
THE VIRGINIA REGISTER INFORMATION PAGE

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

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

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

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

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

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

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

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

A regulation becomes effective at the conclusion of the 30-day final adoption period, or at any other later date specified by the promulgating agency, unless (i) a legislative objection has been filed, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the 21-day

extension period; (ii) the Governor exercises his authority to require the agency to provide for additional public comment, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the period for which the Governor has provided for additional public comment; (iii) the Governor and the General Assembly exercise their authority to suspend the effective date of a regulation until the end of the next regular legislative session; or (iv) the agency suspends the regulatory process, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the 30-day public comment period.

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

EMERGENCY REGULATIONS

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

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

STATEMENT

The foregoing constitutes a generalized statement of the procedures to be followed. For specific statutory language, it is suggested that Article 2 (§ 9-6.14:7.1 et seq.) of Chapter 1.1:1 of the Code of Virginia be examined carefully.

CITATION TO THE VIRGINIA REGISTER

The *Virginia Register* is cited by volume, issue, page number, and date. **12:8 VA.R. 1096-1106 January 8, 1996**, refers to Volume 12, Issue 8, pages 1096 through 1106 of the *Virginia Register* issued on January 8, 1996.

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Members of the Virginia Code Commission: **Jay W. DeBoer**, Chairman; **Robert L. Calhoun**; **Bernard S. Cohen**; **Frank S. Ferguson**; **J. Randy Forbes**; **James E. Kulp**; **E.M. Miller, Jr.**; **William C. Mims**; **James B. Wilkinson.**

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PUBLICATION SCHEDULE AND DEADLINES

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

May 2000 through March 2001

<u>Volume:Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
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16:19	May 17, 2000	June 5, 2000
16:20	May 31, 2000	June 19, 2000
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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 1999 VAC Supplement includes final regulations published through *Virginia Register* Volume 15, Issue 23, dated August 2, 1999). 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.

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2 VAC 15-20-70	Amended	16:9 VA.R. 1150	1/1/00
2 VAC 15-20-80	Amended	15:26 VA.R. 3445	8/17/99
2 VAC 15-20-80	Repealed	16:9 VA.R. 1150	1/1/00
2 VAC 15-20-81	Added	16:9 VA.R. 1150	1/1/00
Title 4. Conservation and Natural Resources			
4 VAC 20-252-60	Amended	16:10 VA.R. 1222	1/1/00
4 VAC 20-252-85	Amended	16:10 VA.R. 1222	1/1/00
4 VAC 20-252-90	Amended	16:10 VA.R. 1222	1/1/00
4 VAC 20-252-100	Amended	16:10 VA.R. 1223	1/1/00
4 VAC 20-252-110	Amended	16:10 VA.R. 1223	1/1/00
4 VAC 20-252-120	Amended	16:14 VA.R. 1860	3/1/00
4 VAC 20-252-140	Amended	16:10 VA.R. 1223	1/1/00
4 VAC 20-270-40 emer	Amended	16:14 VA.R. 1885	3/1/00-3/30/00
4 VAC 20-270-40	Amended	16:16 VA.R. 2041	3/30/00
4 VAC 20-270-50	Amended	16:7 VA.R. 804	1/1/00
4 VAC 20-333-10 through 4 VAC 20-333-40	Added	15:24 VA.R. 3035-3037	7/6/99
4 VAC 20-430-55	Added	16:14 VA.R. 1860	3/1/00
4 VAC 20-430-70	Amended	16:14 VA.R. 1860	3/1/00
4 VAC 20-500-55	Added	16:14 VA.R. 1861	3/1/00
4 VAC 20-561-10 through 4 VAC 20-561-30 emer	Added	16:12 VA.R. 1710	2/2/00-2/22/00
4 VAC 20-595-10 emer	Added	15:25 VA.R. 3366	8/15/99-8/31/99
4 VAC 20-595-20 emer	Added	15:25 VA.R. 3366	8/15/99-8/31/99
4 VAC 20-620-30	Amended	16:5 VA.R. 580	11/1/99
4 VAC 20-620-40	Amended	16:5 VA.R. 580	11/1/99
4 VAC 20-620-50	Amended	16:14 VA.R. 1861	3/1/00
4 VAC 20-620-70	Amended	16:14 VA.R. 1861	3/1/00
4 VAC 20-700-20	Amended	16:7 VA.R. 804	1/1/00
4 VAC 20-700-20	Amended	16:16 VA.R. 2041	4/1/00
4 VAC 20-720-20	Amended	16:3 VA.R. 292	10/1/99
4 VAC 20-720-20	Amended	16:12 VA.R. 1671	2/4/00
4 VAC 20-720-35	Added	16:3 VA.R. 292	10/1/99
4 VAC 20-720-40	Amended	16:3 VA.R. 292	10/1/99
4 VAC 20-720-40	Amended	16:12 VA.R. 1671	2/4/00
4 VAC 20-720-50	Amended	16:3 VA.R. 293	10/1/99
4 VAC 20-720-50	Amended	16:12 VA.R. 1672	2/4/00
4 VAC 20-720-60	Amended	16:3 VA.R. 293	10/1/99
4 VAC 20-720-60	Amended	16:12 VA.R. 1672	2/4/00
4 VAC 20-720-70	Amended	16:3 VA.R. 294	10/1/99
4 VAC 20-720-70	Amended	16:12 VA.R. 1673	2/4/00
4 VAC 20-720-80	Amended	16:3 VA.R. 294	10/1/99
4 VAC 20-720-80	Amended	16:12 VA.R. 1673	2/4/00
4 VAC 20-720-105	Repealed	16:3 VA.R. 294	10/1/99
4 VAC 20-890-10	Amended	16:7 VA.R. 804	1/1/00
4 VAC 20-890-25	Added	16:7 VA.R. 805	1/1/00

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4 VAC 20-890-25	Amended	16:12 VA.R. 1674	2/2/00
4 VAC 20-890-35	Amended	16:7 VA.R. 805	1/1/00
4 VAC 20-891-10 through 4 VAC 20-891-30 emer	Added	16:10 VA.R. 1268	1/1/00-1/31/00
4 VAC 20-910-45	Amended	16:14 VA.R. 1862	3/1/00
4 VAC 20-950-45	Amended	16:14 VA.R. 1862	3/1/00
4 VAC 25-40 (Forms)	Amended	16:10 VA.R. 1335	--
4 VAC 25-130 (Forms)	Amended	16:10 VA.R. 1335	--
4 VAC 25-130-700.5	Amended	16:15 VA.R. 1956	5/10/00
4 VAC 25-130-795.1	Amended	16:15 VA.R. 1968	5/10/00
4 VAC 25-130-795.6	Amended	16:15 VA.R. 1968	5/10/00
4 VAC 25-130-795.7	Amended	16:15 VA.R. 1968	5/10/00
4 VAC 25-130-795.8	Amended	16:15 VA.R. 1969	5/10/00
4 VAC 25-130-795.9	Amended	16:15 VA.R. 1969	5/10/00
4 VAC 25-130-795.10	Amended	16:15 VA.R. 1969	5/10/00
4 VAC 25-130-795.11	Amended	16:15 VA.R. 1970	5/10/00
4 VAC 25-130-795.12	Amended	16:15 VA.R. 1970	5/10/00
4 VAC 25-150 (Forms)	Amended	16:10 VA.R. 1335	--
Title 6. Criminal Justice and Corrections			
6 VAC 20-170-10 et seq.	Repealed	16:8 VA.R. 945	2/2/00
6 VAC 20-171-10 through 6 VAC 20-171-560	Added	16:8 VA.R. 945-974	2/2/00
6 VAC 20-171-420	Erratum	16:14 VA.R. 1911	--
6 VAC 35-50-10 et seq.	Repealed	16:10 VA.R. 1223	7/1/00
Title 7. Economic Development			
7 VAC 10-20-10	Amended	15:25 VA.R. 3348	9/29/99
7 VAC 10-20-30	Amended	15:25 VA.R. 3350	9/29/99
7 VAC 10-20-50	Amended	15:25 VA.R. 3350	9/29/99
Title 8. Education			
8 VAC 20-50-10 et seq.	Repealed	16:10 VA.R. 1223	7/1/00
Title 9. Environment			
9 VAC 5-50-400	Amended	16:14 VA.R. 1863	5/1/00
9 VAC 5-60-60	Amended	16:14 VA.R. 1864	5/1/00
9 VAC 5-60-90	Amended	16:14 VA.R. 1864	5/1/00
9 VAC 5-60-100	Amended	16:14 VA.R. 1864	5/1/00
9 VAC 5-80-1400 through 9 VAC 5-80-1590	Added	16:7 VA.R. 806-819	2/1/00
9 VAC 25-151 (Forms)	Amended	15:24 VA.R. 3251	--
9 VAC 25-210 (Forms)	Amended	16:12 VA.R. 1711-1714	--
9 VAC 25-220-60	Amended	16:15 VA.R. 1971	5/10/00
9 VAC 25-220-70	Amended	16:15 VA.R. 1971	5/10/00
Title 11. Gaming			
11 VAC 10-130-10	Amended	15:26 VA.R. 3449	8/25/99
11 VAC 10-130-20	Amended	15:26 VA.R. 3449	8/25/99
11 VAC 10-130-40	Amended	15:26 VA.R. 3451	8/25/99
11 VAC 10-130-51	Amended	15:26 VA.R. 3451	8/25/99
11 VAC 10-130-60	Amended	15:26 VA.R. 3452	8/25/99
11 VAC 10-130-76	Amended	15:26 VA.R. 3452	8/25/99
11 VAC 10-130-77	Amended	15:26 VA.R. 3452	8/25/99
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12 VAC 5-65-10 et seq. emer	Amended	16:10 VA.R. 1268-1275	1/3/00-1/2/01
12 VAC 5-80-10	Amended	16:16 VA.R. 2042	7/1/00
12 VAC 5-80-20	Amended	16:16 VA.R. 2043	7/1/00
12 VAC 5-80-30	Amended	16:16 VA.R. 2043	7/1/00
12 VAC 5-80-40	Amended	16:16 VA.R. 2043	7/1/00
12 VAC 5-80-50	Repealed	16:16 VA.R. 2043	7/1/00
12 VAC 5-80-80	Amended	16:16 VA.R. 2043	7/1/00
12 VAC 5-80-90	Amended	16:16 VA.R. 2045	7/1/00
12 VAC 5-80-95	Added	16:16 VA.R. 2045	7/1/00

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12 VAC 5-80-110	Repealed	16:16 VA.R. 2046	7/1/00
12 VAC 5-80-120	Repealed	16:16 VA.R. 2046	7/1/00
12 VAC 5-165-10 through 12 VAC 5-165-310	Added	16:16 VA.R. 2048-2051	5/24/00
12 VAC 5-220-10 emer	Amended	16:10 VA.R. 1276	1/3/00-1/2/01
12 VAC 5-220-90 emer	Amended	16:10 VA.R. 1280	1/3/00-1/2/01
12 VAC 5-220-105 emer	Amended	16:10 VA.R. 1280	1/3/00-1/2/01
12 VAC 5-220-150 emer	Repealed	16:10 VA.R. 1280	1/3/00-1/2/01
12 VAC 5-220-160 emer	Amended	16:10 VA.R. 1281	1/3/00-1/2/01
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12 VAC 5-220-280 emer	Amended	16:10 VA.R. 1286	1/3/00-1/2/01
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12 VAC 5-260-80 emer	Amended	16:10 VA.R. 1294	1/3/00-1/2/01
12 VAC 5-260-100 emer	Amended	16:10 VA.R. 1294	1/3/00-1/2/01
12 VAC 5-270-30 emer	Amended	16:10 VA.R. 1295	1/3/00-1/2/01
12 VAC 5-270-40 emer	Amended	16:10 VA.R. 1295	1/3/00-1/2/01
12 VAC 5-280-10 emer	Amended	16:10 VA.R. 1296	1/3/00-1/2/01
12 VAC 5-280-30 emer	Amended	16:10 VA.R. 1296	1/3/00-1/2/01
12 VAC 5-290-10 emer	Amended	16:10 VA.R. 1296	1/3/00-1/2/01
12 VAC 5-290-30 emer	Amended	16:10 VA.R. 1297	1/3/00-1/2/01
12 VAC 5-300-30 emer	Amended	16:10 VA.R. 1297	1/3/00-1/2/01
12 VAC 5-310-30 emer	Amended	16:10 VA.R. 1298	1/3/00-1/2/01
12 VAC 5-320-50 emer	Amended	16:10 VA.R. 1298	1/3/00-1/2/01
12 VAC 5-320-150 emer	Amended	16:10 VA.R. 1298	1/3/00-1/2/01
12 VAC 5-320-430 emer	Amended	16:10 VA.R. 1298	1/3/00-1/2/01
12 VAC 5-340-30 emer	Amended	16:10 VA.R. 1298	1/3/00-1/2/01
12 VAC 5-360-30 emer	Amended	16:10 VA.R. 1298	1/3/00-1/2/01
12 VAC 5-360-40 emer	Amended	16:10 VA.R. 1299	1/3/00-1/2/01
12 VAC 5-371-40 emer	Amended	16:7 VA.R. 896	12/31/99-12/30/00
12 VAC 5-408-10 through 12 VAC 5-408-370	Added	16:7 VA.R. 819-837	1/20/00
12 VAC 5-408-70	Erratum	16:9 VA.R. 1174	--
12 VAC 5-408-230	Erratum	16:9 VA.R. 1174	--
12 VAC 5-408-360	Erratum	16:9 VA.R. 1174	--
12 VAC 5-408-370	Erratum	16:9 VA.R. 1174	--
12 VAC 5-410-70 emer	Amended	16:7 VA.R. 897	12/31/99-12/30/00
12 VAC 5-610-10	Repealed	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-20	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-30	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-40	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-50	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-70	Amended	16:16 VA.R. 2052	7/1/00
12 VAC 5-610-75	Added	16:16 VA.R. 2053	7/1/00

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 5-610-80	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-90	Repealed	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-100	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-110	Repealed	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-120	Amended	16:16 VA.R. 2053	7/1/00
12 VAC 5-610-130	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-140	Repealed	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-150	Repealed	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-170	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-180	Repealed	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-190	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-200	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-230	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-250	Amended	16:16 VA.R. 2055	7/1/00
12 VAC 5-610-255	Added	16:16 VA.R. 2057	7/1/00
12 VAC 5-610-260	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-270	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-280	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-290	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-300	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-330	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-340	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-360	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-370	Repealed	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-380	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-390	Amended	16:16 VA.R. 2058	7/1/00
12 VAC 5-610-420	Amended	16:16 VA.R. 2058	7/1/00
12 VAC 5-610-430	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-440	Amended	16:16 VA.R. 2058	7/1/00
12 VAC 5-610-441 through 12 VAC 5-610-448	Added	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-449	Added	16:16 VA.R. 2058	7/1/00
12 VAC 5-610-449.1	Added	16:16 VA.R. 2060	7/1/00
12 VAC 5-610-450	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-470	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-480	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-490	Amended	16:16 VA.R. 2061	7/1/00
12 VAC 5-610-500	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-510 through 12 VAC 5-610-550	Repealed	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-560	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-570	Repealed	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-580	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-591	Added	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-592	Added	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-593	Added	16:16 VA.R. 2063	7/1/00
12 VAC 5-610-594	Added	16:16 VA.R. 2063	7/1/00
12 VAC 5-610-596	Added	16:16 VA.R. 2063	7/1/00
12 VAC 5-610-597	Added	16:16 VA.R. 2064	7/1/00
12 VAC 5-610-598	Added	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-599	Added	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-599.1 through 12 VAC 5-610-599.3	Added	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-620	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-650	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-670	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-690	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-700	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-740	Amended	16:16 VA.R. 2068	7/1/00

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12 VAC 5-610-800	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-810	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-815	Added	16:16 VA.R. 2068	7/1/00
12 VAC 5-610-817	Added	16:16 VA.R. 2069	7/1/00
12 VAC 5-610-820	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-830	Repealed	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-840	Repealed	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-880	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-890	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-930	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-940	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-950	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-960	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-965	Added	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-980	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-1080	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-1140	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-1150	Repealed	16:16 VA.R. 2051	7/1/00
12 VAC 5-615-10 through 12 VAC 5-615-420 emer	Added	16:10 VA.R. 1301-1313	1/3/00-1/2/01
12 VAC 30-10-150 emer	Amended	16:10 VA.R. 1315	1/1/00-12/31/00
12 VAC 30-10-441	Added	15:26 VA.R. 3454	10/13/99
12 VAC 30-10-490	Amended	15:26 VA.R. 3454	10/13/99
12 VAC 30-10-680	Amended	15:26 VA.R. 3454	10/13/99
12 VAC 30-40-345	Added	16:15 VA.R. 1973	5/10/00
12 VAC 30-50-30 emer	Amended	16:10 VA.R. 1315	1/1/00-12/31/00
12 VAC 30-50-70 emer	Amended	16:10 VA.R. 1316	1/1/00-12/31/00
12 VAC 30-50-100	Amended	15:24 VA.R. 3243	9/15/99
12 VAC 30-50-105	Amended	15:24 VA.R. 3245	9/15/99
12 VAC 30-50-130 emer	Amended	16:10 VA.R. 1316	1/1/00-12/31/00
12 VAC 30-50-140	Amended	15:24 VA.R. 3247	9/15/99
12 VAC 30-50-160	Amended	16:2 VA.R. 202	11/10/99
12 VAC 30-50-210	Amended	16:2 VA.R. 205	11/10/99
12 VAC 30-50-220	Amended	15:25 VA.R. 3362	10/1/99
12 VAC 30-50-229.1 emer	Amended	16:10 VA.R. 1322	1/12/00-1/11/01
12 VAC 30-50-250 emer	Amended	16:10 VA.R. 1317	1/1/00-12/31/00
12 VAC 30-50-270	Amended	16:6 VA.R. 706	1/5/00
12 VAC 30-50-480 emer	Amended	16:10 VA.R. 1326	1/1/00-12/31/00
12 VAC 30-60-130	Amended	16:6 VA.R. 707	1/5/00
12 VAC 30-60-170 emer	Amended	16:10 VA.R. 1328	1/1/00-12/31/00
12 VAC 30-80-21 emer	Added	16:10 VA.R. 1317	1/1/00-12/31/00
12 VAC 30-80-30	Amended	16:2 VA.R. 207	11/10/99
12 VAC 30-80-30	Amended	16:6 VA.R. 710	1/5/00
12 VAC 30-80-40	Amended	16:2 VA.R. 208	11/10/99
12 VAC 30-80-111 emer	Added	16:10 VA.R. 1329	1/1/00-12/31/00
12 VAC 30-129-100 through 12 VAC 30-129-150 emer	Added	16:10 VA.R. 1329-1334	1/1/00-12/31/00
12 VAC 30-130-270 through 12 VAC 30-130-530	Repealed	16:6 VA.R. 711-715	1/5/00
12 VAC 30-130-850 through 12 VAC 30-130-890 emer	Added	16:10 VA.R. 1317-1320	1/1/00-12/31/00
12 VAC 30-140-10 through 12 VAC 30-140-570	Added	15:26 VA.R. 3456-3465	10/13/99
12 VAC 30-140-370	Amended	16:4 VA.R. 404	12/8/99
12 VAC 30-140-380	Amended	16:4 VA.R. 404	12/8/99
12 VAC 35-30-10 et seq.	Repealed	16:10 VA.R. 1233	7/1/00
Title 13. Housing			
13 VAC 5-175-10 through 13 VAC 5-175-40	Added	16:4 VA.R. 405-406	10/20/99
13 VAC 10-180-40	Amended	16:11 VA.R. 1448	1/24/00
13 VAC 10-180-50	Amended	16:11 VA.R. 1448	1/24/00
13 VAC 10-180-60	Amended	16:11 VA.R. 1450	1/24/00

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13 VAC 10-180-60	Amended	16:15 VA.R. 1973	3/22/00
13 VAC 10-180-70	Amended	16:11 VA.R. 1458	1/24/00
Title 14. Insurance			
14 VAC 5-215-10 through 14 VAC 5-215-130	Added	16:11 VA.R. 1461-1470	2/15/00
14 VAC 5-215-20	Erratum	16:14 VA.R. 1912	--
14 VAC 5-215-30	Erratum	16:14 VA.R. 1912	--
14 VAC 5-270-30	Amended	16:5 VA.R. 582	1/1/00
14 VAC 5-270-40	Amended	16:5 VA.R. 582	1/1/00
14 VAC 5-270-60	Amended	16:5 VA.R. 582	1/1/00
14 VAC 5-270-70	Amended	16:5 VA.R. 583	1/1/00
14 VAC 5-270-80	Amended	16:5 VA.R. 583	1/1/00
14 VAC 5-270-160	Repealed	16:5 VA.R. 584	1/1/00
14 VAC 5-319-10 through 14 VAC 5-319-80	Added	16:5 VA.R. 585-599	1/1/00
14 VAC 5-350 (Forms)	Amended	16:8 VA.R. 976	--
14 VAC 5-350 (Forms)	Amended	16:11 VA.R. 1475-1480	--
14 VAC 5-395-20	Amended	16:4 VA.R. 407	10/20/99
14 VAC 5-395-25	Added	16:4 VA.R. 407	10/20/99
14 VAC 5-395-60	Amended	16:4 VA.R. 407	10/20/99
Title 15. Judicial			
15 VAC 10-10-10	Amended	16:16 VA.R. 2069	3/24/00
Title 16. Labor and Employment			
16 VAC 25-120-1917.1	Amended	16:7 VA.R. 843	1/20/00
16 VAC 25-130-1918.1	Amended	16:7 VA.R. 843	1/20/00
16 VAC 30-11-10 through 16 VAC 30-11-30	Added	16:10 VA.R. 1224	3/1/00
Title 18. Professional and Occupational Licensing			
18 VAC 5-20-10 emer	Amended	16:3 VA.R. 319	10/4/99-10/3/00
18 VAC 5-20-11 emer	Added	16:3 VA.R. 321	10/4/99-10/3/00
18 VAC 5-20-20 emer	Amended	16:3 VA.R. 322	10/4/99-10/3/00
18 VAC 5-20-30 emer	Repealed	16:3 VA.R. 324	10/4/99-10/3/00
18 VAC 5-20-40 emer	Repealed	16:3 VA.R. 324	10/4/99-10/3/00
18 VAC 5-20-41 emer	Added	16:3 VA.R. 324	10/4/99-10/3/00
18 VAC 5-20-50 emer	Repealed	16:3 VA.R. 325	10/4/99-10/3/00
18 VAC 5-20-60 emer	Repealed	16:3 VA.R. 325	10/4/99-10/3/00
18 VAC 5-20-70 emer	Repealed	16:3 VA.R. 326	10/4/99-10/3/00
18 VAC 5-20-80 emer	Repealed	16:3 VA.R. 326	10/4/99-10/3/00
18 VAC 5-20-81 emer	Added	16:3 VA.R. 326	10/4/99-10/3/00
18 VAC 5-20-90 emer	Repealed	16:3 VA.R. 326	10/4/99-10/3/00
18 VAC 5-20-91 emer	Added	16:3 VA.R. 327	10/4/99-10/3/00
18 VAC 5-20-100 emer	Amended	16:3 VA.R. 328	10/4/99-10/3/00
18 VAC 5-20-110 emer	Amended	16:3 VA.R. 329	10/4/99-10/3/00
18 VAC 5-20-111 emer	Added	16:3 VA.R. 330	10/4/99-10/3/00
18 VAC 5-20-112 emer	Added	16:3 VA.R. 330	10/4/99-10/3/00
18 VAC 5-20-120 through 18 VAC 5-20-440 emer	Repealed	16:3 VA.R. 330-333	10/4/99-10/3/00
18 VAC 5-20-441 emer	Added	16:3 VA.R. 333	10/4/99-10/3/00
18 VAC 5-20-442 emer	Added	16:3 VA.R. 334	10/4/99-10/3/00
18 VAC 5-20-443 emer	Added	16:3 VA.R. 334	10/4/99-10/3/00
18 VAC 5-20-444 emer	Added	16:3 VA.R. 336	10/4/99-10/3/00
18 VAC 5-20-445 emer	Added	16:3 VA.R. 336	10/4/99-10/3/00
18 VAC 5-20-450 emer	Repealed	16:3 VA.R. 336	10/4/99-10/3/00
18 VAC 5-20-451 emer	Added	16:3 VA.R. 336	10/4/99-10/3/00
18 VAC 5-20-460 through 500 emer	Repealed	16:3 VA.R. 337-339	10/4/99-10/3/00
18 VAC 10-20-10	Amended	16:3 VA.R. 298	12/1/99
18 VAC 10-20-20	Amended	16:3 VA.R. 299	12/1/99
18 VAC 10-20-35	Added	16:3 VA.R. 299	12/1/99
18 VAC 10-20-90	Amended	15:24 VA.R. 3248	10/1/99
18 VAC 10-20-110	Amended	16:3 VA.R. 299	12/1/99

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18 VAC 10-20-120	Amended	16:3 VA.R. 300	12/1/99
18 VAC 10-20-140	Amended	16:3 VA.R. 300	12/1/99
18 VAC 10-20-150	Amended	16:3 VA.R. 301	12/1/99
18 VAC 10-20-160	Amended	16:3 VA.R. 303	12/1/99
18 VAC 10-20-170	Amended	15:24 VA.R. 3248	10/1/99
18 VAC 10-20-170	Amended	16:3 VA.R. 303	12/1/99
18 VAC 10-20-190	Amended	16:3 VA.R. 303	12/1/99
18 VAC 10-20-200	Amended	16:3 VA.R. 304	12/1/99
18 VAC 10-20-210	Amended	16:3 VA.R. 304	12/1/99
18 VAC 10-20-215	Added	16:3 VA.R. 305	12/1/99
18 VAC 10-20-230	Amended	16:3 VA.R. 305	12/1/99
18 VAC 10-20-250	Amended	16:3 VA.R. 305	12/1/99
18 VAC 10-20-260	Amended	16:3 VA.R. 306	12/1/99
18 VAC 10-20-270	Amended	16:3 VA.R. 306	12/1/99
18 VAC 10-20-280	Amended	15:24 VA.R. 3249	10/1/99
18 VAC 10-20-280	Amended	16:3 VA.R. 306	12/1/99
18 VAC 10-20-300	Amended	16:3 VA.R. 306	12/1/99
18 VAC 10-20-310	Amended	16:3 VA.R. 307	12/1/99
18 VAC 10-20-320	Amended	16:3 VA.R. 307	12/1/99
18 VAC 10-20-330	Amended	16:3 VA.R. 307	12/1/99
18 VAC 10-20-350	Amended	16:3 VA.R. 307	12/1/99
18 VAC 10-20-360	Amended	16:3 VA.R. 308	12/1/99
18 VAC 10-20-400	Amended	15:24 VA.R. 3249	10/1/99
18 VAC 10-20-440	Amended	16:3 VA.R. 308	12/1/99
18 VAC 10-20-450	Amended	16:3 VA.R. 308	12/1/99
18 VAC 10-20-470	Amended	15:24 VA.R. 3249	10/1/99
18 VAC 10-20-490	Amended	16:3 VA.R. 309	12/1/99
18 VAC 10-20-500	Repealed	16:3 VA.R. 309	12/1/99
18 VAC 10-20-520	Amended	15:24 VA.R. 3249	10/1/99
18 VAC 10-20-530	Amended	16:3 VA.R. 309	12/1/99
18 VAC 10-20-560	Amended	16:3 VA.R. 310	12/1/99
18 VAC 10-20-570	Amended	16:3 VA.R. 310	12/1/99
18 VAC 10-20-580	Amended	15:24 VA.R. 3249	10/1/99
18 VAC 10-20-590	Amended	16:3 VA.R. 310	12/1/99
18 VAC 10-20-630	Amended	15:24 VA.R. 3249	10/1/99
18 VAC 10-20-640	Amended	16:3 VA.R. 311	12/1/99
18 VAC 10-20-680	Amended	16:3 VA.R. 311	12/1/99
18 VAC 10-20-730	Amended	16:3 VA.R. 311	12/1/99
18 VAC 10-20-740	Amended	16:3 VA.R. 311	12/1/99
18 VAC 10-20-760	Amended	16:3 VA.R. 312	12/1/99
18 VAC 10-20-780	Amended	16:3 VA.R. 313	12/1/99
18 VAC 10-20-790	Amended	16:3 VA.R. 313	12/1/99
18 VAC 10-20-795	Added	16:3 VA.R. 314	12/1/99
18 VAC 15-20-50	Amended	16:11 VA.R. 1471	5/1/00
18 VAC 15-20-960	Amended	16:11 VA.R. 1471	5/1/00
18 VAC 15-30-160	Amended	16:11 VA.R. 1472	5/1/00
18 VAC 15-30-830	Amended	16:11 VA.R. 1472	5/1/00
18 VAC 25-21-70	Amended	15:26 VA.R. 3468	11/1/99
18 VAC 47-10-10 through 18 VAC 47-10-90	Added	16:12 VA.R. 1675-1676	3/29/00
18 VAC 47-20-10 through 18 VAC 47-20-240	Added	16:13 VA.R. 1776-1782	4/12/00
18 VAC 55-22-310	Amended	15:26 VA.R. 3476	11/1/99
18 VAC 55-22 (Forms)	Amended	16:5 VA.R. 600	--
18 VAC 60-20-20	Amended	16:7 VA.R. 846	1/19/00
18 VAC 60-20-30	Amended	16:7 VA.R. 846	1/19/00
18 VAC 65-20-70	Amended	16:7 VA.R. 851	1/19/00
18 VAC 65-20-120	Amended	16:7 VA.R. 851	1/19/00

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18 VAC 65-20-130	Amended	16:7 VA.R. 851	1/19/00
18 VAC 65-20-435	Added	16:7 VA.R. 851	1/19/00
18 VAC 85-20-22	Amended	16:4 VA.R. 407	12/8/99
18 VAC 85-20-22	Amended	16:13 VA.R. 1766	4/12/00
18 VAC 85-20-230	Amended	16:4 VA.R. 408	12/8/99
18 VAC 85-20-235	Added	16:4 VA.R. 408	12/8/99
18 VAC 85-20-236	Added	16:4 VA.R. 408	12/8/99
18 VAC 85-20-240	Amended	16:4 VA.R. 409	12/8/99
18 VAC 85-20-240	Erratum	16:8 VA.R. 997	--
18 VAC 85-20-240	Amended	16:13 VA.R. 1767	4/12/00
18 VAC 85-20-280	Added	16:7 VA.R. 854	1/19/00
18 VAC 85-20-290	Added	16:7 VA.R. 854	1/19/00
18 VAC 85-20-300	Added	16:7 VA.R. 855	1/19/00
18 VAC 85-31-10	Amended	16:13 VA.R. 1772	4/13/00
18 VAC 85-31-25	Added	16:13 VA.R. 1773	4/13/00
18 VAC 85-31-40	Amended	16:13 VA.R. 1773	4/13/00
18 VAC 85-31-50	Amended	16:13 VA.R. 1773	4/13/00
18 VAC 85-31-60	Amended	16:13 VA.R. 1774	4/13/00
18 VAC 85-31-65	Added	16:13 VA.R. 1774	4/13/00
18 VAC 85-31-80	Amended	16:13 VA.R. 1774	4/13/00
18 VAC 85-31-90	Amended	16:13 VA.R. 1774	4/13/00
18 VAC 85-31-100	Amended	16:13 VA.R. 1774	4/13/00
18 VAC 85-31-120	Amended	16:13 VA.R. 1775	4/13/00
18 VAC 85-31-130	Amended	16:13 VA.R. 1775	4/13/00
18 VAC 85-31-135	Added	16:13 VA.R. 1775	4/13/00
18 VAC 85-31-140	Amended	16:13 VA.R. 1775	4/13/00
18 VAC 85-31-160	Amended	16:13 VA.R. 1768	4/12/00
18 VAC 85-40-10	Amended	16:7 VA.R. 860	1/19/00
18 VAC 85-40-25	Added	16:7 VA.R. 860	1/19/00
18 VAC 85-40-40	Amended	16:7 VA.R. 860	1/19/00
18 VAC 85-40-45	Added	16:7 VA.R. 860	1/19/00
18 VAC 85-40-50	Amended	16:7 VA.R. 860	1/19/00
18 VAC 85-40-60	Amended	16:7 VA.R. 861	1/19/00
18 VAC 85-40-65	Added	16:7 VA.R. 861	1/19/00
18 VAC 85-40-80	Amended	16:7 VA.R. 861	1/19/00
18 VAC 85-40-80	Amended	16:13 VA.R. 1769	4/12/00
18 VAC 85-50-170	Amended	16:13 VA.R. 1770	4/12/00
18 VAC 85-80-10	Amended	16:7 VA.R. 868	1/19/00
18 VAC 85-80-20	Amended	16:7 VA.R. 868	1/19/00
18 VAC 85-80-25	Added	16:7 VA.R. 868	1/19/00
18 VAC 85-80-35	Added	16:7 VA.R. 868	1/19/00
18 VAC 85-80-40	Amended	16:7 VA.R. 868	1/19/00
18 VAC 85-80-50	Amended	16:7 VA.R. 869	1/19/00
18 VAC 85-80-60	Amended	16:7 VA.R. 869	1/19/00
18 VAC 85-80-70	Amended	16:7 VA.R. 869	1/19/00
18 VAC 85-80-80	Amended	16:7 VA.R. 869	1/19/00
18 VAC 85-80-120	Amended	16:13 VA.R. 1770	4/12/00
18 VAC 85-101-10	Amended	16:4 VA.R. 410	12/8/99
18 VAC 85-101-40	Amended	16:4 VA.R. 410	12/8/99
18 VAC 85-101-50	Amended	16:4 VA.R. 410	12/8/99
18 VAC 85-101-60	Amended	16:4 VA.R. 411	12/8/99
18 VAC 85-101-70	Amended	16:4 VA.R. 411	12/8/99
18 VAC 85-101-130	Amended	16:4 VA.R. 411	12/8/99
18 VAC 85-101-160	Amended	16:4 VA.R. 412	12/8/99
18 VAC 85-101-160	Amended	16:13 VA.R. 1771	4/12/00
18 VAC 85-110-35	Amended	16:13 VA.R. 1771	4/12/00

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 90-20-30	Amended	16:13 VA.R. 1782	4/12/00
18 VAC 90-20-190	Amended	16:13 VA.R. 1782	4/12/00
18 VAC 90-20-230	Amended	16:13 VA.R. 1783	4/12/00
18 VAC 90-20-300	Amended	16:3 VA.R. 315	11/24/99
18 VAC 90-20-350	Amended	16:13 VA.R. 1783	4/12/00
18 VAC 90-20-420	Added	16:3 VA.R. 315	11/24/99
18 VAC 90-20-430	Added	16:3 VA.R. 315	11/24/99
18 VAC 90-20-440	Added	16:3 VA.R. 316	11/24/99
18 VAC 90-20-450	Added	16:3 VA.R. 316	11/24/99
18 VAC 90-20-460	Added	16:3 VA.R. 317	11/24/99
18 VAC 100-20-10	Amended	15:26 VA.R. 3479	11/1/99
18 VAC 100-20-40	Amended	15:26 VA.R. 3479	11/1/99
18 VAC 100-20-50	Amended	15:26 VA.R. 3479	11/1/99
18 VAC 100-20-60	Amended	15:26 VA.R. 3479	11/1/99
18 VAC 100-20-70	Amended	15:26 VA.R. 3479	11/1/99
18 VAC 110-20-10	Amended	15:26 VA.R. 3482	10/13/99
18 VAC 110-20-135	Added	15:26 VA.R. 3484	10/13/99
18 VAC 110-20-140	Amended	15:26 VA.R. 3484	10/13/99
18 VAC 110-20-690	Added	15:26 VA.R. 3485	10/13/99
18 VAC 110-20-700	Added	15:26 VA.R. 3485	10/13/99
18 VAC 110-20-710	Added	15:26 VA.R. 3485	10/13/99
18 VAC 110-20-720	Added	15:26 VA.R. 3486	10/13/99
18 VAC 110-40-10 through 18 VAC 110-40-70 emer	Added	16:11 VA.R. 1473-1474	1/20/00-1/19/01
18 VAC 115-20-10	Amended	16:13 VA.R. 1786	4/12/00
18 VAC 115-20-20	Amended	16:13 VA.R. 1785	4/12/00
18 VAC 115-20-30	Repealed	16:13 VA.R. 1787	4/12/00
18 VAC 115-20-35	Added	16:13 VA.R. 1787	4/12/00
18 VAC 115-20-40	Amended	16:13 VA.R. 1787	4/12/00
18 VAC 115-20-40	Erratum	16:16 VA.R. 2081	--
18 VAC 115-20-45	Added	16:13 VA.R. 1787	4/12/00
18 VAC 115-20-49	Added	16:13 VA.R. 1788	4/12/00
18 VAC 115-20-49	Erratum	16:16 VA.R. 2081	--
18 VAC 115-20-50	Amended	16:13 VA.R. 1788	4/12/00
18 VAC 115-20-51	Added	16:13 VA.R. 1788	4/12/00
18 VAC 115-20-52	Added	16:13 VA.R. 1788	4/12/00
18 VAC 115-20-60	Repealed	16:13 VA.R. 1790	4/12/00
18 VAC 115-20-70	Amended	16:13 VA.R. 1790	4/12/00
18 VAC 115-20-80	Repealed	16:13 VA.R. 1791	4/12/00
18 VAC 115-20-100	Amended	16:13 VA.R. 1785	4/12/00
18 VAC 115-20-110	Amended	16:13 VA.R. 1785	4/12/00
18 VAC 115-20-130	Amended	16:13 VA.R. 1791	4/12/00
18 VAC 115-20-140	Amended	16:13 VA.R. 1792	4/12/00
18 VAC 115-20-150	Amended	16:13 VA.R. 1785	4/12/00
18 VAC 115-30-10	Amended	16:7 VA.R. 876	1/19/00
18 VAC 115-30-20	Repealed	16:7 VA.R. 877	1/19/00
18 VAC 115-30-30	Amended	16:7 VA.R. 877	1/19/00
18 VAC 115-30-30	Amended	16:13 VA.R. 1793	4/12/00
18 VAC 115-30-40	Amended	16:7 VA.R. 877	1/19/00
18 VAC 115-30-40	Amended	16:13 VA.R. 1793	4/12/00
18 VAC 115-30-45	Added	16:7 VA.R. 877	1/19/00
18 VAC 115-30-60	Amended	16:7 VA.R. 878	1/19/00
18 VAC 115-30-70	Amended	16:7 VA.R. 879	1/19/00
18 VAC 115-30-80	Repealed	16:7 VA.R. 879	1/19/00
18 VAC 115-30-90	Amended	16:7 VA.R. 879	1/19/00
18 VAC 115-30-100	Repealed	16:7 VA.R. 879	1/19/00
18 VAC 115-30-110	Amended	16:7 VA.R. 879	1/19/00

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 115-30-110	Amended	16:13 VA.R. 1793	4/12/00
18 VAC 115-30-120	Amended	16:7 VA.R. 879	1/19/00
18 VAC 115-30-120	Amended	16:13 VA.R. 1793	4/12/00
18 VAC 115-30-130	Repealed	16:7 VA.R. 879	1/19/00
18 VAC 115-30-140	Amended	16:7 VA.R. 879	1/19/00
18 VAC 115-30-150	Amended	16:7 VA.R. 880	1/19/00
18 VAC 115-30-160	Amended	16:7 VA.R. 880	1/19/00
18 VAC 115-30-160	Amended	16:13 VA.R. 1794	4/12/00
18 VAC 115-40-20	Amended	16:13 VA.R. 1794	4/12/00
18 VAC 115-40-35	Amended	16:13 VA.R. 1794	4/12/00
18 VAC 115-40-61	Added	16:13 VA.R. 1794	4/12/00
18 VAC 115-50-10	Amended	16:7 VA.R. 886	1/19/00
18 VAC 115-50-20	Amended	16:13 VA.R. 1795	4/12/00
18 VAC 115-50-30	Amended	16:7 VA.R. 886	1/19/00
18 VAC 115-50-30	Amended	16:13 VA.R. 1795	4/12/00
18 VAC 115-50-40	Amended	16:7 VA.R. 887	1/19/00
18 VAC 115-50-40	Amended	16:13 VA.R. 1796	4/12/00
18 VAC 115-50-50	Amended	16:7 VA.R. 887	1/19/00
18 VAC 115-50-55	Added	16:7 VA.R. 887	1/19/00
18 VAC 115-50-60	Amended	16:7 VA.R. 888	1/19/00
18 VAC 115-50-70	Amended	16:7 VA.R. 889	1/19/00
18 VAC 115-50-80	Repealed	16:7 VA.R. 889	1/19/00
18 VAC 115-50-90	Amended	16:7 VA.R. 889	1/19/00
18 VAC 115-50-90	Amended	16:13 VA.R. 1796	4/12/00
18 VAC 115-50-100	Amended	16:13 VA.R. 1796	4/12/00
18 VAC 115-50-130	Added	16:13 VA.R. 1796	4/12/00
18 VAC 115-60-10 through 18 VAC 115-60-150	Added	16:7 VA.R. 890-895	1/19/00
18 VAC 120-10-10 through 18 VAC 120-10-90	Repealed	16:14 VA.R. 1867-1868	5/1/00
18 VAC 120-10-170	Amended	16:14 VA.R. 1868	5/1/00
18 VAC 120-30-100	Amended	15:26 VA.R. 3487	11/1/99
18 VAC 125-20-10	Amended	16:2 VA.R. 210	11/10/99
18 VAC 125-20-30	Amended	16:2 VA.R. 210	11/10/99
18 VAC 125-20-30	Amended	16:13 VA.R. 1797	4/12/00
18 VAC 125-20-40	Amended	16:2 VA.R. 210	11/10/99
18 VAC 125-20-41	Added	16:2 VA.R. 211	11/10/99
18 VAC 125-20-42	Added	16:2 VA.R. 211	11/10/99
18 VAC 125-20-50	Repealed	16:2 VA.R. 212	11/10/99
18 VAC 125-20-51	Repealed	16:2 VA.R. 212	11/10/99
18 VAC 125-20-52	Repealed	16:2 VA.R. 212	11/10/99
18 VAC 125-20-53	Repealed	16:2 VA.R. 213	11/10/99
18 VAC 125-20-54	Added	16:2 VA.R. 214	11/10/99
18 VAC 125-20-55	Added	16:2 VA.R. 214	11/10/99
18 VAC 125-20-56	Added	16:2 VA.R. 215	11/10/99
18 VAC 125-20-60	Repealed	16:2 VA.R. 216	11/10/99
18 VAC 125-20-65	Added	16:2 VA.R. 216	11/10/99
18 VAC 125-20-70	Repealed	16:2 VA.R. 216	11/10/99
18 VAC 125-20-80	Amended	16:2 VA.R. 217	11/10/99
18 VAC 125-20-90	Repealed	16:2 VA.R. 217	11/10/99
18 VAC 125-20-100	Repealed	16:2 VA.R. 217	11/10/99
18 VAC 125-20-120	Amended	16:2 VA.R. 218	11/10/99
18 VAC 125-20-130	Amended	16:2 VA.R. 218	11/10/99
18 VAC 125-20-130	Amended	16:13 VA.R. 1797	4/12/00
18 VAC 125-20-140	Repealed	16:2 VA.R. 218	11/10/99
18 VAC 125-20-150	Amended	16:2 VA.R. 218	11/10/99
18 VAC 125-20-150	Erratum	16:4 VA.R. 444	--
18 VAC 125-20-160	Amended	16:2 VA.R. 219	11/10/99

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 125-20-170	Amended	16:2 VA.R. 219	11/10/99
18 VAC 125-20-170	Amended	16:13 VA.R. 1797	4/12/00
18 VAC 155-20-10 through 18 VAC 155-20-50	Amended	16:14 VA.R. 1869-1871	5/1/00
18 VAC 155-20-60 through 18 VAC 155-20-90	Repealed	16:14 VA.R. 1871-1872	5/1/00
18 VAC 155-20-100 through 18 VAC 155-20-160	Amended	16:14 VA.R. 1872-1874	5/1/00
18 VAC 155-20-170	Repealed	16:14 VA.R. 1874	5/1/00
18 VAC 155-20-175	Added	16:14 VA.R. 1874	5/1/00
18 VAC 155-20-180 through 18 VAC 155-20-230	Amended	16:14 VA.R. 1875-1877	5/1/00
18 VAC 155-20-240 through 18 VAC 155-20-270	Repealed	16:14 VA.R. 1879-1880	5/1/00
18 VAC 155-20-280	Amended	16:14 VA.R. 1880	5/1/00
18 VAC 155-20-290	Repealed	16:14 VA.R. 1880	5/1/00
18 VAC 160-20-40	Amended	15:24 VA.R. 3490	11/1/99
Title 19. Public Safety			
19 VAC 30-20-80	Amended	16:9 VA.R. 1150	3/15/00
19 VAC 30-20-150	Amended	16:9 VA.R. 1150	3/15/00
19 VAC 30-70 Appendix A	Amended	15:25 VA.R. 3364	7/29/99
19 VAC 30-165-10 emer	Added	16:3 VA.R. 339	9/24/99-9/23/00
19 VAC 30-165-20 emer	Added	16:3 VA.R. 340	9/24/99-9/23/00
19 VAC 30-165-30 emer	Added	16:3 VA.R. 340	9/24/99-9/23/00
19 VAC 30-165-40 emer	Added	16:3 VA.R. 340	9/24/99-9/23/00
19 VAC 30-165-50 emer	Added	16:3 VA.R. 340	9/24/99-9/23/00
19 VAC 30-165-60 emer	Added	16:3 VA.R. 340	9/24/99-9/23/00
Title 20. Public Utilities and Telecommunications			
20 VAC 5-400-200	Added	16:10 VA.R. 1226	1/12/00
Title 22. Social Services			
22 VAC 30-40-10 through 22 VAC 30-40-150	Added	16:10 VA.R. 1227-1233	3/1/00
22 VAC 40-50-10 et seq.	Repealed	15:24 VA.R. 3250	9/15/99
22 VAC 40-60-10 through 22 VAC 40-60-60	Amended	16:12 VA.R. 1676-1679	7/1/00
22 VAC 40-60-70	Repealed	16:12 VA.R. 1679	7/1/00
22 VAC 40-60-80	Amended	16:12 VA.R. 1679	7/1/00
22 VAC 40-60-90	Amended	16:12 VA.R. 1679	7/1/00
22 VAC 40-60-100	Repealed	16:12 VA.R. 1680	7/1/00
22 VAC 40-60-110 through 22 VAC 40-60-150	Amended	16:12 VA.R. 1680	7/1/00
22 VAC 40-60-180	Amended	16:12 VA.R. 1680	7/1/00
22 VAC 40-60-190	Amended	16:12 VA.R. 1680	7/1/00
22 VAC 40-60-200	Amended	16:12 VA.R. 1681	7/1/00
22 VAC 40-60-210	Repealed	16:12 VA.R. 1681	7/1/00
22 VAC 40-60-220	Repealed	16:12 VA.R. 1681	7/1/00
22 VAC 40-60-230	Repealed	16:12 VA.R. 1681	7/1/00
22 VAC 40-60-235	Added	16:12 VA.R. 1681	7/1/00
22 VAC 40-60-240	Repealed	16:12 VA.R. 1682	7/1/00
22 VAC 40-60-250	Repealed	16:12 VA.R. 1682	7/1/00
22 VAC 40-60-260	Amended	16:12 VA.R. 1683	7/1/00
22 VAC 40-60-270	Amended	16:12 VA.R. 1683	7/1/00
22 VAC 40-60-280	Amended	16:12 VA.R. 1683	7/1/00
22 VAC 40-60-290	Repealed	16:12 VA.R. 1683	7/1/00
22 VAC 40-60-300	Amended	16:12 VA.R. 1683	7/1/00
22 VAC 40-60-310	Repealed	16:12 VA.R. 1683	7/1/00
22 VAC 40-60-320	Amended	16:12 VA.R. 1684	7/1/00
22 VAC 40-60-330	Amended	16:12 VA.R. 1684	7/1/00
22 VAC 40-60-340	Amended	16:12 VA.R. 1684	7/1/00
22 VAC 40-60-350	Repealed	16:12 VA.R. 1685	7/1/00
22 VAC 40-60-360	Repealed	16:12 VA.R. 1685	7/1/00
22 VAC 40-60-370 through 22 VAC 40-60-420	Amended	16:12 VA.R. 1685	7/1/00
22 VAC 40-60-425	Added	16:12 VA.R. 1686	7/1/00
22 VAC 40-60-430 through 22 VAC 40-60-470	Amended	16:12 VA.R. 1686-1687	7/1/00

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
22 VAC 40-60-480	Repealed	16:12 VA.R. 1687	7/1/00
22 VAC 40-60-490	Amended	16:12 VA.R. 1687	7/1/00
22 VAC 40-60-510	Amended	16:12 VA.R. 1688	7/1/00
22 VAC 40-60-520	Amended	16:12 VA.R. 1688	7/1/00
22 VAC 40-60-530	Repealed	16:12 VA.R. 1688	7/1/00
22 VAC 40-60-540	Repealed	16:12 VA.R. 1688	7/1/00
22 VAC 40-60-550	Amended	16:12 VA.R. 1688	7/1/00
22 VAC 40-60-554	Added	16:12 VA.R. 1689	7/1/00
22 VAC 40-60-556	Added	16:12 VA.R. 1689	7/1/00
22 VAC 40-60-560	Amended	16:12 VA.R. 1689	7/1/00
22 VAC 40-60-564	Added	16:12 VA.R. 1689	7/1/00
22 VAC 40-60-570 through 22 VAC 40-60-610	Amended	16:12 VA.R. 1689-1691	7/1/00
22 VAC 40-60-620 through 22 VAC 40-60-650	Repealed	16:12 VA.R. 1691-1692	7/1/00
22 VAC 40-60-670	Repealed	16:12 VA.R. 1692	7/1/00
22 VAC 40-60-680	Amended	16:12 VA.R. 1692	7/1/00
22 VAC 40-60-690	Amended	16:12 VA.R. 1692	7/1/00
22 VAC 40-60-691	Added	16:12 VA.R. 1692	7/1/00
22 VAC 40-60-692	Added	16:12 VA.R. 1692	7/1/00
22 VAC 40-60-694	Added	16:12 VA.R. 1693	7/1/00
22 VAC 40-60-695	Added	16:12 VA.R. 1693	7/1/00
22 VAC 40-60-697	Added	16:12 VA.R. 1693	7/1/00
22 VAC 40-60-698	Added	16:12 VA.R. 1693	7/1/00
22 VAC 40-60-699	Added	16:12 VA.R. 1695	7/1/00
22 VAC 40-60-700	Amended	16:12 VA.R. 1696	7/1/00
22 VAC 40-60-705	Added	16:12 VA.R. 1696	7/1/00
22 VAC 40-60-710 through 22 VAC 40-60-760	Repealed	16:12 VA.R. 1697	7/1/00
22 VAC 40-60-770	Amended	16:12 VA.R. 1697	7/1/00
22 VAC 40-60-780	Amended	16:12 VA.R. 1697	7/1/00
22 VAC 40-60-790	Repealed	16:12 VA.R. 1697	7/1/00
22 VAC 40-60-800	Amended	16:12 VA.R. 1697	7/1/00
22 VAC 40-60-810 through 22 VAC 40-60-840	Repealed	16:12 VA.R. 1697-1698	7/1/00
22 VAC 40-60-850	Amended	16:12 VA.R. 1698	7/1/00
22 VAC 40-60-860	Amended	16:12 VA.R. 1698	7/1/00
22 VAC 40-60-870	Repealed	16:12 VA.R. 1698	7/1/00
22 VAC 40-60-880	Amended	16:12 VA.R. 1698	7/1/00
22 VAC 40-60-885	Added	16:12 VA.R. 1699	7/1/00
22 VAC 40-60-890 through 22 VAC 40-60-950	Repealed	16:12 VA.R. 1699	7/1/00
22 VAC 40-60-960	Amended	16:12 VA.R. 1699	7/1/00
22 VAC 40-60-970	Repealed	16:12 VA.R. 1700	7/1/00
22 VAC 40-60-980	Amended	16:12 VA.R. 1700	7/1/00
22 VAC 40-60-990	Repealed	16:12 VA.R. 1700	7/1/00
22 VAC 40-60-1000	Repealed	16:12 VA.R. 1700	7/1/00
22 VAC 40-60-1010	Amended	16:12 VA.R. 1700	7/1/00
22 VAC 40-60-1020	Amended	16:12 VA.R. 1700	7/1/00
22 VAC 40-60-1030 through 22 VAC 40-60-1060	Repealed	16:12 VA.R. 1701-1702	7/1/00
22 VAC 40-150-10 et seq.	Repealed	16:10 VA.R. 1233	7/1/00
22 VAC 40-705-10	Amended	16:12 VA.R. 1705	3/29/00
22 VAC 40-705-40	Amended	16:12 VA.R. 1707	3/29/00
22 VAC 40-710-10 et seq.	Repealed	16:4 VA.R. 412	12/8/99
22 VAC 40-820-10 et seq.	Repealed	16:5 VA.R. 599	12/22/99
22 VAC 40-880-350	Amended	16:4 VA.R. 413	12/8/99
22 VAC 42-10-10 through 22 VAC 42-10-1000	Added	16:10 VA.R. 1234-1267	7/1/00
Title 24. Transportation and Motor Vehicles			
24 VAC 30-130-10	Amended	16:2 VA.R. 229	9/13/99

NOTICES OF INTENDED REGULATORY ACTION

Symbol Key

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

TITLE 8. EDUCATION

STATE BOARD OF EDUCATION

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Education intends to consider amending regulations entitled: **8 VAC 20-120-10 et seq. Vocational Education Regulations**. The purpose of the proposed action is to delete nonessential regulations, reflect recent changes in state and federal law, and revise sections that exceed applicable state or federal laws. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 22.1-16 and 22.1-227 of the Code of Virginia.

Public comments may be submitted until June 7, 2000.

Contact: Dr. Margaret N. Roberts, Office of Policy and Public Affairs, Department of Education, James Monroe Bldg., 101 N. 14th St., 25th Floor, Richmond, VA 23219, telephone (804) 225-2540 or FAX (804) 225-2524.

VA.R. Doc. No. R00-162; Filed April 19, 2000, 10:54 a.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF MEDICINE

† Withdrawal of Notice of Intended Regulatory Action

Notice is hereby given that the Board of Medicine has WITHDRAWN the Notice of Intended Regulatory Action for **18 VAC 85-50-10 et seq. Regulations Governing the Practice of Physician Assistants**, which was published in 16:7 VA.R. 763 December 20, 1999.

Contact: Elaine J. Yeatts, Senior Regulatory Analyst, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9900, FAX (804) 662-9943 or (804) 662-7197/TTY

VA.R. Doc. No. R00-50; Filed April 17, 2000, 11:34 a.m.

BOARD OF PHARMACY

† Withdrawal of Notices of Intended Regulatory Action

Notice is hereby given that the Board of Pharmacy has WITHDRAWN the Notices of Intended Regulatory Action for **18 VAC 110-20-10 et seq. Regulations Governing the Practice of Pharmacy**, and **18 VAC 110-30-10 et seq. Regulations Governing Physicians Selling Drugs**, which were published in 15:15 VA.R. 2123 April 12, 1999.

Contact: Elaine J. Yeatts, Senior Regulatory Analyst, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9900, FAX (804) 662-9943 or (804) 662-7197/TTY

VA.R. Doc. Nos. R99-138 and R99-139; Filed April 17, 2000, 11:34 a.m.

BOARD OF VETERINARY MEDICINE

† Withdrawal of Notice of Intended Regulatory Action

Notice is hereby given that the Board of Veterinary Medicine has WITHDRAWN the Notice of Intended Regulatory Action for **18 VAC 150-20-10 et seq. Regulations Governing the Practice of Veterinary Medicine**, which was published in 15:15 VA.R. 2125 April 12, 1999.

Contact: Elaine J. Yeatts, Senior Regulatory Analyst, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9900, FAX (804) 662-9943 or (804) 662-7197/TTY

VA.R. Doc. No. R99-145; Filed April 17, 2000, 11:34 a.m.

PUBLIC COMMENT PERIODS - PROPOSED REGULATIONS



PUBLIC COMMENT PERIODS REGARDING STATE AGENCY REGULATIONS

This section gives notice of public comment periods and public hearings to be held on proposed regulations. The notice will be published once at the same time the proposed regulation is published in the Proposed Regulations section of the *Virginia Register*. The notice will continue to be carried in the Calendar of Events section of the *Virginia Register* until the public comment period and public hearing date have passed.

Notice is given in compliance with § 9-6.14:7.1 of the Code of Virginia that the following public hearings and public comment periods regarding proposed state agency regulations are set to afford the public an opportunity to express their views.

TITLE 9. ENVIRONMENT

STATE AIR POLLUTION CONTROL BOARD

June 14, 2000 - 9 a.m. -- Public Hearing

Main Street Centre, 600 East Main Street, Lower Level Conference Room, Richmond, Virginia.

July 7, 2000 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Air Pollution Control Board intends to amend regulations entitled: **9 VAC 5-60-10 et seq. Hazardous Air Pollutant Sources**, and **9 VAC 5-80-10 et seq. Permits for Stationary Sources**. The regulation amendments concern provisions covering federal operating permits and can be summarized as falling primarily into seven categories. The proposed amendments (i) remove deficiencies that prevent full federal approval for Virginia's Title V program; (ii) support commitments made in a letter of February 27, 1997, from the DEQ director to EPA's Region III administrator amending previous program submittals; (iii) incorporate guidance from EPA's White Papers of July 1995 and March 1996; (iv) clarify applicable state requirements; (v) bring the acid rain program into conformity with federal regulations; (vi) incorporate provisions relating to the new federal Compliance Assurance Monitoring (CAM) rule; and (vii) incorporate provisions relating to § 112(j) of the federal Clean Air Act.

Request for Comments: The purpose of this notice is to provide the public with the opportunity to comment on the proposed regulation and the costs and benefits of the proposal.

Localities Affected: There is no locality which will bear any identified disproportionate material air quality impact due to the proposed regulation which would not be experienced by other localities.

Location of Proposal: The proposal, an analysis conducted by the department (including a statement of purpose, a statement of estimated impact and benefits of the proposed regulation, an explanation of need for the proposed regulation, an estimate of the impact of the proposed regulation upon small businesses, identification of and comparison with federal requirements, and a discussion of alternative approaches) and any other supporting documents

may be examined by the public at the department's Office of Air Regulatory Development (Eighth Floor), 629 East Main Street, Richmond, Virginia, and the department's regional offices (listed below) between 8:30 a.m. and 4:30 p.m. of each business day until the close of the public comment period.

Abingdon Regional Office
Department of Environmental Quality
355 Deadmore Street
Abingdon, Virginia
Ph: (540) 676-4800

Roanoke Regional Office
Department of Environmental Quality
3019 Peters Creek Road, Suite D
Roanoke, Virginia
Ph: (540) 562-6700

Lynchburg Satellite Office
Department of Environmental Quality
7705 Timberlake Road
Lynchburg, Virginia
Ph: (804) 582-5120

Harrisonburg Regional Office
Department of Environmental Quality
116 North Main Street
Bridgewater, Virginia 22812
Ph: (540) 828-2595

Fredericksburg Satellite Office
Department of Environmental Quality
806 Westwood Office Park
Fredericksburg, Virginia
Ph: (540) 899-4600

Woodbridge Regional Office
Department of Environmental Quality
1549 Old Bridge Road, Suite 108
Woodbridge, Virginia
Ph: (703) 490-8922

Piedmont Regional Office
Department of Environmental Quality
4949-A Cox Road
Glen Allen, Virginia
Ph: (804) 527-5020

Public Comment Periods - Proposed Regulations

Tidewater Regional Office
Department of Environmental Quality
5636 Southern Boulevard
Virginia Beach, Virginia
Ph: (757) 518-2000
Statutory Authority: § 10.1-1308 of the Code of Virginia.

Public comments may be submitted until 4:30 p.m., July 7, 2000, to the Director, Office of Air Regulatory Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240.

Contact: Kathleen Sands, Ph.D., Policy Analyst, Office of Air Regulatory Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4413, FAX (804) 698-4510, toll-free 1-800-592-5482, or (804) 698-4021/TTY



PROPOSED REGULATIONS

For information concerning Proposed Regulations, see Information Page.

Symbol Key

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

TITLE 9. ENVIRONMENT

STATE AIR POLLUTION CONTROL BOARD

REGISTRAR'S NOTICE: Due to its length, the proposed regulation filed by the State Air Pollution Control Board is not being published. However, in accordance with § 9-6.14:22 of the Code of Virginia, the summary is being published in lieu of the full text. The full text of the regulation is available for public inspection at the office of the Registrar of Regulations and at the Department of Environmental Quality, 629 East Main Street, Richmond, VA. The full text of the regulation is also available on the Internet at www.townhall.state.va.us. Copies of the regulation may be obtained from Alma Jenkins, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4070, FAX (804) 698-4510, toll-free 1-800-592-5482 or (804) 698-4021/TDD.

Title of Regulation: Regulations for the Control and Abatement of Air Pollution (Rev. K97).

9 VAC 5-60-10 et seq. Hazardous Air Pollutant Sources (adding 9 VAC 5-60-120 through 9 VAC 5-60-180).

9 VAC 5-80-10 et seq. Permits for Stationary Sources (amending 9 VAC 5-80-50 through 9 VAC 5-80-120, 9 VAC 5-80-180 through 9 VAC 5-80-300, 9 VAC 5-80-310 through 9 VAC 5-80-330, 9 VAC 5-80-350, 9 VAC 5-80-360 through 9 VAC 5-80-380, 9 VAC 5-80-400 through 9 VAC 5-80-420, 9 VAC 5-80-440 through 9 VAC 5-80-460, 9 VAC 5-80-480, 9 VAC 5-80-490, 9 VAC 5-80-510, 9 VAC 5-80-540, 9 VAC 5-80-560, 9 VAC 5-80-570, 9 VAC 5-80-610, 9 VAC 5-80-620, 9 VAC 5-80-650, 9 VAC 5-80-660, 9 VAC 5-80-680, 9 VAC 5-80-700, and 9 VAC 5-80-720; repealing 9 VAC 5-80-305, 9 VAC 5-80-355, and 9 VAC 5-80-705).

Statutory Authority: § 10.1-1308 of the Code of Virginia.

Public Hearing Date: June 14, 2000 - 9 a.m.

Public comments may be submitted until July 7, 2000.

(See Calendar of Events section for additional information)

Basis: Section 10.1-1308 of the Virginia Air Pollution Control Law (Chapter 13 of Title 10.1 of the Code of Virginia) authorizes the State Air Pollution Control Board to promulgate regulations abating, controlling and prohibiting air pollution in order to protect public health and welfare. Written assurance from the Office of the Attorney General that the State Air Pollution Control Board possesses the statutory authority to promulgate the proposed regulation amendments and that the proposed regulation amendments comport with the applicable state and/or federal law is available upon request.

Purpose: The purpose of the regulations is to establish a federally approved operating permit program for stationary sources of air pollution. The goal of this program is the issuance of a comprehensive permit specifying all applicable

state and federal requirements for all pertinent emissions units in each covered facility. The consolidation of these requirements into one permit will assist the source in compliance and the department in enforcement, thus protecting and enhancing the public health and welfare of the citizens of Virginia. The proposed amendments are being made to bring the regulations into compliance with federal guidance concerning the implementation of Title V of the federal Clean Air Act (42 USC §§ 7661-7661f) and of federal regulations concerning state operating permit programs (40 CFR Part 70).

Substance: The major provisions of the proposal are summarized below. The changes are accompanied with citations to the appropriate sections of the regulation.

1. A reduction of insignificant activity threshold for carbon monoxide (9 VAC 5-80-720 B 3).
2. A requirement that sources included in permit applications provide sufficient information regarding insignificant emissions units to enable applicable requirements for those units to be identified (9 VAC 5-80-50 F, 9 VAC 5-80-360 E).
3. A requirement that applicable requirements for insignificant emission units be included in permits (9 VAC 5-80-110 A 1, 9 VAC 5-80-490 A 1).
4. A correction of the definition of insignificant emergency or standby compressors, pumps, and generators (9 VAC 5-80 720 C 4).
5. The prohibition of off-permit changes pertaining to acid rain provisions of Title IV (9 VAC 5-80-280 C 1, 9 VAC 5-80-680 B 1 a (1) and C 1).
6. The correction of affirmative defense provisions (9 VAC 5-80-250 B 4, 9 VAC 5-80-650 B 4).
7. The correction of applicability deferral provisions (9 VAC 5-80-50 D b).
8. The correction of the definitions of "malfunction" and "research and development facility" (9 VAC 5-80-60, 9 VAC 5-80-370).
9. The requirement for applicable citations and descriptions including those deemed as insignificant activities (9 VAC 5-80-90 E 1, 9 VAC 5-80-440 E).
10. The correction of administrative amendments provisions (9 VAC 5-80-200 A 1, 9 VAC 5-80-560 A 1).
11. The correction of malfunction notification provisions (9 VAC 5-80-250 B 4, 9 VAC 5-80-650 B 4).
12. A clarification of fee payment schedule provisions (9 VAC 5-80-350 B and C).
13. The elimination of reference to de minimis emissions rates table in 40 CFR 63.44 (9 VAC 5-80-720 B 5 and 6).

14. The clarification of applicable state requirements (9 VAC 5-80-60 C, 9 VAC 5-80-110 C, 9 VAC 5-80-300 A, 9 VAC 5-80-370, 9 VAC 5-80-490 C, 9 VAC 5-80-700 A).

15. Amendments to comply with federal Compliance Assurance Monitoring rule in 40 CFR Part 64 (9 VAC 5-80-110 E 1, 9 VAC 5-80-110 K 5 c, 9 VAC 5-80-110 K 5 e, 9 VAC 5-80-490 E 1, 9 VAC 5-80-490 K 5 c, 9 VAC 5-80-490 K 5 e).

16. Amendments to comply with updated federal acid rain provisions in 40 CFR 72.2 et seq. (9 VAC 5-80-370, 9 VAC 5-80-380, 9 VAC 5-80-400, 9 VAC 5-80-420, 9 VAC 5-80-450, 9 VAC 5-80-460, 9 VAC 5-80-610, 9 VAC 5-80-620).

17. The integration of EPA's list of trivial activities with current insignificant activities (9 VAC 5-80-720 A).

18. A new regulation to comply with requirements of § 112(j) of the federal Clean Air Act (9 VAC 5-60-120 et seq.).

Issues: Primary advantages to the public. The public participation requirements of the program provide an opportunity for citizens to provide comments to the department about the compliance of facilities emitting air pollutants. Sources, not the public, pay for the cost of controlling their air emissions. Periodic reviews of polluting activities are conducted to ensure that effective emission reductions are taking place.

Primary disadvantage to the public. Sources may pass on their increased costs under the program to the consumer.

Primary advantages to the department. The program enhances the department's ability to enforce the requirements mandated by the federal Clean Air Act by clarifying for sources exactly which air quality requirements apply. The program obviates the need for consent orders under certain conditions, avoiding their negative connotations. It enables the department to permit facilities at emission levels closer to actual emission levels with a reasonable margin for normal operation. It also provides an enforcement mechanism for the department to determine a facility's compliance with applicable regulations (enforcement of the regulations without the permit is more difficult because specific conditions for the individual facility have not been derived from those regulations).

Primary disadvantage to the department. Implementation of the program requires large increases in staffing and funding.

Impact:

A. Entities affected. Stationary sources of air pollution defined as major by the federal Clean Air Act and subject to the Title V program (approximately 350).

B. Fiscal impact.

1. Costs to affected entities. The projected cost of the regulation amendments to affected entities is expected to be minimal. Very few sources will be affected by the lowering of the CO insignificance threshold because the equipment necessary to accomplish that change is

generally already in place for the control of NO_x and SO₂. The other amendments largely involve administrative clarifications whose attendant costs will be negligible.

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

3. Costs to agency. The agency's cost for administering the permit program is approximately \$9.3 million annually, with slight annual increases to accommodate the cost of living. It is not expected that the regulation amendments will result in any cost to the department beyond that currently in the budget. The source of department funds to carry out this regulation is the permit fees charged to affected entities under the permit program. The activities are budgeted under the following program (code)/subprogram (code): Environmental Resources Management (5120000)/Air Quality Stationary Source Regulation Enforcement (5121400)/Environmental Research and Planning (5120000)/Air Quality Research and Planning (5130700). The costs are expected to be ongoing.

4. Benefits. The primary benefit of the regulation amendments is to remove the last remaining impediments to federal approval of Virginia's Title V program. If Virginia does not submit a corrective program by June 9, 2000, EPA will be required to apply one or both of the sanctions authorized by § 179(b) of the federal Clean Air Act: (i) the prohibition of grant awards for transportation projects in nonattainment areas; and (ii) the imposition of a 2:1 ratio of emission reductions to increased emissions for emission offsets.

5. Small business impact. The impact upon facilities that meet the definition of small business provided in § 9-199 of the Code of Virginia is addressed in paragraph 2a above.

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 § 9-6.14:7.1 G of the Administrative Process Act and Executive Order Number 25 (98). Section 9-6.14:7.1 G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the proposed regulation. The proposed regulation makes a number of technical changes to the language of the regulation. All but one of these changes are merely wording changes which do not result in any substantial change in the responsibilities of either the Department of Environmental Quality or the regulated sources. The one

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exception is the reduction of insignificant activity threshold for carbon monoxide (9 VAC 5-80-720 B 3).

Estimated economic impact. The reduction of the insignificant activity threshold for carbon monoxide was required by the U.S. Environmental Protection Agency to bring the state implementation of Title V of the Clean Air Act into compliance with requirements of the federal law. According to DEQ, regulated sources are already in compliance with the new language. Thus, it is unlikely that there will be any change in compliance costs or carbon monoxide emissions resulting from this change. Since neither this change nor any of the technical amendments will have any impact on compliance costs, environmental quality or on DEQ's administrative costs, this change will have no economic impact.

Businesses and entities affected. This regulation affects approximately 1,900 permitted stationary sources.

Localities particularly affected. This regulation does not have a disproportionate impact on any particular localities in Virginia.

Projected impact on employment. Because the changes in this regulation will have virtually no real impact on economic activity, there should be no impact on employment.

Effects on the use and value of private property. Because the changes in this regulation will have virtually no real impact on economic activity, there should be no impact on the use and value of private property.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Department of Planning and Budget prepared an economic impact analysis for the proposal as required by § 9-6.14:7.1 G of the Administrative Process Act. The Department of Environmental Quality takes no issue with the economic impact analysis prepared by the Department of Planning and Budget.

Summary:

The regulation amendments concern provisions covering federal operating permits and can be summarized as falling primarily into seven categories. The proposed amendments (i) remove deficiencies that prevent full federal approval for Virginia's Title V program; (ii) support commitments made in a letter of February 27, 1997, from the DEQ director to EPA's Region III administrator amending previous program submittals; (iii) incorporate guidance from EPA's White Papers of July 1995 and March 1996; (iv) clarify applicable state requirements; (v) bring the acid rain program into conformity with federal regulations; (vi) incorporate provisions relating to the new federal Compliance Assurance Monitoring (CAM) rule; and (vii) incorporate provisions relating to § 112(j) of the federal Clean Air Act.

VA.R. Doc. No. R98-44; Filed April 19, 2000, 12:08 p.m.

TITLE 13. HOUSING

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

REGISTRAR'S NOTICE: The Virginia Housing Development Authority is exempt from the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia) pursuant to § 9-6.14:4.1 A 4; however, under the provisions of § 9-6.14:22, it is required to publish all proposed and final regulations.

Title of Regulation: 13 VAC 10-40-10 et seq. **Rules and Regulations for Single Family Mortgage Loans to Persons and Families of Low and Moderate Income (amending 13 VAC 10-40-20, 13 VAC 10-40-120, 13 VAC 10-40-160, 13 VAC 10-40-170 and 13 VAC 10-40-230).**

Statutory Authority: § 36-55.30:3 of the Code of Virginia.

Summary:

The proposed amendments (i) conform the description of the agreements to be entered into between the authority and its originating agents and servicing agents to reflect current practice; (ii) delete the requirement that the discount point be paid by the seller; (iii) delete the requirement that the commitment package contain all of the closing documents; (iv) provide that loans may be purchased subject to the condition that the applicable governmental mortgage insurance or guarantee be obtained; (v) in the flexible alternative program, require that units located in PUDs be FNMA or FHLMC-approved or satisfy such requirements for approval; (vi) in the flexible alternative program, increase the maximum loan-to-value ratio to 100% and provide that the authority may disburse additional amounts to finance closing costs and fees and rehabilitation and improvement costs as permitted by the authority's Act; (vii) in the flexible alternative program, clarify the credit scores to be considered for purposes of meeting the requirements of the regulations; (viii) in the flexible alternative program, provide that the authority may require the more strict of the two current sets of credit history criteria if the loan-to-value exceeds 97%; (ix) in the flexible alternative program, delete the requirement for homeownership education when the loan-to-value ratio exceeds 95% if the applicant's credit score exceeds 700; and (x) provide that the authority may accept an approval from an automated underwriting system in lieu of the standard flexible alternative underwriting requirements set forth in the regulations.

Agency Contact: Comments or questions concerning this regulation may be addressed to J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 S. Belvidere Street, Richmond, VA 23220, telephone (804) 343-5540, FAX (804) 783-6701 or e-mail judson.mckellar@vhda.com.

13 VAC 10-40-20. Origination and servicing of mortgage loans.

A. The originating of mortgage loans and the processing of applications for the making or financing thereof in accordance

herewith shall, except as noted in subsection G of this section, be performed through commercial banks, savings and loan associations, private mortgage bankers, redevelopment and housing authorities, and agencies of local government approved as originating agents ("originating agents") of the authority. The servicing of mortgage loans shall, except as noted in subsection H of this section, be performed through commercial banks, savings and loan associations and private mortgage bankers approved as servicing agents ("servicing agents") of the authority.

To be initially approved as an originating agent or as a servicing agent, the applicant must meet the following qualifications:

1. Be authorized to do business in the Commonwealth of Virginia;
2. Have a net worth equal to or in excess of \$250,000 or such other amount as the executive director shall from time to time deem appropriate, except that this qualification requirement shall not apply to redevelopment and housing authorities and agencies of local government;
3. Have a staff with demonstrated ability and experience in mortgage loan origination and processing (in the case of an originating agent applicant) or servicing (in the case of a servicing agent applicant); and
4. Such other qualifications as the executive director shall deem to be related to the performance of its duties and responsibilities.

Each originating agent approved by the authority shall enter into an originating agreement ("originating agreement"), with the authority containing such terms and conditions as the executive director shall require with respect to the origination and processing of mortgage loans hereunder. Each servicing agent approved by the authority shall enter into a servicing agreement with the authority containing such terms and conditions as the executive director shall require with respect to the servicing of mortgage loans.

An applicant may be approved as both an originating agent and a servicing agent ("originating and servicing agent"). Each originating and servicing agent shall enter into *both* an originating and a servicing agreement (~~"originating and servicing agreement"~~) with the authority containing such terms and conditions as the executive director shall require with respect to the originating and servicing of mortgage loans hereunder.

For the purposes of this chapter, the term "originating agent" shall hereinafter be deemed to include the term "originating and servicing agent," unless otherwise noted or the context indicates otherwise. ~~Similarly, the term "originating agreement" shall hereinafter be deemed to include the term "originating and servicing agreement," unless otherwise noted or the context indicates otherwise.~~ The term "servicing agent" shall continue to mean an agent authorized only to service mortgage loans. ~~The term "servicing agreement" shall continue to mean only the agreement between the authority and a servicing agent.~~

Originating agents and servicing agents shall maintain adequate books and records with respect to mortgage loans which they originate and process or service, as applicable, shall permit the authority to examine such books and records, and shall submit to the authority such reports (including annual financial statements) and information as the authority may require. The fees payable to the originating agents and servicing agents for originating and processing or for servicing mortgage loans hereunder shall be established from time to time by the executive director and shall be set forth in the originating agreements and servicing agreements applicable to such originating agents and servicing agents.

B. The executive director shall allocate funds for the making or financing of mortgage loans hereunder in such manner, to such persons and entities, in such amounts, for such period, and subject to such terms and conditions as he shall deem appropriate to best accomplish the purposes and goals of the authority. Without limiting the foregoing, the executive director may allocate funds (i) to mortgage loan applicants on a first-come, first-serve or other basis, (ii) to originating agents and state and local government agencies and instrumentalities for the origination of mortgage loans to qualified applicants and/or (iii) to builders for the permanent financing of residences constructed or rehabilitated or to be constructed or rehabilitated by them and to be sold to qualified applicants. In determining how to so allocate the funds, the executive director may consider such factors as he deems relevant, including any of the following:

1. The need for the expeditious commitment and disbursement of such funds for mortgage loans;
2. The need and demand for the financing of mortgage loans with such funds in the various geographical areas of the Commonwealth;
3. The cost and difficulty of administration of the allocation of funds;
4. The capability, history and experience of any originating agents, state and local governmental agencies and instrumentalities, builders, or other persons and entities (other than mortgage loan applicants) who are to receive an allocation; and
5. Housing conditions in the Commonwealth.

In the event that the executive director shall determine to make allocations of funds to builders as described above, the following requirements must be satisfied by each such builder:

1. The builder must have a valid contractor's license in the Commonwealth;
2. The builder must have at least three years' experience of a scope and nature similar to the proposed construction or rehabilitation; and
3. The builder must submit to the authority plans and specifications for the proposed construction or rehabilitation which are acceptable to the authority.

The executive director may from time to time take such action as he may deem necessary or proper in order to solicit

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applications for allocation of funds hereunder. Such actions may include advertising in newspapers and other media, mailing of information to prospective applicants and other members of the public, and any other methods of public announcement which the executive director may select as appropriate under the circumstances. The executive director may impose requirements, limitations and conditions with respect to the submission of applications as he shall consider necessary or appropriate. The executive director may cause market studies and other research and analyses to be performed in order to determine the manner and conditions under which funds of the authority are to be allocated and such other matters as he shall deem appropriate relating thereto. The authority may also consider and approve applications for allocations of funds submitted from time to time to the authority without any solicitation therefor on the part of the authority.

C. This chapter constitutes a portion of the originating guide of the authority. The processing guide and all exhibits and other documents referenced herein are not included in, and shall not be deemed to be a part of this chapter. The executive director is authorized to prepare and from time to time revise a processing guide and a servicing guide which shall set forth the accounting and other procedures to be followed by all originating agents and servicing agents responsible for the origination, closing and servicing of mortgage loans under the applicable originating agreements and servicing agreements. Copies of the processing guide and the servicing guide shall be available upon request. The executive director shall be responsible for the implementation and interpretation of the provisions of the originating guide (including the processing guide) and the servicing guide.

D. The authority may from time to time (i) make mortgage loans directly to mortgagors with the assistance and services of its originating agents and (ii) agree to purchase individual mortgage loans from its originating agents or servicing agents upon the consummation of the closing thereof. The review and processing of applications for such mortgage loans, the issuance of mortgage loan commitments therefor, the closing and servicing (and, if applicable, the purchase) of such mortgage loans, and the terms and conditions relating to such mortgage loans shall be governed by and shall comply with the provisions of the applicable originating agreement or servicing agreement, the originating guide, the servicing guide, the Act and this chapter.

If the applicant and the application for a mortgage loan meet the requirements of the Act and this chapter, the executive director may issue on behalf of the authority a mortgage loan commitment to the applicant for the financing of the single family dwelling unit, subject to the approval of ratification thereof by the board. Such mortgage loan commitment shall be issued only upon the determination of the authority that such a mortgage loan is not otherwise available from private lenders upon reasonably equivalent terms and conditions, and such determination shall be set forth in the mortgage loan commitment. The original principal amount and term of such mortgage loan, the amortization period, the terms and conditions relating to the prepayment thereof, and such other terms, conditions and requirements as the executive director deems necessary or appropriate

shall be set forth or incorporated in the mortgage loan commitment issued on behalf of the authority with respect to such mortgage loan.

E. The authority may purchase from time to time existing mortgage loans with funds held or received in connection with bonds issued by the authority prior to January 1, 1981, or with other funds legally available therefor. With respect to any such purchase, the executive director may request and solicit bids or proposals from the authority's originating agents and servicing agents for the sale and purchase of such mortgage loans, in such manner, within such time period and subject to such terms and conditions as he shall deem appropriate under the circumstances. The sales prices of the single family housing units financed by such mortgage loans, the gross family incomes of the mortgagors thereof, and the original principal amounts of such mortgage loans shall not exceed such limits as the executive director shall establish, subject to approval or ratification by resolution of the board. The executive director may take such action as he deems necessary or appropriate to solicit offers to sell mortgage loans, including mailing of the request to originating agents and servicing agents, advertising in newspapers or other publications and any other method of public announcement which he may select as appropriate under the circumstances. After review and evaluation by the executive director of the bids or proposals, he shall select those bids or proposals that offer the highest yield to the authority on the mortgage loans (subject to any limitations imposed by law on the authority) and that best conform to the terms and conditions established by him with respect to the bids or proposals. Upon selection of such bids or proposals, the executive director shall issue commitments to the selected originating agents and servicing agents to purchase the mortgage loans, subject to such terms and conditions as he shall deem necessary or appropriate and subject to the approval or ratification by the board. Upon satisfaction of the terms of the commitments, the executive director shall execute such agreements and documents and take such other action as may be necessary or appropriate in order to consummate the purchase and sale of the mortgage loans. The mortgage loans so purchased shall be serviced in accordance with the applicable originating agreement or servicing agreement and the servicing guide. Such mortgage loans and the purchase thereof shall in all respects comply with the Act and the authority's rules and regulations.

F. The executive director may, in his discretion, delegate to one or more originating agents all or some of the responsibility for underwriting, issuing commitments for mortgage loans and disbursing the proceeds hereof without prior review and approval by the authority. The issuance of such commitments shall be subject to ratification thereof by the board of the authority. The executive director may delegate to one or more servicing agents all or some of the responsibility for underwriting and issuing commitments for the assumption of existing authority mortgage loans without prior review and approval by the authority. If the executive director determines to make any such delegation, he shall establish criteria under which originating agents may qualify for such delegation. If such delegation has been made, the originating agents shall submit all required documentation to the authority at such time as the authority may require. If the executive director determines that a mortgage loan does not

comply with any requirement under the originating guide, the applicable originating agreement, the Act or this chapter for which the originating agent was delegated responsibility, he may require the originating agents to purchase such mortgage loan, subject to such terms and conditions as he may prescribe.

G. The authority may utilize financial institutions, mortgage brokers and other private firms and individuals and governmental entities ("field originators") approved by the authority for the purpose of receiving applications for mortgage loans. To be approved as a field originator, the applicant must meet the following qualifications:

1. Be authorized to do business in the Commonwealth of Virginia;
2. Have made any necessary filings or registrations and have received any and all necessary approvals or licenses in order to receive applications for mortgage loans in the Commonwealth of Virginia;
3. Have the demonstrated ability and experience in the receipt and processing of mortgage loan applications; and
4. Have such other qualifications as the executive director shall deem to be related to the performance of its duties and responsibilities.

Each field originator approved by the authority shall enter into such agreement as the executive director shall require with respect to the receipt of applications for mortgage loans. Field originators shall perform such of the duties and responsibilities of originating agents under this chapter as the authority may require in such agreement.

Field originators shall maintain adequate books and records with respect to mortgage loans for which they accept applications, shall permit the authority to examine such books and records, and shall submit to the authority such reports and information as the authority may require. The fees to the field originators for accepting applications shall be payable in such amount and at such time as the executive director shall determine.

In the case of mortgage loans for which applications are received by field originators, the authority may process and originate the mortgage loans; accordingly, unless otherwise expressly provided, the provisions of this chapter requiring the performance of any action by originating agents shall not be applicable to the origination and processing by the authority of such mortgage loans, and any or all of such actions may be performed by the authority on its own behalf.

H. The authority may service mortgage loans for which the applications were received by field originators or any mortgage loan which, in the determination of the authority, originating agents and servicing agents will not service on terms and conditions acceptable to the authority or for which the originating agent or servicing agent has agreed to terminate the servicing thereof.

13 VAC 10-40-120. Mortgage insurance requirements.

Unless the loan is an FHA, VA or Rural Development loan, the borrower is required to purchase at time of loan closing full private mortgage insurance (25% to 100% coverage, as the authority shall determine) on each loan the amount of which exceeds 80% of the lesser of sales price or appraised value of the property to be financed. Such insurance shall be issued by a company acceptable to the authority. The originating agent is required to escrow for annual payment of mortgage insurance, unless an alternative payment plan is approved by the authority. If the authority requires FHA, VA or Rural Development insurance or guarantee, the loan will either, at the election of the authority, (a) be closed in the authority's name in accordance with the procedures and requirements herein or (b) be closed in the originating agent's name and purchased by the authority once the FHA Certificate of Insurance, VA Guaranty or Rural Development Guarantee has been obtained or *subject to the condition that such FHA Certificate of Insurance, VA Guaranty or Rural Development Guarantee be obtained*. In the event that the authority purchases an FHA, VA or Rural Development loan, the originating agent must enter into a purchase and sale agreement on such form as shall be provided by the authority. For assumptions of conventional loans (i.e., loans other than FHA, VA or Rural Development loans), full private mortgage insurance as described above is required unless waived by the authority.

13 VAC 10-40-160. Reservations/fees.

A. The authority currently reserves funds for each mortgage loan on a first come, first serve basis. Reservations are made by specific originating agents or field originators with respect to specific applicants and properties. No substitutions are permitted. Similarly, locked-in interest rates are also nontransferable. Funds will not be reserved longer than 60 days unless the originating agent requests and receives an additional one-time extension prior to the 60-day deadline. Locked-in interest rates on all loans, including those on which there may be a VA Guaranty, cannot be reduced under any circumstances.

B. An applicant, including an applicant for a loan to be guaranteed by VA, may request a second reservation if the first has expired or has been cancelled. If the second reservation is made within 12 months of the date of the original reservation, the interest rate will be the greater of (i) the locked-in rate or (ii) the current rate offered by the authority at the time of the second reservation.

C. The originating agent or field originator shall collect a nonrefundable reservation fee in such amount and according to such procedures as the authority may require from time to time. Under no circumstances is this fee refundable. A second reservation fee must be collected for a second reservation. No substitutions of applicants or properties are permitted.

D. The following other fees shall be collected.

1. In connection with the origination and closing of the loan, the originating agent shall collect at closing or, at the authority's option, simultaneously with the acceptance of the authority's commitment, an amount

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equal to 1.0% of the loan amount (please note that for FHA loans the loan amount for the purpose of this computation is the base loan amount only); provided, however, that the executive director may require the payment of an additional fee not in excess of 1.0% of the loan amount in the case of a step loan (i.e., a loan on which the initial interest rate is to be increased to a new interest rate after a fixed period of time). If the loan does not close, then the origination fee shall be waived.

2. The originating agent shall collect ~~from the seller~~ at the time of closing an amount equal to 1.0% of the loan amount.

13 VAC 10-40-170. Commitment (Exhibit J).

A. Upon approval of the applicant, the authority will send a mortgage loan commitment to the borrower in care of the originating agent. ~~Also enclosed in the commitment package will be other documents necessary for closing.~~ The originating agent shall ask the borrower to indicate his acceptance of the mortgage loan commitment by signing and returning it to the originating agent within 15 days after the date of the commitment or prior to settlement, whichever occurs first.

A commitment must be issued in writing by an authorized officer of the authority and signed by the applicant before a loan may be closed. The term of a commitment may be extended in certain cases upon written request by the applicant and approved by the authority. If an additional commitment is issued to an applicant, the interest rate may be higher than the rate offered in the original commitment. Such new rate and the availability of funds therefor shall in all cases be determined by the authority in its discretion.

B. If the application fails to meet any of the standards, criteria and requirements herein, a loan rejection letter will be issued by the authority (see Exhibit L). In order to have the application reconsidered, the applicant must resubmit the application within 30 days after loan rejection. If the application is so resubmitted, the credit documentation cannot be more than 90 days old and the appraisal not more than six months old.

13 VAC 10-40-230. Flexible alternative mortgage loan programs.

A. The executive director may establish flexible alternative mortgage loan programs. 13 VAC 10-40-10 through 13 VAC 10-40-220 shall apply to such flexible alternative mortgage loan programs, with the following modifications:

1. The following requirements shall not apply: (i) the new mortgage requirement; (ii) the requirements as to the use of the property in a trade or business; (iii) the requirements as to acquisition cost and sales price of the property to be financed; (iv) the requirement that the applicant shall not have had a present ownership interest in his principal residence within the preceding three years; (v) the net worth requirement; (vi) the requirements for the payment by the seller of an amount equal to 1.0% of the loan in 13 VAC 10-40-160 D 2; and (vii) the lot size restriction in 13 VAC 10-40-50 C 3;

2. The gross income of the applicant or applicants shall not exceed 120% of the applicable median family income without regard to household size;

3. A nonpermanent resident alien who signs the note as a coborrower with either a U.S. citizen or a permanent resident alien shall be an eligible borrower under 13 VAC 10-40-30 C, provided that such nonpermanent resident alien meets all other eligibility criteria set forth in this chapter as modified by this section;

4. At the time of closing, the applicant must occupy or intend to occupy within 60 days (90 days in the case of new construction) the property to be financed as his principal residence;

5. The property to be financed must be one of the following types: (i) a single family residence (attached or detached); (ii) a unit in a condominium or PUD which is approved for financing by FNMA or FHLMC or satisfies the requirements for such financing, except that the executive director may waive any of such requirements if he determines that any additional risk as a result of such waiver is adequately compensated or otherwise covered by the terms of the mortgage loan or the financial strength or credit of the applicant; or (iii) a doublewide manufactured home permanently affixed to the land;

6. The land, residence and all other improvements on the property to be financed must be expected to be used by the borrower primarily for residential purposes;

7. Personal property which is related to the use and occupancy of the property as the principal residence of the borrower and is customarily transferred with single family residences may be included in the real estate contract, transferred with the residence and financed by the loan; however, the value of such personal property shall not be considered in the appraised value;

8. The principal amount of the mortgage loan shall not exceed the limits established by FNMA or FHLMC for single family residences;

9. Loan proceeds may be used to refinance the applicant's existing mortgage loan or loans on the property only if (i) the applicant receives no proceeds of the authority's loan; (ii) such loan proceeds are not used to refinance any authority mortgage loan or to refinance any bridge loan which refinanced any authority mortgage loan; and (iii) the existing mortgage loan was closed more than one year prior to submission of the application for the authority mortgage loan, and no advances on such existing mortgage loan have been made within the 12 months preceding the submission of such application. Clause (iii) shall not apply to existing mortgage loans which financed the applicant's acquisition of the property if the authority loan will not exceed the lesser of the sales price for such acquisition or the current appraised value;

10. Mortgage insurance shall not be required, except that in the case of manufactured homes mortgage insurance shall be required in accordance with this chapter;

11. The maximum combined loan-to-value ratio (including any other loans, such as existing mortgage loans to be

subordinated to the authority loan, to be secured by the property at the time of closing) shall be ~~97%; 100%~~. *The executive director may approve the disbursement of additional amounts to finance closing costs and fees and costs of rehabilitation and improvements to be completed subsequent to the closing.*

12. The applicant or applicants must have a history of receiving stable income from employment or other sources with a reasonable expectation that the income will continue in the foreseeable future; typically, verification of two years' stable income will be required; and education or training in a field related to the employment of the applicant or applicants may be considered to meet no more than one year of this requirement;

13. The applicant must establish a credit history satisfactory to the authority and, in particular, must satisfy the following: (i) no bankruptcy or foreclosure within the preceding three years; no housing payment past due for 30 days in the preceding 24 months; no more than one payment past due for 30 days or more on any other debt or obligation within the preceding 12 months; no outstanding collection, judgment or 30-day past due account; and a minimum credit score of 620 if the loan-to-value ratio is 95% or less or 660 if the loan-to-value ratio exceeds 95% (*credit scores as referenced in these regulations shall be determined by obtaining credit scores for each applicant from a minimum of three repositories and using the middle score in the case of a single applicant and the lowest middle score in the case of multiple applicants*); or (ii) no previous bankruptcy or foreclosure; no outstanding collection or judgment or more than one 30-day past due account within the past 12 months; no previous housing payment past due for 30 days; minimum of three sources of credit with satisfactory payment histories at least two years old; no more than nine accounts currently open; and no more than three new accounts opened in the past 12 months (in establishing guidelines to implement the flexible alternative mortgage loan programs, the authority may refer to the credit requirements in clause (i) of this subdivision as the "alternative" credit requirements and the requirements in clause (ii) of this subdivision as the "standard" credit requirements);

If the executive director determines it is necessary to protect the financial integrity of the flexible alternative program, the executive director may require that applicants for loans having loan-to-value ratios in excess of 97% meet the alternative credit requirements in clause (i) of subdivision 13.

14. Homeownership education approved by the authority shall be required for any borrower who is a first time homeowner if the loan-to-value ratio exceeds 95%; *This requirement shall be waived if the applicant has a credit score of 700 or greater.*

15. Seller contributions for closing costs and other amounts payable by the borrower in connection with the purchase or financing of the property shall not exceed 4.0% of the contract price;

16. Sources of funds for the down payment and closing costs payable by the borrower shall be limited to the borrower's funds, gifts or unsecured loans from relatives, grants from employers or nonprofit entities not involved in the transfer or financing of the property, and unsecured loans on terms acceptable to the authority (payments on any unsecured loans permitted under this subdivision 16 shall be included in the calculation of the debt/income ratios described below), and documentation of such sources of funds shall be in form and substance acceptable to the authority;

17. The maximum debt ratios shall be 35% and 43% in lieu of the ratios of 32% and 40%, respectively, set forth in 13 VAC 10-40-130 B 4;

18. Cash reserves at least equal to two months' loan payments must be held by the applicant if the loan-to-value ratio exceeds 95%; cash reserves at least equal to one month's loan payment must be held by the applicant if the loan-to-value ratio is greater than 90% and is less than or equal to 95%; and no cash reserves shall be required if the loan-to-value ratio is 90% or less;

19. The payment of points (a point being equal to 1.0% of the loan amount) in addition to the origination fee shall be charged as follows: if the loan-to-value ratio is 90% or less, one-half of one point shall be charged; if the loan-to-value ratio is greater than 90% and is less than or equal to 95%, one point shall be charged; and if the loan-to-value ratio exceeds 95%, one and one-half point shall be charged.

In addition to the above, a reduction of one-half of one point will be made to applicants meeting the credit requirements in clause 13 (i) above with a credit score of 700 or greater; ~~and~~.

20. The interest rate which would otherwise be applicable to the loan shall be reduced by .25% if the loan-to-value ratio is 80% or less.

~~B-~~ 21. The documents relating to requirements of the federal tax code governing tax-exempt bonds shall not be required.

~~C-~~ 22. For assumptions of loans, the above requirements for occupancy of the property as the borrower's principal residence, the above income limit, and the underwriting criteria in the regulations as modified by this section must be satisfied.

~~D-~~ 23. The authority may require that any or all loans financed under such alternative mortgage programs be serviced by the authority.

24. *The authority may accept an approval of an automated underwriting system in lieu of satisfaction of the foregoing requirements for the flexible alternative program if the executive director determines that such delegated underwriting system is designed so as to adequately protect the financial integrity of the flexible alternative program.*

Except as modified hereby, all of the requirements, terms and conditions set forth in 13 VAC 10-40-10 through 13 VAC

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10-10-40-220 shall apply to the flexible alternative mortgage loan programs.

VA.R. Doc. No. R00-161; Filed April 11, 2000, 10:53 a.m.

CASE NO. PUA000029

Ex Parte: In the matter concerning the functional separation of incumbent electric utilities under the Virginia Electric Utility Restructuring Act.

◆ ————— ◆

TITLE 20. PUBLIC UTILITIES AND TELECOMMUNICATIONS

STATE CORPORATION COMMISSION

REGISTRAR'S NOTICE: The State Corporation Commission is exempt from the Administrative Process Act in accordance with § 9-6.14:4.1 A 2 of the Code of Virginia, which exempts courts, any agency of the Supreme Court, and any agency which by the Constitution is expressly granted any of the powers of a court of record.

The distribution lists that are referenced as Appendices A, B and C in the following order are not being published. However, these lists are available for public inspection at the State Corporation Commission, Document Control Center, Tyler Building, 1st Floor, 1300 East Main Street, Richmond, Virginia 23219, from 8:15 a.m. to 5 p.m., Monday through Friday; or it may be viewed at the Virginia Code Commission, General Assembly Building, 2nd Floor, 910 Capitol Street, Richmond, Virginia 23219, during regular office hours.

Title of Regulation: 20 VAC 5-202-10 et seq. **Regulations Governing the Functional Separation of Incumbent Electric Utilities under the Virginia Electric Utility Restructuring Act (PUA000029).**

Statutory Authority: §§ 12.1-13 and 56-590 of the Code of Virginia.

Summary:

The proposed regulations implement § 56-590 of the Virginia Electric Utility Restructuring Act (§ 56-576 et seq. of the Code of Virginia) wherein incumbent electric utilities are required to (i) functionally separate their generation, transmission and distribution services by January 1, 2002, and (ii) submit applications for such purpose to the commission by January 1, 2001. The proposed regulations principally address (i) permissible relations between affiliated functionally separate entities resulting from this process and (ii) the requirements that applications for functional separation submitted to the commission must satisfy.

Agency Contact: Susan Larsen, Deputy Director, Division of Public Utility Accounting, State Corporation Commission, P.O. Box 1197, Richmond, VA 23218, telephone (804) 371-9950 or e-mail Sdlarsen@scc.state.va.us.

AT RICHMOND, APRIL 18, 2000

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

ORDER PRESCRIBING NOTICE AND INVITING COMMENTS

Section 56-590 of the Virginia Electric Utility Restructuring Act (§ 56-576 et seq. of the Code of Virginia) declares that all incumbent electric utilities shall functionally separate their generation, transmission and distribution services by January 1, 2002. The utilities are required to submit proposed functional separation plans to the Virginia State Corporation Commission by January 1, 2001.

Section 56-590 B 3 of the Act authorizes the Commission to impose conditions, as the public interest requires, upon its approval of an incumbent electric utility's plan for functional separation, including requirements that (i) such incumbent electric utility's generation assets or their equivalent remain available for electric service during the capped rate period as provided in § 56-582 and, if applicable, during any period the incumbent electric utility serves as a default provider pursuant to § 56-585, and (ii) such incumbent electric utility receives Commission approval for the sale, transfer or other disposition of its generation assets during the capped rate period and, if applicable, during any period the incumbent electric utility serves as a default provider.

Pursuant to § 56-590 C, the Commission is also directed, to the extent necessary to promote effective competition in the Commonwealth, to promulgate regulations:

1. Prohibiting cost-shifting or cross-subsidies between functionally separate units;
2. Prohibiting functionally separate units from engaging in anticompetitive behavior or self-dealing;
3. Prohibiting affiliated entities from engaging in discriminatory behavior toward nonaffiliated units; and
4. Establishing codes of conduct detailing permissible relations between functionally separate units.

The regulations to be adopted in this proceeding will implement the functional separation requirements of the Virginia Electric Utility Restructuring Act, and are intended to aid incumbent electric utilities required to (i) functionally separate their generation, transmission and distribution services by January 1, 2002, and (ii) submit applications for such purpose to the Commission by January 1, 2001.

Upon consideration whereof, the Commission is of the opinion and finds that notice of this proposed rulemaking should be published in newspapers of general circulation throughout the Commonwealth; that this Order should be published in the *Virginia Register of Regulations* and that interested persons should be afforded an opportunity to file written comments or request a hearing on the proposed regulations appended hereto as Attachment A. Accordingly,

IT IS ORDERED THAT:

(1) Interested persons may obtain a copy of this Order, together with a copy of the proposed rules upon which comment is sought (Attachment A hereto), by directing a request in writing for the same to Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218. Such requests shall refer to Case No. PUA000029.

(2) A copy of this Order and the proposed regulations shall also be made available for public review in the Commission's Document Control Center, located on the First Floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, during its regular hours of operation, Monday through Friday, from 8:15 a.m. to 5:00 p.m.

(3) On or before May 22, 2000, any person desiring to comment upon the proposed regulations concerning functional separation shall file an original and fifteen (15) copies of their comments with the Clerk of the Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118, making reference in such comments to Case No. PUA000029. Such comments should set forth the person's interest in this proceeding, and if such person objects to certain provisions of the proposed regulations, proposed alternative language for the regulations should be included in such person's comments.

(4) Any person desiring a hearing in this matter shall file such a request with their comments on or before May 22, 2000, and shall state in detail why a hearing is necessary. Such a request should identify the factual issues likely in dispute upon which the person seeks a hearing, together with the evidence expected to be introduced at any hearing. If no sufficient request for a hearing is received, the Commission may enter an order promulgating regulations upon the basis of the written pleadings filed.

(5) On or before May 2, 2000, the Commission will cause to be published the following notice as classified advertising on one occasion in newspapers of general circulation throughout the Commonwealth of Virginia:

NOTICE TO THE PUBLIC OF A PROCEEDING TO
ESTABLISH REGULATIONS CONCERNING THE
FUNCTIONAL SEPARATION OF INCUMBENT
ELECTRIC UTILITIES IN REGIONAL
TRANSMISSION ENTITIES
CASE NO. PUA000029

The Virginia Electric Utility Restructuring Act ("the Act") in § 56-590 of the Code of Virginia, requires the State Corporation Commission ("Commission") to direct the functional separation of incumbent electric utilities' generation, transmission, and distribution services by January 1, 2002. Such utilities must submit proposed functional separate plans to the Commission by January 1, 2001. The Act also authorizes the Commission to address in conjunction with any utility's proposed functional separation plan the availability of generation assets for capped rate and default service during Virginia's transition to retail competition. The Commission is also directed by the Act to address permissible relations between

functionally separate entities, and between such entities and nonaffiliated entities.

By Order entered on April 18, 2000, the Commission established a proceeding to consider regulations proposed by the Commission's Staff governing the functional separation of incumbent electric utilities' generation, transmission, and distribution services by January 1, 2002, as required by the Act. Interested persons should obtain copies of the Commission's April 18, 2000, Order with attached proposed regulations from the Clerk of the Commission at the address listed below. The Order and proposed regulations will also appear in the May 8, 2000, issue of *The Virginia Register of Regulations*.

A copy of the Order Prescribing Notice and Inviting Comments, together with the proposed regulations, may be reviewed from 8:15 a.m. to 5:00 p.m., Monday through Friday, in the State Corporation Commission's Document Control Center located at 1300 East Main Street, Tyler Building, First Floor, Richmond, Virginia 23219.

Any person desiring to comment upon the proposed regulations shall file, on or before May 22, 2000, an original and fifteen (15) copies of their comments with the Clerk of the Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. The comments should set forth the person's interest in this proceeding, and if a person objects to certain provisions in the proposed regulations, such person should propose alternative language for the regulations in their comments. All such comments should refer to Case No. PUA000029.

Any person desiring to request a hearing in this matter shall file such a request with their comments on or before May 22, 2000, and shall state in detail why a hearing is necessary. Such a request should identify the factual issues upon which the party seeks hearing, together with the evidence expected to be introduced at any hearing. If no sufficient request for hearing is received, the Commission may enter an order promulgating regulations upon the basis of the written pleadings filed.

All communications to the Commission should be directed to the Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118, and should refer to Case No. PUA000029.

THE DIVISION OF PUBLIC UTILITY ACCOUNTING
OF THE VIRGINIA STATE CORPORATION
COMMISSION

(6) On or before May 31, 2000, the Division of Public Utility Accounting shall file with the Clerk of the Commission proof of the publication of the notices required herein.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: all Virginia Electric Cooperatives and Electric Utilities as set out in Appendix A to this Order; the gas utilities subject to the Commission's regulation as set out in

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Appendix B to this Order; the additional service list attached as Appendix C to this Order; Guy T. Tripp, III, Esquire, and Evans B. Brasfield, Esquire, Hunton & Williams, Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, Virginia 23219-4074; Philip F. Abraham, Esquire, Hazel & Thomas, P.C., P.O. Box 788, Richmond, Virginia 23206; John A. Pirko, Esquire, LeClair Ryan, 4201 Dominion Boulevard, #200, Glen Allen, Virginia 23060; Donald R. Hayes, Esquire, Washington Gas Light Company, 1100 H Street, N.W., Washington, D.C. 20080; Dennis Alexander, and James E. Franklin, Cogentrix Energy, Inc., 9405 Arrowpoint Boulevard, Charlotte, North Carolina 28273-8110; Lisa J. Gefen, Allied Signal, Inc., 6 Eastmans Road, Parsippany, New Jersey 07054; Eric R. Todderun, Esquire, Heller, Ehrman, White & McAuliffe, 200 S.W. Market Street, #1750, Portland, Oregon 97201; Jean Ann Fox, Vice President, Virginia Citizens Consumer Council, 114 Coachman Drive, Yorktown, Virginia 23693; John F. Dudley, Esquire, Office of Attorney General, Division of Consumer Counsel, 900 East Main Street, Second Floor, Richmond, Virginia 23219; Dennis R. Bates, Esquire, Office of Fairfax County, 12000 Government Center Parkway, Suite 549, Fairfax, Virginia 22035-0064; Frederick H. Ritts, Esquire, and Vincent P. Duane, Esquire, 1025 Thomas Jefferson Street, Suite 800, Washington, D.C. 20007; Andrew Gelbaugh, C.C. Page Resources, 4375 Fairlakes Court, #2000, Fairfax, Virginia 22033; Jim O'Reilly, McKinsey & Company, Inc., 1101 Pennsylvania Avenue, N.W., Suite 700, Washington, D.C. 20004; S. Lynn Sutcliffe, Sycom Enterprises, 1010 Wisconsin Avenue, Suite 340, Washington, D.C. 20007; Allen C. Barringer, Esquire, Potomac Electric Power Company, 1900 Pennsylvania Avenue, N.W., Room 841, Washington, D.C. 20068; Frann G. Francis, 1050 17th Street, N.W., Washington, D.C. 20036; David B. Kearney, Esquire, City of Richmond, 900 East Broad Street, Suite 300, Richmond, Virginia 23219; Steven W. Ruback, The Columbia Group, Inc., 785 Washington Street, Canton, Massachusetts 02021; Mid-Atlantic Power Supply Association, Suzanne Daycock, 1153 Sycamore Lane, Mahwah, New Jersey 07430; Jeffrey M. Gleason, Esquire, Southern Environmental Law Center, 201 West Main Street, Suite 14, Charlottesville, Virginia 22902; Douglas D. Wilson, Esquire, Wilson & Associates, P.C., P.O. Box 8190, Roanoke, Virginia 24014; Joe Lenzi, Energy Engineer, CEK Consulting Engineering, P.O. Box 907, Mechanicsville, Virginia 23111; Carter Glass, IV, Esquire, Municipal Electric Power Association, P.O. Box 1122, Richmond, Virginia 23218-1122; James H. Gentry, Tennessee Valley Authority, 1101 Market Street, Chattanooga, Tennessee 37402-2801; Louis R. Monacell, Esquire, Christian & Barton, 909 East Main Street, Suite 1200, Richmond, Virginia 23219-3095; Dasil R. Sizemore, System Council U-1, IBEW, P.O. Box 6537, Richmond, Virginia 23230; Sarah D. Sawyer, Legal Assistant, Bracewell & Patterson, L.L.P., 2000 K Street, N.W., Suite 500, Washington, D.C. 20006-1872; Gary T. Piacentini, Esquire, Maloney, Barr & Huennekens, 1111 East Main Street, Suite 800, Richmond, Virginia 23219-3103; Karen Sinclair, National Renewable Energy Lab, 1617 Cole Boulevard, Golden, Colorado 80401; Albert J. Francese, Esquire, 6597 Rockland Drive, Clifton, Virginia 22024; Pamela Johnson, Esquire, and Michael C. Regulinski, Esquire, Virginia Electric and Power Company, P.O. Box 26666, Richmond, Virginia 23261; Legal Environmental

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CHAPTER 202.
REGULATIONS GOVERNING THE FUNCTIONAL
SEPARATION OF INCUMBENT ELECTRIC UTILITIES
UNDER THE VIRGINIA ELECTRIC UTILITY
RESTRUCTURING ACT.

20 VAC 5-202-10. Applicability and scope.

These regulations are promulgated pursuant to the provisions of the Virginia Electric Utility Restructuring Act (§ 56-576 et seq. of the Code of Virginia), and they apply to all incumbent electric utilities subject to the provisions thereof. Section 56-590 of the Act declares that all incumbent electric utilities shall functionally separate their generation, transmission and distribution services by January 1, 2002. The utilities are required to submit proposed functional separation plans to the Virginia State Corporation Commission by January 1, 2001.

Section 56-590 B 3 of the Act authorizes the commission to impose conditions, as the public interest requires, upon its approval of incumbent electric utilities' plan for functional separation, including requirements that (i) incumbent electric utilities' generation assets or their equivalent remain available for electric service during the capped rate period as provided in § 56-582 and, if applicable, during any period incumbent electric utilities serve as default providers pursuant to § 56-585, and (ii) incumbent electric utilities receive commission

approval for the sale, transfer or other disposition of generation assets during the capped rate period and, if applicable, during any period incumbent electric utilities serve as default providers.

Pursuant to § 56-590 C, the commission is also directed, to the extent necessary to promote effective competition in the Commonwealth, to promulgate regulations:

- 1. Prohibiting cost-shifting or cross-subsidies between functionally separate units;*
- 2. Prohibiting functionally separate units from engaging in anticompetitive behavior or self-dealing;*
- 3. Prohibiting affiliated entities from engaging in discriminatory behavior toward nonaffiliated units; and*
- 4. Establishing codes of conduct detailing permissible relations between functionally separate units.*

Additionally, § 56-590 F provides, in pertinent part, that nothing in the Virginia Electric Utility Restructuring Act shall be deemed to abrogate or modify the commission's authority under Chapters 3 (§ 56-55 et seq.), 4 (§ 56-76 et seq.) or 5 (§ 56-88 et seq.) of Title 56 of the Code of Virginia.

These regulations, therefore, implement the statutory provisions of the Virginia Electric Utility Restructuring Act described above, and are intended to aid incumbent electric utilities required to (i) functionally separate their generation, transmission and distribution services by January 1, 2002, and (ii) submit applications for such purpose to the commission by January 1, 2001. Such regulations shall not, however, be deemed to modify or supercede any regulations adopted by the commission concerning the relationships between incumbent electric utilities and any company licensed by the commission to provide competitive energy services, which regulations shall include the commission's Interim Rules Governing Electric and Natural Gas Retail Access Pilot Programs and any successor regulations thereto.

20 VAC 5-202-20. Definitions.

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

"Act" means the Virginia Electric Utility Restructuring Act.

"Affiliated generation company" means a generation company that controls, is controlled by, or is under common control with a local distribution company.

"Commission" or "SCC" means the Virginia State Corporation Commission.

"FERC" means the Federal Energy Regulatory Commission.

"Generation company" means a person owning, controlling, or operating a facility that produces electric energy for sale to wholesale customers.

"Incumbent electric utility" shall have the same meaning as set forth in § 56-576 of the Code of Virginia.

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“Local distribution company” means the entity regulated by the Virginia State Corporation Commission that owns or controls the distribution facilities required for delivery of electricity to the end user.

“Market price” or “market value” means the value of goods or services determined through such methods as competitive bidding, appraisals, catalog listings, sales to third parties and asset replacement cost determinations.

“Person” shall have the same meaning as set forth in § 56-576 of the Code of Virginia.

“Transmission provider” means an entity regulated by the Federal Energy Regulatory Commission (FERC) that owns or operates, or both, the transmission facilities required for the delivery of electricity to local distribution companies or end users.

20 VAC 5-202-30. Relations between affiliated functionally separated entities; SCC oversight.

The following provisions apply to (i) the relationships between affiliated functionally separate entities following the commission’s approval of their functional separation and (ii) the commission’s oversight of such functionally separate entities:

1. To the extent local distribution companies administer or otherwise furnish fuel procurement or fuel supply services, such companies shall give no undue preference to any affiliated generation company over the interest of any other generation company relating to the provision of fuel or fuel supply resources. For purposes of this subdivision, “undue preference” means a preference that is reasonably likely to affect adversely the development of effective competition within the Commonwealth.
2. To the extent local distribution companies administer or otherwise furnish fuel procurement or fuel supply services, such companies shall provide information related to fuel or fuel supply resources to an affiliated generation company only if it makes such information simultaneously available, through an electronic bulletin board or similar means of public dissemination, to all other generation companies conducting business in Virginia. Nothing in this subdivision shall require any local distribution company to disseminate to all generation companies information requested and deemed competitively sensitive by a generation company and supplied by the local distribution company. This subdivision is not applicable to daily operational data provided by the local distribution company to any generation company in the ordinary course of conducting business.
3. Affiliated local distribution and generation companies shall maintain separate records and books of account.
4. a. Each local distribution company shall establish and implement internal controls designed to ensure that such company and its employees who are engaged in (i) merchant operations, transmission, or reliability functions of electric generation or natural gas supply systems, or (ii) customer service, sales, marketing, accounting or billing functions of any such systems,

have no access to, or connection with, similar functions performed by or on behalf of any affiliated generation company if that access or connection would give any such affiliated generation company an undue advantage over nonaffiliated generation companies. For purposes of this subdivision, “undue advantage” means an advantage that is reasonably likely to affect adversely the development of effective competition within the Commonwealth.

b. Each local distribution company shall file with the Director of the State Corporation Commission’s Division of Public Utility Accounting a listing and description of all internal controls implemented pursuant to this section not later than 60 days after the commission issues an order authorizing the functional separation of such local distribution company from an incumbent electric utility’s generation and transmission services.

5. Local distribution companies shall be subject to the following requirements concerning affiliate transactions:

a. Local distribution companies shall be compensated at the greater of fully distributed cost or market price for all nontariffed services, facilities, and products provided to an affiliated generation company. An affiliated generation company shall be compensated at the lower of fully distributed costs or market prices for all nontariffed services, facilities, and products provided to the local distribution company. If market price data are unavailable for purposes of such calculations, nontariffed services, facilities and products shall be compensated at fully distributed costs. In such event, the local distribution company shall document its efforts to determine market price data and its basis for concluding that such price data are unavailable. Notification of a determination of the unavailability of market price data shall be filed by the local distribution company with the Director of the State Corporation Commission’s Division of Public Utility Accounting within 30 days of any such transaction.

b. Local distribution companies shall file annually with the Director of the State Corporation Commission’s Division of Public Utility Accounting a report that shall, at a minimum, include: (i) the amount and description of each type of nontariffed service provided to or by an affiliated generation company; (ii) accounts debited or credited; and (iii) the compensation basis used (i.e., market price or fully distributed cost). The local distribution company shall make available to the commission’s staff, upon request, the following documentation for each agreement and arrangement where services are provided to or by an affiliated generation company: (i) component costs (i.e., direct or indirect labor, fringe benefits, travel or housing, materials supplies, indirect miscellaneous expenses, equipment or facilities charges, and overhead); (ii) profit component; and (iii) comparable market values and documentation.

6. Affiliated generation and local distribution companies shall document each occasion that (i) an employee of

one becomes an employee of the other or of any transmission provider that services either, or (ii) an employee of any transmission provider that services any such affiliated distribution company or generation company becomes any employee of either. Upon request of the commission's staff, such information shall be filed with the commission identifying each such employment described in this subdivision. This information shall include a listing of each employee transferred and a brief description of each associated position and responsibility.

7. The State Corporation Commission may inspect the books, papers, records and documents of, and require special reports and statements from, every generation company affiliated with a local distribution company regarding (i) such generation company's qualifications to conduct business within the Commonwealth, and (ii) transactions with its local distribution company affiliate. Upon complaint or on its own initiative, the commission may also (i) investigate alleged violations of this chapter, and (ii) seek to resolve any complaints filed with the commission against any such affiliated generation company.

8. Requests for waivers of any of the provisions of this chapter shall be considered by the State Corporation Commission on a case-by-case basis, and may be granted upon such terms and conditions as the State Corporation Commission deems appropriate in the public interest.

20 VAC 5-202-40. Application for functional separation.

A. Each incumbent electric utility required by the Act to functionally separate its generation, transmission and distribution services shall submit a plan to the commission therefor by January 1, 2001, conforming to the requirements set forth below. In addition to information specifically required under this chapter, the incumbent electric utility shall provide any information or documentation it believes will assist the commission in evaluating such utility's functional separation plan.

B. Each plan submitted by an incumbent electric utility shall, at a minimum, contain the following provisions or information:

1. A table of contents detailing the plan's components that shall include, at a minimum, a list of testimonies, schedules, supporting witnesses and issues addressed.

2. An executive summary of the functional separation plan that shall include the following:

a. An overview of the present structure of the integrated utility.

b. An overview of the proposed functional separation plan, including but not limited to, the following issues or matters:

(1) The specific type of functional separation proposed (e.g., transfer to an affiliate or division, divestiture, etc.) with an assessment of how such method will comply with § 56-590 of the Code of Virginia.

(2) A timeline for implementing the functional separation plan's major components.

(3) A description of measures proposed to ensure that the proposed plan of functional separation will not jeopardize or impair the safety or reliability of the incumbent electric utility's generation, transmission, and distribution systems.

(4) The estimated amount of assets and liabilities (including deferred taxes) proposed to be transferred to each functionally separate entity or third party.

(5) The estimated cost of the proposed plan of functional separation.

(6) Measures proposed in the plan to enable the incumbent electric utility to (i) meet potential obligations to provide capped rate service and default service, and (ii) assure that generation assets or their equivalent remain available during the capped rate and default service periods established under the Act.

(7) An assessment of the incumbent electric utility's intentions to request or not request a wires charge, and the basis for any such request.

c. A list of specific approvals sought by the incumbent electric utility in conjunction with its functional separation plan, identifying the sections of the Code of Virginia under which each such approval is sought, and describing the proposed timeframe for each such approval.

d. A summary of any other information the incumbent electric utility believes will be helpful to the commission in assessing the proposed functional separation plan.

e. Waivers that any incumbent electric utility is requesting in connection with a proposed functional separation plan that relate to the requirements of this section, and the reasons therefor.

f. Exemptions that any incumbent electric utility is requesting pursuant to § 56-590 F from the provisions of Chapter 5 (§ 56-88 et seq.) of Title 56 of the Code of Virginia, to the extent that any such incumbent electric utility's proposed functional separation plan includes a covered transaction otherwise subject to the provisions of § 56-590 D.

3. An assessment of the financial impact of the proposed functional separation plan, including information concerning the following:

a. The likely impact of the proposed functional separation on the capital structure of the incumbent electric utility and the proposed companies, identifying important accounting and divestiture timing implications for interim capital structures.

b. The anticipated long-term capital structures of the functionally separate entities resulting from the proposed plan, including (i) targeted credit ratings for each functionally separate entity; and (ii) pro forma capital structures proposed by the targeted

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implementation date for functional separation, and on December 31, 2003, and December 31, 2006. If any such proposed functionally separate entities will have noninvestment grade credit rating targets, incumbent electric utilities shall describe all credit support agreements intended to benefit such entities.

c. The anticipated financing of future assets for each functionally separate entity resulting from the proposed plan (e.g., variable rate credit facility, parental equity infusion, project debt financing, parental guaranteed financing, etc.).

d. All mediation steps taken to avoid violating any existing debt indentures, including tax-exempt financing.

e. Expected transaction costs or refinancing costs required to effect functional separation, including (i) descriptions of methods for determining call premiums on debt or preferred securities, and (ii) descriptions of all terms and conditions for any common stock reacquisition plans (e.g., Dutch Auctions, privately negotiated transactions, open market purchases, etc.).

f. Any changes to existing credit support arrangements or any new credit arrangements likely to result from the plan.

g. The intended use of cash proceeds in the event of divestiture (e.g., to pay down existing debt, repurchase common stock, acquire additional assets, etc.). The information furnished shall also include a description of any change in parent company dividend policy resulting from any such divestiture.

h. Methods proposed for allocating any net gains or net losses between ratepayers and shareholders in the event of divestiture. Such information shall include excerpts from any state or federal commission orders or settlements supporting the proposed methodology.

i. Any current or anticipated Securities and Exchange Commission (SEC) authorizations to issue securities supporting the proposed functional separation plan.

j. Any proposed dividend policy concerning dividends from any proposed functionally separate entity to any parent entity thereof following functional separation.

k. The manner in which any assets are proposed to be transferred in the form of a dividend from any proposed functionally separate entity to any parent entity thereof incident to functional separation.

l. The financial impact on the incumbent electric utility's Virginia customers of divesting or transferring such utility's generation assets to a third party or affiliate, as compared to the financial impact on such customers resulting from the incumbent electric utility retaining generation assets specific to its Virginia load throughout the Act's prescribed capped rate and default service periods.

m. An assessment of the incumbent electric utility's intentions to request or not request a wires charge and

the basis for any such request. This information shall include a description of (i) how the incumbent electric utility will account for the wires charge and (ii) how the wires charge will impact the financial statements.

n. Any other financial information relevant to the incumbent electric utility's proposed functional separation plan.

4. Information concerning the proposed structure of each functionally separate entity, as follows:

a. The legal structure of each functionally separate entity proposed in the functional separation plan (e.g., corporation, limited liability company, limited liability partnership, etc.).

b. The names and addresses of each proposed functionally separate entity's officers and directors, or their equivalents.

c. The location and mailing address of each proposed functionally separate entity's headquarters.

d. A description of how functional separation requirements in any other states have affected, or may affect, the incumbent electric utility, its structure and operations.

e. A description of all federal agency approvals required in connection with the execution and implementation of the incumbent electric utility's proposed functional separation plan, identifying any state commission findings (i) required in conjunction with such federal agency approvals, or (ii) otherwise required pursuant to federal law.

f. A timeline for implementing major elements of the functional separation plan.

5. Information concerning separation of functions and operations, as follows:

a. A description of the products and services to be offered by any proposed functionally separate entity.

b. A description of functions and services to be transferred from the incumbent electric utility to any proposed functionally separate entity.

c. A description of competitive services to be offered by the incumbent electric utility.

d. Information concerning the total number of incumbent electric utility employees likely to be (i) transferred to any proposed functionally separate entity, or (ii) jointly employed by the incumbent electric utility and any proposed functionally separate entity, following functional separation.

e. A detailed description of measures proposed to ensure the safety and reliability of the incumbent electric utility's generation, transmission and distribution system in conjunction with functional separation.

f. An estimate of the cost of functional separation, and an explanation of how the costs thereof will be shared

between the incumbent electric utility and proposed functionally separate entities.

6. Information concerning asset and liability transfers or sales, as follows:

a. A list of assets or liabilities that the incumbent electric utility proposes to transfer to a functionally separate entity or proposes to sell to a third party. The list shall include the FERC account number, book value, fair market value, proposed transfer date and the recipient of the assets or liabilities.

b. The method used to value the transfer of assets to a functionally separate entity or to a third party, and justification for the chosen methodology. Information furnished shall include documentation supporting the valuation and transfer thereof.

c. A list of all long-term power contracts proposed for transfer from the incumbent electric utility to functionally separate entities. Information furnished shall include the length and anticipated expiration date of each contract, annual cash payments for power, and the market value of each power contract for each year of its remaining life.

d. Detailed documentation supporting (i) the accounting for the proposed transfer or divestiture of generation assets, and (ii) projected impacts of such transfers or divestiture on current and deferred income taxes. The information furnished shall include the income statement and balance sheet effects of income taxes, both before and after the proposed transfer or divestiture.

e. A copy of the proposed system of accounts that any affected affiliated generation company will use for booking purposes.

f. A list of new investments (including amounts and time period) necessitated by the incumbent electric utility's proposed functional separation plan.

g. In furtherance of the commission's responsibility under § 56-590 B 3 of the Code of Virginia, each incumbent utility shall provide an assessment of how its proposed functional separation plan advances or satisfies such utility's obligation to make electric service available at the capped rates established under § 56-582 D.

h. In furtherance of the commission's responsibility under § 56-590 B 3 of the Code of Virginia, each incumbent utility shall provide an assessment of how its proposed functional separation plan advances or satisfies such utility's potential obligation to provide electric service as a default supplier pursuant to § 56-585. Such assessment shall include a detailed description of pricing and capacity if the incumbent electric utility proposes to utilize equivalent generation in satisfaction of such obligation.

i. An analysis comparing the cost of obtaining equivalent generation to the cost of retaining generation assets if the incumbent electric utility

proposes to divest all or part of its generation assets supporting its Virginia load. The information furnished shall explain how such equivalent generation will provide reliability and capacity that is at least comparable to that provided by the generation assets currently held by the incumbent electric utility. Additionally, the information shall include the incumbent electric utility's assessment of how obtaining equivalent generation is in the public interest.

7. Information concerning a cost of service study as follows:

a. A cost of service study reflecting total company and total Virginia operations. The FERC seven factor test as set forth in FERC Order 888, Promoting Wholesale Competition Through Open Access Non-discriminatory Transmission Services by Public Utilities and Recovery of Stranded Costs by Public Utilities and Transmitting Utilities,¹ or any subsequent method for separation of transmission and distribution adopted by the FERC, shall be used to identify federal and state regulated transmission.

b. A cost of service study that separates total Virginia operations identified in a of this subdivision into Virginia jurisdictional and Virginia nonjurisdictional operations.

c. A cost of service study that separates Virginia jurisdictional operations established under b of this subdivision, by class and function utilizing the rate of return approved by the commission in the incumbent electric utility's most recent rate case or alternative regulatory plan. Class costs shall be subdivided by generation, transmission, distribution, metering, billing, and other customer services as may be warranted and required by the commission. Such divisions shall be further subdivided as demand, energy and customer. The class study shall include computations of the average price per unit for these various subdivisions.

8. Changes proposed to the local distribution company's distribution and default service tariffs, rates, terms and conditions.

9. A description of how the incumbent electric utility's proposed functional separation will comply with 20 VAC 5-202-30.

10. Requests by the incumbent electric utility for confidential treatment of any information furnished in a proposed functional separation plan that such utility deems confidential. Such request shall also provide, in detail, the reasons for any such requests.

¹ Promoting Wholesale Competition Through Open Access Non-discriminatory Transmission Services by Public Utilities and Recovery of Stranded Costs by Public Utilities and Transmitting Utilities, Order No. 888, 61 FR 21,540 (May 10, 1996), FERC Stats. & Regs. ¶ 31,036 (1996) (Order No. 88), order on reh'g, Order No. 888-A, 62 FR 12,274 (March 14, 1997), FERC Stats. & Regs. ¶ 31,048 (1997) (Order No. 888-A), order on reh'g, Order No. 888-B, 81 FERC ¶ 61,248 (1997), order on reh'g, Order No. 888-C, 82 FERC ¶ 61,046 (1998), appeal docketed, Transmission Access Policy Study Group, et al. v. FERC, Nos. 97-1715 et al. (D.C. Cir.).

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11. *Waivers requested by any incumbent electric utility pertaining to the application of any rule under this chapter. The incumbent electric utility's application shall include a detailed explanation of any waiver requested and the reasons therefor.*

12. *Exemptions that any incumbent electric utility is requesting pursuant to § 56-590 F from the provisions of Chapter 5 (§ 56-88 et seq.) of Title 56 of the Code of Virginia, to the extent that any such incumbent electric utility's proposed functional separation plan includes a covered transaction otherwise subject to the provisions of § 56-590.*

VA.R. Doc. No. R00-165; Filed April 19, 2000, 10:58 a.m.

* * * * *

Title of Regulation: 20 VAC 5-203-10 et seq. **Regulations Governing the Separation of Regulated and Unregulated Businesses of Utility Consumer Services Cooperatives and Utility Aggregation Cooperatives.**

Statutory Authority: §§ 12.1-13, 56-231.34:1 and 56-231.50:1 of the Code of Virginia.

Summary:

The regulations address the conduct of cooperatives for the purpose of promoting effective and fair competition between such cooperatives' affiliates and other persons engaged in the same or similar businesses that are not regulated utility services. Additionally, the regulations establish codes of conduct detailing permissible relationships between such cooperatives and their affiliates. Such codes address, among other things, the sharing of customer information between such cooperatives and affiliates; affiliate use of cooperative name, logo or trademarks; and sharing of vehicles, office space and employees by such cooperatives and affiliates.

Agency Contact: Susan Larsen, Deputy Director, Division of Public Utility Accounting, State Corporation Commission, P.O. Box 1197, Richmond, VA 23218, telephone (804) 371-9950 or e-mail Sdlarsen@scc.state.va.us.

AT RICHMOND, APRIL 18, 2000

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. PUA000028

Ex Parte: In the matter concerning the separation of regulated and unregulated businesses of utility consumer services cooperatives and utility aggregation cooperatives.

ORDER PRESCRIBING NOTICE AND INVITING COMMENTS

Chapter 9.1 (§ 56-231.15 et seq.) of Title 56 of the Code of Virginia governs the conduct of Utility Consumer Services

Cooperatives and Utility Aggregation Cooperatives. Section 56-231.34:1 applicable to Utility Consumer Services Cooperatives, and § 56-231.50:1, applicable to Utility Aggregation Cooperatives, collectively govern relations between cooperatives and their affiliates that are engaged in businesses that are not regulated utility services.

Sections 56-231.34:1 and 56-231.50:1 also direct the Virginia State Corporation Commission ("Commission") to promulgate regulations governing the conduct of cooperatives for the purpose of promoting effective and fair competition between such cooperatives' affiliates and other persons engaged in the same or similar businesses that are not regulated utility services. Additionally, these statutes direct the Commission to establish codes of conduct detailing permissible relationships between such cooperatives and their affiliates. In establishing these codes, the Commission is required to address, among other issues, the sharing of customer information between cooperatives and such affiliates; affiliate use of cooperative name, logo or trademarks; and sharing of vehicles, office space and employees by cooperatives and such affiliates.

The regulations to be adopted in this proceeding will implement the provisions of Chapter 9.1 (§ 56-231.15 et seq.) of Title 56 of the Code of Virginia governing the relations between Utility Consumer Services Cooperatives and Utility Aggregation Cooperatives and non-regulated affiliates thereof.

Upon consideration whereof, the Commission is of the opinion and finds that notice of this proposed rulemaking should be published in newspapers of general circulation throughout the Commonwealth; that this Order should be published in the *Virginia Register of Regulations* and that interested persons should be afforded an opportunity to file written comments or request a hearing on the proposed regulations appended hereto. Accordingly,

IT IS ORDERED THAT:

(1) Interested persons may obtain a copy of this Order, together with a copy of the proposed rules upon which comment is sought, by directing a request in writing for the same to Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218. Such requests shall refer to Case No. PUA000028.

(2) A copy of this Order and the proposed regulations shall also be made available for public review in the Commission's Document Control Center, located on the First Floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, during its regular hours of operation, Monday through Friday, from 8:15 a.m. to 5:00 p.m.

(3) On or before May 22, 2000, any person desiring to comment upon the proposed regulations shall file an original and fifteen (15) copies of their comments with the Clerk of the Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118, making reference in such comments to Case No. PUA000028. Such comments should set forth the person's interest in this proceeding, and if such person objects to certain provisions of the proposed

regulations, proposed alternative language for the regulations should be included in such person's comments.

(4) Any person desiring a hearing in this matter shall file such a request with their comments on or before May 22, 2000, and shall state in detail why a hearing is necessary. Such a request should identify the factual issues likely in dispute upon which the person seeks a hearing, together with the evidence expected to be introduced at any hearing. If no sufficient request for a hearing is received, the Commission may enter an order promulgating regulations upon the basis of the written pleadings filed.

(5) On or before May 2, 2000, the Commission will cause to be published the following notice as classified advertising on one occasion in newspapers of general circulation throughout the Commonwealth of Virginia:

NOTICE TO THE PUBLIC OF A PROCEEDING TO
ESTABLISH REGULATIONS CONCERNING
PERMISSIBLE RELATIONS BETWEEN ELECTRIC
COOPERATIVES AND THEIR NON-REGULATED
AFFILIATES
CASE NO. PUA000028

Chapter 9.1 (§ 56-231.15 et seq.) of Title 56 of the Code of Virginia governs the conduct of Utility Consumer Services Cooperatives and Utility Aggregation Cooperatives. Section 56-231.34:1 applicable to Utility Consumer Services Cooperatives, and § 56-231.50:1, applicable to Utility Aggregation Cooperatives, collectively govern relations between cooperatives and their affiliates that are engaged in businesses that are not regulated utility services.

These statutory provisions also direct the Virginia State Corporation Commission ("Commission") to promulgate regulations governing the conduct of cooperatives for the purpose of promoting effective and fair competition between such cooperatives' affiliates and other persons engaged in the same or similar businesses that are not regulated utility services. Additionally, they require the Commission to establish codes of conduct detailing permissible relationships between such cooperatives and their affiliates. In establishing these codes, the Commission is required to address, among other issues, the sharing of customer information between cooperatives and such affiliates; affiliate use of cooperative name, logo or trademarks; and sharing of vehicles, office space and employees by cooperatives and such affiliates.

By Order entered on April 18, 2000, the Commission established a proceeding to consider regulations proposed by the Commission's Staff concerning the matters described above. Interested persons should obtain copies of the Commission's April 18, 2000, Order with attached proposed regulations from the Clerk of the Commission at the address listed below. The Order and proposed regulations will also appear in the May 8, 2000, issue of *The Virginia Register of Regulations*.

A copy of the Order Prescribing Notice and Inviting Comments, together with the proposed regulations,

may be reviewed from 8:15 a.m. to 5:00 p.m., Monday through Friday, in the State Corporation Commission's Document Control Center located at 1300 East Main Street, Tyler Building, First Floor, Richmond, Virginia 23219.

Any person desiring to comment upon the proposed regulations shall file, on or before May 22, 2000, an original and fifteen (15) copies of their comments with the Clerk of the Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. The comments should set forth the person's interest in this proceeding, and if a person objects to certain provisions in the proposed regulations, such person should propose alternative language for the regulations in their comments. All such comments should refer to Case No. PUA000028.

Any person desiring to request a hearing in this matter shall file such a request with their comments on or before May 22, 2000, and shall state in detail why a hearing is necessary. Such a request should identify the factual issues upon which the party seeks hearing, together with the evidence expected to be introduced at any hearing. If no sufficient request for hearing is received, the Commission may enter an order promulgating regulations upon the basis of the written pleadings filed.

All communications to the Commission should be directed to the Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118, and should refer to Case No. PUA000028.

THE DIVISION OF PUBLIC UTILITY ACCOUNTING
OF THE VIRGINIA STATE CORPORATION
COMMISSION

(6) On or before May 31, 2000, the Division of Public Utility Accounting shall file with the Clerk of the Commission proof of the publication of the notices required herein.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: all Virginia Electric Cooperatives and Electric Utilities as set out in Appendix A to this Order; the gas utilities subject to the Commission's regulation as set out in Appendix B to this Order; the additional service list attached as Appendix C to this Order; Guy T. Tripp, III, Esquire, and Evans B. Brasfield, Esquire, Hunton & Williams, Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, Virginia 23219-4074; Philip F. Abraham, Esquire, Hazel & Thomas, P.C., P.O. Box 788, Richmond, Virginia 23206; John A. Pirko, Esquire, LeClair Ryan, 4201 Dominion Boulevard, #200, Glen Allen, Virginia 23060; Donald R. Hayes, Esquire, Washington Gas Light Company, 1100 H Street, N.W., Washington, D.C. 20080; Dennis Alexander, and James E. Franklin, Cogentrix Energy, Inc., 9405 Arrowpoint Boulevard, Charlotte, North Carolina 28273-8110; Lisa J. Gefen, Allied Signal, Inc., 6 Eastmans Road, Parsippany, New Jersey 07054; Eric R. Todderun, Esquire, Heller, Ehrman, White & McAuliffe, 200 S.W. Market Street, #1750, Portland, Oregon 97201; Jean Ann Fox, Vice President, Virginia Citizens Consumer Council, 114 Coachman Drive, Yorktown, Virginia 23693;

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John F. Dudley, Esquire, Office of Attorney General, Division of Consumer Counsel, 900 East Main Street, Second Floor, Richmond, Virginia 23219; Dennis R. Bates, Esquire, Office of Fairfax County, 12000 Government Center Parkway, Suite 549, Fairfax, Virginia 22035-0064; Frederick H. Ritts, Esquire, and Vincent P. Duane, Esquire, 1025 Thomas Jefferson Street, Suite 800, Washington, D.C. 20007; Andrew Gelbaugh, C.C. Page Resources, 4375 Fairlakes Court, #2000, Fairfax, Virginia 22033; Jim O'Reilly, McKinsey & Company, Inc., 1101 Pennsylvania Avenue, N.W., Suite 700, Washington, D.C. 20004; S. Lynn Sutcliffe, Sycom Enterprises, 1010 Wisconsin Avenue, Suite 340, Washington, D.C. 20007; Allen C. Barringer, Esquire, Potomac Electric Power Company, 1900 Pennsylvania Avenue, N.W., Room 841, Washington, D.C. 20068; Frann G. Francis, 1050 17th Street, N.W., Washington, D.C. 20036; David B. Kearney, Esquire, City of Richmond, 900 East Broad Street, Suite 300, Richmond, Virginia 23219; Steven W. Ruback, The Columbia Group, Inc., 785 Washington Street, Canton, Massachusetts 02021; Mid-Atlantic Power Supply Association, Suzanne Daycock, 1153 Sycamore Lane, Mahwah, New Jersey 07430; Jeffrey M. Gleason, Esquire, Southern Environmental Law Center, 201 West Main Street, Suite 14, Charlottesville, Virginia 22902; Douglas D. Wilson, Esquire, Wilson & Associates, P.C., P.O. Box 8190, Roanoke, Virginia 24014; Joe Lenzi, Energy Engineer, CEK Consulting Engineering, P.O. Box 907, Mechanicsville, Virginia 23111; Carter Glass, IV, Esquire, Municipal Electric Power Association, P.O. Box 1122, Richmond, Virginia 23218-1122; James H. Gentry, Tennessee Valley Authority, 1101 Market Street, Chattanooga, Tennessee 37402-2801; Louis R. Monacell, Esquire, Christian & Barton, 909 East Main Street, Suite 1200, Richmond, Virginia 23219-3095; Dasil R. Sizemore, System Council U-1, IBEW, P.O. Box 6537, Richmond, Virginia 23230; Sarah D. Sawyer, Legal Assistant, Bracewell & Patterson, L.L.P., 2000 K Street, N.W., Suite 500, Washington, D.C. 20006-1872; Gary T. Piacentini, Esquire, Maloney, Barr & Huennekens, 1111 East Main Street, Suite 800, Richmond, Virginia 23219-3103; Karen Sinclair, National Renewable Energy Lab, 1617 Cole Boulevard, Golden, Colorado 80401; Albert J. Francese, Esquire, 6597 Rockland Drive, Clifton, Virginia 22024; Pamela Johnson, Esquire, and Michael C. Regulinski, Esquire, Virginia Electric and Power Company, P.O. Box 26666, Richmond, Virginia 23261; Legal Environmental Assistance Foundation, 1115 North Gadsden Street, Tallahassee, Florida 32303-6327; Glenn J. Berger, Esquire, Union Camp Corporation, 1440 New York Avenue, N.W., Washington, D.C. 20005-2111; Richard Silkman, Richard Silkman & Associates, 163 Main Street, Yarmouth, Maine 04096; Robert Blohm, 3 Dover Road, Hamilton, New Jersey 08620; James R. Kibler, Jr., Esquire, Mezzullo & McCandlish, P.O. Box 796, Richmond, Virginia 23218; Channing J. Martin, Esquire, and Sarah Hopkins Finley, Esquire, Williams, Mullen, Christian & Dobbins, P.O. Box 1320, Richmond, Virginia 23210; Josh Flynn, KPMG Peat Marwick, 8200 Greensboro Drive, #400, McLean, Virginia 22102; Donald A. Fickenscher, Esquire, Virginia Natural Gas Company, 5100 East Virginia Beach Boulevard, Norfolk, Virginia 23502; Allen Glover, Esquire, Woods, Rogers & Hazlegrove, P.O. Box 14125, Roanoke, Virginia 24011; J. Christopher LaGow, Esquire, Law Office of J. Christopher LaGow, One Capitol Square,

830 East Main Street, Suite 1500, Richmond, Virginia 23219; Susan G. George, Esquire, CNG Energy Services Corporation, 625 Liberty Avenue, Pittsburgh, Pennsylvania 15222; Howard Friedman, MC2, Inc., 701 East 22nd Street, Lombard, Illinois 60148-5072; Joelle K. Ogg, Esquire, John & Hengerer, 1200 17th Street, N.W., Suite 600, Washington, D.C. 20036; Susan Weinstock, AARP, 601 E Street, N.W., Washington, D.C. 20049; Jack R. Hundley, AARP, 200 Stratford Drive, Colonial Heights, Virginia 23834; Mary E. Tighe, Statoil Energy Trading, Inc., 2800 Eisenhower Avenue, Alexandria, Virginia 22314; Archibald Wallace, III, Sands, Anderson, Marks & Miller, P.O. Box 1998, Richmond, Virginia 23218-1998; Edward L. Petrini, Esquire, Christian & Barton, 909 East Main Street, Suite 1200, Richmond, Virginia 23219-3095; R. Peter Lalor, Commonwealth Power Corporation, 3 Koger Center, Suite 213, Norfolk, Virginia 23502; William S. Bilenky, Esquire, 8133 Forest Hill Avenue, Suite 101, Richmond, Virginia 23235; Marc C. Hebert, Esquire, Enron Capital & Trade Resource, 2000 K Street, N.W., Suite 500, Washington, D.C. 20006-1872; Kerri L. Boyer, Multitrade of Pittsylvania, 5301 Wisconsin Avenue, N.W., Washington, D.C. 20015; Jon L. Praed, Esquire, Latham & Watkins, 1001 Pennsylvania Avenue, N.W., Washington, D.C. 20004; Robert L. Daileader, Jr., Esquire, Ogden Martin Systems of Alexandria, One Thomas Circle, Suite 700, Washington, D.C. 20005-5802; John H. Bucy, II, Esquire, 701 Brazos, Suite 1500, Austin, Texas 78701; Johnson Kanady, III, Esquire, VMH, Inc., 100 Shockoe Slip, Richmond, Virginia 23219-4140; David Boies, Esquire, Doswell Limited Partnership, 5301 Wisconsin Avenue, N.W., Washington, D.C. 20015; Anthony Gambardella, Esquire, and Michael J. Quinan, Esquire, Woods, Rogers & Hazlegrove, P.L.C., 823 East Main Street, Suite 1200, Richmond, Virginia 23219; William G. Thomas, Esquire, Hazel & Thomas, 510 King Street, Suite 200, Alexandria, Virginia 22314; Michael L. Sarahan, Esquire, Office of the City Attorney, 900 East Broad Street, Richmond, Virginia 23219; Lisa Yoho, Enron Corporation, 1775 I Street, N.W., Suite 800, Washington, D.C. 20006; Mary A. Hamm, Northern Virginia Electric Cooperative, 10323 Lomond Drive, Manassas, Virginia 20109; James C. Roberts, Esquire, Mays & Valentine, P.O. Box 1122, Richmond, Virginia 23218-1122; Wendy N. Reed, Esquire, Wright & Talisman, P.C., 1200 G Street, N.W., Suite 600, Washington, D.C. 20005; Richard A. Drom, General Counsel, and Carla G. Pettus, Senior Counsel, PJM Interconnection, L.L.C., 955 Jefferson Avenue, Valley Forge Corporate Center, Norristown, Pennsylvania 19403-2497; Michael S. Wroblewski, Advocacy Coordinator, Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580; Howard H. Shafferman, Esquire, Ballard, Spahr, Andrews & Ingersoll, L.L.P., 601 13th Street, N.W., Suite 1000 South, Washington, D.C. 20005; Timothy R. Dunne, Senior Vice President, General Counsel, and Secretary, Tractebel Power, Inc., 1177 West Loop South, Suite 900, Houston, Texas 77027; Douglas M. Brooks, Senior Counsel Specialist, Regulatory, LG&E Energy Corp., 220 West Main Street, P.O. Box 32010, Louisville, Kentucky 40232; James R. Bacha, Esquire, and Kevin F. Duffy, Esquire, American Electric Power Service Corporation, 1 Riverside Plaza, Columbus, Ohio 43215; Thomas B. Nicholson, Esquire, Williams, Mullen, Clark & Dobbins, P.C., Two James Center, 1021 East Cary Street, P.O. Box 1320,

Richmond, Virginia 23218-1320; Craig G. Goodman, Esquire, President, National Energy Marketers Association, 3333 K Street, N.W., Suite 425, Washington, D.C. 20007; Kenneth G. Hurwitz, Esquire, and Rita L. Wecker, Esquire, Venable, Baetjer, Howard & Civiletti, LLP, 1201 New York Avenue, N.W., 11th Floor, Washington, D.C. 20005; George O'Nale, Rt. 2, Box 1293, New Castle, Virginia 24127; Marleen L. Brooks, Esquire, and Robert T. Vogler, Esquire, Allegheny Power Building, 10435 Downsville Pike, Hagerstown, Maryland 21740-1766; Michael E. Kaufmann, Esquire, and Peter J. Mattheis, Esquire, Brickfield, Burchette & Ritts, P.C., 1025 Thomas Jefferson Street, N.W., Eighth Floor, West Tower, Washington, D.C. 20007; Julie Simon, Director of Policy, Electric Power Supply Association, 1401 H Street, N.W., Suite 760, Washington, D.C. 20005; David L. Bailey, Jr., David Bailey Associates, 1001 E. Broad Street, Suite 225, Richmond, Virginia 23219; Frank C. Bedell, Virginia Petroleum Jobbers Association, 6716 Patterson Avenue, Richmond, Virginia 23226; Mark Singer, Advocates of Virginia, 1108 East Main Street, Suite 904, Richmond, Virginia 23219; and to the Commission's Divisions of Energy Regulation, Economics and Finance, and Public Utility Accounting.

CHAPTER 203.

REGULATIONS GOVERNING THE SEPARATION OF REGULATED AND UNREGULATED BUSINESSES OF UTILITY CONSUMER SERVICES COOPERATIVES AND UTILITY AGGREGATION COOPERATIVES.

20 VAC 5-203-10. Applicability and scope.

These regulations are promulgated pursuant to the provisions of Chapter 9.1 (§ 56-231.15 et seq.) of Title 56 of the Code of Virginia, and they apply to Utility Consumer Services Cooperatives and Utility Aggregation Cooperatives subject to the provisions thereof. Section 56-231.34:1, applicable to Utility Consumer Services Cooperatives, and § 56-231.50:1, applicable to Utility Aggregation Cooperatives, address relations between cooperatives and their affiliates that are engaged in businesses that are not regulated utility services.

These statutory provisions direct the Virginia State Corporation Commission to promulgate regulations governing the conduct of cooperatives for the purpose of promoting effective and fair competition between such cooperatives' affiliates and other persons engaged in the same or similar businesses that are not regulated utility services. Additionally, these statutes direct the Virginia State Corporation Commission to establish codes of conduct detailing permissible relationships between such cooperatives and their affiliates. In establishing these codes, the commission is directed to address, among other things, the sharing of customer information between such cooperatives and affiliates; affiliate use of cooperative name, logo or trademarks; and sharing of vehicles, office space and employees by such cooperatives and affiliates.

20 VAC 5-203-20. Definitions.

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

"Affiliate" shall have the meanings set forth in §§ 56-231.15 and 56-231.38 of the Code of Virginia.

"Commission" means the Virginia State Corporation Commission.

"Cooperative" shall have the meanings set forth in §§ 56-231.15 and 56-231.38 of the Code of Virginia.

"Nonregulated affiliate" means any affiliate of a cooperative engaged in businesses that are not regulated utility services.

"Regulated utility services" means utility services that are subject to regulation as to rates or service by the Virginia State Corporation Commission.

20 VAC 5-203-30. Relations between cooperatives and affiliates thereof not engaged in regulated utility services.

A cooperative shall file with the Director of the State Corporation Commission's Division of Public Utility Accounting a listing and description of internal controls it has in place that are designed to prevent: (i) cost shifting or cross subsidies between any cooperative and its nonregulated affiliate; and (ii) anticompetitive behavior or self-dealing as between any cooperative and its nonregulated affiliate. Such information shall, in each instance, be filed at least 45 days before any cooperative and its nonregulated affiliate share any services.

20 VAC 5-203-40. Codes of conduct governing cooperatives and affiliates thereof not engaged in regulated utility services.

Except as otherwise provided in any commission order or regulation, any cooperative subject to the provisions of this chapter shall be governed by the following codes of conduct when transacting business within this Commonwealth with a nonregulated affiliate.

1. A cooperative shall not give any preference related to the provision of its regulated electric service to a nonregulated affiliate over the interest of any nonaffiliated organization.
2. A cooperative may provide customer lists and other customer information to its nonregulated affiliate only if such information is made available to third party competitors on equal terms and conditions.
3. Joint advertising and marketing between a cooperative and its nonregulated affiliate shall be permitted only if such advertising and marketing services are made available to third party competitors on equal terms and conditions.
4. A cooperative's name, logo or trademark may be used by a nonregulated affiliate provided such use is not misleading. A disclaimer that clearly and conspicuously discloses that the nonregulated affiliate operates independently of the cooperative shall accompany such use. Such disclaimers shall not be required on company vehicles, clothing, trinkets, writing instruments, or similar promotional materials.

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5. *Employees of the cooperative may provide services to nonregulated affiliates provided such services are not anticompetitive or discriminatory.*

6. *A regulated cooperative and its nonregulated affiliates may share the use of vehicles, equipment and office space provided such sharing is not anticompetitive or discriminatory.*

VA.R. Doc. No. R00-164; Filed April 19, 2000, 10:58 a.m.



FINAL REGULATIONS

For information concerning Final Regulations, see Information Page.

Symbol Key

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

TITLE 9. ENVIRONMENT

STATE AIR POLLUTION CONTROL BOARD

Title of Regulation: Regulations for the Control and Abatement of Air Pollution: Special Provisions for Existing Sources, New and Modified Sources, and Hazardous Air Pollutant Sources (Rev. D97).

9 VAC 5-10-10 et seq. General Definitions (amending 9 VAC 5-10-20).

9 VAC 5-20-10 et seq. General Provisions (amending 9 VAC 5-20-180).

9 VAC 5-40-10 et seq. Existing Stationary Sources (amending 9 VAC 5-40-10, 9 VAC 5-40-20, 9 VAC 5-40-30, 9 VAC 5-40-40, and 9 VAC 5-40-50).

9 VAC 5-50-10 et seq. New and Modified Stationary Sources (amending 9 VAC 5-50-10, 9 VAC 5-50-20, 9 VAC 5-50-30, 9 VAC 5-50-40, and 9 VAC 5-50-50).

9 VAC 5-60-10 et seq. Hazardous Air Pollutant Sources (amending 9 VAC 5-60-10, 9 VAC 5-60-20, and 9 VAC 5-60-30).

Statutory Authority: § 10.1-1308 of the Code of Virginia.

Effective Date: July 1, 2000.

Summary:

Special Provisions for Existing Stationary Sources, New and Modified Stationary Sources, and Hazardous Air Pollutant Sources which are in Chapters 40, 50 and 60 of the board's regulations address issues such as: applicability, compliance, emission testing, monitoring, notification, records and reporting. The amendments update certain requirements in the provisions to be consistent with new federal requirements and EPA policy and address concerns identified pursuant to the review of existing regulations mandated by Executive Order 15 (94) as well as changes made to federal regulations since that review.

Changes made since the proposed action was published include:

- 1. Add a definition for affirmative defense.*
- 2. Add a provision to clarify that 9 VAC 5-20-180 applies to only facility and control equipment maintenance or malfunction.*
- 3. Add provisions that specify an affirmative defense does not apply to excess emissions due to malfunction, maintenance, startup or shutdown (i) for sources subject to New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAP), Maximum Achievable Control Technology Standards (MACT), or acid rain provisions of the federal Clean Air Act, or (ii) that cause an exceedance of an*

ambient air quality standard or PSD ambient air quality increment.

4. Modify the provision that provides legal relief if a violation has taken place due to excess emissions as a result of facility and control equipment maintenance or malfunction. The provision now entitles the owner of a facility to use an affirmative defense for relief from penalties.

5. Modify the provisions pertaining to facility and control equipment maintenance or malfunction to incorporate the limitations and the criteria for an affirmative defense.

6. Modify the provisions that authorize the board to reduce the level of operation or shut down a facility if it is necessary to prevent a violation of any primary ambient air quality standard. The provisions have been expanded to include any ambient air increment identified in the Prevention of Significant Deterioration program and is no longer restricted to just primary ambient air quality standards.

7. Delete provisions that provide a permanent exemption for excess visible emissions during periods of startup, shutdown, and malfunction.

8. Add a provision that entitles the owner of a facility to use an affirmative defense for relief from penalties if a violation has taken place due to excess emissions during start up or shutdown. The provision includes the limitations and the criteria for an affirmative defense.

9. Clarify that the violation exemption provided for excess emissions during periods of startup, shutdown, and malfunction applies only during the initial emissions test or initial performance test.

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.

Agency Contact: Alma Jenkins, Office of Air Regulatory Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4070.

CHAPTER 10. GENERAL DEFINITIONS.

9 VAC 5-10-20. Terms defined.

"Actual emissions rate" means the actual rate of emissions of a pollutant from an emissions unit. In general actual emissions shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during the most recent two-year period or some other two-year period which is representative of normal source operation. If the board determines that no two-year period is representative of normal source operation, the board shall allow the use of an

alternative period of time upon a determination by the board that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

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

"*Affected facility*" means, with reference to a stationary source, any part, equipment, facility, installation, apparatus, process or operation to which an emission standard is applicable or any other facility so designated. *The term affected facility includes any affected source.*

["*Affirmative defense*" means, in the context of an enforcement proceeding, a response or defense put forward by a defendant, regarding which the defendant has the burden of proof, and the merits of which are independently and objectively evaluated in a judicial or administrative proceeding.]

"*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 quality*" means the specific measurement in the ambient air of a particular air pollutant at any given time.

"*Air quality control region*" means any area designated as such in 9 VAC 5-20-200.

~~"*Air quality maintenance area*" means any area which, due to current air quality or projected growth rate or both, may have the potential for exceeding any ambient air quality standard set forth in 9 VAC 5 Chapter 30 (9 VAC 5-30-10 et seq.) within a subsequent 10-year period and designated as such in 9 VAC 5-20-203.~~

"*Alternative method*" means any method of sampling and analyzing for an air pollutant which is not a reference or equivalent method, but which has been demonstrated to the satisfaction of the board, in specific cases, to produce results adequate for its determination of compliance.

"*Ambient air*" means that portion of the atmosphere, external to buildings, to which the general public has access.

"*Ambient air quality standard*" means any primary or secondary standard designated as such in 9 VAC 5 Chapter 30 (9 VAC 5-30-10 et seq.).

"*Board*" means the State Air Pollution Control Board or its designated representative.

"*Class I area*" means any prevention of significant deterioration area (i) in which virtually any deterioration of existing air quality is considered significant and (ii) designated as such in 9 VAC 5-20-205.

"*Class II area*" means any prevention of significant deterioration area (i) in which any deterioration of existing air

quality beyond that normally accompanying well-controlled growth is considered significant and (ii) designated as such in 9 VAC 5-20-205.

"*Class III area*" means any prevention of significant deterioration area (i) in which deterioration of existing air quality to the levels of the ambient air quality standards is permitted and (ii) designated as such in 9 VAC 5-20-205.

"*Continuous monitoring system*" means the total equipment used to sample and condition (if applicable), to analyze, and to provide a permanent continuous record of emissions or process parameters.

"*Control program*" means a plan formulated by the owner of a stationary source to establish pollution abatement goals, including a compliance schedule to achieve such goals. The plan may be submitted voluntarily, or upon request or by order of the board, to ensure compliance by the owner with standards, policies and regulations adopted by the board. The plan shall include system and equipment information and operating performance projections as required by the board for evaluating the probability of achievement. A control program shall contain the following increments of progress:

1. The date by which contracts for emission control system or process modifications are to be awarded, or the date by which orders are to be issued for the purchase of component parts to accomplish emission control or process modification.
2. The date by which the on-site construction or installation of emission control equipment or process change is to be initiated.
3. The date by which the on-site construction or installation of emission control equipment or process modification is to be completed.
4. The date by which final compliance is to be achieved.

"*Criteria pollutant*" means any pollutant for which an ambient air quality standard is established under 9 VAC 5 Chapter 30 (9 VAC 5-30-10 et seq.)

"*Day*" means a 24-hour period beginning at midnight.

"*Delayed compliance order*" means any order of the board issued after an appropriate hearing to an owner which postpones the date by which a stationary source is required to comply with any requirement contained in the applicable [State] implementation plan.

"*Department*" means any employee or other representative of the Virginia Department of Environmental Quality, as designated by the director.

"*Director*" or "*executive director*" means the director of the Virginia Department of Environmental Quality or a designated representative.

"*Dispersion technique*"

1. Means any technique which attempts to affect the concentration of a pollutant in the ambient air by:

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a. Using that portion of a stack which exceeds good engineering practice stack height;

b. Varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant; or

c. Increasing final exhaust gas plume rise by manipulating source process parameters, exhaust gas parameters, stack parameters, or combining exhaust gases from several existing stacks into one stack; or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise.

2. The preceding sentence does not include:

a. The reheating of a gas stream, following use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream;

b. The merging of exhaust gas streams where:

(1) The owner demonstrates that the facility was originally designed and constructed with such merged gas streams;

(2) After July 8, 1985, such merging is part of a change in operation at the facility that includes the installation of pollution controls and is accompanied by a net reduction in the allowable emissions of a pollutant. This exclusion from the definition of "dispersion techniques" shall apply only to the emission limitation for the pollutant affected by such change in operation; or

(3) Before July 8, 1985, such merging was part of a change in operation at the facility that included the installation of emissions control equipment or was carried out for sound economic or engineering reasons. Where there was an increase in the emission limitation or, in the event that no emission limitation was in existence prior to the merging, an increase in the quantity of pollutants actually emitted prior to the merging, the board shall presume that merging was significantly motivated by an intent to gain emissions credit for greater dispersion. Absent a demonstration by the owner that merging was not significantly motivated by such intent, the board shall deny credit for the effects of such merging in calculating the allowable emissions for the source;

c. Smoke management in agricultural or silvicultural prescribed burning programs;

d. Episodic restrictions on residential woodburning and open burning; or

e. Techniques under subdivision 1 c of this definition which increase final exhaust gas plume rise where the resulting allowable emissions of sulfur dioxide from the facility do not exceed 5,000 tons per year.

"Emergency" means a situation that immediately and unreasonably affects, or has the potential to immediately and unreasonably affect, public health, safety or welfare; the

health of animal or plant life; or property, whether used for recreational, commercial, industrial, agricultural or other reasonable use.

"Emission limitation" means any requirement established by the board which limits the quantity, rate, or concentration of continuous emissions of air pollutants, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures to assure continuous emission reduction.

"Emission standard" means any provision of 9 VAC 5 Chapter 40 (9 VAC 5-40-10 et seq.), 9 VAC 5 Chapter 50 (9 VAC 5-50-10 et seq.) or 9 VAC 5 Chapter 60 (9 VAC 5-60-10 et seq.) which prescribes an emission limitation, or other requirements that control air pollution emissions.

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

"Equivalent method" means any method of sampling and analyzing for an air pollutant which has been demonstrated to the satisfaction of the board to have a consistent and quantitative relationship to the reference method under specified conditions.

[*"EPA"* means the U.S. Environmental Protection Agency or an authorized representative.]

"Excess emissions" means emissions of air pollutant in excess of an emission standard.

"Excessive concentration" is defined for the purpose of determining good engineering practice (GEP) stack height under subdivision 3 of the GEP definition and means:

1. For sources seeking credit for stack height exceeding that established under subdivision 2 of the GEP definition, a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes, and eddy effects produced by nearby structures or nearby terrain features which individually is at least 40% in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and which contributes to a total concentration due to emissions from all sources that is greater than an ambient air quality standard. For sources subject to the provisions of 9 VAC 5-80-20, an excessive concentration alternatively means a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes, or eddy effects produced by nearby structures or nearby terrain features which individually is at least 40% in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and greater than a prevention of significant deterioration increment. The allowable emission rate to be used in making demonstrations under this provision shall be prescribed by the new source performance standard that is applicable to the source category unless the owner demonstrates that this emission rate is infeasible. Where

such demonstrations are approved by the board, an alternative emission rate shall be established in consultation with the owner;

2. For sources seeking credit after October 11, 1983, for increases in existing stack heights up to the heights established under subdivision 2 of the GEP definition, either (i) a maximum ground-level concentration due in whole or part to downwash, wakes or eddy effects as provided in subdivision 1 of this definition, except that the emission rate specified by any applicable [state] implementation plan (or, in the absence of such a limit, the actual emission rate) shall be used, or (ii) the actual presence of a local nuisance caused by the existing stack, as determined by the board; and

3. For sources seeking credit after January 12, 1979, for a stack height determined under subdivision 2 of the GEP definition where the board requires the use of a field study or fluid model to verify GEP stack height, for sources seeking stack height credit after November 9, 1984, based on the aerodynamic influence of cooling towers, and for sources seeking stack height credit after December 31, 1970, based on the aerodynamic influence of structures not adequately represented by the equations in subdivision 2 of the GEP definition, a maximum ground-level concentration due in whole or part to downwash, wakes or eddy effects that is at least 40% in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects.

"Existing source" means any stationary source other than a new source or modified source.

"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, heating and power plants, apparatus, processes, operations, structures, and equipment of all types.

"Federal Clean Air Act" means 42 USC § 7401 et seq., 91 Stat 685.

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

- ~~1. Any requirement approved by the administrator pursuant to the provisions of § 111 or § 112 of the federal Clean Air Act;~~
- ~~2. Any applicable source specific or source category emission limit or requirement in an implementation plan;~~
- ~~3. Any permit requirements established pursuant to 9 VAC 5 Chapter 80 (9 VAC 5-80-10 et seq.), with the exception of terms and conditions established to address applicable state requirements; and~~
4. Any other applicable federal requirement.

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

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

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

4. Limitations and conditions that are part of an [~~approved State Implementation Plan (SIP) or a Federal~~] implementation plan [~~(FIP)~~].

[5. Limitations and conditions that are part of a § 111(d) plan.]

[~~6.~~ 6.] Limitations and conditions that are part of a federal construction permit issued under 40 CFR 52.21 or any construction permit issued under regulations approved by EPA in accordance with 40 CFR Part 51.

[~~6.~~ 7.] Limitations and conditions that are part of an operating permit issued pursuant to a program approved by EPA into [~~a SIP~~ an implementation plan] as meeting EPA's minimum criteria for federal enforceability, including adequate notice and opportunity for EPA and public comment prior to issuance of the final permit and practicable enforceability.

[~~7.~~ 8.] Limitations and conditions in a Virginia regulation or program that has been approved by EPA under subpart E of 40 CFR Part 63 for the purposes of implementing and enforcing § 112 of the federal Clean Air Act.

[~~8.~~ 9.] Individual consent agreements that EPA has legal authority to create.

"Good engineering practice" or "GEP," with reference to the height of the stack, means the greater of:

1. 65 meters, measured from the ground-level elevation at the base of the stack;
2. a. For stacks in existence on January 12, 1979, and for which the owner had obtained all applicable permits or approvals required under 9 VAC 5 Chapter 80 (9 VAC 5-80-10 et seq.),

$$Hg = 2.5H,$$

provided the owner produces evidence that this equation was actually relied on in establishing an emission limitation;

- b. For all other stacks,

$$Hg = H + 1.5L,$$

where:

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Hg = good engineering practice stack height, measured from the ground-level elevation at the base of the stack,

H = height of nearby structure(s) measured from the ground-level elevation at the base of the stack,

L = lesser dimension, height or projected width, of nearby structure(s) provided that the board may require the use of a field study or fluid model to verify GEP stack height for the source; or

3. The height demonstrated by a fluid model or a field study approved by the board, which ensures that the emissions from a stack do not result in excessive concentrations of any air pollutant as a result of atmospheric downwash, wakes, or eddy effects created by the source itself, nearby structures or nearby terrain features.

"Hazardous air pollutant" means an air pollutant to which no ambient air quality standard is applicable and which in the judgment of the administrator causes, or contributes to, air pollution which may reasonably be anticipated to result in an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness.

"Implementation plan" means the portion or portions of the state implementation plan, or the most recent revision thereof, which has been approved under § 110 of the federal Clean Air Act, or promulgated under § 110(c) of the federal Clean Air Act, or promulgated or approved pursuant to regulations promulgated under § 301(d) of the federal Clean Air Act and which implements the relevant requirements of the federal Clean Air Act.

[*"Initial emission test"* means the test required by any regulation, permit issued pursuant to 9 VAC 5 Chapter 80 (9 VAC 5-80-10 et seq.), control program, compliance schedule or other enforceable mechanism for determining compliance with new or more stringent emission standards or permit limitations or other emission limitations requiring the installation or modification of air pollution control equipment or implementation of a control method. Initial emission tests shall be conducted in accordance with 9 VAC 5-40-30.

"Initial performance test" means the test required by 40 CFR Part 60 for a permit issued pursuant to 9 VAC 5 Chapter 80 (9 VAC 5-80-10 et seq.) for determining initial compliance with standards of performance or permit limitations. Initial performance tests shall be conducted in accordance with 9 VAC 5-50-30.]

"Isokinetic sampling" means sampling in which the linear velocity of the gas entering the sampling nozzle is equal to that of the undisturbed gas stream at the sample point.

"Locality" means a city, town, county or other public body created by or pursuant to state law.

"Maintenance area" means any geographic region of the United States previously designated as a nonattainment area and subsequently redesignated to attainment subject to the requirement to develop a maintenance plan and designated as such in 9 VAC 5-20-203.

"Malfunction" means any sudden failure of air pollution control equipment, of process equipment, or of a process to operate in a normal or usual manner, which failure is not due to intentional misconduct or negligent conduct on the part of the owner or other person. *Failures that are caused in part by poor maintenance or careless operation are not malfunctions.*

"Metropolitan statistical area" means any area designated as such in 9 VAC 5-20-202.

"Monitoring device" means the total equipment used to measure and record (if applicable) process parameters.

"Nearby" as used in the definition of good engineering practice (GEP) is defined for a specific structure or terrain feature and

1. For purposes of applying the formulae provided in subdivision 2 of the GEP definition means that distance up to five times the lesser of the height or the width dimension of a structure, but not greater than 0.8 km (1/2 mile), and

2. For conducting demonstrations under subdivision 3 of the GEP definition means not greater than 0.8 km (1/2 mile), except that the portion of a terrain feature may be considered to be nearby which falls within a distance of up to 10 times the maximum height (Ht) of the feature, not to exceed two miles if such feature achieves a height (Ht) 0.8 km from the stack that is at least 40% of the GEP stack height determined by the formulae provided in subdivision 2 b of the GEP definition or 26 meters, whichever is greater, as measured from the ground-level elevation at the base of the stack. The height of the structure or terrain feature is measured from the ground-level elevation at the base of the stack.

"Nitrogen oxides" means all oxides of nitrogen except nitrous oxide, as measured by test methods set forth in 40 CFR Part 60.

"Nonattainment area" means any area which is shown by air quality monitoring data or, where such data are not available, which is calculated by air quality modeling (or other methods determined by the board to be reliable) to exceed the levels allowed by the ambient air quality standard for a given pollutant including, but not limited to, areas designated as such in 9 VAC 5-20-204.

"One hour" means any period of 60 consecutive minutes.

"One-hour period" means any period of 60 consecutive minutes commencing on the hour.

"Organic compound" means any chemical compound of carbon excluding carbon monoxide, carbon dioxide, carbonic disulfide, carbonic acid, metallic carbides, metallic carbonates and ammonium carbonate.

"Owner" means any person, including bodies politic and corporate, associations, partnerships, personal representatives, trustees and committees, as well as individuals, who owns, leases, operates, controls or supervises a source.

"*Particulate matter*" means any airborne finely divided solid or liquid material with an aerodynamic diameter smaller than 100 micrometers.

"*Particulate matter emissions*" means all finely divided solid or liquid material, other than uncombined water, emitted to the ambient air as measured by the applicable reference method, or an equivalent or alternative method.

"*PM₁₀*" means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by the applicable reference method or an equivalent method.

"*PM₁₀ emissions*" means finely divided solid or liquid material, with an aerodynamic diameter less than or equal to a nominal 10 micrometers emitted to the ambient air as measured by the applicable reference method, or an equivalent or alternative method.

"*Performance test*" means a test for determining emissions from new or modified sources.

"*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.

"*Potential to emit*" means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment, and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or its effect on emissions is state and federally enforceable.

"*Prevention of significant deterioration area*" means any area not designated as a nonattainment area in 9 VAC 5-20-204 for a particular pollutant and designated as such in 9 VAC 5-20-205.

"*Proportional sampling*" means sampling at a rate that produces a constant ratio of sampling rate to stack gas flow rate.

"*Public hearing*" means, unless indicated otherwise, an informal proceeding, similar to that provided for in § 9-6.14:7.1 of the Administrative Process Act, held to afford persons an opportunity to submit views and data relative to a matter on which a decision of the board is pending.

"*Reference method*" means any method of sampling and analyzing for an air pollutant as described in the following EPA regulations:

1. For ambient air quality standards in 9 VAC 5 Chapter 30 (9 VAC 5-30-10 et seq.): The applicable appendix of 40 CFR Part 50 or any method that has been designated as a reference method in accordance with 40 CFR Part

53, except that it does not include a method for which a reference designation has been canceled in accordance with 40 CFR 53.11 or 40 CFR 53.16.

2. For emission standards in 9 VAC 5 Chapter 40 (9 VAC 5-40-10 et seq.) and 9 VAC 5 Chapter 50 (9 VAC 5-50-10 et seq.): *Appendix M of 40 CFR Part 51 or Appendix A of 40 CFR Part 60.*

3. For emission standards in 9 VAC 5 Chapter 60 (9 VAC 5-60-10 et seq.): *Appendix B of 40 CFR Part 61 [or Appendix A of 40 CFR Part 63].*

"*Regional director*" means the regional director of an administrative region of the Department of Environmental Quality or a designated representative.

"*Regulation of the board*" means any regulation adopted by the State Air Pollution Control Board under any provision of the Code of Virginia.

"*Regulations for the Control and Abatement of Air Pollution*" means 9 VAC 5 Chapters 10 (9 VAC 5-10-10 et seq.) through 80 (9 VAC 5-80-10 et seq.).

"*Reid vapor pressure*" means the absolute vapor pressure of volatile crude oil and volatile nonviscous petroleum liquids except liquefied petroleum gases as determined by American Society for Testing and Materials, Standard D323-82, Test Method for Vapor Pressure of Petroleum Products (Reid Method) (see 9 VAC 5-10-21).

"*Run*" means the net period of time during which an emission sampling is collected. Unless otherwise specified, a run may be either intermittent or continuous within the limits of good engineering practice.

["*Section 111(d) plan*" means the portion or portions of the plan, or the most recent revision thereof, which has been approved under 40 CFR 60.27(b) in accordance with § 111(d)(1) of the federal Clean Air Act, or promulgated under 40 CFR 60.27(d) in accordance with § 110(d)(2) of the federal Clean Air Act, and which implements the relevant requirements of the federal Clean Air Act.]

"*Shutdown*" means the cessation of operation of an affected facility for any purpose.

"*Source*" means any one or combination of the following: buildings, structures, facilities, installations, articles, machines, equipment, landcraft, watercraft, aircraft or other contrivances which contribute, or may contribute, either directly or indirectly to air pollution. Any activity by any person that contributes, or may contribute, either directly or indirectly to air pollution, including, but not limited to, open burning, generation of fugitive dust or emissions, and cleaning with abrasives or chemicals.

"*Stack*" means any point in a source designed to emit solids, liquids or gases into the air, including a pipe or duct, but not including flares.

"*Stack in existence*" means that the owner had:

1. Begun, or caused to begin, a continuous program of physical on site construction of the stack; or

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2. Entered into binding agreements or contractual obligations, which could not be canceled or modified without substantial loss to the owner, to undertake a program of construction of the stack to be completed in a reasonable time.

"Standard conditions" means a temperature of 20°C (68°F) and a pressure of 760 mm of Hg (29.92 inches of Hg).

"Standard of performance" means any provision of 9 VAC 5 Chapter 50 (9 VAC 5-50-10 et seq.) which prescribes an emission limitation or other requirements that control air pollution emissions.

"Startup" means the setting in operation of an affected facility for any purpose.

"State enforceable" means all limitations and conditions which are enforceable by the board or department, including, but not limited to, those requirements developed pursuant to 9 VAC 5-20-110; requirements within any applicable regulation, order, consent agreement or variance; and any permit requirements established pursuant to 9 VAC 5 Chapter 80 (9 VAC 5-80-10 et seq.)

"State Implementation Plan" means the plan, including the most recent revision thereof, which has been approved or promulgated by the administrator, U.S. Environmental Protection Agency, under § 110 of the federal Clean Air Act, and which implements the requirements of § 110.

"Stationary source" means any building, structure, facility or installation which emits or may emit any air pollutant. A stationary source shall include all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control) except the activities of any vessel. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., which have the same two-digit code) as described in the Standard Industrial Classification Manual (see 9 VAC 5-10-21).

"These regulations" means 9 VAC 5 Chapters 10 (9 VAC 5-10-10 et seq.) through 80 (9 VAC 5-80-10 et seq.).

"Total suspended particulate (TSP)" means particulate matter as measured by the reference method described in Appendix B of 40 CFR Part 50.

"True vapor pressure" means the equilibrium partial pressure exerted by a petroleum liquid as determined in accordance with methods described in American Petroleum Institute (API) Publication 2517, Evaporation Loss from External Floating-Roof Tanks (see 9 VAC 5-10-21). The API procedure may not be applicable to some high viscosity or high pour crudes. Available estimates of true vapor pressure may be used in special cases such as these.

"Urban area" means any area consisting of a core city with a population of 50,000 or more plus any surrounding localities with a population density of 80 persons per square mile and designated as such in 9 VAC 5-20-201.

"Vapor pressure," except where specific test methods are specified, means true vapor pressure, whether measured directly, or determined from Reid vapor pressure by use of the applicable nomograph in API Publication 2517, Evaporation Loss from External Floating-Roof Tanks (see 9 VAC 5-10-21).

"Virginia Air Pollution Control Law" means Chapter 13 (§ 10.1-1300 et seq.) of Title 10.1 of the Code of Virginia.

"Volatile organic compound" means any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions.

1. This includes any such organic compounds which have been determined to have negligible photochemical reactivity other than the following:

- a. Methane;
- b. Ethane;
- c. Methylene chloride (dichloromethane);
- d. 1,1,1-trichloroethane (methyl chloroform);
- e. 1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113);
- f. Trichlorofluoromethane (CFC-11);
- g. Dichlorodifluoromethane (CFC-12);
- h. Chlorodifluoromethane (H CFC-22);
- i. Trifluoromethane (H FC-23);
- j. 1,2-dichloro 1,1,2,2,-tetrafluoroethane (CFC-114);
- k. Chloropentafluoroethane (CFC-115);
- l. 1,1,1-trifluoro 2,2-dichloroethane (HCFC-123);
- m. 1,1,1,2-tetrafluoroethane (HFC-134a);
- n. 1,1-dichloro 1-fluoroethane (HCFC-141b);
- o. 1-chloro 1,1-difluoroethane (HCFC-142b);
- p. 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124);
- q. Pentafluoroethane (HFC-125);
- r. 1,1,2,2-tetrafluoroethane (HFC-134);
- s. 1,1,1-trifluoroethane (HFC-143a);
- t. 1,1-difluoroethane (HFC-152a);
- u. Parachlorobenzotrifluoride (PCBTF);
- v. Cyclic, branched, or linear completely methylated siloxanes;
- w. Acetone;
- x. Perchloroethylene (tetrachloroethylene); [and]
- y. 3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca);
- z. 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb);

aa. 1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC 43-10mee);

bb. Difluoromethane (HFC-32);

cc. Ethylfluoride (HFC-161);

dd. 1,1,1,3,3,3-hexafluoropropane (HFC-236fa);

ee. 1,1,2,2,3-pentafluoropropane (HFC-245ca);

ff. 1,1,2,3,3-pentafluoropropane (HFC-245ea);

gg. 1,1,1,2,3-pentafluoropropane (HFC-245eb);

hh. 1,1,1,3,3-pentafluoropropane (HFC-245fa);

ii. 1,1,1,2,3,3-hexafluoropropane (HFC-236ea);

jj. 1,1,1,3,3-pentafluorobutane (HFC-365mfc);

kk. Chlorofluoromethane (HCFC-31);

ll. 1 chloro-1-fluoroethane (HCFC-151a);

mm. 1,2-dichloro-1,1,2-trifluoroethane (HCFC-123a);

nn. 1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxy-butane (C₄F₉OCH₃);

oo. 2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF₃)₂CF₂OCH₃);

pp. 1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane (C₄F₉OC₂H₅);

qq. 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF₃)₂CF₂OC₂H₅);

rr. Methyl acetate [;] and

[ss.] Perfluorocarbon compounds which fall into these classes:

- (1) Cyclic, branched, or linear, completely fluorinated alkanes;
- (2) Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;
- (3) Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and
- (4) Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

2. For purposes of determining compliance with emissions standards, volatile organic compounds shall be measured by the appropriate reference method in accordance with the provisions of 9 VAC 5-40-30 or 9 VAC 5-50-30, as applicable. Where such a method also measures compounds with negligible photochemical reactivity, these negligibly-reactive compounds may be excluded as a volatile organic compound if the amount of such compounds is accurately quantified, and such exclusion is approved by the board.

3. As a precondition to excluding these compounds as volatile organic compounds or at any time thereafter, the board may require an owner to provide monitoring or

testing methods and results demonstrating, to the satisfaction of the board, the amount of negligibly-reactive compounds in the emissions of the source.

4. Exclusion of the above compounds in this definition in effect exempts such compounds from the provisions of emission standards for volatile organic compounds. The compounds are exempted on the basis of being so inactive that they will not contribute significantly to the formation of ozone in the troposphere. However, this exemption does not extend to other properties of the exempted compounds which, at some future date, may require regulation and limitation of their use in accordance with requirements of the federal Clean Air Act.

"Welfare" means that language referring to effects on welfare includes, but is not limited to, effects on soils, water, crops, vegetation, man-made materials, animals, wildlife, weather, visibility and climate, damage to and deterioration of property, and hazards to transportation, as well as effects on economic values and on personal comfort and well-being.

CHAPTER 20. GENERAL PROVISIONS.

9 VAC 5-20-180. Facility and control equipment maintenance or malfunction.

A. ~~[At all times, including periods of startup, shutdown and malfunction, owners shall, to the extent practicable, maintain and operate any affected facility, including associated air pollution control equipment or monitoring equipment, in a manner consistent with good air pollution control practice of minimizing emissions. The provisions of this section apply to periods of excess emissions resulting from (i) the shutdown or bypassing, or both, of air pollution control equipment for necessary scheduled maintenance and (ii) malfunctions or other equipment failures of any affected facility or related air pollution control equipment. The provisions of subsection G of this section shall not apply to the following:~~

1. Sources subject to the applicable subparts listed in 9 VAC 5-50-410 unless specifically allowed by the applicable subparts listed in 9 VAC 5-50-410.
2. Sources subject to the applicable subparts listed in 9 VAC 5-60-70 unless specifically allowed by the applicable subparts listed in 9 VAC 5-60-70.
3. Sources subject to the applicable subparts listed in 9 VAC 5-60-100 unless specifically allowed by the applicable subparts listed in 9 VAC 5-60-100.
4. Sources and pollutants in areas where a single source or small group of sources has the potential to cause an exceedance of any ambient air quality standard or any ambient air increment prescribed under 9 VAC 5-80-1730.
5. Affected units subject to a federal operating permit unless specifically allowed by the permit. This prohibition applies only to terms and conditions of the permit derived from the acid rain program.]

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B. In case of shutdown or bypassing, or both, of air pollution control equipment for necessary scheduled maintenance which results in excess emissions for more than one hour, the intent to shut down such equipment shall be reported to the board and local air pollution control agency, if any, at least 24 hours prior to the planned shutdown. Such prior notice shall include, but is not limited to, the following:

1. Identification of the specific facility to be taken out of service as well as its location and permit or registration number;
2. The expected length of time that the air pollution control equipment will be out of service;
3. The nature and quantity of emissions of air pollutants likely to occur during the shutdown period; and
4. Measures that will be taken to minimize the length of the shutdown ~~or~~ *and* to negate the effect of the outage of the air pollution control equipment.

C. In the event that any affected facility or related air pollution control equipment fails or malfunctions in such a manner that may cause excess emissions for more than one hour, the owner shall, as soon as practicable but no later than ~~four~~ *six* daytime business hours *after the malfunction is discovered*, notify the board by facsimile transmission, telephone or telegraph of such failure or malfunction and shall within two weeks provide a written statement giving all pertinent facts, including the estimated duration of the breakdown. Owners subject to the requirements of 9 VAC 5-40-50 C and 9 VAC 5-50-50 C are not required to provide the written statement prescribed in this ~~paragraph~~ *subsection* for facilities subject to the monitoring requirements of 9 VAC 5-40-40 and 9 VAC 5-50-40. When the condition causing the failure or malfunction has been corrected and the *facility or control* equipment is again in operation, the owner shall notify the board.

D. In the event that the breakdown period cited in subsection C of this section exists or is expected to exist for 30 days or more, the owner shall, ~~within 30 days of~~ *as expeditiously as possible but no later than 30 days after* the failure or malfunction and semi-monthly thereafter until the failure or malfunction is corrected, submit to the board a written report containing the following:

1. Identification of the specific facility that is affected as well as its location and permit or registration number;
2. The expected length of time that the air pollution control equipment will be out of service;
3. The nature and quantity of air pollutant emissions likely to occur during the breakdown period;
4. Measures to be taken to reduce emissions to the lowest amount practicable during the breakdown period;
5. A statement as to why the owner was unable to obtain repair parts or perform repairs which would allow compliance with the [~~provisions of these regulations~~ *Regulations for the Control and Abatement of Air Pollution*] within 30 days of the malfunction or failure;

6. An estimate, with reasons given, of the duration of the shortage of repairs or repair parts which would allow compliance with the [~~provisions of these regulations~~ *Regulations for the Control and Abatement of Air Pollution*]; and

7. Any other pertinent information as may be requested by the board.

E. The provisions of subsection D of this section shall not apply beyond three months of the date of the malfunction or failure. Should the breakdown period exist past the three-month period, the owner may apply for a variance in accordance with 9 VAC 5-20-50 A.

~~F. The following special provisions govern facilities which are subject to the provisions of Article 3 (9 VAC 5-40-160 et seq.) of 9 VAC 5 Chapter 40, Article 3 (9 VAC 5-50-160 et seq.) of 9 VAC 5 Chapter 50, or Article 1 (9 VAC 5-60-60 et seq.) of 9 VAC 5 Chapter 60: For sources subject to the applicable subparts listed in 9 VAC 5-60-100, the provisions of 40 CFR 63.6 governing malfunctions shall be implemented through this section. In cases where there are differences between the provisions of this section and the provisions of 40 CFR Part 63, the more restrictive provisions shall apply.~~

~~1. Nothing in this section shall be understood to allow any such facility to operate in violation of applicable emission standards, except that all such facilities shall be subject to the reporting and notification procedures in this section.~~

~~2. Any facility which is subject to the provisions of Article 1 (9 VAC 5-60-60 et seq.) of 9 VAC 5 Chapter 60 shall shut down immediately if it is unable to meet the applicable emission standards, and it shall not return to operation until it is able to operate in compliance with the applicable emission standards.~~

~~3. Regardless of any other provision of this section, any facility which is subject to the provisions of Article 3 (9 VAC 5-40-160 et seq.) of 9 VAC 5 Chapter 40 or Article 3 (9 VAC 5-50-160 et seq.) of 9 VAC 5 Chapter 50 shall shut down immediately upon request of the board if its emissions increase in any amount because of a bypass, malfunction, shutdown or failure of the facility or its associated air pollution control equipment; and such facility shall not return to operation until it and the associated air pollution control equipment are able to operate in a proper manner.~~

G. [~~No~~ *If a*] violation of applicable emission standards [~~or monitoring requirements shall be~~ *is*] judged to have taken place [~~if the as a result of periods of~~] excess emissions [~~or cessation of monitoring activities is due to a malfunction subject to this section~~], [*the owner is entitled to an affirmative defense for relief from penalties*] provided [*the owner proves*] that:

1. The procedural requirements of this section [~~are~~ *were*] met or the owner has submitted an acceptable application for a variance, which is subsequently granted;

2. [~~The owner has taken expedient expeditious and reasonable measures to minimize emissions during the~~]

~~breakdown period~~ The amount and duration of the excess emissions (including any bypass) were minimized to the maximum extent practicable during periods of excess emissions];

3. [~~The owner has taken expedient expeditious and reasonable measures to correct the malfunction and return the facility to a normal operation; and Repairs were made in an expeditious fashion when the owner knew or should have known that applicable emission limitations were being exceeded. Off-shift labor and overtime shall have been utilized, to the extent practicable, to ensure that such repairs were made as expeditiously as practicable;~~]

4. The source is in compliance at least 90% of the operating time over the most recent 12-month period [-;

5. The source is in compliance with any source-specific applicable requirements related to the provisions of this section;

6. The excess emissions were caused by a sudden, unavoidable breakdown of technology beyond the control of the owner;

7. The excess emissions (i) did not stem from any activity or event that could have been foreseen and avoided or planned for and (ii) could not have been avoided by better operation and maintenance practices;

8. To the maximum extent practicable the air pollution control equipment or processes were maintained and operated in a manner consistent with good practice for minimizing emissions;

9. All possible steps were taken to minimize the impact of the excess emissions on the ambient air quality;

10. All emission monitoring systems were kept in operation if at all possible;

11. The owner's actions in response to the excess emissions were documented by properly signed, contemporaneous operating logs or other relevant evidence; and

12. The excess emissions were not part of a recurring pattern indicative of inadequate design, operation or maintenance].

H. Nothing in this section shall be construed as giving an owner the right to increase temporarily the emission of pollutants or to circumvent the emission standards or monitoring requirements otherwise provided in [~~these regulations~~ the Regulations for the Control and Abatement of Air Pollution].

I. Regardless of any other provision of this section, the owner of any facility subject to the [~~provisions of these regulations~~ Regulations for the Control and Abatement of Air Pollution] shall, upon request of the board, reduce the level of operation at the facility if the board determines that this is necessary to prevent a violation of any [primary] ambient air quality standard [or any ambient air increment prescribed under 9 VAC 5-80-1730] . Under worst case conditions, the

board may order that the owner shut down the facility, if there is no other method of operation to avoid a violation of the [primary] ambient air quality standard [or any ambient air increment prescribed under 9 VAC 5-80-1730]. The board reserves the right to prescribe the method of determining if a facility will cause such a violation. In such cases, the facility shall not be returned to operation until it and the associated air pollution control equipment are able to operate without violation of any [primary] ambient air quality standard [or any ambient air increment prescribed under 9 VAC 5-80-1730].

J. Any owner of an affected facility subject to the provisions of this section shall maintain records of the occurrence and duration of any bypass, malfunction, shutdown or failure of the facility or its associated air pollution control equipment that results in excess emissions for more than one hour. The records shall be maintained in a form suitable for inspection and maintained for at least two years following the date of the occurrence.

CHAPTER 40. EXISTING STATIONARY SOURCES.

9 VAC 5-40-10. Applicability.

A. The provisions of this chapter, unless specified otherwise, shall apply to existing sources for which emission standards are prescribed under this chapter, ~~mobile sources and open burning.~~

B. The provisions of this chapter shall not apply to sources specified below except in cases where the provisions of this chapter are more restrictive than the provisions of 9 VAC 5 Chapter 50 (9 VAC 5-50-10 et seq.), 9 VAC 5 Chapter 80 (9 VAC 5-80-10 et seq.), or any permit issued pursuant to 9 VAC 5 Chapter 80 (9 VAC 5-80-10 et seq.); however, such sources shall be subject to the provisions of 9 VAC 5 Chapter 50 (9 VAC 5-50-10 et seq.).

1. Any stationary source (or portion of it), the construction, modification or relocation of which commenced on or after March 17, 1972.

2. Any stationary source (or portion of it), the reconstruction of which commenced on or after December 10, 1976.

C. If a facility becomes subject to any requirement in ~~these regulations~~ the Regulations for the Control and Abatement of Air Pollution because it exceeds an exemption level, the facility shall continue to be subject to all applicable requirements even if future conditions cause the facility to fall below the exemption level.

[D. Any owner subject to the provisions of this chapter may provide any report, notification or other document by electronic media if acceptable to both the owner and board.

E. The provisions of 9 VAC 5-40-20 K shall not apply to the following:

1. Sources and pollutants in areas where a single source or small group of sources has the potential to cause an exceedance of any ambient air quality standard or any

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ambient air increment prescribed under 9 VAC 5-80-1730; and

2. Affected units subject to a federal operating permit unless specifically allowed by the permit. This prohibition applies only to terms and conditions of the permit derived from the acid rain program.]

9 VAC 5-40-20. Compliance.

A. Ninety days after the effective date of any emission standard prescribed under this chapter, no owner or other person shall operate any existing source in violation of such standard.

1. Compliance with standards in this chapter, other than opacity standards, shall be determined by emission tests established by 9 VAC 5-40-30, unless specified otherwise in the applicable standard.

2. *Compliance with federal requirements in this chapter may be determined by alternative or equivalent methods only if approved by the administrator. For purposes of this subsection, federal requirements consist of the following:*

a. New source performance standards established pursuant to § 111 of the federal Clean Air Act.

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

c. Limitations and conditions that are part of an [approved State Implementation Plan (SIP) or a Federal] implementation plan [(FIP)].

d. Limitations and conditions that are part of [an approved State Designated Pollutant Plan or a Federal Designated Pollutant Plan a § 111(d) plan].

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

f. Limitations and conditions that are part of an operating permit issued pursuant to a program approved by EPA into [a SIP an implementation plan] as meeting EPA's minimum criteria for federal enforceability, including adequate notice and opportunity for EPA and public comment prior to issuance of the final permit and practicable enforceability.

3. Compliance with opacity standards in this chapter shall be determined by conducting observations in accordance with Reference Method 9 (~~see 9 VAC 5-20-21~~) or any alternative method, or as provided in subdivision G 5 of this section. For purposes of determining initial compliance, the minimum total time of observations shall be three hours (30 six-minute averages) for the emission test or other set of observations (meaning those fugitive-type emission sources subject only to an opacity standard). Opacity readings of portions of plumes which contain

condensed, uncombined water vapor shall not be used for purposes of determining compliance with opacity standards. ~~The results of continuous monitoring by transmissometer (which indicate that the opacity at the time visual observations were made was not in excess of the standard) are probative, but not conclusive evidence, of the actual opacity of an emission. In such cases, the owner must prove that, at the time of the alleged violation, the instrument used met Performance Specification 1 of Appendix B of 40 CFR Part 60, and had been properly maintained and calibrated, and that the resulting data has not been tampered with in any way.~~

~~[3. 4. The opacity standards prescribed under this chapter shall apply at all times except during periods of startup, shutdown, malfunction, and as otherwise provided in the applicable standard.]~~

B. No owner of an existing source subject to the provisions of this chapter shall fail to conduct emission tests as required under this chapter.

C. No owner of an existing source subject to the provisions of this chapter shall fail to install, calibrate, maintain and operate equipment for continuously monitoring and recording emissions or process parameters or both as required under this chapter.

D. No owner of an existing source subject to the provisions of this chapter shall fail to provide notifications and reports, revise reports, maintain records or report emission test or monitoring results as required under this chapter.

E. At all times, including periods of startup, shutdown, soot blowing and malfunction, owners shall, to the extent practicable, maintain and operate any affected facility including associated air pollution control equipment in a manner consistent with air pollution control practices for minimizing emissions. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the board, which may include, but is not limited to, monitoring results, opacity observations, review of operating and maintenance procedures, and inspection of the source.

F. At all times the disposal of volatile organic compounds shall be accomplished by taking measures, to the extent practicable, consistent with air pollution control practices for minimizing emissions. Volatile organic compounds shall not be intentionally spilled, discarded in sewers which are not connected to a treatment plant, or stored in open containers or handled in any other manner that would result in evaporation beyond that consistent with air pollution control practices for minimizing emissions.

G. ~~Reserved.~~ *The following provisions apply with respect to demonstrating compliance with opacity standards.*

1. For the purpose of demonstrating initial compliance, opacity observations shall be conducted concurrently with the initial emission test [required in 9 VAC 5-40-30] unless one of the following conditions apply.

a. If no emission test [~~under 9 VAC 5-40-30~~] is required, then opacity observations shall be conducted within 60 days after achieving the maximum production rate at which the affected facility will be operated but no later than 180 days after [~~initial startup of the facility~~ the compliance date].

b. If visibility or other conditions prevent the opacity observations from being conducted concurrently with the initial emission test [~~required under 9 VAC 5-40-30~~], the owner shall reschedule the opacity observations as soon after the initial emission test as possible, but not later than 30 days thereafter, and shall advise the board of the rescheduled date. In these cases, the 30-day prior notification to the board required by 9 VAC 5-40-50 A 3 shall be waived. The rescheduled opacity observations shall be conducted (to the extent possible) under the same operating conditions that existed during the initial emission test [~~conducted under 9 VAC 5-40-30~~]. The visible emissions observer shall determine whether visibility or other conditions prevent the opacity observations from being made concurrently with the initial emission test in accordance with procedures contained in Reference Method 9.

Opacity readings of portions of plumes which contain condensed, uncombined water vapor shall not be used for purposes of determining compliance with opacity standards. The owner of an affected facility shall make available, upon request by the board, such records as may be necessary to determine the conditions under which the visual observations were made and shall provide evidence indicating proof of current visible observer emission certification. Except as provided in subdivision 5 of this subsection, the results of continuous monitoring by transmissometer which indicate that the opacity at the time visual observations were made was not in excess of the standard are probative but not conclusive evidence of the actual opacity of an emission, provided the source meets the burden of proving that the instrument used meets (at the time of the alleged violation) Performance Specification 1 in Appendix B of 40 CFR Part 60 and has been properly maintained and (at the time of the alleged violation) that the resulting data have not been altered in any way.

2. Except as provided in subdivision 3 of this subsection, the owner of an affected facility to which an opacity standard in this chapter applies shall conduct opacity observations in accordance with subdivision A 2 of this section, shall record the opacity of emissions, and shall report to the board the opacity results along with the results of the initial emission test [~~required under 9 VAC 5-40-30~~]. The inability of an owner to secure a visible emissions observer shall not be considered a reason for not conducting the opacity observations concurrent with the initial emission test.

3. The owner of an affected facility to which an opacity standard in this chapter applies may request the board to determine and to record the opacity of emissions from

the affected facility during the initial emission test and at such times as may be required. The owner of the affected facility shall report the opacity results. Any request to the board to determine and to record the opacity of emissions from an affected facility shall be included in the notification required in 9 VAC 5-40-50 A 3. If, for some reason, the board cannot determine and record the opacity of emissions from the affected facility during the emission test, then the provisions of subdivision 1 of this subsection shall apply.

4. An owner of an affected facility using a continuous opacity monitor (transmissometer) shall record the monitoring data produced during the initial emission test [~~required by 9 VAC 5-40-30~~] and shall furnish the board a written report of the monitoring results along with Reference Method 9 and [~~9 VAC 5-40-30~~ the initial] emission test results.

5. An owner of an affected facility subject to an opacity standard may submit, for compliance purposes, continuous opacity monitoring system (COMS) data results produced during any [required] emission test [~~required under 9 VAC 5-40-30~~] in lieu of Reference Method 9 observation data. If an owner elects to submit COMS data for compliance with the opacity standard, he shall notify the board of that decision, in writing, at least 30 days before any [required] emission test [~~required under 9 VAC 5-40-30~~] is conducted. Once the owner of an affected facility has notified the board to that effect, the COMS data results will be used to determine opacity compliance during subsequent tests [~~required under 9 VAC 5-40-30~~] until the owner notifies the board, in writing, to the contrary. For the purpose of determining compliance with the opacity standard during a [required] emission test [~~required under 9 VAC 5-40-30~~] using COMS data, the minimum total time of COMS data collection shall be averages of all six-minute continuous periods within the duration of the mass emission test. Results of the COMS opacity determinations shall be submitted along with the results of the emission test [~~required under 9 VAC 5-40-30~~]. The owner of an affected facility using a COMS for compliance purposes is responsible for demonstrating that the COMS meets the requirements specified in 9 VAC 5-40-40 E, that the COMS has been properly maintained and operated, and that the resulting data have not been altered in any way. If COMS data results are submitted for compliance with the opacity standard for a period of time during which Reference Method 9 data indicates noncompliance, the Reference Method 9 data will be used to determine opacity compliance.

6. Upon receipt from an owner of the written reports of the results of the emission tests [~~required by 9 VAC 5-40-30~~], the opacity observation results and observer certification required by subdivision 1 of this subsection, and the COMS results, if applicable, the board will make a finding concerning compliance with opacity and other applicable standards. If COMS data results are used to comply with an opacity standard, only those results are required to be submitted along with the emission test

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results [~~required by 9 VAC 5-40-30~~]. If the board finds that an affected facility is in compliance with all applicable standards for which emission tests are conducted in accordance with 9 VAC 5-40-30 but during the time such emission tests are being conducted fails to meet any applicable opacity standard, the board shall notify the owner and advise him that he may request a waiver from the board within 10 days of receipt of notification to make appropriate adjustment to the opacity standard for the affected facility in accordance with 9 VAC 5-40-120.

7. The board will grant such a petition upon a demonstration by the owner that the affected facility and associated air pollution control equipment was operated and maintained in a manner to minimize the opacity of emissions during the emission tests, that the emission tests were performed under the conditions established by the board, that the affected facility and associated air pollution control equipment were incapable of being adjusted or operated to meet the applicable opacity standard, and that the provisions of 9 VAC 5-40-120 are met.

8. The board will establish an opacity standard for the affected facility meeting the above requirements at a level at which the source will be able, as indicated by the emission and opacity tests, to meet the opacity standard at all times during which the source is meeting the mass or concentration emission standard.

H. The following provisions apply with respect to new or more stringent emission standards.

1. The following provisions apply with respect to emission standards for volatile organic compounds.

a. In the case of any emission standard for volatile organic compounds adopted by the board which is more stringent than the emission standard for the source in effect prior to such adoption, if any, or where there was no emission standard, the source shall not be considered in violation of the newly adopted emission standard provided that the owner accomplishes the following:

(1) Complies with the emission standard as expeditiously as possible but in no case later than one year after the effective date of the emission standard.

(2) Within one month of achieving compliance, notifies the board of same.

(3) Within six months of achieving compliance, demonstrates to the satisfaction of the board compliance with the emission standard.

b. The reprieve provided by subdivision H 1 a of this ~~section~~ subsection shall only apply in cases where it is necessary for the owner to:

(1) Install emission control equipment or other equipment that alters the facility in order to comply with the emission standard; or

(2) Switch fuel or raw materials or both in order to comply with the emission standard.

c. Owners of sources not in compliance with the newly adopted emission standard, but in compliance with the provisions of subdivision H 1 a of this ~~section~~ subsection shall not be subject to any penalties for violation of the newly adopted emission standard that may be required by the Virginia Air Pollution Control Law.

d. Any reprieve from the sanctions of any provision of the Virginia Air Pollution Control Law pursuant to subdivision H 1 a of this ~~section~~ subsection shall not extend beyond the date by which compliance is to be achieved.

e. Nothing in subdivision H 1 a of this ~~section~~ subsection shall prevent the board from promulgating a separate compliance schedule for any source if the board finds that it is technologically infeasible or it is infeasible due to the nonavailability of necessary equipment or materials or other circumstances beyond the owner's control for the source to achieve compliance within one year of the effective date of an emission standard.

f. All compliance schedules proposed or prescribed under this section shall provide for compliance with the applicable emission standards as expeditiously as practicable.

g. Any compliance schedule approved under this subsection may be revoked at any time if the source owner does not meet the stipulated increments of progress, and if the failure to meet an increment is likely to result in failure to meet the date for final compliance, and the failure to meet the increment is due to causes within the owner's control.

2. The following provisions apply with respect to emission standards for pollutants other than volatile organic compounds.

a. In the case of any emission standard adopted by the board which is more stringent than the emission standard for the source in effect prior to such adoption, if any, or where there was no emission standard, the source shall not be considered in violation of the newly adopted emission standard provided that the owner accomplishes the following:

(1) Submits in a form and manner satisfactory to the board, a control program showing how compliance shall be achieved within the time frame in the applicable compliance schedule prescribed under 9 VAC 5-40-21; or, where no applicable compliance schedule is prescribed under 9 VAC 5-40-21, how compliance shall be achieved as expeditiously as possible; but in no case later than three years after the effective date of such emission standard.

(2) Receives approval of the board of such control program.

(3) Complies with all provisions, terms and conditions of the control program including the increments of progress.

b. The reprieve provided by subdivision H 2 a of this ~~section~~ *subsection* shall only apply in cases where it is necessary for the owner to:

(1) Install emission control equipment or other equipment that alters the facility in order to comply with the emission standard; or

(2) Switch fuel or raw materials or both in order to comply with the emission standard.

c. Owners of sources not in compliance with the newly adopted emission standard, but in compliance with the provisions of subdivision H 2 a of this ~~section~~ *subsection* shall not be subject to any penalties for violation of the newly adapted emission standard that may be required by the Virginia Air Pollution Control Law.

d. Any reprieve from the sanctions of any provision of the Virginia Air Pollution Control Law pursuant to subdivision H 2 a of this ~~section~~ *subsection* shall not extend beyond the date, specified in the emission standard or approved control program, by which compliance is to be achieved.

e. Control programs submitted under the provisions of subdivision H 2 a of this ~~section~~ *subsection* shall be processed in accordance with the provisions of 9 VAC 5-20-170. However, if the control program contains a compliance schedule which conforms to the applicable schedule prescribed in 9 VAC 5-40-21, the public hearing provision of 9 VAC 5-20-170 shall not apply.

f. Nothing in this section shall prevent the board from promulgating a separate compliance schedule for any source if the board finds that the application of a compliance schedule in 9 VAC 5-40-21 is technologically infeasible, or if the board finds that the application of a compliance schedule in 9 VAC 5-40-21 is infeasible due to the nonavailability of necessary equipment or materials or other circumstances beyond the owner's control.

g. Nothing in this section shall prevent the owner of a source subject to a compliance schedule in 9 VAC 5-40-21 from submitting to the board a proposed alternative compliance schedule provided the following conditions are met:

(1) The proposed alternative compliance schedule is submitted within six months of the effective date of the emission standard;

(2) The final control plans for achieving compliance with the applicable emission standard are submitted simultaneously;

(3) The alternative compliance schedule contains the same increments of progress as the schedule for which it is proposed as an alternative; and

(4) Sufficient documentation is submitted by the owner of the source to justify the alternative dates proposed for the increments of progress.

h. All compliance schedules proposed or prescribed under this section shall provide for compliance with the applicable emission standards as expeditiously as practicable.

i. Any compliance schedule approved under this subsection may be revoked at any time if the source owner does not meet the stipulated increments of progress, and if the failure to meet an increment is likely to result in failure to meet the date for final compliance, and the failure to meet the increment is due to causes within the owner's control.

j. The provisions of 9 VAC 5-40-21 shall not apply to owners of sources which are in compliance with the applicable emission standard and for which the owners have determined and certified compliance to the satisfaction of the board within 12 months of the effective date of the applicable emission standard.

1. *The following provisions apply with respect to stack heights.*

1. The degree of emission limitation required of any source owner for control of any air pollutant shall not be affected in any manner by:

a. So much of the stack height of any source as exceeds good engineering practice, or

b. Any other dispersion technique.

2. The provisions of subdivision † 1 of *this subsection* shall not apply to:

a. Stack heights in existence, or dispersion techniques implemented on or before December 31, 1970, except where pollutants are being emitted from such stacks or using such dispersion techniques by sources, as defined in ~~Section~~ § 111(a)(3) of the federal Clean Air Act, which were constructed, or reconstructed, or for which major modifications, as defined in Article 8 (9 VAC 5-80-1700 et seq.) and Article 9 (9 VAC 5-80-2000 et seq.) of Part II of 9 VAC 5 Chapter 80, were carried out after December 31, 1970; or

b. Coal-fired steam electric generating units subject to the provisions of ~~Section~~ § 118 of the federal Clean Air Act, which commenced operation before July 1, 1957, and whose stacks were constructed under a construction contract awarded before February 8, 1974.

3. Prior to the adoption of a new or revised emission limitation that is based on a good engineering practice stack height that exceeds the height allowed by subdivision 1 or 2 of the GEP definition, the board [~~must~~ *shall*] notify the public of the availability of the demonstration study and [~~must~~ *shall*] provide the opportunity for public hearing on it.

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4. For purposes of [*this*] subsection ~~1 of this section~~], such height shall not exceed the height allowed by subdivision 1 or 2 of the GEP definition unless the owner demonstrates to the satisfaction of the board, after 30 days notice to the public and opportunity for public hearing, that a greater height is necessary as provided under subdivision 3 of the GEP definition.

5. In no event may the board prohibit any increase in any stack height or restrict in any manner the maximum stack height of any source.

6. Compliance with emission standards in this chapter shall not be affected in any manner by the stack height of any source or any other dispersion technique.

J. For the purpose of submitting compliance certifications or establishing whether or not a person has violated or is in violation of any standard in this chapter, nothing in this chapter shall preclude the use, including the exclusive use, of any credible evidence or information, relevant to whether a source would have been in compliance with applicable requirements if the appropriate emission or compliance test or procedure had been performed.

[K. If a violation of applicable emission standards is judged to have taken place as a result of periods of excess emissions during startup or shutdown, the owner is entitled to an affirmative defense for relief from penalties provided the owner proves that:

1. The periods of excess emissions that occurred during startup and shutdown were short and infrequent and could not have been prevented through careful planning and design;

2. The excess emissions were not part of a recurring pattern indicative of inadequate design, operation, or maintenance;

3. If the excess emissions were caused by a bypass (an intentional diversion of control equipment), then the bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

4. At all times, the facility was operated in a manner consistent with good practice for minimizing emissions;

5. The frequency and duration of operation in startup or shutdown mode was minimized to the maximum extent practicable;

6. All possible steps were taken to minimize the impact of the excess emissions on ambient air quality;

7. All emission monitoring systems were kept in operation if at all possible;

8. The owner's or operator's actions during the period of excess emissions were documented by properly signed, contemporaneous operating logs, or other relevant evidence; and

9. The owner or operator properly and promptly notified the appropriate regulatory authority.]

9 VAC 5-40-30. Emission testing.

A. Emission tests for existing sources shall be conducted and reported, and data shall be reduced as set forth in this chapter and in the appropriate reference methods; ~~if not appropriate, then equivalent or alternative methods shall be used unless the board (i) specifies or approves, in specific cases, the use of a reference method with minor changes in methodology; (ii) approves the use of an equivalent method; (iii) approves the use of an alternative method the results of which the board has determined to be adequate for indicating whether a specific source is in compliance; (iv) waives the requirement for emission tests because the owner of a source has demonstrated by other means to the board's satisfaction that the affected facility is in compliance with the standard; or (v) approves shorter sampling times and smaller sample volumes when necessitated by process variables or other factors.~~ In cases where no appropriate reference method exists for an existing source subject to an emission standard for volatile organic compounds, the applicable test method in 9 VAC 5-20-121 may be considered appropriate.

B. Emission testing for existing sources shall be subject to testing guidelines approved by the board. Procedures may be adjusted or changed by the board to suit specific sampling conditions or needs based upon good practice, judgement and experience. When such tests are adjusted, consideration shall be given to the effect of such change on established emission standards. Tests shall be performed under the direction of persons whose qualifications are acceptable to the board.

C. Emission tests for existing sources shall be conducted under conditions which the board shall specify to the owner, based on representative performance of the source. The owner shall make available to the board such records as may be necessary to determine the conditions of the emission tests. Operations during periods of startup, shutdown and malfunction shall not constitute representative conditions of ~~emission tests for the purpose of an emission test [*nor shall* .~~ *During the initial emission test,] emissions in excess of the level of the applicable emission limit during periods of startup, shutdown, and malfunction [shall not] be considered a violation of the applicable emission limit unless otherwise specified in the applicable standard.*

D. An owner may request that the board determine the opacity of emissions from an existing source during the emission tests required by this section.

E. Each emission test for an existing source shall consist of three separate runs using the applicable test method. Each run shall be conducted for the time and under the conditions acceptable to the board. For the purpose of determining compliance with an applicable standard, the arithmetic mean of the results of the three runs shall apply. In the event that a sample is accidentally lost, or if conditions occur in which one of the three runs must be discontinued because of forced shutdown, failure of an irreplaceable portion of the sample train, extreme meteorological conditions or other circumstances beyond the owner's control, compliance may, upon the approval of the board, be determined using the arithmetic mean of the results of the two other runs.

F. The board may test emissions of air pollutants from any existing source. Upon request of the board the owner shall provide, or cause to be provided, emission testing facilities as follows:

1. Sampling ports adequate for test methods applicable to such source. *This includes (i) constructing the air pollution control system such that volumetric flow rates and pollutant emission rates can be accurately determined by applicable test methods and procedures and (ii) providing a stack or duct [~~free of cyclonic flow with acceptable flow characteristics~~] during emission tests, as demonstrated by applicable test methods and procedures.*
2. Safe sampling platforms.
3. Safe access to sampling platforms.
4. Utilities for sampling and testing equipment.

G. Upon request of the board the owner of any existing source subject to the provisions of this chapter shall conduct emission tests in accordance with procedures approved by the board.

9 VAC 5-40-40. Monitoring.

A. Unless otherwise approved by the board, owners of existing sources specified in the applicable emission standard shall install, calibrate, maintain and operate systems for continuous monitoring and recording emissions of specified pollutants. *For the purposes of this section, all continuous monitoring systems required under the applicable emission standard shall be subject to the provisions of the performance specifications for continuous monitoring systems under Appendix B of 40 CFR Part 60 and, if the continuous monitoring system is used to demonstrate compliance with emission limits on a continuous basis, Appendix F of 40 CFR Part 60, unless otherwise specified in this part, in an applicable standard or by the board.* However, nothing in this chapter shall exempt any owner from complying with subsection ~~F~~ G of this section.

B. All continuous monitoring systems and monitoring devices shall be installed and operational by July 5, 1983. Verification of operational status shall, as a minimum, consist of the completion of the conditioning period specified by applicable requirements in Appendix B of 40 CFR Part 60.

C. Within 30 days after the date set forth in subsection B of this section and at such other times as may be requested by the board, the owner of any existing source shall conduct continuous monitoring system performance evaluations and furnish the board within 60 days of them two or, upon request, more copies of a written report of the results of such tests.

D. *If the owner of an affected facility elects to submit continuous opacity monitoring system (COMS) data for compliance with the opacity standard as provided under 9 VAC 5-40-20 G 5, he shall conduct a performance evaluation of the COMS as specified in Performance Specification 1 in Appendix B of 40 CFR Part 60 before the [required] emission test [~~required under 9 VAC 5-40-30~~] is conducted. Otherwise, the owner of an affected facility shall conduct a performance evaluation of the COMS or continuous emission monitoring system (CEMS) during any [required]*

emission test [~~required under 9 VAC 5-40-30~~] or within 30 days thereafter in accordance with the applicable performance specification in Appendix B of 40 CFR Part 60. The owner of an affected facility shall conduct COMS or CEMS performance evaluations at such other times as may be required by the board.

1. The owner of an affected facility using a COMS to determine opacity compliance during any [required] emission test [~~required under 9 VAC 5-40-30~~] and as described in 9 VAC 5-40-20 G 5 shall furnish the board two or, upon request, more copies of a written report of the results of the COMS performance evaluation described in this subsection at least 10 days before the emission test [~~required under 9 VAC 5-40-30~~] is conducted.

2. Except as provided in subdivision 1 of this subsection, the owner of an affected facility shall furnish the board within 60 days of completion two or, upon request, more copies of a written report of the results of the performance evaluation.

E. Unless otherwise approved by the board, all continuous monitoring systems required by subsection A of this section shall be installed, calibrated, maintained and operated in accordance with applicable requirements in this section, 9 VAC 5-40-41, and the applicable emission standard.

~~E.~~ F. After receipt and consideration of written application, the board may approve alternatives to any monitoring procedures or requirements of this chapter including, but not limited to, the following:

1. Alternative monitoring requirements when installation of a continuous monitoring system or monitoring device specified by this chapter would not provide accurate measurements due to liquid water or other interferences caused by substances with the effluent gases;

2. Alternative monitoring requirements when the source is infrequently operated;

3. Alternative monitoring requirements to accommodate continuous monitoring systems that require additional measurements to correct for stack moisture conditions;

4. Alternative locations for installing continuous monitoring systems or monitoring devices when the owner can demonstrate the installation at alternate locations will enable accurate and representative measurements;

5. Alternative methods of converting pollutant concentration measurements to units of the standards;

6. Alternative procedures for computing emission averages that do not require integration of data (e.g., some facilities may demonstrate that the variability of their emissions is sufficiently small to allow accurate reduction of data based upon computing averages from equally spaced data points over the averaging period);

7. Alternative monitoring requirements when the effluent from a single source or the combined effluent from two or

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more sources are released to the atmosphere through more than one point;

8. Alternative procedures for performing calibration checks;

9. Alternative monitoring requirements when the requirements of this section would impose an extreme economic burden on the owner;

10. Alternative monitoring requirements when the continuous monitoring systems cannot be installed due to physical limitations at the source; and

11. Alternative continuous monitoring systems that do not meet the design or performance requirements in Performance Specification 1 of Appendix B of 40 CFR Part 60, but which adequately demonstrate a definite and consistent relationship between its measurements and the measurements of opacity by a system complying with the requirements in Performance Specification 1 of Appendix B of 40 CFR Part 60. The board may require that such demonstration be performed for each source.

[12. Alternative monitoring systems that meet the requirements of 40 CFR Part 75 (i) if a source is subject to 40 CFR Part 75 or (ii) if the board determines that the requirements of 40 CFR Part 75 are more appropriate for the source than the pertinent provisions of this chapter.]

F. G. Upon request of the board, the owner of an existing source subject to the provisions of this chapter shall install, calibrate, maintain and operate equipment for continuously monitoring and recording emissions or process parameters or both in accordance with methods and procedures acceptable to the board.

9 VAC 5-40-50. Notification, records and reporting.

A. Any owner of an existing source subject to the provisions of this chapter shall provide written notifications to the board of the following:

1. The date upon which demonstration of the continuous monitoring system performance begins in accordance with 9 VAC 5-40-40 C. Notification shall be postmarked not less than 30 days prior to such date.

2. The date of any emission test the owner wishes the board to consider in determining compliance with a standard. Notification shall be postmarked not less than 30 days prior to such date.

3. *The anticipated date for conducting the opacity observations required by 9 VAC 5-40-20 G 1. The notification shall also include, if appropriate, a request for the board to provide a visible emissions reader during an emission test. The notification shall be postmarked not less than 30 days prior to such date.*

4. *That continuous opacity monitoring system data results will be used to determine compliance with the applicable opacity standard during [an a required] emission test [required by 9 VAC 5-40-30] in lieu of Reference Method 9 observation data as allowed by 9 VAC 5-40-20 G 5. This*

notification shall be postmarked not less than 30 days prior to the date of the emission test.

B. Any owner of an existing source subject to the provisions of 9 VAC 5-40-40 A shall maintain records of the occurrence and duration of any startup, shutdown or malfunction in the operation of such source; any malfunction of the air pollution control equipment; or any periods during which a continuous monitoring system or monitoring device is inoperative.

C. Each owner required to install a continuous monitoring system (CMS) or monitoring device shall submit a written report of excess emissions (as defined in the applicable emission standard) and monitoring systems performance report or a summary report form, or both, to the board ~~for every calendar quarter semiannually, except when (i) more frequent reporting is specifically required by an applicable emission standard [; (ii) the CMS data are to be used directly for compliance determination, in which case quarterly reports shall be submitted;] or [(iii) (i) the board, on a case-by-case basis, determines that more frequent reporting is necessary to accurately assess the compliance status of the source. The summary report and form shall meet the requirements of 40 CFR 60.7(d). The frequency of reporting requirements may be reduced as provided in 40 CFR 60.7(e). All quarterly reports shall be postmarked by the 30th day following the end of each [calendar quarter and half (or quarter, as appropriate) six-month period]~~. Written reports of excess emissions shall include the following information:

1. The magnitude of excess emissions computed in accordance with 9 VAC 5-40-41 B 6, any conversion factors used, and the date and time of commencement and completion of each period of excess emissions; ~~The process operating time during the reporting period.~~

2. Specific identification of each period of excess emissions that occurs during startups, shutdowns and malfunctions of the source. The nature and cause of any malfunction (if known), the corrective action taken or preventative measures adopted;

3. The date and time identifying each period during which the continuous monitoring system was inoperative except for zero and span checks and the nature of the system repairs or adjustments; ~~and.~~

4. When no excess emissions have occurred or the continuous monitoring systems have not been inoperative, repaired or adjusted, such information shall be stated in the report.

D. Any owner of an existing source subject to the provisions of this chapter shall maintain a file of all measurements, including continuous monitoring system, monitoring device, and emission testing measurements; all continuous monitoring system performance evaluations; all continuous monitoring system or monitoring device calibration checks; adjustments and maintenance performed on these systems or devices; and all other information required by this chapter recorded in a permanent form suitable for inspection. The file shall be retained for at least two years following the date of such measurements, maintenance, reports and records.

E. Any data or information required by ~~these regulations~~ *the Regulations for the Control and Abatement of Air Pollution*, any permit or order of the board, or which the owner wishes the board to consider, to determine compliance with an emission standard [~~must shall~~] be recorded or maintained in a time frame consistent with the averaging period of the standard.

F. The owner of a stationary source shall keep records as may be necessary to determine its emissions. Any owner claiming that a facility is exempt from the provisions of ~~these regulations~~ *the Regulations for the Control and Abatement of Air Pollution* shall keep records as may be necessary to demonstrate to the satisfaction of the board its continued exempt status.

G. The owner of an existing source subject to any emission standard in Article 26 (9 VAC 5-40-3560 et seq.) through Article 36 (9 VAC 5-40-5060 et seq.) of 9 VAC 5 Chapter 40 shall maintain records in accordance with the applicable procedure in 9 VAC 5-20-121.

H. Upon request of the board, the owner of an existing source subject to the provisions of this chapter shall provide notifications and report, revise reports, maintain records or report emission test or monitoring result in a manner and form and using procedures acceptable to board.

CHAPTER 50.

NEW AND MODIFIED STATIONARY SOURCES.

9 VAC 5-50-10. Applicability.

A. The provisions of this chapter, unless specified otherwise, shall apply to new and modified sources.

B. The provisions of this chapter shall apply to sources specified below:

1. Any stationary source (or portion of it), the construction, modification or relocation of which commenced on or after March 17, 1972.
2. Any stationary source (or portion of it), the reconstruction of which commenced on or after December 10, 1976.

C. If a facility becomes subject to any requirement in ~~these regulations~~ *the Regulations for the Control and Abatement of Air Pollution* because it exceeds an exemption level, the facility shall continue to be subject to all applicable requirements even if future conditions cause the facility to fall below the exemption level.

D. The provisions of 9 VAC 5 Chapter 40 (9 VAC 5-40-10 et seq.), unless specified otherwise, shall apply to new and modified sources to the extent that those provisions thereof are more restrictive than the provisions of this chapter, 9 VAC 5 Chapter 80 (9 VAC 5-80-10 et seq.), or any permit issued pursuant to 9 VAC 5 Chapter 80 (9 VAC 5-80-10 et seq.).

E. For sources subject to the applicable subparts listed in 9 VAC 5-50-410, the provisions of 40 CFR 60.7, 40 CFR 60.8, 40 CFR 60.11 and 40 CFR 60.13 shall be implemented through this part. In cases where there are differences between the provisions of this part and the provisions of 40 CFR Part 60, the more restrictive provisions shall apply.

[F. Any owner subject to the provisions of this chapter may provide any report, notification or other document by electronic media if acceptable to both the owner and board.

G. The provisions of 9 VAC 5-50-20 J shall not apply to the following:

1. Sources subject to the applicable subparts listed in 9 VAC 5-50-410 unless specifically allowed by the applicable subparts listed in 9 VAC 5-50-410.
2. Sources and pollutants in areas where a single source or small group of sources has the potential to cause an exceedance of any ambient air quality standard or any ambient air increment prescribed under 9 VAC 5-80-1730.
3. Affected units subject to a federal operating permit unless specifically allowed by the permit. This prohibition applies only to terms and conditions of the permit derived from the acid rain program.]

9 VAC 5-50-20. Compliance.

A. Sixty days after achieving the maximum production rate, but not later than 180 days after initial startup, no owner or other person shall operate any new or modified source in violation of any standard of performance prescribed under this chapter.

1. Compliance with standards in this chapter, other than opacity standards, shall be determined by performance tests established by 9 VAC 5-50-30, unless specified otherwise in the applicable standard.
2. Compliance with federal requirements in this chapter may be determined by alternative or equivalent methods only if approved by the administrator. For purposes of this subsection, federal requirements consist of the following:
 - a. New source performance standards established pursuant to § 111 of the federal Clean Air Act.
 - b. All terms and conditions in a federal operating permit, including any provisions that limit a source's potential to emit, unless expressly designated as not federally enforceable.
 - c. Limitations and conditions that are part of an [~~approved State Implementation Plan (SIP) or a Federal~~] implementation plan [~~(FIP)~~].
 - d. Limitations and conditions that are part of [~~an approved State Designated Pollutant Plan or a Federal Designated Pollutant Plan~~] a § 111(d) plan].
 - e. Limitations and conditions that are part of a federal construction permit issued under 40 CFR 52.21 or any construction permit issued under regulations approved by EPA in accordance with 40 CFR Part 51.
 - f. Limitations and conditions that are part of an operating permit issued pursuant to a program approved by EPA into [~~a SIP~~] an implementation plan] as meeting EPA's minimum criteria for federal enforceability, including adequate notice and

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

3. Compliance with opacity standards in this chapter shall be determined by conducting observations in accordance with Reference Method 9 or any alternative method, if specified in the permit granted pursuant to 9 VAC 5 Chapter 80 (9 VAC 5-80-10 et seq.) , or as provided in subdivision G 5 of this section. For purposes of determining initial compliance, the minimum total time of observations shall be three hours (30 six-minute averages) for the performance test or other set of observations (meaning those fugitive-type emission sources subject only to an opacity standard). Opacity readings of portions of plumes which contain condensed, uncombined water vapor shall not be used for purposes of determining compliance with opacity standards. ~~The results of continuous monitoring by transmissometer which indicated that the opacity at the time observations were made was not in excess of the standard are probative but not conclusive evidence of the actual opacity of an emission. In such cases, the owner must prove that, at the time of the alleged violation, the instrument used met Performance Specification 1 of Appendix B of 40 CFR 60, and had been properly maintained and calibrated, and that the resulting data had not been tampered with in any way.~~

~~[3. 4. The opacity standards prescribed under this chapter shall apply at all times except during periods of startup, shutdown, malfunction and as otherwise provided in the applicable standard.]~~

4. ~~[5. 4.]~~ Variation from a specified standard may be granted by the board for a definite period for testing and adjustment.

B. No owner of a new or modified source subject to the provisions of this chapter shall fail to conduct performance tests as required under this chapter.

C. No owner of a new or modified source subject to the provisions of this chapter shall fail to install, calibrate, maintain and operate equipment for continuously monitoring and recording emissions or process parameters or both as required under this chapter.

D. No owner of a new or modified source subject to the provisions of this chapter shall fail to provide notifications and reports, revise reports, maintain records or report performance test or monitoring results as required under this chapter.

E. At all times, including periods of startup, shutdown, soot blowing and malfunction, owners shall, to the extent practicable, maintain and operate any affected facility including associated air pollution control equipment in a manner consistent with air pollution control practices for minimizing emissions. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the board, which may include, but is not limited to, monitoring results, opacity

observations, review of operating and maintenance procedures, and inspection of the source.

F. At all times the disposal of volatile organic compounds shall be accomplished by taking measures, to the extent practicable, consistent with air pollution control practices for minimizing emissions. Volatile organic compounds shall not be intentionally spilled, discarded in sewers which are not connected to a treatment plant, or stored in open containers or handled in any other manner that would result in evaporation beyond that consistent with air pollution control practices for minimizing emissions.

G. ~~Reserved.~~ The following provisions apply with respect to compliance with opacity standards.

1. For the purpose of demonstrating initial compliance, opacity observations shall be conducted concurrently with the initial performance test ~~[required in 9 VAC 5-50-30]~~ unless one of the following conditions apply.

a. If no performance test ~~[under 9 VAC 5-50-30]~~ is required, then opacity observations shall be conducted within 60 days after achieving the maximum production rate at which the affected facility will be operated but no later than 180 days after initial startup of the facility.

b. If visibility or other conditions prevent the opacity observations from being conducted concurrently with the initial performance test ~~[required under 9 VAC 5-50-30]~~, the owner shall reschedule the opacity observations as soon after the initial performance test as possible, but not later than 30 days thereafter, and shall advise the board of the rescheduled date. In these cases, the 30-day prior notification to the board required by 9 VAC 5-50-50 A 6 shall be waived. The rescheduled opacity observations shall be conducted (to the extent possible) under the same operating conditions that existed during the initial performance test ~~[conducted under 9 VAC 5-50-30]~~. The visible emissions observer shall determine whether visibility or other conditions prevent the opacity observations from being made concurrently with the initial performance test in accordance with procedures contained in Reference Method 9.

Opacity readings of portions of plumes which contain condensed, uncombined water vapor shall not be used for purposes of determining compliance with opacity standards. The owner of an affected facility shall make available, upon request by the board, such records as may be necessary to determine the conditions under which the visual observations were made and shall provide evidence indicating proof of current visible observer emission certification. Except as provided in subdivision 5 of this subsection, the results of continuous monitoring by transmissometer which indicate that the opacity at the time visual observations were made was not in excess of the standard are probative but not conclusive evidence of the actual opacity of an emission, provided the source meets the burden of proving that the instrument used meets (at the time of the alleged violation) Performance Specification 1 in Appendix B of 40 CFR Part 60 and has been properly

maintained and (at the time of the alleged violation) that the resulting data have not been altered in any way.

2. Except as provided in subdivision 3 of this subsection, the owner of an affected facility to which an opacity standard in this chapter applies shall conduct opacity observations in accordance with subdivision A 2 of this section, shall record the opacity of emissions, and shall report to the board the opacity results along with the results of the initial performance test [~~required under 9 VAC 5-50-30~~]. The inability of an owner to secure a visible emissions observer shall not be considered a reason for not conducting the opacity observations concurrent with the initial performance test.

3. The owner of an affected facility to which an opacity standard in this chapter applies may request the board to determine and to record the opacity of emissions from the affected facility during the initial performance test and at such times as may be required. The owner of the affected facility shall report the opacity results. Any request to the board to determine and to record the opacity of emissions from an affected facility shall be included in the notification required in 9 VAC 5-50-50 A 6. If, for some reason, the board cannot determine and record the opacity of emissions from the affected facility during the performance test, then the provisions of subdivision 1 of this subsection shall apply.

4. An owner of an affected facility using a continuous opacity monitor (transmissometer) shall record the monitoring data produced during the initial performance test [~~required by 9 VAC 5-50-30~~] and shall furnish the board a written report of the monitoring results along with Reference Method 9 and [~~9 VAC 5-50-30~~ the initial] performance test results.

5. An owner of an affected facility subject to an opacity standard may submit, for compliance purposes, continuous opacity monitoring system (COMS) data results produced during any [required] performance test [~~required under 9 VAC 5-50-30~~] in lieu of Reference Method 9 observation data. If an owner elects to submit COMS data for compliance with the opacity standard, he shall notify the board of that decision, in writing, at least 30 days before any [required] performance test [~~required under 9 VAC 5-50-30~~] is conducted. Once the owner of an affected facility has notified the board to that effect, the COMS data results will be used to determine opacity compliance during subsequent tests [~~required under 9 VAC 5-50-30~~] until the owner notifies the board, in writing, to the contrary. For the purpose of determining compliance with the opacity standard during a performance test [~~required under 9 VAC 5-50-30~~] using COMS data, the minimum total time of COMS data collection shall be averages of all six-minute continuous periods within the duration of the mass emission performance test. Results of the COMS opacity determinations shall be submitted along with the results of the performance test [~~required under 9 VAC 5-50-30~~]. The owner of an affected facility using a COMS for compliance purposes is responsible for demonstrating that the COMS meets the requirements specified in 9 VAC 5-

50-40 E, that the COMS has been properly maintained and operated, and that the resulting data have not been altered in any way. If COMS data results are submitted for compliance with the opacity standard for a period of time during which Reference Method 9 data indicates noncompliance, the Reference Method 9 data will be used to determine opacity compliance.

6. Upon receipt from an owner of the written reports of the results of the performance tests [~~required by 9 VAC 5-50-30~~], the opacity observation results and observer certification required by subdivision 1 of this subsection, and the COMS results, if applicable, the board will make a finding concerning compliance with opacity and other applicable standards. If COMS data results are used to comply with an opacity standard, only those results are required to be submitted along with the performance test results [~~required by 9 VAC 5-50-30~~]. If the board finds that an affected facility is in compliance with all applicable standards for which performance tests are conducted in accordance with 9 VAC 5-50-30 but during the time such performance tests are being conducted fails to meet any applicable opacity standard, the board shall notify the owner and advise him that he may request a waiver from the board within 10 days of receipt of notification to make appropriate adjustment to the opacity standard for the affected facility in accordance with 9 VAC 5-50-120.

7. The board will grant such a petition upon a demonstration by the owner that the affected facility and associated air pollution control equipment was operated and maintained in a manner to minimize the opacity of emissions during the performance tests, that the performance tests were performed under the conditions established by the board, that the affected facility and associated air pollution control equipment were incapable of being adjusted or operated to meet the applicable opacity standard, and that the provisions of 9 VAC 5-50-120 are met.

8. The board will establish an opacity standard for the affected facility meeting the above requirements at a level at which the source will be able, as indicated by the performance and opacity tests, to meet the opacity standard at all times during which the source is meeting the mass or concentration emission standard.

H. The following provisions apply with respect to stack heights.

1. The degree of emission limitation required of any source owner for control of any air pollutant shall not be affected in any manner by:

- a. So much of the stack height of any source as exceeds good engineering practice, or*
- b. Any other dispersion technique.*

2. The provisions of subdivision H 1 of this subsection shall not apply to:

- a. Stack heights in existence, or dispersion techniques implemented on or before December 31, 1970, except where pollutants are being emitted from such stacks or*

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using such dispersion techniques by sources, as defined in ~~Section~~ § 111(a)(3) of the federal Clean Air Act, which were constructed, or reconstructed, or for which major modifications, as defined in 9 VAC 5-30-20 and 9 VAC 5-30-30, were carried out after December 31, 1970; or

b. Coal-fired steam electric generating units subject to the provisions of ~~Section~~ § 118 of the federal Clean Air Act, which commenced operation before July 1, 1957, and whose stacks were constructed under a construction contract awarded before February 8, 1974.

3. Prior to the adoption of a new or revised emission limitation that is based on a good engineering practice stack height that exceeds the height allowed by ~~paragraphs~~ subdivisions 1 or 2 of the GEP definition, the board [~~must shall~~] notify the public of the availability of the demonstration study and [~~must shall~~] provide opportunity for public hearing on it.

4. For purposes of ~~this subsection H of this section~~, such height shall not exceed the height allowed by ~~paragraphs~~ subdivisions 1 or 2 of the GEP definition unless the owner demonstrates to the satisfaction of the board, after 30 days notice to the public and opportunity for public hearing, that a greater height is necessary as provided under ~~paragraph~~ subdivision 3 of the GEP definition.

5. In no event may the board prohibit any increase in any stack height or restrict in any manner the maximum stack height of any source.

6. Compliance with standards of performance in this chapter shall not be affected in any manner by the stack height of any source or any other dispersion technique.

I. For the purpose of submitting compliance certifications or establishing whether or not a person has violated or is in violation of any standard in this chapter, nothing in this chapter shall preclude the use, including the exclusive use, of any credible evidence or information, relevant to whether a source would have been in compliance with applicable requirements if the appropriate performance or compliance test or procedure had been performed.

[J. If a violation of applicable emission standards is judged to have taken place as a result of periods of excess emissions during startup or shutdown, the owner is entitled to an affirmative defense for relief from penalties provided the owner proves that:

1. The periods of excess emissions that occurred during startup and shutdown were short and infrequent and could not have been prevented through careful planning and design;

2. The excess emissions were not part of a recurring pattern indicative of inadequate design, operation, or maintenance;

3. If the excess emissions were caused by a bypass (an intentional diversion of control equipment), then the

bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

4. At all times, the facility was operated in a manner consistent with good practice for minimizing emissions;

5. The frequency and duration of operation in startup or shutdown mode was minimized to the maximum extent practicable;

6. All possible steps were taken to minimize the impact of the excess emissions on ambient air quality;

7. All emission monitoring systems were kept in operation if at all possible;

8. The owner or operator's actions during the period of excess emissions were documented by properly signed, contemporaneous operating logs, or other relevant evidence; and

9. The owner or operator properly and promptly notified the appropriate regulatory authority.]

9 VAC 5-50-30. Performance testing.

A. Performance tests for new or modified sources shall be conducted and reported and data shall be reduced as set forth in this chapter and the test methods and procedures contained in each applicable subpart listed in 9 VAC 5-50-410 ~~unless the board (i) specifies or approves, in specific cases, the use of a reference method with minor changes in methodology; (ii) approves the use of an equivalent method; (iii) approves the use of an alternative method the results of which he has determined to be adequate for indicating whether a specific source is in compliance; (iv) waives the requirement for performance tests because the owner of a source has demonstrated by other means to the board's satisfaction that the affected facility is in compliance with the standard; or (v) approves shorter sampling times and smaller sample volumes when necessitated by process variables or other factors.~~ Any new or modified source, for which no standards of performance are set forth in Article 5 (9 VAC 5-50-400 et seq.) of this ~~chapter~~ part, shall be performance tested by appropriate reference methods; ~~if not appropriate, then equivalent or alternative methods shall be used unless the board (i) specifies or approves, in specific cases, the use of a reference method with minor changes in methodology; (ii) approves the use of an equivalent method; (iii) approves the use of an alternative method the results of which he has determined to be adequate for indicating whether a specific source is in compliance; (iv) waives the requirement for performance tests because the owner of a source has demonstrated by other means to the board's satisfaction that the affected facility is in compliance with the standard; or (v) approves shorter sampling times and smaller sample volumes when necessitated by process variables or other factors.~~ In cases where no appropriate reference method exists for a new or modified source subject to a standard of performance for volatile organic compounds, the test methods in 9 VAC 5-20-121 may be considered appropriate.

B. Performance testing for new or modified sources shall be subject to testing guidelines approved by the board. Procedures may be adjusted or changed by the board to suit

specific sampling conditions or needs based upon good practice, judgment and experience. When such tests are adjusted, consideration shall be given to the effect of such change on established standards. Tests shall be performed under the direction of persons whose qualifications are acceptable to the board.

C. Performance tests for new or modified sources shall be conducted under conditions which the board shall specify to the owner based on representative performance of the source. The owner shall make available to the board such records as may be necessary to determine the conditions of the performance tests. Operation during periods of startup, shutdown and malfunction shall not constitute representative conditions ~~of performance tests for the purpose of a performance test [~~nor shall~~ . During the initial performance test] emissions in excess of the level of the applicable emission limit during periods of startup, shutdown, and malfunction [shall not] be considered a violation of the applicable emission limit unless otherwise specified in the applicable standard.~~

D. An owner may request that the board determine the opacity of emissions from a new or modified source during the performance tests required by this section.

E. Unless specified otherwise in the applicable standard, each performance test for a new or modified source shall consist of three separate runs using the applicable test method. Each run shall be conducted for the time and under the conditions specified in the applicable standard. For the purpose of determining compliance with an applicable standard the arithmetic mean of the results of the three runs shall apply. In the event that a sample is accidentally lost or if conditions occur in which one of the three runs must be discontinued because of forced shutdown, failure of an irreplaceable portion of the sample train, extreme meteorological conditions or other circumstances beyond the owner's control, compliance may, upon the approval of the board, be determined using the arithmetic mean of the results of the two other runs.

F. The board may test emissions of air pollutants from any new or modified source. Upon request of the board the owner shall provide, or cause to be provided, performance testing facilities as follows:

1. Sampling ports adequate for test methods applicable to such source; *This includes (i) constructing the air pollution control system such that volumetric flow rates and pollutant emission rates can be accurately determined by applicable test methods and procedures and (ii) providing a stack or duct [~~free of cyclonic flow~~ with acceptable flow characteristics] during performance tests, as demonstrated by applicable test methods and procedures.*
2. Safe sampling platforms;.
3. Safe access to sampling platforms;.
4. Utilities for sampling and testing equipment.

G. Upon request of the board, the owner of any new or modified source subject to the provisions of this chapter shall conduct performance tests in accordance with procedures approved by the board.

9 VAC 5-50-40. Monitoring.

A. Unless otherwise approved by the board or specified in applicable subparts listed in 9 VAC 5-50-410, the requirements of this section shall apply to all continuous monitoring systems required for affected facilities in accordance with applicable subparts listed in 9 VAC 5-50-410. *For the purposes of this section, all continuous monitoring systems required under applicable subparts listed in 9 VAC 5-50-410 shall be subject to the provisions of this section upon promulgation of performance specifications for continuous monitoring systems under Appendix B of 40 CFR Part 60 and, if the continuous monitoring system is used to demonstrate compliance with emission limits on a continuous basis, Appendix F of 40 CFR Part 60, unless otherwise specified in an applicable subpart listed in 9 VAC 5-50-410 or by the board.* However, nothing in this chapter shall exempt any owner from complying with subsection F G of this section.

B. All continuous monitoring systems and monitoring devices shall be installed and operational prior to conducting performance tests under 9 VAC 5-50-30. Verification of operational status shall, as a minimum, include completion of the manufacturer's written requirements or recommendations for installation, operation and calibration of the device.

C. During any performance tests required under 9 VAC 5-50-30 or within 30 days thereafter and at such other times as may be requested by the board, the owner of any affected facility shall conduct continuous monitoring system performance evaluations and furnish the board within 60 days of them two or, upon request, more copies of a written report of the results of such tests. These continuous monitoring system performance evaluations shall be conducted in accordance with the requirements and procedures contained in the applicable performance specification of Appendix B of 40 CFR Part 60.

D. *If the owner of an affected facility elects to submit continuous opacity monitoring system (COMS) data for compliance with the opacity standard as provided under 9 VAC 5-50-20 G 5, he shall conduct a performance evaluation of the COMS as specified in Performance Specification 1 in Appendix B of 40 CFR Part 60 before the [required] performance test [~~required under 9 VAC 5-50-30~~] is conducted. Otherwise, the owner of an affected facility shall conduct a performance evaluation of the COMS or continuous emission monitoring system (CEMS) during any [required] performance test [~~required under 9 VAC 5-50-30~~] or within 30 days thereafter in accordance with the applicable performance specification in Appendix B of 40 CFR Part 60. The owner of an affected facility shall conduct COMS or CEMS performance evaluations at such other times as may be required by the board.*

1. *The owner of an affected facility using a COMS to determine opacity compliance during any [required] performance test [~~required under 9 VAC 5-50-30~~] and as described in 9 VAC 5-50-20 G 5 shall furnish the board two or, upon request, more copies of a written report of the results of the COMS performance evaluation described in this subsection at least 10 days before the*

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performance test [~~required under 9 VAC 5-50-30~~] is conducted.

2. Except as provided in subdivision 1 of this subsection, the owner of an affected facility shall furnish the board within 60 days of completion two or, upon request, more copies of a written report of the results of the performance evaluation.

E. Unless otherwise approved by the board, all continuous monitoring systems required by subsection A of this section shall be installed, calibrated, maintained and operated in accordance with applicable requirements in this section, 40 CFR 60.13 and the applicable subpart listed in 9 VAC 5-50-410.

F. After receipt and consideration of written application, the board may approve alternatives to any monitoring procedures or requirements of this chapter including, but not limited to, the following:

1. Alternative monitoring requirements when installation of a continuous monitoring system or monitoring device specified by this chapter would not provide accurate measurements due to liquid water or other interferences caused by substances with the effluent gases;
2. Alternative monitoring requirements when the affected facility is infrequently operated;
3. Alternative monitoring requirements to accommodate continuous monitoring systems that require additional measurements to correct for stack moisture conditions;
4. Alternative locations for installing continuous monitoring systems or monitoring devices when the owner can demonstrate that installation at alternate locations will enable accurate and representative measurements;
5. Alternative methods of converting pollutant concentration measurements to units of the applicable standards;
6. Alternative procedures for performing daily checks or zero and span drift that do not involve use of span gases or test cells;
7. Alternatives to the ASTM test methods or sampling procedures specified by any subpart listed in 9 VAC 5-50-410;
8. Alternative continuous monitoring systems that do not meet the design or performance requirements in Performance Specification 1 ~~or~~ of Appendix B of 40 CFR Part 60, but adequately demonstrate a definite and consistent relationship between its measurements and the measurements of opacity by a system complying with the requirements in Performance Specification 1 of Appendix B of 40 CFR Part 60. The board may require that demonstration be performed for each affected facility; ~~and~~.
9. Alternative monitoring requirements when the effluent from a single affected facility or the combined effluent

from two or more affected facilities are released to the atmosphere through more than one point.

[10. Alternative monitoring systems that meet the requirements of 40 CFR Part 75 (i) if a source is subject to 40 CFR Part 75 or (ii) if the board determines that the requirements of 40 CFR Part 75 are more appropriate for the source than the pertinent provisions of this chapter.]

F. G. Upon request of the board, the owner of a new or modified source subject to the provisions of this chapter shall install, calibrate, maintain and operate equipment for continuously monitoring and recording emissions or process parameters or both in accordance with methods and procedures acceptable to the board.

9 VAC 5-50-50. Notification, records and reporting.

A. Any owner of a new or modified source subject to the provisions of this chapter shall provide written notifications to the board of the following:

1. The date of commencement of construction, reconstruction or modification of a new or modified source postmarked no later than 30 days after such date;
2. The anticipated date of initial startup of a new or modified source postmarked not more than 60 days nor less than 30 days prior to such date;
3. The actual date of initial startup of a new or modified source postmarked within 15 days after such date;
4. The date of any performance test required by 9 VAC 5 Chapter 80 (9 VAC 5-80-10 et seq.) and any other performance test the owner wishes the board to consider in determining compliance with a standard. Notification shall be postmarked not less than 30 days prior to such date; ~~and~~.
5. The date upon which demonstration of the continuous monitoring system performance begins in accordance with 9 VAC 5-50-40 C. Notification shall be postmarked not less than 30 days prior to such date.
6. *The anticipated date for conducting the opacity observations required by 9 VAC 5-50-20 G 1. The notification shall also include, if appropriate, a request for the board to provide a visible emissions reader during a performance test. The notification shall be postmarked not less than 30 days prior to such date.*
7. *That continuous opacity monitoring system data results will be used to determine compliance with the applicable opacity standard during a [required] performance test [~~required by 9 VAC 5-50-30~~] in lieu of Reference Method 9 observation data as allowed by 9 VAC 5-50-20 G 5. This notification shall be postmarked not less than 30 days prior to the date of the performance test.*

B. Any owner of a new or modified source subject to the provisions of 9 VAC 5-50-40 A shall maintain records of the occurrence and duration of any startup, shutdown or malfunction in the operation of such source; any malfunction

of the air pollution control equipment; or any periods during which a continuous monitoring system or monitoring device is inoperative.

C. Each owner required to install a continuous monitoring system (CMS) or monitoring device shall submit a written report of excess emissions (as defined in the applicable subpart in 9 VAC 5-50-410) ~~and monitoring systems performance report and/or a summary report form to the board for every calendar quarter semiannually, except when (i) more frequent reporting is specifically required by an applicable subpart listed in 9 VAC 5-50-410 [(ii) the CMS data are to be used directly for compliance determination, in which case quarterly reports shall be submitted;] or [(iii) (ii)] the board, on a case-by-case basis, determines that more frequent reporting is necessary to accurately assess the compliance status of the source. The summary report and form shall meet the requirements of 40 CFR 60.7(d). The frequency of reporting requirements may be reduced as provided in 40 CFR 60.7(e). All quarterly reports shall be postmarked by the 30th day following the end of each [calendar] quarter and [half (or quarter, as appropriate) six-month period].~~ Written reports of excess emissions shall include the following information:

1. The magnitude of excess emissions computed in accordance with 40 CFR 60.13(h), any conversion factors used, and the date and time of commencement and completion of each period of excess emissions; ~~The process operating time during the reporting period.~~
2. Specific identification of each period of excess emissions that occurs during startups, shutdowns, and malfunctions of the source. The nature and cause of any malfunction (if known), the corrective action taken or preventative measures adopted;
3. The date and time identifying each period during which the continuous monitoring system was inoperative except for zero and span checks and the nature of the system repairs or adjustments; ~~and.~~
4. When no excess emissions have occurred or the continuous monitoring systems have not been inoperative, repaired or adjusted, such information shall be stated in the report.

D. Any owner of a new or modified source subject to the provisions of this chapter shall maintain a file of all measurements, including continuous monitoring system, monitoring device, and performance testing measurements; all continuous monitoring system performance evaluations; all continuous monitoring system or monitoring device calibration checks; adjustments and maintenance performed on these systems or devices; and all other information required by this chapter recorded in a permanent form suitable for inspection. The file shall be retained for at least two years following the date of such measurements, maintenance, reports and records.

E. Any data or information required by ~~these regulations~~ the Regulations for the Control and Abatement of Air Pollution, any permit or order of the board, or which the owner wishes the board to consider, to determine compliance with an emission

standard [~~must shall~~] be recorded or maintained in a time frame consistent with the averaging period of the standard.

F. The owner of a stationary source shall keep records as necessary to determine its emissions. Any owner claiming that a facility is exempt from the provisions of ~~these regulations~~ the Regulations for the Control and Abatement of Air Pollution shall keep records to demonstrate its continued exempt status.

G. The owner of a new or modified source subject to any volatile organic compound emission standard for a coating operation or printing process shall maintain records in accordance with the applicable procedure in 9 VAC 5-20-121.

H. Upon request of the board, the owner of a new or modified source subject to the provisions of this chapter shall provide notifications and reports, maintain records or report performance test or monitoring results in a manner and form and using procedures acceptable to the board.

CHAPTER 60. HAZARDOUS AIR POLLUTANT SOURCES.

9 VAC 5-60-10. Applicability.

A. The provisions of this chapter shall apply to all existing, new and modified hazardous air pollutant sources for which emission standards are prescribed under this chapter.

B. For sources subject to the applicable subparts listed in 9 VAC 5-60-70, the provisions of 40 CFR 61.09, 40 CFR 61.10, 40 CFR 61.12, 40 CFR 61.13, and 40 CFR 61.14 shall be implemented through this part. In cases where there are differences between the provisions of this part and the provisions of 40 CFR Part 61, the more restrictive provisions shall apply.

C. For sources subject to the applicable subparts listed in 9 VAC 5-60-100, the provisions of 40 CFR 63.6, 40 CFR 63.7, 40 CFR 63.8, 40 CFR 63.9, 40 CFR 63.10 and 40 CFR 63.11 shall be implemented through this part. In cases where there are differences between the provisions of this part and the provisions of 40 CFR Part 63, the more restrictive provisions shall apply.

[*D. Any owner subject to the provisions of this chapter may provide any report, notification or other document by electronic media if acceptable to both the owner and the board.*

E. The provisions of 9 VAC 5-60-20 F shall not apply to the following:

1. Sources subject to the applicable subparts listed in 9 VAC 5-60-70 unless specifically allowed by the applicable subparts listed in 9 VAC 5-60-70.
2. Sources subject to the applicable subparts listed in 9 VAC 5-60-100 unless specifically allowed by the applicable subparts listed in 9 VAC 5-60-100.]

9 VAC 5-60-20. Compliance.

A. Ninety days after the effective date of any emission standard prescribed under this chapter no owner or other person shall operate any existing hazardous air pollutant

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source in violation of such standard. After the effective date of any emission standard prescribed under this chapter no owner or other person shall operate any new or modified hazardous air pollutant source in violation of such standard.

1. Compliance with standards in this chapter, ~~other than visible emission standards~~ shall be determined by emission tests established by 9 VAC 5-60-30, unless specified otherwise in the applicable standard.

2. ~~The visible emission standards prescribed under this chapter shall apply at all times.~~ Compliance with federal requirements in this chapter may be determined by alternative or equivalent methods only if approved by the administrator. For purposes of this subsection, federal requirements consist of the following:

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

b. Emission standards established pursuant to § 112 of the federal Clean Air Act before it was amended in 1990.

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

d. Limitations and conditions that are part of an ~~[approved State Implementation Plan (SIP) or a Federal]~~ implementation plan ~~[(FIP)]~~.

e. Limitations and conditions that are part of ~~[an approved State Designated Pollutant Plan or a Federal Designated Pollutant Plan a § 111(d) plan]~~.

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

g. Limitations and conditions that are part of an operating permit issued pursuant to a program approved by EPA into ~~[a SIP an implementation plan]~~ as meeting EPA's minimum criteria for federal enforceability, including adequate notice and opportunity for EPA and public comment prior to issuance of the final permit and practicable enforceability.

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

B. No owner of a hazardous air pollutant source subject to the provisions of this chapter shall fail to conduct emission tests as required under this chapter.

C. No owner of a hazardous air pollutant source subject to the provisions of this chapter shall fail to install, calibrate, maintain and operate equipment for continuously monitoring

and recording emissions, process parameters or air quality, or both, as required in this chapter.

D. No owner of a hazardous air pollutant source subject to the provisions of this chapter shall fail to provide notifications and reports, revise reports, maintain records or report emission test or monitoring results, or both, as required under this chapter.

E. For the purpose of submitting compliance certifications or establishing whether or not a person has violated or is in violation of any standard in this chapter, nothing in this chapter shall preclude the use, including the exclusive use, of any credible evidence or information relevant to whether a source would have been in compliance with applicable requirements if the appropriate performance or compliance test or procedure had been performed.

[F. If a violation of applicable emission standards is judged to have taken place as a result of periods of excess emissions during startup or shutdown, the owner is entitled to an affirmative defense for relief from penalties provided the owner proves that:

1. The periods of excess emissions that occurred during startup and shutdown were short and infrequent and could not have been prevented through careful planning and design;

2. The excess emissions were not part of a recurring pattern indicative of inadequate design, operation, or maintenance;

3. If the excess emissions were caused by a bypass (an intentional diversion of control equipment), then the bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

4. At all times, the facility was operated in a manner consistent with good practice for minimizing emissions;

5. The frequency and duration of operation in startup or shutdown mode was minimized to the maximum extent practicable;

6. All possible steps were taken to minimize the impact of the excess emissions on ambient air quality;

7. All emission monitoring systems were kept in operation if at all possible;

8. The owner or operator's actions during the period of excess emissions were documented by properly signed, contemporaneous operating logs, or other relevant evidence; and

9. The owner or operator properly and promptly notified the appropriate regulatory authority.]

9 VAC 5-60-30. Emission testing.

A. Emission tests for hazardous air pollutant sources shall be conducted and reported and data shall be reduced as set forth in this chapter and in the appropriate reference methods; ~~if not appropriate, then equivalent or alternative methods shall be used unless the board (i) specifies or approves, in specific cases, the use of a reference method with minor changes in~~

methodology; (ii) approves the use of an equivalent method; (iii) approves the use of an alternative method the results of which the board has determined to be adequate for indicating whether a specific source is in compliance; (iv) waives the requirement for emission tests because the owner of a source has demonstrated by other means to the board's satisfaction that the affected facility is in compliance with the standard; or (v) approves shorter sampling times and smaller sample volumes when necessitated by process variables or other factors.

B. Emission testing for hazardous air pollutant sources shall be subject to testing guidelines approved by the board. Procedures may be adjusted or changed by the board to suit specific sampling conditions or needs based upon good practice, judgement and experience. When such tests are adjusted, consideration shall be given to the effect of such change on established emission standards. Tests shall be performed under the direction of persons whose qualifications are acceptable to the board.

C. Emission tests for hazardous air pollutant sources shall be conducted under conditions which the board shall specify to the owner based on representative performance of the source. The owner shall make available to the board such records as may be necessary to determine the conditions of the emission tests. Operations during periods of startup, shutdown and malfunction shall not constitute representative conditions of emission tests for the purpose of an emission test ~~[nor shall . During the initial emission test]~~ emissions in excess of the level of the applicable emission limit during periods of startup, shutdown, and malfunction ~~[shall not]~~ be considered a violation of the applicable emission limit unless otherwise specified in the applicable standard.

~~D. Any owner may request that the board determine the visible emissions from a hazardous air pollutant source during the emission tests required by this section.~~

~~E. D.~~ Each emission test for a hazardous air pollutant source shall consist of three separate runs using the applicable test method. Each run shall be conducted for the time and under the conditions specified in the applicable standard. For the purpose of determining compliance with an applicable standard the arithmetic mean of the results of the three runs shall apply. In the event that a sample is accidentally lost or if conditions occur in which one of the three runs must be discontinued because of forced shutdown, failure of the sample train, extreme meteorological conditions or other circumstances beyond the owner's control, compliance may, upon the approval of the board, be determined using the arithmetic mean of the results of the two other runs.

~~F. E.~~ The board may test emissions of air pollutants from any hazardous air pollutant source. Upon request of the board the owner shall provide, or cause to be provided, emission testing facilities as follows:

1. Sampling ports adequate for test methods applicable to such source; *This includes (i) constructing the air pollution control system such that volumetric flow rates and pollutant emission rates can be accurately determined by applicable test methods and procedures and (ii) providing a*

stack or duct [free of cyclonic flow with acceptable flow characteristics] during [performance emission] tests, as demonstrated by applicable test methods and procedures.

2. Safe sampling platforms;
3. Safe access to sampling platforms; ~~and.~~
4. Utilities for sampling and testing equipment.

~~G. Methods 101, 101A, 102 and 104 of Appendix B of 40 CFR 61 shall be used for all hazardous air pollutant source tests required under this chapter unless an equivalent method or an alternative method has been approved by the board.~~

~~H. Method 103 of Appendix B of 40 CFR 61 is hereby approved as an alternative method for sources subject to 40 CFR 61.32(a) and 40 CFR 61.42(b).~~

~~I. Method 105 of Appendix B of 40 CFR 61 is hereby approved as an alternative method for sources subject to 40 CFR 61.52(b).~~

~~J. The board may, after notice to the owner, withdraw approval of an alternative method granted under subsections H and I of this section. Where the test results using an alternative method do not adequately indicate whether a source is in compliance with a standard, the board may require the use of the reference method or its equivalent.~~

~~K. F.~~ Upon request of the board, the owner of any hazardous air pollutant source subject to the provisions of this chapter shall conduct emission tests in accordance with procedures approved by the board.

VA.R. Doc. No. R97-708; Filed April 10, 2000, 4:49 p.m.

**Title of Regulation: Regulations for the Control and Abatement of Air Pollution (Rev. S97).
9 VAC 5-20-10 et seq. General Provisions (amending 9 VAC 5-20-21 and 9 VAC 5-20-202).
9 VAC 5-40-10 et seq. Existing Stationary Sources (adding 9 VAC 5-40-6000 through 9 VAC 5-40-6230).**

Statutory Authority: § 10.1-1308 of the Code of Virginia.

Effective Date: July 1, 2000.

Summary:

This regulation applies to hospital/medical/infectious waste incinerators (HMIWIs), and includes emission limits for particulate matter, carbon monoxide, dioxins/furans, hydrogen chloride, sulfur dioxide, nitrogen oxides, lead, cadmium, and mercury. Special HMIWI operator training and qualification requirements are included in order to assure proper facility operation and compliance with the emissions limitations; sources are also required to prepare overall waste management plans. Compliance, emissions testing, and monitoring requirements are delineated, as well as recordkeeping and reporting of such test results. Finally, specific compliance schedules are provided.

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Changes made to the regulation since it was proposed include: (i) an amendment for clarification of exempted facilities; (ii) the amendment of definitions for consistency with the Virginia Waste Management Boards' definitions; and (iii) the correction of the minimum frequency for data measurement and data recording with regard to the maximum charge rate in Table 4-44B.

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.

Agency Contact: Alma Jenkins, Office of Air Regulatory Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4070.

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 [~~(1998)~~ (1999)] in effect July 1, [~~1998~~ 1999]. 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 headquarters 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 PM₁₀ 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.

b. Copies may be obtained from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402; 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, Publication No. PB95196028, 1995; Volume II: Supplement A, Publication No. PB96192497, 1996.

b. Copies may be obtained from: U.S. Department of Commerce, National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161; phone (703) 487-4650.

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, U.S. Government Printing Office, Washington, D.C. 20402; 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) D323-94, "Standard Test Method for Vapor Pressure of Petroleum Products (Reid Method)" from Section 5, Volume 05.01 of the 1985 Annual Book of ASTM Standards.

(2) D97-93, "Standard Test Method for Pour Point of Petroleum Oils" from Section 5, Volume 05.01 of the 1989 Annual Book of ASTM Standards.

(3) D129-91, "Standard Test Method for Sulfur in Petroleum Products (General Bomb Method)," 1991.

(4) D388-95, "Standard Classification of Coals by Rank," 1995.

(5) D396-92, "Standard Specification for Fuel Oils," 1992.

(6) D975-94, "Standard Specification for Diesel Fuel Oils," 1994.

(7) D1072-90, "Standard Test Method for Total Sulfur in Fuel Gases," 1990, reapproved 1994.

(8) D1265-92, "Standard Practice for Sampling Liquefied Petroleum (LP) Gases (Manual Method)," 1992.

(9) D2622-94, "Standard Test Method for Sulfur in Petroleum Products by X-Ray Spectrometry," 1994.

(10) D4057-88, "Standard Practice for Manual Sampling of Petroleum and Petroleum Products," 1988.

(11) D4294-90, "Standard Test Method for Sulfur in Petroleum Products by Energy-Dispersive X-Ray Fluorescence Spectroscopy," 1990.

b. Copies may be obtained from: American Society for Testing Materials, 1916 Race Street, Philadelphia, Pennsylvania 19103; phone (610) 832-9585.

5. American Petroleum Institute (API).

a. The following document from the American Petroleum Institute is incorporated herein by reference: API Publication 2517, Evaporation Loss from External Floating Roof Tanks, Third Edition, 1989.

b. Copies may be obtained from: American Petroleum Institute, 2101 L Street, Northwest, Washington, D.C. 20037; 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).

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b. Copies may be obtained from: ACGIH, 6500 Glenway Avenue, Building D-7, Cincinnati, Ohio 45211-4438; 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, 1990 Edition.

(2) NFPA 30, Flammable and Combustible Liquids Code, 1993 Edition.

(3) NFPA 30A, Automotive and Marine Service Station Code, 1993 Edition.

b. Copies may be obtained from the National Fire Prevention Association, Batterymarch Park, Quincy, Massachusetts 02269; 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, 22 Law Drive, Fairfield, New Jersey 07004.

9. [~~Reserved.~~ 10.] *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, P.O. Box 92683, Chicago, IL 60675-2683; phone (800) 242-2626.*

9 VAC 5-20-202. Metropolitan statistical areas.

Metropolitan Statistical Areas are geographically defined as follows:

Title	Geographical Area
Bristol MSA	Bristol City Scott County Washington County
Charlottesville MSA	Charlottesville City

Danville MSA

Lynchburg MSA

Norfolk-Virginia Beach-
Newport News MSA

Richmond-Petersburg MSA

Roanoke MSA

National Capital MSA

Albemarle County
Fluvanna County
Greene County
Danville City
Pittsylvania County
Bedford City
Lynchburg City
Amherst County
Bedford County
Campbell County
Chesapeake City

Norfolk City
Portsmouth City
Suffolk City
Virginia Beach City
Hampton City
Newport News City
Poquoson City
Williamsburg City
Gloucester County
Isle of Wight County
James City County
Mathews County
York County

Richmond City
Colonial Heights City
Hopewell City
Petersburg City
Charles City County
Chesterfield County
Goochland County
Hanover County
Henrico County
New Kent County
Powhatan County
Prince George County
Dinwiddie County

Roanoke City
Salem City
Botetourt County
Roanoke County
Alexandria City
Fairfax City
Falls Church City
Fredericksburg City
Manassas City
Manassas Park City
Arlington County
Clarke County
Culpeper County
Fairfax County
[*Fauquier County*]
King George County
Loudoun County
Prince William County
Spottsylvania County
Stafford County
Warren County

PART II.
EMISSION STANDARDS.

Article 44.

Hospital/Medical/Infectious Waste Incinerators [(Rule 4-44)].

9 VAC 5-40-6000. 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 individual HMIWI for which construction was commenced on or before June 20, 1996.

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

C. Exempted from the provisions of this article are the following:

1. Combustors during periods when only pathological waste, low-level radioactive waste, or chemotherapeutic waste is burned, provided the owner:

- a. Notifies the board of an exemption claim; and
- b. Keeps records on a calendar quarter basis of the periods of time when only pathological waste, low-level radioactive waste, or chemotherapeutic waste is burned.

2. Any co-fired combustor if the owner of the co-fired combustor:

- a. Notifies the board of an exemption claim;
- b. Provides an estimate of the relative weight of hospital waste, medical/infectious waste, and other fuels and or wastes to be combusted; and
- c. Keeps records on a calendar quarter basis of the weight of hospital waste and medical/infectious waste combusted, and the weight of all other fuels and wastes combusted at the co-fired combustor.

3. Any combustor required to have a permit under § 3005 of the Solid Waste Disposal Act (42 USC § 6901 et seq.).

4. Any combustor which meets the applicability requirements under subpart Ea or Eb of 40 CFR Part 60 (standards for certain municipal waste combustors).

5. Any pyrolysis unit.

6. Cement kilns firing hospital waste and medical/infectious waste or both.

D. The provisions of this article do not apply to affected facilities subject to [~~other emission standards in this part, including~~] the standards in 9 VAC 5 Chapter 40, Article 46 (9 VAC 5-40-7950 et seq.).

E. Physical or operational changes made to an existing HMIWI unit solely for the purpose of complying with this article are not considered a modification and do not result in an existing HMIWI unit becoming subject to the provisions of subpart Ec of 40 CFR Part 60 (see 40 CFR 60.50c).

F. Beginning September 15, 2000, affected facilities subject to this article shall operate pursuant to a federal operating permit.

9 VAC 5-40-6010. Definitions.

A. For the purpose of these regulations and subsequent amendments or any orders issued by the board, the words or terms shall have the meaning given them in subsection C of this section.

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

C. Terms defined.

"Batch HMIWI" means an HMIWI that is designed such that neither waste charging nor ash removal can occur during combustion.

"Biologicals" means preparations made from living organisms and their products, including vaccines, cultures, etc., intended for use in diagnosing, immunizing, or treating humans or animals or in research pertaining thereto.

"Blood products" means any product derived from human blood, including but not limited to blood plasma, platelets, red or white blood corpuscles, and other derived licensed products, such as interferon, etc.

"Body fluids" means [any] liquid emanating or derived from humans and [not] limited to blood; dialysate; amniotic, cerebrospinal, synovial, pleural, peritoneal and pericardial fluids; and semen and vaginal secretions.

"Bypass stack" means a device used for discharging combustion gases to avoid severe damage to the air pollution control device or other equipment.

"Chemotherapeutic waste" means waste material resulting from the production or use of antineoplastic agents used for the purpose of stopping or reversing the growth of malignant cells.

"Co-fired combustor" means a unit combusting hospital waste and medical/infectious waste or both with other fuels or wastes (e.g., coal, municipal solid waste) and subject to an enforceable requirement limiting the unit to combusting a fuel feed stream, 10% or less of the weight of which is comprised, in aggregate, of hospital waste and medical/infectious waste as measured on a calendar quarter basis. For purposes of this definition, pathological waste, chemotherapeutic waste, and low-level radioactive waste are considered "other" wastes when calculating the percentage of hospital waste and medical/infectious waste combusted.

"Combustor" means any type of stationary equipment in which solid, liquid or gaseous fuels and refuse are burned (including, but not limited to, furnaces, ovens, and kilns) for the primary purpose of destroying matter or reducing the volume, or both, of the waste by removing combustible matter.

"Commenced" means an owner has undertaken a continuous program of construction or modification or that an

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owner has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction or modification.

"Compliance schedule" means a legally enforceable schedule specifying a date or dates by which a source must comply with specific emission limits contained in this article or with any increments of progress to achieve such compliance.

"Construction" means fabrication, erection, or installation of an affected facility.

"Continuous emission monitoring system" means a monitoring system for continuously measuring and recording the emissions of a pollutant from an affected facility.

"Continuous HMIWI" means an HMIWI that is designed to allow waste charging and ash removal during combustion.

"Dioxins/furans" means the combined emissions of tetra-through octa-chlorinated dibenzo-para-dioxins and dibenzofurans, as measured by Reference Method 23.

"Dry scrubber" means an add-on air pollution control system that injects dry alkaline sorbent (dry injection) or sprays an alkaline sorbent (spray dryer) to react with and neutralize acid gases in the HMIWI exhaust stream forming a dry powder material.

"Fabric filter" means an add-on air pollution control system that removes particulate matter and nonvolatile metals emissions by passing flue gas through filter bags.

"Facilities manager" means the individual in charge of purchasing, maintaining, and operating the HMIWI or the owner's representative responsible for the management of the HMIWI. Alternative titles may include director of facilities or vice president of support services.

"Federal operating permit" means a permit issued under Article 1 (9 VAC 5-80-50 et seq.) or Article 3 (9 VAC 5-80-360 et seq.) of Part II of 9 VAC 5 Chapter 80.

"High-air phase" means the stage of the batch operating cycle when the primary chamber reaches and maintains maximum operating temperatures.

"Hospital" means any facility which has an organized medical staff, maintains at least six inpatient beds, and where the primary function of the institution is to provide diagnostic and therapeutic patient services and continuous nursing care primarily to human inpatients who are not related and who stay on average in excess of 24 hours per admission. This definition does not include facilities maintained for the sole purpose of providing nursing or convalescent care to human patients who generally are not acutely ill but who require continuing medical supervision.

"Hospital/medical/infectious waste incinerator" or "HMIWI" or "HMIWI unit" means any device that combusts any amount of hospital waste and medical/infectious waste or both.

"Hospital/medical/infectious waste incinerator operator" or "HMIWI operator" means any person who operates, controls or supervises the day-to-day operation of an HMIWI.

"Hospital waste" means discards generated at a hospital, except unused items returned to the manufacturer. The definition of hospital waste does not include human corpses, remains, and anatomical parts that are intended for interment or cremation.

"Infectious agent" means any organism (such as a virus or bacteria) that is capable of being communicated by invasion and multiplication in body tissues and capable of causing disease or adverse health impacts in humans.

"Intermittent HMIWI" means an HMIWI that is designed to allow waste charging, but not ash removal, during combustion.

"Large HMIWI" means:

1. Except as provided in subdivision 2 of this definition,
 - a. An HMIWI whose maximum design waste burning capacity is more than 500 pounds per hour;
 - b. A continuous or intermittent HMIWI whose maximum charge rate is more than 500 pounds per hour; or
 - c. A batch HMIWI whose maximum charge rate is more than 4,000 pounds per day.
2. The following are not large HMIWI:
 - a. A continuous or intermittent HMIWI whose maximum charge rate is less than or equal to 500 pounds per hour; or
 - b. A batch HMIWI whose maximum charge rate is less than or equal to 4,000 pounds per day.

"Low-level radioactive waste" means waste material which contains radioactive nuclides emitting primarily beta or gamma radiation, or both, in concentrations or quantities that exceed applicable federal or state standards for unrestricted release. Low-level radioactive waste is not high-level radioactive waste, spent nuclear fuel, or by-product material as defined by the Atomic Energy Act of 1954 (42 USC § 2014(e)(2)).

"Malfunction" means any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner. Failures that are caused, in part, by poor maintenance or careless operation are not malfunctions. During periods of malfunction the HMIWI operator shall operate within established parameters as much as possible, and monitoring of all applicable operating parameters shall continue until all waste has been combusted or until the malfunction ceases, whichever comes first.

"Maximum charge rate" means:

1. For continuous and intermittent HMIWI, 110% of the lowest three-hour average charge rate measured during the most recent emissions test demonstrating compliance with all applicable emission limits.
2. For batch HMIWI, 110% of the lowest daily charge rate measured during the most recent emissions test

demonstrating compliance with all applicable emission limits.

"Maximum design waste burning capacity" means:

1. For intermittent and continuous HMIWI,

$$C = P_V \times 15,000/8,500$$

where:

$$C = \text{HMIWI capacity, lb/hr}$$

$$P_V = \text{primary chamber volume, ft}^3$$

$$15,000 = \text{primary chamber heat release rate factor, Btu/ft}^3/\text{hr}$$

$$8,500 = \text{standard waste heating value, Btu/lb;}$$

2. For batch HMIWI,

$$C = P_V \times 4.5/8$$

where:

$$C = \text{HMIWI capacity, lb/hr}$$

$$P_V = \text{primary chamber volume, ft}^3$$

$$4.5 = \text{waste density, lb/ft}^3$$

$$8 = \text{typical hours of operation of a batch HMIWI, hours.}$$

"Maximum fabric filter inlet temperature" means 110% of the lowest three-hour average temperature at the inlet to the fabric filter (taken, at a minimum, once every minute) measured during the most recent emissions test demonstrating compliance with the dioxin/furan emission limit.

"Maximum flue gas temperature" means 110% of the lowest three-hour average temperature at the outlet from the wet scrubber (taken, at a minimum, once every minute) measured during the most recent emissions test demonstrating compliance with the mercury emission limit.

"Medical/infectious waste" means any waste generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals that is listed in subdivisions 1 through [7 9] of this definition. The definition of medical/infectious waste does not include hazardous waste identified or listed under the regulations in 40 CFR Part 261; household waste, as defined in 40 CFR 261.4(b)(1); ash from incineration of medical/infectious waste, once the incineration process has been completed; human corpses, remains, and anatomical parts that are intended for interment or cremation; and domestic sewage materials identified in 40 CFR 261.4(a)(1).

1. Cultures and stocks of infectious agents and associated biologicals, including: cultures from medical and pathological laboratories; cultures and stocks of infectious agents from research and industrial laboratories; wastes from the production of biologicals; discarded live and attenuated vaccines; and culture dishes and devices used to transfer, inoculate, and mix cultures.

2. Human pathological waste, including tissues, organs, and body parts and body fluids that are removed during surgery or autopsy, or other medical procedures, and specimens of body fluids and their containers.

3. Human blood and blood products [, regardless of whether containerized,] including:

- a. Liquid [~~waste~~] human blood;

- b. Products of blood;

- [c. Items containing unabsorbed or free-flowing blood;

- e. d.] Items saturated or dripping or both with human blood; or

- [e. e.] Items that were saturated or dripping or both with human blood that are now caked with dried human blood; including serum, plasma, and other blood components, and their containers, which were used or intended for use in either patient care, testing and laboratory analysis or the development of pharmaceuticals. Intravenous bags are also included in this category.

4. [Regardless of the presence of infectious agents,] sharps that have been used in animal or human patient care or treatment or in medical, research, or industrial laboratories, including hypodermic needles, syringes (with or without the attached needle), pasteur pipettes, scalpel blades, blood vials, needles with attached tubing, and culture dishes [~~(regardless of presence of infectious agents)~~]. Also included are other types of broken or unbroken glassware that [~~were~~ may have been] in contact with infectious agents, such as used slides and cover slips.

5. Animal waste including contaminated animal carcasses, body parts, and bedding of animals that were known to have been exposed to infectious agents during research (including research in veterinary hospitals), production of biologicals or testing of pharmaceuticals.

6. Isolation wastes including biological waste and discarded materials contaminated with blood, excretions, exudates, or secretions from humans who are isolated to protect others from certain highly communicable diseases, or isolated animals known to be infected with highly communicable diseases.

7. Unused sharps including the following unused, discarded sharps: hypodermic needles, suture needles, syringes, and scalpel blades.

- [8. Any waste that is contaminated or mixed with any waste listed in subdivisions 1 through 7 of this definition.

9. Any residue or contaminated soil, waste, or other debris resulting from the cleaning of a spill of any waste listed in subdivisions 1 through 8 of this definition.]

"Medium HMIWI" means:

1. Except as provided in subdivision 2 of this definition,

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a. An HMIWI whose maximum design waste burning capacity is more than 200 pounds per hour but less than or equal to 500 pounds per hour;

b. A continuous or intermittent HMIWI whose maximum charge rate is more than 200 pounds per hour but less than or equal to 500 pounds per hour; or

c. A batch HMIWI whose maximum charge rate is more than 1,600 pounds per day but less than or equal to 4,000 pounds per day.

2. The following are not medium HMIWI:

a. A continuous or intermittent HMIWI whose maximum charge rate is less than or equal to 200 pounds per hour or more than 500 pounds per hour; or

b. A batch HMIWI whose maximum charge rate is more than 4,000 pounds per day or less than or equal to 1,600 pounds per day.

"Minimum dioxin/furan sorbent flow rate" means 90% of the highest three-hour average dioxin/furan sorbent flow rate (taken, at a minimum, once every hour) measured during the most recent emissions test demonstrating compliance with the dioxin/furan emission limit.

"Minimum mercury sorbent flow rate" means 90% of the highest three-hour average mercury sorbent flow rate (taken, at a minimum, once every hour) measured during the most recent emissions test demonstrating compliance with the mercury emission limit.

"Minimum hydrogen chloride sorbent flow rate" means 90% of the highest three-hour average hydrogen chloride sorbent flow rate (taken, at a minimum, once every hour) measured during the most recent emissions test demonstrating compliance with the hydrogen chloride emission limit.

"Minimum horsepower or amperage" means 90% of the highest three-hour average horsepower or amperage to the wet scrubber (taken, at a minimum, once every minute) measured during the most recent emissions test demonstrating compliance with the applicable emission limits.

"Minimum pressure drop across the wet scrubber" means 90% of the highest three-hour average pressure drop across the wet scrubber particulate matter control device (taken, at a minimum, once every minute) measured during the most recent emissions test demonstrating compliance with the particulate matter emission limit.

"Minimum scrubber liquor flow rate" means 90% of the highest three-hour average liquor flow rate at the inlet to the wet scrubber (taken, at a minimum, once every minute) measured during the most recent emissions test demonstrating compliance with all applicable emission limits.

"Minimum scrubber liquor pH" means 90% of the highest three-hour average liquor pH at the inlet to the wet scrubber (taken, at a minimum, once every minute) measured during the most recent emissions test demonstrating compliance with the hydrogen chloride emission limit.

"Minimum secondary chamber temperature" means 90% of the highest three-hour average secondary chamber temperature (taken, at a minimum, once every minute) measured during the most recent emissions test demonstrating compliance with the particulate matter, carbon monoxide, or dioxin/furan emission limits.

"Modification" means any change to an HMIWI unit after March 16, 1998, such that:

1. The cumulative costs of the modifications, over the life of the unit, exceed 50% of the original cost of the construction and installation of the unit (not including the cost of any land purchased in connection with such construction or installation) updated to current costs, or

2. The change involves a physical change in or change in the method of operation of the unit which increases the amount of any air pollutant emitted by the unit for which standards have been established under § 111 or § 129 of the federal Clean Air Act.

"Operating day" means a 24-hour period between 12:00 midnight and the following midnight during which any amount of hospital waste or medical/infectious waste is combusted at any time in the HMIWI.

"Operation" means the period during which waste is combusted in the incinerator excluding periods of startup or shutdown.

"Particulate matter" means the total particulate matter emitted from an HMIWI as measured by Reference Method 5 or Reference Method 29.

"Pathological waste" means waste material consisting of only human or animal remains, anatomical parts, or tissue, the bags and containers used to collect and transport the waste material, and animal bedding (if applicable).

"Primary chamber" means the chamber in an HMIWI that receives waste material, in which the waste is ignited, and from which ash is removed.

"Pyrolysis" means the endothermic gasification of hospital waste or medical/infectious waste or both using external energy.

"Secondary chamber" means a component of the HMIWI that receives combustion gases from the primary chamber and in which the combustion process is completed.

"Shutdown" means the period of time after all waste has been combusted in the primary chamber. For continuous HMIWI, shutdown shall commence no less than two hours after the last charge to the incinerator. For intermittent HMIWI, shutdown shall commence no less than four hours after the last charge to the incinerator. For batch HMIWI, shutdown shall commence no less than five hours after the high-air phase of combustion has been completed.

"Small HMIWI" means:

1. Except as provided in subdivision 2 of this definition,

a. An HMIWI whose maximum design waste burning capacity is less than or equal to 200 pounds per hour;

b. A continuous or intermittent HMIWI whose maximum charge rate is less than or equal to 200 pounds per hour; or

c. A batch HMIWI whose maximum charge rate is less than or equal to 1,600 pounds per day.

2. The following are not small HMIWI:

a. A continuous or intermittent HMIWI whose maximum charge rate is more than 200 pounds per hour;

b. A batch HMIWI whose maximum charge rate is more than 1,600 pounds per day.

"Small, rural HMIWI" means any small HMIWI which is located more than 50 miles from the boundary of the nearest Metropolitan Statistical Area and which burns less than 2,000 pounds per week of hospital waste and medical/infectious waste. The 2,000 pounds-per-week limitation does not apply during emissions tests.

"Startup" means the period of time between the activation of the system and the first charge to the unit. For batch HMIWI, startup means the period of time between activation of the system and ignition of the waste.

"Wet scrubber" means an add-on air pollution control device that utilizes an alkaline scrubbing liquor to collect particulate matter (including nonvaporous metals and condensed organics), and to absorb and neutralize acid gases, or both.

9 VAC 5-40-6020. Limit for particulate matter.

No owner or other person shall cause or permit to be discharged into the atmosphere from any HMIWI any particulate emissions in excess of the following limits:

1. For small HMIWI: 0.05 grains per dry standard cubic foot (115 milligrams per dry standard cubic meter).
2. For medium HMIWI: 0.03 grains per dry standard cubic foot (69 milligrams per dry standard cubic meter).
3. For large HMIWI: 0.015 grains per dry standard cubic foot (34 milligrams per dry standard cubic meter).
4. For small, rural HMIWI: 0.086 grains per dry standard cubic foot (197 milligrams per dry standard cubic meter).

9 VAC 5-40-6030. Limit for carbon monoxide.

No owner or other person shall cause or permit to be discharged into the atmosphere from any HMIWI any carbon monoxide emissions in excess of the following limits:

1. For small HMIWI: 40 parts per million by volume.
2. For medium HMIWI: 40 parts per million by volume.
3. For large HMIWI: 40 parts per million by volume.
4. For small, rural HMIWI: 40 parts per million by volume.

9 VAC 5-40-6040. Limit for dioxins/furans.

No owner or other person shall cause or permit to be discharged into the atmosphere from any HMIWI any dioxin/furan emissions in excess of the following limits:

1. For small HMIWI: 55 grains per dry billion standard cubic feet (125 nanograms per dry standard cubic meter) total dioxin/furan or 1.0 grains per billion standard cubic meter total TEQ (2.3 nanograms per dry standard cubic meter TEQ).
2. For medium HMIWI: 55 grains per billion dry standard cubic feet (125 nanograms per dry standard cubic meter) total dioxin/furan or 1.0 grains per billion standard cubic meter total TEQ (2.3 nanograms per dry standard cubic meter TEQ).
3. For large HMIWI: 55 grains per billion dry standard cubic feet (125 nanograms per dry standard cubic meter) total dioxin/furan or 1.0 grains per billion standard cubic meter total TEQ (2.3 nanograms per dry standard cubic meter TEQ).
4. For small, rural HMIWI: 350 grains per billion dry standard cubic feet (800 nanograms per dry standard cubic meter) total dioxin/furan or 6.6 grains per billion standard cubic meter total TEQ (15 nanograms per dry standard cubic meter TEQ).

9 VAC 5-40-6050. Limit for hydrogen chloride.

No owner or other person shall cause or permit to be discharged into the atmosphere from any HMIWI any hydrogen chloride emissions in excess of the following limits:

1. For small HMIWI: 100 parts per million by volume or 93% reduction.
2. For medium HMIWI: 100 parts per million by volume or 93% reduction.
3. For large HMIWI: 100 parts per million by volume or 93% reduction.
4. For small, rural HMIWI: 3,100 parts per million by volume.

9 VAC 5-40-6060. Limit for sulfur dioxide.

No owner or other person shall cause or permit to be discharged into the atmosphere from any HMIWI any sulfur dioxide emissions in excess of the following limits:

1. For small HMIWI: 55 parts per million by volume.
2. For medium HMIWI: 55 parts per million by volume.
3. For large HMIWI: 55 parts per million by volume.
4. For small, rural HMIWI: 55 parts per million by volume.

9 VAC 5-40-6070. Limit for nitrogen oxides.

No owner or other person shall cause or permit to be discharged into the atmosphere from any HMIWI any nitrogen oxide emissions in excess of the following limits:

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1. For small HMIWI: 250 parts per million by volume.
2. For medium HMIWI: 250 parts per million by volume.
3. For large HMIWI: 250 parts per million by volume.
4. For small, rural HMIWI: 250 parts per million by volume.

9 VAC 5-40-6080. Limit for lead.

No owner or other person shall cause or permit to be discharged into the atmosphere from any HMIWI any lead emissions in excess of the following limits:

1. For small HMIWI: 0.52 grains per thousand dry standard cubic feet (1.2 milligrams per dry standard cubic meter) or 70% reduction.
2. For medium HMIWI: 0.52 grains per thousand dry standard cubic feet (1.2 milligrams per dry standard cubic meter) or 70% reduction.
3. For large HMIWI: 0.52 grains per thousand dry standard cubic feet (1.2 milligrams per dry standard cubic meter) or 70% reduction.
4. For small, rural HMIWI: 4.4 grains per thousand dry standard cubic feet (10 milligrams per dry standard cubic meter).

9 VAC 5-40-6090. Limit for cadmium.

No owner or other person shall cause or permit to be discharged into the atmosphere from any HMIWI any cadmium emissions in excess of the following limits:

1. For small HMIWI: 0.07 grains per thousand dry standard cubic feet (0.16 milligrams per dry standard cubic meter) or 65% reduction.
2. For medium HMIWI: 0.07 grains per thousand dry standard cubic feet (0.16 milligrams per dry standard cubic meter) or 65% reduction.
3. For large HMIWI: 0.07 grains per thousand dry standard cubic feet (0.16 milligrams per dry standard cubic meter).
4. For small, rural HMIWI: 1.7 grains per thousand dry standard cubic feet (4 milligrams per dry standard cubic meter).

9 VAC 5-40-6100. Limit for mercury.

No owner or other person shall cause or permit to be discharged into the atmosphere from any HMIWI any mercury emissions in excess of the following limits:

1. For small HMIWI: 0.24 grains per thousand dry standard cubic feet (0.55 milligrams per dry standard cubic meter) or 85% reduction.
2. For medium HMIWI: 0.24 grains per thousand dry standard cubic feet (0.55 milligrams per dry standard cubic meter) or 85% reduction.

3. For large HMIWI: 0.24 grains per thousand dry standard cubic feet (0.55 milligrams per dry standard cubic meter) or 85% reduction.

4. For small, rural HMIWI: 3.3 grains per thousand dry standard cubic feet (7.5 milligrams per dry standard cubic meter).

9 VAC 5-40-6110. Limit for visible emissions.

A. The provisions of Article 1 (9 VAC 5-40-60 et seq.) of 9 VAC 5 Chapter 40 (Emission Standards for Visible Emissions) apply except that the provisions in subsection B of this section apply instead of 9 VAC 5-40-80.

B. No owner or other person shall cause or permit to be discharged into the atmosphere from any HMIWI any visible emissions which exhibit greater than 10% opacity, six-minute block average. Failure to meet the requirements of this section because of the presence of condensed water vapor shall not be a violation of this section.

9 VAC 5-40-6120. Limit for fugitive dust/emissions.

The provisions of Article 1 (9 VAC 5-40-60 et seq.) of 9 VAC 5 Chapter 40 (Emission Standards for Fugitive Dust/Emissions, Rule 4-1) apply.

9 VAC 5-40-6130. Limit for odor.

The provisions of Article 2 (9 VAC 5-40-130 et seq.) of 9 VAC 5 Chapter 40 (Emission Standards for Odor, Rule 4-2) apply.

9 VAC 5-40-6140. Limit for toxic pollutants.

The provisions of Article 3 (9 VAC 5-40-160 et seq.) of 9 VAC 5 Chapter 40 (Emission Standards for Toxic Pollutants, Rule 4-3) apply.

9 VAC 5-40-6150. HMIWI operator training and qualification.

A. No owner of an affected facility shall allow the affected facility to operate at any time unless a fully trained and qualified HMIWI operator is accessible, either at the facility or available within one hour. The trained and qualified HMIWI operator may operate the HMIWI directly or be the direct supervisor of one or more HMIWI operators.

B. HMIWI operator training and qualification shall be obtained through a program approved by the Board for Waste Management Facility Operators or by completing the requirements included in subsections C through G of this section.

C. Training shall be obtained by completing an HMIWI operator training course that includes, at a minimum, the following provisions:

1. Twenty-four hours of training on the following subjects:
 - a. Environmental concerns, including pathogen destruction and types of emissions;
 - b. Basic combustion principles, including products of combustion;

c. Operation of the type of incinerator to be used by the HMIWI operator, including proper startup, waste charging, and shutdown procedures;

d. Combustion controls and monitoring;

e. Operation of air pollution control equipment and factors affecting performance (if applicable);

f. Methods to monitor pollutants (continuous emission monitoring systems and monitoring of HMIWI and air pollution control device operating parameters) and equipment calibration procedures (where applicable);

g. Inspection and maintenance of the HMIWI, air pollution control devices, and continuous emission monitoring systems;

h. Actions to correct malfunctions or conditions that may lead to malfunction;

i. Bottom and fly ash characteristics and handling procedures;

j. Applicable federal, state, and local regulations;

k. Work safety procedures;

l. Pre-startup inspections; and

m. Recordkeeping requirements.

2. An examination designed and administered by the instructor.

3. Reference material distributed to the attendees covering the course topics.

D. Qualification shall be obtained by:

1. Completion of a training course that satisfies the criteria under subsection C of this section; and

2. Either six months experience as an HMIWI operator, six months experience as a direct supervisor of an HMIWI operator, or completion of at least two burn cycles under the observation of two qualified HMIWI operators.

E. Qualification is valid from the date on which the examination is passed or the completion of the required experience, whichever is later.

F. To maintain qualification, the trained and qualified HMIWI operator shall complete and pass an annual review or refresher course of at least four hours covering, at a minimum, the following:

1. Update of regulations;

2. Incinerator operation, including startup and shutdown procedures;

3. Inspection and maintenance;

4. Responses to malfunctions or conditions that may lead to malfunction; and

5. Discussion of operating problems encountered by attendees.

G. A lapsed qualification shall be renewed by one of the following methods:

1. For a lapse of less than three years, the HMIWI operator shall complete and pass a standard annual refresher course described in subsection F of this section.

2. For a lapse of three years or more, the HMIWI operator shall complete and pass a training course with the minimum criteria described in subsection C of this section.

H. The owner of an affected facility shall maintain documentation at the facility that address the following:

1. Summary of the applicable limits under this article;

2. Description of basic combustion theory applicable to an HMIWI;

3. Procedures for receiving, handling, and charging waste;

4. HMIWI startup, shutdown, and malfunction procedures;

5. Procedures for maintaining proper combustion air supply levels;

6. Procedures for operating the HMIWI and associated air pollution control systems within the limits established under this article;

7. Procedures for responding to periodic malfunction or conditions that may lead to malfunction;

8. Procedures for monitoring HMIWI emissions;

9. Reporting and recordkeeping procedures; and

10. Procedures for handling ash.

I. The owner of an affected facility shall establish a program for reviewing the information listed in subsection H of this section annually with each HMIWI operator.

1. The initial review of the information listed in subsection H of this section shall be conducted [~~within six months after (the effective date of this article)~~ by January 1, 2001,] or prior to assumption of responsibilities affecting HMIWI operation, whichever date is later.

2. Subsequent reviews of the information listed in subsection H of this section shall be conducted annually.

J. The information listed in subsection H of this section shall be kept in a readily accessible location for all HMIWI operators. This information, along with records of training shall be available for inspection by the board.

K. The initial training requirements of this section shall be performed [~~within one year from (the effective date of this article)~~ by July 1, 2001].

L. All training and licensing shall be in accordance with § 54.1-2212 of the Code of Virginia.

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9 VAC 5-40-6160. Waste management plans.

A. The owner of an affected facility shall prepare a waste management plan. The waste management plan shall identify both the feasibility and the approach to separate certain components of solid waste from the health care waste stream in order to reduce the amount of toxic emissions from incinerated waste. A waste management plan may include, but is not limited to, elements such as paper, cardboard, plastics, glass, battery, or metal recycling; or purchasing recycled or recyclable products. A waste management plan may include different goals or approaches for different areas or departments of the facility and need not include new waste management goals for every waste stream. It should identify, where possible, reasonably available additional waste management measures, taking into account the effectiveness of waste management measures already in place, the costs of additional measures, the emission reductions expected to be achieved, and any other environmental or energy impacts they might have. The American Hospital Association publication entitled "An Ounce of Prevention: Waste Reduction Strategies for Health Care Facilities" (see 9 VAC 5-20-21) shall be considered in the development of the waste management plan.

B. The waste management plan shall be submitted to the board no later than 60 days after the initial emissions test as required under 9 VAC 5-40-6180.

9 VAC 5-40-6170. Inspections.

A. The owner shall conduct an initial equipment inspection of each affected small, rural HMIWI by [~~one year after the effective date of this article~~ July 1, 2001]. At a minimum, each inspection shall include the following:

1. Inspect all burners, pilot assemblies, and pilot sensing devices for proper operation; clean pilot flame sensor, as necessary;
2. Ensure proper adjustment of primary and secondary chamber combustion air, and adjust as necessary;
3. Inspect hinges and door latches, and lubricate as necessary;
4. Inspect dampers, fans, and blowers for proper operation;
5. Inspect HMIWI door and door gaskets for proper sealing;
6. Inspect motors for proper operation;
7. Inspect primary chamber refractory lining; clean and repair or replace lining as necessary;
8. Inspect incinerator shell for corrosion and hot spots;
9. Inspect secondary and tertiary chambers and stack, clean as necessary;
10. Inspect mechanical loader, including limit switches, for proper operation, if applicable;
11. Visually inspect waste bed (grates), and repair or seal, as appropriate;

12. For the burn cycle that follows the inspection, document that the incinerator is operating properly and make any necessary adjustments;

13. Inspect air pollution control device(s) for proper operation, if applicable;

14. Inspect waste heat boiler systems to ensure proper operation, if applicable;

15. Inspect bypass stack components;

16. Ensure proper calibration of thermocouples, sorbent feed systems and any other monitoring equipment; and

17. Generally observe that the equipment is maintained in good operating condition.

B. The owner shall conduct an equipment inspection of each affected small, rural HMIWI annually (no more than 12 months following the previous annual equipment inspection), as outlined in subsection A of this section.

C. Within 10 operating days following an equipment inspection all necessary repairs shall be completed unless the owner obtains written approval from the board establishing a date whereby all necessary repairs of the affected facility shall be completed.

9 VAC 5-40-6180. Compliance, emissions testing, and monitoring.

[A. The following provisions apply except as provided in subsections B through N of this section.

1. The provisions of 9 VAC 5-40-20 (Compliance).
2. The provisions of 9 VAC 5-40-30 (Emission testing).
3. The provisions of 9 VAC 5-40-40 (Monitoring).

A. B.] The emission limits under this article apply at all times except during periods of startup, shutdown, or malfunction, provided that no hospital waste or medical/infectious waste is charged to the affected facility during startup, shutdown, or malfunction.

[~~B. C.~~] Except as provided in subsection [~~K L~~] of this section, the owner of an affected facility shall conduct an initial emissions test as required under this section to determine compliance with the emission limits using the procedures and test methods listed in this subsection. The use of the bypass stack during an emissions test shall invalidate the emissions test.

1. All emissions tests shall consist of a minimum of three test runs conducted under representative operating conditions.
2. The minimum sample time shall be one hour per test run unless otherwise indicated.
3. Reference Method 1 shall be used to select the sampling location and number of traverse points.
4. Reference Method 3 or 3A shall be used for gas composition analysis, including measurement of oxygen

concentration. Reference Method 3 or 3A shall be used simultaneously with each reference method.

5. The pollutant concentrations shall be adjusted to 7.0% oxygen using the following equation:

$$C_{adj} = C_{meas}(20.9 - 7)(20.9 - \%O_2)$$

where:

C_{adj} = pollutant concentration adjusted to 7.0% oxygen;

C_{meas} = pollutant concentration measured on a dry basis;

(20.9 - 7) = 20.9% oxygen - 7.0% oxygen (defined oxygen correction basis);

20.9 = oxygen concentration in air, percent; and

$\%O_2$ = oxygen concentration measured on a dry basis, percent.

6. Reference Method 5 or 29 be used to measure the particulate matter emissions.

7. Reference Method 9 shall be used to measure stack opacity.

8. Reference Method 10 or 10B shall be used to measure the carbon monoxide emissions.

9. Reference Method 23 shall be used to measure total dioxin/furan emissions. The minimum sample time shall be four hours per test run. If the affected facility has selected the toxic equivalency limits for dioxin/furans, under 9 VAC 5-40-6040, the following procedures shall be used to determine compliance:

a. Measure the concentration of each dioxin/furan tetra-through octa-congener emitted using Reference Method 23.

b. For each dioxin/furan congener measured in accordance with subdivision [B] 9 a of this [~~section~~ subsection], multiply the congener concentration by its corresponding toxic equivalency factor specified in Table 4-44A of this article.

TABLE 4-44A.
TOXIC EQUIVALENCY FACTORS

Dioxin/furan congener	Toxic equivalency factor
2,3,7,8-tetrachlorinated dibenzo-p-dioxin	1
1,2,3,7,8-pentachlorinated dibenzo-p-dioxin	0.5
1,2,3,4,7,8-hexachlorinated dibenzo-p-dioxin	0.1
1,2,3,7,8,9-hexachlorinated dibenzo-p-dioxin	0.1
1,2,3,6,7,8-hexachlorinated dibenzo-p-dioxin	0.1
1,2,3,4,6,7,8-heptachlorinated dibenzo-p-dioxin	0.01
octachlorinated dibenzo-p-dioxin	0.001
2,3,7,8-tetrachlorinated dibenzofuran	0.1
2,3,4,7,8-pentachlorinated dibenzofuran	0.5
1,2,3,7,8-pentachlorinated dibenzofuran	0.05

1,2,3,4,7,8-hexachlorinated dibenzofuran	0.1
1,2,3,6,7,8-hexachlorinated dibenzofuran	0.1
1,2,3,7,8,9-hexachlorinated dibenzofuran	0.1
2,3,4,6,7,8-hexachlorinated dibenzofuran	0.1
1,2,3,4,6,7,8-heptachlorinated dibenzofuran	0.01
1,2,3,4,7,8,9-heptachlorinated dibenzofuran	0.01
Octachlorinated dibenzofuran	0.001

c. Sum the products calculated in accordance with subdivision [B] 9 b of this [~~section~~ subsection] to obtain the total concentration of dioxins/furans emitted in terms of toxic equivalency.

10. Reference Method 26 shall be used to measure hydrogen chloride emissions. If the affected facility has selected the percentage reduction limits for hydrogen chloride under 9 VAC 5-40-6050, the percentage reduction in hydrogen chloride emissions ($\%R_{HCl}$) is computed using the following formula:

$$(\% R_{HCl}) = \left(\frac{E_i - E_o}{E_i} \right) \times 100$$

where:

$\%R_{HCl}$ = percentage reduction of hydrogen chloride emissions achieved;

E_i = hydrogen chloride emission concentration measured at the control device inlet, corrected to 7.0% oxygen (dry basis); and

E_o = hydrogen chloride emission concentration measured at the control device outlet, corrected to 7.0% oxygen (dry basis).

11. Reference Method 29 shall be used to measure lead, cadmium, and mercury emissions. If the affected facility has selected the percentage reduction limits for metals under 9 VAC 5-40-6080, 9 VAC 5-40-6090, or 9 VAC 5-40-6100, the percentage reduction in emissions ($\%R_{metal}$) is computed using the following formula:

$$(\% R_{metal}) = \left(\frac{E_i - E_o}{E_i} \right) \times 100$$

where:

$\%R_{metal}$ = percentage reduction of metal emission (lead, cadmium, or mercury) achieved;

E_i = metal emission concentration (lead, cadmium, or mercury) measured at the control device inlet, corrected to 7.0% oxygen (dry basis); and

E_o = metal emission concentration (lead, cadmium, or mercury) measured at the control device outlet, corrected to 7.0% oxygen (dry basis).

[G. D.] Following the date on which the initial emissions test is completed or is required to be completed under this section, whichever date comes first, the owner of an affected facility shall:

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1. Determine compliance with the opacity limit by conducting an annual emissions test (no more than 12 months following the previous emissions test) using the applicable procedures and test methods listed in subsection [B C] of this section.

2. Determine compliance with the particulate matter, carbon monoxide, and hydrogen chloride emission limits by conducting an annual emissions test (no more than 12 months following the previous emissions test) using the applicable procedures and test methods listed in subsection [B C] of this section. If all three emissions tests over a three-year period indicate compliance with the emission limit for a pollutant (particulate matter, carbon monoxide, or hydrogen chloride), the owner may forego an emissions test for that pollutant for the subsequent two years. At a minimum, an emissions test for particulate matter, carbon monoxide, and hydrogen chloride shall be conducted every third year (no more than 36 months following the previous emissions test). If an emissions test conducted every third year indicates compliance with the emission limit for a pollutant (particulate matter, carbon monoxide, or hydrogen chloride), the owner may forego an emissions test for that pollutant for an additional two years. If any emissions test indicates noncompliance with the respective emission limit, an emissions test for that pollutant shall be

conducted annually until all annual emissions tests over a three-year period indicate compliance with the emission limit. The use of the bypass stack during an emissions test shall invalidate the emissions test.

3. Facilities using a continuous emission monitoring system to demonstrate compliance with any of the emission limits under 9 VAC 5-40-6020 through 9 VAC 5-40-6100 shall:

a. Determine compliance with the appropriate emission limit(s) using a 12-hour rolling average, calculated each hour as the average of the previous 12 operating hours (not including startup, shutdown, or malfunction).

b. Operate all continuous emission monitoring systems in accordance with the applicable procedures under Appendices B and F of 40 CFR Part 60.

[D. E.] The owner of an affected facility equipped with a dry scrubber followed by a fabric filter, a wet scrubber, or a dry scrubber followed by a fabric filter and wet scrubber shall:

1. Establish the appropriate maximum and minimum operating parameters, indicated in Table 4-44B of this article for each control system, as site specific operating parameters during the initial emissions test to determine compliance with the emission limits; and

TABLE 4-44B.
OPERATING PARAMETERS TO BE MONITORED
AND MINIMUM MEASUREMENT AND RECORDING FREQUENCIES

OPERATING PARAMETERS TO BE MONITORED	MINIMUM FREQUENCY		CONTROL SYSTEM		
	DATA MEASUREMENT	DATA RECORDING	DRY SCRUBBER/ FABRIC FILTER	WET SCRUBBER	DRY SCRUBBER/ FABRIC FILTER & WET SCRUBBER
MAXIMUM OPERATING PARAMETERS					
MAXIMUM CHARGE RATE	[CONTINUOUS 1 X CHARGE]	[4 X HOUR 1 X CHARGE]	✓	✓	✓
MAXIMUM FABRIC FILTER INLET TEMPERATURE	CONTINUOUS	1 X MINUTE	✓		✓
MAXIMUM FLUE GAS TEMP	CONTINUOUS	1 X MINUTE		✓	✓
MINIMUM OPERATING PARAMETERS					
MINIMUM SECONDARY CHAMBER TEMP	CONTINUOUS	1 X MINUTE	✓	✓	✓
MINIMUM DIOXIN/FURAN SORBENT FLOW RATE	HOURLY	1 X HOUR	✓		✓
MINIMUM HCl SORBENT FLOW RATE	HOURLY	1 X HOUR	✓		✓

MINIMUM Hg SORBENT FLOW RATE	HOURLY	1 X HOUR	✓		✓
MINIMUM PRESSURE DROP ACROSS WET SCRUBBER OR MINIMUM HORSEPOWER OR AMPERAGE TO WET SCRUBBER	CONTINUOUS	1 X MINUTE		✓	✓
MINIMUM SCRUBBER LIQUOR FLOW RATE	CONTINUOUS	1 X MINUTE		✓	✓
MINIMUM SCRUBBER LIQUOR pH	CONTINUOUS	1 X MINUTE		✓	✓

2. Following the date on which the initial emissions test is completed or is required to be completed under [subsection B of] this section, whichever date comes first, ensure that the affected facility does not operate above any of the applicable maximum operating parameters or below any of the applicable minimum operating parameters listed in Table 4-44B of this article and measured as three-hour rolling averages (calculated each hour as the average of the previous three operating hours) at all times except during periods of startup, shutdown and malfunction. Operating parameter limits do not apply during emissions tests. Operation above the established maximum or below the established minimum operating parameters shall constitute a violation of established operating parameters.

[E. F.] Except as provided in subsection [H I] of this section, for affected facilities equipped with a dry scrubber followed by a fabric filter:

1. Operation of the affected facility above the maximum charge rate and below the minimum secondary chamber temperature (each measured on a three-hour rolling average) simultaneously shall constitute a violation of the carbon monoxide emission limit.
2. Operation of the affected facility above the maximum fabric filter inlet temperature, above the maximum charge rate, and below the minimum dioxin/furan sorbent flow rate (each measured on a three-hour rolling average) simultaneously shall constitute a violation of the dioxin/furan emission limit.
3. Operation of the affected facility above the maximum charge rate and below the minimum hydrogen chloride sorbent flow rate (each measured on a three-hour rolling average) simultaneously shall constitute a violation of the hydrogen chloride emission limit.
4. Operation of the affected facility above the maximum charge rate and below the minimum mercury sorbent flow rate (each measured on a three-hour rolling average) simultaneously shall constitute a violation of the mercury emission limit.

5. Use of the bypass stack (except during startup, shutdown, or malfunction) shall constitute a violation of the particulate matter, dioxin/furan, hydrogen chloride, lead, cadmium, and mercury emission limits.

[F. G.] Except as provided in subsection [H I] of this section, for affected facilities equipped with a wet scrubber:

1. Operation of the affected facility above the maximum charge rate and below the minimum pressure drop across the wet scrubber or below the minimum horsepower or amperage to the system (each measured on a three-hour rolling average) simultaneously shall constitute a violation of the particulate matter emission limit.
2. Operation of the affected facility above the maximum charge rate and below the minimum secondary chamber temperature (each measured on a three-hour rolling average) simultaneously shall constitute a violation of the carbon monoxide emission limit.
3. Operation of the affected facility above the maximum charge rate, below the minimum secondary chamber temperature, and below the minimum scrubber liquor flow rate (each measured on a three-hour rolling average) simultaneously shall constitute a violation of the dioxin/furan emission limit.
4. Operation of the affected facility above the maximum charge rate and below the minimum scrubber liquor pH (each measured on a three-hour rolling average) simultaneously shall constitute a violation of the hydrogen chloride emission limit.
5. Operation of the affected facility above the maximum flue gas temperature and above the maximum charge rate (each measured on a three-hour rolling average) simultaneously shall constitute a violation of the mercury emission limit.
6. Use of the bypass stack (except during startup, shutdown, or malfunction) shall constitute a violation of the particulate matter, dioxin/furan, hydrogen chloride, lead, cadmium, and mercury emission limits.

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[~~G~~ H.] Except as provided in subsection [~~H~~ I] of this section, for affected facilities equipped with a dry scrubber followed by a fabric filter and a wet scrubber:

1. Operation of the affected facility above the maximum charge rate and below the minimum secondary chamber temperature (each measured on a three-hour rolling average) simultaneously shall constitute a violation of the carbon monoxide emission limit.
2. Operation of the affected facility above the maximum fabric filter inlet temperature, above the maximum charge rate, and below the minimum dioxin/furan sorbent flow rate (each measured on a three-hour rolling average) simultaneously shall constitute a violation of the dioxin/furan emission limit.
3. Operation of the affected facility above the maximum charge rate and below the minimum scrubber liquor pH (each measured on a three-hour rolling average) simultaneously shall constitute a violation of the hydrogen chloride emission limit.
4. Operation of the affected facility above the maximum charge rate and below the minimum mercury sorbent flow rate (each measured on a three-hour rolling average) simultaneously shall constitute a violation of the mercury emission limit.
5. Use of the bypass stack (except during startup, shutdown, or malfunction) shall constitute a violation of the particulate matter, dioxin/furan, hydrogen chloride, lead, cadmium, and mercury emission limits.

[~~H~~ I.] The owner of an affected facility may conduct a repeat emissions test within 30 days of violation of applicable operating parameters to demonstrate that the affected facility is not in violation of the applicable emission limits. Repeat emissions tests conducted pursuant to this subsection shall be conducted using the identical operating parameters that indicated a violation under subsection [~~E~~] F, [~~ø~~] G [, or H] of this section.

[~~I~~ J.] The owner of an affected facility using an air pollution control device other than a dry scrubber followed by a fabric filter, a wet scrubber, or a dry scrubber followed by a fabric filter and a wet scrubber to comply with the emission limits under 9 VAC 5-40-6020 through 9 VAC 5-40-6100 shall petition the board for other site-specific operating parameters to be established during the initial emissions test and continuously monitored thereafter. The owner shall not conduct the initial emissions test until after the petition has been approved by the board.

[~~J~~ K.] The owner of an affected facility may conduct a repeat emissions test at any time to establish new values for the operating parameters. The board may request a repeat emissions test at any time.

[~~K~~ L.] Small, rural HMIWIs subject to the emission limits under 9 VAC 5-40-6020 through 9 VAC 5-40-6100 shall meet the following compliance and emissions testing requirements:

1. Conduct the emissions testing requirements in subdivisions [~~B~~ C] 1 through 9, [~~B~~ C] 11 (mercury

only), and [~~G~~ D] 1 of this section. The 2,000 lb/week limitation under 9 VAC 5-40-6010 does not apply during emissions tests.

2. Establish maximum charge rate and minimum secondary chamber temperature as site-specific operating parameters during the initial emissions test to determine compliance with applicable emission limits.

3. Following the date on which the initial emissions test is completed or is required to be completed under this section, whichever date comes first, ensure that the affected facility does not operate above the maximum charge rate or below the minimum secondary chamber temperature measured as three-hour rolling averages (calculated each hour as the average of the previous three operating hours) at all times except during periods of startup, shutdown and malfunction. Operating parameter limits do not apply during emissions tests. Operation above the maximum charge rate or below the minimum secondary chamber temperature shall constitute a violation of the established operating parameters.

4. Except as provided in subdivision [~~B~~ C] 5 of this section, operation of the affected facility above the maximum charge rate and below the minimum secondary chamber temperature (each measured on a three-hour rolling average) simultaneously shall constitute a violation of the particulate matter, carbon monoxide, and dioxin/furan emission limits.

5. The owner of an affected facility may conduct a repeat emissions test within 30 days of violation of applicable operating parameters to demonstrate that the affected facility is not in violation of the applicable emission limits. Repeat emissions tests conducted pursuant to this subsection must be conducted using the identical operating parameters that indicated a violation under subdivision 4 of this subsection.

[~~L~~ M.] Owners of affected facilities shall perform monitoring as follows, except as provided for under subsection [~~M~~ N] of this section.

1. The owner of an affected facility shall install, calibrate (to manufacturers' specifications), maintain, and operate devices (or establish methods) for monitoring the applicable maximum and minimum operating parameters listed in Table 4-44B of this article such that these devices (or methods) measure and record values for these operating parameters at the frequencies indicated in Table 4-44B of this article at all times except during periods of startup and shutdown.

2. The owner of an affected facility shall install, calibrate (to manufacturers' specifications), maintain, and operate a device or method for measuring the use of the bypass stack including date, time, and duration.

3. The owner of an affected facility using something other than a dry scrubber followed by a fabric filter, a wet scrubber, or a dry scrubber followed by a fabric filter and a wet scrubber to comply with the emission limits under

9 VAC 5-40-6020 through 9 VAC 5-40-6100 shall install, calibrate (to the manufacturers' specifications), maintain, and operate the equipment necessary to monitor the site-specific operating parameters developed pursuant to subsection [4 J] of this section.

4. The owner of an affected facility shall obtain monitoring data at all times during HMIWI operation except during periods of monitoring equipment malfunction, calibration, or repair. At a minimum, valid monitoring data shall be obtained for 75% of the operating hours per day for 90% of the operating days per calendar quarter that the affected facility is combusting hospital waste and medical/infectious waste or both.

[~~M. N.~~] Small, rural HMIWI subject to the emission limits under 9 VAC 5-40-6020 through 9 VAC 5-40-6100 shall meet the following monitoring requirements:

1. Install, calibrate (to manufacturers' specifications), maintain, and operate a device for measuring and recording the temperature of the secondary chamber on a continuous basis, the output of which shall be recorded, at a minimum, once every minute throughout operation.

2. Install, calibrate (to manufacturers' specifications), maintain, and operate a device which automatically measures and records the date, time, and weight of each charge fed into the HMIWI.

3. The owner of an affected facility shall obtain monitoring data at all times during HMIWI operation except during periods of monitoring equipment malfunction, calibration, or repair. At a minimum, valid monitoring data shall be obtained for 75% of the operating hours per day for 90% of the operating hours per calendar quarter that the affected facility is combusting hospital waste and medical/infectious waste or both.

9 VAC 5-40-6190. Recordkeeping and reporting.

[A. The provisions of 9 VAC 5-40-50 (Notification, records and reporting) apply except as provided in subsections B through G of this section.

~~A. B.~~] The owner of an affected facility shall maintain the following information (as applicable) for a period of at least five years:

1. Calendar date of each record;
2. Records of the following data:
 - a. Concentrations of any pollutant listed in 9 VAC 5-40-6020 through 9 VAC 5-40-6100 or measurements of opacity as determined by the continuous emission monitoring system (if applicable);
 - b. HMIWI charge dates, times, and weights and hourly charge rates;
 - c. Fabric filter inlet temperatures during each minute of operation, as applicable;

d. Amount and type of dioxin/furan sorbent used during each hour of operation, as applicable;

e. Amount and type of mercury sorbent used during each hour of operation, as applicable;

f. Amount and type of hydrogen chloride sorbent used during each hour of operation, as applicable;

g. Secondary chamber temperatures recorded during each minute of operation;

h. Liquor flow rate to the wet scrubber inlet during each minute of operation, as applicable;

i. Horsepower or amperage to the wet scrubber during each minute of operation, as applicable;

j. Pressure drop across the wet scrubber system during each minute of operation, as applicable,

k. Temperature at the outlet from the wet scrubber during each minute of operation, as applicable;

l. pH at the inlet to the wet scrubber during each minute of operation, as applicable;

m. Records indicating use of the bypass stack, including dates, times, and durations; and

n. For affected facilities complying with 9 VAC 5-40-6180 [4 J] and 9 VAC 5-40-6180 [~~4 M~~] 3, the owner shall maintain all operating parameter data collected.

3. Identification of calendar days for which data on emission rates or operating parameters specified under subdivision 2 of this subsection have not been obtained, with an identification of the emission rates or operating parameters not measured, reasons for not obtaining the data, and a description of corrective actions taken.

4. Identification of calendar days, times and durations of malfunctions, a description of the malfunction and the corrective action taken.

5. Identification of calendar days for which data on emission rates or operating parameters specified under subdivision 2 of this subsection exceeded the applicable limits, with a description of the exceedances, reasons for such exceedances, and a description of corrective actions taken.

6. The results of the initial, annual, and any subsequent emissions tests conducted to determine compliance with the emission limits or to establish operating parameters, as applicable.

7. Records showing the names of HMIWI operators who have completed review of the information in 9 VAC 5-40-6150 H as required by 9 VAC 5-40-6150 I, including the date of the initial review and all subsequent annual reviews.

8. Records showing the names of the HMIWI operators who have completed the HMIWI operator training requirements, including documentation of training and the dates of the training.

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9. Records showing the names of the HMIWI operators who have met the criteria for qualification under 9 VAC 5-40-6150 and the dates of their qualification.

10. Records of calibration of any monitoring devices as required under 9 VAC 5-40-6180 [~~L M~~] 1, 2 and 3.

[~~B C~~] The owner of an affected facility shall submit the information specified in this subsection no later than 60 days following the initial emissions test. All reports shall be signed by the facilities manager.

1. The initial emissions test data as recorded under 9 VAC 5-40-6180 [~~B C~~] 1 through 11, as applicable.

2. The values for the site-specific operating parameters established pursuant to 9 VAC 5-40-6180 [~~D or E or J~~], as applicable.

3. The waste management plan as specified in 9 VAC 5-40-6150.

[~~C D~~] An annual report shall be submitted one year following the submission of the information in subsection [~~B C~~] of this section and subsequent reports shall be submitted no more than 12 months following the previous report (once the unit is subject to a federal operating permit as provided in 9 VAC 5-40-6000 F, the owner of an affected facility must submit these reports semiannually). The annual report shall include the information specified in this subsection. All reports shall be signed by the facilities manager.

1. The values for the site-specific operating parameters established pursuant to 9 VAC 5-40-6180 [~~D or E or J~~], as applicable.

2. The highest maximum operating parameter and the lowest minimum operating parameter, as applicable, for each operating parameter recorded for the calendar year being reported, pursuant to 9 VAC 5-40-6180 [~~D or E or J~~], as applicable.

3. The highest maximum operating parameter and the lowest minimum operating parameter, as applicable for each operating parameter recorded pursuant to 9 VAC 5-40-6180 [~~D or E or J~~] for the calendar year preceding the year being reported, in order to provide the board with a summary of the performance of the affected facility over a two-year period.

4. Any information recorded under subdivisions [A B] 3 through 5 of this section for the calendar year being reported.

5. Any information recorded under subdivisions [A B] 3 through 5 of this section for the calendar year preceding the year being reported, in order to provide the board with a summary of the performance of the affected facility over a two-year period.

6. If an emissions test was conducted during the reporting period, the results of that test.

7. If no exceedances or malfunctions were reported under subdivisions [A B] 3 through 5 of this section for

the calendar year being reported, a statement that no exceedances occurred during the reporting period.

8. Any use of the bypass stack, the duration, reason for malfunction, and corrective action taken.

[~~D E~~] The owner of an affected facility shall submit semiannual reports containing any information recorded under subdivisions [A B] 3 through 5 of this section no later than 60 days following the reporting period. The first semiannual reporting period ends six months following the submission of information in subsection [~~B C~~] of this section. Subsequent reports shall be submitted no later than six calendar months following the previous report. All reports shall be signed by the facilities manager.

[~~E F~~] All records specified under subsection [A B] of this section shall be maintained onsite in either paper copy or computer-readable format, unless an alternative format is approved by the board.

[~~F G~~] The owner of each small, rural HMIWI shall:

1. Maintain records of the annual equipment inspections, any required maintenance, and any repairs not completed within 10 days of an inspection or the timeframe established by the board; and

2. Submit an annual report containing information recorded under subdivision 1 of this subsection no later than 60 days following the year in which data were collected. Subsequent reports shall be sent no later than 12 calendar months following the previous report (once the unit is subject to a federal operating permit as provided in 9 VAC 5-40-6000 F, the owner must submit these reports semiannually). The report shall be signed by the facilities manager.

9 VAC 5-40-6200. Compliance schedules.

A. Except as provided in subsection B of this section, owners shall:

1. Comply with the emission limits in this article as expeditiously as possible but in no case later than [~~one year after the effective date of this article~~] July 1, 2001, and

2. Conduct the initial emissions test of the air pollution control device no later than [~~(180 days plus one year after the effective date of this article)~~] December 27, 2001.

B. Until [~~(six months after the effective date of this article)~~] January 1, 2001, owners of affected facilities may petition the board for an extension to the compliance date in subsection A of this section. This petition shall include the following:

1. Documentation of the analyses undertaken to support the need for an extension, including an explanation of why until September 15, 2002, is needed to comply with this article while compliance by [~~(one year after the effective date of this article)~~] July 1, 2001, is not feasible. The documentation shall also include an evaluation of the option to transport the waste offsite to a commercial

medical waste treatment and disposal facility on a temporary or permanent basis; and

2. Documentation of measurable and enforceable incremental steps of progress to be taken towards compliance with the emission guidelines, including:

- a. If applicable, date for submitting a petition for site-specific operating parameters under 40 CFR 60.56c(i).
- b. Date for submittal of the control plan;
- c. Date for obtaining services of an architectural and engineering firm regarding the air pollution control device(s);
- d. Date for obtaining design drawings of the air pollution control device(s);
- e. Date for ordering the air pollution control device(s);
- f. Date for obtaining the major components of the air pollution control device(s);
- h. Date for initiation of site preparation for installation of the air pollution control device(s);
- h. Date for initiation of installation of the air pollution control device(s);
- i. Date for initial startup of the air pollution control device(s);
- j. Date for initial emissions test(s) of the air pollution control device(s); and
- k. Date for final compliance.

9 VAC 5-40-6210. Registration.

The provisions of 9 VAC 5-20-160 (Registration) apply.

9 VAC 5-40-6220. Facility and control equipment maintenance or malfunction.

The provisions of 9 VAC 5-20-180 (Facility and control equipment maintenance or malfunction) apply.

9 VAC 5-40-6230. Permits.

A permit may be required prior to beginning any of the activities specified below if the provisions of 9 VAC 5 Chapter 50 (9 VAC 5-50-10 et seq.) and 9 VAC 5 Chapter 80 (9 VAC 5-80-10 et seq.) apply. Owners contemplating such action should review those provisions and contact the appropriate regional office for guidance on whether those provisions apply.

1. Construction of a facility.
2. Reconstruction (replacement of more than half) of a facility.
3. Modification (any physical change to equipment) of a facility.
4. Relocation of a facility.
5. Reactivation (restart-up) of a facility.
6. Operation of a facility.

DOCUMENT INCORPORATED BY REFERENCE

An Ounce of Prevention: Waste Reduction Strategies for Health Care Facilities, AHA Catalog no. W5-057007, 1993.

VA.R. Doc. No. R99-35; Filed April 10, 2000, 4:49 p.m.

STATE WATER CONTROL BOARD

Title of Regulation: **9 VAC 25-260-5 et seq. Water Quality Standards (amending 9 VAC 25-260-350 and 9 VAC 25-260-400).**

Statutory Authority: § 62.1-44.15(3a) of the Code of Virginia.

Effective Date: June 7, 2000.

Summary:

The amendments designate Stony Creek and its tributaries in Shenandoah County as a nutrient enriched water. After the effective date of the nutrient enriched waters classification, a companion regulation, the board's Policy for Nutrient Enriched Waters (9 VAC 25-40-10 et seq.), requires certain municipal and industrial dischargers with a design flow of 1.0 MGD or greater and effluents containing phosphorus to maintain a monthly average total phosphorus concentration of 2 milligrams per liter (mg/l) or less. Rocco Farm Foods near Edinburg--based on a design flow of 1.3 MGD--would be the only point source discharger impacted by this regulatory requirement to install a phosphorus removal system to control total phosphorus.

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.

Agency Contact: Copies of the regulation may be obtained from Jean W. Gregory, Department of Environmental Quality, 629 East Main Street, Richmond, VA 23219, telephone (804) 698-4113.

9 VAC 25-260-350. Designation of nutrient enriched waters.

A. The following state waters are hereby designated as "nutrient enriched waters":

1. Smith Mountain Lake and all tributaries* of the impoundment upstream to their headwaters;
2. Lake Chesdin from its dam upstream to where the Route 360 bridge (Goodes Bridge) crosses the Appomattox River, including all tributaries to their headwaters that enter between the dam and the Route 360 bridge;
3. South Fork Rivanna Reservoir and all tributaries of the impoundment upstream to their headwaters;

* When the word "tributaries" is used in this standard, it does not refer to the mainstem of the water body that has been named.

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4. New River and its tributaries, except Peak Creek above Interstate 81, from Claytor Dam upstream to Big Reed Island Creek (Claytor Lake).
5. Peak Creek from its headwaters to its mouth (confluence with Claytor Lake), including all tributaries to their headwaters;
6. Aquia Creek from its headwaters to the state line;
7. Fourmile Run from its headwaters to the state line;
8. Hunting Creek from its headwaters to the state line;
9. Little Hunting Creek from its headwaters to the state line;
10. Gunston Cove from its headwaters to the state line;
11. Belmont and Occoquan Bays from their headwaters to the state line;
12. Potomac Creek from its headwaters to the state line;
13. Neabsco Creek from its headwaters to the state line;
14. Williams Creek from its headwaters to its confluence with Upper Machodoc Creek;
15. Tidal freshwater Rappahannock River from the fall line to Buoy 44, near Leedstown, Virginia, including all tributaries to their headwaters that enter the tidal freshwater Rappahannock River;
16. Estuarine portion of the Rappahannock River from Buoy 44, near Leedstown, Virginia, to the mouth of the Rappahannock River (Buoy 6), including all tributaries to their headwaters that enter the estuarine portion of the Rappahannock River;
17. Estuarine portion of the Mattaponi River from Clifton, Virginia, and estuarine portion of the Pamunkey River from Sweet Hall Landing, Virginia to West Point, Virginia, and the York River from West Point, Virginia, to the mouth of the York River (Tue Marsh Light) including all tributaries to their headwaters that enter the estuarine portions of the Mattaponi River, the Pamunkey River and the York River;
18. Tidal freshwater James River from the fall line to the confluence of the Chickahominy River (Buoy 70) including all tributaries to a distance five river miles above their fall lines that enter the tidal freshwater James River;
19. Estuarine portion of the James River from its confluence with the Chickahominy River (Buoy 70) to the mouth of the James River (Buoy 25), including all tributaries to their headwaters;
20. Chesapeake Bay and its small coastal basins from the Virginia state line to the mouth of the Bay (a line from Cape Henry drawn through Buoys 3 and 8 to Fishermans Island), and its tidal tributaries, excluding the Potomac tributaries, those tributaries listed above, and the Mattaponi River upstream of Clifton, Virginia, and the

Pamunkey River upstream of Sweet Hall Landing, Virginia; ~~and~~

21. Tidal freshwater Blackwater River from the Norfolk and Western railway bridge at Burdette, Virginia, and tidal freshwater Nottoway River from the Norfolk and Western railway bridge at Courtland, Virginia, to the state line, including all tributaries to their headwaters that enter the tidal freshwater portions of the Blackwater River and the Nottoway River; *and*

22. *Stony Creek from its confluence with the North Fork Shenandoah River to its headwaters including all named and unnamed tributaries to their headwaters.*

B. Whenever any water body is designated as "nutrient enriched waters," the board shall modify the VPDES permits of point source dischargers into the "nutrient enriched waters" as provided in the board's Policy for Nutrient Enriched Waters (9 VAC 25-40-10 et seq.).

9 VAC 25-260-400. Potomac River Basin (Shenandoah River Subbasin).

Shenandoah River Subbasin

SEC.	CLASS	SP. STDS.	SECTION DESCRIPTION
1	IV	pH-6.5-9.5	Shenandoah River and its tributaries in Clarke County, Virginia, from the Virginia-West Virginia state line to Lockes Landing, unless otherwise designated in this chapter.
1a	IV	PWS pH-6.5-9.5	Shenandoah River and its tributaries from river mile 24.66 (latitude 39°16'19"; longitude 77°54'33") approximately 0.7 mile downstream of the confluence of the Shenandoah River and Dog Run to 5 miles above Berryville's raw water intake (latitude 39°05'56"; longitude 77°58'31"), unless otherwise designated in this chapter.
	V	pH-6.5-9.5	Stockable Trout Waters in Section 1a
	vi		Chapel Run (Clarke County) from its confluence with the Shenandoah River 5.7 miles upstream.
	vi		Spout Run (Clarke County) from its confluence with the Shenandoah River (in the vicinity of the Ebenezer Church at Route 604) to its headwaters.

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1b			(Deleted)			Browntown (in the vicinity of Route 632).
1c	IV	pH-6.5-9.5	Shenandoah River and its tributaries from a point 5 miles above Berryville's raw water intake to the confluence of the North and South Forks of the Shenandoah River.	***		Hawksbill Creek from Route 675 in Luray to 1 mile above Route 631.
	VI	pH-6.5-9.5	Natural Trout Waters in Section 1c	VI	pH-6.5-9.5	Natural Trout Waters in Section 2
	iii		Page Brook from its confluence with Spout Run, 1 mile upstream.	iii		Browns Run from its confluence with Big Run upstream including all named and unnamed tributaries.
	***		Roseville Run (Clarke County) from its confluence with Spout Run upstream including all named and unnamed tributaries.	ii		Cub Run (Page County) from Pitt Spring Run upstream including all named and unnamed tributaries.
	iii		Spout Run (Clarke County) from its confluence with the Shenandoah River (in the vicinity of Calmes Neck at Rts 651 and 621), 3.9 miles upstream.	***		Cub Run from its mouth to Pitt Spring Run.
	***		Westbrook Run (Clarke County) from its confluence with Spout Run upstream including all named and unnamed tributaries.	ii		Fultz Run from the Park boundary (river mile 1.8) upstream including all named and unnamed tributaries.
1d	IV	PWS	The South Fork Shenandoah River and its tributaries from the Town of Front Royal's raw water intake (at the State Route 619 bridge at Front Royal) to a point 5 miles upstream.	ii		Gooney Run (in Warren County) from 6.6 miles above its confluence with the South Fork Shenandoah River 3.9 miles upstream.
2	IV	pH-6.5-9.5	South Fork Shenandoah River and its tributaries from its confluence with the North Fork Shenandoah River, upstream to a point 5 miles above the Town of Shenandoah's raw water intake, unless otherwise designated in this chapter.	ii		Hawksbill Creek in the vicinity of Pine Grove at Route 624 (river mile 17.7) 1.5 miles upstream.
	V	pH-6.5-9.5	Stockable Trout Waters in Section 2	ii		Jeremys Run from the National Park boundary upstream including all named and unnamed tributaries.
	vi		Flint Run from its confluence with the South Fork Shenandoah River 4 miles upstream.	i		Lands Run from its confluence with Gooney Run upstream including all named and unnamed tributaries.
	***		Gooney Run from the mouth to its confluence with Broad Run above	ii		Little Hawksbill Creek from Route 626 upstream including all named and unnamed tributaries.
						Morgan Run (Page County) from its confluence with Cub Run upstream including all named and unnamed tributaries.

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	ii		Overall Run from its confluence with the South Fork Shenandoah River 4.8 miles upstream including all named and unnamed tributaries.	i			tributaries. East Branch Naked Creek from its confluence with Naked Creek at Route 759 upstream including all named and unnamed tributaries.
	ii		Pass Run (Page County) from its confluence with Hawksbill Creek upstream including all named and unnamed tributaries.	ii			Little Creek (Page County) from its confluence with Big Creek upstream including all named and unnamed tributaries.
	ii		Pitt Spring Run from its confluence with Cub Run upstream including all named and unnamed tributaries.	ii			South Branch Naked Creek from 1.7 miles above its confluence with Naked Creek (in the vicinity of Route 607) upstream including all named and unnamed tributaries.
	ii		Roaring Run from its confluence with Cub Run upstream including all named and unnamed tributaries.	ii	iv		Stony Run (Page County) from 1.6 miles above its confluence with Naked Creek upstream including all named and unnamed tributaries.
2a	IV	PWS pH-6.5-9.5	Happy Creek from Front Royal's raw water intake to its headwaters.				
2b			(Deleted)				
2c			(Deleted)			ii	West Branch Naked Creek from 2.1 miles above its confluence with Naked Creek upstream including all named and unnamed tributaries.
2d	V	pH-6.5-9.5	Stockable Trout Waters in Section 2d				
	vii		Bear Lithia Spring from its confluence with the South Fork Shenandoah River 0.8 mile upstream.	3	IV	pH-6.5-9.5	South Fork Shenandoah River and its tributaries from 5 miles above the Town of Shenandoah's raw water intake to its confluence with the North and South Rivers, and the South River and its tributaries from its confluence with the South Fork Shenandoah River to their headwaters, unless otherwise designated in this chapter.
	VI	pH-6.5-9.5	Natural Trout Waters in Section 2d				
	ii		Big Creek (Page County) from its confluence with the East Branch Naked Creek upstream including all named and unnamed tributaries.				
	ii		Big Ugly Run from its confluence with the South Branch Naked Creek upstream including all named and unnamed tributaries.		V	pH-6.5-9.5	Stockable Trout Waters in Section 3
	ii		Boone Run from 4.6 miles above its confluence with the South Fork Shenandoah River (in the vicinity of Route 637) upstream including all named and unnamed		vi		Hawksbill Creek (Rockingham County) from 0.8 mile above its confluence with the South Fork Shenandoah River 6.6 miles upstream.
					vi		Mills Creek (Augusta County) from 1.8 miles above its confluence with

		Back Creek 2 miles upstream.	ii	Johns Run (Augusta County) from its confluence with the South River upstream including all named and unnamed tributaries.
vi		North Fork Back Creek (Augusta County) from its confluence with Back Creek 2.6 miles upstream, unless otherwise designated in this chapter.	iv	Jones Hollow (Augusta County) from 1.1 miles above its confluence with the South River upstream including all named and unnamed tributaries.
VI	pH-6.5-9.5	Natural Trout Waters in Section 3		
i		Bearwallow Run from its confluence with Onemile Run upstream including all named and unnamed tributaries.	ii	Kennedy Creek from its confluence with the South River upstream including all named and unnamed tributaries.
ii		Big Run (Rockingham County) from 3.3 miles above its confluence with the South Fork Shenandoah River upstream including all named and unnamed tributaries.	iv	Lee Run from 0.6 mile above its confluence with Elk Run 3.3 miles upstream.
iii		Cold Spring Branch (Augusta County) from Sengers Mountain Lake (Rhema Lake) upstream including all named and unnamed tributaries.	iii	Loves Run (Augusta County) from 2.7 miles above its confluence with the South River upstream including all named and unnamed tributaries.
ii		Deep Run (Rockingham County) from 1.8 miles above its confluence with the South Fork Shenandoah River upstream including all named and unnamed tributaries.	ii	Lower Lewis Run (Rockingham County) from 1.7 miles above its confluence with the South Fork Shenandoah River upstream including all named and unnamed tributaries.
ii		East Fork Back Creek from its confluence with the South Fork Back Creek upstream including all named and unnamed tributaries.	ii	Madison Run (Rockingham County) from 2.9 miles above its confluence with the South Fork Shenandoah River upstream including all named and unnamed tributaries.
ii		Gap Run from 1.7 miles above its confluence with the South Fork Shenandoah River upstream including all named and unnamed tributaries.	ii	Meadow Run (Augusta County) from its confluence with the South River upstream including all named and unnamed tributaries.
iii		Inch Branch (Augusta County) from the dam upstream including all named and unnamed tributaries.	ii	North Fork Back Creek (Augusta County) from river mile 2.6 (in the vicinity of its confluence with Williams Creek) upstream including all named and unnamed tributaries.

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i	Onemile Run (Rockingham County) from 1.5 miles above its confluence with the South Fork Shenandoah River upstream including all named and unnamed tributaries.		i		Twomile Run from 1.4 miles above its confluence with the South Fork Shenandoah River upstream including all named and unnamed tributaries.
ii	Paine Run (Augusta County) from 1.7 miles above its confluence with the South River upstream including all named and unnamed tributaries.		iv		Upper Lewis Run from 0.5 mile above its confluence with Lower Lewis Run upstream including all named and unnamed tributaries.
ii	Robinson Hollow (Augusta County) from the dam upstream including all named and unnamed tributaries.		ii		Whiteoak Run from its confluence with Madison Run upstream including all named and unnamed tributaries.
ii	Rocky Mountain Run from its confluence with Big Run upstream including all named and unnamed tributaries.	3a	IV	pH-6.5-9.5	South River from the dam above Waynesboro (all waters of the impoundment).
iv	Sawmill Run from 2.5 miles above its confluence with the South River upstream including all named and unnamed tributaries.	3b	IV	PWS pH-6.5-9.5	Coles Run and Mills Creek from South River Sanitary District's raw water intake to their headwaters.
ii	South Fork Back Creek from its confluence with Back Creek at Route 814 (river mile 2.1) upstream including all named and unnamed tributaries.		VI	PWS	Natural Trout Waters in Section 3b
ii	Stony Run (Augusta County) from 3.5 miles above its confluence with the South River upstream including all named and unnamed tributaries.		ii	pH-6.5-9.5	Coles Run (Augusta County) from 3.9 miles above its confluence with the South River Sanitary District's raw water intake (Coles Run Dam) upstream including all named and unnamed tributaries.
iii	Stony Run (Rockingham County) from 4.1 miles above its confluence with the South Fork Shenandoah River upstream including all named and unnamed tributaries.	3c	IV	PWS pH-6.5-9.5	Mills Creek (Augusta County) from the South River Sanitary District's raw water intake (river mile 3.8) upstream including all named and unnamed tributaries.
iii	Toms Branch (Augusta County) from 1.1 miles above its confluence with Back Creek upstream including all named and unnamed tributaries.	4	IV	pH-6.5-9.5	A tributary to Coles Run from Stuarts Draft raw water intake approximately one-half mile south of Stuarts Draft and just off Route 610, to its headwaters.
					Middle River and its tributaries from the confluence with the North River upstream to its

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			headwaters, unless otherwise designated in this chapter.		upstream including all named and unnamed tributaries.
	V	pH-6.5-9.5	Stockable Trout Waters in Section 4	ii	Black Run (Rockingham County) from its mouth upstream including all named and unnamed tributaries.
	v		Barterbrook Branch from its confluence with Christians Creek 2.8 miles upstream.		
	vi		Folly Mills Creek from 2.4 miles above its confluence with Christians Creek (in the vicinity of Route 81) 4.5 miles upstream.	iii	Briery Branch (Rockingham County) from river mile 6.9 upstream including all named and unnamed tributaries.
4a	IV	PWS pH-6.5-9.5	Middle River and its tributaries from Staunton's raw water intake at Gardner Spring to a point 5 miles upstream.	iv	Gum Run from its mouth upstream including all named and unnamed tributaries.
	V		Stockable Trout Waters in Section 4a	iii	Hone Quarry Run from its confluence with Briery Branch upstream including all named and unnamed tributaries.
	***		East Dry Branch from its confluence with Buffalo Branch to its headwaters.	iv	Little River from its confluence with the North River at Route 718 upstream including all named and unnamed tributaries.
	VI	pH-6.5-9.5	Natural Trout Waters in Section 4a		
	iv		Buffalo Branch (Augusta County) from Route 703 upstream including all named and unnamed tributaries.	iv	Maple Spring Run from its mouth upstream including all named and unnamed tributaries.
5	IV	pH-6.5-9.5	North River and its tributaries from its confluence with the South River upstream to its headwaters, unless otherwise designated in this chapter.	iv	Mines Run from its confluence with Briery Branch upstream including all named and unnamed tributaries.
	V	pH-6.5-9.5	Stockable Trout Waters in Section 5	iv	Rocky Run (which is tributary to Briery Branch in Rockingham County) from its mouth upstream including all named and unnamed tributaries.
	v		Beaver Creek (Rockingham County) from its confluence with Briery Branch to its headwaters.	iii	Rocky Run (which is tributary to Dry River in Rockingham County) from its mouth upstream including all named and unnamed tributaries.
	v		Naked Creek (Augusta County) from 3.7 miles above its confluence with the North River at Route 696, 2 miles upstream.		
	VI	pH-6.5-9.5	Natural Trout Waters in Section 5	ii	Union Springs Run from 3 miles above its confluence with Beaver Creek upstream including all named and unnamed tributaries.
	iv		Big Run (Augusta County) from 0.9 mile above its confluence with Little River		

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	iv		Wolf Run (Augusta County) from its confluence with Briery Branch upstream including all named and unnamed tributaries.		iv		Hopkins Hollow from its confluence with Peach Run upstream including all named and unnamed tributaries.
5a	IV	PWS pH-6.5-9.5	Silver Lake		iv		Kephart Run from its confluence with Dry River upstream including all named and unnamed tributaries.
5b	IV	PWS pH-6.5-9.5	North River and its tributaries from Harrisonburg's raw water intake at Bridgewater to a point 5 miles above Bridgewater's raw water intake to include Dry River and Muddy Creek.	5d	VI	pH-6.5-9.5	Dry River and its tributaries from 5 miles above Harrisonburg's raw water intake to its headwaters.
	V	PWS pH-6.5-9.5	Stockable Trout Waters in Section 5b		VI	pH-6.5-9.5	Natural Trout Waters in Section 5d
	v		Mossy Creek from its confluence with the North River 7.1 miles upstream.		iv		Dry River (Rockingham County) from 5 miles above Harrisonburg's raw water intake upstream including all named and unnamed tributaries.
	v		Spring Creek (Rockingham County) from its confluence with the North River 2 miles upstream.		ii		Laurel Run (Rockingham County) from its confluence with Dry River upstream including all named and unnamed tributaries.
5c	IV	PWS pH-6.5-9.5	Dry River in Rockingham County from Harrisonburg's raw water intake (approximately 11.7 miles above its confluence with the North River) to a point 5 miles upstream, unless otherwise designated in this chapter.		ii		Little Laurel Run from its confluence with Dry River upstream including all named and unnamed tributaries.
	V	PWS	Stockable Trout Waters in Section 5c		ii		Low Place Run from its confluence with Dry River upstream including all named and unnamed tributaries.
	viii	pH-6.5-9.5	Raccoon Run (Rockingham County) from its confluence with Dry River to its headwaters.		iv		Miller Spring Run from its confluence with Dry River upstream including all named and unnamed tributaries.
	VI	PWS	Natural Trout Waters in Section 5c		iii		Sand Run from its confluence with Dry River upstream including all named and unnamed tributaries.
	iv	pH-6.5-9.5	Dry River (Rockingham County) from Harrisonburg's raw water intake (approximately 11.7 miles above its confluence with the North River) to a point 5 miles upstream.		iv		Skidmore Fork from its confluence with Dry River upstream including all named and unnamed tributaries.
	iv		Dry Run (Rockingham County) from its confluence with Dry River upstream including all named and unnamed tributaries.	5e	VI	PWS pH-6.5-9.5	North River from Staunton Dam to its headwaters.

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6	IV	pH-6.5-9.5 <i>NEW-22</i>	North Fork Shenandoah River from its confluence with the Shenandoah River to its headwaters, unless otherwise designated in this chapter.	VI	pH-6.5-9.5	Natural Trout Waters in Section 6
	V	pH-6.5-9.5	Stockable Trout Waters in Section 6	ii		Anderson Run (Shenandoah County) from 1.1 miles above its confluence with Stony Creek upstream including all named and unnamed tributaries.
	vi		Bear Run from its confluence with Foltz Creek to its headwaters.	iv		Beech Lick Run from its confluence with the German River upstream including all named and unnamed tributaries.
	***		Stony Creek from Route 685 above Edinburg upstream to Basye.	iii		Bible Run from its confluence with Little Dry River upstream including all named and unnamed tributaries.
	vi		Bull Run (Shenandoah County) from its confluence with Foltz Creek to its headwaters.	ii		Camp Rader Run from its confluence with the German River upstream including all named and unnamed tributaries.
	vi		Falls Run from its confluence with Stony Creek to its headwaters.	iv		Carr Run from its confluence with Little Dry River upstream including all named and unnamed tributaries.
	vi		Foltz Creek from its confluence with Stony Creek to its headwaters.	iv		Clay Lick Hollow from its confluence with Carr Run upstream including all named and unnamed tributaries.
	vi		Little Passage Creek from its confluence with Passage Creek to the Strasburg Reservoir Dam.	iv		Gate Run from its confluence with Little Dry River upstream including all named and unnamed tributaries.
	***		Mill Creek from Mount Jackson to Route 720 - 3.5 miles.	iv		German River (Rockingham County) from its confluence with the North Fork Shenandoah River (at Route 820) upstream including all named and unnamed tributaries.
	vi		Mountain Run from its mouth at Passage Creek to its headwaters.	ii		Laurel Run (Shenandoah County) from its confluence with Stony Creek upstream including all named and unnamed tributaries.
	***		Passage Creek from the U.S. Forest Service line (in the vicinity of Blue Hole and Buzzard Rock) 4 miles upstream.	ii		Little Stony Creek from its confluence with Stony
	vi		Passage Creek from 29.6 miles above its confluence with the North Fork Shenandoah River to its headwaters.			
	vi		Peters Mill Run from the mouth to its headwaters.			
	***		Shoemaker River from 612 at Hebron Church to its junction with Route 817 at the Shoemaker's confluence with Slate Lick Branch.			

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	Creek upstream including all named and unnamed tributaries.	6a	IV	PWS pH-6.5-9.5	Little Passage Creek from the Strasburg Reservoir Dam upstream to its headwaters, unless otherwise designated in this chapter.
iv	Marshall Run (Rockingham County) from 1.2 miles above its confluence with the North Fork Shenandoah River upstream including all named and unnamed tributaries.		V	PWS pH-6.5-9.5	Stockable Trout Waters in Section 6a
			vi		Little Passage Creek from the Strasburg Reservoir Dam upstream to its headwaters.
iii	Mine Run (Shenandoah County) from its confluence with Passage Creek upstream including all named and unnamed tributaries.	6b	IV	PWS pH-6.5-9.5	North Fork Shenandoah River and its tributaries from the Winchester raw water intake to a point 5 miles upstream (to include Cedar Creek and its tributaries to their headwaters).
ii	Poplar Run (Shenandoah County) from its confluence with Little Stony Creek upstream including all named and unnamed tributaries.		V	PWS pH-6.5-9.5	Stockable Trout Waters in Section 6b
iv	Rattlesnake Run (Rockingham County) from its confluence with Spruce Run upstream including all named and unnamed tributaries.		***		Cedar Creek (Shenandoah County) from Route 55 (river mile 23.56) to the U.S. Forest Service Boundary (river mile 32.0) - approximately 7 miles.
iv	Root Run from its confluence with Marshall Run upstream including all named and unnamed tributaries.		v	PWS pH-6.5-9.5	Meadow Brook (Frederick County) from its confluence with Cedar Creek 5 miles upstream.
iv	Seventy Buck Lick Run from its confluence with Carr Run upstream including all named and unnamed tributaries.		VI	PWS pH-6.5-9.5	Natural Trout Waters in Section 6b
			iii		Cedar Creek (Shenandoah County) from the U.S. Forest Service boundary (river mile 32.0) near Route 600 upstream including all named and unnamed tributaries.
iv	Sirks Run (Spring Run) from 1.3 miles above its confluence with Crab Run upstream including all named and unnamed tributaries.		ii		Duck Run from its confluence with Cedar Creek upstream including all named and unnamed tributaries.
iv	Spruce Run (Rockingham County) from its confluence with Capon Run upstream including all named and unnamed tributaries.				Paddy Run (Frederick County) from the mouth upstream including all named and unnamed tributaries.
iv	Sumac Run from its confluence with the German River upstream including all named and unnamed tributaries.		***		(Paddy Run (Frederick County) from its mouth (0.0) to river mile 1.8.)

			(Paddy Run (Frederick County) from river mile 1.8 to 8.1-6.3 miles.)				including all named and unnamed tributaries.
				6h	IV	PWS pH-6.5-9.5	Unnamed tributary of North Fork Shenandoah River (on the western slope of Short Mountain opposite Mt. Jackson) from the Town of Mt. Jackson's raw water intake (north and east dams) to its headwaters.
	iii		Sulphur Springs Gap (Shenandoah County) from its confluence with Cedar Creek 1.9 miles upstream.				
6c	IV	PWS pH-6.5-9.5	North Fork Shenandoah River and its tributaries from Strasburg's raw water intake to points 5 miles upstream.	6i	IV	PWS pH-6.5-9.5	Little Sulfur Creek, Dan's Hollow and Horns Gully (tributaries of the North Fork Shenandoah River on the western slope of Short Mountain opposite Mt. Jackson) which serve as a water supply for the Town of Edinburg, from the Edinburg intakes upstream to their headwaters.
6d	IV	PWS pH-6.5-9.5	North Fork Shenandoah River and its tributaries from Woodstock's raw water intake (approximately 1/4 mile upstream of State Route 609 bridge near Woodstock) to a point 5 miles upstream.				
6e	IV	PWS pH-6.5-9.5	Smith Creek and its tributaries from New Market's raw water intake to its headwaters.				
							VA.R. Doc. No. R99-24; Filed April 19, 2000, 12:06 p.m.
							◆ ————— ◆
							TITLE 13. HOUSING
							BOARD OF HOUSING AND COMMUNITY DEVELOPMENT
6f	IV	PWS pH-6.5-9.5	North Fork Shenandoah River and its tributaries from the Food Processors Water Coop, Inc. dam at Timberville and the Town of Broadway's intakes on Linville Creek and the North Fork Shenandoah to points 5 miles upstream.				<u>Title of Regulation:</u> 13 VAC 5-111-10 et seq. Enterprise Zone Program Regulation (amending 13 VAC 5-111-10, 13 VAC 5-111-100, 13 VAC 5-111-120, 13 VAC 5-111-130, 13 VAC 5-111-160, 13 VAC 5-111-170, 13 VAC 5-111-180, 13 VAC 5-111-190, 13 VAC 5-111-240, 13 VAC 5-111-280, 13 VAC 5-111-300, and 13 VAC 5-111-310 [, and 13 VAC 5-111-390] ; adding 13 VAC 5-111-165).
6g	IV	pH-6.5-9.5	Shoemaker River and its tributaries from Slate Lick Run, and including Slate Lick Run, to its headwaters.				<u>Statutory Authority:</u> § 59.1-278 of the Code of Virginia.
	V	pH-6.5-9.5	Stockable Trout Waters in Section 6g				<u>Effective Date:</u> June 8, 2000.
	***		Slate Lick Run from its confluence with the Shoemaker River upstream to the 1500 foot elevation.				<u>Summary:</u> <i>The amendments provide businesses more precise information on the program's requirements and clarify ambiguous language. The areas being clarified include the following:</i>
	VI	pH-6.5-9.5	Natural Trout Waters in Section 6g				<i>1. New or revised definitions for "full-time employee," "net loss," "permanent full-time employee," "permanent full-time position," "qualified zone resident," "report for work," and "single facility";</i>
	iv		Long Run (Rockingham County) from its confluence with the Shoemaker River upstream including all named and unnamed tributaries.				<i>2. Prohibitions on requalifications due to reorganizations;</i>
							<i>3. The exclusion of residential property from qualified zone improvements;</i>
	iv		Slate Lick Run from the 1500 foot elevation upstream upstream				<i>4. Size limits for joint zones;</i>

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5. *Clarification that claiming real property tax credits for intrastate relocations requires an increase in employment, investment in equipment, or building square footage;*

6. *Use of credits for negotiated projects; and*

7. *The treatment of pass-through entities when applying for real property improvement tax credits.*

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

Agency Contact: Copies of the regulation may be obtained from Nicole J. Thompson, Department of Housing and Community Development, 501 North 2nd Street, Richmond, VA 23219, telephone (804) 371-7030.

13 VAC 5-111-10. Definitions.

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

"Average number of permanent full-time employees" means the number of permanent full-time employees during each payroll period of a business firm's taxable year divided by the number of payroll periods:

1. In calculating the average number of permanent full-time employees, a business firm may count only those permanent full-time employees who worked at least half of their normal work days during the payroll period. Paid leave time may be counted as work time.

2. For a business firm which uses different payroll periods for different classes of employees, the average number of permanent full-time employees of the firm shall be defined as the sum of the average number of permanent full-time employees for each class of employee.

"Base taxable year" (for purposes of qualifying for the general tax credit) means the taxable year preceding the first taxable year for which a firm qualifies for state tax incentives under this program. This definition only applies to business firms qualified prior to July 1, 1995, and only for the purpose of qualifying for enterprise zone incentives offered prior to July 1, 1995. The following definition applies to businesses applying for enterprise zone incentives on or after July 1, 1995: *"Base taxable year"* (for purposes of qualifying for the general tax credit) means the lower of two taxable years immediately preceding the first year of qualification, at the choice of the business firm.

"Base year" (for purposes of qualifying for enterprise zone incentive grants) as provided in Part VI (13 VAC 5-111-210 et seq.) means either of the two calendar years immediately preceding a business firm's first year of grant eligibility, at the choice of the business firm.

"Business firm" means any corporation, partnership, electing small business (subchapter S) corporation, limited liability company, or sole proprietorship authorized to do business in the Commonwealth of Virginia.

The term *"business firm"* does not include organizations which are exempt from state income tax on all income except unrelated business taxable income as defined in the federal Internal Revenue Code, § 512, nor does it include homeowners associations as defined in the federal Internal Revenue Code, § 528.

"Business tax credit" means a credit against any tax due under Articles 2 (§ 58.1-320 et seq.) and 10 (§ 58.1-400 et seq.) of Chapter 3, Chapter 12 (§ 58.1-1200 et seq.), Article 1 (§ 58.1-2500 et seq.) of Chapter 25, or Article 2 (§ 58.1-2620 et seq.) of Chapter 26 of Title 58.1 of the Code of Virginia due from a business firm.

"Common control" means those firms as defined by Internal Revenue Code § 52(b).

"Department" means the Department of Housing and Community Development.

"Develop" means to make improvements to land through the construction, conservation, repair, restoration, rehabilitation, conversion, alteration, enlargement or remodeling of a structure or structures to accommodate the principal use to which the land is or will be put. This definition only applies to business firms qualified prior to July 1, 1995, and only for the purpose of qualifying for enterprise zone incentives offered prior to July 1, 1995. Businesses applying for enterprise zone tax credits on or after July 1, 1995, shall use the term qualified zone improvements for purposes of qualification for credits under § 59.1-280 of the Code of Virginia.

"Employee of a zone establishment" means a person employed by a business firm who is on the payroll of the firm's establishment or establishments within the zone. In the case of an employee who is on the payroll of two or more establishments of the firm, both inside and outside the zone, the term *"employee of a zone establishment"* refers only to such an employee assigned to the firm's zone establishment or establishments for at least one-half of his normally scheduled work days.

"Enterprise zone incentive grant" or "grant" means a grant provided for creating permanent full-time positions pursuant to § 59.1-282.1 of the Code of Virginia.

"Establishment" means a single physical location where business is conducted or where services or industrial operations are performed.

1. A central administrative office is an establishment primarily engaged in management and general administrative functions performed centrally for other establishments of the same firm.

2. An auxiliary unit is an establishment primarily engaged in performing supporting services to other establishments of the same firm.

"Existing business firm" means one that was actively engaged in the conduct of trade or business in an area prior to such an area being designated as an enterprise zone or that was engaged in the conduct of trade or business in the Commonwealth and relocates to begin operation of a trade or

business within an enterprise zone. An existing business firm is also one that was not previously conducted in the Commonwealth by such taxpayer who acquires or assumes a trade or business and continues its operations.

"Family" means (i) one or more persons living in a single residence who are related by blood, marriage or adoption. A stepchild or stepparent shall be considered to be related by marriage; (ii) one or more persons not living in the same residence but who were claimed as a dependent on another person's federal income tax return for the previous year shall be presumed, unless otherwise demonstrated, part of the other person's family; or (iii) an individual 18 or older who receives less than 50% of his support from the family, and who is not the principal earner nor the spouse of the principal earner, shall not be considered a member of the family. Such an individual shall be considered a family of one.

"Family income" means all income actually received by all family members over 16 from the following sources:

1. Gross wages and salary (before deductions);
2. Net self-employment income (gross receipts minus operating expenses);
3. Interest and dividend earnings; and
4. Other money income received from net rents, Old Age and Survivors Insurance (OASI), social security benefits, pensions, alimony, child support, and periodic income from insurance policy annuities and other sources.

The following types of income are excluded from family income:

1. Noncash benefits such as food stamps and housing assistance;
2. Public assistance payments;
3. Disability payments;
4. Unemployment and employment training benefits;
5. Capital gains and losses; and
6. One-time unearned income.

When computing family income, income of a spouse or other family members or both shall be counted for the portion of the income determination period that the person was actually a part of the family.

"Family size" means the largest number of family members during the income determination period.

"First year of grant eligibility" means the first calendar year for which a business firm was both eligible and applied for an enterprise zone incentive grant.

"Full-time employee" means a person employed by a business firm who is normally scheduled to work at least 35 hours per week during the firm's payroll period or two or more individuals who together share the same job position and together work the normal number of hours a week as required by the business firm for that one position. The term *"full-time employee"* does not include unpaid volunteer workers, leased

employees or contract labor. This definition only applies to business firms qualified prior to July 1, 1995, and only for the purpose of qualifying for enterprise zone incentives offered prior to July 1, 1995. Businesses applying for enterprise zone tax credits on or after July 1, 1995, shall use the term permanent full-time ~~position~~ *employee* for purposes of qualification pursuant to 13 VAC 5-111-90.

"Grant year" means the calendar year for which a business firm applies for an enterprise zone incentive grant pursuant to § 59.1-282.1 of the Code of Virginia.

"Gross receipts attributable to the active conduct of trade or business within an enterprise zone" means all receipts of the business firm arising from the firm's activities or from the investment and use of the firm's capital in its establishment or establishments within the zone. The proportion of gross receipts arising from the firm's activities or from its investment and use of capital within the zone shall be calculated by dividing the total expenses of the firm's establishment or establishments within the zone by the firm's total expenses both inside and outside the zone.

1. This calculation must be used to allocate and apportion taxable gross receipts against which state franchise or license tax credits may be claimed (see 13 VAC 5-111-50 C).
2. This calculation may not be used to allocate and apportion Virginia Taxable Income against which state corporate and individual income tax credits may be claimed or taxable net capital against which state franchise tax credits may be claimed.

"Income determination period" means the 12 months immediately preceding the month in which the person was hired.

"Independent certified public accountant" means a public accountant certified and licensed by the Commonwealth of Virginia who is not an employee of the business firm seeking to qualify for state tax incentives and grants under this program.

"Jurisdiction" means the county, city or town which made the application to have an enterprise zone. In the case of a joint application, it means all parties making the application.

"Large qualified business firm" means a qualified business firm making qualified zone investments in excess of \$15 million when such qualified zone investments result in the creation of at least 50 permanent full-time positions.

"Large qualified zone resident" means a qualified zone resident making qualified zone investments in excess of \$100 million when such qualified zone investments result in the creation of at least 200 permanent full-time positions.

"Local zone administrator" means the chief executive of the county, city, or town in which an enterprise zone is located, or his designee.

"Low-income person" means a person who is employed in a permanent full-time position with a business firm in an enterprise zone that is seeking qualification for enterprise

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zone incentives and whose family income was less than or equal to 80% of area median family income during the income determination period. Persons who meet the definition of both low-income and zone resident may not be counted as both for purposes of meeting employment requirements for the general tax credit. Instead, qualifying business firms must claim these persons as either low-income or zone resident.

"Median family income" means the dollar amount, adjusted for family size, as determined annually by the department for the city or county in which the zone is located.

"Metropolitan central city" means a city so designated by the U.S. Office of Management and Budget.

~~"Net loss" means (i) that the gross permanent full-time employment of a business firm located in the Commonwealth was greater than the gross permanent full-time employment of the business firm after relocating within an enterprise zone or zones; or (ii) after the business firm expands a trade or business into an enterprise zone the gross permanent full-time employment of a business firm's locations outside of an enterprise zone or zones in the Commonwealth has been reduced. applies to firms that relocate or expand operations and means (i) after relocating into a zone, a business firm's gross permanent employment is less than it was before locating into the zone or (ii) after a business firm locates or expands within a zone, its gross employment at its nonzone location or locations is less than it was before the zone location occurred.~~

"New business" means a business not previously conducted in the Commonwealth by such taxpayer and that begins operation in an enterprise zone after the zone was designated. A new business is also one created by the establishment of a new facility and new permanent full-time employment by an existing business firm in an enterprise zone and does not result in a net loss of permanent full-time employment outside the zone.

"Number of eligible permanent full-time positions" means the amount by which the number of permanent full-time positions at a business firm in a grant year exceeds the threshold number.

"Payroll period" means the period of time for which a business firm normally pays its employees.

"Permanent full-time employee" means a person employed by a business firm who is normally scheduled to work either (i) a minimum of 35 hours per week for the entire normal year of the business firm's operations, which normal year must consist of at least 48 weeks, (ii) a minimum of 35 hours per week for a portion of the taxable year in which the employee was initially hired for, or transferred to the business firm, or (iii) a minimum of 1,680 hours per year if the standard fringe benefits are paid by the business firm for the employee. Permanent full-time employee also means two or more individuals who together share the same job position and together work the normal number of hours a week as required by the business firm for that one position. Seasonal, temporary, leased or contract labor employees or employees shifted from an existing location in the Commonwealth to a business firm location within an enterprise zone shall not

qualify as permanent full-time employees. This definition only applies to business firms qualified after July 1, 1995, and only for the purpose of qualifying for enterprise zone incentives pursuant to 13 VAC 5-111-70.

"Permanent full-time position" means a job of indefinite duration at a business firm located in an enterprise zone, requiring the employee to report for work within the enterprise zone, and requiring either (i) a minimum of 35 hours of an employee's time a week for the entire normal year of the business firm's operations, which normal year must consist of at least 48 weeks, (ii) a minimum of 35 hours of an employee's time a week for a portion of the taxable year in which the employee was initially hired for, or transferred to the business firm or (iii) a minimum of 1,680 hours per year if the standard fringe benefits are paid by the business firm for the employee. Seasonal, temporary, leased or contract labor positions, or a position created when a job function is shifted from an existing location in this Commonwealth to a business firm located within an enterprise zone shall not qualify as permanent full-time positions. This definition only applies to business firms qualified after July 1, 1995, and only for the purpose of qualifying for enterprise zone incentives pursuant to 13 VAC 5-111-210.

"Placed in service" means: (i) the final certificate of occupancy has been issued by the local jurisdiction for real property improvements; or (ii) the first moment that machinery becomes operational and is used in the manufacturing of a product for consumption; or (iii) in the case of tools and equipment it means the first moment they are used in the performance of duty or service.

"Qualified business firm" means a business firm meeting the business firm requirements in 13 VAC 5-111-30 or 13 VAC 5-111-90 and designated a qualified business firm by the department.

"Qualified zone improvements" means the amount of ~~property~~ properly chargeable to a capital account for improvements to rehabilitate or expand depreciable nonresidential real property placed in service during the taxable year within an enterprise zone, provided that the total amount of such improvements equals or exceeds (i) \$50,000 and (ii) the assessed value of the original facility immediately prior to the rehabilitation or expansion. Qualified zone improvements include expenditures associated with any exterior, structural, mechanical, or electrical improvements necessary to construct, expand or rehabilitate a building for commercial or industrial use.

1. Qualified zone improvements include, but are not limited to, the costs associated with excavation, grading, paving, driveways, roads, sidewalks, landscaping or other land improvements, demolition, carpentry, sheetrock, plaster, painting, ceilings, fixtures, doors, windows, fire suppression systems, roofing and flashing, exterior repair, cleaning and clean-up.

2. Qualified zone improvements do not include (i) the cost of furnishings; (ii) any expenditure associated with appraisal, architectural, engineering and interior design fees, (iii) loan fees; points or capitalized interest; (iv)

legal, accounting, realtor, sales and marketing or other professional fees; (v) closing costs, permits, user fees, zoning fees, impact fees, inspection fees; (vi) bids insurance, signage, utilities, bonding, copying, rent loss, or temporary facilities incurred during construction; (vii) utility hook-up or access fees; (viii) outbuildings; (ix) the cost of any well, septic, or sewer system; or (x) cost of acquiring land or an existing building.

3. In the case of new *nonresidential* construction, qualified zone improvements also do not include land, land improvements, paving, grading, driveway, and interest.

"Qualified zone investment" means the sum of qualified zone improvements and the cost of machinery, tools, and equipment used in manufacturing tangible personal property and placed in service on or after July 1, 1995. Machinery, equipment, tools, and real property that are leased through a capital lease and that are being depreciated by the lessee or that are transferred from out-of-state to a zone location by a business firm may be included as qualified zone investment. Such leased or transferred machinery, equipment, tools, and real property shall be valued using the depreciable basis for federal income tax purposes. Machinery, tools and equipment shall not include the basis of any property: (i) for which a credit was previously granted under § 59.1-280.1 of the Code of Virginia; (ii) which was previously placed in service in Virginia by the taxpayer, a related party, as defined by Internal Revenue Code § 267(b), or a trade or business under common control; as defined by Internal Revenue Code § 52(b); or (iii) which was previously in service in Virginia and has a basis in the hands of the person acquiring it, determined in whole or in part by reference to the basis of such property in the hands of the person whom acquired, or Internal Revenue Code § 1014(a).

"Qualified zone resident" means an owner or tenant of *nonresidential* real property located in an enterprise zone who expands or rehabilitates such real property to facilitate the conduct of a trade or business by such owner or tenant within the enterprise zone. In the case of a partnership, limited liability company or S corporation, the term *"qualified zone resident"* means the partnership, limited liability company or S corporation.

"Real property improvements tax credit" means a credit provided to a small qualified zone resident pursuant to § 59.1-280.1 C of the Code of Virginia.

"Redetermined base year" means the base year for calculation of the number of eligible permanent full-time positions in a second or subsequent three-year grant period. If a second or subsequent three-year grant period is requested within two years after the previous three-year period, the redetermined base year will be the last grant year. The calculation of this redetermined base year will be determined by the number of positions in the preceding base year, plus the number of threshold positions, plus the number of permanent full-time positions receiving grants in the final year of the previous grant period. If a business firm applies for subsequent three-year periods beyond the two years immediately following the completion of a three-year grant

period, the firm shall use one of the two preceding calendar years as the base year, at the choice of the business firm.

"Related party" means those as defined by Internal Revenue Code § 267(b).

"Report for work" means that for the majority of a permanent full-time position's scheduled work week, the employee filling that position works at a single physical location within an enterprise zone.

"Seasonal employment" means any employee who normally works on a full-time basis and whose customary annual employment is less than nine months. For example, individuals hired by a CPA firm during the tax return season in order to process returns and who work full-time over a three-month period are seasonal employees.

"Single facility" means one or more buildings constructed simultaneously at a single physical location within an enterprise zone and is necessary to facilitate the conduct of a trade or business. This definition only applies to new construction.

"Small qualified business firm" means any qualified business firm other than a large qualified business firm.

"Small qualified zone resident" means any qualified zone resident other than a large qualified zone resident.

"Surplus public land" means land within a zone which is owned by the Commonwealth or a unit of local government and which meets the following standards.

1. In the case of land owned by a unit of local government (i) the land is not being used for a public purpose nor designated or targeted for a specific public use in an adopted land use plan, facilities plan, capital improvements plan or other official public document; (ii) no tangible harm would be incurred by the unit of local government if the land were eliminated from its holdings; and (iii) sale of the land would not violate any restriction stated in the deed.

2. In the case of land owned by agencies of the Commonwealth, except land acquired by the Virginia Department of Transportation for the construction of highways, the land has been determined to be surplus to the Commonwealth in accordance with criteria and procedures established pursuant to §§ 2.1-504 through 2.1-512 of the Code of Virginia.

3. In the case of land acquired by the Virginia Department of Transportation for the construction of highways, the land has been determined to be surplus to the needs of the State Highway Commission and the Commonwealth in accordance with criteria and procedures established pursuant to §§ 33.1-93, 33.1-149 and 33.1-154 of the Code of Virginia. The Commonwealth Transportation Commissioner, prior to determining that land surplus to its needs is also surplus to the Commonwealth, may make such land available to other state agencies in accordance with procedures established pursuant to §§ 2.1-504 through 2.1-512 of the Code of Virginia.

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"*Tax due*" means the amount of tax liability as determined by the Department of Taxation or the State Corporation Commission.

"*Tax year*" means the year in which the assessment is made.

"*Taxable year*" means the year in which the tax due on state taxable income, state taxable gross receipts or state taxable net capital is accrued.

"*Threshold number*" means 110% of the number of permanent full-time positions in the base year for the first three-year period in which a business firm is eligible for an enterprise zone incentive grant. For a second and any subsequent three-year period of eligibility, the threshold means 120% of the number of permanent full-time positions in the applicable base year as redetermined for the subsequent three-year period. If such number would include a fraction, the threshold number shall be the next highest integer. Where there are no permanent full-time positions in the base year, the threshold will be zero.

"*Transferred employee*" means an employee of a firm in the Commonwealth that is relocated to an enterprise zone facility owned or operated by that firm.

"*Unit of local government*" means any county, city or town. Special purpose political subdivisions, such as redevelopment and housing authorities and industrial development authorities, are not units of local government.

"*Zone*" means an enterprise zone declared by the Governor to be eligible for the benefits of this program.

"*Zone investment tax credit*" means a credit provided to a large qualified zone resident pursuant to § 59.1-280.1 *D* of the Code of Virginia.

"*Zone resident*" means a person whose principal place of residency is within the boundaries of any enterprise zone. Persons who meet the definition of both low-income and zone resident may not be counted as both for purposes of meeting employment requirements for the general tax credit. Instead, qualifying business firms must claim these persons as either low-income or zone resident. Zone residency must be verified annually.

13 VAC 5-111-100. Application submittal and processing.

A. Any business firm who qualifies for general tax credits on or after July 1, 1995, and whose taxable year ends on or before December 31, 1995, shall submit an application requesting a general tax credit to the department by no later than May 1, 1996.

B. For taxable years ending after December 31, 1995, and on or before January 1, 1997, applications requesting a general tax credit shall be submitted to the department by no later than May 1, 1997.

C. For taxable years thereafter, for any tax year that ends on or after January 1 and on or before December 31, *or for businesses with tax years in accordance with § 441(f) of the Internal Revenue Code on or before January 7 of the subsequent year*, applications requesting a general tax credit

shall be submitted to the department by no later than May 1 of the subsequent calendar year.

D. Any business firm which is interested in amending past tax returns in order to qualify for and receive general tax credits shall submit an application requesting general tax credits to the department by no later than May 1 of any three subsequent calendar years immediately following the year the business firm is requesting the credit provided that there is an outstanding credit balance remaining for that particular tax year. These requests will be handled on a first-come, first-serve basis. Because this credit was not available prior to July 1, 1995, business firms cannot request or amend returns for tax years prior to 1995.

E. The department shall review all applications for completeness and notify business firms of any errors no later than June 1. Business firms must respond to any unresolved issues by no later than June 15.

F. The department shall notify all applicants by June 30 as to the amount of applicable general credit it may claim for the taxable year the request was made.

G. Applications must be made on forms prescribed by the department, and either hand delivered by the date specified in this section or sent by certified mail with a return receipt requested and post marked no later than the date specified in this section.

H. Applicants may only apply for credits which they are otherwise eligible to claim for such taxable year, subject to the limitations provided by 13 VAC 5-111-80 A and 13 VAC 5-111-170 A.

I. Prohibition on requalification due to reorganization of a firm. A business firm may not qualify for a tax credit pursuant to 13 VAC 5-111-70 for more than its qualification period by reorganizing or changing its form in a manner that does not alter the basis of the firm's assets or result in a taxable event.

13 VAC 5-111-120. Anti-churning.

A. A permanent full-time ~~position~~ employee shall not include any employee:

1. For which a credit under this chapter was previously earned by a related party, as defined by the Internal Revenue Code § 267(b) or a trade or business under common control;
2. Who was previously employed in the same job function in Virginia by a related party, or a trade or business under common control;
3. Whose job function was previously performed at a different location in Virginia by an employee of the taxpayer, a related party, or a trade or business under common control;
4. Whose previous job function previously qualified for a credit in connection with a different enterprise zone location on behalf of the taxpayer, a related party, or a trade or business under common control;

5. Whose job function counted for purposes of determining a 10% increase by an existing business firm and credited in an earlier taxable year on behalf of the taxpayer, a related party, or a trade or business under common control; or

6. Whose job function was filled in the Commonwealth and the trade or business where this job function was located was acquired or assumed by another taxpayer.

B. A new permanent full-time position which otherwise qualifies for the credit will not be disqualified for purposes of the credit where the employer chooses to use more than one individual to fill the position. This exception is limited to those situations where no more than two employees are used to fill a position, such employees are eligible for essentially the same benefits as full-time employees, and each employee works at least 20 hours per week for at least 48 weeks per year.

13 VAC 5-111-130. Pass through entities.

The amount of any credit attributable to a partnership, S corporation, or limited liability company shall be allocated to the individual partners, shareholders, or members, respectively. The credit will be allocated in the manner in which ~~profits are~~ income is allocated for federal income tax purposes.

13 VAC 5-111-160. Eligibility.

A. A business firm is eligible to receive a credit for real property improvements for the tax year that the property was placed in service provided:

1. The total amount of the rehabilitation or expansion of depreciable *nonresidential* real property placed in service during the taxable year within the enterprise zone equals or exceeds \$50,000 and the assessed value of the original facility immediately prior to rehabilitation or expansion.

2. The cost of any newly constructed depreciable nonresidential real property (as opposed to rehabilitation or expansion) is at least \$250,000 with respect to a single facility. For purposes of this subdivision, land, land improvements, paving, grading, driveway and interest shall not be deemed to be qualified zone improvements.

B. The business firm must certify to the Department of Housing and Community Development on the prescribed form or forms, and other documents as prescribed by the department, that the firm has met the criteria for qualification prescribed in this section. The form or forms referred to in this subsection must be prepared by an independent certified public accountant licensed by the Commonwealth and shall serve as prima facie evidence that the business firm met the qualifications but the evidence of eligibility shall be subject to rebuttal. The department or the Department of Taxation or State Corporation Commission, as applicable, may at its discretion require any business firm to provide supplemental information regarding the firm's eligibility (i) as a qualified business firm or (ii) for a tax credit claimed pursuant to 13 VAC 5-111-150 A.

13 VAC 5-111-165. Intrastate anti-piracy rule.

Real property improvement tax credits will not be available to assist a Virginia firm to relocate from one area of Virginia to another unless there is an increase in employment, investment in machinery or equipment, or building square footage for the firm.

13 VAC 5-111-170. Zone investment tax credits.

A. A large qualified zone resident shall be eligible for a credit in an amount of up to 5.0% of the qualified zone investments in lieu of the credit provided for in 13 VAC 5-111-150 A. The zone investment tax credit provided by this subsection shall not exceed the tax imposed for such taxable year, but any tax credit not usable for the taxable year generated may be carried over until the full amount of such credit has been utilized. *The use of zone investment tax credits may be initiated in accordance with 13 VAC 5-111-190 once the job creation and investment identified in the negotiation have been completed.*

B. The percentage amount of the zone investment tax credit granted to a large qualified zone resident shall be determined by agreement between the department and the large qualified zone resident, provided such percentage amount does not exceed 5.0%.

C. The percentage amounts of the business income tax credit provided in 13 VAC 5-111-80 C which may be granted to a large qualified business firm ~~is~~ are also subject to agreement between the department in the event that a large qualified zone resident is also a large qualified business firm, provided such percentage amounts shall not exceed the percentage amounts otherwise provided in 13 VAC 5-111-80 C.

D. The credits provided for in this section and in 13 VAC 5-111-80 C for large qualified businesses are subject to annual fiscal limitations based on the Commonwealth's fiscal year ending June 30th as provided for in §§ 59.1-280.1 D and 59.1-280.2 B 2 of the Code of Virginia. In the event that taxpayer requests exceed the Commonwealth's annual fiscal limitation the taxpayer shall be granted a pro rata amount by the department, determined in accordance with 13 VAC 5-111-85 B. The amount of such prorated grant shall be determined by applying a fraction, the numerator of which shall be the gross credit requested by the taxpayer for such year, and the denominator of which shall be the total gross credits requested by all taxpayers for such year to the Commonwealth's annual fiscal limitation. The credit which may be requested each year shall be subject to the limitation provided by subsection A of this section.

E. If the total amount of tax credits for which large qualified business firms are eligible under subsection D of § 59.1-280 of the Code of Virginia and large qualified zone residents are eligible under subsection D of § 59.1-280.1 of the Code of Virginia exceeds three million dollars in any fiscal year in which the amount of tax credits for which small qualified business firms are eligible under subsection C of § 59.1-280 of the Code of Virginia and small qualified zone residents are eligible under subsection C of § 59.1-280 of the Code of Virginia is less than \$16 million dollars, then the amount of tax

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credits available to such large qualified business firms and large qualified zone residents shall be increased by the amount by which the tax credits for such small qualified business firms and small qualified zone residents are eligible is less than \$16 million ~~dollars~~.

F. In the event that a taxpayer who is subject to the annual fiscal limitation imposed pursuant to subsection D of this section and is also allowed another credit pursuant to another section of the Code of Virginia, such taxpayer shall be considered to have first utilized any credit allowed which does not have a carry forward provision, and then any credit which is carried forward from a preceding taxable year, prior to utilization of any credit granted pursuant to this section.

G. The business firm must certify to the Department of Housing and Community Development on prescribed form or forms and other documents as prescribed by the department that the firm has met the criteria for qualification prescribed in this section. The form or forms referred to in this subsection must be prepared by an independent certified public accountant licensed by the Commonwealth and shall serve as prima facie evidence that the business firm met the qualifications, but the evidence of eligibility shall be subject to rebuttal. The department or the Department of Taxation or State Corporation Commission, as applicable, may at its discretion require any business firm to provide supplemental information regarding the firm's eligibility (i) as a qualified business firm or (ii) for a tax credit claimed pursuant to 13 VAC 5-111-170 A.

13 VAC 5-111-180. Pass through entities.

A. The amount of any credit attributable to a partnership, S corporation, or limited liability company shall be allocated to the individual partners, shareholders, or members, respectively. The credit will be allocated in the manner in which ~~profits are~~ *income is* allocated for federal income tax purposes.

B. In situations where an operating company forms a wholly-owned conduit entity, such as a limited liability company (LLC), to rehabilitate or construct a building that is to be leased to the operating company, the LLC can qualify for the real property improvement tax credit provided the qualified expenses are paid by the LLC and the operating company occupies the building. Any credit earned by the LLC would pass through to the operating company.

C. In instances where a conduit entity is formed by an operating company and a development firm to rehabilitate or construct a building that is to be leased to the operating company, the conduit entity would qualify for the real property improvement tax credit provided the qualified expenses are paid by the conduit entity and the operating company occupies the building. However, the actual credit allowed would be limited to the qualified expenses attributable to the operating company limited to its investment in the conduit entity. The development firm would be ineligible to receive the tax credit.

13 VAC 5-111-190. Application submittal and processing.

A. Any business firm whose taxable year begins on or after July 1, 1995, and ends on or before December 31, 1995, shall submit an application for real property improvements tax credit (13 VAC 5-111-150) and zone investment tax credits (13 VAC 5-111-170) to the department by no later than May 1, 1996.

B. For taxable years ending after December 31, 1995, and before January 1, 1997, applications requesting a real property improvements tax credit and zone investment tax credits shall be submitted to the department by no later than May 1, 1997.

C. For taxable years thereafter, for any tax year that ends on or after January 1 and on or before December 31, *or for businesses with tax years in accordance with § 441(f) of the Internal Revenue Code on or before January 7 of the subsequent year*, applications requesting a real property improvements tax credit and zone investment tax credits shall be submitted to the department by no later than May 1 of the subsequent calendar year.

D. Any business firm which is interested in amending past tax returns in order to qualify for and receive real property improvement tax credits shall submit an application requesting real property improvement tax credits to the department by no later than May 1 of any of three subsequent calendar years immediately following the year the business firm is requesting the credit provided that there is an outstanding credit balance remaining for that particular tax year. These requests will be handled on a first-come, first-serve basis. Because this credit was not available prior to July 1, 1995, business firms cannot amend returns for tax years beginning prior to July 1, 1995.

E. The department shall review all applications for completeness and notify business firms of any errors by no later than June 1. Business firms must respond to any unresolved issues by no later than June 15.

F. The department shall notify all applicants by June 30 as to the amount of applicable credit or refund it is eligible for in the taxable year the request was made.

G. Applications must be made on forms prescribed by the department, and sent by certified mail with a return receipt requested and post marked no later than the date specified in this section.

H. Applicants may only apply for credits which they are otherwise eligible to claim for such taxable year, subject to the limitations provided by 13 VAC 5-111-80 A and 13 VAC 5-111-170 A.

I. A business firm may not qualify for tax credits pursuant to 13 VAC 5-111-140 for more than \$125,000 within a five-year period by reorganizing or changing its form in a manner that does not alter the basis of the firm's assets or result in a taxable event.

13 VAC 5-111-240. Eligibility.

A. A business firm shall be eligible to receive job grants for three consecutive calendar years commencing with the first year of grant eligibility. Business firms applying for the first three-year period shall demonstrate that they have increased the business firm's enterprise zone permanent full-time positions by 10% over the base year. Permanent full-time positions created during the second or third year of the grant period are eligible for additional grant funding over the previous year level at the option of the business firm, but only during the three-year grant period.

B. For the second and any subsequent three-year period of grant eligibility, the business firm must demonstrate that it has increased employment by 20% over a redetermined base year.

1. If a business firm applies for a subsequent three-year period within two years immediately following the completion of the first three-year period, the firm must base the increase on the number of positions in the preceding base year, plus the number of threshold positions, plus the number of permanent full-time positions receiving grants in the final year of the previous grant period.

2. If a business firm applies for subsequent three-year periods later than two years following the completion of the first three-year period, the firm must base the increase of permanent full-time positions over one of the two preceding calendar years.

C. The amount of the grant for which a business firm is eligible in any year shall not include amounts for the number of eligible positions in any year other than the preceding calendar year, except as provided in 13 VAC 5-111-260 A, regarding carryforward of unsatisfied grant amounts.

D. In order to claim the grant an application must be submitted to the local zone administrator by March 31 of the year following the grant year. Applications for grants shall be made on form or forms as prescribed by the department and may include other documentation as requested by the local zone administrator or department. The form or forms referred to in this subsection must be prepared by an independent certified public accountant licensed by the Commonwealth and shall serve as prima facie evidence that the business firm met the eligibility requirements.

E. The local zone administrator shall review applications and determine the completeness of each application and the requested documentation, and forward applications for grants to the department by no later than April 30 of the year following the grant year. *Applications forwarded to the department by the local zone administrator must be either hand delivered by the date specified in this section or sent by certified mail with a return receipt requested and post marked no later than the date specified in this section.*

F. The department shall review all applications for completeness and notify business firms of any errors no later than June 1 of the year following the grant year. Business

firms must respond to any unresolved issues by no later than June 15 of the year following the grant year.

G. The department shall notify all businesses by June 30 as to the amount of applicable zone incentive grant it is eligible for the calendar year the request was made.

H. Any business firm receiving an enterprise zone incentive grant under § 59.1-282.1 of the Code of Virginia shall not be eligible for a major business facility job tax credit pursuant to § 58.1-439 of the Code of Virginia with respect to any enterprise zone location which is receiving an enterprise zone incentive grant.

13 VAC 5-111-280. Eligible applicants for zone designation.

A. Eligible applicants include the governing body of any county, city or town.

B. The governing body of a county may apply for designation of an enterprise zone on behalf of a town located within the county.

C. Two or more adjacent jurisdictions may file a joint application for an enterprise zone ~~lying located~~ in the jurisdictions submitting the application.

D. Jurisdictions may apply for more than one enterprise zone designation. This includes the submission of a joint application with other jurisdictions. Each county, city and town is limited to a total of three enterprise zones, ~~however, a county with a population of 150 or fewer persons per square mile at the most recent decennial census shall be limited to a total of two zones.~~

13 VAC 5-111-300. Procedures for zone application and designation.

A. Up to ~~50~~ 55 enterprise zones may be designated by the Governor in accordance with the procedures and requirements set out in this section. *Five of the areas designated as enterprise zones on or after July 1, 1999, shall be located in localities that (i) have annual average unemployment rates for the most recent calendar year that are 50% higher than the final statewide average unemployment rate for the most recent calendar year or (ii) are within planning districts that have annual average unemployment rates for the most recent calendar year that are at least 1.0% greater than the final annual statewide average for the most recent calendar year. No area shall be designated as an enterprise zone pursuant to this subsection unless it also meets all the other eligibility criteria established pursuant to 13 VAC 5-111-290.*

B. Applications for zone designation will be solicited by the department in accordance with the following procedures and requirements:

1. An application for zone designation must be submitted on Form EZ-1 to the Director, Virginia Department of Housing and Community Development, The Jackson Center, 501 North Second Street, Richmond, Virginia 23219, on or before the submission date established by the department.

2. The local governing body must hold at least one public hearing on the application for zone designation prior to its submission to the department. Notification of the public hearing is to be in accordance with ~~§ 45.1-434~~ 15.2-2204 of the Code of Virginia relating to advertising of public hearings. An actual copy of the advertisement must be included in the application as Attachment A.

3. In order to be considered in the competitive zone designation process an application from a jurisdiction must include all the requested information, be accompanied by a resolution of the local governing body and be signed by the chief administrator or the clerk to the town council or county board of supervisors where there is no chief administrator. The chief administrator or clerk, in signing the application, must certify that the local governing body held the public hearing required in subdivision 2 of this subsection.

4. As part of its application a locality may propose local incentives including but not limited to: (i) reduction of permit fees; (ii) reduction of user fees; (iii) special subclassifications and rates for business professional and occupational license tax; (iv) partial exemption from taxation of substantially rehabilitated real estate pursuant to § 58.1-3221 of the Code of Virginia; (v) infrastructure improvements; (vi) crime reduction measures; and (vii) adoption of a local enterprise zone development taxation program pursuant to ~~§§ 58.1-3245~~ 58.1-3245.6 through 58.1-3245.11 of the Code of Virginia. When making an application jurisdictions may also make proposals for regulatory flexibility, including, but not limited to: (i) special zoning districts; (ii) permit process reform; (iii) exemptions from local ordinances; (iv) removal of regulatory barriers to affordable housing; and (v) other public incentives proposed. A jurisdiction may also create a local enterprise zone association to assist in the planning process and future management of the enterprise zone to assure that major decisions affecting the zone's future take into account the needs of both the public and private sector, including citizens of the involved zone communities.

5. The likely impact of proposed local incentives in offsetting identified barriers to private investment in the proposed zone, together with the projected impact of state tax incentives, will be factors in evaluating applications.

6. A locality may establish eligibility criteria for local incentives for business firms that are the less than, the same as, or more stringent than, the criteria for eligibility of grants or other benefits that the state provides.

7. Proposed local incentives may be provided by the local governing body itself or by an assigned agent such as a local redevelopment and housing authority, an industrial development authority, a private nonprofit entity or a private for-profit entity. In the case of a county which submits an application on behalf of an incorporated town, the county may designate the governing body of the town to serve as its assigned agent. In the case of a county which submits an application for a zone encompassing

unincorporated county areas as well as portions of one or more towns, the county may designate the governing body of the town to serve as its assigned agent.

C. Within 60 days following the application submission date, the department shall review and the director shall recommend to the Governor those applications that meet a minimum threshold standard as set by the department and are competitively determined to have the greatest potential for accomplishing the purposes of the program.

D. The department, in consultation with the Virginia Economic Development Partnership, may allow up to five enterprise zone designations to be utilized in an open submission process for significant economic development opportunities in areas that are otherwise qualified under provisions of these regulations and meet minimum threshold standards. The selection of these zones by the Governor shall be made upon recommendation and certification of consistency with the program regulations by the department.

E. The Governor shall designate, upon recommendation of the director, enterprise zones for a period of 20 years. The Governor's designation shall be final.

F. A local governing body whose application for zone designation is denied shall be notified and provided with the reasons for denial.

13 VAC 5-111-310. Procedures and requirements for joint applications.

A. Two or more adjacent jurisdictions submitting a joint application as provided for in 13 VAC 5-111-300 B must meet the requirements set out in this section.

B. Each jurisdiction comprising the proposed joint enterprise zone shall conform to the size guidelines for that type of jurisdiction outlined in 13 VAC 5-111-290 D.

~~B.~~ C. The applicants must designate one jurisdiction to act as program administrator. The jurisdiction so designated shall be responsible for filing a survey of zone business conditions and annual reports as provided for in 13 VAC 5-111-380 and 13 VAC 5-111-390.

~~C.~~ D. In order to submit a joint application, Form EZ-I must be completed and filed by the jurisdiction acting as program administrator in accordance with the procedures set forth in subdivisions B 1 through 4 of 13 VAC 5-111-300. In addition, a copy of Form EZ-I-JA must be completed by each of the other participating jurisdictions to certify that they are in agreement in filing the joint application. A copy of Form EZ-I-JA must be submitted to the department with Form EZ-I.

~~D.~~ E. The applicants must meet all other requirements of these regulations pertaining to applicants. In the case of joint applications, all references to "applicant" and "local governing body" contained in the text of these regulations shall mean the governing body of each participating jurisdiction.

13 VAC 5-111-390. Annual reporting.

A. A local governing body shall submit annual reports to the department for the purpose of program monitoring and evaluation. Annual reports shall be submitted to the

department on Form EZ-3-AR, within 90 days of the anniversary date of zone designation. Annual reports shall include information documenting the local governing body's compliance with 13 VAC 5-111-370 and data for the purpose of program evaluation as requested on Form EZ-3-AR. Annual reports shall also include an evaluation of the program's success in achieving identified local development objectives.

B. The department shall annually review the effectiveness of state and local incentives in increasing investment and employment in each of the enterprise zones and provide an annual report of its findings to the Senate Finance Committee, Senate Committee on Commerce and Labor, the House Finance Committee, and the House Committee on Labor and Finance Commerce.

When the potential exists that the annual fiscal limitations on the general tax credit, the real property improvements tax credit, the zone investment tax credits, or zone incentive grants will be fully utilized, thus triggering their pro rata distribution, the department shall include this information in the annual report.

VA.R. Doc. No. R98-298; Filed October 19, 1999, 4:47 p.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

DEPARTMENT OF HEALTH PROFESSIONS

REGISTRAR'S NOTICE: The following regulation filed by the Department of Health Professions is exempt from the Administrative Process Act in accordance with § 9-6.14:4.1 B 18 of the Code of Virginia, which exempts regulations for the implementation of the Health Practitioners' Intervention Program, Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1 of the Code of Virginia.

Title of Regulation: 18 VAC 76-10-10 et seq. Regulations Governing the Health Practitioner's Intervention Program for the Department of Health Professions (adding 18 VAC 76-10-65).

Statutory Authority: § 54.1-2505 of the Code of Virginia.

Effective Date: April 19, 2000.

Summary:

The amendment gives the authority to the chairperson of the program committee to take action, including vacating a stay of disciplinary action, in cases where information is received that a program participant no longer satisfies the conditions for such a stay.

Agency Contact: Copies of the regulation may be obtained from Elaine J. Yeatts, Senior Regulatory Analyst, Department

of Health Professions, 6606 West Broad Street, 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9918.

18 VAC 76-10-65. Authority of the chairperson of the committee.

The chairperson of the committee, following consultation with the program coordinator, shall have the authority to act, including immediately vacating a stay, in cases where a program participant has been granted a stay or has been placed on probation, or both, by order of a health regulatory board and information has been received that a program participant no longer satisfies the conditions of § 54.1-2516 C of the Code of Virginia.

VA.R. Doc. No. R00-163; Filed April 19, 2000, 11:03 a.m.

GOVERNOR

GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

TITLE 22. SOCIAL SERVICES

DEPARTMENT OF SOCIAL SERVICES

Title of Regulation: **22 VAC 40-600-10 et seq. Food Stamp Program -- Administrative Disqualification Hearings.**

Governor's Comment:

I have reviewed the proposed regulation on a preliminary basis. While I reserve the right to take action under the Administrative Process Act during the final adoption period, I have no objection to this regulation based on the information and public comment currently available.

/s/ James S. Gilmore, III

Governor

Date: February 15, 2000

VA.R. Doc. No. R99-150; Filed April 14, 2000, 2:03 p.m.



GENERAL NOTICES/ERRATA

STATE CORPORATION COMMISSION

EDITOR'S NOTE: Appendices A, B and C referenced in the following order are not being published. However, these appendices are available for public inspection at the State Corporation Commission, Document Control Center, Tyler Building, 1300 East Main Street, 1st Floor, Richmond, Virginia, from 8:15 a.m. to 5 p.m., Monday through Friday.

AT RICHMOND, APRIL 6, 2000

COMMONWEALTH OF VIRGINIA, *ex rel.*

At the relation of the
STATE CORPORATION COMMISSION

CASE No. PUC970173

Ex Parte: In the matter of
revising Rules for Pay Telephone
Service and Instruments pursuant
to the Pay Telephone Registration
Act

FINAL ORDER

On November 4, 1997, the Commission issued an Order Prescribing Notice in the above-captioned proceeding. In response to the Order Prescribing Notice, the Virginia Telecommunications Industry Association, GTE South Incorporated, AT&T Communications of Virginia, Inc., and Bell Atlantic-Virginia, Inc. ("BA-VA"), filed comments on November 25, 1997. On December 3, 1997, the Commission issued an Order Bifurcating Proceeding and Directing Staff to File Report. The Staff Report was filed on December 4, 1997. BA-VA filed comments on the Staff Report on December 10, 1997. On December 15, 1997, the Commission issued an Interim Order on Phase I in the above-captioned proceeding which approved certain rules and reserved further rulemaking for the second phase of this proceeding. However, no further rule revisions have been undertaken for Phase II, and the Commission is now of the opinion that the further rulemaking should be addressed in a future proceeding.

Accordingly, the Commission hereby orders this case closed and the papers filed herein placed in the file for ended causes.

ATTESTED COPIES of this Order shall be sent by the Clerk of the Commission to: Virginia's local exchange companies as set out in Appendix A attached hereto; Virginia's certificated interexchange carriers as set out in Appendix B attached hereto; Virginia's registered pay telephone service providers as set out in Appendix C attached hereto; Richard D. Gary, Esquire, Hunton & Williams, Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, Virginia 23219-4074; Stephen C. Spencer, Assistant Vice President-Regulatory and Governmental Affairs, GTE South Incorporated, Three James Center, Suite 1200, 1051 East Cary Street, Richmond, Virginia 23219; Wilma R. McCarey, Esquire, AT&T Communications of Virginia, Inc., 3033 Chain Bridge Road, Room 3-D, Oakton, Virginia 22185-0001; Warner F. Brundage, Jr., Esquire, Bell Atlantic-Virginia, Inc., 600 East Main Street, 11th Floor,

Richmond, Virginia 23219; John F. Dudley, Senior Assistant Attorney General, Division of Consumer Counsel, Office of Attorney General, 900 East Main Street, Second Floor, Richmond, Virginia 23219; the Commission's Office of General of Counsel; and the Commission's Divisions of Communications and Public Utility Accounting.

DEPARTMENT OF ENVIRONMENTAL QUALITY

Notice of Public Meeting and Public Comment - Otters TMDL for Fecal Coliform Bacteria

The Department of Environmental Quality (DEQ) and the Department of Conservation and Recreation seek written and oral comments from interested persons on the development of a Total Maximum Daily Load (TMDL) for Fecal Coliform Bacteria on five segments of the Otters. These impaired segments are located in Bedford and Campbell Counties. The TMDL for fecal coliform bacteria segments are Sheeps Creek, Elk Creek, Little Otter Creek, Machine Creek, and the Big Otter River. These five segments are identified in Virginia's 1998 § 303(d) TMDL Priority List and Report as impaired due to violations of the state's water quality standard for fecal coliform bacteria.

Section 303(d) of the federal 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 second public meeting on the development of the Otters Fecal Coliform Bacteria TMDLs for these five segments will be held on Tuesday, May 23, 2000, at 7 p.m., at the Bedford Elementary School Gym, 806 Burkshill Road, Bedford, Virginia (near the intersection of Route 122 and Route 460).

The public comment period will end on June 5, 2000. A fact sheet on the development of the TMDL for fecal coliform bacteria on the Otters is available upon request. Questions or information requests should be addressed to Clint Boschen. Written comments should include the name, address, and telephone number of the person submitting the comments and should be sent to Clint Boschen, Department of Environmental Quality, 3019 Peters Creek Road, Roanoke, Virginia, 24019, telephone (540) 562-6724, FAX (540) 562-6729, or e-mail cjboschen@deq.state.va.us.

STATE WATER CONTROL BOARD

Proposed Consent Special Order Bedford County Public School Board

The State Water Control Board (SWCB) proposes to issue an amendment to a consent special order to the Bedford County Public School Board regarding settlement of a civil enforcement action related to compliance with the Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation, 9 VAC 25-31-10 et seq. 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 Robert Steele, DEQ West Central Regional Office, 3019 Peters Creek Road, NW., Roanoke, Virginia 24019.

The final consent special order may be examined at the department during regular business hours. Copies are available from Mr. Steele at the address above or by calling (540) 562-6777.

Proposed Consent Special Order City of Clifton Forge

The State Water Control Board (SWCB) proposes to issue a consent special order to the City of Clifton Forge regarding a settlement of a civil enforcement action related to compliance with the Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation, 9 VAC 25-31-10 et seq. 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 Robert Steele, DEQ West Central Regional Office, 3019 Peters Creek Road, N.W., Roanoke, Virginia 24019.

The final consent special order may be examined at the department during regular business hours. Copies are available from Mr. Steele at the address above or by calling (540) 562-6777.

Proposed Consent Special Order Honeywell International Inc.

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 the facility in Chesterfield, Virginia. The proposed order requires Honeywell International Inc. to pay a \$9,660 civil charge.

On behalf of the State Water Control Board, the Department of Environmental Quality will receive for 30 days from the date of publication of this notice written comments relating to the proposed consent special order. Comments should be addressed to Vernon Williams, Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia 23060-6295. A copy of the order may be obtained in person or by mail from the above office.

Proposed Consent Special Order James P. Townsend - Queenfield Farm

The State Water Control Board proposes to issue a consent special order to James P. Townsend (Queenfield Farm) to resolve certain alleged violations of environmental laws and regulations occurring at Queenfield Farm located in the County of King William. The proposed order requires James P. Townsend to prevent overflow of waste from the slurry store by maintaining a minimum freeboard of 18 inches and to obtain an individual Virginia Pollutant Abatement permit from the Department of Environmental Quality (DEQ).

On behalf of the State Water Control Board, DEQ will receive written comments relating to the proposed consent special order for 30 days from the date of publication of this notice. Comments should be addressed to Richard F. Weeks, Jr., Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia 23060. A copy of the order may be obtained in person or by mail from the above office.

VIRGINIA CODE COMMISSION

Notice to State Agencies

Mailing Address: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219. You may FAX in your notice; however, we ask that you FAX two copies and do not follow up with a mailed copy. Our FAX number is: (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://legis.state.va.us/codecomm/register/regindex.htm>

FORMS:

NOTICE of INTENDED REGULATORY ACTION - RR01
NOTICE of COMMENT PERIOD - RR02
PROPOSED (Transmittal Sheet) - RR03
FINAL (Transmittal Sheet) - RR04
EMERGENCY (Transmittal Sheet) - RR05
NOTICE of MEETING - RR06
AGENCY RESPONSE TO LEGISLATIVE OBJECTIONS
- RR08

ERRATA

CHESAPEAKE BAY LOCAL ASSISTANCE DEPARTMENT

Guidance Documents

Publication: 16:13 VA.R. 1799-1802 March 16, 2000.

Corrections to Guidance Document listing:

Page 1800, under the heading "Specific Agricultural Criteria Guidance," the first entry should read "Letter to the Virginia Farm Bureau regarding agricultural requirements under the regulations, September 11, 1990, 9 VAC 10-20, 3 pages"

Page 1802, fifth entry, left column, should read "Letter to King George County, December 5, 1997, regarding buffer

General Notices/Errata

exceptions for accessory structures, 9 VAC 10-20-130 B, 3 pages”



Page 1802, ninth entry, left column, should read “Letter to Accomack County, April 13, 1998, regarding buffer encroachments and related exceptions, 9 VAC 10-20-130 B and 9 VAC 10-20-160, 3 pages”

Page 1802, bottom of left column, should read “Letter to J. Donald Cotter of Ruther Glen, September 24, 1998, regarding exemptions, 9 VAC 10-20-130 C, 2 pages”

Page 1802, first entry, right column, should read “Letter to Caroline County, October 2, 1998, regarding silvicultural activities in CBPAs, 9 VAC 10-20-10, 1 page”


CALENDAR OF EVENTS

Symbol Key

-  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.


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


† **May 18, 2000 - 1 p.m.** -- Open Meeting

Department for the Aging, 1600 Forest Avenue, Suite 102, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular business meeting of the Planning and Development Committee.

Contact: Marsha Mucha, Administrative Staff Assistant, Commonwealth Council on Aging, 1600 Forest Ave., Suite 102, Richmond, VA 23229, telephone (804) 662-9312.


† **May 30, 2000 - 7 p.m.** -- Open Meeting

Martha Washington Inn, 150 West Main Street, Abingdon, Virginia.  (Interpreter for the deaf provided upon request)

A "brainstorming meeting" of the council.

Contact: Marsha Mucha, Administrative Staff Assistant, Commonwealth Council on Aging, 1600 Forest Ave., Suite 102, Richmond, VA 23229, telephone (804) 662-9312.

† **May 31, 2000 - 10 a.m.** -- Open Meeting


Oxbow Center, 16620 East Riverside Drive, St. Paul, Virginia.  (Interpreter for the deaf provided upon request)

A regular business meeting.


Contact: Marsha Mucha, Administrative Staff Assistant, Commonwealth Council on Aging, 1600 Forest Ave., Suite 102, Richmond, VA 23229, telephone (804) 662-9312.

BOARD OF AGRICULTURE AND CONSUMER SERVICES

May 18, 2000 - 9 a.m. -- Open Meeting

Department of Agriculture and Consumer Services, Washington Building, 1100 Bank Street, 2nd Floor, Richmond, Virginia. 


A meeting to discuss issues related to Virginia agriculture and consumer protection. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate in the meeting should contact Roy Seward at least five days before the meeting date so that suitable arrangements can be made.

Contact: Roy E. Seward, Board Secretary, Department of Agriculture and Consumer Services, Washington Bldg., 1100 Bank St., Richmond, VA 23219, telephone (804) 786-3538, FAX (804) 371-7679, or (800) 828-1120/TTY , email rseward@vdacs.state.va.us.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Virginia Charity Food Assistance Advisory Board

† **June 8, 2000 - 10:30 a.m.** -- Open Meeting

Washington Building, 1100 Bank Street, Second Floor Board Room, Richmond, Virginia. 

A routine meeting to discuss issues related to food insecurity. 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 Steven W. Thomas at least five days before the meeting date so that suitable arrangements can be made.

Contact: Steven W. Thomas, Executive Director, Virginia Charity Food Assistance Advisory Board, Department of Agriculture and Consumer Services, 1100 Bank St., Room 809, Richmond, VA 23219, telephone (804) 786-3936, FAX (804) 371-7788.

Virginia Farmers Market Board

† **May 9, 2000 - 9:30 a.m.** -- Open Meeting

Southeast Agricultural Research and Extension Center, 6321 Holland Road, Suffolk, Virginia. 

Calendar of Events

The board will convene for its regularly scheduled quarterly meeting. During the meeting, the minutes of the February meeting will be presented and approval expected. In addition, the board will review their financial statement. Contracted private sector operators of shipping point markets in the Virginia Farmers Market System will provide operational status reports and plans for the 2000 harvest and operations. 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: Susan K. Simpson, Program Director, Virginia Farmers Market Board, Department of Agriculture and Consumer Services, 1100 Bank St., Room 1002, Richmond, VA 23219, telephone (804) 786-2112, FAX (804) 371-7786.

Virginia Marine Products Board

June 14, 2000 - 6 p.m. -- Open Meeting
Chesapeake Bay Prime Rib and Seafood Company, 4329 George Washington Memorial Highway, Gloucester, Virginia. ☎

A meeting to receive reports from the Executive Director of the Virginia Marine Products Board on finance, marketing, past and future program planning, publicity, public relations and old and new business. 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: Shirley Estes, Executive Director, Virginia Marine Products Board, 554 Denbigh Blvd., Suite B, Newport News, VA 23608, telephone (757) 874-3474, FAX (757) 886-0671.

STATE AIR POLLUTION CONTROL BOARD

† **June 14, 2000 - 9 a.m.** -- Public Hearing
Main Street Centre, 600 East Main Street, Lower Level Conference Room, Richmond, Virginia.

July 7, 2000 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Air Pollution Control Board intends to amend regulations entitled: **9 VAC 5-60-10 et seq. Hazardous Air Pollutant Sources**, and **9 VAC 5-80-10 et seq. Permits for Stationary Sources**. The regulation amendments concern provisions covering federal operating permits and can be summarized as falling primarily into seven categories. The proposed amendments (i) remove deficiencies that prevent full federal approval for Virginia's Title V program; (ii) support commitments made in a letter of

February 27, 1997, from the DEQ director to EPA's Region III administrator amending previous program submittals; (iii) incorporate guidance from EPA's White Papers of July 1995 and March 1996; (iv) clarify applicable state requirements; (v) bring the acid rain program into conformity with federal regulations; (vi) incorporate provisions relating to the new federal Compliance Assurance Monitoring (CAM) rule; and (vii) incorporate provisions relating to § 112(j) of the federal Clean Air Act.

Request for Comments: The purpose of this notice is to provide the public with the opportunity to comment on the proposed regulation and the costs and benefits of the proposal.

Localities Affected: There is no locality which will bear any identified disproportionate material air quality impact due to the proposed regulation which would not be experienced by other localities.

Location of Proposal: The proposal, an analysis conducted by the department (including a statement of purpose, a statement of estimated impact and benefits of the proposed regulation, an explanation of need for the proposed regulation, an estimate of the impact of the proposed regulation upon small businesses, identification of and comparison with federal requirements, and a discussion of alternative approaches) and any other supporting documents may be examined by the public at the department's Office of Air Regulatory Development (Eighth Floor), 629 East Main Street, Richmond, Virginia, and the department's regional offices (listed below) between 8:30 a.m. and 4:30 p.m. of each business day until the close of the public comment period.

Abingdon Regional Office
Department of Environmental Quality
355 Deadmore Street
Abingdon, Virginia
Ph: (540) 676-4800

Roanoke Regional Office
Department of Environmental Quality
3019 Peters Creek Road, Suite D
Roanoke, Virginia
Ph: (540) 562-6700

Lynchburg Satellite Office
Department of Environmental Quality
7705 Timberlake Road
Lynchburg, Virginia
Ph: (804) 582-5120

Harrisonburg Regional Office
Department of Environmental Quality
116 North Main Street
Bridgewater, Virginia 22812
Ph: (540) 828-2595

Fredericksburg Satellite Office
Department of Environmental Quality
806 Westwood Office Park
Fredericksburg, Virginia
Ph: (540) 899-4600

Woodbridge Regional Office
Department of Environmental Quality
1549 Old Bridge Road, Suite 108
Woodbridge, Virginia
Ph: (703) 490-8922

Piedmont Regional Office
Department of Environmental Quality
4949-A Cox Road
Glen Allen, Virginia
Ph: (804) 527-5020

Tidewater Regional Office
Department of Environmental Quality
5636 Southern Boulevard
Virginia Beach, Virginia
Ph: (757) 518-2000
Statutory Authority: § 10.1-1308 of the Code of Virginia.


Public comments may be submitted until 4:30 p.m., July 7, 2000, to the Director, Office of Air Regulatory Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240.

Contact: Kathleen Sands, Ph.D., Policy Analyst, Office of Air Regulatory Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4413, FAX (804) 698-4510, toll-free 1-800-592-5482, or (804) 698-4021/TTY

ALCOHOLIC BEVERAGE CONTROL BOARD

May 8, 2000 - 9:30 a.m. -- Open Meeting

May 22, 2000 - 9:30 a.m. -- Open Meeting

Department of Alcoholic Beverage Control, 2901 Hermitage Road, Richmond, Virginia. 

A meeting to receive reports from staff members, discuss activities, and discuss other matters not yet determined.

Contact: W. Curtis Coleburn, Secretary to the Board, Department of Alcoholic Beverage Control, 2901 Hermitage Rd., P.O. Box 27491, Richmond, VA 23261, telephone (804) 213-4409 or FAX (804) 213-4442.

COMPREHENSIVE SERVICES FOR AT-RISK YOUTH AND THEIR FAMILIES

State Executive Council

May 31, 2000 - 9 a.m. -- Open Meeting

June 28, 2000 - 9 a.m. -- Open Meeting

Department of Social Services, 730 East Broad Street, Richmond, Virginia.


A monthly meeting to discuss interagency programmatic and fiscal policies, oversee the administration of funds appropriated under the Act, and advise the Governor.

Contact: Alan G. Saunders, Director, Office of Comprehensive Services, Department of Social Services, Wythe Building, 1604 Santa Rosa Road, Suite 137,


Richmond, VA 23229, telephone (804) 662-9815, FAX (804) 662-9831, e-mail ags992@central.dss.state.va.us.

BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

† **May 18, 2000 - 9 a.m.** -- Open Meeting


Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia. 

A meeting to consider agenda items as may be presented. A copy of the agenda may be obtained at the meeting or in advance from the board office. Public comment will be received at the beginning of the meeting.


Contact: Elizabeth Young Tisdale, Executive Director, Board of Audiology and Speech-Language Pathology, Southern States Bldg., 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9111, FAX (804) 662-9523, (804) 662-7197/TTY , e-mail etisdale@dhp.state.va.us.

BOARD FOR BARBERS

† **June 19, 2000 - 9 a.m.** -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, 5th Floor, Richmond, Virginia 
(Interpreter for the deaf provided upon request)

A meeting to discuss regulatory review and other matters requiring board action, including disciplinary cases. A public comment period will be held at the beginning of the meeting. All meetings are subject to cancellation. The time of the meeting is subject to change. Any person desiring to attend the meeting and requiring special accommodations or interpreter services should contact the department at 804-367-8590 or 804-367-9753/TTY 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: Nancy Taylor Feldman, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8590, FAX (804) 367-6295, (804) 367-9753/TTY , e-mail barbers@dpor.state.va.us.

STATE CHILD FATALITY REVIEW TEAM

† **May 12, 2000 - 10 a.m.** -- Open Meeting


400 East Jackson Street, Richmond, Virginia.

A regular meeting. The business portion of the meeting, approximately 45 minutes, is open to the public. The remainder of the meeting will be closed for confidential case review.


Contact: Suzanne J. Keller, Coordinator, State Child Fatality Review Team, 400 East Jackson St., Richmond, VA 23219, telephone (804) 786-1047, FAX (804) 371-8595, e-mail skeller@vdh.state.va.us.


Calendar of Events

STATE BOARD FOR COMMUNITY COLLEGES


May 17, 2000 - 12:30 p.m. -- Open Meeting
Tidewater Community College, Thomas W. Moss, Jr. Norfolk Campus, 300 Granby Street, Norfolk, Virginia.  (Interpreter for the deaf provided upon request)


Committee meetings. The exact time and location for each committee meeting will be announced later.

Contact: Dr. Joy S. Graham, Assistant Chancellor for Public Affairs, State Board for Community Colleges, Monroe Bldg., 101 N. 14th St., 15th Floor, Richmond, VA 23219, telephone (804) 225-2126, FAX (804) 371-0085, (804) 371-8504/TTY 


† May 17, 2000 - 2 p.m. -- Open Meeting
Tidewater Community College, Portsmouth Campus, 7000 College Drive, Portsmouth, Virginia.  (Interpreter for the deaf provided upon request)

Meetings of the Facilities and the Personnel Committees.


Contact: Dr. Joy S. Graham, Assistant Chancellor for Public Affairs, State Board for Community Colleges, James Monroe Bldg., 101 N. 14th Street, 15th Floor, Richmond, VA 23219, telephone (804) 225-2126, FAX (804) 371-0085, (804) 371-8504/TTY 

May 18, 2000 - 9 a.m. -- Open Meeting
Tidewater Community College, Thomas W. Moss Jr. Norfolk Campus, 300 Granby Street, Norfolk, Virginia.  (Interpreter for the deaf provided upon request)

A regular meeting of the board. Public comment will be received at the beginning of the meeting.

Contact: Dr. Joy S. Graham, Assistant Chancellor for Public Affairs, State Board for Community Colleges, Monroe Bldg., 101 N. 14th Street, 15th Floor, Richmond, VA 23219, telephone (804) 225-2126, FAX (804) 371-0085, (804) 371-8504/TTY 


COMMONWEALTH COMPETITION COUNCIL

† May 16, 2000 - 10 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, Senate Room B, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular meeting. The agenda will be made available.

Contact: Peggy R. Robertson, Executive Assistant, Commonwealth Competition Council, P.O. Box 1475, Richmond, VA 23218-1475, telephone (804) 786-0240, FAX (804) 786-1594, e-mail probertson@ccc.state.va.us.

COMPENSATION BOARD


† May 23, 2000 - 11 a.m. -- Open Meeting
Compensation Board, 202 North 9th Street, 10th Floor, Richmond, Virginia. 

A monthly board meeting.

Contact: Cindy P. Waddell, Administrative Staff Assistant, Compensation Board, P.O. Box 710, Richmond, VA 23218, telephone (804) 786-0786, FAX (804) 371-0235, e-mail cwaddell@scb.state.va.us.

DEPARTMENT OF CONSERVATION AND RECREATION


Virginia Agricultural BMP Implementation Advisory Committee

† July 6, 2000 - 9:30 a.m. -- Open Meeting
Department of Forestry, 900 Natural Resources Drive, Charlottesville, Virginia.  (Interpreter for the deaf provided upon request)

A quarterly meeting. Request for interpreter for the deaf should be filed with the department two weeks prior to the meeting.

Contact: Dana R. Bayless, Agricultural Incentives Program Manager, Department of Conservation and Recreation, 203 Governor St., Richmond, VA 23219, telephone (804) 371-7330, e-mail drbayless@dcr.state.va.us.


Virginia Cave Board

† May 13, 2000 - 1 p.m. -- Open Meeting
Department of Conservation and Recreation, Division of Soil and Water, Sangers Lane, Staunton, Virginia.  (Interpreter for the deaf provided upon request)

A regularly scheduled meeting. A variety of issues relating to cave and karst conservation will be discussed. A public comment period is set aside on the agenda. Requests for an interpreter for the deaf should be filed with the agency two weeks prior to the meeting.

Contact: Lawrence R. Smith, Natural Area Protection Manager, Department of Conservation and Recreation, 217 Governor St., 3rd Floor, Richmond, VA 23219, telephone (804) 786-7951, FAX (804) 371-2674, e-mail lsmith@dcr.state.va.us.

Board on the Conservation and Development of Public Beaches

May 22, 2000 - 10 a.m. -- Open Meeting
Virginia Institute of Marine Science, Watermans Hall, Director's Conference Room, Gloucester Point, Virginia.  (Interpreter for the deaf provided upon request)

The board will review requests from localities for matching grant funds, accept public comments about the management and conservation of public beaches and on May 4 will tour the Norfolk public beaches. Requests for an interpreter for the deaf should be filed two weeks prior to the meeting.

Contact: Lee Hill, Environmental Engineer, Department of Conservation and Recreation, 203 Governor St., Richmond,

VA 23219, telephone (804) 786-3998, e-mail leehill@dcr.state.va.us.

3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8590, FAX (804) 367-6295, (804) 367-9753/TTY ☎, e-mail cosmo@dpor.state.va.us.

BOARD OF CORRECTIONS

† **May 16, 2000 - 10:30 a.m.** -- Open Meeting
Board of Corrections, 6900 Atmore Drive, Board Room, Richmond, Virginia. ♿

A meeting of the Correctional Services Committee to discuss correctional services matters for possible presentation to the full board.

Contact: Barbara Fellows, Administrative Assistant, Board of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235, FAX (804) 674-3130, e-mail fellowsbl@vadoc.state.va.us.

† **May 17, 2000 - 8:30 a.m.** -- Open Meeting
Board of Corrections, 6900 Atmore Drive, Board Room, Richmond, Virginia. ♿

A meeting of the Administration Committee to discuss administrative matters for possible presentation to the full board.

Contact: Barbara Fellows, Administrative Assistant, Board of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235, FAX (804) 674-3130, e-mail fellowsbl@vadoc.state.va.us.

† **May 17, 2000 - 10 a.m.** -- Open Meeting
Board of Corrections, 6900 Atmore Drive, Board Room, Richmond, Virginia. ♿

A meeting to discuss matters that may be presented to the full board. Public comment will be received.

Contact: Barbara Fellows, Administrative Assistant, Board of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235, FAX (804) 674-3130, e-mail fellowsbl@vadoc.state.va.us.

BOARD FOR COSMETOLOGY

† **June 19, 2000 - 9 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 5th Floor, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting to discuss regulatory review and other matters requiring board action, including disciplinary cases. A public comment period will be held at the beginning of the meeting. All meetings are subject to cancellation. The time of the meeting is subject to change. Any person desiring to attend the meeting and requiring special accommodations or interpreter services should contact the 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: Nancy Taylor Feldman, Assistant Director, Department of Professional and Occupational Regulation,

BOARD OF DENTISTRY

† **May 26, 2000 - 9:30 a.m.** -- Open Meeting
† **June 13, 2000 - 1:30 p.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 4th Floor, Richmond, Virginia. ♿

An informal conference committee will convene to hear possible violations of the regulations governing the practice of dentistry. No public comment will be heard.

Contact: Marcia J. Miller, Executive Director, Board of Dentistry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9906, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail mmiller@dhp.state.va.us.

DESIGN-BUILD/CONSTRUCTION MANAGEMENT REVIEW BOARD

May 15, 2000 - 11 a.m. -- Open Meeting
The Library of Virginia, 800 East Broad Street, 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. Please contact the Division of Engineering and Buildings of the Department of General Services to confirm meeting.

Contact: Katherine R. Bowen, Administrative Assistant, Department of General Services, 805 East Broad Street, Room 101, Richmond, VA 23219, telephone (804) 786-3263, FAX (804) 371-7934, (804) 786-6152/TTY ☎, e-mail kbowen@dgs.state.va.us.

BOARD OF EDUCATION

May 25, 2000 - 9 a.m. -- Open Meeting
Cultural Arts Center, 2880 Mountain Road, Glen Allen, Virginia. ♿ (Interpreter for the deaf provided upon request)

A summit for the fine arts. Persons requesting interpreter services are requested to do so in advance.

Contact: Dr. Margaret N. Roberts, Office of Policy, Department of Education, Monroe Building, 101 North 14th Street, 25th Floor, P.O. Box 2120, Richmond, VA 23219, telephone (804) 225-2540, FAX (804) 225-2524 or toll-free (800) 292-3829, e-mail mroberts@mail.vak12ed.edu.

May 26, 2000 - 9 a.m. -- Open Meeting
Cultural Arts Center, 2880 Mountain Road, Glen Allen, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular business meeting. Persons requesting interpreter services are requested to do so in advance.


The Board of Education seeks public comment on the proposed Standards of Learning for computer/technology

Calendar of Events


to be completed by grade 12. The purpose of the standards is to ensure mastery of skills that will result in students who are both computer literate and competent in application of skills. Proposal may be viewed at www.pen.k12.va.us. Written comments will be received until May 12, 2000.

Contact: Dr. Margaret N. Roberts, Office of Policy, Department of Education, Monroe Building, 101 North 14th Street, 25th Floor, P.O. Box 2120, Richmond, VA 23219, telephone (804) 225-2540, FAX (804) 225-2524 or toll-free (800) 292-3829, e-mail mroberts@mail.vak12ed.edu.


LOCAL EMERGENCY PLANNING COMMITTEE - GLOUCESTER

May 24, 2000 - 6:30 p.m. -- Open Meeting
Gloucester Courthouse Office Building, 6467 Main Street, Gloucester, Virginia. 

A meeting to discuss training opportunities, review the public information campaign, and appoint a nominating committee.

Contact: Georgette N. Hurley, Assistant County Administrator, Gloucester County Administrator's Office, P.O. Box 329, Gloucester, VA 23061, telephone (804) 693-4042 or (804) 693-1476/TTY 


DEPARTMENT OF ENVIRONMENTAL QUALITY

† May 23, 2000 - 10:30 a.m. -- Open Meeting
Department of Transportation, 86 Deacon Road, Fredericksburg, Virginia. 


The Department of Environmental Quality, in cooperation with the Department of Conservation and Recreation and other state agencies, is developing a water quality management plan (WQMP) for the Rappahannock River Basin. WQMPs are required by §§ 208 and 303(e) of the federal Clean Water Act. This will be the first meeting of the Rappahannock River Basin Advisory Committee. The state's planning process will be explained and an outline of the plan will be discussed.

Contact: Dr. Kultar Singh, Environmental Engineer Senior, Department of Environmental Quality, 13901 Crown Court, Woodbridge, VA 22193, telephone (703) 583-3848, FAX (703) 583-3841, e-mail ksingh@deq.state.va.us.


Virginia Ground Water Protection Steering Committee

May 16, 2000 - 9 a.m. -- Open Meeting
Department of Environmental Quality, 629 East Main Street, 10th Floor, Conference Room, Richmond, Virginia. 

A regular meeting. Anyone interested in ground water issues is welcome to attend. Meeting minutes and agenda are available from the contact person listed below.

Contact: Mary Ann Massie, Environmental Program Planner, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4042, FAX (804) 698-4032, (804) 698-4021/TTY , e-mail mamassie@deq.state.va.us.


Virginia Pollution Prevention Advisory Committee

† May 25, 2000 - 10 a.m. -- Open Meeting
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. 


A meeting to discuss the voluntary pollution prevention program.

Contact: Sharon K. Baxter, Pollution Prevention Manager, Department of Environmental Quality, 629 East Main Street, Richmond, VA 23221, telephone (804) 698-4344 or toll-free 1-800-592-5482.


Technical Advisory Committee

May 18, 2000 - 10 a.m. -- Open Meeting
June 6, 2000 - 10 a.m. -- Open Meeting
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Training Room, Richmond, Virginia.  (Interpreter for the deaf provided upon request)


A meeting to discuss possible amendments to the Regulations for the Development of Solid Waste Management Plans (9 VAC 20-130-10 et seq.).

Contact: Robert G. Wickline, Waste Operations Division, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240-0009, telephone (804) 698-4213, toll-free 1-800-592-5482 or (804) 698-4021/TTY 


BOARD OF FORESTRY

† May 23, 2000 - 8:30 a.m. -- Open Meeting
Virginia Tech, School of Natural Resources, Blacksburg, Virginia.  (Interpreter for the deaf provided upon request)

A general business meeting. Those requiring special accommodations to participate in this meeting or an interpreter for the deaf should notify the Department of Forestry five working days prior to the meeting.

Contact: Donna S. Hoy, Administrative Staff Specialist, Board of Forestry, 900 Natural Resources Dr., Suite 800, Charlottesville, VA 22903, telephone (804) 977-6555, FAX (804) 977-7749, (804) 977-6555/TTY , e-mail hoyd@dof.state.va.us.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

† May 30, 2000 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. 

A meeting to consider legislative and regulatory agenda items and other matters as may come before it.

Contact: Elizabeth Young Tisdale, Executive Director, Board of Funeral Directors and Embalmers, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9907, FAX (804) 662-9523, (804) 662-7197/TTY ☎, e-mail etisdale@dhp.state.va.us.

BOARD OF GAME AND INLAND FISHERIES

June 1, 2000 - 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 address the Department of Game and Inland Fisheries' Fiscal Year 2000-2001 operating and capital budgets, and discuss general and administrative issues. The board may elect to hold a dinner Wednesday evening, May 31, at a location and time to be determined.

Contact: Phil Smith, Policy Analyst and Regulatory Coordinator, Board of Game and Inland Fisheries, 4010 W. Broad St., Richmond, VA 23230, telephone (804) 367-1000, FAX (804) 367-0488, e-mail dgifweb@dgif.state.va.us.

DEPARTMENT OF HEALTH PROFESSIONS

† **June 9, 2000 - 9 a.m.** -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Room 1, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

The committee will meet with its contractor and representatives to review reports, policies, and procedures for the Health Practitioner's Intervention Program. The committee will meet in open session for general discussion of the program. The committee may meet in executive session to consider specific requests from applicants or participants in the program.

Contact: John W. Hasty, Director, Health Practitioner's Intervention Program, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9424, FAX (804) 662-9114 or (804) 662-7197/TTY ☎

VIRGINIA HIGHER EDUCATION TUITION TRUST FUND

† **May 11, 2000 - 10 a.m.** -- Open Meeting

James Monroe Building, 101 North 14th Street, 9th Floor, Conference Room, Richmond, Virginia. ♿

A regular board meeting.

Contact: Libby Dutton, Director of Administration, Virginia Higher Education Tuition Trust Fund, James Monroe Bldg., 101 N. 14th St., 5th Floor, Richmond, VA 23219, telephone (804) 786-0730, FAX (804) 786-2453, toll-free (888) 567-

0540, (888) 203-1278/TTY ☎, e-mail edutton@vpep.state.va.us.

HOPEWELL INDUSTRIAL SAFETY COUNCIL

June 6, 2000 - 9 a.m. -- Open Meeting

Hopewell Community Center, 100 West City Point Road, Hopewell, Virginia. ♿ (Interpreter for the deaf provided upon request)

Local Emergency Preparedness Committee meeting as required by SARA Title III.

Contact: Robert Brown, Emergency Services Coordinator, 300 N. Main St., Hopewell, VA 23860, telephone (804) 541-2298.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

State Building Code Technical Review Board

May 19, 2000 - 10 a.m. -- Open Meeting

Department of Housing and Community Development, The Jackson Center, 501 North Second Street, 1st Floor, Conference Room, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting to hear administrative appeals concerning building and fire codes and other regulations of the department. The board also issues and formalizes recommendations to the Board of Housing and Community Development concerning future changes to the regulations.

Contact: Vernon W. Hodge, Secretary, Office of the Review Board, Department of Housing and Community Development, The Jackson Center, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7180 or (804) 371-7089/TTY ☎

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

† **May 16, 2000 - 11 a.m.** -- Open Meeting

Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, Virginia. ♿

A regular meeting of the Board of Commissioners of the Virginia Housing Development Authority. The Board of Commissioners will review and, if appropriate, (i) approve the minutes from the prior monthly meeting; (ii) consider for approval and ratification mortgage loan commitments under its various programs; (iii) consider for approval amendments to the authority's Rules and Regulations for Single Family Mortgage Loans to Persons and Families of Low and Moderate Income; (iv) review the authority's operations for the prior month; (v) consider and, if appropriate, approve amendments to its Rules and Regulations for Allocation of Low-Income Housing Tax Credits; and (vi) consider such other matters and take such other actions as it may deem appropriate. Various

Calendar of Events

committees of the Board of Commissioners may also meet before or after the regular meeting and consider matters within its purview. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting.

Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 S. Belvidere St., Richmond, VA 23220, telephone (804) 343-5540, FAX (804) 783-6701, toll-free (800) 968-7837, (804) 783-6705/TTY ☎

INNOVATIVE TECHNOLOGY AUTHORITY

† **May 24, 2000 - 10 a.m.** -- Open Meeting
University of Virginia Medical Center, Jordan Hall, Meeting Room 1, Charlottesville, Virginia. ♿

A Board of Director's meeting to vote on the assignment of the floor area ration (FAR) to the authority's land donator.

Contact: Linda E. Gentry, Secretary, Innovative Technology Authority, 2214 Rock Hill Rd., Suite 600, Herndon, VA 20170, telephone (703) 689-3035 or FAX (703) 464-1706.

VIRGINIA INTERAGENCY COORDINATING COUNCIL

† **June 14, 2000 - 9:30 a.m.** -- Open Meeting
Henrico Area Community Services Board, 10299 Woodman Road, Building B, Conference Room C, Glen Allen, Virginia. ♿ (Interpreter for the deaf provided upon request)

The council meets quarterly to advise and assist the Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services as lead agency for Part C (of IDEA), early intervention for infants and toddlers with disabilities and their families. Discussion will focus on issues related to Virginia's implementation of the Part C program.

Contact: LaKeishia L. White, Part C Office Services Specialist, Department of Mental Health, Mental Retardation and Substance Abuse Services, Early Intervention, 9th Floor, P.O. Box 1797, Richmond, VA 23218-1797, telephone (804) 786-3710 or FAX (804) 371-7959.

JAMESTOWN-YORKTOWN FOUNDATION

† **May 15, 2000 - 2 p.m.** -- Open Meeting
Jamestown Settlement, Jamestown, Virginia. ♿ (Interpreter for the deaf provided upon request)

† **May 16, 2000 - 8:30 a.m.** -- Open Meeting
Williamsburg Lodge, Williamsburg, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular meeting of the Board of Trustees. No public comments will be received at the meeting.

Contact: Laura W. Bailey, Executive Assistant, Jamestown-Yorktown Foundation, P.O. Box 1607, Williamsburg, VA

23187, telephone (757) 253-4840, FAX (757) 253-5299, (757) 253-7236/TTY ☎, e-mail jyf1@visi.net.

DEPARTMENT OF LABOR AND INDUSTRY

Virginia Apprenticeship Council Subcommittee

May 11, 2000 - 9:30 a.m. -- Open Meeting
Department of Labor and Industry, Powers-Taylor Building, 13 South Thirteenth Street, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular meeting.

Contact: Beverley Donati, Assistant Program Manager, 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.

Virginia Apprenticeship Council

June 15, 2000 - 10 a.m. -- Open Meeting
University of Virginia, Emmet Street, Newcomb Hall, South Meeting Room, 3rd Floor, Charlottesville, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular quarterly meeting.

Contact: Beverley Donati, Assistant Program Manager, 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.

MARINE RESOURCES COMMISSION

May 23, 2000 - 9:30 a.m. -- Open Meeting
June 27, 2000 - 9:30 a.m. -- Open Meeting
Marine Resources Commission, 2600 Washington Avenue, Room 403, Newport News, Virginia. ♿ (Interpreter for the deaf provided upon request)

The commission will hear and decide the following marine environmental matters beginning at 9:30 a.m.: permit applications for projects in wetlands, bottom lands, coastal primary sand dunes and beaches; appeals of local wetland board decisions; and policy and regulatory issues. The commission will hear and decide the following fishery management items beginning at approximately noon: regulatory proposals, fishery management plans, fishery conservation issues, licensing, and shellfish leasing. Meetings are open to the public. Testimony will be taken under oath from parties addressing agenda items on permits and licensing. Public comments will be taken on resource matters, regulatory issues and items scheduled for public hearing.

Contact: LaVerne Lewis, Secretary to the Commission, Marine Resources Commission, P.O. Box 756, Newport

News, VA 23607-0756, telephone (757) 247-2261, toll-free 1-800-541-4646 or (757) 247-2292/TTY ☎

FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail wharp@dhp.state.va.us.

BOARD OF MEDICAL ASSISTANCE SERVICES

† **June 13, 2000 - 10 a.m.** -- Open Meeting
Department of Medical Assistance Services, 600 E. Broad Street, Richmond, Virginia. ♿

A regular meeting.

Contact: Leah D. Hamaker, Board Liaison, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-4626 or FAX (804) 371-4981.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Drug Utilization Review Board

May 11, 2000 - 2 p.m. -- Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Board Room, Richmond, Virginia. ♿

A routine business meeting.

Contact: Marianne Rollings, DUR Coordinator, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 225-4268, FAX (804) 786-1680, (800) 343-0634/TTY ☎, e-mail mrollings@dmas.state.va.us.

Pharmacy Liaison Committee

† **June 26, 2000 - 1 p.m.** -- Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Board Room, Richmond, Virginia. ♿

A meeting to conduct regular business.

Contact: Marianne Rollings, R.Ph., Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 225-4268, FAX (804) 786-1680, (800) 343-0634/TTY ☎, e-mail mrollings@dmas.state.va.us.

BOARD OF MEDICINE

† **June 8, 2000 - 8 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, Conference Room 2, 5th Floor, Richmond, Virginia. ♿

A meeting to review public participation guidelines regulations and to consider other items as may come before it. Public comment will be received at the beginning of the meeting.

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, Southern States Bldg., 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908,

Advisory Committee on Acupuncture

May 10, 2000 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting to discuss regulatory review of 18 VAC 85-110-10 et seq., Regulations Governing the Practice of Licensed Acupuncturists, and such other issues which may be presented. The advisory committee will entertain public comments during the first 15 minutes on agenda items.

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, 6606 West Broad Street, 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9960, FAX (804) 662-9517 or (804) 662-7197/TTY ☎

Advisory Board on Athletic Trainers

May 16, 2000 - 12:30 p.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, Fifth Floor, Conference Room 4, Richmond, Virginia. ♿

A meeting to consider and approve draft regulations for recommendation to the Board of Medicine and discuss other business as may come to its attention. Public comment will be received at the beginning of the meeting, and the public will also be invited to participate in discussion of regulations.

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, Southern States Bldg., 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail wharp@dhp.state.va.us.

Informal Conference Committee

† **May 10, 2000 - 9 a.m.** -- Open Meeting
† **July 13, 2000 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, Richmond, Virginia.

† **May 18, 2000 - 9 a.m.** -- Open Meeting
Wyndham Hotel, 2801 Hershberger Road, Roanoke, Virginia.

† **May 19, 2000 - 9 a.m.** -- Open Meeting
Williamsburg Marriott, 50 Kingsmill Road, Williamsburg, Virginia.

A meeting to inquire into allegations that certain practitioners may have violated laws and regulations governing the practice of medicine and other healing arts in Virginia. The committee will meet in open and closed sessions pursuant to § 2.1-344 of the Code of Virginia. Public comment will not be received.

Contact: Peggy Sadler or Renee Dixson, Board of Medicine, 6606 West Broad Street, 4th Floor, Richmond, VA 23230,

Calendar of Events

telephone (804) 662-7332, FAX (804) 662-9517, (804) 662-7197/TTY ☎

Legislative Committee

May 26, 2000 - 1 p.m. -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia.☎ (Interpreter for the deaf provided upon request)

A meeting to discuss legislative issues related to board activities and regulations, to review any pending regulations pursuant to regulatory review or legislative action, and to consider any other information that may come before the committee. The committee will entertain public comments during the first 15 minutes on agenda items.

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, Department of Health Professions, 6606 West Broad Street, 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9960, FAX (804) 662-9517 or (804) 662-7197/TTY ☎

Advisory Board on Occupational Therapy

May 11, 2000 - 9 a.m. -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia.☎ (Interpreter for the deaf provided upon request)

A meeting to review public comments and make recommendations to the Board of Medicine regarding the regulatory review of 18 VAC 85-80-10 et seq., Regulations for Licensure of Occupational Therapists, and such other issues which may be presented. The advisory board will entertain public comments during the first 15 minutes on agenda items.

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, 6606 West Broad Street, 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9960, FAX (804) 662-9517 or (804) 662-7197/TTY ☎

Advisory Board on Physical Therapy

May 12, 2000 - 9 a.m. -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia.☎ (Interpreter for the deaf provided upon request)

A meeting to review public comments and make recommendations to the Board of Medicine regarding the regulatory review of 18 VAC 85-31-10 et seq., Regulations Governing the Practice of Physical Therapy, and such other issues which may be presented. The advisory board will entertain public comments during the first 15 minutes on agenda items.

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, 6606 West Broad Street, 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9960, FAX (804) 662-9517 or (804) 662-7197/TTY ☎

Advisory Committee on Physician Assistants

May 12, 2000 - 1 p.m. -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia.☎ (Interpreter for the deaf provided upon request)

A meeting to review public comments and make recommendations to the Board of Medicine regarding the regulatory review of 18 VAC 85-50-10 et seq., Regulations Governing the Practice of Physician Assistants, and such other issues which may be presented. The advisory committee will entertain public comments during the first 15 minutes on agenda items.

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, 6606 West Broad Street, 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9960, FAX (804) 662-9517 or (804) 662-7197/TTY ☎

Advisory Committee on Radiological Technology

May 10, 2000 - 1 p.m. -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia.☎ (Interpreter for the deaf provided upon request)

A meeting to review public comments and make recommendations to the board regarding 18 VAC 85-101-10 et seq., Regulations Governing the Licensure of Radiologic Technologists and Radiologic Technologists-Limited, and such other issues which may be presented. The advisory committee will entertain public comments during the first 15 minutes on agenda items.

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, 6606 West Broad Street, 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9960, FAX (804) 662-9517 or (804) 662-7197/TTY ☎

Advisory Board on Respiratory Care

May 11, 2000 - 1 p.m. -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia.☎ (Interpreter for the deaf provided upon request)


A meeting to review public comments and make recommendations to the Board of Medicine regarding the regulatory review of 18 VAC 85-40-10 et seq., Regulations Governing the Practice of Respiratory Care Practitioners, and such other issues which may be presented. The advisory board will entertain public comments during the first 15 minutes on agenda items.

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, 6606 West Broad Street, 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9960, FAX (804) 662-9517 or (804) 662-7197/TTY ☎


STATE MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES BOARD

† **May 18, 2000 - 1 p.m.** -- Open Meeting

† **May 19, 2000 - 1 p.m.** -- Open Meeting


Department of Mental Health, Mental Retardation and Substance Abuse Services, Jefferson Building, Governor and Bank Streets, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular business meeting. There will be a public comment period.

Contact: Marlene Butler, Executive Secretary, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218-1797, telephone (804) 786-7945, FAX (804) 371-2308 or (804) 371-8977/TTY 

VIRGINIA MILITARY INSTITUTE

May 13, 2000 - 8:30 a.m. -- Open Meeting

Virginia Military Institute, Turman Room, Preston Library, Lexington, Virginia. 

A regular meeting of the Board of Visitors to receive committee reports; approve awards, distinctions and diplomas; discuss personnel changes; and elect a president pro tem. The Board of Visitors will not provide an opportunity for public comment at this meeting.

Contact: Colonel Edwin L. Dooley, Jr., Secretary to the Board of Visitors, Virginia Military Institute, Superintendent's Office, Lexington, VA 24450, telephone (540) 464-7206 or FAX (540) 464-7660.

MOTOR VEHICLE DEALER BOARD

May 15, 2000 - 9 a.m. -- Open Meeting

Department of Motor Vehicles, 2300 West Broad Street, Room 702, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

Committees will meet as follows:

Dealer Practices Committee - 9 a.m.

Franchise Law Committee - 10 a.m.

Licensing Committee - 10:45 a.m.

Transaction Recovery Fund Committee - 1:30 p.m.


Advertising Committee - 2:15 p.m.

Personnel Committee - 3 p.m.

NOTE: Meetings may begin later but not earlier than scheduled. Any person who needs any accommodation in order to participate in the meeting should contact the board at least 10 days before the meeting so that suitable arrangements can be made.

Contact: Alice R. Weedon, Administrative Assistant, Motor Vehicle Dealer Board, 2201 W. Broad St., Suite 104, Richmond, VA 23220, telephone (804) 367-1100, FAX (804) 367-1053, toll-free (877) 270-0203, e-mail dboard@mvb.state.va.us.

May 16, 2000 - 9:30 a.m. -- Open Meeting


Department of Motor Vehicles, 2300 West Broad Street, Room 702, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting of the full board. Prior to the full board meeting, the Finance Committee will meet at 8:30 a.m.

NOTE: Meetings may begin later but not earlier than scheduled. Any person who needs any accommodation in order to participate in the meeting should contact the board at least 10 days before the meeting so that suitable arrangements can be made.

Contact: Alice R. Weedon, Administrative Assistant, Motor Vehicle Dealer Board, 2201 W. Broad St., Suite 104, Richmond, VA 23220, telephone (804) 367-1100, FAX (804) 367-1053, toll-free (877) 270-0203, e-mail dboard@mvb.state.va.us.

† **May 16, 2000 - 2 p.m.** -- Open Meeting

Department of Motor Vehicles, 2300 West Broad Street, Room 702, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting to discuss electronic commerce in the automobile dealer industry as it relates to the Motor Vehicle Dealer Board, and current and future issues.

Contact: Bruce Gould, Executive Director, Motor Vehicle Dealer Board, 2201 W. Broad St., Suite 104, Richmond, VA 23220, telephone (804) 367-1100, FAX (804) 367-1053, toll-free (877) 270-0203, e-mail dboard@mvb.state.va.us.

VIRGINIA MUSEUM OF FINE ARTS

May 18, 2000 - Noon -- Open Meeting


Virginia Museum of Fine Arts, 2800 Grove Avenue, Auditorium, Richmond, Virginia. 

The annual meeting of the Board of Trustees. The agenda will consist of committee and staff reports, fiscal year budget review, and approval of acquisition of works of art. Public comment will not be received, and a portion of the meeting will be held in closed session.

Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221, telephone (804) 340-1503, FAX (804) 340-1502, e-mail erobertson@vmfa.state.va.us.

Buildings and Grounds Committee

May 18, 2000 - 8:30 a.m. -- Open Meeting

Virginia Museum of Fine Arts, 2800 Grove Avenue, CEO 2nd Floor Meeting Room, Richmond, Virginia. 

A quarterly meeting to review current and upcoming buildings and grounds projects. Public comment will not be received at the meeting.

Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond,

Calendar of Events

VA 23221, telephone (804) 340-1503, FAX (804) 340-1502, e-mail erobertson@vmfa.state.va.us.

VA 23221, telephone (804) 340-1503, FAX (804) 340-1502, e-mail erobertson@vmfa.state.va.us.


Collections Committee

May 18, 2000 - 9:30 a.m. -- Open Meeting
Virginia Museum of Fine Arts, 2800 Grove Avenue, Auditorium, Richmond, Virginia. 

A meeting to consider art acquisitions and loans for recommendation to the full Board of Trustees. Public comment will not be received; much of the meeting will be held in closed session.

Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221, telephone (804) 340-1503, FAX (804) 340-1502, e-mail erobertson@vmfa.state.va.us.


Communications and Marketing Committee

May 17, 2000 - 3:15 p.m. -- Open Meeting
Virginia Museum of Fine Arts, 2800 Grove Avenue, CEO 2nd Floor Meeting Room, Richmond, Virginia. 

A quarterly meeting to review current and upcoming initiatives in communications and marketing of the museum's activities and programs. Public comment will not be received at the meeting.

Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221, telephone (804) 340-1503, FAX (804) 340-1502, e-mail erobertson@vmfa.state.va.us.


Education and Programs Committee

May 17, 2000 - 2 p.m. -- Open Meeting
Virginia Museum of Fine Arts, 2800 Grove Avenue, CEO 1st Floor Meeting Room, Richmond, Virginia. 

A quarterly meeting to review current and upcoming educational programs. Public comment will not be received at the meeting.

Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221, telephone (804) 340-1503, FAX (804) 340-1502, e-mail erobertson@vmfa.state.va.us.


Exhibitions Committee

May 17, 2000 - 4:30 p.m. -- Open Meeting
Virginia Museum of Fine Arts, 2800 Grove Avenue, CEO 1st Floor Meeting Room, Richmond, Virginia. 

A quarterly meeting to review current and upcoming exhibitions and museum long-range activities. Public comment will not be received at the meeting.

Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond,


Finance Committee

May 18, 2000 - 11 a.m. -- Open Meeting
Virginia Museum of Fine Arts, 2800 Grove Avenue, Main Lobby Conference Room, Richmond, Virginia. 

A quarterly meeting to review the fiscal year budget. Public comment will not be received at the meeting.

Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221, telephone (804) 340-1503, FAX (804) 340-1502, e-mail erobertson@vmfa.state.va.us.


Planning Committee

May 17, 2000 - 12:30 p.m. -- Open Meeting
Virginia Museum of Fine Arts, 2800 Grove Avenue, Auditorium, Richmond, Virginia. 


A meeting to review revisions to the museum's mission statement for recommendation to the board of trustees.

Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221, telephone (804) 340-1503, FAX (804) 340-1502, e-mail erobertson@vmfa.state.va.us.


COMMONWEALTH NEUROTRAUMA INITIATIVE ADVISORY BOARD


† **May 10, 2000 - Noon** -- Open Meeting
Department of Rehabilitative Services, Lee Building, 8004 Franklin Farms Drive, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting to discuss issues pertaining to the Commonwealth Neurotrauma Initiative. A public comment period will be held at the beginning of the meeting. Any person who needs special accommodations to participate should contact Ana Hernandez at least five days before the meeting so that suitable arrangements can be made.


Contact: Ana Hernandez, Program Specialist, Department of Rehabilitative Services, 8004 Franklin Farms Dr., P.O. Box K300, Richmond, VA 23288-0300, telephone (804) 662-7162, toll-free 1-800-552-5019, FAX (804) 662-7663, or 1-800-464-9950/TTY 


BOARD OF NURSING

May 15, 2000 - 8:30 a.m. -- Open Meeting
May 17, 2000 - 8:30 a.m. -- Open Meeting
May 18, 2000 - 8:30 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. 


† **May 25, 2000 - 10 a.m.** -- Open Meeting
Arlington Circuit Court, 1425 North Courthouse Road, 11th Floor, Courtroom B, Arlington, Virginia. 

A panel of the board will conduct formal hearings with licensees and certificate holders. Public comment will not be received.


Contact: Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY , e-mail nursebd@dhp.state.va.us.

† **May 16, 2000 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia 


A meeting to consider agenda items related to licensure and education.

Contact: Nancy K. Durrett, R.N., Executive Director, Board of Nursing, Southern States Bldg., 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY , e-mail ndurrett@dhp.state.va.us.

BOARD FOR OPTICIANS


† **June 9, 2000 - 9 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 5th Floor, Richmond, Virginia. 
(Interpreter for the deaf provided upon request)

An open meeting to discuss regulatory review and other matters requiring board action, including disciplinary cases. A public comment period will be held at the beginning of the meeting. All meetings are subject to cancellation. The time of the meeting is subject to change. Any persons desiring to attend the meeting and requiring special accommodations or interpretative services should contact the department at 804-367-8590 or 804-367-9753/TTY 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: Nancy Taylor Feldman, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., 4th Floor, Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-6295, (804) 367-9753/TTY , e-mail opticians@dpor.state.va.us.

VIRGINIA OUTDOORS FOUNDATION

Open Space Land Preservation Trust Fund - Region II

† **May 22, 2000 - 10:30 a.m.** -- Open Meeting
Woodstock Town Hall, Conference Room, Woodstock, Virginia. 

A quarterly meeting of the Region II Advisory Board of the Open Space Land Preservation Trust Fund to review project proposals.

Contact: Faye Cooper, Conservation Easement Specialist, Virginia Outdoors Foundation, 11 East Beverley St., Staunton, VA 24401, telephone (540) 886-2460, FAX (540) 886-2464.

Preservation Trust Fund Advisory Board - Region II

May 24, 2000 - 10 a.m. -- Open Meeting
Culpeper County Office Building, Board of Supervisor's Meeting Room, Culpeper, Virginia.

The Region II Advisory Board will meet to conduct the business of the board, review applications received for funding under the Open Space Lands Preservation Trust Fund, and make recommendations. Public comment will be received after the conclusion of the regular business meeting.

Contact: Sherry Buttrick, Director, Charlottesville Office, Virginia Outdoors Foundation, 1010 Harris St., Room 4, Charlottesville, VA 22903, telephone (804) 293-3423, FAX (804) 293-3859, e-mail vofsherryb@aol.com.


Preservation Trust Fund Advisory Board - Region V

May 31, 2000 - 10:30 a.m. -- Open Meeting
Lynchburg Chamber of Commerce, Conference Room, Lynchburg, Virginia.


A meeting to review requests for Region V applications.


Contact: Sherry Buttrick, Virginia Outdoors Foundation, 1010 Harris St., Room 4, Charlottesville, VA 22903, telephone (804) 293-3423, FAX (804) 293-3859, e-mail vofsherryb@aol.com.

VIRGINIA BOARD FOR PEOPLE WITH DISABILITIES

May 31, 2000 - 9 a.m. -- Open Meeting
Library of Virginia, 800 East Broad Street, Lobby Level, Richmond, Virginia. 
(Interpreter for the deaf provided upon request)

A meeting of the Executive Committee.

Contact: Tom Ariail, Jr., Assistant Director of Board Operations, Virginia Board for People with Disabilities, Ninth Street Office Building, 202 N. 9th St., 9th Floor, Richmond, VA 23219, telephone (804) 786-0016, FAX (804) 786-1118, toll-free 1-800-846-4464 or (804) 786-0016/TTY 

June 1, 2000 - 9 a.m. -- Open Meeting
Library of Virginia, 800 East Broad Street, Lobby Level, Richmond, Virginia. 
(Interpreter for the deaf provided upon request)

A quarterly meeting.

Contact: Tom Ariail, Jr., Assistant Director of Board Operations, Virginia Board for People with Disabilities, Ninth Street Office Building, 202 N. 9th St., 9th Floor, Richmond,

Calendar of Events

VA 23219, telephone (804) 786-0016, FAX (804) 786-1118, toll-free 1-800-846-4464 or (804) 786-0016/TTY ☎

BOARD OF PHARMACY

† **May 17, 2000 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia. ♿

A Special Conference Committee will hear informal conferences. Public comments will not be received.

Contact: Elizabeth Scott Russell, Executive Director, Board of Pharmacy, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9911, FAX (804) 662-9313.

POLYGRAPH EXAMINERS ADVISORY BOARD

† **June 13, 2000 - 10 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

An open meeting to discuss regulatory review and other matters requiring board action, including disciplinary cases. A public comment period will be held at the beginning of the meeting. All meetings are subject to cancellation. The time of the meeting is subject to change. Any persons desiring to attend the meeting and requiring special accommodations or interpretative services should contact the department at 804-367-8590 or 804-367-9753/TTY at least 10 days prior to the meeting so that suitable arrangements can be made for an appropriate accommodation. The department fully complies with the Americans with Disabilities Act.

Contact: Nancy Taylor Feldman, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8590, FAX (804) 367-6295, (804) 367-9753/TTY ☎, e-mail polygraph@dpor.state.va.us.

BOARD OF LICENSED PROFESSIONAL COUNSELORS, MARRIAGE AND FAMILY THERAPISTS AND SUBSTANCE ABUSE TREATMENT PROFESSIONALS

† **May 18, 2000 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia. ♿

A formal hearing will convene to hear possible violations of the regulations and statutes of the Code of Virginia. Public comment will not be heard.

Contact: Joyce D. Williams, Administrative Assistant, Board of Licensed Professional Counselors, Marriage and Family Therapists and Substance Abuse Treatment Professionals, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9912, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail coun@dhp.state.va.us.

BOARD OF PSYCHOLOGY

† **May 19, 2000 - 10 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia. ♿

The Examination Committee will convene to discuss the examinations given on April 12, 2000. Public comment will be heard.

Contact: Arnice Covington, Administrative Assistant, Board of Psychology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9913, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail psyc@dhp.state.va.us.

REAL ESTATE BOARD

† **May 10, 2000 - 9 a.m.** -- Open Meeting
† **May 11, 2000 - 9 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting to conduct informal fact-finding conferences pursuant to § 9-6.14:11 of the Administrative Process Act. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least two weeks prior to the meeting. The department fully complies with the Americans with Disabilities Act.

Contact: Debbie A. Amaker, Legal Assistant, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8582, FAX (804) 367-2179 or (804) 367-9753/TTY ☎


VIRGINIA RECYCLING MARKETS DEVELOPMENT COUNCIL

May 9, 2000 - 10 a.m. -- Open Meeting
Central Virginia Waste Management Authority, 2104 West Laburnum Avenue, Board Room, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)


A quarterly meeting. The council will discuss its 1999 Annual Report and pending revisions to the state's Solid Waste Management Plan regulations and related recycling issues. Subcommittee meetings may be held prior to or after the meeting. Call Mike Murphy for details or e-mail mpmurphy@deq.state.va.us.

Contact: Michael P. Murphy, Director, Environmental Enhancement, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240-0009, telephone (804) 698-4003, FAX (804) 698-4319, toll-free 1-800-592-5482, (804) 698-4021/TTY ☎ or email mpmurphy@deq.state.va.us.

BOARD OF REHABILITATIVE SERVICES

May 24, 2000 - 3:30 p.m. -- Open Meeting
Hyatt Fair Lakes, 12777 Fair Lakes Circle, Fairfax, Virginia. 
(Interpreter for the deaf provided upon request)

A quarterly business meeting. Public comments will be received at 3:45 p.m.

Contact: Barbara G. Tyson, Administrative Staff Assistant, Department of Rehabilitative Services, 8004 Franklin Farms Dr., P.O. Box K-300, Richmond, VA 23288-0300, telephone (804) 662-7010, toll-free 1-800-552-5019 or (804) 662-7000/TTY 

VIRGINIA RESOURCES AUTHORITY


May 9, 2000 - 9 a.m. -- Open Meeting
Doubletree Hotel, 2350 Seminole Trail, Charlottesville, Virginia.

A meeting to (i) approve minutes of the meeting of March 14, 2000, (ii) review the authority's operations for the prior months; and (iii) consider other matters and other actions as it may deem appropriate. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting.


Contact: Benjamin Hoyle, Executive Assistant, Virginia Resources Authority, 707 E. Main St., Suite 1350, Richmond, VA 23219, telephone (804) 644-3100, e-mail bhoyle@vra.state.va.us.

DEPARTMENT FOR RIGHTS OF VIRGINIANS WITH DISABILITIES


Protection and Advocacy for Individuals w/Mental Illness (PAIMI) Advisory Council

† May 17, 2000 - 10:30 a.m. -- Open Meeting
Heritage Room, Western State Hospital, Staunton, Virginia 
(Interpreter for the deaf provided upon request)

A quarterly meeting.

Contact: Susan Jones, Program Operations Coordinator, Department for Rights of Virginians with Disabilities, 202 N. 9th Street, 9th Floor, Richmond, VA 23219, telephone (804) 225-2061, FAX (804) 225-3221, toll-free (800) 552-3962, (804) 225-2042/TTY , e-mail jonessm@drvd.state.va.us.


SEWAGE HANDLING AND DISPOSAL APPEAL REVIEW BOARD

May 24, 2000 - 10 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, Senate Room A, Richmond, Virginia. 

A meeting to hear appeals of the Department of Health's denials of septic tank permits.

Contact: Susan C. Sherertz, Board Secretary, Sewage Handling and Disposal Appeal Review Board, 1500 E. Main St., Room 115, Richmond, VA 23219, telephone (804) 371-4236 or FAX (804) 225-4003.

VIRGINIA SMALL BUSINESS FINANCING AUTHORITY

† May 23, 2000 - 10 a.m. -- Public Hearing
Department of Business Assistance, 707 East Main Street, 3rd Floor, Board Room, Richmond, Virginia. 

A meeting of the Board of Directors to review applications for loans submitted to the authority for approval and to conduct general business of the board. Meeting time is subject to change depending upon the agenda of the board.

Contact: Cathleen M. Surface, Executive Director, Department of Business Assistance, P.O. Box 446, Richmond, VA 23218-0446, telephone (804) 371-8254, FAX (804) 225-3384, e-mail csurface@dba.state.va.us

STATE BOARD OF SOCIAL SERVICES

June 9, 2000 - Public comments may be submitted until this date.


Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Social Services intends to amend regulations entitled: **22 VAC 40-600-10 et seq. Food Stamp Program - Administrative Disqualification Hearings.** Changes to the procedures for administrative hearings include that the decisions of the hearing officer is the final action, that notices may be sent by regular mail, and that the hearing may be held when the mail is returned to the agency.

Statutory Authority: §§ 63.1-25 and 63.1-124.2 of the Code of Virginia.

Contact: Patricia Duva, Food Stamp Program Manager, Division of Temporary Assistance Programs, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1712 or FAX (804) 692-1704.

BOARD OF SOCIAL WORK

Special Conference Committee

May 11, 2000 - 10 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia. 

An informal conference in accordance with § 9-6.14:11 of the Code of Virginia to hear a petition for reinstatement of licensure. No public comment will be heard.

Contact: Rai Minor, Administrative Assistant, Board of Social Work, 6606 W. Broad St., 4th Floor, Richmond, VA 23230,

Calendar of Events

telephone (804) 662-9914, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail bsw@dhp.state.va.us.

COUNCIL ON TECHNOLOGY SERVICES

† **May 11, 2000 - 9 a.m.** -- Open Meeting
Department of Transportation, 1221 East Broad Street, Main Auditorium, Richmond, Virginia. ♿

† **June 6, 2000 - 9 a.m.** -- Open Meeting
Location to be announced.

A regular monthly organizational meeting of the council.

Contact: Jamie Breeden, Administrative Staff Specialist, Secretary of Technology, 110 S. 7th St., 3rd Floor, Richmond, VA 23219, telephone (804) 371-5506, FAX (804) 371-5273, e-mail jvbreeden@dit.state.va.us.

COMMONWEALTH TRANSPORTATION BOARD

† **May 17, 2000 - 2 p.m.** -- Open Meeting
Department of Transportation, 1401 East Broad Street, Board Room, Richmond, Virginia. ♿

A work session of the Commonwealth Transportation Board and the Department of Transportation.

Contact: Cathy M. Ghidotti, Assistant Secretary to the Board, Commonwealth Transportation Board, 1401 E. Broad St. Richmond, VA 23219, telephone (804) 786-6675, FAX (804) 786-6683, e-mail ghidotti_cm@vdot.state.va.us.

† **May 18, 2000 - 10 a.m.** -- Open Meeting
Department of Transportation, 1401 East Broad Street, Board Room, Richmond, Virginia. ♿

A monthly meeting of the board to vote on proposals presented regarding bids, permits, additions and deletions to the highway system, and any other matters requiring board approval. Public comment will be received at the outset of the meeting on items on the meeting agenda for which the opportunity for public comment has not been afforded the public in another forum. Remarks will be limited to five minutes. Large groups are asked to select 1 individual to speak for the group. The board reserves the right to amend these conditions. Separate committee meetings may be held on call of the chairman. Contact VDOT public affairs at 804-786-2715 for schedule.

Contact: Cathy M. Ghidotti, Assistant Secretary to the Board, Commonwealth Transportation Board, 1401 E. Broad St. Richmond, VA 23219, telephone (804) 786-6675, FAX (804) 786-6683, e-mail ghidotti_cm@vdot.state.va.us.

TRANSPORTATION SAFETY BOARD

May 9, 2000 - 11 a.m. -- Open Meeting
Central Park Hotel and Conference Center, I-95 and Route 3, Fredericksburg, Virginia. ♿ (Interpreter for the deaf provided upon request)

A quarterly meeting to discuss highway safety issues.

Contact: Angelisa Jennings, Management Analyst, Transportation Safety Board, 2300 W. Broad St., Richmond, VA 23269, telephone (804) 367-2026, FAX (804) 367-6031.

BOARD OF VETERINARY MEDICINE

† **May 11, 2000 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting to conduct general board business including approval of consent orders, consideration of requests for exemption from continuing education requirements, and review of licensure by endorsement requests. The board also will be reviewing comment received concerning the need to amend the regulations and concerning the need for legislative amendment. The board will receive comment from Teresa Dockery of the Virginia Federation of Humane Societies concerning the need for broadening the scope of allowed activities to provide for the care of stray animals. Brief public comment will be received at the beginning of the meeting.

Contact: Terri H. Behr, Administrative Assistant, Board of Veterinary Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9915, FAX (804) 662-7098, (804) 662-7197/TTY ☎, e-mail tbehr@dhp.state.va.us, homepage <http://www.dhp.state.va.us>.

Special Conference Committee

May 10, 2000 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

Special hearings. No public comment will be received.

Contact: Terri H. Behr, Administrative Assistant, Board of Veterinary Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9915, FAX (804) 662-7098, (804) 662-7197/TTY ☎, e-mail tbehr@dhp.state.va.us.


DEPARTMENT FOR THE VISUALLY HANDICAPPED

Statewide Rehabilitation Council for the Blind

June 10, 2000 - 10 a.m. -- Open Meeting
Department for the Visually Handicapped, 397 Azalea Avenue, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular quarterly meeting to advise the department on matters related to vocational rehabilitation services for the blind and visually impaired citizens of the Commonwealth.


Contact: James G. Taylor, VR Program Director, Department for the Visually Handicapped, 397 Azalea Ave.,

Richmond, VA 23227, telephone (804) 371-3111, FAX (804) 371-3351, toll-free (800) 622-2155, (804) 371-3140/TTY 

VIRGINIA WASTE MANAGEMENT BOARD

† **May 18, 2000 - 10 a.m.** -- Open Meeting

† **June 6, 2000 - 10 a.m.** -- Open Meeting

Department of Environmental Quality, Piedmont Regional Office, Training Room, 4949-A Cox Road, Glen Allen, Virginia. 

A meeting of the technical advisory committee assisting the department in the development of proposed amendments to 9 VAC 20-130-10 et seq., Regulations for the Development of Solid Waste Management Plans, for the Virginia Waste Management Board's consideration.

Contact: Robert G. Wickline, Virginia Waste Management Board, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4213, e-mail rgwickline@deq.state.va.us.

May 25, 2000 - 9 a.m. -- Open Meeting

June 15, 2000 - 9 a.m. -- Open Meeting


Department of Environmental Quality, 629 East Main Street, Richmond, Virginia.

A meeting of the ad hoc advisory group assisting the Virginia Waste Management Board in the development of proposed amendments to 9 VAC 20-70-10 et seq., Financial Assurance Regulations for Solid Waste Facilities.


Contact: Melissa Porterfield, Virginia Waste Management Board, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4238, e-mail msporterfi@deq.state.va.us.

STATE WATER CONTROL BOARD


May 30, 2000 - 2 p.m. -- Public Hearing

Eastern Shore Community College, Lecture Hall, Melfa, Virginia.  (Interpreter for the deaf provided upon request)


June 1, 2000 - 7 p.m. -- Public Hearing

Turner Ashby High School, 800 North Main Street, Auditorium, Bridgewater, Virginia.  (Interpreter for the deaf provided upon request)


June 2, 2000 - 10 a.m. -- Public Hearing

General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

† **June 5, 2000 - 7 p.m.** -- Public Hearing

General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. 

† **June 8, 2000 - 7 p.m.** -- Public Hearing

Hampton City Council Chambers, 22 Lincoln Street, Hampton, Virginia. 

June 23, 2000 - Public comments may be received until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to adopt regulations entitled: **9 VAC 25-630-10 et seq. Virginia Pollution Abatement General Permit Regulation for Poultry Waste Management.** The purpose of the proposed amendments are to establish requirements for the proper storage, management and tracking of poultry waste.

Affected Locality: The regulation will be applicable statewide and will not affect any one locality disproportionately.

Question and Answer Period: A question and answer period will be held one-half hour prior to each of the public hearings at the same locations. Interested citizens will have an opportunity to ask questions pertaining to the proposal at that time. The board reserves the right to limit oral presentations at the public hearings to three minutes per speaker.

Accessibility to Persons with Disabilities: The public hearings will be held at facilities believed to be accessible to persons with disabilities. Any person with questions should contact Mr. Richard W. Ayers, Office of Water Permit Programs, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240-0009, telephone (804) 698-4075. Persons needing interpreter services for the deaf should notify Mr. Ayers no later than April 28, 2000.


Request for Comments: The board is seeking written comments from interested persons on both the proposed regulatory action and the draft permit. Comments are also solicited regarding alternative approaches that meet the statutory mandate given by the General Assembly. Written comments on the proposed issuance of the permit and on the proposed regulation must be received no later than 4 p.m. on Friday, June 23, 2000, and should be submitted to Mr. Ayers. Comments shall include the name, address, and telephone number of the writer and contain a complete, concise statement of the factual basis for comments. Only those comments received within this period will be considered by the board.

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

Contact: Richard W. Ayers, Office of Water Permit Programs, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240-0009, telephone (804) 698-4075 or FAX (804) 698-4032.

VIRGINIA WORKFORCE COUNCIL

May 23, 2000 - 10 a.m. -- Open Meeting

Virginia Employment Commission, Central Office, 703 East Main Street, Conference Room 303, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting of the Existing Workforce and the Hard-to-Employ Committee to consider the option afforded the state to use a discretionary formula for up to 30% of the Workforce Investment Act (WIA) youth and adult local allocation for the fiscal year beginning July 1, 2001. Public comment is at 11 a.m. A written copy of comments must be provided.

Contact: Gail Robinson, Virginia Workforce Council Liaison, Virginia Employment Commission, P.O. Box 1358, Richmond,

Calendar of Events

VA 23218-1358, telephone (804) 225-3070, FAX (804) 225-2190 or (804) 371-8050/TTY ☎

INDEPENDENT

STATE LOTTERY BOARD

May 10, 2000 - 9:30 a.m. -- Open Meeting
State Lottery Department, 900 East Main Street, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A regular meeting of the board. Public comment will be received at the beginning of the meeting.

Contact: Barbara L. Robertson, Board, Legislative and Regulatory Coordinator, State Lottery Department, 900 E. Main St., Richmond, VA 23219, telephone (804) 692-7105 or FAX (804) 692-7775.

LEGISLATIVE

JOINT LEGISLATIVE AUDIT AND REVIEW COMMISSION

May 8, 2000 - 10 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, Senate Room A, Richmond, Virginia. ☎

A staff briefing on the JLARC workplan for 2000 and the Auditor of Public Accounts workplan for 2000.

Contact: Philip A. Leone, Director, Joint Legislative Audit and Review Commission, General Assembly Bldg., 910 Capitol St., Suite 1100, Richmond, VA 23219, telephone (804) 786-1258.

CHRONOLOGICAL LIST

OPEN MEETINGS

May 8
Alcoholic Beverage Control Board
Legislative Audit and Review Commission, Joint

May 9
† Agriculture and Consumer Services, Department of
- Virginia Farmers Market Board
Recycling Markets Development Council, Virginia
Resources Authority, Virginia
Transportation Safety Board
† Veterinary Medicine, Board of

May 10
Environmental Quality, Department of
Lottery Board, State

† Medicine, Board of
- Advisory Committee on Acupuncture
- Advisory Committee on Radiological Technology
- Informal Conference Committee
† Neurotrauma Initiative Advisory Board, Commonwealth
† Real Estate Board
Veterinary Medicine, Board of
- Special Conference Committee

May 11
† Higher Education Tuition Trust Fund, Virginia
Labor and Industry, Department of
- Virginia Apprenticeship Council Subcommittee
Medical Assistance Services, Department of
- Drug Utilization Review Board
Medicine, Board of
- Advisory Board on Occupational Therapy
- Advisory Board on Respiratory Care
† Real Estate Board
Social Work, Board of
- Special Conference Committee
† Technology Services, Council on

May 12
† Child Fatality Review Team, State
Medicine, Board of
- Advisory Board on Physical Therapy
- Advisory Committee on Physician Assistants

May 13
† Conservation and Recreation, Department of
- Virginia Cave Board
Military Institute, Virginia

May 15
Design-Build/Construction Management Review Board
† Jamestown-Yorktown Foundation
Motor Vehicle Dealer Board, Virginia
- Advertising Committee
- Dealer Practices Committee
- Franchise Law Committee
- Licensing Committee
- Personnel Committee
- Transaction Recovery Fund Committee
Nursing, Board of

May 16
† Competition Council, Commonwealth
† Corrections, Board of
- Correctional Services Committee
Environmental Quality, Department of
- Virginia Ground Water Protection Steering Committee
† Housing Development Authority, Virginia
- Board of Commissioners
† Jamestown-Yorktown Foundation
Medicine, Board of
- Advisory Board on Athletic Trainers
† Motor Vehicle Dealer Board
- Finance Committee
† Nursing, Board of

May 17
† Community Colleges, State Board for
- Facilities and Personnel Committee

- † Corrections, Board of
 - Administration Committee
- Museum of Fine Arts, Virginia
 - Communications and Marketing Committee
 - Education and Programs Committee
 - Exhibitions Committee
 - Planning Committee
- Nursing, Board of
- † Pharmacy, Board of
 - Special Conference Committee
- † Rights of Virginians with Disabilities, Department for
 - PAIMI Council
- † Transportation Board, Commonwealth

May 18

- † Aging, Commonwealth Council on
 - Planning and Development Committee
- Agriculture and Consumer Services, Board of
- † Audiology and Speech-Language Pathology, Board of
- Community Colleges, State Board for
- Environmental Quality, Department of
 - Technical Advisory Committee
- † Medicine, Board of
 - Informal Conference Committee
- † Mental Health, Mental Retardation and Substance Abuse Services Board, State
- Museum of Fine Arts, Virginia
 - Buildings and Grounds Committee
 - Collections Committee
 - Finance Committee
- Nursing, Board of
- † Professional Counselors, Marriage and Family Therapists and Substance Abuse Treatment Professionals, Board of
- † Transportation Board, Commonwealth
- † Waste Management Board, Virginia

May 19

- Housing and Community Development, Department of
 - State Building Code Technical Review Board
- † Medicine, Board of
 - Informal Conference Committee
- † Mental Health, Mental Retardation and Substance Abuse Services Board, State
- † Psychology, Board of
 - Examination Committee

May 22

- Alcoholic Beverage Control Board
- Conservation and Recreation, Department of
 - Board for Conservation and Development of Public Beaches
- † Outdoors Foundation, Virginia
 - Open Space Land Preservation Trust Fund - Region II

May 23

- † Compensation Board
- † Environmental Quality, Department of
- † Forestry, Board of
- Marine Resources Commission
- † Small Business Financing Authority, Virginia
 - Board of Directors

- Workforce Council, Virginia
 - Existing Workforce and the Hard-to-Employ Committee

May 24

- Emergency Planning Committee, Local - Gloucester County
- † Innovative Technology Authority
- Outdoors Foundation, Virginia
 - Preservation Trust Fund Advisory Board - Region II
- Rehabilitative Services, Board of
- Sewage Handling and Disposal Appeal Review Board

May 25

- Education, Board of
- † Environmental Quality, Department of
 - Virginia Pollution Prevention Advisory Committee
- † Nursing, Board of
- Waste Management Board, Virginia
 - Ad Hoc Advisory Committee

May 26

- † Dentistry, Board of
 - Special Conference Committee
- Education, Board of
- Medicine, Board of
 - Legislative Committee

May 30

- † Aging, Commonwealth Council on
- † Funeral Directors and Embalmers, Board of

May 31

- † Aging, Commonwealth Council on
- At-Risk Youth and Their Families, Comprehensive Services for
 - State Executive Council
- Outdoors Foundation, Virginia
 - Preservation Trust Fund Advisory Board - Region V
- People with Disabilities, Virginia Board for
 - Executive Committee

June 1

- Game and Inland Fisheries, Board of
- People with Disabilities, Virginia Board for

June 6

- Environmental Quality, Department of
 - Technical Advisory Committee
- Hopewell Industrial Safety Council
- † Technology Services, Council on
- † Waste Management Board, Virginia

June 8

- † Agriculture and Consumer Services, Department of
 - Virginia Charity Food Assistance Board
- † Medicine, Board of

June 9

- † Health Professions, Department of
 - Health Practitioners' Intervention Program
- † Opticians, Board for

June 10

- Visually Handicapped, Department for the
 - Statewide Rehabilitation Council for the Blind

Calendar of Events

June 13

- † Dentistry, Board of
 - Special Conference Committee
- † Medical Assistance Services, Board of
- † Polygraph Examiners Advisory Board

June 14

- Agriculture and Consumer Services, Department of
 - Virginia Marine Products Board
- † Interagency Coordinating Council, Virginia

June 15

- Labor and Industry, Department of
 - Virginia Apprenticeship Council
- Waste Management Board, Virginia
 - Ad Hoc Advisory Committee

June 19

- † Barbers, Board for
- † Cosmetology, Board for

June 26

- † Medical Assistance Services, Department of
 - Pharmacy Liaison Committee

June 27

- Marine Resources Commission

June 28

- At-Risk Youth and Their Families, Comprehensive Services for
 - State Executive Council

July 6

- † Conservation and Recreation, Department of
 - Virginia Agricultural BMP Implementation Advisory Committee

July 13

- † Medicine, Board of
 - Informal Conference Committee

PUBLIC HEARINGS

May 30

- Water Control Board, State

June 1

- Water Control Board, State

June 2

- Water Control Board, State

June 5

- † Water Control Board, State

June 8

- † Water Control Board, State

June 14

- † Air Pollution Control Board, State