the exhaust does not exceed 100 parts per million.*
- j. A permanent, conspicuous label summarizing the operating requirements found in subdivision B 4 of this section.*
- 2. In addition to the requirements of subdivision B 1 of this section, the owner of a batch vapor cleaning machine with a solvent/air interface area of 13 square feet or less shall implement one of the following options:**
- a. A working mode cover, freeboard ratio of 1.0, and superheated vapor.*
- b. A freeboard refrigeration device operated to ensure that the chilled air blanket temperature is no greater than 30% of the solvent's boiling point and superheated vapor.*
- c. A working mode cover and a freeboard refrigeration device operated to ensure that the chilled air blanket temperature is no greater than 30% of the solvent's boiling point.*
- d. Reduced room draft, freeboard ratio of 1.0 and superheated vapor;*
- e. A freeboard refrigeration device operated to ensure that the chilled air blanket temperature is no greater than 30% of the solvent's boiling point and reduced room draft.*
- f. A freeboard refrigeration device operated to ensure that the chilled air blanket temperature is no greater than 30% of the solvent's boiling point and a freeboard ratio of 1.0.*
- g. A freeboard refrigeration device operated to ensure that the chilled air blanket temperature is no greater than 30% of the solvent's boiling point and dwell. Dwell shall be not less than 35% of the dwell time determined for the part or parts.*
- h. Reduced room draft, dwell and a freeboard ratio of 1.0.*
- i. A freeboard refrigeration device operated to ensure that the chilled air blanket temperature is no greater than 30% of the solvent's boiling point and a carbon adsorber that reduces solvent emissions in the exhaust to a level not to exceed 100 ppm at any time.*
- j. A freeboard ratio of 1.0, superheated vapor and a carbon adsorber that reduces solvent emissions in the exhaust to a level not to exceed 100 ppm at any time.*
- 3. In addition to the requirements of subdivision B 1 of this section, the owner of a batch vapor cleaning machine with a solvent/air interface area of greater than 13 square feet shall use one of the following devices or strategies:**
- a. A freeboard refrigeration device operated to ensure that the chilled air blanket temperature is no greater than 30% of the solvent's boiling point, a freeboard ratio of 1.0 and superheated vapor.*
- b. Dwell, a freeboard refrigeration device operated to ensure that the chilled air blanket temperature is no greater than 30% of the solvent's boiling point, and reduced room draft. Dwell shall be not less than 35% of the dwell time determined for the part or parts.*
- c. A working mode cover and a freeboard refrigeration device operated to ensure that the chilled air blanket temperature is no greater than 30% of the solvent's boiling point and superheated vapor.*
- d. Reduced room draft, freeboard ratio of 1.0 and superheated vapor.*
- e. A freeboard refrigeration device operated to ensure that the chilled air blanket temperature is no greater than 30% of the solvent's boiling point, reduced room draft and superheated vapor.*
- f. A freeboard refrigeration device operated to ensure that the chilled air blanket temperature is no greater than 30% of the solvent's boiling point, reduced room draft and a freeboard ratio of 1.0.*
- g. A freeboard refrigeration device operated to ensure that the chilled air blanket temperature is no greater than 30% of the solvent's boiling point, superheated vapor, and a carbon adsorber which reduces solvent emissions in the exhaust to a level not to exceed 100 ppm at any time.*
- 4. Batch vapor cleaning machines shall be operated in accordance with the following procedures:**
- a. Waste solvent, still bottoms and sump bottoms shall be collected and stored in closed containers. The closed containers may contain a device that allows pressure relief, but does not allow liquid solvent to drain from the container.*
- b. Cleaned parts shall be drained at least 15 seconds or until dripping ceases, whichever is longer. Parts having cavities or blind holes shall be tipped or rotated while the part is draining. A superheated vapor system shall be an acceptable alternate technology.*
- c. Parts baskets or parts shall not be removed from the batch vapor cleaning machine until dripping has ceased.*
- d. Flushing or spraying of parts using a flexible hose or other flushing device shall be performed within the vapor zone of the batch vapor cleaning machine or within a section of the machine that is not exposed to the ambient air. The solvent spray shall be a solid fluid stream, not an atomized or shower spray.*
- e. When the cover is open, the batch vapor cleaning machine shall not be exposed to drafts greater than 40 meters per minute (132 feet per minute), as measured between 1 and 2 meters (3.3 and 6.6 feet) upwind and at the same elevation as the tank lip.*
- f. Sponges, fabric, wood, leather, paper products and other absorbent materials shall not be cleaned in the batch vapor cleaning machine.*

---

# Final Regulations

---

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

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

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

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

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

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

m. If a lip exhaust is used on the open top vapor degreaser, the ventilation rate shall not exceed 20 m<sup>3</sup>/min/m<sup>2</sup> (65 ft<sup>3</sup>/min/ft<sup>2</sup>) of degreaser open area, unless a higher rate is necessary to meet OSHA requirements.

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

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

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

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

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

d. A vapor up control switch.

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

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

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

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

i. A primary condenser.

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

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

a. A freeboard ratio of 1.0 and superheated vapor.

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

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

d. Dwell and a carbon adsorber that reduces solvent emissions in the exhaust to a level not to exceed 100 ppm at any time. Dwell shall be not less than 35% of the dwell time determined for the part or parts.

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

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

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

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

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

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

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

g. Use no workplace fans near the degreaser opening, and ensure that exhaust ventilation does not exceed 20 m<sup>3</sup>/min/m<sup>2</sup> of degreaser opening, unless a higher rate is necessary to meet OSHA requirements.

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

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

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

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

l. Minimize openings during operation so that entrances and exits silhouette workloads with an average clearance

between the parts and the edge of the degreaser opening of less than 10 cm (4 in) or less than 10% of the width of the opening.

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

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

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

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

where:

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

vol = the cleaning capacity of machine (cubic meters)

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

Cleaning capacity (cubic meters)	3-Month rolling average monthly emission limit (kilograms/month)	Cleaning capacity (cubic meters)	3-Month rolling average monthly emission limit (kilograms/month)	Cleaning capacity (cubic meters)	3-Month rolling average monthly emission limit (kilograms/month)
0.00	0	1.00	330	2.00	500
0.05	55	1.05	340	2.05	508
0.10	83	1.10	349	2.10	515
0.15	106	1.15	359	2.15	522
0.20	126	1.20	368	2.20	530
0.25	144	1.25	377	2.25	537
0.30	160	1.30	386	2.30	544
0.35	176	1.35	395	2.35	551
0.40	190	1.40	404	2.40	558
0.45	204	1.45	412	2.45	565
0.50	218	1.50	421	2.50	572
0.55	231	1.55	429	2.55	579
0.60	243	1.60	438	2.60	585
0.65	255	1.65	446	2.65	592
0.70	266	1.70	454	2.70	599
0.75	278	1.75	462	2.75	605
0.80	289	1.80	470	2.80	612
0.85	299	1.85	477	2.85	619
0.90	310	1.90	485	2.90	625
0.95	320	1.95	493	2.95	632

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

4. The owner of each machine equipped with a solvent adsorber shall measure and record the concentration of solvent in the exhaust of the carbon adsorber weekly with a colorimetric detector tube designed to measure a

# Final Regulations

concentration of 100 ppm by volume of solvent to air at an accuracy of [  $\pm$  plus or minus ] 25 ppm by volume. This test shall be conducted while the solvent cleaning machine is in the working mode and is venting to the adsorber.

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

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

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

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

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

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

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

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

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

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

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

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

E. As an alternative to complying with the provisions of subsections B through D of this section the owner of a solvent cleaning machine may demonstrate compliance with subdivision 1 or 2 of this subsection. The owner shall

maintain records sufficient to demonstrate compliance. The records shall include, at a minimum, the quantity of solvent added to and removed from the solvent cleaning machine, the dates of the addition and removal and shall be maintained for not less than two years.

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

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

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

Table 4-47B  
Emission Limits for Batch Vapor and In-Line Solvent Cleaning Machines With a Solvent/Air Interface

Solvent cleaning machine	3-month rolling average monthly emission limit	
	kg/m <sup>2</sup> /month	lb/ft <sup>2</sup> /month
Batch vapor solvent cleaning machines	150	30.7
Existing in-line solvent cleaning machines	153	31.3
New in-line solvent cleaning machines	99	20.2

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

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

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

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

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

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

where:

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

vol = the cleaning capacity of machine (cubic meters)

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

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

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

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

For cleaning machines with a solvent/air interface:

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

where:

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

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

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

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

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

For cleaning machines without a solvent/air interface:

$$E = SA - LSR - SSR$$

where:

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

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

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

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

3. Determine the monthly rolling average, EA, for the three-month period ending with the most recent reporting period using one of the following equations:

For cleaning machines with a solvent/air interface:

$$EA = \frac{\sum_{j=1}^3 E}{3}$$

where:

EA = the average halogenated HAP solvent emissions over the preceding three-monthly reporting periods (kilograms of solvent per square meter of solvent/air interface area per month)

E = halogenated HAP solvent emissions for each month (j) for the most recent three-monthly reporting periods (kilograms of solvent per square meter of solvent/air interface area)

j=1 = the most recent monthly reporting period

j=2 = the monthly reporting period immediately prior to j=1

j=3 = the monthly reporting period immediately prior to j=2

For cleaning machines without a solvent/air interface:

$$EA = \frac{\sum_{j=1}^3 E}{3}$$

where:

EA = the average halogenated HAP solvent emissions over the preceding three monthly reporting periods (kilograms of solvent per month)

E = halogenated HAP solvent emissions for each month (j) for the most recent three monthly reporting periods (kilograms of solvent per month)

j=1 = the most recent monthly reporting period

---

# Final Regulations

---

*j=2 = the monthly reporting period immediately prior to j=1*

*j=3 = the monthly reporting period immediately prior to j=2*

G. The owner of a solvent cleaning machine subject to the provisions of subsections B through D of this section shall conduct monitoring and recordkeeping as follows.

1. If a freeboard refrigeration device is used to comply with these standards, the owner shall use a thermometer or thermocouple to measure the temperature at the center of the air blanket during the idling mode. Measurements and recordings shall be made weekly.

2. If a superheated vapor system is used to comply with these standards, the owner shall use a thermometer or thermocouple to measure the temperature at the center of the superheated solvent vapor zone while the solvent cleaning machine is in the idling mode. Measurements and recordings shall be made weekly.

3. If a cover (working-mode, downtime-mode, or idling-mode cover) is used to comply with these standards, the owner shall conduct a visual inspection to determine if the cover is opening and closing properly, completely covers the cleaning machine openings when closed, and is free of cracks, holes, and other defects. Observations and recordings shall be made weekly.

4. If dwell is used, the owner shall determine the actual dwell time by measuring the period of time that parts are held within the freeboard area of the solvent cleaning machine after cleaning. Observations and recordings shall be made monthly.

5. The owner shall determine the hoist speed by measuring the time it takes for the hoist to travel a measured distance. The speed is equal to the distance in meters divided by the time in minutes (meters per minute). Measurements and recordings shall be made monthly.

6. The owner of a batch vapor or in-line solvent cleaning machine complying using reduced room draft, maintained by controlling room parameters (i.e., redirecting fans, closing doors and windows, etc.), shall conduct monitoring and record the results as follows.

a. Initially measure the windspeed within six inches above the top of the freeboard area of the solvent cleaning machine in accordance with the following:

(1) Determine the direction of the wind current by slowly rotating a velometer or similar device until the maximum speed is located.

(2) Orient a velometer in the direction of the wind current at each of the four corners of the machine.

(3) Record the reading for each corner.

(4) Average the values obtained at each corner and record the average wind speed.

b. Record the room parameters established during the initial compliance test to achieve the reduced room draft.

c. Quarterly monitoring of the windspeed in accordance with subdivision 6 a of this subsection.

d. Weekly monitoring of the room parameters as specified in subdivision 6 b of this subsection.

7. If an enclosure (full or partial) is used to achieve reduced room draft, the owner shall conduct an initial monitoring test and, thereafter, monthly monitoring tests of the windspeed within the enclosure by slowly rotating a velometer inside the entrance to the enclosure until the maximum speed is located and record the maximum wind speed. The owner shall also conduct a monthly visual inspection of the enclosure to determine if it is free of cracks, holes and other defects.

8. The owner of a machine using a carbon adsorber to comply with this section shall measure and record the concentration of halogenated HAP solvent in the exhaust of the carbon adsorber weekly with a colorimetric detector tube. This test shall be conducted while the solvent cleaning machine is in the working mode and is venting to the carbon adsorber. The exhaust concentration shall be determined using a colorimetric detector tube designed to measure a concentration of 100 parts per million by volume of solvent in air to an accuracy of plus or minus 25 parts per million by volume. The concentration shall be determined through a sampling port for monitoring within the exhaust outlet that is easily accessible and located at least eight stack or duct diameters downstream and two stack or duct diameters upstream from any flow disturbance such as a bend, expansion, contraction, or outlet, and downstream from no other inlet.

**9 VAC 5-40-6850 through 9 VAC 5-40-6960. [ No change from proposed. ]**

**9 VAC 5-40-6970. Applicability and designation of affected facility.**

A. Except as provided in subsection C of this section, the affected facility to which the provisions of this article apply is each mobile equipment repair and refinishing operation. Certain provisions also apply to each person providing or selling affected coatings.

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

C. The provisions of this article do not apply under any of the following circumstances:

1. The mobile equipment repair and refinishing operation is subject to Article 28 (9 VAC 5-40-3860 et seq.) of 9 VAC 5 Chapter 40 (Emission Standards for Automobile and Light Duty Truck Coating Application Systems).

2. The mobile equipment repair and refinishing operation is subject to Article 34 (9 VAC 5-40-4760 et seq.) of 9 VAC 5 Chapter 40 (Emission Standards for Miscellaneous Metal Parts and Products Coating Application Systems).

3. The person applying the coatings does not receive compensation for the application of the coatings.

[ 4. The mobile equipment repair and refinishing operations uses coatings required to meet military specifications

(MILSPEC) where no other existing coating can be used that meets the provisions of this article. ]

## 9 VAC 5-40-6980. Definitions.

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

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

C. Terms defined.

"Airless spray" means a spray coating method in which the coating is atomized by forcing it through a small nozzle opening at high pressure. The coating is not mixed with air before exiting from the nozzle opening.

"Antique motor vehicle" means a motor vehicle, but not a reproduction thereof, manufactured more than 25 years prior to the current year that has been maintained in or restored to a condition that is substantially in conformance with manufacturer specifications.

"Automotive elastomeric coating" means a coating designed for application over surfaces of flexible mobile equipment and mobile equipment components, such as elastomeric bumpers.

"Automotive impact-resistant coating" means a coating designed to resist chipping caused by road debris.

"Automotive jambing clearcoat" means a fast-drying, ready-to-spray clearcoat applied to surfaces such as door jambs and trunk and hood edges to allow for quick closure.

"Automotive lacquer" means a thermoplastic coating applied directly to bare metal surfaces of mobile equipment and mobile equipment components that dries primarily by solvent evaporation and that is resoluble in its original solvent.

"Automotive low-gloss coating" means a coating that exhibits a gloss reading less than or equal to 25 on a 60 [° degree] glossmeter.

"Automotive multicolored topcoat" means a topcoat that exhibits more than one color, is packaged in a single container, and camouflages surface defects on areas of heavy use, such as cargo beds and other surfaces of trucks and other utility vehicles.

"Automotive pretreatment" means a primer that contains a minimum of 0.5% acid, by weight, that is applied directly to bare metal surfaces of mobile equipment and mobile equipment components to provide corrosion resistance and to promote adhesion of subsequent coatings.

"Automotive primer-sealer" means a coating applied to mobile equipment and mobile equipment components prior to the application of a topcoat for the purpose of providing corrosion resistance, promoting adhesion of subsequent coatings, promoting color uniformity, and promoting the ability of the undercoat to resist penetration by the topcoat.

"Automotive primer-surfacer" means a coating applied to mobile equipment and mobile equipment components prior to

the application of topcoat for the purpose of filling surface imperfections in the substrate, providing corrosion resistance, or promoting adhesion of subsequent coatings.

"Automotive specialty coating" means coatings including, but not limited to, elastomeric coatings, adhesion promoters, low gloss coatings, bright metal trim repair coatings, jambing clearcoats, impact resistant coatings, rubberized asphaltic underbody coatings, uniform finish blenders, weld-through primers applied to automotive surfaces and lacquer topcoats applied to a classic motor vehicle or to an antique motor vehicle.

"Automotive topcoat" means a coating or series of coatings applied over an automotive primer-surfacer, automotive primer-sealer or existing finish on the surface of mobile equipment and mobile equipment components for the purpose of protection or beautification.

"Automotive touch up repair" means the application of automotive topcoat finish materials to cover minor finishing imperfections equal to or less than one inch in diameter.

"Classic motor vehicle" means a motor vehicle, but not a reproduction thereof, manufactured at least 15 years prior to the current year that has been maintained in or restored to a condition that is substantially in conformity with manufacturer specifications and appearance.

"Mobile equipment" means equipment that may be driven or is capable of being driven on a roadway including, but not limited to, automobiles; trucks, truck cabs, truck bodies and truck trailers; buses; motorcycles; utility bodies; camper shells; mobile cranes; bulldozers; street cleaners; golf carts; ground support vehicles, used in support of aircraft activities at airports; and farm equipment.

"Mobile equipment repair and refinishing operation" means any facility that applies automotive pretreatment, automotive primer-surface, automotive primer-sealer, automotive topcoat, or automotive specialty or color matched coatings to mobile equipment or mobile equipment components.

## 9 VAC 5-40-6990. Standard for volatile organic compounds.

A. No owner or other person [ ~~shall cause or permit the discharge into the atmosphere from any mobile equipment repair and refinishing operation coating any volatile organic compounds (VOC)~~ may apply to mobile equipment or mobile equipment components any automotive pretreatment, automotive primer-surface, automotive primer-sealer, automotive topcoat, or automotive specialty coatings, including any VOC-containing materials added to the original coating supplied by the manufacturer, that contain VOCs ] in excess of the limits specified in Table 4-48A.

# Final Regulations

Table 4-48A.

Allowable Content of VOCs in Mobile Equipment Repair and Refinishing Coatings (as applied)

Weight of VOC per Volume of Coating (minus water and non-VOC solvents)

Coating Type	Limit	
	Pounds per gallon	Grams per Liter
Automotive pretreatment primer	6.5	780
Automotive primer-surfacer	4.8	575
Automotive primer-sealer	4.6	550
Automotive topcoat:		
single stage-topcoat	5.0	600
2 stage basecoat/ clearcoat	5.0	600
3 or 4-stage basecoat/ clearcoat	5.2	625
Automotive Multi-colored Topcoat	5.7	680
Automotive specialty	7.0	840

B. ~~[ Achievement of the emission standard in subsection A of this section by use of the methods in 9 VAC 5-40-6990 will be acceptable to the board. A person who provides mobile equipment repair and refinishing coatings subject to this section shall provide documentation concerning the VOC content of the coatings calculated in accordance with the following: ]~~

1. The mass of VOC per combined volume of VOC and coating solids, less water and exempt compounds shall be calculated by the following equation:

$$\text{VOC} = \frac{(W_v - W_w - W_{ec})}{(V - V_w - V_{ec})}$$

where:

VOC = VOC content in grams per liter (g/l) of coating less water and non-VOC solvents,

$W_v$  = Mass of total volatiles, in grams;

$W_w$  = Mass of water, in grams;

$W_{ec}$  = Mass of exempt compounds, in grams;

$V$  = Volume of coating, in liters;

$V_w$  = Volume of water, in liters; and

$V_{ec}$  = Volume of exempt compounds, in liters.

To convert from grams per liter to pounds per gallon (lb/gal), multiply the result (VOC content) by  $8.345 \times 10^{-3}$  (lb/gal/g/l).

2. The VOC content of a multi-stage topcoat shall be calculated by the following equation:

$$\text{VOC}_{\text{multi}} = \frac{\text{VOC}_{\text{bc}} + \sum_{i=0}^M \text{VOC}_{\text{mci}} + 2(\text{VOC}_{\text{cc}})}{M + 3}$$

where:

$\text{VOC}_{\text{multi}}$  = VOC content of multistage topcoat, g/l

$\text{VOC}_{\text{bc}}$  = VOC content of basecoat, g/l

$\text{VOC}_{\text{mci}}$  = VOC content of the midcoat(s), g/l

$\text{VOC}_{\text{cc}}$  = VOC content of the clear coat, g/l

$M$  = number of midcoats

C. A person subject to the provisions of this section shall use one or more of the following application techniques to apply any finish material listed in Table 4-48A:

1. Flow/curtain coating;
2. Dip coating;
3. Roller coating;
4. Brush coating;
5. Cotton-tipped swab application;
6. Electrodeposition coating;
7. High volume low pressure (HVLP) spraying;
8. Electrostatic spray;
9. Airless spray; or
10. Other coating application methods that ~~[ the person has demonstrated and the board has determined ]~~ achieve emission reductions equivalent to [ or greater than those achieved by ] HVLP or electrostatic spray application methods.

D. The following activities are exempt from the application equipment requirements listed in subsections E and F of this section:

1. The use of airbrush application methods for stenciling, lettering, and other identification markings;
2. The application of coatings sold in nonrefillable aerosol containers; and
3. The application of automotive touch-up repair finish materials.

E. Spray guns used to apply mobile equipment repair and refinishing coatings shall be cleaned by one of the following:

1. An enclosed spray gun cleaning system that is kept closed when not in use;
2. Unatomized discharge of solvent into a paint waste container that is kept closed when not in use;
3. Disassembly of the spray gun and cleaning in a vat that is kept closed when not in use; or
4. Atomized spray into a paint waste container that is fitted with a device designed to capture atomized solvent emissions.

F. The owner of a facility subject to the provisions of this article shall implement the following housekeeping and pollution prevention and training measures:

1. Fresh and used coatings, solvent, and cleaning solvents, shall be stored in nonabsorbent, nonleaking containers.

The containers shall be kept closed at all times except when filling or emptying;

2. Cloth and paper, or other absorbent applicators, moistened with coatings, solvents, or cleaning solvents, shall be stored in closed, nonabsorbent, nonleaking containers;

3. Handling and transfer procedures shall minimize spills during the transfer of coatings, solvents, and cleaning solvents; and

4. Ensure that a person who applies mobile equipment repair and refinishing coatings has completed training [approved by the manufacturer of the coatings] in the proper use and handling of the mobile equipment repair and refinishing coatings, solvents and waste products in order to minimize the emission of air contaminants and to comply with this section.

**9 VAC 5-40-7000 through 9 VAC 5-40-7110. [No change from proposed. ]**

**9 VAC 5-40-7120. Applicability.**

A. Except as provided in subsection C of this section, the provisions of this article apply to any person who supplies, sells, offers for sale, or manufactures any architectural coating for use, as well as any person who applies or solicits the application of any architectural coating.

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

C. The provisions of this article do not apply to:

1. Any architectural coating that is sold or manufactured for use exclusively outside of the Northern Virginia Volatile Organic Compounds Emission Control Area or for shipment to other manufacturers for reformulation or repackaging.

2. Any aerosol coating product.

3. Any architectural coating that is sold in a container with a volume of one liter (1.057 quart) or less.

[ D. For purposes of this article, the terms "supply" or "supplied" do not include internal transactions within a business or governmental entity. These terms only apply to transactions between manufacturers/commercial distributors that sell, or otherwise provide, products to businesses/governmental entities/individuals. ]

**9 VAC 5-40-7130. Definitions.**

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

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

C. Terms defined.

"Adhesive" means any chemical substance that is applied for the purpose of bonding two surfaces together other than by mechanical means.

"Aerosol coating product" means a pressurized coating product containing pigments or resins that dispenses product ingredients by means of a propellant, and is packaged in a disposable can for hand-held application, or for use in specialized equipment for ground traffic/marketing applications.

"Antenna coating" means a coating labeled and formulated exclusively for application to equipment and associated structural appurtenances that are used to receive or transmit electromagnetic signals.

"Antifouling coating" means a coating labeled and formulated for application to submerged stationary structures and their appurtenances to prevent or reduce the attachment of marine or freshwater biological organisms. To qualify as an antifouling coating, the coating shall be registered with both the U.S. EPA under the Federal Insecticide, Fungicide and Rodenticide Act (7 USC. § 136 et seq.) and with the Pesticide Control Board under the provisions of the Virginia Pesticide Control Act (Chapter 14.1 (§ 3.1-249.27 et seq.) of Title 3.1 of the Code of Virginia).

"Appurtenance" means any accessory to a stationary structure coated at the site of installation, whether installed or detached, including but not limited to bathroom and kitchen fixtures; cabinets; concrete forms; doors; elevators; fences; hand railings; heating equipment, air conditioning equipment, and other fixed mechanical equipment or stationary tools; lampposts; partitions pipes and piping systems; rain gutters and downspouts; stairways; fixed ladders; catwalks and fire escapes; and window screens.

"Architectural coating" means a coating to be applied to stationary structures or the appurtenances at the site of installation, to portable buildings at the site of installation, to pavements, or to curbs. Coatings applied in shop applications or to nonstationary structures such as airplanes, ships, boats, railcars, and automobiles, and adhesives are not considered architectural coatings for the purposes of this article.

"Bitumens" means black or brown materials including, but not limited to, asphalt, tar, pitch, and asphaltite that are soluble in carbon disulfide, consist mainly of hydrocarbons, and are obtained from natural deposits [of asphalt] or as residues from the distillation of crude petroleum or coal.

"Bituminous roof coating" means a coating that incorporates bitumens that is labeled and formulated exclusively for roofing.

"Bituminous roof primer" means a primer that [~~incorporates bitumens that is labeled and formulated exclusively for roofing~~ consists of a coating or mastic formulated and recommended for roofing, pavement sealing, or waterproofing that incorporates bitumens ].

"Bond breaker" means a coating labeled and formulated for application between layers of concrete to prevent a freshly poured top layer of concrete from bonding to the layer over which it is poured.

"Clear brushing lacquers" means clear wood finishes, excluding clear lacquer sanding sealers, formulated with

---

# Final Regulations

---

nitrocellulose or synthetic resins to dry by solvent evaporation without chemical reaction and to provide a solid, protective film, that are intended exclusively for application by brush and that are labeled as specified in subdivision 5 of 9 VAC 5-40-7150.

“Clear wood coatings” means clear and semi-transparent coatings, including lacquers and varnishes, applied to wood substrates to provide a transparent or translucent solid film.

“Coating” means a material applied onto or impregnated into a substrate for protective, decorative, or functional purposes. Such materials include, but are not limited to, paints, varnishes, sealers, and stains.

“Colorant” means a concentrated pigment dispersion in water, solvent, or binder that is added to an architectural coating after packaging in sale units to produce the desired color.

“Concrete curing compound” means a coating labeled and formulated for application to freshly poured concrete to retard the evaporation of water.

“Dry fog coating” means a coating labeled and formulated only for spray application such that overspray droplets dry before subsequent contact with incidental surfaces in the vicinity of the surface coating activity.

“Exempt compound” means a compound identified as exempt under the definition of Volatile Organic Compound (VOC) in 9 VAC 5-10-20. An exempt compound's content of a coating shall be determined by Reference Method 24 or South Coast Air Quality Management District (SCAQMD) Method for Determination of Exempt Compounds [~~—incorporated by reference in~~ (see ) 9 VAC 5-20-21 ( ) ].

[ “Extreme durability coating” means an air-dried coating, including fluoropolymer-based coating, that is formulated and recommended for application to exterior metal surfaces and touch up, repair and overcoating of precoated metal surfaces, and that meets the weathering requirements of American Architectural Manufacturers Association Voluntary Specification - Performance Requirements and Test Procedures for High Performance Organic Coatings on Aluminum Extrusions and Panels (see 9 VAC 5-20-21). ]

“Faux finishing coating” means a coating labeled and formulated as a stain or a glaze to create artistic effects including, but not limited to, dirt, old age, smoke damage, and simulated marble and wood grain.

“Fire-resistive coating” means an opaque coating labeled and formulated to protect the structural integrity by increasing the fire endurance of interior or exterior steel and other structural materials, that has been fire tested and rated by a testing agency and approved by building code officials for use in bringing assemblies of structural materials into compliance with federal, state, and local building code requirements. The fire-resistive coating shall be tested in accordance with American Society for Testing and Materials (ASTM) Standard Test Method for Fire Tests of Building Construction Materials [~~—incorporated by reference in~~ (see ) 9 VAC 5-20-21 ( ) ].

“Fire-retardant coating” means a coating labeled and formulated to retard ignition and flame spread, that has been fire tested and rated by a testing agency [ and ] approved by

building code officials for use in bringing building and construction materials into compliance with federal, state, and local building code requirements. The fire-retardant coating shall be tested in accordance with ASTM Standard Test Method for Surface Burning Characteristics of Building Construction Materials [~~—incorporated by reference in~~ (see ) 9 VAC 5-20-21 ( ) ].

“Flat coating” means a coating that is not defined under any other definition in this article and that registers gloss less than 15 on an 85-degree meter or less than five on a 60-degree meter according to ASTM Standard Test Method for Specular Gloss [~~—incorporated by reference in~~ (see ) 9 VAC 5-20-21 ( ) ].

“Floor coating” means an opaque coating that is labeled and formulated for application to flooring, including, but not limited to, decks, porches, steps, and other horizontal surfaces, that may be subjected to foot traffic.

“Flow coating” means a coating labeled and formulated exclusively for use by electric power companies or their subcontractors to maintain the protective coating systems present on utility transformer units.

“Form-release compound” means a coating labeled and formulated for application to a concrete form to prevent the freshly poured concrete from bonding to the form. The form may consist of wood, metal, or some material other than concrete.

“Graphic arts coating or sign paint” means a coating labeled and formulated for hand-application by artists using brush or roller techniques to indoor and outdoor signs (excluding structural components) and murals including letter enamels, poster colors, copy blockers, and bulletin enamels.

“High-temperature coating” means a high-performance coating labeled and formulated for application to substrates exposed continuously or intermittently to temperatures above 204 [~~°C (400°F)~~ degrees Centigrade (400 degrees Fahrenheit) ].

“Industrial maintenance coating” means a high-performance architectural coating, including primers, sealers, undercoaters, intermediate coats, and topcoats, formulated for application to substrates exposed to one or more of the following extreme environmental conditions, and labeled as specified in subdivision 4 of 9 VAC 5-40-7150:

1. Immersion in water, wastewater, or chemical solutions (aqueous and nonaqueous solutions), or chronic exposures of interior surfaces to moisture condensation;
2. Acute or chronic exposure to corrosive, caustic, or acidic agents, or to chemicals, chemical fumes, or chemical mixtures or solutions;
3. Repeated exposure to temperatures above 121 [~~°C (250°F)~~ degrees Centigrade (250 degrees Fahrenheit) ];
4. Repeated (frequent) heavy abrasion, including mechanical wear and repeated (frequent) scrubbing with industrial solvents, cleansers, or scouring agents; or
5. Exterior exposure of metal structures and structural components.

“Lacquer” means a clear or opaque wood coating, including clear lacquer sanding sealers, formulated with cellulosic or synthetic resins to dry by evaporation without chemical reaction and to provide a solid, protective film.

“Low-solids coating” means a coating containing 0.12 kilogram or less of solids per liter (one pound or less of solids per gallon) of coating material.

“Magnesite cement coating” means a coating labeled and formulated for application to magnesite cement decking to protect the magnesite cement substrate from erosion by water.

“Mastic texture coating” means a coating labeled and formulated to cover holes and minor cracks and to conceal surface irregularities, and is applied in a single coat of at least 10 mils (0.010 inch) dry film thickness.

“Metallic pigmented coating” means a coating containing at least 48 grams of elemental metallic pigment [ , mica particles or any combination of metallic pigment or mica particles ] per liter of coating as applied (0.4 pounds per gallon), when tested in accordance with South Coast Air Quality Air Management District (SCAQMD) Method for Determination of Weight Percent Elemental Metal in Coatings by X-Ray Diffraction [ , ~~incorporated by reference in~~ (see ) 9 VAC 5-20-21 ( ) ].

“Multi-color coating” means a coating that is packaged in a single container and that exhibits more than one color when applied in a single coat.

“Nonflat coating” means a coating that is not defined under any other definition in this article and that registers a gloss of 15 or greater on an 85-degree meter and five or greater on a 60-degree meter according to ASTM Standard Test Method for Specular Gloss [ , ~~incorporated by reference in~~ (see ) 9 VAC 5-20-21 ( ) ].

“Nonflat high-gloss coating” means a nonflat coating that registers a gloss of 70 or above on a 60-degree meter according to ASTM Standard Test Method for Specular Gloss [ , ~~incorporated by reference in~~ (see ) 9 VAC 5-20-21 ( ) ].

“Nonindustrial use” means any use of architectural coatings except in the construction or maintenance of any of the following: facilities used in the manufacturing of goods and commodities; transportation infrastructure, including highways, bridges, airports and railroads; facilities used in mining activities, including petroleum extraction; and utilities infrastructure, including power generation and distribution, and water treatment and distribution systems.

“Post-consumer coating” means a finished coating that would have been disposed of in a landfill, having completed its usefulness to a consumer, and does not include manufacturing wastes.

“Pretreatment wash primer” means a primer that contains a minimum of 0.5 acid, by weight, when tested in accordance with ASTM Standard Test Method for Acidity in Volatile Solvents and Chemical Intermediates Used in Paint, Varnish, Lacquer and Related Products [ , ~~incorporated by reference in~~ (see ) 9 VAC 5-20-21 ( ) ], that is labeled and formulated for application directly to bare metal surfaces to provide corrosion resistance and to promote adhesion of subsequent topcoats.

“Primer” means a coating labeled and formulated for application to a substrate to provide a firm bind between the substrate and subsequent coats.

“Quick-dry enamel” means a nonflat coating that is labeled as specified in subdivision 8 of 9 VAC 5-40-7150 and that is formulated to have the following characteristics:

1. Is capable of being applied directly from the container under normal conditions with ambient temperatures between 16 [ C ] and 27 [ °C (60°F and 80°F) degrees Centigrade (60 and 80 degrees Fahrenheit) ];
2. When tested in accordance with ASTM Standard Methods for Drying, Curing, or Film Formation of Organic Coatings at Room Temperature [ , ~~incorporated by reference in~~ (see ) 9 VAC 5-20-21 ( ) ], sets to touch in two hours or less, is tack-free in four hours or less, and dries hard in eight hours or less by the mechanical test method; and
3. Has a dried film gloss of 70 or above on a 60-degree meter.

“Quick-dry primer sealer and undercoater” means a primer, sealer, or undercoater that is dry to the touch in 30 minutes and can be recoated in two hours when tested in accordance with ASTM Standard Methods for Drying, Curing, or Film Formation of Organic Coatings at Room Temperature [ , ~~incorporated by reference in~~ (see ) 9 VAC 5-20-21 ( ) ].

“Recycled coating” means an architectural coating formulated such that not less than 50% of the total weight consists of secondary and post-consumer coating, with not less than 10% of the total weight consisting of post-consumer coating.

“Residence” means areas where people reside or lodge, including, but not limited to, single and multiple family dwellings, condominiums, mobile homes, apartment complexes, motels, and hotels.

“Roof coating” means a nonbituminous coating labeled and formulated exclusively for application to roofs for the primary purpose of preventing penetration of the substrate by water or reflecting heat and ultraviolet radiation. Metallic pigmented roof coatings, which qualify as metallic pigmented coatings, shall not be considered in this category, but shall be considered to be in the metallic pigmented coatings category.

“Rust-preventive coating” means a coating formulated exclusively for nonindustrial use to prevent the corrosion of metal surfaces and labeled as specified in subdivision 6 of 9 VAC 5-40-7150.

“Sanding sealer” means a clear or semi-transparent wood coating labeled and formulated for application to bare wood to seal the wood and to provide a coat that can be abraded to create a smooth surface for subsequent applications of coatings. A sanding sealer that also meets the definition of a lacquer is not included in this category, but it is included in the lacquer category.

“Sealer” means a coating labeled and formulated for application to a substrate for one or more of the following purposes: to prevent subsequent coatings from being

---

# Final Regulations

---

absorbed by the substrate, or to prevent harm to subsequent coatings by materials in the substrate.

“Secondary coating (rework)” means a fragment of a finished coating or a finished coating from a manufacturing process that has converted resources into a commodity of real economic value, but does not include excess virgin resources of the manufacturing process.

“Shellac” means a clear or opaque coating formulated solely with the resinous secretions of the lac beetle (*Lacifer lacca*), thinned with alcohol, and formulated to dry by evaporation without a chemical reaction.

“Shop application” means the application of a coating to a product or a component of a product in or on the premises of a factory or a shop as part of a manufacturing, production, or repairing process (e.g., original equipment manufacturing coatings).

“Solicit” means to require for use or to specify, by written or oral contract.

“Specialty primer, sealer, and undercoater” means a coating labeled as specified in subdivision 7 of 9 VAC 5-40-7150 and that is formulated for application to a substrate to seal fire, smoke or water damage; to condition excessively chalky surfaces; or to block stains. An excessively chalky surface is one that is defined as having a chalk rating of four or less as determined by ASTM Standard Test Methods for Evaluating the Degree of Chalking of Exterior Paint Films [~~incorporated by reference in~~ (see ) 9 VAC 5-20-21 ( ) ].

“Stain” means a clear, semi-transparent, or opaque coating labeled and formulated to change the color of a surface but not conceal the grain pattern or texture.

“Swimming pool coating” means a coating labeled and formulated to coat the interior of swimming pools and to resist swimming pool chemicals.

“Swimming pool repair and maintenance coating” means a rubber-based coating labeled and formulated to be used over existing rubber-based coatings for the repair and maintenance of swimming pools.

“Temperature-indicator safety coating” means a coating labeled and formulated as a color-changing indicator coating for the purpose of monitoring the temperature and safety of the substrate, underlying piping, or underlying equipment, and for application to substrates exposed continuously or intermittently to temperatures above 204 [ °C (400°F) degrees Centigrade (400 degrees Fahrenheit) ].

“Tint base” means an architectural coating to which colorant is added after packaging in sale units to produce a desired color.

“Traffic marking coating” means a coating labeled and formulated for marking and striping streets, highways, or other traffic surfaces including, but not limited to, curbs, berets, driveways, parking lots, sidewalks, and airport runways.

“Undercoater” means a coating labeled and formulated to provide a smooth surface for subsequent coatings.

“Varnish” means a clear or semitransparent wood coating, excluding lacquers and shellacs, formulated to dry by

chemical reaction on exposure to air. Varnishes may contain small amounts of pigment to color a surface, or to control the fetal sheen or gloss of the finish.

“VOC content” means the weight of VOC per volume of coating, calculated according to the procedures specified in 9 VAC 5-40-7220 B.

“Waterproofing sealer” means a coating labeled and formulated for application to a porous substrate for the primary purpose of preventing the penetration of water.

“Waterproofing concrete/masonry sealer” means a clear or pigmented film-forming coating that is labeled and formulated for sealing concrete and masonry to provide resistance against water, alkalis, acids, ultraviolet light, and staining.

“Wood preservative” means a coating labeled and formulated to protect exposed wood from decay or insect attack that is registered with both the U.S. EPA under the Federal Insecticide, Fungicide, and Rodenticide Act (7 USC § 136 et seq.) and with the Pesticide Control Board under the provisions of the Virginia Pesticide Control Act (Chapter 14. 1 (§ 3.1-249.27 et seq.) of the Code of Virginia).

## **9 VAC 5-40-7140. Standard for volatile organic compounds.**

A. Except as provided in this section, no person shall (i) manufacture, blend, or repackage for sale, (ii) supply, sell, or offer for sale, or (iii) solicit for application or apply any architectural coating with a VOC content in excess of the corresponding limit specified in Table 4-49A.

B. If anywhere on the container of any architectural coating, or any label or sticker affixed to the container, or in any sales, advertising, or technical literature supplied by a manufacturer or any person acting on behalf of a manufacturer, any representation is made that indicates that the coating meets the definition of or is recommended for use for more than one of the coating categories listed in Table 4-49A, then the most restrictive VOC content limit shall apply. This provision does not apply to the following coating categories:

- Lacquer coatings (including lacquer sanding sealers);
- Metallic pigmented coatings;
- Shellacs;
- Fire-retardant coatings;
- Pretreatment wash primers;
- Industrial maintenance coatings;
- Low-solids coatings;
- Wood preservatives;
- High-temperature coatings;
- Temperature-indicator safety coatings;
- Antenna coatings;
- Antifouling coatings;
- Flow coatings;
- Bituminous roof primers; and
- Specialty primers, sealers, and undercoaters.

Table 4-49A.  
VOC Content Limits for Architectural Coatings

Limits are expressed in grams of VOC per liter<sup>1</sup> of coating thinned to the manufacturer's maximum recommendation, excluding the volume of any water, exempt compounds, or

colorant added to tint bases. "Manufacturers maximum recommendation" means the maximum recommendation for thinning that is indicated on the label or lid of the coating container.

Coating Category	VOC Content Limit
Flat Coatings	100
Nonflat Coatings	150
Nonflat High Gloss Coatings	250
Specialty Coatings	
Antenna Coatings	530
Antifouling Coatings	400
Bituminous Roof Coatings	300
Bituminous Roof Primers	350
Bond Breakers	350
Clear Wood Coatings	
• Clear Brushing Lacquers	680
• Lacquers (including lacquer sanding sealers)	550
• Sanding Sealers (other than lacquer sanding sealers)	350
• Varnishes	350
Concrete Curing Compounds	350
Dry Fog Coatings	400
[ Extreme durability coating	400 ]
Faux Finishing Coatings	350
Fire-Resistive Coatings	350
Fire-Retardant Coatings	
• Clear	650
• Opaque	350
Floor Coatings	250
Flow Coatings	420
Form-Release Compounds	250
Graphic Arts Coatings (Sign Paints)	500
High-Temperature Coatings	420
Industrial Maintenance Coatings	340
Low-Solids Coatings	120
Magnesite Cement Coatings	450
Mastic Texture Coatings	300
Metallic Pigmented Coatings	500
Multi-Color Coatings	250
Pretreatment Wash Primers	420
Primers, Sealers, and Undercoaters	200
Quick-Dry Enamels	250
Quick-Dry Primers, Sealers and Undercoaters	200
Recycled Coatings	250
Roof Coatings	250
Rust Preventative Coatings	400
Shellacs	
• Clear	730
• Opaque	550

Specialty Primers, Sealers, and Undercoaters	350
Stains	250
Swimming Pool Coatings	340
Swimming Pool Repair and Maintenance Coatings	340
Temperature-Indicator Safety Coatings	550
Traffic Marking Coatings	150
Waterproofing Sealers	250
Waterproofing Concrete/Masonry Sealers	400
Wood Preservatives	350

[ ~~Conversion factor: one pound of VOC per gallon (U.S.) = 119.95 grams per liter.~~ ]

C. A coating manufactured prior to January 1, 2005, may be sold, supplied, or offered for sale until December 31, 2007. In addition, a coating manufactured before January 1, 2005, may be applied at any time, both before and after January 1, 2005, so long as the coating complied with the standards in effect at the time the coating was manufactured. This subsection does not apply to any coating that does not display the date or date code required by subdivision 1 of 9 VAC 5-40-7150.

D. All architectural coating containers used to apply the contents therein to a surface directly from the container by pouring, siphoning, brushing, rolling, padding, ragging, or other means, shall be closed when not in use. These architectural coatings containers include, but are not limited to, drums, buckets, cans, pails, trays, or other application containers. Containers of any VOC-containing materials used for thinning and cleanup shall also be closed when not in use.

E. No person who applies or solicits the application of any architectural coating shall apply a coating that [ ~~is thinned~~ contains any thinning material that would cause the coating ] to exceed the applicable VOC limit specified in Table 4-49A.

F. No person shall apply or solicit the application of any rust preventive coating for industrial use, unless such a rust preventive coating complies with the industrial maintenance coating VOC limit specified in Table 4-49A.

G. For any coating that does not meet any of the definitions for the specialty coatings categories listed in Table 4-49A, the VOC content limit shall be determined by classifying the coating as a flat coating or a nonflat coating, based on its gloss, as defined in 9 VAC 5-40-7130 C, and the corresponding flat or nonflat coating limit shall apply.

H. Notwithstanding the provisions of subsection A of this section, up to 10% by volume of VOC may be added to a lacquer to avoid blushing of the finish during days with relative humidity greater than 70% and temperature below 65 [ ~~°F~~ degrees Fahrenheit ], at the time of application, provided that the coating contains acetone and no more than 550 grams of VOC per liter of coating, less water and exempt compounds, prior to the addition of VOC.

---

# Final Regulations

---

**9 VAC 5-40-7150 through 9 VAC 5-40-7210. [ No change from proposed. ]**

**9 VAC 5-40-7220. Test methods and procedures.**

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

B. For the purpose of determining compliance with the VOC content limits in Table 4-49A, the VOC content of a coating shall be determined by using the procedures described in subdivision 1 or 2 of this subsection, as appropriate. The VOC content of a tint base shall be determined without colorant that is added after the tint base is manufactured.

1. With the exception of low solids coatings, determine the VOC content in grams of VOC per liter of coating thinned to the manufacturer's maximum recommendation, excluding the volume of any water and exempt compounds. Determine the VOC content using equation 1 as follows:

$$\text{Equation 1: VOC Content} = \frac{(Ws - Ww - Wec)}{(Vm - Vw - Vec)}$$

Where:

VOC content = grams of VOC per liter of coating

Ws = weight of volatiles, in grams

Ww = weight of water, in grams

Wec = weight of exempt compounds, in grams

Vm = volume of coating, in liters

Vw = volume of water, in liters

Vec = volume of exempt compounds, in liters

2. For low solids coatings, determine the VOC content in units of grams of VOC per liter of coating thinned to the manufacturer's maximum recommendation, including the volume of any water and exempt compounds. Determine the VOC content using equation 2 as follows:

$$\text{Equation 2: VOC Content (ls)} = \frac{(Ws - Ww - Wec)}{(Vm)}$$

Where:

VOC Content (ls) = the VOC content of a low solids coating in grams per liter of coating

Ws = weight of volatiles, in grams

Ww = weight of water, in grams

Wec = weight of exempt compounds, in grams

Vm = volume of coating, in liters

C. To determine the physical properties of a coating in order to perform the calculations in subsection B, the reference method for VOC content is Reference Method 24 [~~incorporated by reference in~~ (see) 9 VAC 5-20-21 ( )]. The exempt compounds content shall be determined by SCAQMD Method for Determination of Exempt Compounds [~~incorporated by reference in~~ (see) 9 VAC 5-20-21 ( )]. To determine the VOC content of a coating, the manufacturer may use Reference Method 24, formulation data, or any other reasonable means for predicting that the coating has been formulated as intended (e.g. quality assurance checks, recordkeeping). However, if there are any inconsistencies between the results of a Reference Method 24 test and any

other means for determining VOC content, the Reference Method 24 results will govern. The board may require the manufacturer to conduct a Reference Method 24 analysis.

[~~D. The following test methods are incorporated by reference in 9 VAC 5-20-21, and shall be used to test coatings subject to the provisions of this article:~~

~~1. The flame spread index of a fire-retardant coating shall be determined by ASTM Standard Test Method for Surface Burning Characteristics of Building Materials (see section 2, Fire Retardant Coating).~~

~~2. The fire resistance rating of a fire resistive coating shall be determined by ASTM Standard Test Methods for Fire Tests of Building Construction Materials (see section 2, Fire Resistive Coating).~~

~~3. The gloss of a coating shall be determined by ASTM Standard Test Method for Specular Gloss (see section 2, Flat Coating, Nonflat Coating, Nonflat High-Gloss Coating, and Quick Dry Enamel).~~

~~4. The metallic content of a coating shall be determined by SCAQMD Method for Determination of Weight Percent Elemental Metal in Coatings by X-Ray Diffraction (see section 2, Metallic Pigmented Coating).~~

~~5. The acid content of a coating shall be determined by ASTM Method Standard Test Method for Acidity in Volatile Solvents and Chemical Intermediates Used in Paint, Varnish, Lacquer and Related Products (see section 2, Pre-Treatment Wash Primer).~~

~~6. The set to touch, dry hard, dry to touch and dry to recoat times of a coating shall be determined by ASTM Standard Methods for Drying, Curing, or Film Formation of Organic Coatings at Room Temperature (see section 2, Quick Dry Enamel and Quick Dry Primer, Sealer, and Undercoater). The tack free time of a quick dry enamel coating shall be determined by the Mechanical Test Method of ASTM Standard Methods for Drying, Curing, or Film Formation of Organic Coatings at Room Temperature.~~

~~7. The chalkiness of a surface shall be determined using ASTM Standard Test Methods for Evaluating the Degree of Chalking of Exterior Paint Films (see section 2, Specialty Primer, Sealer, and Undercoater).~~

~~8. Exempt compounds that are cyclic, branched, or linear, completely methylated siloxanes shall be analyzed as exempt compounds for compliance with section 6 by Bay Area Quality Management District (BAAQMD) Method for Determination of Volatile Methylsiloxanes in Solvent Based Coatings, Inks, and Related Materials (see section 2, Volatile Organic Compounds).~~

~~9. The exempt compound parachlorobenzotrifluoride shall be analyzed as an exempt compound for compliance with 9 VAC 5-40-7220 by BAAQMD Method for Determination of Volatile Organic Compounds in Solvent Based Coatings and Related Materials Containing Parachlorobenzotrifluoride (see section 2, Volatile Organic Compound, and 9 VAC 5-40-7220-C).~~

~~10. The content of compounds exempt under Reference Method 24 shall be analyzed by SCAQMD Method for Determination of Exempt Compounds, Laboratory Methods of Analysis for Enforcement Samples (see section 2, Volatile Organic Compound, and 9 VAC 5-40-7220 C).~~

~~11. The VOC content of a coating shall be determined by Reference Method 24 (see 9 VAC 5-40-7220 C).~~

~~12. The VOC content of coatings may be analyzed by either Reference Method 24 or SCAQMD Method for Determination of Exempt Compounds, Laboratory Methods of Analysis for Enforcement Samples (see 9 VAC 5-40-7220 C).~~

~~13. The VOC content of methacrylate multicomponent coatings used as traffic marking coatings shall be analyzed by the procedures in 40 CFR Part 59, subpart D, appendix A, Determination of Volatile Matter Content of Methacrylate Multicomponent Coatings Used as Traffic Marking Coatings.~~

~~14. Analysis of methacrylate multicomponent coatings used as traffic marking coatings shall be conducted according to a modification of Reference Method 24.~~

D. Exempt compounds that are cyclic, branched, or linear, completely methylated siloxanes shall be analyzed as exempt compounds by Bay Area Quality Management District (BAAQMD) Method for Determination of Volatile Methylsiloxanes in Solvent-Based Coatings, Inks, and Related Materials (see 9 VAC 5-20-21).

E. The exempt compound parachlorobenzotrifluoride shall be analyzed as an exempt compound by BAAQMD Method for Determination of Volatile Organic Compounds in Solvent-Based Coatings and Related Materials Containing Parachlorobenzotrifluoride (see 9 VAC 5-20-21).

F. The content of compounds exempt under Reference Method 24 shall be determined by SCAQMD Method for Determination of Exempt Compounds, Laboratory Methods of Analysis for Enforcement Samples (see 9 VAC 5-20-21).

G. The VOC content of a coating shall be determined by Reference Method 24 (see 9 VAC 5-20-21).

H. The VOC content of coatings may be determined by either Reference Method 24 or SCAQMD Method for Determination of Exempt Compounds, Laboratory Methods of Analysis for Enforcement Samples (see 9 VAC 5-20-21).

I. Other test methods may be used for purposes of determining compliance with this article consistent with the approval requirements of 9 VAC 5-40-20 A 2.

J. Analysis of methacrylate multi-components used as traffic marking coatings shall be conducted according to a modification of Reference Method 24 (40 CFR Part 59, Subpart D, Appendix A; see 9 VAC 5-20-21). This method has not been approved for methacrylate multicomponent coatings used for purposes other than as traffic marking coatings or for other classes of multicomponent coatings. ]

## 9 VAC 5-40-7230. Notification, records and reporting.

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

B. Each manufacturer of clear brushing lacquers shall, on or before April 1 of each calendar year beginning in the year [ 2005 2006 ], submit an annual report to the board. The report shall specify the number of gallons of clear brushing lacquers sold during the preceding calendar year, and shall describe the method used by the manufacturer to calculate sales.

C. Each manufacturer of rust preventive coatings shall, on or before April 1 of each calendar year beginning in the year [ 2005 2006 ], submit an annual report to the board. The report shall specify the number of gallons of rust preventive coatings sold during the preceding calendar year, and shall describe the method used by the manufacturer to calculate sales.

D. Each manufacturer of specialty primers, sealers, and undercoaters shall, on or before April 1 of each calendar year beginning in the year [ 2005 2006 ], submit an annual report to the board. The report shall specify the number of gallons of specialty primers, sealers, and undercoaters sold during the preceding calendar year, and shall describe the method used by the manufacturer to calculate sales.

E. For each architectural coating that contains perchloroethylene or methylene chloride, the manufacturer shall, on or before April 1 of each calendar year beginning with the year [ 2005 2006 ], report to the board the following information for products sold during the preceding year:

1. The product brand name and a copy of the product label with the legible usage instructions;
2. The product category listed in Table 4-49A to which the coating belongs;
3. The total sales during the calendar year to the nearest gallon;
4. The volume percent, to the nearest 0.10%, of perchloroethylene and methylene chloride in the coating.

F. Manufacturers of recycled coatings shall submit a letter to the board certifying their status as a Recycled Paint Manufacturer. The manufacturer shall, on or before April 1 of each calendar year beginning with the year [ 2005 2006 ], submit an annual report to the board. The report shall include, for all recycled coatings, the total number of gallons distributed during the preceding year, and shall describe the method used by the manufacturer to calculate distribution.

G. Each manufacturer of bituminous roof coatings or bituminous roof primers shall, on or before April 1 of each calendar year beginning with the year [ 2005 2006 ], submit an annual report to the board. The report shall specify the number of gallons of bituminous roof coatings or bituminous roof primers sold during the preceding calendar year, and shall describe the method used by the manufacturer to calculate sales.

---

# Final Regulations

---

VA.R. Doc. No. R02-295; Filed January 28, 2004, 2:56 p.m.

\*\*\*\*\*

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

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

**Effective Date:** March 24, 2004.

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

**Summary:**

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

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

**REGISTRAR'S NOTICE:** The proposed regulation was adopted as published in 19:22 VA.R. 3139-3143 July 14, 2003, without change. Therefore, pursuant to § 2.2-4031 A of the Code of Virginia, the text of the final regulation is not set out.

VA.R. Doc. No. R03-68; Filed January 28, 2004, 2:53 p.m.

\*\*\*\*\*

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

**9 VAC 5-40. Existing Stationary Sources (amending [ 9 VAC 5-40-300, 9 VAC 5-40-240, ] 9 VAC 5-40-310, 9 VAC 5-40-5200, and 9 VAC 5-40-5220).**

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

**Effective Date:** March 24, 2004.

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

**Summary:**

*The amendments add one new VOC and one new NO<sub>x</sub> Emissions Control Area to the list in 9 VAC 5-20-206: the Western Virginia Emissions Control Area (Counties of Botetourt, Frederick, and Roanoke, and Cities of Roanoke, Salem and Winchester).*

*VOC RACT is no longer required of new areas, and NO<sub>x</sub> RACT applicability in the new areas is revised from 25 tons to 100 tons and over.*

**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.

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

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

1. Volatile organic compounds.

a. Northern Virginia Emissions Control Area.

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

b. Richmond Emissions Control Area.

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

c. Hampton Roads Emissions Control Area.

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

[ ~~d. Northeastern Virginia Emissions Control Area.~~

<del>Caroline County</del>	<del>Spotsylvania County</del>
<del>Fauquier County</del>	<del>Fredericksburg City</del>

e. ~~d. ] Western Virginia Emissions Control Area.~~

[ <del>Albemarle County</del> ]	Roanoke County
[ <del>Augusta County</del> ]	[ <del>Rockingham County</del> ]
<del>Botetourt County</del>	Roanoke City
<del>Frederick County</del>	Salem City
[ <del>Pittsylvania County</del> ]	Winchester City
[ <del>Page County (portions containing Shenandoah National Park)</del>	
[ <del>Madison County (portions containing Shenandoah National Park)</del> ]	

2. Nitrogen oxides.

a. Northern Virginia Emissions Control Area.

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

b. Richmond Emissions Control Area.

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

c. Hampton Roads Emissions Control Area.

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

d. ~~[ Northeastern Virginia Emissions Control Area.~~

<del>Caroline County</del>	<del>Spotsylvania County</del>
<del>Fauquier County</del>	<del>Fredericksburg City</del>

~~e.] Western Virginia Emissions Control Area.~~

<del>[ Albemarle County ]</del>	<del>Roanoke County</del>
<del>[ Augusta County ]</del>	<del>[ Rockingham County ]</del>
<del>Botetourt County</del>	<del>Roanoke City</del>
<del>Frederick County</del>	<del>Salem City</del>
<del>[ Pittsylvania County ]</del>	<del>Winchester City</del>
<del>[ Page County (portions containing Shenandoah National Park)</del>	
<del>Madison County (portions containing Shenandoah National Park) ]</del>	

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

**[ 9 VAC 5-40-240. Applicability and designation of affected facility.**

A. Except as provided in subsections C and D of this section, the affected facility to which the provisions of this article apply is each process operation, each process gas stream and each combustion installation.

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

C. Exempted from the provisions of this article are the following:

1. Process operations with a process weight rate capacity less than 100 pounds per hour.
2. Any combustion unit using solid fuel with a maximum heat input of less than 350,000 Btu per hour.
3. Any combustion unit using liquid fuel with a maximum heat input of less than 1,000,000 Btu per hour.
4. Any combustion unit using gaseous fuel with a maximum heat input of less than 10,000,000 Btu per hour.

D. The provisions of this article do not apply to ~~affected facilities a particular pollutant from an affected facility if the affected facility is~~ subject to other emission standards in this chapter ~~covering the same pollutant.~~ ]

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

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

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

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

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

~~[ 4. For facilities in the Northeastern Virginia Emissions Control Area and the Western Virginia Emissions Control Area with a theoretical potential to emit 25 tons per year or greater, November 15, 2005. ]~~

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

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

B. Unless the owner demonstrates otherwise to the satisfaction of the board, compliance with the provisions of

---

# Final Regulations

---

subsection A of this section shall be achieved for the applicable source types by the use of reasonably available control technology as defined in 9 VAC 5-40-311.

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

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

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

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

[ *3. For facilities in the Western Virginia Emissions Control Area with a theoretical potential to emit 100 tons per year or greater, November 15, 2005. ]*

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

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

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

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

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

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

6. ~~For facilities in the [ Northeastern Virginia Emissions Control Area and the ] Western Virginia Emissions Control Area with a theoretical potential to emit [ 25 100 ] tons per year or greater, November 15, 2005.~~

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

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

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

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

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

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

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

B. ~~Except as provided in subdivisions 1 [ and 2 through 4 ] of this subsection, the provisions of this article apply to sources of volatile organic compounds in volatile organic compound emissions control areas designated in 9 VAC 5-20-206. The provisions of this article shall apply in localities outside the volatile organic compound emissions control areas according to the following schedule of effective dates:~~

~~1. On January 1, 1993, for facilities subject to The emission standards in 9 VAC 5-40-5220 A, B, and C and associated tank trucks that load at these facilities C, D, E, F and G shall~~

*not apply to affected facilities in the following localities: [ ~~Albemarle County, Augusta County,~~ Botetourt County, [ ~~Caroline County, Fauquier County,~~ Frederick County, [ ~~Pittsylvania County, Rockingham County, Spotsylvania County, Fredericksburg City, and~~ Winchester City [ ~~, Page County (portions containing Shenandoah National Park), and Madison County (portions containing Shenandoah National Park)~~ ].*

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

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

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

*[ 3. The emission standard in 9 VAC 5-40-5220 E shall apply only to affected facilities in the ozone nonattainment areas designated in 9 VAC 5-40-204, maintenance areas designated in 9 VAC 5-20-203, and the following localities: Roanoke County, Roanoke City, and Salem City.*

*4. The emission standard in 9 VAC 5-40-5220 C shall apply to affected facilities in Bedford County. ]*

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

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

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

### **A. Petroleum liquid storage--fixed roof tanks.**

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

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

3. The provisions of *this* subsection ~~A of this section~~ shall not be applicable to fixed roof tanks having capacities less than 400,000 gallons for crude oil or condensate stored, processed or treated at a drilling and production facility prior to custody transfer.

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

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

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

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

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

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

### **B. Petroleum liquid storage--floating roof tanks.**

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

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

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

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

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

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

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

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

---

# Final Regulations

---

- (1) Physically measuring the length and width of all gaps around the entire circumference of the secondary seal in each place where a 1/8-inch uniform diameter probe passes freely (without forcing or binding against the seal) between the seal and tank wall; and
  - (2) Summing the area of the individual gaps.
- c. Maintain records of the types of petroleum liquids stored, the maximum true vapor pressure of the liquid as stored, and the results of the inspections performed under the provisions of subdivisions ~~B 4 a~~ and b of this ~~section~~ *subsection*.
- C. Gasoline bulk loading--bulk terminals.
1. No owner or other person shall cause or permit the discharge into the atmosphere from a bulk gasoline terminal (including any appurtenant equipment necessary to load the tank truck compartments) any volatile organic compound in excess of .67 pounds per 1,000 gallons of gasoline loaded.
  2. Achievement of the emission standard in subdivision ~~C 1~~ of this ~~section~~ *subsection* by use of methods in 9 VAC 5-40-5230 C will be acceptable to the board.
- D. Gasoline bulk loading--bulk plants.
1. No owner or other person shall use or permit the use of any bulk gasoline plant (including any appurtenant equipment necessary to load or unload tank trucks and account trucks) unless such plant is equipped with a vapor control system that will remove, destroy or prevent the discharge into the atmosphere of at least 77% by weight of volatile organic compound emissions.
  2. Achievement of the emission standard in subdivision ~~D 1~~ of this ~~section~~ *subsection* by use of methods in 9 VAC 5-40-5230 D will be acceptable to the board.
  3. The provisions of *this subsection* ~~D of this section~~ shall not be applicable to facilities whose average daily throughput of gasoline is less than 4,000 gallons per working day when based on a 30-day rolling average. Average daily throughput means the average daily amount of gasoline pumped at a gasoline dispensing facility during the most recent 30-day period. Average daily throughput shall be calculated for the two most recent consecutive calendar years. If during this two-year period or any period thereafter, the average daily throughput exceeds 4,000 gallons per working day, the facility is no longer exempt from the provisions of subdivision ~~D 1~~ of this ~~section~~ *subsection*.
- E. Transfer of gasoline--gasoline dispensing facilities--Stage I vapor control systems.
1. No owner or other person shall transfer or permit the transfer of gasoline from any tank truck into any stationary storage tank unless such tank is equipped with a vapor control system that will remove, destroy or prevent the discharge into the atmosphere of at least 90% by weight of volatile organic compound emissions.
  2. Achievement of the emission standard in subdivision ~~E 1~~ of this ~~section~~ *subsection* by use of methods in 9 VAC 5-40-5230 E will be acceptable to the board.
3. The provisions of *this subsection* ~~E of this section~~ shall not apply to the following:
    - a. Transfers made to storage tanks that are either less than 250 gallons in capacity or located at facilities whose average monthly throughput of gasoline is less than 10,000 gallons.
    - b. Transfers made to storage tanks equipped with floating roofs or their equivalent.
- F. Transfer of gasoline--gasoline dispensing facilities--Stage II vapor recovery systems.
1. No owner or other person shall transfer or permit the transfer of gasoline into the fuel tank of any motor vehicle at any affected gasoline dispensing facility unless the transfer is made using a certified Stage II vapor recovery system that is designed, operated, and maintained such that the vapor recovery system removes, destroys or prevents the discharge into the atmosphere of at least 95% by weight of volatile organic compound emissions.
  2. Achievement of the emission standard in subdivision ~~F 1~~ of this ~~section~~ *subsection* by use of methods in 9 VAC 5-40-5230 F will be acceptable to the board.
  3. ~~The provisions of subsection F of this section shall apply to affected facilities in the Northern Virginia and Richmond Volatile Organic Compound Emissions Control Areas designated in 9 VAC 5-20-206.~~ The affected gasoline facilities shall be in compliance with the emissions standard in subdivision ~~F 1~~ of this ~~section~~ *subsection* according to the following schedule:
    - a. Facilities which begin actual construction on or after January 1, 1993, must comply upon startup unless the facility can prove it is exempt under the provisions of subdivision ~~F 4~~ of this ~~section~~ *subsection*.
    - b. Facilities which begin actual construction after November 15, 1990, and before January 1, 1993, must comply by May 15, 1993.
    - c. Facilities which begin actual construction on or before November 15, 1990, and dispense an average monthly throughput of 100,000 gallons or more of gasoline must comply by November 15, 1993.
    - d. All other affected facilities which begin actual construction on or before November 15, 1990, must comply by November 15, 1994.
  4. The provisions of *this subsection* ~~F of this section~~ shall not apply to the following facilities:
    - a. Gasoline dispensing facilities with an average monthly throughput of 10,000 gallons or less.
    - b. Gasoline dispensing facilities owned by independent small business gasoline marketers with an average monthly throughput of 50,000 gallons or less.
    - c. Gasoline dispensing devices that are used exclusively for refueling marine vehicles, aircraft, farm equipment, and emergency vehicles.
-

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

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

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

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

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

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

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

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

(1) A statement, as described in Part III F 1 of AQP-9 (see 9 VAC 5-20-121), describing the benefits of the Stage II vapor recovery system.

(2) A clear description of how to correctly dispense gasoline with the vapor recovery nozzles.

(3) A warning that repeated attempts to continue dispensing gasoline, after the system has indicated that the vehicle fuel tank is full (by automatically shutting off) may result in spillage or recirculation of gasoline.

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

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

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

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

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

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

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

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

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

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

---

# Final Regulations

---

possible leak sources between the truck and the vapor disposal unit and between the storage tanks and vapor recovery unit.

5. The vapor collection and vapor disposal equipment must be designed and operated to prevent gauge pressure in the tank truck from exceeding 18 in H<sub>2</sub>O and prevent vacuum from exceeding 6 in H<sub>2</sub>O.

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

7. Monitoring to confirm the continuing existence of leak tight conditions specified in subdivision ~~6~~ 4 of this ~~section~~ subsection shall be conducted as set forth in procedures approved by the board using test methods specified there.

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

9. Each truck subject to the provisions of subdivision ~~6~~ 1 of this ~~section~~ subsection shall have information displayed on the tank indicating the expiration date of the certification and such other information as may be needed by the board to determine the validity of the certification. The means of display and location of the above information shall be in a manner acceptable to the board.

10. An owner of a vapor collection/control system shall repair and retest the system within 15 days of the testing, if it exceeds the limit specified in subdivision ~~6~~ 4 of this ~~section~~ subsection.

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

12. The records of certification tests required by subdivision ~~6~~ 11 of this ~~section~~ subsection shall, as a minimum, contain the following:

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

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

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

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

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

VA.R. Doc. No. R03-101; Filed January 28, 2004, 2:57 p.m.

\* \* \* \* \*

**Title of Regulation: 9 VAC 5-140. Regulation for Emissions Trading (Rev. H02) (amending 9 VAC 5-140-550).**

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

**Effective Date:** March 24, 2003.

**Agency Contact:** Mary E. Major, Environmental Program Manager, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4423, FAX (804) 698-4510, or e-mail memajor@deq.state.va.us.

**Summary:**

*The amendment changes the flow control date in 9 VAC 5-140-550 (banking provisions) from 2006 to 2005.*

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

**REGISTRAR'S NOTICE:** The proposed regulation was adopted as published in 19:22 VA.R. 3188-3191 July 14, 2003, without change. Therefore, pursuant to § 2.2-4031 A of the Code of Virginia, the text of the final regulation is not set out.

VA.R. Doc. No. R03-102; Filed January 28, 2004, 2:54 p.m.

**STATE WATER CONTROL BOARD**

**Title of Regulation:** 9 VAC 25-580. **Underground Storage Tanks: Technical Standards and Corrective Action Requirements (amending 9 VAC 25-580-10, 9 VAC 25-580-50, 9 VAC 25-580-130, 9 VAC 25-580-270, 9 VAC 25-580-320; repealing 9 VAC 25-580-290).**

**Statutory Authority:** §§ 62.1-44.15 and 62.1-44.34:9 of the Code of Virginia, and 40 CFR Parts 280 and 281.

**Effective Date:** March 24, 2004.

**Agency Contact:** Fred Cunningham, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4285, FAX (804) 698-4266, or e-mail fkcunningh@deq.state.va.us.

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

**Summary:**

*The amendments (i) bring the underground storage tanks (UST) technical standards and corrective action requirements into agreement with the Code of Virginia and the federal UST regulation and (ii) delete the requirement for tank owners/operators to obtain a Corrective Action Permit from the department prior to initiating corrective actions.*

**REGISTRAR'S NOTICE:** The proposed regulation was adopted as published in 19:24 VA.R. 3486-3496 August 11, 2003, without change. Therefore, pursuant to § 2.2-4031 A of the Code of Virginia, the text of the final regulation is not set out.

VA.R. Doc. No. R02-308; Filed January 28, 2004, 2:52 p.m.

◆ ————— ◆  
**TITLE 16. LABOR AND EMPLOYMENT**

**SAFETY AND HEALTH CODES BOARD**

**Title of Regulation:** 16 VAC 25-145. **Safety Standards for Fall Protection in Steel Erection, Construction Industry (adding 16 VAC 25-145-10 through 16 VAC 25-145-50).**

**Statutory Authority:** § 40.1-22 of the Code of Virginia.

**Effective Date:** April 1, 2004.

**Agency Contact:** Regina P. Cobb, Agency Management Analyst Sr., Department of Labor and Industry, Powers-Taylor Building, 13 S. Thirteenth Street, Richmond, VA 23219, telephone (804) 786-0610, FAX (804) 786-8418, or e-mail rlc@doli.state.va.us.

**Summary:**

*The regulation requires steel erection employers to provide protection for steel erection workers from falls at or above 10 feet. The single exception to the requirement is for employees working as "connectors." Controlled decking zones (CDZs) are prohibited.*

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

**CHAPTER 145.**

**SAFETY STANDARDS FOR FALL PROTECTION IN STEEL ERECTION, CONSTRUCTION INDUSTRY.**

**16 VAC 25-145-10. Application of regulation.**

*Notwithstanding any other provisions to the contrary relating to fall protection and controlled decking zones (CDZ) in the regulation of steel erection in 16 VAC 25-175-1926.500; 16 VAC 25-175-1926.751 through 16 VAC 25-175-1926.759; 16 VAC 25-175-1926.761; and Appendix D to Subpart R - Illustrations of the Use of Controlled Decking Zones (CDZs): Nonmandatory guidelines for complying with § 1926.760(c)(3); the provisions of 16 VAC 25-145 shall take precedence.*

**16 VAC 25-145-20. General requirements.**

*A. Except as provided by subsection C of this section, each employee engaged in a steel erection activity who is on a walking/working surface with an unprotected side or edge of 10 feet or more above a lower level shall be protected from fall hazards by guardrail systems, safety net systems, personal fall arrest systems, positioning device systems or fall restraint systems.*

*B. Perimeter safety cables. On multistory structures, perimeter safety cables shall be installed at the final interior and exterior perimeters of the floors as soon as the metal decking has been installed.*

*C. Connectors and employees working in leading edge decking operations shall be protected from fall hazards as provided in 16 VAC 25-145-30 and 16 VAC 25-145-40 respectively.*

**16 VAC 25-145-30. Connectors.**

*Each connector shall:*

*1. Be protected in accordance with 16 VAC 25-145-20 from fall hazards of 10 feet or more above a lower level; except when structural members are being [ ~~fixed~~ placed ] for connection, when it is considered by the connector to be a greater hazard to utilize fall protection in accordance with 16 VAC 25-145-20 than to have freedom of movement to avoid accidental or inadvertent contact with structural members [ ~~being hoisted to be placed and connected into position~~ during placement and initial connection ];*

*2. Have completed connector training in accordance with 16 VAC 25-175-1926.761; and*

*3. Be provided, at heights at or above 10 and up to 30 feet above a lower level, with a personal fall arrest system, positioning device system or fall restraint system and wear the equipment necessary to be able to be tied off; or be provided with other means of protection from fall hazards in accordance with 16 VAC 25-145-20 A.*

**16 VAC 25-145-40. Decking.**

*A. The use of controlled decking zones is prohibited.*

---

# Final Regulations

---

B. Each employee working [ ~~at the leading edge of decking operations~~ within the boundaries of a leading edge decking operation ] shall be protected in accordance with 16 VAC 25-145-20 A from fall hazards of 10 feet or more above a lower level.

C. Access to the leading edge of decking operations shall be limited to only those employees engaged in leading edge work.

D. The boundaries of a leading edge decking operation shall be designated and clearly marked. The operation shall not be more than 90 feet (27.4 m) wide and 90 feet (27.4 m) deep from any leading edge. The operation shall be marked by the use of control lines or the equivalent. Examples of acceptable procedures for demarcating can be found in 16 VAC 25-175-1926.750 through 16 VAC 25-175-1926.761 (Subpart R) Appendix A.

E. Each employee working in a leading edge decking operation shall have completed training in accordance with 16 VAC 25-175-1926.761.

F. Unsecured decking shall not exceed 3,000 square feet (914.4 m<sup>2</sup>).

G. Safety deck attachments shall be performed from the leading edge back to the control line and shall have at least two attachments for each metal decking panel.

H. Final deck attachments and installation of shear connectors shall not be performed in areas where leading edge decking operations are being conducted.

**16 VAC 25-145-50. Illustration of the use of control lines to demarcate leading edge decking operations: nonmandatory guidelines for complying with 16 VAC 25-145-40 D.**

A. When used to control access to areas where leading edge and initial securement of metal deck and other operations connected with leading edge work are taking place, the work area is defined by a control line or by any other means that restricts access.

1. A control line is erected not less than 6 feet (1.8 m) nor more than 90 feet (27.4 m) from the leading edge;
2. Control lines extend along the entire length of the unprotected or leading edge and are approximately parallel to the unprotected or leading edge; and
3. Control lines are connected on each side to a guardrail system, wall, stanchion or other suitable anchorage.

B. Control lines consist of ropes, wires, tapes, or equivalent materials, and supporting stanchions as follows:

1. Each line is rigged and supported in such a way that its lowest point (including sag) is not less than 39 inches (1.0 m) from the walking/working surface and its highest point is not more than 45 inches (1.3 m) from the walking/working surface.
2. Each line has a minimum breaking strength of 200 pounds (90.8 kg).

VA.R. Doc. No. R02-257; Filed January 28, 2004, 10:09 a.m.

---

# EMERGENCY REGULATIONS

---

## TITLE 9. ENVIRONMENT

### STATE AIR POLLUTION CONTROL BOARD

**Title of Regulation:** 9 VAC 5-91. Regulations for the Control of Motor Vehicle Emissions in the Northern Virginia Area (amending 9 VAC 5-91-20, 9 VAC 5-91-160, 9 VAC 5-91-180, 9 VAC 5-91-750, 9 VAC 5-91-760).

**Statutory Authority:** §§ 46.2-1178.1 and 46.2-1180 of the Code of Virginia, § 182 of the Clean Air Act, and 40 CFR Part 51 Subpart S.

**Effective Dates:** January 28, 2004, through January 27, 2005.

**Agency Contact:** Mary L. Major, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4423, FAX (804) 698-4510, or e-mail [mimajor@deq.state.va.us](mailto:mimajor@deq.state.va.us).

#### Preamble:

*Section F 1 of Item 383 of Chapter 1042 of the 2003 Acts of Assembly, in part, provides the following: "The Department of Environmental Quality shall initiate, beginning January 1, 2004, a program for on-road testing of motor vehicles pursuant to § 46.2-1178.1 of the Code of Virginia, in all areas designated nonattainment for the 1-hour ozone air quality standard as of January 1, 2003. ...The State Air Pollution Control Board may promulgate any regulations necessary to implement these provisions. Such regulations shall be adopted as final prior to the January 1, 2004, implementation." The legislation was effective July 1, 2003, less than 280 days prior to the due date for the regulations, January 1, 2004.*

*The current program requires that affected vehicles be presented to emissions inspection stations biennially to receive an emissions inspection. This is accomplished through a network of service stations, repair garages, and other similar facilities that perform the inspections. Vehicles that fail the test are denied motor vehicle registration until inspection has been accomplished. Retests, after failure and repair, are free if accomplished within 14 days of the test and performed by the emissions inspection station that performed the initial test. If a motorist wishes to request a waiver of the test, an expenditure of at least \$450 on emissions-related repairs is required. The cost amount is adjusted each January by applying the Consumer Price Index released the previous fall by the federal government.*

*The geographic coverage of the program consists of the counties of Arlington, Fairfax, Loudoun, Prince William, and Stafford; and the cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park. Cars and trucks weighing up to 10,000 pounds and that are 25 years old and newer are subject to an exhaust emissions inspection using ASM equipment, which tests cars under "loaded" conditions using a dynamometer. On-Board Diagnostics Systems (OBD) on vehicles so equipped will also be inspected. In addition, random testing of vehicles is accomplished using either roadside pullovers or a remote sensing device next to the*

*roadway. Failing vehicles are required to report to an inspection station for an out-of-cycle test.*

*The proposed amendments make a number of revisions to the remote sensing provisions of the regulation. These changes include: changes in some definitions, changes in some elements of the remote sensing testing applicability and program procedures and protocol as it pertains to gross polluters and clean car screening, changes to the remote sensing test standards, and changes in some enforcement and compliance procedures.*

#### 9 VAC 5-91-20. Terms defined.

"Aborted test" means an emissions inspection procedure that has been initiated by the inspector but stopped and not completed due to inspector error or a vehicular problem that prevents completion of the test. Aborted tests are not tests that cannot be completed due to a "failed/invalid" result caused by an exhaust dilution problem or an engine condition that prevents the inspection from being completed.

"Access code" means the security phrase or number which allows authorized station personnel, the department, and analyzer service technicians to perform specific assigned functions using the certified analyzer system, as determined by the department. Depending on the assigned function, the access code is a personal password, a state password or a service password. Access code is not an identification number, but is used as an authenticator along with the identification number where such number is needed to perform specific tasks.

"Actual gross weight" means the gross vehicle weight rating (GVWR).

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

"Affected motor vehicle" means any motor vehicle which:

1. Was manufactured or designated by the manufacturer as a model year less than 25 calendar years prior to January 1 of the present calendar year according to the formula, the current calendar year minus 24, *except those identified by remote sensing as specified in subdivision 5 of this definition;*
2. Is designed for the transportation of persons or property;
3. Is powered by an internal combustion engine; ~~and~~
4. For the Northern Virginia Emissions Inspection Program, has an actual gross weight of 10,000 pounds or less; *and*
5. *For vehicles subject to remote sensing measurements identified in Table III B in 9 VAC 5-91-180, 1968 and newer models are included.*

The term "affected motor vehicle" does not mean any:

1. Vehicle powered by a clean special fuel as defined in § 58.1-2101 of the Code of Virginia, provided the federal Clean Air Act permits such exemptions for vehicles powered by clean special fuels;

---

# Emergency Regulations

---

2. Motorcycle;
3. Vehicle which, at the time of its manufacture, was not designed to meet emissions standards set or approved by the federal government;
4. Any antique motor vehicle as defined in § 46.2-100 of the Code of Virginia and licensed pursuant to § 46.2-730 of the Code of Virginia;
5. Firefighting equipment, rescue vehicle, or ambulance;
6. Vehicle for which no testing standards have been adopted by the board; or
7. Tactical military vehicle.

"Air intake systems" means those systems which allow for the induction of ambient air (to include preheated air) into the engine combustion chamber for the purpose of mixing with a fuel for combustion.

"Air pollution" means the presence in the outdoor atmosphere of one or more substances which are or may be harmful or injurious to human health, welfare or safety; to animal or plant life; or to property; or which unreasonably interfere with the enjoyment by the people of life or property.

"Air Pollution Control Law" means Chapter 13 (§ 10.1-1300 et seq.) of Title 10.1 of the Code of Virginia.

"Air system" means a system for providing supplementary air to promote further oxidation of hydrocarbons and carbon monoxide gases and to assist catalytic reaction.

"Alternative fuel" means an internal combustion engine fuel other than (i) gasoline, (ii) diesel, or (iii) fuel mixtures containing more than 15% volume of gasoline.

"Alternative method" means any method of sampling and analyzing for an air pollutant that is not a reference method, but that has been demonstrated to the satisfaction of the board, in specific cases, to produce results adequate for its determination of compliance.

"ASM" means Acceleration Simulation Mode testing which is a dynamometer-based emissions test performed in one or more, discreet, simulated road speed and engine load modes, and equipment which can be used to perform any such test.

"Authorized personnel" means department personnel, an individual designated by analyzer manufacturer, station owner, licensed emissions inspector, station manager or other person as designated by the station manager.

"Basic engine systems" means those parts or assemblies which provide for the efficient conversion of a compressed air and fuel charge into useful power to include but not limited to valve train mechanisms, cylinder head to block integrity, piston-ring-cylinder sealing integrity and post-combustion emissions control device integrity.

"Bi-fuel" means any motor vehicle capable of operating on one of two different fuels, usually gasoline and an alternative fuel, but not a mixture of the fuels. That is, only one fuel at a time.

"Board" means the State Air Pollution Control Board or its designated representative.

"Calibration" means establishing or verifying the response curve of a measurement device using several different measurements having precisely known quantities.

"Calibration gases" means gases of precisely known concentrations that are used as references for establishing or verifying the response curve of a measurement device.

"Canister" means a mechanical device capable of adsorbing and retaining hydrocarbon vapors.

"Catalytic converter" means a post combustion device which oxidizes hydrocarbons, carbon monoxide gases, and may also reduce oxides of nitrogen.

"Certificate of emissions inspection" means a document, device, or symbol, whether recorded in written or electronic form, as prescribed by the director and issued pursuant to this chapter, which indicates that (i) an affected motor vehicle has satisfactorily complied with the emissions standards and passed the emissions inspection provided for in this chapter; (ii) the requirement of compliance with the emissions standards has been temporarily waived; or (iii) the affected motor vehicle has failed the emissions inspection.

"Certified emissions repair facility" means a facility, or portion of a facility, that has obtained a certification in accordance with Part VII (9 VAC 5-91-500 et seq.) to perform emissions related repairs on motor vehicles.

"Certified emissions repair technician" means a person who has obtained a certification in accordance with Part VIII (9 VAC 5-91-550 et seq.) to perform emissions related repairs on motor vehicles.

"Certified enhanced analyzer system" or "analyzer system" means the complete system that samples and reads concentrations of hydrocarbon, carbon dioxide, ~~nitrogen~~ nitric oxides and carbon monoxide gases and that is approved by the department for use in the Enhanced Emissions Inspection Program in accordance with Part X (9 VAC 5-91-640 et seq.). The system includes the exhaust gas handling system, the exhaust gas analyzer, evaporative system pressure test equipment, associated automation hardware and software, data media, the analyzer system cabinet, the dynamometer and appurtenant devices, vehicle identification equipment, and associated cooling and exhaust fans and gas cylinders.

"Certified thermometer" means a laboratory grade ambient temperature measuring device with a range of at least 20°F through 120°F, and an attested accuracy of at least 1°F with increments of 1°, with protective shielding.

"Chargeable inspection" means a completed inspection on an affected motor vehicle, for which the station owner is entitled to collect an inspection fee. No fee shall be paid for (i) inspections for which a certificate of emissions inspection has not been issued, (ii) inspections that are conducted by the department for referee purposes, (iii) inspections which were ordered due to on-road test failures but which result in an emissions inspection "pass" at an inspection station, or (iv) the first reinspection done at the same station that performed the initial inspection within 14 days. An inspection ordered by the department due to an on-road test failure and that results in

an emissions inspection failure at the emissions inspection station is a chargeable inspection.

*"Confirmation test" means an emissions inspection required due to a determination that the vehicle exceeds the exhaust emissions standards established in Table III-B in 9 VAC 5-91-180 for on-road testing through remote sensing. The confirmation emissions inspection procedure may include tailpipe emission testing, OBD system test or both.*

"Consent order" means a mutual agreement between the department and any owner, operator, emissions inspector, or emissions repair technician that such owner or other person will perform specific actions for the purpose of diminishing or abating the causes of air pollution or for the purpose of coming into compliance with this chapter. A consent order may include agreed upon civil charges. Such orders may be issued without a formal hearing.

"Curb idle" means vehicle operation whereby the transmission is disengaged and the engine is operated with the throttle in the closed or idle stop position with the resultant engine speed between 400 and 1,250 revolutions per minute (rpm), or at another idle speed if so specified by the manufacturer.

"Data handling system" means all the computer hardware, software and peripheral equipment used to conduct emissions inspections and manage the enhanced emissions inspection program.

"Data medium" or "data media" means the medium contained in the certified analyzer system and used to electronically record test data.

"Day" means a 24-hour period beginning at midnight.

"Dedicated alternative fuel vehicle" means a vehicle that was configured by the vehicle manufacturer to operate only on one specific fuel other than (i) gasoline, (ii) diesel, or (iii) fuel mixtures containing more than 15% by volume of gasoline.

"Dedicated-fuel vehicle" means a vehicle that was designed and manufactured to operate and operates on one specific fuel.

"Department" means any employee or other representative of the Virginia Department of Environmental Quality, as designated by the director.

"Director" means the director of the Virginia Department of Environmental Quality or a designated representative.

"Dual fuel" means a vehicle which operates on a combination of fuels, usually gasoline or diesel and an alternative fuel, at the same time. That is, the mixed fuels are introduced into the combustion chamber of the engine.

"Emissions control equipment" means any part, assembly or equipment originally installed by the manufacturer in or on a motor vehicle for the sole or primary purpose of reducing emissions.

"Emissions control systems" means any system consisting of parts, assemblies or equipment originally installed by the manufacturer in or on a motor vehicle for the primary purpose of reducing emissions.

"Emissions inspection" means an emissions inspection of a motor vehicle performed by an emissions inspector employed by or working at an emissions inspection station or fleet emissions inspection station, using the tests, procedures, and provisions set forth in this chapter.

"Emissions inspection station" means a facility or portion of a facility which has obtained an emissions inspection station permit from the director authorizing the facility to perform emissions inspections in accordance with the provisions of this chapter.

"Emissions inspector" means a person licensed by the department to perform inspections of vehicles required under the Virginia Motor Vehicle Emissions Control Law and is qualified in accordance with this chapter.

"Emissions standard" means any provision of Part III (9 VAC 5-91-160 et seq.) or Part XIV (9 VAC 5-91-790 et seq.) which prescribes an emission limitation, or other emission control requirements for motor vehicle air pollution.

"Empty weight (EW)" means that weight stated as the EW on a Virginia motor vehicle registration or derived from the motor vehicle title or manufacturer's certificate of origin. The EW may be used to determine emissions inspection standards.

"Enhanced emissions inspection program" means a motor vehicle emissions inspection including procedures, emissions standards, and equipment required by 40 CFR Part 51, Subpart S or equivalent and consistent with applicable requirements of the federal Clean Air Act. The director shall administer the enhanced emissions inspection program. Under the Virginia Motor Vehicle Emissions Control Law, the program requires that affected motor vehicles, unless otherwise exempted, receive biennial inspections at official emissions inspection stations, which may be test and repair facilities, in accordance with this chapter. Nothing in this program shall bar enhanced emissions inspection stations or facilities from also performing vehicle repairs.

"EPA" means the United States Environmental Protection Agency.

"Equivalent test weight (ETW)" or "emission test weight" means the weight of a motor vehicle as automatically determined by the emissions analyzer system based on vehicle make, model, body, style, model year, engine size, permanently installed equipment, and other manufacturer and aftermarket supplied information, and used for the purpose of assigning dynamometer resistance and exhaust emissions standards for the conduct of an exhaust emissions inspection.

"Evaporative system pressure test" or "pressure test" means a physical test of the evaporative emission control system on a motor vehicle to determine whether the evaporative system vents emissions of volatile organic compounds from the fuel tank and fuel system to an on-board emission control device, and prevents their release to the ambient air under normal vehicle operating conditions. Such testing shall only be conducted at emissions inspection stations upon installation of approved equipment and software necessary for performing the test, as determined by the director.

---

# Emergency Regulations

---

"Exhaust gas analyzer" means an instrument which is capable of measuring the concentrations of certain air pollutants in the exhaust gas from a motor vehicle.

"Facility" means something that is built, installed or established to serve a particular purpose; includes, but is not limited to, buildings, installations, public works, businesses, commercial and industrial plants, shops and stores, apparatus, processes, operations, structures, and equipment of all types.

"Federal Clean Air Act" means 42 USC § 7401 et seq.

"Fleet" means 20 or more motor vehicles which are owned, operated, leased or rented for use by a common owner.

"Fleet emissions inspection station" means any inspection facility operated under a permit issued to a qualified fleet owner or lessee as determined by the director.

"Flexible-fuel vehicle" means any motor vehicle capable of operating on two or more fuels, either one at a time or any mixture of two or more different fuels.

"Formal hearing" means a board or department process that provides for the right of private parties to submit factual proofs as provided in § 2.2-4020 of the Administrative Process Act in connection with case decisions. Formal hearings do not include the factual inquiries of an informal nature provided in § 2.2-4019 of the Administrative Process Act.

"Fuel control systems" means those mechanical, electro-mechanical, galvanic or electronic parts or assemblies which regulate the air-to-fuel ratio in an engine for the purpose of providing a combustible charge.

"Fuel filler cap pressure test" or "gas cap pressure test" means a test of the ability of the fuel filler cap to prevent the release of fuel vapors from the fuel tank under normal operating conditions.

"Gas span" means the adjustment of an exhaust gas analyzer to correspond with known concentrations of gases.

"Gas span check" means a procedure using known concentrations of gases to verify the gas span adjustment of an analyzer.

"Gross vehicle weight rating (GVWR)" means the maximum recommended combined weight of the motor vehicle and its load as prescribed by the manufacturer and is (i) expressed on a permanent identification label affixed to the motor vehicle; (ii) stated on the manufacturer's certificate of origin; or (iii) coded in the vehicle identification number. If the GVWR can be determined it shall be one element used to determine emissions inspection standards and test type. If the GVWR is unavailable, the department may make a determination based on the best available evidence including manufacturer reference, information coded in the vehicle identification number, or other available sources of information from which to make the determination.

"Heavy duty vehicle" means any affected motor vehicle (i) which is rated at more than 8,500 pounds GVWR or (ii) which has a loaded vehicle weight or GVWR of more than 6,000

pounds and has a basic frontal area in excess of 45 square feet.

*"High emitter index" means the method of categorizing the probable failure-rates of engine families. Values within the index are determined by computing the percentile of the historical failure-rate of a specific engine family, i.e. a specific group of vehicles with the same vehicle type, year, make and engine size, to the historic failure-rate of all engine families in a specific model year group. Failure rates are based on the most recent full year of test data from the Virginia Motor Vehicle Emissions Control Program. Vehicles with a index value above 75 are considered "high-emitters."*

"Identification number" means the number assigned by the department to uniquely identify department personnel, an emissions inspection station, a certified emissions repair facility, a licensed emissions inspector, a certified emissions repair technician or other authorized personnel as necessary for specific tasks.

"Idle mode" means a condition where the vehicle engine is warm and running at the rate specified by the manufacturer as curb idle, where the engine is not propelling the vehicle, and where the throttle is in the closed or idle stop position.

"Ignition systems" means those parts or assemblies which are designed to cause and time the ignition of a compressed air and fuel charge.

"Implementation plan" means the plan, including any revision thereof, that has been submitted by the Commonwealth and approved in Subpart VV of 40 CFR Part 52 by the administrator under § 110 of the federal Clean Air Act, or promulgated in Subpart VV of 40 CFR Part 52 by the administrator under § 110(c) of the federal Clean Air Act, or promulgated or approved by the administrator pursuant to regulations promulgated under § 301(d) of the federal Clean Air Act and that implements the relevant requirements of the federal Clean Air Act.

"Informal fact finding" means an informal conference or consultation proceeding used to ascertain the fact basis for case decisions as provided in § 2.2-4019 of the Administrative Process Act.

"Initial inspection" means the first complete emissions inspection of a motor vehicle conducted in accordance with the biennial inspection requirement and for which a valid vehicle emissions inspection report was issued. Any test following the initial inspection is a retest or reinspection.

"Inspection area" means the area that is occupied by the certified analyzer system and the vehicle being inspected.

"Inspection fee" means the amount of money that the emissions inspection station may collect from the motor vehicle owner for each chargeable inspection.

"Light duty truck" means any affected motor vehicle which (i) has a loaded vehicle weight or GVWR of 6,000 pounds or less and meets any one of the criteria below; or (ii) is rated at more than 6,000 pounds GVWR but less than 8,500 pounds GVWR and has a basic vehicle frontal area of 45 square feet or less; and meets one of the following criteria:

1. Designed primarily for purposes of transportation of property or is a derivation of such a vehicle.
2. Designed primarily for transportation of persons and has a capacity of more than 12 persons.
3. Equipped with special features enabling off-street or off-highway operation and use.

"Light duty truck 1" or "LDT1" means any affected motor vehicle which meets the criteria above and is rated at 6,000 pounds GVWR or less. LDT1 is a subset of light duty trucks.

"Light duty truck 2" or "LDT2" means any affected motor vehicle which meets the criteria above and is rated at greater than 6,000 pounds GVWR. LDT2 is a subset of light duty trucks.

"Light duty vehicle" means an affected motor vehicle that is a passenger car or passenger car derivative capable of seating 12 passengers or less.

"Loaded vehicle weight (LVW)" or "curb weight" means the weight of a vehicle and its standard equipment; i.e., the empty weight as recorded on the vehicle's registration or the base shipping weight as recorded in the vehicle identification number, whichever is greater; plus the weight of any permanent attachments, the weight of a nominally filled fuel tank, plus 300 pounds.

"Locality" means a city, town, or county created by or pursuant to state law.

"Mobile fleet emissions inspection station" means a facility or entity which provides emissions inspection equipment or services to a fleet emissions inspection station on a temporary basis. Such equipment is not permanently installed at the fleet facility but is temporarily located at the fleet facility for the sole purpose of testing vehicles owned, operated, leased or rented for use by a common owner.

"Model year" means, except as may be otherwise defined in this chapter, the motor vehicle manufacturer's annual production period which includes the time period from January 1 of the calendar year prior to the stated model year to December 31 of the calendar year of the stated model year; provided that, if the manufacturer has no annual production period, the term "model year" shall mean the calendar year of manufacture. For the purpose of this definition, model year is applied to the vehicle chassis, irrespective of the year of manufacture of the vehicle engine.

"Motor vehicle" means any motor vehicle as defined in § 46.2-100 of the Code of Virginia as a motor vehicle and that:

1. Is designed for the transportation of persons or property; and
2. Is powered by an internal combustion engine.

"Motor vehicle dealer" means a person who is licensed by the Department of Motor Vehicles in accordance with §§ 46.2-1500 and 46.2-1508 of the Code of Virginia.

"Motor vehicle inspection report" means a printed certificate of emissions inspection that is a report of the results of an emissions inspection. It indicates whether the motor vehicle

has (i) passed, (ii) failed, or (iii) obtained a temporary emissions inspection waiver. It may also indicate whether the emissions inspection could not be completed due to an exhaust dilution or an engine condition that prevents the inspection from being completed. The report shall accurately identify the motor vehicle and shall include inspection results, recall information provided by the department, warranty and repair information, and a unique identification number.

"Motor vehicle owner" means any person who owns, leases, operates, or controls a motor vehicle or fleet of motor vehicles.

"Nonconforming vehicle" means a vehicle not manufactured for sale in the United States to conform to emissions standards established by the federal government.

"Normal business hours" for emissions inspection stations, means a daily eight-hour period Monday through Friday, between the hours of 8 a.m. and 6 p.m., with the exception of national holidays, state holidays, temporary closures noticed to the department and closures due to the inability to meet the requirements of this chapter. Nothing in this chapter shall prevent stations from performing inspections at other times in addition to the "normal business hours." Emissions inspection stations may, with the approval of the department, substitute a combined total of eight hours, between 8 a.m. and 6 p.m., over a weekend period for one weekday as their "normal business hours" for conducting emission inspections. Emissions inspection stations shall post inspection hours.

"Northern Virginia emissions inspection program" means the emissions inspection program required by this chapter in the Northern Virginia program area.

"Northern Virginia program area" or "program area" means the territorial area encompassed by the boundaries of the following localities: the counties of Arlington, Fairfax, Loudoun, Prince William, and Stafford; and the cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park.

"On-board diagnostic system" or "OBD system" means the computerized emissions control diagnostic system installed on model year 1996 and newer affected motor vehicles.

"On-board diagnostic system test" or "OBD system test" means an evaluation of the OBD system pursuant to 40 CFR 86.094-17 according to procedures specified in 40 CFR 85.2222 and this chapter.

"On-board diagnostic vehicle" or "OBD vehicle" means a model year 1996 and newer model affected motor vehicle equipped with an on-board diagnostic system and meeting the requirements of 40 CFR 85.2231.

"On-road testing" means tests of motor vehicle emissions or emissions control devices by means of roadside pullovers or remote sensing devices.

"Operated primarily" means vehicle operation that constitutes a significant use in the program area. For the purpose of this definition, significant use shall be (i) mileage in excess of 6,000 miles per year or (ii) routine operation into or within the program area as evidenced by recordation of travel in the program area at least three times in a two-week period by remote sensing or on-road testing.

---

# Emergency Regulations

---

"Order" means any decision or directive of the board or the director, including orders, consent orders, and orders of all types rendered for the purpose of diminishing or abating the causes of air pollution or enforcement of this chapter. Unless specified otherwise in this chapter, orders shall only be issued after the appropriate administrative proceeding.

"Original condition" means the condition of the vehicle, parts, and components as installed by the manufacturer but not necessarily to the original level of effectiveness.

"Owner" means any person who owns, leases, operates, controls or supervises a facility or motor vehicle.

"Party" means any person who actively participates in the administrative proceeding or offers comments through the public participation process and is named in the administrative record. The term "party" also means the department.

"Person" means an individual, corporation, partnership, association, a governmental body, a municipal corporation, or any other legal entity.

"Pollutant" means any substance the presence of which in the outdoor atmosphere is or may be harmful or injurious to human health, welfare or safety, to animal or plant life, or to property, or which unreasonably interferes with the enjoyment by the people of life or property.

"Referee station" means those facilities operated or used by the department to (i) determine program effectiveness, (ii) resolve emissions inspection conflicts between motor vehicle owners and emissions inspection stations, and (iii) provide such other technical support and information, as appropriate, to emissions inspection stations and motor vehicle owners.

"Reference method" means any method of sampling and analyzing for an air pollutant as described in Appendix A of 40 CFR Part 60.

"Reinspection" or "retest" means a type of inspection selected by the department or the emissions inspector when a request for an inspection is due to a previous failure. Any inspection that occurs 120 days or less following the most recent chargeable inspection is a retest.

"Rejected" or "rejected from testing" means that the vehicle cannot be inspected due to conditions in accordance with 9 VAC 5-91-420 C or 9 VAC 5-91-420 G 3.

"Remote sensing" means the observation, measurement, and recordation of motor vehicle exhaust emissions from motor vehicles while travelling on roadways or in specified areas by specialized equipment. Such equipment may use light sensing and electronic stimuli in conjunction with devices, including videographic and digitized images, to detect and record vehicle identification information, such as registration or other identification numbers.

"Sensitive mission vehicle" means any vehicle which, for law enforcement or national security reasons, cannot be tested in the public inspection system and must not be identified through the fleet testing system. For such vehicles, an autonomous fleet testing system may be established by agreement between the controlling agency and the director.

"Span gas" means gases of known concentration used as references to adjust or verify the accuracy of an exhaust gas analyzer that are approved by the department and are so labeled.

"Standard conditions" means a temperature of 20°C (68°F) and a pressure of 760 mm of H<sub>g</sub> (29.92 inches of H<sub>g</sub>).

"Standardized instruments" means laboratory instruments calibrated with precision gases traceable to the National Institute of Standards and Technology and accepted by the department as the standards to be used for comparison purposes. All candidate instruments are compared in performance to the standardized instruments.

"Tactical military vehicle" means any motor vehicle designed to military specifications or a commercially designed motor vehicle modified to military specifications to meet direct transportation support of combat, tactical, or military relief operations, or training of personnel for such operations.

"Tampering" means to alter, remove or otherwise disable or reduce the effectiveness of emissions control equipment on a motor vehicle.

"Test" means an emissions inspection of a vehicle, or any portion thereof, performed by an emissions inspector at an emissions inspection station, using the procedures and provisions set forth in this chapter.

"Test and repair" means motor vehicle emissions inspection stations which perform emissions inspections and may also perform vehicle repairs. No provision of this chapter shall bar emissions inspection stations from also performing vehicle repairs.

"Thermostatic air cleaner" means a system that supplies temperature regulated air to the air intake system during engine operation.

"True concentration" means the concentration of the gases of interest as measured by a standardized instrument which has been calibrated with 1.0% precision gases traceable to the National Bureau of Standards.

"Two-speed idle test" or "TSI" means a vehicle exhaust emissions test, performed in accordance with section (II) of 40 CFR Part 51, Appendix B to Subpart S, which measures the concentrations of pollutants in the exhaust gases of an engine (i) while the motor vehicle transmission is not propelling the vehicle and (ii) while the engine is operated at both curb idle and at a nominal engine speed of 2,500 rpm.

*"Vehicle specific power" or "VSP" means an indicator expressed as a function of vehicle speed, acceleration, drag coefficient, tire rolling resistance and roadway grade that is used to characterize the load a vehicle is operating under at the time and place a vehicle is measured by remote sensing equipment. It is calculated using the following formula:*

$$VSP = 4.39 \times \text{Sine (Site Grade in Degrees/57.3)} \times \text{Speed} + K1$$

$$\times \text{Speed} \times \text{Acceleration} + K2 \times \text{Speed} + K3 \times \text{Speed}^3.$$

Where:

VSP = vehicle specific power indicator;

Sine = the trigonometric function that for an acute angle is the ratio between the side opposite the angle when it is considered part of a right triangle and the hypotenuse;

Site Grade in Degrees = slope of road where remote sensing measurement is taken;

K1, K2 and K3 = empirically determined coefficients specific to the weight class of the vehicle;

Speed = rate of motion in miles per hour of vehicle at the time remote sensing measurement is taken; and

Acceleration = change in speed in miles per hour per second.

For light duty vehicles the values for K1, K2 and K3 are respectively 0.22, 0.0954 and 0.0000272. Based on EPA guidance DEQ may develop different values for K1, K2 and K3 that are applicable to heavy duty vehicles or to specific classes of light duty vehicles.

"Virginia Motor Vehicle Emissions Control Program" means the program for the inspection and control of motor vehicle emissions established by Virginia Motor Vehicle Emissions Control Law.

"Virginia Motor Vehicle Emissions Control Law" means Article 22 (§ 46.2-1176 et seq.) of Chapter 10 of Title 46.2 of the Code of Virginia.

"Visible smoke" means any air pollutant, other than visible water droplets, consisting of black, gray, blue or blue-black airborne particulate matter emanating from the exhaust system or crankcase. Visible smoke does not mean steam.

"Zero gas" means a gas, usually air or nitrogen, which is used as a reference for establishing or verifying the zero point of an exhaust gas analyzer.

**9 VAC 5-91-160. Exhaust emission standards for two-speed idle testing in enhanced emissions inspection programs.**

A. No motor vehicle subject to the two-speed idle test shall discharge carbon monoxide (CO), or hydrocarbons (HC) in its exhaust emissions in excess of standards set forth in Table III-A when measured with a certified analyzer system and in accordance with the two-speed idle inspection procedures prescribed in Part VI (9 VAC 5-91-410 et seq.).

B. The measured concentration of CO plus CO<sub>2</sub> shall be greater than or equal to 6.0%.

C. The standards in Table III-A may be adjusted by no more than one percentage point for CO and 150 ppm for HC in order to meet the requirements of the Environmental Protection Agency or the federal Clean Air Act.

TABLE III-A.  
EXHAUST EMISSION STANDARDS FOR TWO-SPEED IDLE EMISSIONS INSPECTIONS TESTS.

Model Year	HC (ppm)	CO (%)
For idle test and 2500 RPM test for vehicles up to 8500 pounds GVWR:		
1996 & later	110	0.75
1990-95	125	1.0
1981-89	220	1.2
1980	220	2.0
1975-79	400	4.0
1970-74	600	6.0
1968-69	800	8.0
For vehicles from 8501 to 10000 pounds GVWR:		
1997 & later	125	0.75
1991-1996	150	1.0
1981-1990	220	1.2
1980	220	2.0
1975-79	400	4.0
1970-74	600	6.0
1968-69	800	8.0

**9 VAC 5-91-180. Exhaust emissions standards for on-road testing through remote sensing.**

A. No motor vehicle shall exceed the emissions standard for carbon monoxide (CO), the emission standard for hydrocarbons (HC) or nitric oxide (NO), ~~whichever is selected for use, or both,~~ set forth in Table III-B when measured with a remote sensing device and in accordance with the inspection procedures prescribed in Part XII (9 VAC 5-91-740 et seq.).

B. Any motor vehicle determined to have exceeded any emissions standards in Table III-B ~~at least twice within 90 days~~ when measured by a remote sensing device in accordance with the procedures of Part XII (9 VAC 5-91-740 et seq.) may be subject to an emissions inspection at an emissions inspection station in accordance with Part XII (9 VAC 5-91-740 et seq.) or a civil charge in accordance with § 46.2-1178.1 B of the Code of Virginia, or both.

C. Beginning January 1, 2004, motor vehicles that exceed the emission standards in Table III-B twice in a 120-day period shall be considered to have violated such emissions standards. In addition, the department may use the high emitter index as an additional screening requirement.

D. Beginning January 1, 2005, or later date based on analysis of remote sensing failure rates and confirmation test results, the department may determine that a vehicle is a high emitter if such vehicle exceeds the standards in Table III-B once and is also determined to have a High Emitter Index of greater than 75.

E. All remote sensing measurements used to determine if a vehicle exceeds emissions standards in Table III-B shall be

# Emergency Regulations

taken at valid sites under conditions at which the vehicle specific power (VSP) indicator is between 3 and 22. Standards for NO must be corrected for VSP using the following formula:

$$\text{NO standard} = \text{Low Range Standard} + (\text{VSP}-3)/$$

$$19 \times (\text{High Range Standard} - \text{Low Range Standard}).$$

Where:

Low Range Standard = the smaller values in Table III-B in the NO (ppm) Range column;

VSP = vehicle specific power indicator; and

High Range Standard = the larger values in Table III-B in the NO (ppm) Range column.

G. F. The department may adjust the standards in Table III-B if it is determined that the a standard is causing a false failure confirmation test pass rate in excess of 20% or less than 5.0% as measured by the results of emissions inspections at emissions inspection stations. Such adjustments may be for specific model years models within each model year group based on manufacturer's emissions control technology.

TABLE III-B.  
EXHAUST EMISSION STANDARDS FOR REMOTE SENSING.

Model Year	CO (%)	HC (ppm)
1977-79, 6000 lb. and less	10.0	1600
1977-79, more than 6000 lb.	12.0	2000
1980-95, 8500 lb. and less	4.8	880
1980-95, more than 8500 lb.	6.0	880
1996-98, 6000 lb. and less	3.6	660
1996-98, more than 6000 lb.	5.0	660
1999 and newer, 6000 lb. and less	3.60	440
1999 and newer, more than 6000 lb.	5.0	440

Standards Beginning January 1, 2004			
Period/Model Year/ Vehicle Type	CO (%)	HC (ppm)	NO (ppm) Range <sup>1</sup> Low to High
Pre-1981 – LDGT (1 or 2)	7.0%	1000	
Pre-1981 – LDGV	7.0%	1000	
Pre-1981 – HDGT	7.0%	1000	
1981 TO 1985 – LDGT (1 or 2)	6.0%	800	1500–2000
1981 TO 1985 – LDGV	6.0%	750	1200–1800
1981 TO 1985 – HDGT	7.0%	750	
1986 TO 1990 – LDGT (1 or 2)	5.5%	700	1200–1800
1986 TO 1990 – LDGV	5.5%	650	1000–1600
1986 TO 1990 – HDGT	6.5%	750	
1991 TO 1995 – LDGT (1 or 2)	5.0%	650	1200–1800
1991 TO 1995 – LDGV	5.0%	600	1000–1600
1991 TO 1995 – HDGT	6.0%	700	
1996 and newer LDGT (1 or 2)	4.0%	450	600–900
1996 and newer LDGV	4.0%	450	600–900
1996 and newer HDGT	5.0%	600	

Standards Beginning January 1, 2005 and later - Two or More On-Road Measurements			
Period/Model Year/ Vehicle Type	CO (%)	HC (ppm)	NO (ppm) Range Low to High
Pre-1981 – LDGT (1 or 2)	7.0%	1000	
Pre-1981 – LDGV	7.0%	1000	
Pre-1981 – HDGT	7.0%	1000	
1981 TO 1985 – LDGT (1 or 2)	6.0%	800	1500–2000
1981 TO 1985 – LDGV	6.0%	750	1200–1800
1981 TO 1985 – HDGT	7.0%	750	
1986 TO 1990 – LDGT (1 or 2)	5.5%	700	1200–1800
1986 TO 1990 – LDGV	5.5%	650	1000–1600
1986 TO 1990 – HDGT	6.5%	750	
1991 TO 1995 – LDGT (1 or 2)	4.0%	550	1000–1500
1991 TO 1995 – LDGV	4.0%	500	900–1400
1991 TO 1995 – HDGT	6.0%	700	
1996 and newer LDGT (1 or 2)	3.0%	350	500–800
1996 and newer LDGV	3.0%	350	500–800
1996 and newer HDGT	5.0%	600	

January 1, 2005 and later - Single On-Road Measurement Vehicle must have High Emitter Index of 75% or Higher			
Period/Model Year/ Vehicle Type	CO (%)	HC (ppm)	NO (ppm) Range Low to High
Pre-1981 – LDGT (1 or 2)	7.0%	1000	
Pre-1981 – LDGV	7.0%	1000	
Pre-1981 – HDGT	7.0%	1000	
1981 TO 1985 – LDGT (1 or 2)	6.0%	800	1500–2000
1981 TO 1985 – LDGV	6.0%	750	1200–1800
1981 TO 1985 – HDGT	7.0%	750	
1986 TO 1990 – LDGT (1 or 2)	5.5%	700	1200–1800
1986 TO 1990 – LDGV	5.5%	650	1000–1600
1986 TO 1990 – HDGT	6.5%	750	
1991 TO 1995 – LDGT (1 or 2)	4.0%	550	1000–1500
1991 TO 1995 – LDGV	4.0%	500	900–1400
1991 TO 1995 – HDGT	6.0%	700	
1996 + LDGT (1 or 2)	3.0%	350	500–800
1996 + LDGV	3.0%	350	500–800
1996 + HDGT	5.0%	600	

<sup>1</sup> NO standard = Low Range standard + (Actual VSP-3)/19 \* (High Range standard – Low Range Standard)

D. G. Beginning January 1, 2005, for any 30-day period, up to 5.0% of the number of vehicles measured three times which have been detected as having the cleanest measurements, based on an average of three measurements using on-road testing equipment within the period, may, at the discretion of the director, be recorded as having passed an emissions inspection and such result shall be entered into the emissions inspection record for that vehicle.

E. Remote sensing measurements used for such purposes shall be from at least two different on-road testing locations.

F. Remote sensing measurements obtained while a vehicle is decelerating shall not be used for the purpose described in this section.

## 9 VAC 5-91-750. Operating procedures; violation of standards.

A. Remote sensing equipment shall be operated in accordance with the remote sensing equipment manufacturers operating instructions and any contract or agreement between the department and the equipment operator.

B. Motor vehicles determined by remote sensing equipment to have exceeded the applicable emissions standard in Table III-B in 9 VAC 5-91-180 ~~twice within 90 days~~ shall be considered to have violated such emissions standards.

1. Owners of such motor vehicles shall be issued a notice of violation and shall be subject to the civil charges in 9 VAC 5-91-760 unless waived pursuant to this section.

2. Upon a determination by the department that a violation has occurred, motorists shall be informed by the department or its representative of the failure to comply with emissions standards and of the dates, times, and places such remote sensing *measurement* occurred.

C. Civil charges assessed pursuant to this part shall be waived if, within ~~90~~ 30 days of the date of the notice of the violation, the motor vehicle owner provides proof to the department that ~~since the date of the violation, (i) the vehicle has passed a vehicle emissions inspection, (ii) the vehicle has received an emissions inspection waiver, or (iii) the vehicle has qualified for a waiver within the 12 months prior to the violation.~~

1. *Since the date of the violation the vehicle has passed, or received a waiver as the result of, a confirmation test, or*

2. *Within the 12 months prior to the violation the vehicle had received an emissions inspection waiver.*

D. The requirement for an emissions inspection *or payment of civil charges*, based on a remote sensing failure, may be waived by the department if the *affected* motor vehicle in question is, by virtue of its registration date, required to have an emissions inspection within ~~90 days~~ *three months* of the date of the ~~notice of violation~~ *remote sensing measurement that indicates the vehicle has exceeded the applicable standards in Table III-B in 9 VAC 5-91-180.*

E. *For 1996 and newer model vehicles with OBD, the director may require the vehicle pass an exhaust test (ASM or two-speed idle) in addition to the OBD system test.*

## 9 VAC 5-91-760. Schedule of civil charges.

A. No charge shall exceed ~~an adjusted maximum charge of \$450 adjusted annually by using 1990 as the base year and applying the consumer price index~~ *the current waiver cost amount in effect on the date of the notice of violation in accordance with 9 VAC 5-91-420 O.*

B. For violations measured in accordance with 9 VAC 5-91-750 B to be up to 120% of the applicable standard, the charge shall ~~not exceed 20% of the adjusted maximum charge in subsection A of this section~~ *be \$100.*

C. For violations measured in accordance with 9 VAC 5-91-750 B to be more than 120% but not exceeding 140% of the applicable standard, the charge shall ~~not exceed 40% of the~~

~~adjusted maximum charge in subsection A of this section~~ *be \$200.*

D. For violations measured in accordance with 9 VAC 5-91-750 B to be more than 140% but not exceeding 160% of the applicable standard, the charge shall ~~not exceed 60% of the adjusted maximum charge in subsection A of this section~~ *be \$300.*

E. For violations measured in accordance with 9 VAC 5-91-750 B to be more than 160% but not exceeding 180% of the applicable standard, the charge shall ~~not exceed 80% of the adjusted maximum charge in subsection A of this section~~ *be \$400.*

F. For violations measured in accordance with 9 VAC 5-91-750 B to be over 180% *but not exceeding 200%* of the applicable standard, the charge shall ~~not exceed the adjusted maximum charge in subsection A of this section~~ *be \$500.*

G. *For violations measured in accordance with 9 VAC 5-91-750 B to be over 200% of the applicable standard, the charge shall be the maximum charge in subsection A of this section.*

H. Civil charges assessed pursuant to this part shall be paid into the state treasury according to § 46.2-1178.1 of the Code of Virginia.

H. I. For the purpose of applying a civil charge as prescribed in this section, the degree of violation shall be determined by averaging the *highest emissions readings from each remote sensing measurement in which exceed at least one of the standard applicable standards was exceeded.*

/s/ Mark R. Warner

Governor

Date: January 20, 2004

VA.R. Doc. No. R04-106; Filed January 28, 2004, 2:55 p.m.

## TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

### FAIR HOUSING BOARD

Title of Regulation: **18 VAC 62-20. Fair Housing Board Certification Regulations (adding 18 VAC 62-20-10 through 18 VAC 62-20-180).**

Statutory Authority: § 54.1-2344 of the Code of Virginia.

Effective Dates: February 2, 2004, through February 1, 2005.

Agency Contact: Christine Martine, Executive Director, Department of Professional and Occupational Regulations, 3600 West Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-6946, or e-mail [fhcertification@dpor.virginia.gov](mailto:fhcertification@dpor.virginia.gov).

Preamble:

*This is an emergency situation pursuant to § 2.2-4011(ii) of the Code of Virginia. Chapter 575 of the Acts of the 2003 General Assembly, which was the result of SB1102,*

---

# Emergency Regulations

---

requires regulations to be effective within 280 days of enactment.

The new regulation establishes an education-based certification program for persons subject to the Fair Housing Law who are involved in the business or activity of selling or renting dwellings.

The regulations provide:

1. Definitions of terms to be used in the regulations;
2. Entry standards for those seeking certification by the Fair Housing Board;
3. Renewal standards for certificate holders;
4. Standards of conduct; and
5. Requirements for courses, instructors and providers.

## CHAPTER 20.

### FAIR HOUSING CERTIFICATION REGULATIONS.

#### PART I. GENERAL.

#### **18 VAC 62-20-10. Applicability.**

This chapter is applicable to persons subject to the Fair Housing Law who are in the business of selling or renting dwellings as defined in this chapter, except those individuals who hold a valid license issued by the Real Estate Board.

#### **18 VAC 62-20-20. Definitions.**

The following words and terms when used in this chapter, unless a different meaning is provided or is plainly required by the context, shall have the following meanings:

"Board" means the Fair Housing Board.

"Certificate holder" means any person in the business of selling or renting dwellings holding a valid certificate issued by the board.

"Certification" means the process by which the board issues a certificate to a person certifying completion of the entry requirements established by this chapter.

"Hour" means 50 minutes.

"Person in the business of selling or renting dwellings" means any person who (i) within the preceding 12 months, has participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein; (ii) within the preceding 12 months, has participated as agent, other than in the sale of his own personal residence, in providing sales or rental facilities or sales or rental services in two or more transactions involving the sale or rental of any dwelling or any interest therein; or (iii) is the owner of any dwelling designed or intended for occupancy by or occupied by, five or more families.

"Provider" means an accredited university, college, community college or high school offering adult distributive education courses, or a school offering fair housing related courses.

"Proprietary school" means (i) a privately owned school, (ii) a real estate professional association or (iii) other entities, not

under the authority of the Department of Education, but approved by the Fair Housing Board to teach fair housing courses.

#### PART II. ENTRY REQUIREMENTS.

#### **18 VAC 62-20-30. Qualifications for certification.**

Every applicant for fair housing certification shall have the following qualifications:

1. The applicant shall complete two hours of fair housing training approved by the board or the Real Estate Board.
2. The applicant shall have taken the two-hour fair housing training within two years of the date of application.
3. If the applicant has in the last five years been found in a court or an administrative body of competent jurisdiction to have violated the Virginia Fair Housing Act, the Fair Housing Laws of any jurisdiction of the United States including without limitation Title VIII of the Civil Rights Act of 1968 (82 Stat. 73), or the Civil Rights Act of 1866 (14 Stat. 27), there being no appeal there from or the time for appeal having elapsed then the applicant shall disclose said violations and complete an additional two hours of training in other applicable federal and state discrimination laws and regulations.

#### **18 VAC 62-20-40. Application fees.**

- A. All applications fees are nonrefundable and the date of actual receipt by the board or its agent is the date that will be used to determine whether it is timely received.
- B. The application fee for certification shall be \$50.

#### PART III. RENEWAL OF CERTIFICATION.

#### **18 VAC 62-20-50. Renewal required.**

Certificates issued under this chapter shall expire two years from the last day of the month in which they were issued, as indicated on the certificate.

#### **18 VAC 62-20-60. Qualification for renewal.**

- A. As a condition of renewal, all certificate holders shall be required to satisfactorily complete two hours of fair housing training approved by the board or the Real Estate Board.
- B. As a condition of renewal, all certificate holders shall have taken the two-hour fair housing training within two years of the date of renewal application.
- C. Each certificate holder desiring to renew the certificate shall return to the board the renewal application form and the appropriate fee as outlined in 18 VAC 62-20-80.
- D. If the certificate holder has in the last two years been found in a court or an administrative body of competent jurisdiction to have violated the Virginia Fair Housing Act, the Fair Housing Laws of any jurisdiction of the United States including without limitation Title VIII of the Civil Rights Act of 1968 (82 Stat. 73), or the Civil Rights Act of 1866 (14 Stat. 27), there being no appeal therefrom or the time for appeal having elapsed then the certificate holder shall disclose said

violations and complete an additional two hours of training in other applicable federal and state discrimination laws and regulations.

### **18 VAC 62-20-70. Procedures for renewal.**

The board will mail a renewal notice to the certificate holder at the last known address. Failure of the certificate holder to receive these notices does not relieve the certificate holder of the obligation to renew.

### **18 VAC 62-20-80. Failure to renew.**

A. If the requirements for renewal of a certificate, including receipt of the fee by the board, are not completed by the certificate holder within 30 days of the expiration date noted on the certificate, a late renewal fee shall be required in addition to the renewal fee.

B. If the requirements for renewal of a certificate, including receipt of the fee by the board, are not completed by the certificate holder within six months of the expiration date noted on the certificate, the certificate holder shall apply as a new applicant.

### **18 VAC 62-20-90. Fees for renewal.**

A. All fees for renewal are nonrefundable, and the date of actual receipt by the board or its agent is the date that will be used to determine whether it is timely received.

B. Renewals are as follows:

Renewal fee	\$50
Late renewal fee	\$50

### **18 VAC 62-20-100. Board discretion to deny renewal.**

The board may deny renewal of a certificate for the same reasons as it may refuse initial certification.

## PART IV. STANDARDS OF CONDUCT.

### **18 VAC 62-20-110. Maintenance of certificates.**

A. A certificate holder shall at all times keep the board informed of his current address. Changes of address shall be reported to the board in writing within 30 calendar days after such change. A physical address is required; a post office box is not acceptable. The board shall not be responsible for the certificate holder's failure to receive notices, communications and correspondence caused by the certificate holder's failure to promptly notify the board of any change of address.

B. A certificate holder shall notify the board in writing of a name change within 30 calendar days of any change in the certificate holder's legal name. Such notification shall be accompanied by a copy of a marriage certificate, divorce decree, court order or other documentation that verifies the name change.

C. Proof of certification shall be accessible in the place of business.

## PART V. EDUCATION.

### **18 VAC 62-20-120. Proprietary school standards, course requirements, instructor requirements.**

A. Every applicant to the board for a proprietary school approval shall submit evidence of financial responsibility to ensure that these schools protect the public health, safety and welfare.

B. Every applicant to the board for approval as an instructor shall have the following qualifications:

1. The applicant shall be a qualified expert in a field related to fair housing who will teach only in the area of his expertise. Each applicant will be required to state his area of expertise and furnish proof of his expertise including, but not limited to, educational transcripts, professional certificates and letters of reference which will verify the applicant's expertise.

2. The applicant shall disclose whether in the last five years he has been found in a court or an administrative body of competent jurisdiction to have violated the Virginia Fair Housing Act, the Fair Housing Laws of any jurisdiction of the United States including without limitation Title VIII of the Civil Rights Act of 1968 (82 Stat. 73), or the Civil Rights Act of 1866 (14 Stat. 27), there being no appeal therefrom or the time for appeal having elapsed.

C. Providers of fair housing courses shall submit all subjects to the board for approval prior to initially offering the course. The board shall approve each course based on the relevance of the subject to fair housing. Those providers that propose to offer courses must submit the course along with any required documentation on an application provided by the board.

D. All instructors shall provide each student with a document that the student may use as proof of course completion. The document shall contain the number of hours completed.

### **18 VAC 62-20-130. School renewal, procedures.**

A. Approval of a proprietary school shall expire two years from the last day of the month in which it was issued, as indicated on the proprietary school approval.

B. The board will mail a renewal notice to the proprietary school at the last known address. Failure of the proprietary school to receive the notice does not relieve the proprietary school of the obligation to renew.

C. If the renewal requirements are not completed within 30 days of the expiration date noted on the proprietary school approval, the proprietary school shall no longer offer board-approved courses.

### **18 VAC 62-20-140. Course renewal, procedures.**

A. Approval of a course shall expire two years from the last day of the month in which it was issued, as indicated on the approval document.

B. The board will mail a renewal notice to the course provider at the last known address. Failure of the course provider to

---

# Emergency Regulations

---

receive the notice does not relieve the course provider of the obligation to renew.

C. If the renewal requirements are not completed within 30 days of the expiration date noted on the course approval, the course shall no longer be offered as a board-approved course.

## **18 VAC 60-20-150. Instructor renewal, procedures.**

A. Approval of an instructor shall expire two years from the last day of the month in which it was issued, as indicated on the approval document.

B. The board will mail a renewal notice to the instructor at the last known address. Failure of the instructor to receive the notice does not relieve the instructor of the obligation to renew.

C. If the requirements for renewal of an approved instructor, including receipt of the fee by the board, are not completed within 30 days of the expiration date on the approval document, a reinstatement fee shall be required. Approval as an instructor may be reinstated for up to one year following the expiration date with payment of the reinstatement fee. After one year, the approval as an instructor shall not be reinstated under any circumstances and the instructor must meet all current requirements and apply as a new applicant.

## **18 VAC 62-20-160. Fees.**

A. The application fee for approval for a proprietary school shall be \$100.

B. The renewal fee for proprietary school approval shall be \$100.

C. The application for approval as an instructor shall be \$100.

D. The renewal fee for an instructor shall be \$100.

E. The reinstatement fee for an instructor shall be \$50.

## **18 VAC 62-20-170. Posting of instructor approval.**

Copies of the instructor approval shall be available at the location where a course is taught.

## **18 VAC 62-20-180. Withdrawal of approval.**

The board may withdraw approval of any proprietary school, approved instructor or course for the following reasons:

1. The proprietary school, instructor or course no longer meets the standards established by the board.
2. Where the instructor has been found to have violated or cooperated with others in violating any provision of Chapter 5.1 (§ 36-96.1 et seq.) of Title 36 of the Code of Virginia, the Fair Housing Laws of any jurisdiction of the United States including without limitation Title VIII of the Civil Rights Act of 1968 (82 Stat. 73), or the Civil Rights Act of 1866 (14 Stat. 27).

/s/ Mark R. Warner  
Governor  
Date: January 6, 2004

<p><b>NOTICE:</b> The forms used in administering 18 VAC 62-20, Fair Housing Board Certification Regulations, are listed and printed below.</p>
---

### FORMS

Fair Housing Board Certification Application, 0232CERT (eff. 1/30/04).

Fair Housing Board, Proprietary School Certification Application, 0232SCHL (eff. 1/30/04).

Fair Housing Board, Fair Housing Course Approval Application, 0232CRS (eff. 1/30/04).

Fair Housing Board, Instructor Application, 0232INST (eff. 1/30/04).



# Emergency Regulations

Commonwealth of Virginia  
Department of Professional and Occupational Regulation  
3600 West Broad Street  
Post Office Box 11066  
Richmond, Virginia 23230-1066  
(804) 367-0307  
[www.dpor.virginia.gov](http://www.dpor.virginia.gov)



Fair Housing Board  
PROPRIETARY SCHOOL CERTIFICATION APPLICATION  
Fee \$100.00

A check or money order payable to the TREASURER OF VIRGINIA, or  
a completed credit card insert must be mailed with your application package.  
**APPLICATION FEES ARE NOT REFUNDABLE.**

1. Name of School \_\_\_\_\_
2. Federal Employer Identification No. 

--	--	--	--	--	--	--	--	--	--

 - \_\_\_\_\_
3. Street Address (PO Box not accepted) \_\_\_\_\_  
City, State, Zip Code \_\_\_\_\_
4. Mailing Address (PO Box accepted) \_\_\_\_\_  
City, State, Zip Code \_\_\_\_\_
5. E-mail Address \_\_\_\_\_  
Address where electronic communication from the Board can be sent (an owner/manager e-mail address is acceptable).
6. Telephone and Facsimile Numbers ( ) - \_\_\_\_\_ ( ) - \_\_\_\_\_  
Telephone Facsimile
7. Type of school (select only **one**)  
 Privately owned school  
 Real estate professional association  
 Other \_\_\_\_\_
8. School owner(s) - enter the name of the proprietor, partnership, association, limited liability company, or corporation \_\_\_\_\_
9. Name & Title of School Contact Person \_\_\_\_\_
10. Method of instruction (select **all** that apply)  
 Classroom  
 Correspondence  
 On-line  
 Other distance learning, describe \_\_\_\_\_
11. I, the undersigned, certify that the foregoing statements and answers are true, and I have not suppressed any information that might affect the Board's decision to approve this application. I certify that the school has complied with all the laws of Virginia related to fair housing school certification under the provisions of Title 54.1, Chapter 23.2 of the *Code of Virginia* and the *Virginia Fair Housing Certification Regulations*.  
Contact Person's Signature \_\_\_\_\_ Date \_\_\_\_\_

**Additional Documentation Required**

- ✓ Evidence of financial responsibility prepared by an independent source
- ✓ School catalog or bulletin

OFFICE USE ONLY	DATE	FEE	CLASS OF FEE	LICENSE NUMBER	ISSUE DATE
			02		

Commonwealth of Virginia  
 Department of Professional and Occupational Regulation  
 3600 West Broad Street  
 Richmond, Virginia 23230-4917  
 (804) 367-0307  
[www.dpor.virginia.gov](http://www.dpor.virginia.gov)



**Fair Housing Board  
 FAIR HOUSING COURSE APPROVAL APPLICATION  
 No Fee Required**

Once approved, a course may not be substantially altered. A substantial alteration is any change that would modify the content or time allocations stated in the course outline or change any of the stated course topics. If a course is altered, the revised/new course must be submitted for approval by the Board. Applicants are required to notify the Board concerning any changes in administrative information.

1. Name of Course Sponsor \_\_\_\_\_
2. Federal Employer Identification Number  -
3. Street Address (PO Box not accepted) \_\_\_\_\_  
 City, State, Zip Code \_\_\_\_\_
4. Mailing Address (PO Box accepted) \_\_\_\_\_  
 City, State, Zip Code \_\_\_\_\_
5. E-mail Address \_\_\_\_\_
6. Telephone & Facsimile Numbers ( ) - ( )  
 Telephone Facsimile
7. Type of Institution
  - Proprietary School
  - Real Estate Professional Association
  - Other \_\_\_\_\_
8. Individual responsible for course administration \_\_\_\_\_
- A. Presentation
  - Classroom
  - Correspondence      **Correspondence and other distance learning courses (non-classroom) must include appropriate testing procedures to verify completion of the course.**
  - On-line
  - Other \_\_\_\_\_
- B. Method of monitoring attendance \_\_\_\_\_
- C. Method of maintaining records \_\_\_\_\_
- D. Proposed education hours: Fair Housing \* \_\_\_\_\_  
\* Must be a minimum of 2 hours and include an update on current cases and administrative decisions under Fair Housing Laws.
9. I, the undersigned, certify that the foregoing statements and answers are true, and I have not suppressed any information that might affect the Board's decision to approve this application.  
 Sponsor Signature \_\_\_\_\_ Date \_\_\_\_\_

Please attach 4 copies of the following information and label according to the number listed below (i.e., label syllabus #1, label advertisement #7):

1. A course syllabus listing the main points of the course
2. Name, address and qualifications of instructors
3. A comprehensive outline.
4. A summary of how the course will benefit the fair housing professional and increase the protection of the general public
5. A copy of course materials either distributed or used in presentation such as handouts, pamphlets and overheads
6. A copy of the certificate of completion
7. A copy of proposed advertisement for the course (if available).

OFFICE USE ONLY	APPROVAL NO.	FAIR HOUSING HOURS	DATE
-----------------------	--------------	--------------------	------



---

# GENERAL NOTICES/ERRATA

---

## DEPARTMENT OF ENVIRONMENTAL QUALITY

### **Total Maximum Daily Loads (TMDLs) to Address Multiple Impairments in the Upper Appomattox River Basin and its Tributaries**

The Department of Environmental Quality (DEQ) and the Department of Conservation and Recreation (DCR) seek written and oral comments from interested persons on the development of Total Maximum Daily Loads (TMDLs) to address multiple impairments in the Upper Appomattox River Basin and its tributaries. The subject stream 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 standards for bacteria, dissolved oxygen and/or exceedance of nutrient. These impairments include: 40.85 miles on the Appomattox River; 5.5 miles on Spring Creek; 5.0 miles on Bush River; 1.54 miles on Sandy River; 7.35 miles on Little Sandy Creek; 4.98 miles on Marrowbone Creek; 9.94 miles on Briery Creek; 850 acres of Briery Lake; 3.82 miles on Horsepen Creek; 9.71 miles on Angola Creek and 9.08 miles on Sayers Creek. These impairments are located in Amelia, Appomattox, Buckingham, Cumberland, and Prince Edward Counties.

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.

The final public meeting on the development of the Upper Appomattox River TMDL will be held on Thursday, March 4, 2004, 7 p.m. in the old Farmville Train Station, located at 510 West 3rd Street in Farmville, Virginia.

The public comment period for this phase of the TMDL development will end on April 5, 2004. A fact sheet on the development of the Upper Appomattox River TMDL is available upon request or can be viewed at the DEQ website at <http://www.deq.state.va.us/tmdl>. Questions or information requests should be addressed to Kelly Wills. Written comments should include the name, address, and telephone number of the person submitting the comments and should be sent to Kelly J. Wills, Department of Environmental Quality, 7705 Timberlake Road, Lynchburg, VA 24502, telephone (434) 582-5120, FAX (434) 582-5125, or e-mail [kjwills@deq.state.va.us](mailto:kjwills@deq.state.va.us).

### **Total Maximum Daily Load (TMDL) for Flat Creek**

The Department of Environmental Quality (DEQ) seeks written and oral comments from interested persons on the development of a Total Maximum Daily Load (TMDL) for Flat Creek. Flat Creek was listed on the 1998 303(d) TMDL Priority List and Report as impaired due to violations of the state's water quality standards for Total Fecal Coliform Bacteria and the General Standard (Benthic). The Flat Creek stream segment is located in Mecklenburg County and flows near South Hill, Virginia. The impaired segment of Flat Creek is 8.95 miles in length, beginning upstream at the South Hill Regional Sewage Treatment Plant discharge and continuing

downstream to the mouth of Flat Creek at its confluence with Lake Gaston.

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.

The final public meeting on the development of the Flat Creek TMDL will be held on Tuesday, March 16, 2004, at 7 p.m. in the R. T. Arnold Library located at 110 E. Danville Street in South Hill, Virginia.

The public comment period for this phase of the TMDL development will end on April 15, 2004. A fact sheet on the development of the Flat Creek TMDL is available upon request or can be viewed at the DEQ website at <http://www.deq.state.va.us/tmdl>. Questions or information requests should be addressed to Kelly Wills. Written comments should include the name, address, and telephone number of the person submitting the comments and should be sent to Kelly J. Wills, Department of Environmental Quality, 7705 Timberlake Road, Lynchburg, VA 24502, telephone (434) 582-5120, FAX (434) 582-5125, or e-mail [kjwills@deq.state.va.us](mailto:kjwills@deq.state.va.us).

### **Total Maximum Daily Load (TMDL) to Address a Bacteria Impairment in the Limestone Branch Watershed**

The Department of Environmental Quality (DEQ) and the Department of Conservation and Recreation (DCR) seek written and oral comments from interested persons on the development of a Total Maximum Daily Load (TMDL) to address a bacteria impairment in the Limestone Branch Watershed. The subject stream segment is identified in Virginia's 2002 303(d) TMDL Priority List and Report as impaired due to violations of the state's water quality standard for fecal coliform bacteria.

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.

The impaired stream segment is located in Loudoun County. The subject stream segment extends approximately 4.75 miles from the headwaters of Limestone Branch west of Raspberry Drive to the confluence of the Branch with the Potomac River north of Whites Ferry Road.

The second of two public meetings on the development of the Limestone Branch bacteria TMDL will be held on Wednesday, March 17 at 7 p.m. at the Lucketts Community Center, located at 42361 Lucketts Road in Leesburg, Virginia.

The public comment period on this final phase of TMDL development will begin on March 17, 2004, and end on April 15, 2004. A fact sheet on the development of the TMDL for the bacteria impairment in the Limestone Branch Watershed is available upon request. Questions or information requests should be addressed to Katherine Bennett. Written comments should include the name, address, and telephone number of

---

## General Notices/Errata

---

the person submitting the comments and should be sent to Ms. Katherine E. Bennett, Department of Environmental Quality, 13901 Crown Court, Woodbridge, VA 22193, telephone (703) 583-3896, FAX (703) 583-3841, or e-mail [kebennett@deq.state.va.us](mailto:kebennett@deq.state.va.us).

### **Total Maximum Daily Load (TMDL) for Long Glade Run and Mossy Creek**

The Department of Environmental Quality (DEQ) seeks written and oral comments from interested persons on the development of a Total Maximum Daily Load (TMDL) for Long Glade Run and Mossy Creek, in Augusta County. These streams are listed on the 1998 303(d) TMDL Priority List and Report as impaired due to violations of the state's water quality standards for bacteria. Mossy Creek is also listed as impaired due to violations of the General Standard (benthic) for aquatic life. The bacteria impairments include 9.65 miles on Mossy Creek and 10.74 miles on Long Glade Run. The benthic impairment includes 9.65 miles on Mossy Creek.

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.

The final public meeting on the development of the Mossy Creek and Long Glade Run TMDLs will be held on Tuesday, March 2, 2004, 7 p.m. at the North River Elementary School located at 3395 Scenic Highway in Mount Solon, Virginia.

A copy of the draft TMDL report addressing the Mossy Creek and Long Glade Run impairments will be available for review on or before March 2, 2004, on the DEQ website at <http://www.deq.state.va.us/tmdl/tmdlirpts.html>. The public comment period for the draft report and the meeting will end on April 2, 2004. Written comments should include the name, address, and telephone number of the person submitting the comments and should be sent to Robert Brent, Department of Environmental Quality, 4411 Early Road, P.O. Box 3000, Harrisonburg, VA 22801, telephone (540) 574-7848, FAX (540) 574-7878, or e-mail [rbrent@deq.state.va.us](mailto:rbrent@deq.state.va.us).

### **Total Maximum Daily Load (TMDL) to Address a Bacteria Impairment in the Piney Run Watershed**

The Department of Environmental Quality (DEQ) and the Department of Conservation and Recreation (DCR) seek written and oral comments from interested persons on the development of a Total Maximum Daily Load (TMDL) to address a bacteria impairment in the Piney Run Watershed. The subject stream segment is 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.

Section 303(d) of the Clean Water Act and § 62.1-44.19:7C 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.

The impaired stream segment is located in Loudoun County. The subject stream segment extends approximately 3.52

miles from the mouth of an unnamed lake near Arnold Lane to the confluence of the Run with the Potomac River west of Route 340.

The second of two public meetings on the development of the Piney Run bacteria TMDL will be held on Thursday, March 18 at 7 p.m. at the Neersville Fire and Rescue building, located at 11762 Harpers Ferry Road in Hillsboro, Virginia.

The public comment period on this final phase of TMDL development will begin on March 18, 2004, and end on April 16, 2004. A fact sheet on the development of the TMDL for the bacteria impairment in the Piney Run Watershed is available upon request. Questions or information requests should be addressed to Katherine Bennett. Written comments should include the name, address, and telephone number of the person submitting the comments and should be sent to Ms. Katherine E. Bennett, Department of Environmental Quality, 13901 Crown Court, Woodbridge, VA 22193, telephone (703) 583-3896, FAX (703) 583-3841, or e-mail [kebennett@deq.state.va.us](mailto:kebennett@deq.state.va.us).

### **Notice of Availability of the Final 2004 305(b)/303(d) Water Quality Assessment Guidance Manual**

The Virginia Department of Environmental Quality (DEQ) released the final 2004 Water Quality Assessment Guidance Manual (DEQ Assessment Guidance) on February 4, 2004. Prior to its final release, both a first draft (August 2003) and revised draft (November 2003) of this guidance were released. It received comments from the public and the United States Environmental Protection Agency (EPA).

Section 62.1-44.19:7 C of the Code of Virginia requires DEQ to develop and publish the procedures used for defining and determining impaired waters and provide for public comment on the procedures. The DEQ Assessment Guidance contains the assessment procedures to be used for the development of Virginia's 2004 § 305(b)/§ 303(d) Integrated (i.e. combined Water Quality Assessment and Impaired Waters) Report. The 2004 Integrated Report is due to the U. S. Environmental Protection Agency (EPA) by April 1, 2004.

A copy of the final DEQ Assessment Guidance is available to download from the DEQ Water Quality Assessment webpage at <http://www.deq.state.va.us/wqa/>. A hard copy can also be requested from Harry Augustine, DEQ Water Quality Assessment Coordinator, using his contact information below.

Collective responses to comments received during the earlier public comment period are also available for download at the URL above. Related correspondence should be addressed to Harry Augustine.

Contact: Harry Augustine, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240-0009, telephone (804) 698-4037, FAX (804) 698-4116, or via e-mail [hhaugustin@deq.state.va.us](mailto:hhaugustin@deq.state.va.us).

## 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 January 29, 2004 and February 4, 2004. The orders may be viewed at the State Lottery Department, 900 E. Main Street, Richmond, Virginia, or at the office of the Registrar of Regulations, 910 Capitol Street, 2nd Floor, Richmond, Virginia.

Director's Order Number Two (04)

Virginia's Instant Game Lottery 578; "Moolah Money," (effective 1/27/04)

Director's Order Number Three (04)

Virginia's Instant Game Lottery 259; "Double Deal," (effective 1/30/04)

Director's Order Number Four (04)

Virginia's Instant Game Lottery 266; "On A Roll," (effective 1/30/04)

Director's Order Number Five (04)

Virginia's Instant Game Lottery 590; "Wild Wild Winnings," (effective 1/30/04)

## STATE WATER CONTROL BOARD

### Proposed Consent Special Order Honeywell International Incorporated

The State Water Control Board proposes to issue a consent special order to Honeywell International Inc. to resolve certain alleged violations of environmental laws and regulations occurring at their facility in Hopewell, Virginia. The proposed order requires corrective action and payment of a civil charge.

On behalf of the State Water Control Board, the Department of Environmental Quality will receive for 30 days from the date of publication of this notice written comments related to the proposed consent special order. Comments should be addressed to Frank Lupini, Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, VA 23060-6295; or sent to the email address of felupini@deq.state.va.us. All comments received by email must include your name, address and phone number. A copy of the order may be obtained in person or by mail from the above office.

### Proposed Consent Special Order Town of Pocahontas Wastewater Treatment Plant

The State Water Control Board proposes to take an enforcement action against the above listed facility. Under the terms of the proposed Special Order, the owner of this facility has agreed to be bound by the terms and conditions of a schedule of compliance contained in the appendix of the order. The requirements contained in the order bring the facility into compliance with state law and protects water quality.

On Behalf of the State Water Control Board, the Department of Environmental Quality will receive comments relating to the special order for 30 days after the date of publication of this notice. Comments should be addressed to Dallas Sizemore, Department of Environmental Quality, Southwest Regional Office, P.O. Box 1688, Abingdon, Virginia 24212 and should refer to the consent special order. Comments can also be sent by e-mail to drsizemore@deq.state.va.us. Anyone wishing to comment must include their name, address and phone number and all comments must be received before the end of the comment period.

The proposed order may be examined at the Department of Environmental Quality, 355 Deadmore Street, Abingdon, VA. A copy of the order may be obtained in person or by mail from the above office.

### Proposed Consent Special Order W. H. M. Corporation

The State Water Control Board (SWCB) proposes to issue a Consent Special Order (CSO) to W. H. M. Corporation regarding settlement of a civil enforcement action related to compliance with the State Storm Water Program. On behalf of the SWCB, the department will consider written comments relating to this settlement for 30 days after the date of publication of this notice. Comments should be addressed to Steven B. Wright, Department of Environmental Quality, West Central Regional Office, 3019 Peters Creek Road, N.W., Roanoke, VA 24019.

The CSO may be examined at the Department during regular business hours. Copies are available from Mr. Wright at the address above or by calling him at (540) 562-6792.

## VIRGINIA CODE COMMISSION

### Notice to State Agencies

**Mailing Address:** Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219, FAX (804) 692-0625.

### Forms for Filing Material for Publication in the Virginia Register of Regulations

All agencies are required to use the appropriate forms when furnishing material for publication in the Virginia Register of Regulations. The forms may be obtained from: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.

**Internet:** Forms and other Virginia Register resources may be printed or downloaded from the Virginia Register web page: <http://register.state.va.us>.

#### FORMS:

NOTICE of INTENDED REGULATORY ACTION-RR01  
NOTICE of COMMENT PERIOD-RR02  
PROPOSED (Transmittal Sheet)-RR03  
FINAL (Transmittal Sheet)-RR04  
EMERGENCY (Transmittal Sheet)-RR05  
NOTICE of MEETING-RR06

---

# General Notices/Errata

---

AGENCY RESPONSE TO LEGISLATIVE OBJECTIONS-RR08  
RESPONSE TO PETITION FOR RULEMAKING-RR13  
FAST-TRACK RULEMAKING ACTION-RR14

## ERRATA

### STATE BOARD OF SOCIAL SERVICES

Titles of Regulations: **22 VAC 40-190. Regulation for Criminal Record Checks for Child Welfare Agencies (REPEAL).**

**22 VAC 40-191. Background Checks for Child Welfare Agencies.**

Publication: 20:11 VA.R. 1178 February 9, 2004.

Correction to Final Regulation:

Page 1178, effective date, the effective date was incorrectly printed as March 10, 2004. The correct effective date as designated by the Department of Social Services is April 1, 2004.

\* \* \* \* \*

Title of Regulation: **9 VAC 25-790. Sewage Collection and Treatment Regulations.**

Publication: 20:9 VA.R. 891 January 12, 2004.

Correction to Final Regulation:

<p><b>EDITOR'S NOTE:</b> In lieu of full text, only a summary of this regulation was published in Volume 20, Issue 9. The following corrections are to the full text, which was published on the <i>Register of Regulations'</i> web site at <a href="http://register.state.va.us/vol20/ISS09/F9V25790full.doc">http://register.state.va.us/vol20/ISS09/F9V25790full.doc</a>.</p>
---

On page 3 in 9 VAC 25-790-10, in the definition of "Point source," line 2, insert a comma after "discrete fissure"

On page 7 in 9 VAC 25-790-30, insert the following subsection:

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

On page 9 in 9 VAC 25-790-40 D 3, line 1, insert "*and welfare*" after "public health"

On page 25 in 9 VAC 25-790-220, line 6, last word, change "use" to "used."

On page 37 in 9 VAC 25-790-320 B 2, in row for "4 inch," second column, change "Allowed" to "Not Allowed"

On page 61 in 9 VAC 25-790-460, Table 3, footnote (3), change "#/Dry" to "#/Day"

---

# CALENDAR OF EVENTS

---

## Symbol Key

- † Indicates entries since last publication of the *Virginia Register*  
♿ Location accessible to persons with disabilities  
☎ Teletype (TTY)/Voice Designation

## NOTICE

Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and the *Virginia Register* deadline may preclude a notice of such cancellation. If you are unable to find a meeting notice for an organization in which you are interested, please check the Commonwealth Calendar at [www.vipnet.org](http://www.vipnet.org) or contact the organization directly.

For additional information on open meetings and public hearings held by the standing committees of the legislature during the interim, please call Legislative Information at (804) 698-1500 or Senate Information and Constituent Services at (804) 698-7410 or (804) 698-7419/TTY☎, or visit the General Assembly web site's Legislative Information System (<http://leg1.state.va.us/lis.htm>) and select "Meetings."

VIRGINIA CODE COMMISSION

## EXECUTIVE

### COMMONWEALTH COUNCIL ON AGING

† **March 4, 2004 - 10 a.m.** -- Open Meeting  
Department for the Aging, 1600 Forest Avenue, Suite 102, Richmond, Virginia.♿ (Interpreter for the deaf provided upon request)

A regular business meeting. Public comments welcome.

**Contact:** Marsha Mucha, Virginia Department for the Aging, 1600 Forest Ave., Suite 102, Richmond, VA 23229, telephone (804) 662-9312.

### BOARD OF AGRICULTURE AND CONSUMER SERVICES

† **March 18, 2004 - 9 a.m.** -- Open Meeting  
Department of Agriculture and Consumer Services, Washington Building, 1100 Bank Street, 2nd Floor Boardroom, Richmond, Virginia♿

A meeting to discuss issues related to Virginia agriculture and consumer services, potentially to include a discussion of certain regulations.

**Contact:** Roy E. Seward, Board Secretary, Department of Agriculture and Consumer Services, 1100 Bank St., Suite 211 Richmond, VA 23219, telephone (804) 786-3538, FAX (804) 371-2945, e-mail [jknight@vdacs.state.va.us](mailto:jknight@vdacs.state.va.us).

### DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

#### Virginia State Apple Board

† **March 9, 2004 - 9:30 a.m.** -- Open Meeting  
Holiday Inn Select, Koger Center, 1021 Koger Center Boulevard, Richmond, Virginia.♿

The board will meet to approve the minutes of the meeting held on January 22, 2004. In addition, the board will review

its financial statement. The board is expected to discuss old business arising from the last meeting and any new business to come before the board. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact Dave Robishaw at least five days before the meeting date so that suitable arrangements can be made.

**Contact:** Dave Robishaw, Secretary, Virginia State Apple Board, 900 Natural Resources Dr., Suite 300, Charlottesville, VA 22903, telephone (434) 984-0573, FAX (434) 984-4156.

#### Virginia Aquaculture Advisory Board

† **February 27, 2004 - 1 p.m.** -- Open Meeting  
Virginia Farm Bureau Federation, 12580 West Creek Parkway, Conference 3-C (Third Floor), Richmond, Virginia♿

The board will meet to discuss issues related to Virginia aquaculture. For directions call 800-768-8323 ext 1155. 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 T. Robins Buck at least five days before the meeting date so that suitable arrangements can be made.

**Contact:** T. Robins Buck, Board Secretary, Department of Agriculture and Consumer Services, 1100 Bank St., 2nd Floor, Richmond, VA 23219, telephone (804) 371-6094, FAX (804) 371-2945.

#### Virginia Bright Flue-Cured Tobacco Board

**March 11, 2004 - 9:30 a.m.** -- Open Meeting  
Sheldon's Restaurant, Business Route 15 and 360, Keysville, Virginia.♿

A meeting to review and consider approval of minutes of the last meeting. In addition, the board's financial statement will be reviewed and the budget for FY04-05 approved. During the meeting, the board will consider funding proposals for research, promotion, and education projects pertaining to

---

## Calendar of Events

---

the Virginia flue-cured tobacco industry. Other business that may come before the board will be considered. 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 D. Stanley Duffer at least five days before the meeting date so that suitable arrangements can be made.

**Contact:** D. Stanley Duffer, Board Secretary, Virginia Bright Flue-Cured Tobacco Board, P.O. Box 129, Halifax, VA 24558, telephone (434) 572-4568, FAX (434) 572-8234.

### Virginia Cotton Board

**March 9, 2004 - 9:30 a.m.** -- Open Meeting  
Tidewater Agriculture Research and Extension Center, 6321 Holland Road, Suffolk, Virginia. 

The board's agenda will include discussions and approval of contractual arrangements with national and regional organizations, reports of programs and projects funded over the past year, hearing of Project Proposal Grant Requests on cotton by VPI&SU, VSU, and other groups for the year 2004-2005. During the meeting financial reports and minutes of the board's last meeting will be heard and approved. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact the person identified in this notice at least five days before the meeting date so that suitable arrangements can be made for any appropriate accommodation.

**Contact:** Gail Moody Milteer, Program Director, Virginia Cotton Board, 1100 Armory Dr., Suite 120, Franklin, VA 23851, telephone (757) 569-1100, FAX (757) 562-6104 or e-mail [gmlteer@vdacs.state.va.us](mailto:gmlteer@vdacs.state.va.us).

### Virginia Sheep Industry Board

**† March 4, 2004 - 10 a.m.** -- Open Meeting  
Virginia Horse Center, 487 Maury River Road, Lexington, Virginia. 

The board is expected to approve the minutes of the January 9, 2004, meeting. In addition, the board will review its financial statement and review and approve its FY 2004-2005. Fiscal year 2004-2005 project proposals will be presented for potential funding. 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 Michael Carpenter at least one day before the meeting date, so that suitable arrangements can be made.

**Contact:** Michael Carpenter, Program Director, Virginia Sheep Industry Board, 116 Reservoir St., Harrisonburg, VA, telephone (540) 434-0779, FAX (540) 434-5607.

### Virginia Soybean Board

**March 11, 2004 - 8 a.m.** -- Open Meeting  
Williamsburg Marriott, 50 Kingsmill Road, Williamsburg, Virginia. 

The board will discuss checkoff revenues resulting from sales of the 2003 soybean crop and approve previous meeting minutes. The board will hear project reports for FY 2003-2004 and project proposals for FY 2004-2005. Funding decisions will be made for the fiscal year beginning July 1, 2004. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact the person identified in this notice at least five days before the meeting date so that suitable arrangements can be made.

**Contact:** Philip T. Hickman, Program Director, Department of Agriculture and Consumer Services, 1100 Bank St., Room 906, Richmond, VA 23219, telephone (804) 371-6157, FAX (804) 371-7786, e-mail [phickman@vdacs.state.va.us](mailto:phickman@vdacs.state.va.us).

### ALCOHOLIC BEVERAGE CONTROL BOARD

**† February 23, 2004 - 9 a.m.** -- Open Meeting  
**† March 8, 2004 - 9 a.m.** -- Open Meeting  
**† March 22, 2004 - 9 a.m.** -- Open Meeting  
Department of Alcoholic Beverage Control, 2901 Hermitage Road, Richmond, Virginia. 

A meeting of the executive staff to receive and discuss reports and activities from staff members. Other matters are not yet determined.

**Contact:** W. Curtis Coleburn, III, Secretary to the Board, Alcoholic Beverage Control Board, 2901 Hermitage Rd., Richmond, VA 23220, telephone (804) 213-4409, FAX (804) 213-4411, (804) 213-4687/TTY , e-mail [wccolen@abc.state.va.us](mailto:wccolen@abc.state.va.us).

### ALZHEIMER'S DISEASE AND RELATED DISORDERS COMMISSION

**March 23, 2004 - 10 a.m.** -- Open Meeting  
Ratcliffe Building, 1602 Rolling Hills Drive, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A business meeting.

**Contact:** Janet L. Honeycutt, Director of Grant Operations, Department for the Aging, 1600 Forest Ave., Suite 102, Richmond, VA 23229, telephone (804) 662-9333, FAX (804) 662-9354, toll-free (800) 554-3402, (804) 662-9333/TTY , e-mail [jlhoneycutt@vdh.state.va.us](mailto:jlhoneycutt@vdh.state.va.us).

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

**March 11, 2004 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Richmond, Virginia. 

A meeting of the full board. 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 this meeting so that suitable arrangements can be made for an appropriate accommodation. The department fully complies with the Americans with Disabilities Act.

**Contact:** Mark N. Courtney, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail [APELSCIDLA@dpor.state.virginia.gov](mailto:APELSCIDLA@dpor.state.virginia.gov).

\*\*\*\*\*

**April 9, 2004** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects intends to amending regulations entitled **18 VAC 10-10, Public Participation Guidelines**. The purpose of the proposed action is to clarify existing public participation guidelines.

Statutory Authority: §§ 2.2-4007 and 54.1-201 of the Code of Virginia.

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

\*\*\*\*\*

**March 11, 2004 - 9 a.m.** -- Public Hearing  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, 4th Floor, Richmond, Virginia. 

**April 9, 2004** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects intends to 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 adjust fees as

necessary in accordance with § 54.1-113 of the Code of Virginia (Callahan Act). Any other changes that may be necessary may also be considered.

Statutory Authority: §§ 54.1-113, 54.1-201, 54.1-404 and 54.1-411 C of the Code of Virginia.

**Contact:** Mark N. Courtney, 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 or e-mail [APELSCIDLA@dpor.virginia.gov](mailto:APELSCIDLA@dpor.virginia.gov).

## **ART AND ARCHITECTURAL REVIEW BOARD**

**March 5, 2004 - 10 a.m.** -- Open Meeting

**April 2, 2004 - 10 a.m.** -- Open Meeting

**May 7, 2004 - 10 a.m.** -- Open Meeting

Science Museum of Virginia, 2500 West Broad Street,  
Richmond, Virginia. 

A monthly meeting to review projects submitted by state agencies.

**Contact:** Richard L. Ford, AIA Chairman, 101 Shockoe Slip, 3rd Floor, Richmond, VA 23219, telephone (804) 648-5040, FAX (804) 225-0329, toll free (804) 786-6152, or e-mail [rford@comarchs.com](mailto:rford@comarchs.com).

## **VIRGINIA BOARD FOR ASBESTOS, LEAD, AND HOME INSPECTORS**

**† May 19, 2004 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupation Regulation, 3600  
West Broad Street, Richmond, Virginia. 

A meeting to conduct board business.

**Contact:** David Dick, Executive Director, Virginia Board for Asbestos, Lead, and Home Inspectors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8507, FAX (804) 367-6128, (804) 367-9753/TTY , e-mail [asbestos@dpor.virginia.gov](mailto:asbestos@dpor.virginia.gov).

\*\*\*\*\*

**April 9, 2004** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Virginia Board for Asbestos, Lead, and Home Inspectors intends to amend regulations entitled **18 VAC 15-10, Public Participation Guidelines**. The purpose of the proposed action is to clarify existing public participation guidelines.

Statutory Authority: §§ 2.2-4007 and 54.1-201 of the Code of Virginia.

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

---

# Calendar of Events

---

## AUCTIONEERS BOARD

**February 23, 2004 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, 4th Floor, Room 453, Richmond,  
Virginia. ☎

A meeting to conduct an informal fact-finding conference.

**Contact:** Marian H. Brooks, Regulatory Board Administrator,  
Auctioneers Board, 3600 W. Broad St., Richmond, VA 23230,  
telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-  
9753/TTY ☎, e-mail Auctioneers@dpor.virginia.gov.

\*\*\*\*\*

**April 9, 2004** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Auctioneers Board intends to amend regulations entitled **18 VAC 25-10, Public Participation Guidelines**. The purpose of the proposed action is to clarify the existing regulation by specifying that the term "agency" refers to the board; clarifying that, in addition to a person, an organization may file a petition for rulemaking; and excepting fast-track rulemaking from the applicability of certain provisions of the public participation guidelines.

Statutory Authority: §§ 2.2-4007 and 54.1-602 of the Code of Virginia.

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

## BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

**March 13, 2004** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Audiology and Speech-Language Pathology intends to amend regulations entitled **18 VAC 30-20, Regulations of the Board of Audiology and Speech-Language Pathology**. The purpose of the proposed action is to increase certain fees related to applications and renewal of licensure and change from a biennial renewal to an annual renewal.

Statutory Authority: §§ 54.1-113 and 54.1-2400 of the Code of Virginia.

Public comments may be submitted until March 13, 2004, to Elizabeth Young, Executive Director, Board of Audiology and Speech-Language Pathology, Alcoa Building, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712.

**Contact:** Elaine J. Yeatts, Agency Regulatory Coordinator, Department of Health Professions, 6603 W. Broad St.,

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

## BOARD FOR BARBERS AND COSMETOLOGY

**March 1, 2004 - 9 a.m.** -- Open Meeting

**March 2, 2004 - 9 a.m.** -- Open Meeting

Department of Professional and Occupational Regulation,  
3600 West Broad Street, 4th Floor, Room 453, Richmond,  
Virginia. ☎

A meeting to conduct an informal fact-finding conference.

**Contact:** William H. Ferguson, II, Assistant Director, Board for Barbers and Cosmetology, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8575, FAX (804) 367-2474, (804) 367-9753/TTY ☎, e-mail barbercosmo@dpor.virginia.gov.

\*\*\*\*\*

**April 9, 2004** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board for Barbers and Cosmetology intends to amend regulations entitled **18 VAC 41-10, Public Participation Guidelines**. The purpose of the proposed action is to clarify the existing regulation by specifying that the term "agency" refers to the board; clarifying that, in addition to a person, an organization may file a petition for rulemaking; and excepting fast-track rulemaking from the applicability of certain provisions of the public participation guidelines.

Statutory Authority: §§ 2.2-4007 and 54.1-201 of the Code of Virginia.

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

† **February 23, 2004 - 9 a.m.** -- Open Meeting

**April 19, 2004 - 9 a.m.** -- Open Meeting

Department of Professional and Occupational Regulation,  
3600 West Broad Street, Richmond, Virginia. ☎

A general business meeting including consideration of regulatory issues as may be presented on the agenda. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Public comment will be heard at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

**Contact:** William H. Ferguson, II, Executive Director, Board for Barbers and Cosmetology, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-

6295, (804) 367-9753/TTY ☎, e-mail  
barberscosmo@dpor.virginia.gov.

## BOARD FOR THE BLIND AND VISION IMPAIRED

**April 13, 2004 - 1 p.m.** -- Open Meeting

Department for the Blind and Vision Impaired, Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting to review information regarding Department for the Blind and Vision Impaired activities and operations, review expenditures from the board endowment fund, and discuss other issues raised for the board members.

**Contact:** Kathy C. Proffitt, Administrative Assistant, Department for the Blind and Vision Impaired, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3145, FAX (804) 371-3157, toll-free (800) 622-2155, (804) 371-3140/TTY ☎, e-mail proffikc@dbvi.state.va.us

## DEPARTMENT FOR THE BLIND AND VISION IMPAIRED

† **March 10, 2004 - 4 p.m.** -- Open Meeting

Department for the Blind and Vision Impaired, 111 Commonwealth Avenue, Bristol, Virginia. ♿ (Interpreter for the deaf provided upon request)

Department for the Blind and Vision Impaired, 11150 Main Street, Suite 502, Fairfax, Virginia. ♿ (Interpreter for the deaf provided upon request)

Department for the Blind and Vision Impaired, 5505 Robin Hood Road, Suite F, Norfolk, Virginia. ♿ (Interpreter for the deaf provided upon request)

Department for the Blind and Vision Impaired, 397 Azalea Avenue, Room I/II, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

Department for the Blind and Vision Impaired, 210 Church Avenue, SW, Suite 308, Roanoke, Virginia. ♿ (Interpreter for the deaf provided upon request)

Department for the Blind and Vision Impaired, 620 East Beverly Street, Staunton, Virginia. ♿ (Interpreter for the deaf provided upon request)

A public meeting to solicit comments from the public regarding the Department for the Blind and Vision Impaired's intent to amend its state plan for vocational rehabilitation (VR) to identify by category the order in which eligible VR clients will be served in the event resources are not available to serve all eligible VR clients.

**Contact:** James G. Taylor, Chief Deputy Commissioner, Department for the Blind and Vision Impaired, 397 Azalea Ave., Richmond, VA, telephone (804) 371-3111, FAX (804) 371-3390, toll-free (800) 622-2155, (804) 371-3140/TTY ☎, e-mail taylorjg@dbvi.state.va.us.

## Statewide Rehabilitation Council for the Blind and Vision Impaired

**March 13, 2004 - 10 a.m.** -- Open Meeting

Department for the Blind and Vision Impaired, Administrative Headquarters, 397 Azalea Avenue, Richmond VA 23227 ♿ (Interpreter for the deaf provided upon request)

A meeting of the council to advise the Department for the Blind and Vision Impaired on matters related to vocational rehabilitation services for the blind and visually impaired citizens of the Commonwealth.

**Contact:** James G. Taylor, Chief Deputy Commissioner, Department for the Blind and Vision Impaired, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3111, FAX (804) 371-3390, toll-free (800) 622-2155, (804) 371-3140/TTY ☎, e-mail taylorjg@dbvi.state.va.us.

## CEMETERY BOARD

**March 10, 2004 - 9 a.m.** -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Room 453, Richmond, Virginia. ♿

A meeting to conduct an informal fact-finding conference.

**Contact:** Karen W. O'Neal, Regulatory Programs Coordinator, Department of Professional and Occupational Regulation, 3600 W. Broad St. Richmond, VA 23230, telephone (804) 367-8537, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail Karen.oneal@dpor.virginia.gov.

\*\*\*\*\*

**April 9, 2004** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Cemetery Board intends to amend regulations entitled **18 VAC 47-10, Public Participation Guidelines**. The purpose of the proposed action is to (i) allow requests to be placed on the board's public participation notification list to be sent via electronic means; (ii) allow regulatory notifications to be sent to list members electronically; and (iii) add language specifying that when electronic notifications are returned as undeliverable over more than one day, the person or organization concerned will be deleted from the list.

Statutory Authority: §§ 2.2-4007 54.1-201 and 54.1-2313 of the Code of Virginia.

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

† **April 21, 2004 - 9 a.m.** -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

A meeting to conduct board business.

---

# Calendar of Events

---

**Contact:** Karen W. O'Neal, Regulatory Programs Coordinator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8537, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail Karen.O'Neal@dpor.virginia.gov.

## CHILD DAY-CARE COUNCIL

**April 9, 2004** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Child Day-Care Council intends to repeal regulations entitled **22 VAC 15-20, General Procedures and Information for Licensure**. The purpose of the proposed action is to repeal the existing regulation that was jointly promulgated with the State Board of Social Services.

Statutory Authority: §§ 63.2-1734 and 63.2-1735 of the Code of Virginia.

**Contact:** Kathryn Thomas, Program Development Consultant, Child Day-Care Council, 7 N. 8th St., Richmond, VA 23219, telephone (804) 726-7158, FAX (804) 726-7132 or e-mail kathryn.thomas@dss.virginia.gov.

## STATE CHILD FATALITY REVIEW TEAM

† **March 12, 2004 - 10 a.m.** -- Open Meeting

† **May 14, 2004 - 10 a.m.** -- Open Meeting

Office of the Chief Medical Examiner, 400 East Jackson Street, Richmond, Virginia. ♿

The business portion of the State Child Fatality Review Team meeting, from 10 a.m. to 10:30 a.m., is open to the public. At the conclusion of the open meeting, the team will go into closed session for confidential case review.

**Contact:** Virginia Powell, Manager, Fatality Review and Surveillance Programs, State Child Fatality Review Team, 400 East Jackson St., Richmond, VA 23219, telephone (804) 786-6047, FAX (804) 371-8595, toll-free (800) 447-1708, e-mail Virginia.Powell@vdh.virginia.gov.

## STATE BOARD FOR COMMUNITY COLLEGES

**March 17, 2004 - 1:30 p.m.** -- Open Meeting

James Monroe Building, 101 North 14th Street, Godwin-Hamel Board Room, 15th Floor, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

† **May 19, 2004 - 1:30 p.m.** -- Open Meeting

Location to be announced.

Committees will meet as follows: Academic and Student Affairs, Audit, and Budget and Finance will meet at 1:30 p.m.; Facilities and Personnel Committees will meet at 3 p.m.

**Contact:** D. Susan Hayden, Director of Public Affairs, State Board for Community Colleges, 101 N. 14th St., 15th Floor, Richmond, VA 23219, telephone (804) 819-4961, FAX (804) 819-4768, (804) 371-8504/TTY ☎

**March 18, 2004 - 8:30 a.m.** -- Open Meeting

James Monroe Building, 101 North 14th Street, Godwin-Hamel Board Room, 15th Floor, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

† **May 20, 2004 - 8:30 a.m.** -- Open Meeting

Location to be announced.

A regular meeting. Public comment may be received at the beginning of the meeting upon notification at least five working days prior to the meeting.

**Contact:** D. Susan Hayden, Director of Public Affairs, State Board for Community Colleges, 101 N. 14th St., 15th Floor, Richmond, VA 23219, telephone (804) 819-4961, FAX (804) 819-4768, (804) 371-8504/TTY ☎

## COMPENSATION BOARD

† **March 26, 2004 - 11 a.m.** -- Open Meeting

Compensation Board, 202 North 9th Street, 10th Floor, Richmond, Virginia. ♿

A monthly board meeting.

**Contact:** Cindy P. Waddell, Compensation Board, P.O. Box 710, Richmond, VA 23218, telephone (804) 786-0786, FAX (804) 371-0235, e-mail cindy.waddell@scb.virginia.gov.

## DEPARTMENT OF CONSERVATION AND RECREATION

**March 16, 2004 - 10 a.m.** -- Open Meeting

† **May 18, 2004 - 10 a.m.** -- Open Meeting

Cedar Crest Conference Center, Twin Lakes State Park, 788 Twin Lakes Road, Green Bay, Virginia. ♿

A meeting of the Twin Lakes State Park Master Plan Advisory Committee to finalize its work on park goals and objectives and purpose statement as well as potential future park development.

**Contact:** Anne L. Reeder, Park Manager, Department of Conservation and Recreation, 788 Twin Lakes Rd., Green Bay, VA 23942, telephone (434) 392-3435, FAX (434) 392-9406, e-mail alreeder@dcr.state.va.us.

**March 30, 2004 - 7 p.m.** -- Open Meeting

Cedar Crest Conference Center, Twin Lakes State Park, 788 Twin Lakes Road, Green Bay, Virginia. ♿

A meeting of the Twin Lakes State Park Master Plan Advisory Committee to review park resource inventory maps, goals and objectives, and the park purpose statement, as well as review recommendations for future developments for the master plan.

**Contact:** Anne L. Reeder, Park Manager, Department of Conservation and Recreation, 788 Twin Lakes Rd., Green Bay, VA 23942, telephone (434) 392-3435, FAX (434) 392-9406, e-mail alreeder@dcr.state.va.us.

**April 20, 2004 - 10 a.m.** -- Open Meeting

Cedar Crest Conference Center, Twin Lakes State Park, 788 Twin Lakes Road, Green Bay, Virginia. ♿

A meeting of the Twin Lakes State Park Master Plan Advisory Committee to review public input and finalize goals, objectives and the park purpose statement, as well as review recommendations for future developments for the master plan.

**Contact:** Anne L. Reeder, Park Manager, Department of Conservation and Recreation, 788 Twin Lakes Rd., Green Bay, VA 23942, telephone (434) 392-3435, FAX (434) 392-9406, e-mail [alreeder@dcr.state.va.us](mailto:alreeder@dcr.state.va.us).

## BOARD FOR CONTRACTORS

**February 24, 2004 - 9 a.m.** -- Open Meeting

**February 26, 2004 - 9 a.m.** -- Open Meeting

† **March 2, 2004 - 2 p.m.** -- Open Meeting

**March 9, 2004 - 9 a.m.** -- Open Meeting

**March 16, 2004 - 9 a.m.** -- Open Meeting

**March 23, 2004 - 9 a.m.** -- Open Meeting

† **March 25, 2004 - 9 a.m.** -- Open Meeting

† **March 30, 2004 - 9 a.m.** -- Open Meeting

† **April 6, 2004 - 9 a.m.** -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

Informal fact-finding conferences. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at (804) 367-0946 at least 10 days prior to the meeting so that suitable arrangements can be made for appropriate accommodations. The department fully complies with the Americans with Disabilities Act.

**Contact:** Eric L. Olson, Executive Director, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2785, FAX (804) 367-2474, (804) 367-9753/TTY , e-mail [contractors@dpor.virginia.gov](mailto:contractors@dpor.virginia.gov).

**March 2, 2004 - 9 a.m.** -- Open Meeting

Departmental of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 

A regular meeting that will address policy and procedural issues, review and render decisions on applications for contractors' licenses, and review and render case decisions on matured complaints against licensees. The meeting is open to the public; however, a portion of the board's business may be conducted in closed session.

**Contact:** Eric L. Olson, Executive Director, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2785, FAX (804) 367-2474, (804) 367-9753/TTY , e-mail [contractors@dpor.virginia.gov](mailto:contractors@dpor.virginia.gov).

\*\*\*\*\*

**April 9, 2004** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 that the Board for Contractors intends to amend regulations entitled **18 VAC 50-10, Public Participation Guidelines**. The purpose of the proposed action is to (i) allow requests

to be placed on the board's public participation notification list to be sent via electronic means; (ii) allow regulatory notifications to be sent to list members electronically; and (iii) add language specifying that when electronic notifications are returned as undeliverable over more than one day, the person or organization concerned will be deleted from the list.

Statutory Authority: §§ 2.2-4007 54.1-1102 of the Code of Virginia.

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

**April 13, 2004 - 9 a.m.** -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 

A meeting to conduct board business.

**Contact:** Eric L. Olson, Executive Director, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2785, FAX (804) 367-2474, (804) 367-9753/TTY , e-mail [contractors@dpor.state.va.us](mailto:contractors@dpor.state.va.us).

**May 5, 2004 - 10 a.m.** -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 

A meeting of the Tradesman and Education Committee to conduct committee business. The department fully complies with the Americans with Disabilities Act.

**Contact:** Eric L. Olson, Executive Director, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2785, FAX (804) 367-2474, (804) 367-9753/TTY , e-mail [contractors@dpor.virginia.gov](mailto:contractors@dpor.virginia.gov).

## BOARD OF CORRECTIONS

**March 16, 2004 - 10 a.m.** -- Open Meeting

Department of Corrections, 6900 Atmore Drive, 3rd Floor Board Room, Richmond, Virginia. 

The following committees will meet:

Liaison - 10 a.m.

Correctional Services/Policy and Regulations Committee - 1 p.m.

**Contact:** Barbara Woodhouse, Administrative Staff Assistant, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3124, FAX (804) 674-3236, e-mail [woodhousebl@vadoc.state.va.us](mailto:woodhousebl@vadoc.state.va.us).

**March 17, 2004 - 9:30 a.m.** -- Open Meeting

Department of Corrections, 6900 Atmore Drive, 3rd Floor Board Room, Richmond, Virginia. 

A meeting of the Administration Committee to discuss administrative matters to be considered by the board.

**Contact:** Barbara Woodhouse, Administrative Staff Assistant, Department of Corrections, 6900 Atmore Dr., Richmond, VA

---

## Calendar of Events

---

23225, telephone (804) 674-3124, FAX (804) 674-3236, e-mail woodhousebl@vadoc.state.va.us.

**March 17, 2004 - 10 a.m.** -- Open Meeting  
Department of Corrections, 6900 Atmore Drive, 3rd Floor Board Room, Richmond, Virginia. ♿

A meeting to review and discuss all matters earlier considered by board committees that now require presentation to and action by the full board.

**Contact:** Barbara Woodhouse, Administrative Staff Assistant, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3124, FAX (804) 674-3236, e-mail woodhousebl@vadoc.state.va.us.

### BOARD OF COUNSELING

NOTE: CHANGE IN MEETING DATE AND LOCATION

**February 26, 2004 - 10 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 4, Richmond, Virginia. ♿

A meeting of the Credential Review Committee to review applicants' files.

**Contact:** Evelyn B. Brown, Executive Director, Board of Counseling, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9912, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail evelyn.brown@dhp.state.va.us.

**February 26, 2004 - 1 p.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia. ♿

A meeting of the Regulatory Committee to review proposed language for a guidance document on Confidential Consent Agreements.

**Contact:** Benjamin Foster, Deputy Executive Director, Board of Counseling, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9912, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail Benjamin.foster@dhp.state.va.us.

NOTE: CHANGE IN MEETING DATE AND LOCATION

**February 27, 2004 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 2, Richmond, Virginia. ♿

A meeting of the Executive Board to preview the board meeting agenda. There will be no public comment.

**Contact:** Evelyn B. Brown, Executive Director, Board of Counseling, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9912, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail evelyn.brown@dhp.state.va.us.

**February 27, 2004 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 2, Richmond, Virginia. ♿

A regular board meeting and formal conferences to determine if there have been any violations of the regulations that govern the Board of Counseling.

**Contact:** Evelyn B. Brown, Executive Director, Board of Counseling, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9912, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail evelyn.brown@dhp.state.va.us.

**February 27, 2004 - 11 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 2, Richmond, Virginia. ♿

A formal hearing.

**Contact:** Evelyn B. Brown, Executive Director, Board of Counseling, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9912, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail evelyn.brown@dhp.state.va.us.

\* \* \* \* \*

**February 27, 2004** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Counseling intends to amend regulations entitled **18 VAC 115-20, Regulations Governing the Practice of Professional Counseling, 18 VAC 115-50, Regulations Governing the Practice of Marriage and Family Therapy, and 18 VAC 115-60, Regulations Governing the Practice of Licensed Substance Abuse Treatment Practitioners.** The purpose of the proposed action is to comply with a statutory mandate to require continuing education. The board is proposing a requirement of 20 hours per year and a provision for an inactive licensure status to accommodate individuals who are not actively practicing and who may be unable to meet the continuing competency requirements.

Statutory Authority: §§ 54.1-103, 54.1-2400 and 54.1-3505.1 of the Code of Virginia.

Public comments may be submitted until February 27, 2004, to Evelyn B. Brown, Executive Director, Board of Counseling, 6603 West Broad Street, 6th Floor, Richmond, VA 23230.

**Contact:** Elaine J. Yeatts, Agency Regulatory Coordinator, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.state.va.us.

### CRIMINAL JUSTICES SERVICES BOARD

† **May 13, 2004** - Public Hearing  
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia.

† **April 23, 2004** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Criminal Justice Services Board intends to adopt regulations entitled **6 VAC 2-210, Regulations for the Implementation of the Law Permitting DNA Analysis Upon Arrest for All Violent Felonies and Certain Burglaries.** The purpose of the

proposed action is to comply with the §§ 19.2-310.2:1 and 19.2-310.3:1 of the Code of Virginia, effective January 1, 2003, permitting DNA analysis upon arrest for all violent felonies and certain burglaries.

Statutory Authority: §§ 19.2-310.2:1 and 19.2-310.3:1 of the Code of Virginia.

**Contact:** Katya Newton, Counsel for Division of Forensic Science, Department of Criminal Justice Services, 700 N. 5th St., Richmond, VA, telephone (804) 786-6848, FAX (804) 786-6857 or e-mail [knewton@dfs.state.va.us](mailto:knewton@dfs.state.va.us).

## BOARD OF DENTISTRY

**February 27, 2004 - 12:30 p.m.** -- Open Meeting

**March 5, 2004 - 9 a.m.** -- Open Meeting

† **March 12, 2004 - 9 a.m.** -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia.

A Special Conference Committee will convene to hold informal conferences. There will not be a public comment period.

**Contact:** Cheri Emma-Leigh, Operations Manager, Board of Dentistry, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-9906, FAX (804) 662-7246, (804) 662-7197/TTY ☎, e-mail [Cheri.Emma-Leigh@dhp.state.va.us](mailto:Cheri.Emma-Leigh@dhp.state.va.us).

\*\*\*\*\*

**February 27, 2004** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Dentistry intends to amend regulations entitled **18 VAC 60-20, Regulations Governing the Practice of Dentistry and Dental Hygiene**. The purpose of the proposed action is to update certain requirements and terminology, to clarify the board's requirements, especially related to dental education, to eliminate a jurisprudence examination and add requirements for additional training for applicants who have had multiple examination failures. Amendments also modify educational, monitoring and equipment requirements for administration of various forms of analgesia, sedation and anesthesia as minimally necessary to ensure public safety.

Statutory Authority: § 54.1-2400 and Chapter 27 (§ 54.1-2700 et seq.) of Title 54.1 of the Code of Virginia.

Public comments may be submitted until February 27, 2004, to Sandra Reen, Executive Director, Board of Dentistry, 6603 West Broad Street, 6th Floor, Richmond, VA 23230.

**Contact:** Elaine J. Yeatts, Agency Regulatory Coordinator, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail [elaine.yeatts@dhp.state.va.us](mailto:elaine.yeatts@dhp.state.va.us).

† **March 5, 2004 - 8:30 a.m.** -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. ♿

A formal hearing. There will not be a public comment period.

**Contact:** Cheri Emma-Leigh, Operations Manager, Board of Dentistry, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-9906, FAX (804) 662-7246, (804) 662-7197/TTY ☎, e-mail [Cheri.Emma-Leigh@dhp.state.va.us](mailto:Cheri.Emma-Leigh@dhp.state.va.us).

\*\*\*\*\*

**March 13, 2004** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Dentistry intends to amend regulations entitled **18 VAC 60-20, Regulations Governing the Practice of Dentistry and Dental Hygiene**. The purpose of the proposed action is to limit the number of continuing education hours that may be obtained through home study to five hours out of a requirement of 15 hours per year.

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

Public comments may be submitted until March 13, 2004, to Sandra Reen, Executive Director, Board of Dentistry, 6603 West Broad Street, 6th Floor, Richmond, VA 23230.

**Contact:** Elaine J. Yeatts, Agency Regulatory Coordinator, Department of Health Professions, 6603 W. Broad St., Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail [elaine.yeatts@dhp.state.va.us](mailto:elaine.yeatts@dhp.state.va.us).

## DESIGN-BUILD/CONSTRUCTION MANAGEMENT REVIEW BOARD

**March 18, 2004 - 11 a.m.** -- Open Meeting

**April 15, 2004 - 11 a.m.** -- Open Meeting

† **May 20, 2004 - 11 a.m.** -- Open Meeting

Department of General Services, Eighth Street Office Building, 3rd Floor, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A monthly meeting to review requests submitted by localities to use design-build or construction management type contracts. Contact Division of Engineering and Building to confirm meeting.

**Contact:** Rhonda M. Bishton, Administrative Assistant, Department of General Services, 805 E. Broad Street, Room 101, Richmond, VA 23219, telephone (804) 786-3263, FAX (804) 371-7934, (804) 786-6152/☎, or e-mail [rbishton@dgs.state.va.us](mailto:rbishton@dgs.state.va.us).

## BOARD OF EDUCATION

**February 25, 2004 - 9 a.m.** -- Open Meeting

James Monroe Building, 101 North 14th Street, Conference Rooms C and D, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

**March 24, 2004 - 9 a.m.** -- Open Meeting

**April 28, 2004 - 9 a.m.** -- Open Meeting

**April 29, 2004 - 9 a.m.** -- Open Meeting

---

# Calendar of Events

---

General Assembly Building, 9th and Broad Streets, Senate Room B, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular business meeting of the board. The public is urged to confirm arrangements prior to each meeting by viewing the Department of Education's public meeting calendar at <http://www.pen.k12.va.us/VDOE/meetings.html>. This site will contain the latest information on the meeting arrangements and will note any last-minute changes in time or location. Persons who wish to speak or who require the services of an interpreter for the deaf should contact the agency at least 72 hours in advance. Public comment will be received.

**Contact:** Dr. Margaret N. Roberts, Office of Policy and Public Affairs, Department of Education, P.O. Box 2120, James Monroe Bldg., 101 N. 14th St., 25th Floor, Richmond, VA 23219, telephone (804) 225-2540, FAX (804) 225-2524, e-mail [mroberts@mail.vak12ed.edu](mailto:mroberts@mail.vak12ed.edu).

## DEPARTMENT OF EDUCATION

**April 1, 2004 - 8:30 a.m.** -- Open Meeting

**April 2, 2004 - 8:30 a.m.** -- Open Meeting

Radisson Hotel Historic Richmond, 301 West Franklin Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting of the State Special Education Advisory Committee. The public is urged to confirm arrangements prior to each meeting by viewing the Department of Education's public meeting calendar at <http://www.pen.k12.va.us/VDOE/meetings.html>. This site will contain the latest information on the meeting arrangements and will note any last-minute changes in time or location. Please note that persons requesting the services of an interpreter for the deaf are asked to do so at least 72 hours in advance so that the appropriate arrangements may be made.

**Contact:** Dr. Margaret N. Roberts, Office of Policy and Public Affairs, Department of Education, P.O. Box 2120, 101 N. 14th St., 25th Floor, Richmond, VA 23219, telephone (804) 225-2540, FAX (804) 225-2524, e-mail [mroberts@mail.vak12ed.edu](mailto:mroberts@mail.vak12ed.edu).

## Advisory Board on Teacher Education and Licensure

**March 15, 2004 - 9 a.m.** -- Open Meeting

**April 19, 2004 - 9 a.m.** -- Open Meeting

Sheraton Richmond West, 6624 West Broad Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular meeting. The public is urged to confirm arrangements prior to each meeting by viewing the Department of Education's public meeting calendar at <http://www.pen.k12.va.us/VDOE/meetings.html>. This site will contain the latest information on the meeting arrangements and will note any last minute changes in time or location. Persons requesting the services of an

interpreter for the deaf are asked to do so at least 72 hours in advance so that the appropriate arrangements may be made.

**Contact:** Dr. Margaret N. Roberts, Office of Policy and Public Affairs, Department of Education, P.O. Box 2120, 101 N. 14th St., 25th Floor, Richmond, VA 23219, telephone (804) 225-2540, FAX (804) 225-2524, e-mail [mroberts@mail.vak12ed.edu](mailto:mroberts@mail.vak12ed.edu).

## LOCAL EMERGENCY PLANNING COMMITTEE - ROANOKE VALLEY

**† April 28, 2004 - 9 a.m.** -- Open Meeting  
American Red Cross, 352 Church Avenue, SW, Roanoke, Virginia.

A quarterly meeting to provide information on training and development. For additional information contact Jeb Wallace, ITT Industries Night Vision, telephone (540) 362-7371.

**Contact:** Jeb Wallace, ITT Industries Night Vision, 7635 Plantation Road, Roanoke, VA 24019, telephone (540) 362-7371, FAX (540) 362-5408.

## LOCAL EMERGENCY PLANNING COMMITTEE - WINCHESTER

**† March 3, 2004 - 3 p.m.** -- Open Meeting  
Timbrook Public Safety Center, 231 East Piccadilly Street, Winchester, Virginia.

A meeting for continuation of establishing CERT.

**Contact:** L.A. Miller, Fire and Rescue Chief, Winchester Fire and Rescue Department, 231 E. Piccadilly St., Suite 330, Winchester, VA 22601, telephone (540) 662-2298 or (540) 662-4131/TTY

## DEPARTMENT OF EMPLOYMENT DISPUTE RESOLUTION

**March 24, 2004 - 10 a.m.** -- Open Meeting  
Washington Building, 1100 Bank Street, Room 204, Richmond, Virginia.

A quarterly meeting of the VADRA Council.

**Contact:** Claudia Farr, Director, Department of Employment Dispute Resolution, 830 E. Main St., Suite 400, Richmond, VA 23219, telephone (804) 786-7994, e-mail [vadra@edr.virginia.gov](mailto:vadra@edr.virginia.gov).

## DEPARTMENT OF ENVIRONMENTAL QUALITY

**† February 23, 2004 - 7 p.m.** -- Public Hearing  
West Point Branch Library, 721 Main Street, West Point, Virginia.

A public hearing to receive comments on the draft permit amendment for the new King William County Landfill Permit

#505 to incorporate a groundwater monitoring plan. The public comment period closes on March 10, 2004.

**Contact:** Larry Syverson, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4271, e-mail [lwsyverson@deq.state.va.us](mailto:lwsyverson@deq.state.va.us).

**February 23, 2004 - 7 p.m.** -- Open Meeting  
Mary Bethune Office Complex, 1030 Cowford Road, Public Meeting Room 101, Halifax, Virginia. 

The final public meeting on the development of the fecal coliform TMDL for a 4.83-mile segment of Birch Creek located in Halifax County. The public notice will appear in the Virginia Register on February 9, 2004, and the comment period closes on March 25, 2004.

**Contact:** Kelly J. Wills, Department of Environmental Quality, 7705 Timberlake Rd., Lynchburg, VA 24502, telephone (434) 582-5120, FAX (434) 582-5125, e-mail [kjwills@deq.state.va.us](mailto:kjwills@deq.state.va.us).

**February 24, 2004 - 7 p.m.** -- Open Meeting  
Brookneal Community Center, 261 Main Street, Auditorium, Brookneal, Virginia. 

The final public meeting on the bacteria TMDL for two Falling River impaired segments located in Campbell County. The public notice was published in the Virginia Register on February 9, 2004, and the public comment period closes on March 26, 2004.

**Contact:** Kelly J. Wills, Department of Environmental Quality, 7705 Timberlake Rd., Lynchburg, VA 24502, telephone (434) 582-5120, FAX (434) 582-5125, e-mail [kjwills@deq.state.va.us](mailto:kjwills@deq.state.va.us).

**† February 25, 2004 - 7 p.m.** -- Public Hearing  
Essex Public Library, 117 North Church Lane, Tappahannock, Virginia.

A public hearing to receive comment on the draft permit amendment for the Essex County Landfill Permit #167 to incorporate a groundwater monitoring plan. The public comment period closes on March 11, 2004.

**Contact:** Larry Syverson, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4271, e-mail [lwsyverson@deq.state.va.us](mailto:lwsyverson@deq.state.va.us).

**March 2, 2004 - 7 p.m.** -- Open Meeting  
Blackstone Town Council Chambers, 100 West Elm Street, Blackstone, Virginia. 

The final public meeting on the development of a benthic TMDL for a 1.12-mile segment of an unnamed tributary of Hurricane Branch located in Nottoway County. The public notice was published in the Virginia Register on February 9, 2004, and the comment period closes on April 5, 2004.

**Contact:** Kelly J. Wills, Department of Environmental Quality, 7705 Timberlake Rd., Lynchburg, VA 24502, telephone (434) 582-5120, FAX (434) 582-5125, e-mail [kjwills@deq.state.va.us](mailto:kjwills@deq.state.va.us).

**† March 2, 2004 - 7 p.m.** -- Open Meeting  
North River Elementary School, 3395 Scenic Highway, Mount Solon, Virginia. 

The final public meeting on the development of bacteria TMDLs for Mossy Creek and Long Glade Run in Augusta County. The public notice was published in the Virginia Register of Regulations on February 23 and the public comment period closes on April 2, 2004.

**Contact:** Robert Brent, Department of Environmental Quality, 4411 Early Rd., Harrisonburg, VA 22801, telephone (540) 574-7848, FAX (540) 574-7878, e-mail [rbrent@deq.state.va.us](mailto:rbrent@deq.state.va.us).

**March 3, 2004 - 7 p.m.** -- Open Meeting  
Charlotte County Administration Building, 250 LeGrande Avenue, Suite A, Charlotte Court House, Virginia. 

The final public meeting on the development of a benthic TMDL for a 7.25-mile segment of Twitty's Creek located in Charlotte County. The public notice was published in the Virginia Register on February 9, 2004, and the comment period closes on April 5, 2004.

**Contact:** Kelly J. Wills, Department of Environmental Quality, 7705 Timberlake Rd., Lynchburg, VA 24502, telephone (434) 582-5120, FAX (434) 582-5125, e-mail [kjwills@deq.state.va.us](mailto:kjwills@deq.state.va.us).

**† March 4, 2004 - 7 p.m.** -- Open Meeting  
Old Farmville Train Station, 510 West 3rd Street, Farmville, Virginia. 

The final public meeting on the development of TMDLs to address multiple impairments in the Upper Appomattox River Basin and its tributaries. The public notice was published in the Virginia Register on February 23 and the public comment period closes on April 5, 2004.

**Contact:** Kelly J. Wills, Department of Environmental Quality, 7705 Timberlake Rd., Lynchburg, VA 24502, telephone (434) 582-5120, FAX (434) 582-5125, e-mail [kjwills@deq.state.va.us](mailto:kjwills@deq.state.va.us).

**† March 9, 2004 - 7 p.m.** -- Open Meeting  
Emerald Hill Elementary School, 11245 Rixeyville Road, Culpeper, Virginia. 

The third public meeting on the development of a bacteria TMDL for Muddy Run Watershed. The public notice was published in the Virginia Register on February 9 and the public comment period closes on April 7, 2004.

**Contact:** Katherine Bennett, Department of Environmental Quality, 13901 Crown Court, Woodbridge, VA 22193, telephone (703) 583-3896, FAX (703) 583-3841, e-mail [kebennett@deq.state.va.us](mailto:kebennett@deq.state.va.us).

**† March 10, 2004 - 7 p.m.** -- Open Meeting  
Mary Walter Elementary School, 4529 Morrisville Road, Bealeton, Virginia. 

The third public meeting on the development of a bacteria TMDL for Deep Run Watershed located in Stafford and Fauquier Counties. The public notice was published in the

---

## Calendar of Events

---

Virginia Register on February 9 and the public comment period closes on April 8, 2004.

**Contact:** Katherine Bennett, Department of Environmental Quality, 13901 Crown Court, Woodbridge, VA 22193, telephone (703) 583-3896, FAX (703) 583-3841, e-mail kebenett@deq.state.va.us.

† **March 11, 2004 - 7 p.m.** -- Open Meeting  
Town of Chesterfield Police Department, 10031 Iron Bridge Road, Public Meeting Room, Chesterfield, Virginia. ♿

The third public meeting on the development of TMDLs for bacteria, benthics, dissolved oxygen and/or pH for the Lower Appomattox River Basin and its tributaries. The public notice was published in the Virginia Register on February 9 and the public comment period closes on April 10, 2004.

**Contact:** Chris French, Department of Environmental Quality, 4949-A Cox Rd., Richmond, VA 23240, telephone (804) 527-5224, FAX (804) 527-5106, e-mail rcfrench@deq.state.va.us.

† **March 16, 2004 - 7 p.m.** -- Open Meeting  
Lucketts Community Center, 42361 Lucketts Road, Leesburg, Virginia. ♿

The second of two public meetings on the development of a bacteria TMDL for an approximately 4.75-mile segment of Limestone Branch located in Loudoun County. The public notice was published in the Virginia Register of Regulations on February 23 and the public comment period closes on April 14, 2004.

**Contact:** Katherine Bennett, Department of Environmental Quality, 13901 Crown Court, Woodbridge, VA 22193, telephone (703) 583-3896, FAX (703) 583-3841, e-mail kebenett@deq.state.va.us.

† **March 17, 2004 - 7 p.m.** -- Open Meeting  
R. T. Arnold Library, 110 East Danville Street, South Hill, Virginia. ♿

The final public meeting on the development of the Flat Creek bacteria and benthics TMDLs for a 8.95-mile segment in Mecklenburg County. The public notice was published in the Virginia Register of Regulations on February 23 and the comment period closes on April 15, 2004.

**Contact:** Kelly J. Wills, Department of Environmental Quality, 7705 Timberlake Rd., Lynchburg, VA 24502, telephone (434) 582-5120, FAX (434) 582-5125, e-mail kjwills@deq.state.va.us.

† **March 18, 2004 - 7 p.m.** -- Open Meeting  
Neersville Fire and Rescue Building, 11762 Harpers Ferry Road, Hillsboro, Virginia. ♿

The second of two public meetings on the development of a bacteria TMDL for an approximately 3.52-mile segment in the Piney Run Watershed located in Loudoun County. The public notice was published in the Virginia Register of Regulations on February 23, 2004 and the public comment period closes on March 18, 2004.

**Contact:** Katherine Bennett, Department of Environmental Quality, 13901 Crown Court, Woodbridge, VA 22193, telephone (703) 583-3896, FAX (703) 583-3841, e-mail kebenett@deq.state.va.us.

### Litter Control and Recycling Fund Advisory Board

† **March 17, 2004 - 10:30 a.m.** -- Open Meeting  
Department of Environmental Quality, 629 East Main Street, Richmond, Virginia. ♿

A regular meeting.

**Contact:** G. Steven Coe, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4029, FAX (804) 698-4224, e-mail gscoe@deq.state.va.us.

### Virginia Recycling Markets Development Council

† **March 25, 2004 - 10:30 a.m.** -- Open Meeting  
Henrico Training Center, Shrader and Parham Roads, Glen Allen, Virginia. ♿

A regular meeting.

**Contact:** G. Steven Coe, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4029, FAX (804) 698-4224, e-mail gscoe@deq.state.va.us.

### Small Business Environmental Compliance Advisory Board

† **March 10, 2004 - 10 a.m.** -- Open Meeting  
Location to be announced. ♿

A regular meeting.

**Contact:** Richard G. Rasmussen, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4394, FAX (804) 698-4264, e-mail rgrasmusse@deq.state.va.us.

### VIRGINIA FIRE SERVICES BOARD

**February 26, 2004 - 1 p.m.** -- Open Meeting  
Pavilion Conference Center, 1900 Pavilion Drive, Virginia Beach, Virginia. ♿ (Interpreter for the deaf provided upon request)

Committee on Fire Education and Training at 1 p.m.;  
Committee on Fire Prevention and Control at 2:30 p.m.  
Combined meeting: Committee on Finance and Committee on Administration and Policy at 3:30 p.m. VFSB Members will attend a reception hosted by the Virginia Fire Chiefs Executive Committee on the evening of Thursday, February 26, 2004, from 5 p.m. until 7 p.m. No official business will be discussed during this reception.

**Contact:** Jennifer Cole, VFSB Clerk, Virginia Fire Services Board, 101 N. 14th St., 18th Floor, Richmond, VA 23219, telephone (804) 371-0220, FAX (804) 371-0219, e-mail jcole@vdfp.state.va.us.

**February 27, 2004 - 9 a.m.** -- Open Meeting  
Pavilion Conference Center, 1900 Pavilion Drive, Virginia Beach, Virginia.  (Interpreter for the deaf provided upon request)

This meeting will be held in conjunction with the Virginia Fire Chiefs Association Mid-Atlantic Expo and Symposium. During the Expo VFSB members will be attending training classes and events, but no official public business will be discussed. A schedule of events can be found on the Virginia Fire Chiefs Association web site [www.sfcav.org](http://www.sfcav.org). The Expo will run from February 26 through February 29, 2004.

**Contact:** Jennifer Cole, VFSB Clerk, Virginia Fire Services Board, 101 N. 14th St., 18th Floor, Richmond, VA 23219, telephone (804) 371-0220, FAX (804) 371-0219, e-mail [jcole@vdfp.state.va.us](mailto:jcole@vdfp.state.va.us).

## BOARD OF FUNERAL DIRECTORS AND EMBALMERS

† **February 25, 2004 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 

A meeting to hear possible violations of the laws and regulations governing the practice of funeral service.

**Contact:** Elizabeth Young, Executive Director, Board of Funeral Directors and Embalmers, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9907, FAX (804) 662-9523, (804) 662-7197/TTY , e-mail [elizabeth.young@dhp.state.va.us](mailto:elizabeth.young@dhp.state.va.us).

† **March 9, 2004 - 9 a.m.** -- Open Meeting  
Department of Health, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 

A quarterly business meeting to include regulatory and disciplinary matters as may be presented on the agenda. Public comment will be received at the beginning of the meeting.

**Contact:** Elizabeth Young, Executive Director, Board of Funeral Directors and Embalmers, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9907, FAX (804) 662-9523, (804) 662-7197/TTY , e-mail [elizabeth.young@dhp.state.va.us](mailto:elizabeth.young@dhp.state.va.us).

† **March 9, 2004 - 1 p.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 

A meeting to hear possible violations of the laws and regulations governing the practice of funeral service.

**Contact:** Elizabeth Young, Executive Director, Board of Funeral Directors and Embalmers, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9907, FAX (804) 662-9523, (804) 662-7197/TTY , e-mail [elizabeth.young@dhp.state.va.us](mailto:elizabeth.young@dhp.state.va.us).

## BOARD OF GAME AND INLAND FISHERIES

† **March 25, 2004 - 9 a.m.** -- Open Meeting  
Department of Game and Inland Fisheries, 4000 West Broad Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting to discuss the staff's recommendations for changes to the process and schedule for amending regulations in the next biennial regulation reviews; and will discuss general and administrative issues. The board may hold a closed session at some time during the meeting; and may elect to hold a dinner Wednesday evening, March 24, 2004, at a location and time to be determined.

**Contact:** Phil Smith, Policy Analyst, Department of Game and Inland Fisheries, 4016 W. Broad St., Richmond VA 23230, telephone (804) 367-8341, FAX (804) 367-0488, e-mail [dgifregs@dgif.state.va.us](mailto:dgifregs@dgif.state.va.us).

## DEPARTMENT OF GENERAL SERVICES

**March 23, 2004 - 10:30 a.m.** -- Public Hearing  
Department of Environmental Quality, Southwest Regional Office, 355 Deadmore Street, Abington, Virginia.

**March 24, 2004 - 10:30 a.m.** -- Public Hearing  
Department of Environmental Quality, West Central Regional Office, 3019 Peters Creek Road, Roanoke, Virginia.

**March 30, 2004 - 11:30 a.m.** -- Public Hearing  
City Center, 700 Town Center Drive, James Room, Newport News, Virginia.

**March 31, 2004 - 11 a.m.** -- Public Hearing  
Department of General Services, Division of Consolidated Laboratory Services, 600 North 5th Street, Richmond, Virginia.

**April 1, 2004 - 11:30 a.m.** -- Public Hearing  
Department of Environmental Quality, Northern Virginia Regional Office, 13901 Crown Court, Woodbridge, Virginia.

**April 9, 2004** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of General Services' Division of Consolidated Laboratory Services intends to adopt regulations entitled **1 VAC 30-45, Certification for Noncommercial Environmental Laboratories**, and **1 VAC 30-46, Certification for Commercial Environmental Laboratories**. The purpose of the proposed action is to establish a program to certify environmental laboratories that submit data to the Department of Environmental Quality under Virginia's air, waste and water laws and regulations. Section 2.2-1105 of the Code of Virginia requires the Division of Consolidated Laboratory Services to establish and carry out the program to ensure that environmental laboratories provide accurate and consistent tests, analyses, measurements and monitoring.

Statutory Authority: § 2.2-1105 of the Code of Virginia.

**Contact:** Nancy S. Saylor, Consultant to the Division of Consolidated Laboratory Services, 600 N. 5th St., Richmond,

---

# Calendar of Events

---

VA 23219, telephone (804) 231-7980, FAX (804) 231-7980 or e-mail [nssaylor@erols.com](mailto:nssaylor@erols.com).

## BOARD FOR GEOLOGY

**April 9, 2004** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 that the Board for Geology intends to amend regulations entitled **18 VAC 70-10, Public Participation Guidelines**. The purpose of the proposed action is to (i) allow that requests placed on the board's public participation notification list be sent via electronic means; (ii) allow regulatory notifications to be sent to list members electronically; and (iii) add language specifying that when electronic notifications are returned as undeliverable over more than one day, the person or organization concerned will be deleted from the list.

Statutory Authority: §§ 2.2-4007 and 54.1-1402 of the Code of Virginia.

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

**April 20, 2004 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 

A meeting to conduct board business.

**Contact:** David E. Dick, Executive Director, Board for Geology, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8507, FAX (804) 367-6128, (804) 367-9753/TTY , e-mail [david.dick@dpor.virginia.gov](mailto:david.dick@dpor.virginia.gov).

## GEORGE MASON UNIVERSITY

**March 24, 2004 - 9 a.m.** -- Open Meeting  
George Mason University, Mason Hall, Fairfax, Virginia. 

A meeting of the Board of Visitors. The agenda will be published 10 days prior to the meeting.

**Contact:** Mary Roper, Secretary, pro tem, George Mason University, MSN 3A1, 4400 University Dr., Fairfax, VA 22030, telephone (703) 993-8703, (703) 993-8707/TTY , e-mail [mroper@gmu.edu](mailto:mroper@gmu.edu).

## STATE BOARD OF HEALTH

**† April 26, 2004** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Health intends to repeal regulations entitled **12 VAC 5-210, Charges and Payment Requirements by Income Levels**, and amend regulations entitled **12 VAC 5-200, Regulations Governing Eligibility Standards and Charges for Health Care Services to Individuals**. The purpose of the proposed

action is to review the system of eligibility and charges for medical services provided by local health departments.

Statutory Authority: §§ 32.1-11 and 32.1-12 of the Code of Virginia.

**Contact:** James Burns, M.D., Deputy Commissioner for Public Health, Department of Health, 107 Governor St., 13th Floor, Richmond, VA 23219, telephone (804) 864-7001, FAX (804) 864-7022 or e-mail [jim.burns@vdh.virginia.gov](mailto:jim.burns@vdh.virginia.gov).

## DEPARTMENT OF HEALTH

**† March 18, 2004 - 9:30 a.m.** -- Open Meeting  
Natural Resources Building, 900 Natural Resources Drive, Fontaine Research Park, Charlottesville, Virginia. 

A meeting of the Biosolids Use Information Committee. An advisory committee meeting will follow and include discussions on proposed revisions to the biosolids use regulations.

**Contact:** Cal Sawyer, Director, Division of Wastewater Engineering, Department of Health, 109 Governor St., Fifth Floor, Richmond, VA 23219, telephone (804) 864-7463, FAX (804) 864-7475, e-mail [CAL.SAWYER@VDH.VIRGINIA.GOV](mailto:CAL.SAWYER@VDH.VIRGINIA.GOV).

**† April 29, 2004 - 9 a.m.** -- Open Meeting  
Richmond area.

A meeting to discuss state health issues.

**Contact:** Margot Fritts, VDH/Office of Health Policy and Planning, Department of Health, 109 Governors St., 10th Floor, Richmond, VA 23219, telephone (804) 864-7428, FAX (804) 864-7440, e-mail [margot.fritts@vdh.virginia.gov](mailto:margot.fritts@vdh.virginia.gov).

## State Emergency Medical Services Advisory Board

**† May 14, 2004 - 1 p.m.** -- Open Meeting  
The Place at Innsbrook, 4036-C Cox Road, Glen Allen, Virginia. 

A quarterly meeting.

**Contact:** Gary R. Brown, Director, 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, e-mail [gary.brown@vdh.virginia.gov](mailto:gary.brown@vdh.virginia.gov).

## Sewage Handling and Disposal Appeal Review Board

**February 25, 2004 - 10 a.m.** -- Open Meeting

**April 7, 2004 - 10 a.m.** -- Open Meeting  
Henrico County Health Department, 8600 Dixon Powers Drive, Human Services Board Room, Richmond, Virginia.

A meeting to hear appeals of the health department denials of septic tank permits.

**Contact:** Susan C. Sherertz, Secretary to the Board, Sewage Handling and Disposal Appeal Review Board, 109 Governor St., 5th Floor, Richmond, VA 23219, telephone (804) 864-

7464, FAX (804) 864-7476, e-mail  
susan.sherertz@vdh.virginia.gov.

225-2602, FAX (804) 371-7911, e-mail  
LeeAnnRung@schev.edu.

## BOARD OF HEALTH PROFESSIONS

**April 16, 2004 - 9 a.m.** -- Open Meeting

Department of Health Professions, Alcoa Building, 6603 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia. 

A meeting of the Intervention Program Committee for the Health Practitioners' Intervention Program (HIPIP).

**Contact:** Donna P. Whitney, Intervention Program Manager, Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9424, FAX (804) 662-7358, e-mail donna.whitney@dhp.state.va.us.

## DEPARTMENT OF HEALTH PROFESSIONS

**February 27, 2004** -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Health Professions intends to adopt regulations entitled **18 VAC 76-40, Regulations Governing Emergency Contact Information**. The purpose of the proposed action is to set forth requirements for collection of emergency contact information.

Statutory Authority: § 54.1-2506.1 of the Code of Virginia.

Public comments may be submitted until February 27, 2004, to Robert A. Nebiker, Director, Department of Health Professions, 6603 West Broad Street, Richmond, VA 23230-1712.

**Contact:** Elaine J. Yeatts, Agency Regulatory Coordinator, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.state.va.us.

## STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

**† March 16, 2004 - 8:30 a.m.** -- Open Meeting  
Old Dominion University, Norfolk, Virginia.

Agenda materials will be available on the website approximately one week prior to the meeting at [www.schev.edu](http://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 will be asked to submit a written copy of their remarks at the time of comment.

**Contact:** Lee Ann Rung, State Council of Higher Education for Virginia, 101 N. 14th St., Richmond, VA, telephone (804)

## HOPEWELL INDUSTRIAL SAFETY COUNCIL

**March 2, 2004 - 9 a.m.** -- Open Meeting

Hopewell Community Center, 100 West City Point Road, Hopewell, Virginia.  (Interpreter for the deaf provided upon request)

A Local Emergency Preparedness committee meeting as required by SARA Title III.

**Contact:** Robert Brown, Emergency Services Coordinator, Hopewell Industrial Safety Council, 300 N. Main St., Hopewell, VA 23860, telephone (804) 541-2298.

## BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

**† March 22, 2004 - 10 a.m.** -- Open Meeting

Department of Housing and Community Development, 501 North 2nd Street, Richmond, 1st Floor, Board Room, 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 , e-mail scalhoun@dhcd.state.va.us.

## VIRGINIA INFORMATION TECHNOLOGIES AGENCY

**† February 26, 2004 - 9 a.m.** -- Open Meeting

VITA Operations Center, 110 South 7th Street, 3rd Floor, Executive Conference Room, Richmond, Virginia. 

A meeting of the Finance Committee.

**Contact:** Roslyn J. Witherspoon, Executive Director - IT Investment Board, Virginia Information Technologies Agency, 202 N. 9th St., Richmond, VA 23219, telephone (804) 786-9579, FAX (804) 786-9584, e-mail roslyn.witherspoon@governor.virginia.gov.

## Wireless E-911 Service Board

**† March 10, 2004 - 9 a.m.** -- Open Meeting

VITA Operations Center, 110 South 7th Street, 3rd Floor, Conference Room, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting of the CMRS Subcommittee. A request will be made to hold meeting in closed session.

**Contact:** Steve Marzolf, Public Safety Communications Coordinator, Virginia Information Technologies Agency, 110 S. 7th St., Richmond, VA, telephone (804) 371-0015, FAX (804) 786-4177, e-mail steve.marzolf@vita.virginia.gov.

---

# Calendar of Events

---

† **March 10, 2004 - 10 a.m.** -- Open Meeting  
VITA Operations Center, 110 South 7th Street, 3rd Floor, Conference Room, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular meeting.

**Contact:** Steve Marzolf, Public Safety Communications Coordinator, Virginia Information Technologies Agency, 110 S. 7th St., Richmond, VA, telephone (804) 371-0015, e-mail [steve.marzolf@vita.virginia.gov](mailto:steve.marzolf@vita.virginia.gov).

## JAMESTOWN-YORKTOWN FOUNDATION

† **May 13, 2004 - 10 a.m.** -- Open Meeting

† **May 14, 2004 - 8 a.m.** -- Open Meeting

Williamsburg Marriott, 50 Kingsmill Road, Williamsburg, Virginia.  (Interpreter for the deaf provided upon request)

A semiannual board meeting and committee meetings. Specific schedule not yet confirmed.

**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 , e-mail [lwbailey@jyf.state.va.us](mailto:lwbailey@jyf.state.va.us).

## DEPARTMENT OF LABOR AND INDUSTRY

### Apprenticeship Council

**March 18, 2004 - 10 a.m.** -- Open Meeting

New Horizons Regional Educational Center, 520 Butler Farm Road, Hampton, Virginia.  (Interpreter for the deaf provided upon request)

A quarterly meeting.

**Contact:** Beverly Donati, Assistant Program Director, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 786-2382, FAX (804) 786-8418, (804) 786-2376/TTY , e-mail [bgd@doli.state.va.us](mailto:bgd@doli.state.va.us).

### Safety and Health Codes Board

† **April 21, 2004 - 10 a.m.** -- Public Hearing

State Corporation Commission, Tyler Building, 1300 East Main Street, Courtroom A, Richmond, Virginia.

† **April 23, 2004** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Labor and Industry intends to repeal regulations entitled **16 VAC 25-175-1926.950 (c) (1), Clearances**, and adopt regulations entitled **16 VAC 25-155, Virginia Construction Industry General Requirements for Clearances, Construction of Electric Transmission and Distribution Lines and Equipment**. The purpose of the proposed action is to provide construction electrical transmission workers with

safety protection identical to general industry electrical transmission workers.

Statutory Authority: § 40.1-22 (5) of the Code of Virginia.

**Contact:** Regina P. Cobb, Agency Management Analyst Senior, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 786-0610, FAX (804) 786-8418 or e-mail [rlc@doli.state.va.us](mailto:rlc@doli.state.va.us).

† **April 21, 2004 - 10 a.m.** -- Open Meeting

State Corporation Commission, Tyler Building, 1300 East Main Street, Second Floor, Courtroom A, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular meeting to immediately follow public hearing.

**Contact:** Regina P. Cobb, Agency Management Analyst Senior, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 786-0610, FAX (804) 786-8418, (804) 786-2376/TTY , e-mail [rlc@doli.state.va.us](mailto:rlc@doli.state.va.us).

## STATE LIBRARY BOARD

**March 15, 2004 - 8:15 a.m.** -- Open Meeting

The Library of Virginia, 800 East Broad Street, Richmond, Virginia. 

Committees of the board will meet as follows:

8:15 - 9:15 a.m. - Public Library Development Committee  
Publications and Educational Services Committee  
Records Management Committee

9:30 - 10:30 a.m. - Archival and Information Services Committee  
Collection Management Services Committee  
Legislative and Finance Committee

10:30 a.m. - Library Board

**Contact:** Jean H. Taylor, Executive Secretary to the Librarian, The Library of Virginia, 800 E. Broad St., Richmond, VA 23219-2000, telephone (804) 692-3535, FAX (804) 692-3594, (804) 692-3976/TTY , e-mail [jtaylor@lva.lib.va.us](mailto:jtaylor@lva.lib.va.us).

## COMMISSION ON LOCAL GOVERNMENT

**March 8, 2004 - 10 a.m.** -- Open Meeting

Department of Housing and Community Development, The Jackson Center, 501 N. Second Street, 1st Floor, Board Room, Richmond, Virginia. 

A regular meeting to consider such matters as may be presented.

**Contact:** Ted McCormack, Associate Director, Commission on Local Government, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 786-6508, FAX (804) 371-7090, (804) 828-1120/TTY , e-mail [ted.mccormack@dhd.virginia.gov](mailto:ted.mccormack@dhd.virginia.gov).

## MARINE RESOURCES COMMISSION

**February 24, 2004 - 9:30 a.m.** -- Open Meeting

**March 23, 2004 - 9:30 a.m.** -- Open Meeting

Marine Resources Commission, 2600 Washington Avenue, 4th Floor, Newport News, Virginia.  (Interpreter for the deaf provided upon request)

A monthly commission meeting.

**Contact:** Jane McCroskey, Commission Secretary, Marine Resources Commission, 2600 Washington Ave., 3rd Floor, Newport News, VA 23607, telephone (757) 247-2248, FAX (757) 247-8101, toll-free (800) 541-4646, (757) 247-2292/TTY , e-mail [jmccroskey@mrc.state.va.us](mailto:jmccroskey@mrc.state.va.us).

## BOARD OF MEDICAL ASSISTANCE SERVICES

**April 13, 2004 - 10 a.m.** -- Open Meeting

Department of Medical Assistance Services, 600 East Broad Street, 13th Floor Conference Room, Richmond, Virginia. 

A routine quarterly meeting required by the BMAS bylaws.

**Contact:** Nancy Malczewski, Board Liaison, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-8096, FAX (804) 371-4981, (800) 343-0634/TTY , e-mail [nancy.malczewski@dmas.virginia.gov](mailto:nancy.malczewski@dmas.virginia.gov).

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

**February 27, 2004** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Medical Assistance Services intends to consider amending regulations entitled **12 VAC 30-60, Standards Established and Methods Used to Assure High Quality Care**, and **12 VAC 30-90, Methods and Standards for Establishing Payment Rates for Long-Term Care**. The purpose of the proposed action is to discontinue duplicative reimbursement for adult specialized care services in nursing facilities.

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

Public comments may be submitted until February 27, 2004, to Paula Margolis, Reimbursement Analyst, Division of Provider Reimbursement, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

**Contact:** Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 786-7959, FAX (804) 786-1680, or e-mail [vsimmons@dmas.state.va.us](mailto:vsimmons@dmas.state.va.us).

**March 16, 2004 - 1 p.m.** -- Open Meeting

**† May 11, 2004 - 1 p.m.** -- Open Meeting

Department of Medical Assistance Services, 600 East Broad Street, 13th Floor, Board Room, Richmond, Virginia. 

A meeting of the Pharmacy Liaison Committee to discuss current DMAS pharmacy issues and programs.

**Contact:** Javier Menendez, RPh, Pharmacy Manager, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-2196, (800) 343-0634/TTY , e-mail [jmenendez@dmas.state.va.us](mailto:jmenendez@dmas.state.va.us).

\*\*\*\*\*

**March 26, 2004** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Medical Assistance Services intends to consider amending regulations entitled **12 VAC 30-70, Methods and Standards for Establishing Payment Rates; Inpatient Hospital Services**. The purpose of the proposed action is to reduce capital cost reimbursement levels for inpatient hospitals from 100% to 80%, found in 12 VAC 30-70-271.

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

Public comments may be submitted until March 26, 2004, to Steve Ford, Manager, Division of Provider Reimbursement, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

**Contact:** Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 786-7959, FAX (804) 786-1680, or e-mail [vsimmons@dmas.state.va.us](mailto:vsimmons@dmas.state.va.us).

**March 30, 2004 - 4 p.m.** -- Open Meeting

Department of Medical Assistance Services, 600 East Broad Street, 13th Floor Board Room, Richmond, Virginia. 

A meeting of the Medicaid Physicians Advisory Committee to discuss physician issues in the Medicaid system.

**Contact:** Chris Schroeder, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-0552, FAX (804) 371-4981, (800) 343-0634/TTY , e-mail [cschroed@dmas.state.va.us](mailto:cschroed@dmas.state.va.us).

## BOARD OF MEDICINE

**February 25, 2004 - 9 a.m.** -- Open Meeting

Holiday Inn Select, 2801 Plank Road, Fredericksburg, Virginia.

**March 10, 2004 - 8:45 a.m.** -- Open Meeting

Williamsburg Marriott, 50 Kingsmill Road, Williamsburg, Virginia.

**March 12, 2004 - 1 p.m.** -- Open Meeting

**March 17, 2004 - 8:45 a.m.** -- Open Meeting

Department of Health Professions, 6603 West Broad Street, Richmond, Virginia.

**April 14, 2004 - 9 a.m.** -- Open Meeting

Williamsburg Marriott, 50 Kingsmill Road, Williamsburg, Virginia.

---

## Calendar of Events

---

An informal conference committee meeting to inquire into allegations that certain practitioners may have violated laws and regulations governing the practice of medicine and other healing arts in Virginia. The committee will meet in open and closed sessions. Public comment will not be received.

**Contact:** Peggy Sadler or Renee Dixon, Staff, Department of Health Professions, 6603 W. Broad St., Richmond, VA 23230, telephone (804) 662-7332, FAX (804) 662-9517, (804) 662-7197/TTY ☎, e-mail [Peggy.Sadler@dhp.state.va.us](mailto:Peggy.Sadler@dhp.state.va.us).

† **March 2, 2004 - 8:45 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street, Richmond, Virginia. ♿

The full board or a panel of the board will convene a formal hearing to inquire into allegations that certain practitioners may have violated laws and regulations governing the practice of medicine and other healing arts in Virginia. Further, the board may review cases with staff for case disposition including consideration of consent orders for settlement. The board will meet in open and closed sessions pursuant to the Code of Virginia. Public comment will not be received.

**Contact:** Peggy Sadler/Renee Dixon, Staff, Board of Medicine, 6603 W. Broad St., Richmond, VA, telephone (804) 662-7332, FAX (804) 662-9517, (804) 662-7197/TTY ☎, e-mail [peggy.sadler@dhp.state.va.us](mailto:peggy.sadler@dhp.state.va.us).

\*\*\*\*\*

**March 27, 2004** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Medicine intends to amend regulations entitled **18 VAC 85-110, Regulations Governing the Practice of Licensed Acupuncturists**. The purpose of the proposed action is to license an applicant who graduated from an acupuncture program that had obtained candidacy status from the accrediting body and subsequently been accredited within three years of the applicant's graduation.

Statutory Authority: §§ 54.1-113 and 2.2-295.69 of the Code of Virginia.

Public comments may be submitted until March 27, 2004, to William L. Harp, M.D., Executive Director, Board of Medicine, 6603 West Broad Street, Richmond, VA 23230.

**Contact:** Elaine J. Yeatts, Agency Regulatory Coordinator, Department of Health Profession, 6603 W. Broad St., Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail [elaine.yeatts@dhp.state.va.us](mailto:elaine.yeatts@dhp.state.va.us).

\*\*\*\*\*

**April 10, 2004** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Medicine intends to amend regulations entitled **18 VAC 85-120, Regulations**

**Governing the Certification of Athletic Trainers.** The purpose of the proposed action is to allow the board to provide a limited provisional certification to those licensed or certified in another jurisdiction pending completion of an application.

Statutory Authority: §§ 54.1-2400 and 54.1-2957.4 of the Code of Virginia.

Public comments may be submitted until April 10, 2004, to William L. Harp, M.D., Executive Director, Board of Medicine, 6603 West Broad Street, Richmond, VA 23230.

**Contact:** Elaine J. Yeatts, Agency Regulatory Coordinator, Department of Health Profession, 6603 W. Broad St., Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail [elaine.yeatts@dhp.state.va.us](mailto:elaine.yeatts@dhp.state.va.us).

### VIRGINIA MUSEUM OF FINE ARTS

**March 2, 2004 - 8 a.m.** -- Open Meeting  
Virginia Museum of Fine Arts, 2800 Grove Avenue, Main Lobby Conference Room, Richmond, Virginia. ♿

**April 6, 2004 - 8 a.m.** -- Open Meeting

**May 4, 2004 - 8 a.m.** -- Open Meeting  
Virginia Museum of Fine Arts, 2800 Grove Avenue, MDR Payne 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, 2800 Grove Ave., Richmond, VA 23221, telephone (804) 340-1503, FAX (804) 340-1502, (804) 340-1401/TTY ☎, e-mail [sbroyles@vmfa.state.va.us](mailto:sbroyles@vmfa.state.va.us).

### BOARD OF NURSING

**February 25, 2004 - 9 a.m.** -- Open Meeting

**April 8, 2004 - 9 a.m.** -- Open Meeting

**April 13, 2004 - 9 a.m.** -- Open Meeting

**April 19, 2004 - 9 a.m.** -- Open Meeting

**April 20, 2004 - 9 a.m.** -- Open Meeting

**April 29, 2004 - 9 a.m.** -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia. ♿

A Special Conference Committee comprised of two or three members of the Virginia Board of Nursing will conduct informal conferences with licensees and/or certificate holders. Public comment will not be received.

**Contact:** Jay P. Douglas, R.N., M.S.M., C.S.A.C., Executive Director, Board of Nursing, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY ☎, e-mail [nursebd@dhp.state.va.us](mailto:nursebd@dhp.state.va.us).

\*\*\*\*\*

**February 27, 2004** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Nursing intends to amend regulations entitled **18 VAC 90-20, Regulations Governing the Practice of Nursing**. The purpose of the proposed action is to clarify and update certain provisions affecting nursing education programs, the practice of nursing, and medication administration programs. Current regulations for nurse aides and nurse aide education programs found within 18 VAC 90-20 are being repromulgated in a new set of regulations, 18 VAC 90-25, Regulations Governing Certified Nurses.

Statutory Authority: § 54.1-2400 and Chapter 30 (§ 54.1-3000 et seq.) of the Code of Virginia.

Public comments may be submitted until February 27, 2004, to Jay Douglas, R.N., Executive Director, Board of Nursing, 6603 West Broad Street, Richmond, VA 23230.

**Contact:** Elaine J. Yeatts, Agency Regulatory Coordinator, Department of Health Profession, 6603 W. Broad St., Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail [elaine.yeatts@dhp.state.va.us](mailto:elaine.yeatts@dhp.state.va.us).

\* \* \* \* \*

**February 27, 2004** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Nursing intends to amend regulations entitled **18 VAC 90-25, Regulations Governing Certified Nurse Aides**. The purpose of the proposed action is to clarify instructional expectations of the board for maintaining approval to provide nurse aide education, the process for reporting to the board for an interruption in the program. Regulations for reinstatement of nurse aide certification have been amended to include a prohibition against reinstatement following a finding of abuse, neglect or misappropriation of property and incorporated a board guidance document that provides for the possibility of reinstatement if the finding of neglect was based on a single occurrence. There are additional grounds added to the disciplinary provisions that address situations encountered in disciplinary cases before the board.

Statutory Authority: § 54.1-2400 and Article 4 (§ 54.1-3022 et seq.) of Chapter 30 of the Code of Virginia.

Public comments may be submitted until February 13, 2004, to Jay Douglas, R.N., Executive Director, Board of Nursing, 6603 West Broad Street, Richmond, VA 23230.

**Contact:** Elaine J. Yeatts, Agency Regulatory Coordinator, Department of Health Profession, 6603 W. Broad St., Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail [elaine.yeatts@dhp.state.va.us](mailto:elaine.yeatts@dhp.state.va.us).

**March 22, 2004 - 9 a.m.** -- Open Meeting

**March 24, 2004 - 9 a.m.** -- Open Meeting

**March 25, 2004 - 9 a.m.** -- Open Meeting

**† May 17, 2004 - 9 a.m.** -- Open Meeting

**† May 19, 2004 - 9 a.m.** -- Open Meeting

**† May 20, 2004 - 9 a.m.** -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. 

A panel of the board will conduct formal hearings with licensees or certificate holders. Public comment will not be received.

**Contact:** Jay P. Douglas, M.S.M., C.S.A.C., Executive Director, Board of Nursing, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY , e-mail [nursebd@dhp.state.va.us](mailto:nursebd@dhp.state.va.us).

**March 23, 2004 - 9 a.m.** -- Open Meeting

**† May 18, 2004 - 9 a.m.** -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 2, Richmond, Virginia. 

A general business meeting including committee reports, consideration of regulatory action, and disciplinary case decisions as presented on the agenda. Public comment will be received at 11 a.m.

**Contact:** Jay P. Douglas, R.N., Executive Director, Board of Nursing, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY , e-mail [jay.douglas@dhp.state.va.us](mailto:jay.douglas@dhp.state.va.us).

**April 21, 2004 - 9 a.m.** -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 

A meeting of the Joint Boards of Nursing and Medicine.

**Contact:** Jay P. Douglas, R.N., M.S.M., C.S.A.C., Executive Director, Board of Nursing, 6603 W. Broad Street, 5th Floor, Richmond, VA 23230, telephone (804) 662-9909, FAX (804) 662-9512, e-mail [nursebd@dhp.state.va.us](mailto:nursebd@dhp.state.va.us).

## BOARD FOR OPTICIANS

**April 9, 2004 - 9:30 a.m.** -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 

A general business meeting to consider regulatory and other 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 this meeting so that suitable arrangements can be made for an appropriate accommodation. The department fully complies with the Americans with Disabilities Act.

**Contact:** William H. Ferguson, II, Executive Director, Board for Opticians, 3600 West Broad Street, Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-6295, (804) 367-9753/TTY , e-mail [opticians@dpor.virginia.gov](mailto:opticians@dpor.virginia.gov).

---

# Calendar of Events

---

\*\*\*\*\*

**April 9, 2004** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 that the Board for Opticians intends to amend regulations entitled **18 VAC 100-10, Public Participation Guidelines**. The purpose of the proposed action is to (i) allow requests to be placed on the board's public participation notification list to be sent via electronic means; (ii) allow regulatory notifications to be sent to list members electronically; and (iii) add language specifying that when electronic notifications are returned as undeliverable over more than one day, the person or organization concerned will be deleted from the list.

Statutory Authority: §§ 2.2-4007 and 54.1-201 of the Code of Virginia.

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

## BOARD OF PHARMACY

**February 27, 2004** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Pharmacy intends to amend regulations entitled **18 VAC 110-20, Regulations Governing the Practice of Pharmacy**. The purpose of the proposed action is to clarify current law and regulation, alleviate problematic rules, and set more reasonable standards for reinstatement of a pharmacist license.

Statutory Authority: §§ 54.1-103 and 54.1-2400 and Chapters 33 (§ 54.1-3300) and 34 (§ 54.1-3400 et seq.) of the Code of Virginia.

Public comments may be submitted until February 27, 2004, to Elizabeth Scott Russell, Department of Health Professions, 6603 West Broad Street, Richmond, VA 23230.

**Contact:** Elaine J. Yeatts, Agency Regulatory Coordinator, Department of Health Profession, 6603 W. Broad St., Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.state.va.us.

† **March 4, 2004 - 9:30 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia. 

A panel of the Board of Pharmacy will discuss disciplinary matters. No public comment will be received.

**Contact:** Elizabeth Scott Russell, Executive Director, Board of Pharmacy, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-9911, FAX (804) 662-9313.

**March 11, 2004 - 9 a.m.** -- Open Meeting

† **March 25, 2004 - 9 a.m.** -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia. 

A Special Conference Committee will discuss disciplinary matters. Public comments will not be received.

**Contact:** Elizabeth Scott Russell, Executive Director, Board of Pharmacy, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-9911, FAX (804) 662-9313.

## BOARD OF PHYSICAL THERAPY

**April 10, 2004** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Physical Therapy intends to amend regulations entitled **18 VAC 112-20, Regulations Governing the Practice of Physical Therapy**. The purpose of the proposed action is to clarify and update educational, examination and practice requirements. Substantive changes include the elimination of the prohibition on licensure after six failed attempts to pass the national examination; inclusion of a requirement for additional clinical training or course work to sit for the examination after three failures; and acceptance of documentation of active practice for seven years with an unrestricted license if the examination taken for initial licensure is not identical to the examination required in Virginia. A copy of the proposed regulation may be found under Laws and Regulations Governing Physical Therapy at [http://dhp.state.va.us/Physical Therapy/default.htm](http://dhp.state.va.us/Physical%20Therapy/default.htm).

Statutory Authority: §§ 54.1-2400 and Chapter 34.1 (§ 54.1-3473 et seq.) of Title 54.1 of the Code of Virginia.

Public comments may be submitted until April 10, 2004, to Elizabeth Young, Executive Director, Board of Physical Therapy, 6603 West Broad Street, Richmond, VA 23230.

**Contact:** Elaine J. Yeatts, Agency Regulatory Coordinator, Department of Health Profession, 6603 W. Broad St., Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.state.va.us.

† **March 26, 2004 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 

The board will hear possible violations of the laws and regulations governing the practice of physical therapy.

**Contact:** Elizabeth Young, Executive Director, Board of Physical Therapy, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9924, FAX (804) 662-9523, (804) 662-7197/TTY , e-mail elizabeth.young@dhp.state.va.us.

## POLYGRAPH EXAMINERS ADVISORY BOARD

**March 4, 2004 - 10 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

A meeting to conduct board business. The board fully complies with the Americans with Disabilities Act.

**Contact:** Eric Olson, Executive Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2785, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail olson@dpor.state.va.us.

## DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

**April 9, 2004** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 that the Department of Professional and Occupational Regulation intends to amend regulations entitled **18 VAC 120-10, Public Participation Guidelines**. The purpose of the proposed action is to (i) allow requests to be placed on the board's public participation notification list to be sent via electronic means; (ii) allow regulatory notifications to be sent to list members electronically; and (iii) add language specifying that when electronic notifications are returned as undeliverable over more than one day, the person or organization concerned will be deleted from the list.

Statutory Authority: §§ 2.2-4007, 54.1-201, 54.1-831 and 54.1-1802 of the Code of Virginia.

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

## BOARD OF PSYCHOLOGY

† **March 2, 2004 - 9:30 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia ♿

An informal conference committee will hold informal conferences pursuant to § 2.2-4019 of the Code of Virginia. The committee will meet in open and closed sessions.

**Contact:** Evelyn B. Brown, Executive Director, Board of Psychology, 6603 W. Broad St., 6th Floor, Richmond, VA 23230, telephone (804) 662-9913, FAX (804) 662-7250, (804) 662-7197/TTY ☎, e-mail psy@dhp.state.va.us.

**April 27, 2004 - 9:30 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia.

A business meeting to include reports from standing committees and any other disciplinary or regulatory matters as may be presented on the agenda. Public comment will be received at the beginning of the meeting.

**Contact:** Evelyn B. Brown, Executive Director, Board of Psychology, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9913, FAX

(804) 662-9943, (804) 662-7197/TTY ☎, e-mail evelyn.brown@dhp.state.va.us.

## VIRGINIA PUBLIC GUARDIAN AND CONSERVATOR ADVISORY BOARD

† **May 20, 2004 - 10 a.m.** -- Open Meeting  
1610 Forest Avenue, Suite 100, Richmond, Virginia. ♿

A quarterly meeting.

**Contact:** Terry Raney, Guardianship Coordinator, Virginia Public Guardian and Conservator Advisory Board, 1610 Forest Ave., Suite 100, Richmond, VA 23229, telephone (804) 662-7049, FAX (804) 662-9354, toll-free (800) 552-3402, (804) 662-9333/TTY ☎, e-mail traney@vda.virginia.gov.

## REAL ESTATE APPRAISER BOARD

**February 25, 2004 - 10 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Room 453, Richmond, Virginia. ♿

An informal fact-finding conference for licensing cases.

**Contact:** Karen W. O'Neal, Regulatory Programs Coordinator, Real Estate Appraiser Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8537, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail oneal@dpor.state.va.us.

\* \* \* \* \*

**April 9, 2004** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 that the Real Estate Appraiser Board intends to amend regulations entitled **18 VAC 130-10, Public Participation Guidelines**. The purpose of the proposed action is to (i) allow requests to be placed on the board's public participation notification list to be sent via electronic means; (ii) allow regulatory notifications to be sent to list members electronically; and (iii) add language specifying that when electronic notifications are returned as undeliverable over more than one day, the person or organization concerned will be deleted from the list.

Statutory Authority: §§ 2.2-4007 and 54.1-2013 of the Code of Virginia.

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

## REAL ESTATE BOARD

**March 4, 2004 - 9 a.m.** -- Open Meeting  
† **March 18, 2004 - 9 a.m.** -- Open Meeting  
† **March 31, 2004 - 9 a.m.** -- Open Meeting

---

# Calendar of Events

---

Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Room 453, Richmond, Virginia. 

An informal fact-finding conference.

**Contact:** Karen W. O'Neal, Regulatory Programs Coordinator, Real Estate Appraiser Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8537, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail Karen.O'Neal@dpor.virginia.gov.

\*\*\*\*\*

**March 24, 2004 - 2 p.m.** -- Public Hearing  
Department of Professional and Occupational Regulation, 3600 W. Broad Street, Richmond, Virginia. 

**April 9, 2004** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 that the Real Estate Board intends to amend regulations entitled **18 VAC 135-20, Virginia Real Estate Board Licensing Regulations**. The purpose of the proposed action is to increase fees.

Statutory Authority: §§ 2.2-4007, 54.1-113 and 54.1-2105 of the Code of Virginia.

**Contact:** Christine Martine, Executive Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-6946 or e-mail reboard@dpor.virginia.gov.

**March 25, 2004 - 8:30 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 W. Broad Street, Richmond, Virginia. 

A meeting of the full board to review fair housing cases.

**Contact:** Karen W. O'Neal, Regulatory Programs Coordinator, Real Estate Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8537, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail Karen.O'Neal@dpor.virginia.gov.

**March 25, 2004 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 W. Broad Street, Richmond, Virginia. 

A regular meeting of the full board.

**Contact:** Karen W. O'Neal, Regulatory Programs Coordinator, Real Estate Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8537, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail Karen.O'Neal@dpor.virginia.gov.

\*\*\*\*\*

**April 9, 2004** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 that the Real Estate Board intends to amend regulations entitled **18 VAC 135-10, Public Participation Guidelines**. The

purpose of the proposed action is to (i) allow requests to be placed on the board's public participation notification list to be sent via electronic means; (ii) allow regulatory notifications to be sent to list members electronically; and (iii) add language specifying that when electronic notifications are returned as undeliverable over more than one day, the person or organization concerned will be deleted from the list.

Statutory Authority: §§ 2.2-4007 and 54.1-2105 of the Code of Virginia.

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

## VIRGINIA RESOURCES AUTHORITY

† **March 9, 2004 - 9 a.m.** -- Open Meeting

† **April 13, 2004 - 9 a.m.** -- Open Meeting

Virginia Resources Authority, Eighth and Main Building, 707 East Main Street, 2nd Floor, Richmond, Virginia. 

A regular meeting of the Board of Directors to (i) review and, if appropriate, approve the minutes from the most recent monthly meeting; (ii) review the authority's operations for the prior month; (iii) review applications for loans submitted to the authority for approval; (iv) consider loan commitments for approval and ratification under its various programs; (v) approve the issuance of any bonds; (vi) review the results of any bond sales; and (vii) consider such other matters and take such other actions as it may deem appropriate. Various committees of the Board of Directors may also meet immediately before or after the regular meeting and consider matters within their purview. The planned agenda of the meeting and any committee meetings will be available at the offices of the authority one week prior to the date of the meeting. Any person who needs any accommodation in order to participate in the meeting should contact the authority at least 10 days before the meeting so that suitable arrangements can be made.

**Contact:** Bonnie R. C. McRae, Executive Assistant, Virginia Resources Authority, 707 E. Main St., Richmond, VA 23219, telephone (804) 644-3100, FAX (804) 644-3109, e-mail bmcrae@vra.state.va.us.

## STATE BOARD OF SOCIAL SERVICES

**March 26, 2004** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Social Services intends to amend regulations entitled **22 VAC 40-80, General Procedures and Information for Licensure**. The purpose of the proposed action is to amend the regulation to clarify and simplify some standards and to incorporate changes that have been made to the Code of Virginia since the last revision of this regulation. Many changes are the result of the recodification of Title 63.1 of the Code of

Virginia that will become effective October 1, 2002. The Code of Virginia mandates that the Department of Social Services (department) license certain facilities that provide care to children and adults. Programmatic regulations are developed for these facilities. The current regulation contains general licensing requirements that are applicable to all licensed programs but are not included in the programmatic regulations. Previously, this regulation was promulgated jointly by the State Board of Social Services (board) and the Child Day-Care Council for all the department's licensed programs. However, the Child Day-Care Council desires to promulgate a separate regulation that applies only to child day centers (the only program for which they have regulatory responsibility). This regulation will continue to contain references to child day centers, however, because of the board's sole authority to regulate some procedures and activities that are applicable to child day centers. The goal of the amended regulation is to provide clear and concise information and requirements for applicants, licensees, and licensing staff regarding the licensing process

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

**Contact:** Kathryn Thomas, Program Development Consultant, Division of Licensing Programs, Department of Social Services, 7 N. 8th St., Richmond, VA 23219, telephone (804) 726-7158, FAX (804) 726-7132, or e-mail [kathryn.thomas@dss.virginia.gov](mailto:kathryn.thomas@dss.virginia.gov).

\*\*\*\*\*

**March 26, 2004** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Social Services intends to amend regulations entitled **22 VAC 40-141, Licensing Standards for Independent Foster Homes**. The purpose of the proposed action is to change the title to "Licensing Standards for Independent Foster Homes, amend the existing standards to clarify the intent of the regulation and incorporate changes made in the Code of Virginia since this regulation was adopted. Proposed amendments include allowing placement agreements; allowing children to remain in the independent foster home for up to six months; updating medical requirements; clarifying capacity; revising standards regarding physical restraint and time-out/separation; strengthening and updating safety requirements to better protect infants and young children; including language regarding respecting the diversity of children and their families; and the responsibilities of the licensee.

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

**Contact:** Cynthia Carneal, Operations Consultant, Department of Social Services, 7 N. 8th St., Richmond, VA 23219, telephone (804) 726-7140, FAX (804) 726-7132 or e-mail [cynthia.carneal@dss.virginia.gov](mailto:cynthia.carneal@dss.virginia.gov).

\*\*\*\*\*

**March 26, 2004** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Social Services intends to adopt regulations entitled **22 VAC 40-293, Locality Groupings**. The purpose of the proposed action is to establish criteria for local departments of social services to change Temporary Assistance for Needy Families (TANF) locality groupings. Locality groupings determine payments levels for recipients of TANF in each locality.

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

**Contact:** Mark L. Golden, TANF Program Manager, Department of Social Services, 7 N. 8th St., Richmond, VA 23219, telephone (804) 726-7385, FAX (804) 726-7356 or e-mail [mark.golden@dss.virginia.gov](mailto:mark.golden@dss.virginia.gov).

\*\*\*\*\*

**March 26, 2004** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Social Services intends to amend regulations entitled **22 VAC 40-740, Locality Groupings**. The purpose of the proposed action is to update guidelines used by local departments of social services for investigating reports and protecting the health, safety, and welfare of the elderly and adults. Proposed changes are primarily technical in nature to make the regulation consistent with the Code of Virginia and current policy, update state agency names and delete outdated terminology.

Statutory Authority: §§ 63.2-217 and 63.2-1605 of the Code of Virginia.

**Contact:** Cindy Lee, Adult Services Program Consultant, Department of Social Services, 7 N. 8th St., Richmond, VA 23219, telephone (804) 726-7535, FAX (804) 726-7895 or e-mail [cindy.lee@dss.virginia.gov](mailto:cindy.lee@dss.virginia.gov).

## DEPARTMENT OF SOCIAL SERVICES

† **February 24, 2004 - 2:30 p.m.** -- Open Meeting  
Department of Social Services, 7 North 8th Street, Richmond, Virginia. 

The Executive Committee of the Family and Children's Trust Fund Board will meet by telephonic conference to finalize agenda and activities for the March 18-19, 2004, meeting and to hear additional items as presented by the Executive Committee members.

**Contact:** Nan McKenney, Executive Director, Department of Social Services, 7 N. 8th St., Richmond, VA 23219, telephone (804) 726-7604.

---

# Calendar of Events

---

## BOARD OF SOCIAL WORK

† **March 5, 2004 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street,  
5th Floor, Room 4, Richmond, Virginia 23230

A meeting to hear possible violations of the laws and regulations governing the practice of social work.

**Contact:** Evelyn B. Brown, Executive Director, Board of Social Work, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9914, FAX (804) 662-7250, (804) 662-7197/TTY ☎, e-mail [evelyn.brown@dhp.state.va.us](mailto:evelyn.brown@dhp.state.va.us).

## BOARD FOR PROFESSIONAL SOIL SCIENTISTS

**April 9, 2004** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 that the Board for Professional Soil Scientists intends to amend regulations entitled **18 VAC 145-10, Public Participation Guidelines**. The purpose of the proposed action is to (i) allow requests to be placed on the board's public participation notification list to be sent via electronic means; (ii) allow regulatory notifications to be sent to list members electronically; and (iii) add language specifying that when electronic notifications are returned as undeliverable over more than one day, the person or organization concerned will be deleted from the list.

Statutory Authority: §§ 2.2-4007 and 54.1-201 of the Code of Virginia.

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

\*\*\*\*\*

† **April 14, 2004 - 10 a.m.** -- Public Hearing  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Richmond, Virginia. ♿

† **April 23, 2004** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board for Professional Soil Scientists intends to amend regulations entitled **18 VAC 145-20, Board for Professional Soil Scientists Regulations**. The purpose of the proposed action is to adjust fees as necessary in accordance with § 54.1-113 of the Code of Virginia (Callahan Act).

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

**Contact:** Mark N. Courtney, Executive Director, Board for Professional Soil Scientists, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail [soilscientist@dpor.virginia.gov](mailto:soilscientist@dpor.virginia.gov).

## VIRGINIA TOBACCO SETTLEMENT FOUNDATION

**March 23, 2004 - Noon** -- Open Meeting  
VCU Sports Medicine Center, 1300 West Broad Street, Parlor,  
Richmond, Virginia. ♿

A meeting to discuss new marketing concepts.

**Contact:** Eloise Burke, Senior Executive Assistant, Virginia Tobacco Settlement Foundation, 701 E. Franklin St., Suite 501, Richmond, VA 23219, telephone (804) 786-2523, FAX (804) 225-2883, e-mail [eburke@tsf.state.va.us](mailto:eburke@tsf.state.va.us).

## COMMONWEALTH TRANSPORTATION BOARD

**March 17, 2004 - 2 p.m.** -- Open Meeting  
VDOT, 1221 East Broad Street, Central Auditorium,  
Richmond, Virginia. ♿

A work session of the CTB, VDOT and DRPT staff providing updates on projects, policy development and pending actions. Public comments will not be received.

**Contact:** Katherine Tracy, Assistant Secretary of the CTB, Commonwealth Transportation Board, Department of Transportation Policy Division, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-3090, FAX (804) 225-4700, e-mail [Katherine.Tracy@virginiadot.org](mailto:Katherine.Tracy@virginiadot.org), homepage <http://www.virginiadot.org>.

**March 18, 2004 - 9 a.m.** -- Open Meeting  
VDOT, 1221 East Broad Street, Central Auditorium,  
Richmond, Virginia. ♿

A meeting of the board to vote on action items presented regarding bids, conveyances and any other matter requiring board approval. Public comments will be received at the outset of the meeting. Remarks are limited to five minutes. Groups are requested to select a spokesperson. The board reserves the right to amend these conditions. Committee meetings may be held on the call of the chairman and will be posted separately.

**Contact:** Katherine Tracy, Assistant Secretary of the CTB, Commonwealth Transportation Board, Department of Transportation, Policy Division, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-3090, FAX (804) 225-4700, e-mail [Katherine.Tracy@virginiadot.org](mailto:Katherine.Tracy@virginiadot.org).

## TREASURY BOARD

**March 17, 2004 - 9 a.m.** -- Open Meeting  
Department of the Treasury, 101 North 14th Street, 3rd Floor,  
Treasury Board Room, Richmond, Virginia. ♿

A regular meeting.

**Contact:** Melissa Mayes, Treasury Board Secretary, Department of the Treasury, 101 N. 14th St., 3rd Floor, Treasury Board Room, Richmond, VA 23219, telephone (804) 371-6011, FAX (804) 225-3187, e-mail [melissa.mayes@trs.state.va.us](mailto:melissa.mayes@trs.state.va.us).

## DEPARTMENT OF VETERANS SERVICES

**March 16, 2004 - 1 p.m.** -- Open Meeting  
Virginia War Memorial, 621 South Belvidere Street,  
Richmond, Virginia. 

A meeting of the Joint Leadership Council.

**Contact:** Geneva M. Claybrook, Executive Services Manager, Department of Veterans Services, 4550 Shenandoah Ave., Roanoke, VA 24015, telephone (540) 857-6974, FAX (540) 857-6954, toll-free (800) 220-8387, e-mail [gclaybrook@vvc1.us](mailto:gclaybrook@vvc1.us).

## BOARD FOR WASTE MANAGEMENT FACILITY OPERATORS

**March 30, 2004 - 10 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, 4th Floor, Richmond, Virginia.

A regular meeting.

**Contact:** David E. Dick, Executive Director, Board for Waste Management Facility Operators, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595, FAX (804) 367-6128, (804) 367-9753/TTY , e-mail [wastemgt@dpor.state.virginia.gov](mailto:wastemgt@dpor.state.virginia.gov).

\*\*\*\*\*

**April 9, 2004** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 that the Board for Waste Management Facility Operators intends to amend regulations entitled **18 VAC 155-10, Public Participation Guidelines**. The purpose of the proposed action is to (i) allow requests to be placed on the board's public participation notification list to be sent via electronic means; (ii) allow regulatory notifications to be sent to list members electronically; and (iii) add language specifying that when electronic notifications are returned as undeliverable over more than one day, the person or organization concerned will be deleted from the list.

Statutory Authority: §§ 2.2-4007 and 54.1-2211 of the Code of Virginia.

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

## STATE WATER CONTROL BOARD

**February 24, 2004 - 10 a.m.** -- Open Meeting

**March 24, 2004 - 10 a.m.** -- Open Meeting

**April 28, 2004 - 10 a.m.** -- Open Meeting

Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. 

A meeting of the ad hoc committee established to assist in the development of water quality standards to protect the Chesapeake Bay from nutrient enrichment and sedimentation.

**Contact:** Eleanore Daub, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4111, FAX (804) 698-4116, toll-free 800-592-5482 or (804) 698-4021/TTY 

**February 26, 2004 - 10 a.m.** -- Open Meeting  
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. 

A public meeting to receive comments on the State Water Control Board's notice of intent to consider amending the Policy for Nutrient Enriched Waters. The notice of intent was published in the Virginia Register of Regulations on January 26, 2004, and the public comment period closes on March 12, 2004.

**Contact:** John M. Kennedy, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4312, FAX (804) 698-4116, e-mail [jmkennedy@deq.state.va.us](mailto:jmkennedy@deq.state.va.us).

**March 10, 2004 - 10 a.m.** -- Open Meeting  
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. 

A public meeting to receive comments on the State Water Control Board's notice of intent to amend 9 VAC 25-660, Virginia Water Protection General Permit for Impacts Less than One-Half of an Acre. The public comment period closes on March 15, 2004.

**Contact:** Ellen Gilinsky, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4375, FAX (804) 698-4032, e-mail [egilinsky@deq.state.va.us](mailto:egilinsky@deq.state.va.us).

**March 10, 2004 - 10 a.m.** -- Open Meeting  
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. 

A public meeting to receive comments on the State Water Control Board's notice of intent to amend 9 VAC 25-690 Virginia Water Protection General Permit for Impacts from Development Activities. The public comment period ends on March 15, 2004.

**Contact:** Ellen Gilinsky, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4375, FAX (804) 698-4032, e-mail [egilinsky@deq.state.va.us](mailto:egilinsky@deq.state.va.us).

**March 10, 2004 - 10 a.m.** -- Open Meeting  
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. 

A public meeting to receive comments on the State Water Control Board's notice of intent to amend 9 VAC 25-680, Virginia Water Protection General Permit for Linear Transportation Projects. The public comment period closes on March 15, 2004.

---

## Calendar of Events

---

**Contact:** Ellen Gilinsky, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4375, FAX (804) 698-4032, e-mail [egilinsky@deq.state.va.us](mailto:egilinsky@deq.state.va.us).

**March 10, 2004 - 10 a.m.** -- Open Meeting  
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. 

A public meeting to receive comments on the State Water Control Board's notice of intent to amend 9 VAC 25-670, Virginia Water Protection General Permit for Facilities and Activities of Utility and Public Service Companies Regulated by the Federal Energy Regulatory Commission or the State Corporation Commission and Other Utility Line Activities. The public comment period closes on March 15, 2004.

**Contact:** Ellen Gilinsky, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4375, FAX (804) 698-4032, e-mail [egilinsky@deq.state.va.us](mailto:egilinsky@deq.state.va.us).

**† March 23, 2004 - 9:30 a.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, House Room C, Richmond, Virginia. 

A regular meeting.

**Contact:** Cindy Berndt, Regulatory Coordinator, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4378, FAX (804) 698-4346, e-mail [cmberndt@deq.state.va.us](mailto:cmberndt@deq.state.va.us).

\* \* \* \* \*

**† March 31, 2004 - 7 p.m.** -- Public Hearing  
Loudoun County Sanitation Authority, 880 Harrison Street, SE, Leesburg, Virginia.

**† April 23, 2004** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Water Control Board intends to repeal regulations entitled **9 VAC 25-400, Policy for Waste Treatment and Water Quality Management for the Dulles Area Watershed**. The purpose of the proposed action is to eliminate 9 VAC 25-400 and concurrently adopt a reformatted **9 VAC 25-401, Sewage Treatment in the Dulles Area Watershed regulation**.

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

**Contact:** Thomas A. Faha, Department of Environmental Quality, 13901 Crown Court, Woodbridge, VA 22193, telephone (703) 583-3846 or e-mail [tafaha@deq.state.va.us](mailto:tafaha@deq.state.va.us).

**† April 1, 2004 - 2 p.m.** -- Open Meeting  
Luray Fire Station, 1 Firehouse Lane, Luray, Virginia. 

A public meeting to receive comments on the State Water Control Board's notice of intent to amend the water quality standards regulations to designate certain waters within the Shenandoah National Park as exceptional state resource waters (Tier III). The notice of intent was published in the Virginia Register of Regulations on February 23, 2004 and the public comment closes on April 9, 2004.

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

**† April 7, 2004 - 1 p.m.** -- Open Meeting  
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. 

A meeting of the Virginia Wetlands Enhancement and Restoration Coordinating Committee. The committee will, among other things, be promoting voluntary wetlands creation and/or enhancement on public and private lands.

**Contact:** Ellen Gilinsky, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4375, FAX (804) 698-4347, e-mail [egilinsky@deq.state.va.us](mailto:egilinsky@deq.state.va.us).

**† May 26, 2004 - 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 amendments to the Water Quality Standards in response to the NOIRA published on November 17, 2003.

**Contact:** Eleanore Daub, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4111, FAX (804) 698-4116, or e-mail [emdaub@deq.state.va.us](mailto:emdaub@deq.state.va.us).

### BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

**March 9, 2004 - 8:30 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 

A meeting to conduct board business.

**Contact:** David E. Dick, Executive Director, Board for Waterworks and Wastewater Works Operators, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8507, FAX (804) 367-6128, (804) 367-9753/TTY , e-mail [waterwasteoper@dpor.state.virginia.gov](mailto:waterwasteoper@dpor.state.virginia.gov).

\* \* \* \* \*

**April 9, 2004** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 that the Board for Waterworks and Wastewater Works Operators intends to amend regulations entitled **18 VAC 160-10, Public Participation Guidelines**. The purpose of the proposed action is to (i) allow requests to be placed on the board's public participation notification list to be sent via electronic means; (ii) allow regulatory notifications to be sent to list members electronically; and (iii) add language specifying that when electronic notifications are returned as undeliverable over more than one day, the person or organization concerned will be deleted from the list.

Statutory Authority: §§ 2.2-4007 and 54.1-201 of the Code of Virginia.

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

\*\*\*\*\*

† **May 12, 2004 - 10 a.m.** -- Public Hearing  
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor Conference Room, Richmond, Virginia. ♿

† **May 25, 2004** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 that the Board for Waterworks and Wastewater Works Operators intends to amend regulations entitled **18 VAC 160-20, Board for Waterworks and Wastewater Works Operators Regulations**. The purpose of the proposed action is to adjust fees as necessary in accordance with § 54.1-113 of the Code of Virginia (Callahan Act). Any other changes that may be necessary may also be considered.

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

**Contact:** David E. Dick, Executive Director, Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-8507, FAX (804) 367-6128, or e-mail David.Dick@dpor.virginia.gov.

## INDEPENDENT

### STATE LOTTERY BOARD

† **March 3, 2004 - 9:30 a.m.** -- Open Meeting  
Virginia Lottery, 900 East Main Street, 13th Floor, Richmond, Virginia. ♿

A regular meeting to include routine business. There will be an opportunity for public comment.

**Contact:** Frank S. Ferguson, Director, Legislative and Regulatory Affairs, State Lottery Department, 900 E. Main St., Richmond, VA 23219, telephone (804) 692-7901, FAX (804) 692-7905, e-mail fferguson@valottery.state.va.us.

### VIRGINIA RETIREMENT SYSTEM

**March 24, 2004 - 11 a.m.** -- Open Meeting  
**April 21, 2004 - 11 a.m.** -- Open Meeting  
† **May 19, 2004 - 11 a.m.** -- Open Meeting  
Bank of America Building, 1111 East Main Street, 4th Floor Conference Room, Richmond, Virginia.

The regular meeting of the Investment Advisory Committee of the VRS Board of Trustees. No public comment will be received at the meeting.

**Contact:** Phyllis Henderson, Investment Department Administrative Assistant, Virginia Retirement System, 1111 East Main Street, Richmond, VA 23219, telephone (804) 649-8059, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY ♿, e-mail phenderson@vrs.state.va.us.

**March 24, 2004 - 3 p.m.** -- Open Meeting  
† **May 19, 2004 - 4 p.m.** -- Open Meeting  
VRS Headquarters, 1200 East Main Street, Richmond, Virginia. ♿

A meeting of the Audit and Compliance Committee. No public comment will be received at the meeting.

**Contact:** LaShaunda B. King, Executive Assistant, Virginia Retirement System, 1200 E. Main Street, Richmond, VA 23219, telephone (804) 649-8059, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY ♿, e-mail lking@vrs.state.va.us.

**March 25, 2004 - 9 a.m.** -- Open Meeting  
† **May 20, 2004 - 9 a.m.** -- Open Meeting  
Virginia Retirement System Headquarters Building, 1200 East Main Street, Richmond, Virginia. ♿

A regular meeting of the Board of Trustees. No public comment will be received at the meeting.

**Contact:** LaShaunda B. King, Executive Assistant, Virginia Retirement System, 1200 E. Main St., Richmond, VA 23219, telephone (804) 649-8059, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY ♿, e-mail lking@vrs.state.va.us.

† **May 19, 2004 - 3 p.m.** -- Open Meeting  
VRS Headquarters, 1200 East Main Street, Richmond, Virginia. ♿

Meetings of the following committees:

2:30 p.m. - Benefits and Actuarial  
4 p.m. - Administration and Personnel

No public comment will be received at the meeting.

**Contact:** LaShaunda B. King, Executive Assistant, Virginia Retirement System, 1200 E. Main Street, Richmond, VA 23219, telephone (804) 649-8059, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY ♿, e-mail lking@vrs.state.va.us.

## LEGISLATIVE

### VIRGINIA CODE COMMISSION

**March 10, 2004 - 9 a.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, 2nd Floor, Senate Redistricting Room, Richmond, Virginia. ♿

A brief meeting to decide on the fourth Code of Virginia replacement volume for 2004. No public comment period is scheduled.

**Contact:** Jane Chaffin, Registrar of Regulations, General Assembly Bldg., 910 Capitol St., 2nd Floor, Richmond, VA

---

# Calendar of Events

---

23219, telephone (804) 786-3591, FAX (804) 692-0625 or e-mail jchaffin@leg.state.va.us.

## CHRONOLOGICAL LIST

### OPEN MEETINGS

#### February 23

† Alcoholic Beverage Control Board  
Auctioneers Board  
† Barbers and Cosmetology, Board for  
Environmental Quality, Department of

#### February 24

Contractors, Board for  
Environmental Quality, Department of  
Marine Resources Commission  
† Social Services, Department of  
Water Control Board, State

#### February 25

Education, Board of  
† Funeral Directors and Embalmers, Board of  
Health, Department of  
- Sewage Handling and Disposal Appeal Review Board  
Medicine, Board of  
Nursing, Board of  
Real Estate Appraiser Board

#### February 26

Contractors, Board for  
Counseling, Board of  
Fire Services Board, Virginia  
† Information Technologies Agency, Virginia  
Water Control Board, State

#### February 27

† Agriculture and Consumer Services, Department of  
- Virginia Aquaculture Advisory Board  
Counseling, Board of  
Dentistry, Board of  
Fire Services Board, Virginia

#### March 1

Barbers and Cosmetology, Board for

#### March 2

Barbers and Cosmetology, Board for  
† Contractors, Board for  
† Environmental Quality, Department of  
Hopewell Industrial Safety Council  
† Medicine, Board of  
Museum of Fine Arts, Virginia  
† Psychology, Board of

#### March 3

† Emergency Planning Committee, Local - City of  
Winchester  
Environmental Quality, Department of  
† Lottery Board, State

#### March 4

† Aging, Commonwealth Council on  
† Agriculture and Consumer Services, Department of  
- Virginia Sheep Industry Board  
† Environmental Quality, Department of  
† Pharmacy, Board of  
Polygraph Examiners Advisory Board  
Real Estate Board

#### March 5

Art and Architectural Review Board  
† Dentistry, Board of  
† Social Work, Board of

#### March 8

† Alcoholic Beverage Control Board  
Local Government, Commission on

#### March 9

† Agriculture and Consumer Services, Department of  
- Virginia Apple Board  
- Virginia Cotton Board  
Contractors, Board for  
† Environmental Quality, Department of  
† Funeral Directors and Embalmers, Board of  
† Resources Authority, Virginia  
Waterworks and Wastewater Works Operators, Board for

#### March 10

† Blind and Vision Impaired, Department for the  
Cemetery Board  
Code Commission, Virginia  
† Environmental Quality, Department of  
- Small Business Environmental Compliance Advisory  
Board  
† Information Technologies Agency, Virginia  
- Wireless E-911 Service Board  
† Medicine, Board of  
† Water Control Board, State

#### March 11

Agriculture and Consumer Services, Department of  
- Virginia Bright Flue-Cured Tobacco Board  
- Virginia Soybean Board  
Architects, Professional Engineers, Land Surveyors,  
Certified Interior Designers and Landscape Architects,  
Board for  
† Environmental Quality, Department of  
Pharmacy, Board of

#### March 12

† Child Fatality Review Team, State  
† Dentistry, Board of  
Medicine, Board of

#### March 13

Blind and Vision Impaired, Department for the  
- Statewide Rehabilitation Council for the Blind and Vision  
Impaired

#### March 15

Education, Board of  
- Advisory Board on Teacher Education and Licensure  
Library Board, State

#### March 16

Conservation and Recreation, Department of  
Contractors, Board for  
Corrections, Board of  
† Environmental Quality, Department of  
† Higher Education for Virginia, State Council of  
Medical Assistance Services, Department of  
Veterans Services, Department of

#### March 17

Community Colleges, State Board for  
Corrections, Board of  
† Environmental Quality, Department of  
- Litter Control and Recycling Fund Advisory Board  
Medicine, Board of

Transportation Board, Commonwealth  
Treasury Board

**March 18**

† Agriculture and Consumer Services, Board of  
Community Colleges, State Board for  
Design-Build/Construction Management Review Board  
† Environmental Quality, Department of  
† Health, Department of  
Labor and Industry, Department of  
† Real Estate Board  
Transportation Board, Commonwealth

**March 22**

† Alcoholic Beverage Control Board  
† Housing and Community Development, Board of  
Nursing, Board of

**March 23**

Alzheimer's Disease and Related Disorders Commission  
Contractors, Board for  
Marine Resources Commission  
Nursing, Board of  
Tobacco Settlement Foundation, Virginia  
† Water Control Board, State

**March 24**

Education, Board of  
Employment Dispute Resolution, Department of  
George Mason University  
Nursing, Board of  
Retirement System, Virginia  
Water Control Board, State

**March 25**

† Contractors, Board for  
† Environmental Quality, Department of  
- Virginia Recycling Markets Development Council  
† Game and Inland Fisheries, Board of  
Nursing, Board of  
† Pharmacy, Board of  
Real Estate Board  
Retirement System, Virginia

**March 26**

† Compensation Board  
† Physical Therapy, Board of

**March 30**

Conservation and Recreation, Department of  
† Contractors, Board for  
Medical Assistance Services, Department of  
Waste Management Facility Operators, Board for

**March 31**

† Real Estate Board

**April 1**

Education, Department of  
† Water Control Board, State

**April 2**

Art and Architectural Review Board  
Education, Department of

**April 6**

† Contractors, Board for  
Museum of Fine Arts, Virginia

**April 7**

Health, Department of  
- Sewage Handling and Disposal Appeal Review Board  
† Water Control Board, State

**April 8**

Nursing, Board of

**April 9**

Opticians, Board for

**April 13**

Blind and Vision Impaired, Board for the  
Contractors, Board for  
Medical Assistance Services, Board of  
Nursing, Board of  
† Resources Authority, Virginia

**April 14**

Medicine, Board of

**April 15**

Design-Build/Construction Management Review Board

**April 16**

Health Professions, Board of

**April 19**

Barbers and Cosmetology, Board for  
Education, Board of  
- Advisory Board on Teacher Education and Licensure  
Nursing, Board of

**April 20**

Conservation and Recreation, Department of  
Geology, Board for  
Nursing, Board of

**April 21**

† Cemetery Board  
† Labor and Industry, Department of  
- Safety and Health Codes Board  
Nursing and Medicine, Joint Boards for  
Retirement System, Virginia

**April 27**

Psychology, Board of

**April 28**

Education, Board of  
† Emergency Planning Committee, Local - Roanoke Valley  
Water Control Board, State

**April 29**

Education, Board of  
† Health, Department of  
Nursing, Board of

**May 4**

Fine Arts, Virginia Museum of

**May 5**

Contractors, Board for

**May 7**

Art and Architectural Review Board

**May 11**

† Medical Assistance Services, Department of

**May 13**

† Jamestown-Yorktown Foundation

**May 14**

† Child Fatality Review Team, State  
† Health, Department of  
- State Emergency Medical Services Advisory Board  
† Jamestown-Yorktown Foundation

**May 17**

† Nursing, Board of

**May 18**

† Conservation and Recreation, Department of  
† Nursing, Board of

---

## Calendar of Events

---

**May 19**

- † Asbestos, Lead, and Home Inspectors, Virginia Board for
- † Community Colleges, State Board for
- † Nursing, Board of
- † Retirement System, Virginia

**May 20**

- † Community Colleges, State Board for
- † Design-Build/Construction Management Review Board
- † Nursing, Board of
- † Public Guardian and Conservator Advisory Board
- † Retirement System, Virginia

**May 26**

- † Water Control Board, State

### PUBLIC HEARINGS

**February 23**

- † Environmental Quality, Department of

**February 25**

- † Environmental Quality, Department of

**March 11**

- Architects, Professional Engineers, Land Surveyors,  
Certified Interior Designers and Landscape Architects,  
Board for

**March 23**

- General Services, Department of

**March 24**

- General Services, Department of  
Real Estate Board

**March 25**

- † Environmental Quality, Department of

**March 30**

- General Services, Department of

**March 31**

- General Services, Department of  
† Water Control Board, State

**April 1**

- General Services, Department of

**April 14**

- Soil Scientists, Board for Professional

**May 12**

- † Waterwork and Wastewater Works Operators, Board for

**May 13**

- † Criminal Justice Services Board