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CUMULATIVE TABLE OF VIRGINIA ADMINISTRATIVE CODE SECTIONS ADOPTED, AMENDED, OR REPEALED

The table printed below lists regulation sections, by Virginia Administrative Code (VAC) title, that have been amended, added or repealed in the *Virginia Register* since the regulations were originally published or last supplemented in VAC (the Spring 2000 VAC Supplement includes final regulations published through *Virginia Register* Volume 16, Issue 11, dated February 14, 2000). Emergency regulations, if any, are listed, followed by the designation "emer," and errata pertaining to final regulations are listed. Proposed regulations are not listed here. The table lists the sections in numerical order and shows action taken, the volume, issue and page number where the section appeared, and the effective date of the section.

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
Title 2. Agriculture			
2 VAC 5-600-10	Amended	16:20 VA.R. 2458	5/31/00
Title 4. Conservation and Natural Resources			
4 VAC 20-252-120	Amended	16:14 VA.R. 1860	3/1/00
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 20-310-30	Amended	16:19 VA.R. 2378	5/15/00
4 VAC 20-310-35	Added	16:19 VA.R. 2378	5/15/00
4 VAC 20-310-40	Amended	16:19 VA.R. 2378	5/15/00
4 VAC 20-310-50	Amended	16:19 VA.R. 2379	5/15/00
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 20-620-10 emer	Amended	16:18 VA.R. 2292	4/26/00-5/25/00
4 VAC 20-620-20	Amended	16:20 VA.R. 2463	5/25/00
4 VAC 20-620-20 emer	Amended	16:18 VA.R. 2292	4/26/00-5/25/00
4 VAC 20-620-30	Amended	16:20 VA.R. 2463	5/25/00
4 VAC 20-620-30 emer	Amended	16:18 VA.R. 2292	4/26/00-5/25/00
4 VAC 20-620-40	Amended	16:20 VA.R. 2463	5/25/00
4 VAC 20-620-40 emer	Amended	16:18 VA.R. 2292	4/26/00-5/25/00
4 VAC 20-620-50	Amended	16:14 VA.R. 1861	3/1/00
4 VAC 20-620-50	Amended	16:20 VA.R. 2464	5/25/00
4 VAC 20-620-50 emer	Amended	16:18 VA.R. 2293	4/26/00-5/25/00
4 VAC 20-620-70	Amended	16:14 VA.R. 1861	3/1/00
4 VAC 20-620-70	Amended	16:20 VA.R. 2465	5/25/00
4 VAC 20-620-70 emer	Amended	16:18 VA.R. 2294	4/26/00-5/25/00
4 VAC 20-700-20	Amended	16:16 VA.R. 2041	4/1/00
4 VAC 20-700-20	Amended	16:23 VA.R. 2890	7/1/00
4 VAC 20-720-20	Amended	16:12 VA.R. 1671	2/4/00
4 VAC 20-720-40	Amended	16:12 VA.R. 1671	2/4/00
4 VAC 20-720-50	Amended	16:12 VA.R. 1672	2/4/00
4 VAC 20-720-60	Amended	16:12 VA.R. 1672	2/4/00
4 VAC 20-720-70	Amended	16:12 VA.R. 1673	2/4/00
4 VAC 20-720-80	Amended	16:12 VA.R. 1673	2/4/00
4 VAC 20-752-20	Amended	16:23 VA.R. 2890	7/1/00
4 VAC 20-752-30	Amended	16:23 VA.R. 2891	7/1/00
4 VAC 20-890-20	Amended	16:25 VA.R. 3227	10/1/00
4 VAC 20-890-25	Amended	16:12 VA.R. 1674	2/2/00
4 VAC 20-890-25	Amended	17:1 VA.R. 62	9/21/00
4 VAC 20-890-30	Amended	17:1 VA.R. 62	9/21/00
4 VAC 20-890-40	Amended	16:25 VA.R. 3227	10/1/00
4 VAC 20-900-10 emer	Amended	16:25 VA.R. 3330	7/28/00-8/24/00
4 VAC 20-900-25	Amended	17:1 VA.R. 63	9/1/00
4 VAC 20-900-25 emer	Amended	16:25 VA.R. 3330	7/28/00-8/24/00

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
4 VAC 20-910-45	Amended	16:14 VA.R. 1862	3/1/00
4 VAC 20-910-45	Amended	16:23 VA.R. 2891	7/1/00
4 VAC 20-950-45	Amended	16:14 VA.R. 1862	3/1/00
4 VAC 20-1040-10	Amended	16:20 VA.R. 2465	5/26/00
4 VAC 20-1040-20	Amended	16:20 VA.R. 2465	5/26/00
4 VAC 20-1040-30	Repealed	16:20 VA.R. 2465	5/26/00
4 VAC 25-30 (Forms)	Amended	16:23 VA.R. 2967	--
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
Title 6. Criminal Justice and Corrections			
6 VAC 15-31-10	Amended	16:24 VA.R. 3082	9/17/00
6 VAC 15-31-50	Amended	16:24 VA.R. 3083	9/17/00
6 VAC 15-31-80	Amended	16:24 VA.R. 3083	9/17/00
6 VAC 15-31-120 through 6 VAC 15-31-140	Amended	16:24 VA.R. 3083-3086	9/17/00
6 VAC 15-31-160	Amended	16:24 VA.R. 3086	9/17/00
6 VAC 15-31-180 through 6 VAC 15-31-210	Amended	16:24 VA.R. 3086-3087	9/17/00
6 VAC 15-31-230 through 6 VAC 15-31-280	Amended	16:24 VA.R. 3087-3089	9/17/00
6 VAC 15-31-300 through 6 VAC 15-31-320	Amended	16:24 VA.R. 3089-3090	9/17/00
6 VAC 15-31-370	Amended	16:24 VA.R. 3090	9/17/00
6 VAC 15-31-410	Amended	16:24 VA.R. 3090	9/17/00
6 VAC 15-61-10	Amended	16:24 VA.R. 3090	9/17/00
6 VAC 15-61-40	Amended	16:24 VA.R. 3092	9/17/00
6 VAC 15-61-100	Amended	16:24 VA.R. 3092	9/17/00
6 VAC 15-61-120	Amended	16:24 VA.R. 3092	9/17/00
6 VAC 15-61-130	Amended	16:24 VA.R. 3092	9/17/00
6 VAC 15-61-150	Amended	16:24 VA.R. 3093	9/17/00
6 VAC 15-61-200 through 6 VAC 15-61-220	Amended	16:24 VA.R. 3093-3095	9/17/00
6 VAC 15-70-10	Amended	16:24 VA.R. 3096	9/17/00
6 VAC 15-70-30 through 6 VAC 15-70-160	Amended	16:24 VA.R. 3096-3102	9/17/00
6 VAC 20-171-420	Erratum	16:14 VA.R. 1911	--
Title 8. Education			
8 VAC 20-131-10 through 8 VAC 20-131-150	Amended	16:25 VA.R. 3228-3237	9/28/00
8 VAC 20-131-170	Amended	16:25 VA.R. 3237	9/28/00
8 VAC 20-131-180	Amended	16:25 VA.R. 3237	9/28/00
8 VAC 20-131-210	Amended	16:25 VA.R. 3238	9/28/00
8 VAC 20-131-220	Amended	16:25 VA.R. 3239	9/28/00
8 VAC 20-131-240	Amended	16:25 VA.R. 3239	9/28/00
8 VAC 20-131-250	Repealed	16:25 VA.R. 3240	9/28/00
8 VAC 20-131-260 through 8 VAC 20-131-320	Amended	16:25 VA.R. 3240-3249	9/28/00
8 VAC 20-131-325	Added	16:25 VA.R. 3249	9/28/00
8 VAC 20-131-340	Amended	16:25 VA.R. 3250	9/28/00
Title 9. Environment			
9 VAC 5-10-20*	Amended	16:17 VA.R. 2135	*
9 VAC 5-20-21	Amended	16:17 VA.R. 2161	7/1/00
9 VAC 5-20-180*	Amended	16:17 VA.R. 2142	*
9 VAC 5-20-202	Amended	16:17 VA.R. 2163	7/1/00

* Effective date suspended.

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
9 VAC 5-40-10*	Amended	16:17 VA.R. 2144	*
9 VAC 5-40-20*	Amended	16:17 VA.R. 2145	*
9 VAC 5-40-30*	Amended	16:17 VA.R. 2149	*
9 VAC 5-40-40*	Amended	16:17 VA.R. 2150	*
9 VAC 5-40-50*	Amended	16:17 VA.R. 2151	*
9 VAC 5-40-5200	Amended	16:24 VA.R. 3102	10/1/00
9 VAC 5-40-6000 through 9 VAC 5-40-6230	Added	16:17 VA.R. 2164-2178	7/1/00
9 VAC 5-40-6180	Erratum	16:19 VA.R. 2399	--
9 VAC 5-50-10*	Amended	16:17 VA.R. 2152	*
9 VAC 5-50-20*	Amended	16:17 VA.R. 2152	*
9 VAC 5-50-30*	Amended	16:17 VA.R. 2155	*
9 VAC 5-50-40*	Amended	16:17 VA.R. 2156	*
9 VAC 5-50-50*	Amended	16:17 VA.R. 2157	*
9 VAC 5-50-400	Amended	16:14 VA.R. 1863	5/1/00
9 VAC 5-60-10*	Amended	16:17 VA.R. 2158	*
9 VAC 5-60-20*	Amended	16:17 VA.R. 2158	*
9 VAC 5-60-30	Amended	16:17 VA.R. 2159	*
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 5-90-10 et seq.	Repealed	17:1 VA.R. 63	10/25/00
9 VAC 5-100-10 et seq.	Repealed	17:1 VA.R. 63	10/25/00
9 VAC 25-31-10	Amended	16:25 VA.R. 3252	9/27/00
9 VAC 25-31-30	Amended	16:25 VA.R. 3252	9/27/00
9 VAC 25-31-40	Amended	16:25 VA.R. 3252	9/27/00
9 VAC 25-31-100	Amended	16:25 VA.R. 3252	9/27/00
9 VAC 25-31-120	Amended	16:25 VA.R. 3252	9/27/00
9 VAC 25-31-125	Added	16:25 VA.R. 3252	9/27/00
9 VAC 25-31-170	Amended	16:25 VA.R. 3252	9/27/00
9 VAC 25-31-190	Amended	16:25 VA.R. 3252	9/27/00
9 VAC 25-31-200	Amended	16:25 VA.R. 3252	9/27/00
9 VAC 25-31-230	Amended	16:25 VA.R. 3252	9/27/00
9 VAC 25-31-280	Amended	16:25 VA.R. 3252	9/27/00
9 VAC 25-31-340	Amended	16:25 VA.R. 3252	9/27/00
9 VAC 25-31-390	Amended	16:25 VA.R. 3252	9/27/00
9 VAC 25-31-500	Amended	16:25 VA.R. 3252	9/27/00
9 VAC 25-31-570	Amended	16:25 VA.R. 3252	9/27/00
9 VAC 25-31-580	Amended	16:25 VA.R. 3252	9/27/00
9 VAC 25-31-590	Amended	16:25 VA.R. 3252	9/27/00
9 VAC 25-31-620	Amended	16:25 VA.R. 3252	9/27/00
9 VAC 25-31-660	Amended	16:25 VA.R. 3252	9/27/00
9 VAC 25-31-670	Amended	16:25 VA.R. 3252	9/27/00
9 VAC 25-31-710	Amended	16:25 VA.R. 3252	9/27/00
9 VAC 25-31-720	Amended	16:25 VA.R. 3252	9/27/00
9 VAC 25-31-750	Amended	16:25 VA.R. 3252	9/27/00
9 VAC 25-31-770	Amended	16:25 VA.R. 3252	9/27/00
9 VAC 25-31-780	Amended	16:25 VA.R. 3252	9/27/00
9 VAC 25-31-800	Amended	16:25 VA.R. 3252	9/27/00
9 VAC 25-31-810	Amended	16:25 VA.R. 3252	9/27/00
9 VAC 25-31-840	Amended	16:25 VA.R. 3252	9/27/00
9 VAC 25-210-10	Amended	16:25 VA.R. 3252	9/27/00
9 VAC 25-210-50	Amended	16:25 VA.R. 3254	9/27/00
9 VAC 25-210-110	Amended	16:25 VA.R. 3254	9/27/00

* Effective date suspended.

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
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
9 VAC 25-260-350	Amended	16:17 VA.R. 2178	6/7/00
9 VAC 25-260-400	Amended	16:17 VA.R. 2179	6/7/00
9 VAC 25-400-10	Amended	16:25 VA.R. 3255	9/27/00
Title 11. Gaming			
11 VAC 10-60-10	Amended	16:21 VA.R. 2623	8/4/00
11 VAC 10-60-15	Added	16:21 VA.R. 2627	8/4/00
11 VAC 10-60-20	Amended	16:21 VA.R. 2628	8/4/00
11 VAC 10-60-30	Repealed	16:21 VA.R. 2628	8/4/00
11 VAC 10-60-40	Amended	16:21 VA.R. 2629	8/4/00
11 VAC 10-60-60	Repealed	16:21 VA.R. 2631	8/4/00
11 VAC 10-60-70	Amended	16:21 VA.R. 2631	8/4/00
11 VAC 10-60-120	Amended	16:21 VA.R. 2633	8/4/00
11 VAC 10-60-130	Amended	16:21 VA.R. 2636	8/4/00
11 VAC 10-60-140	Amended	16:21 VA.R. 2637	8/4/00
11 VAC 10-60-150	Amended	16:21 VA.R. 2637	8/4/00
11 VAC 10-60-290	Added	16:21 VA.R. 2637	8/4/00
11 VAC 10-60-300	Added	16:21 VA.R. 2637	8/4/00
11 VAC 10-60-310	Added	16:21 VA.R. 2637	8/4/00
11 VAC 10-60-320	Added	16:21 VA.R. 2637	8/4/00
11 VAC 10-100-30	Amended	16:25 VA.R. 3261	8/8/00
11 VAC 10-100-110	Amended	16:25 VA.R. 3261	8/8/00
11 VAC 10-100-170	Amended	16:25 VA.R. 3262	8/8/00
11 VAC 10-100-210	Amended	16:25 VA.R. 3262	8/8/00
11 VAC 10-110-30	Amended	16:25 VA.R. 3262	8/8/00
11 VAC 10-110-90	Amended	16:25 VA.R. 3262	8/8/00
11 VAC 10-110-230	Added	16:25 VA.R. 3263	8/8/00
11 VAC 10-120-50	Amended	16:26 VA.R. 3507	8/14/00
11 VAC 10-120-80	Amended	16:26 VA.R. 3508	8/14/00
11 VAC 10-120-90	Amended	16:26 VA.R. 3508	8/14/00
11 VAC 10-150-10	Amended	16:26 VA.R. 3510	8/14/00
11 VAC 10-150-20	Amended	16:26 VA.R. 3510	8/14/00
11 VAC 10-150-30	Amended	16:26 VA.R. 3510	8/14/00
11 VAC 10-150-40	Amended	16:26 VA.R. 3510	8/14/00
11 VAC 10-150-80	Amended	16:26 VA.R. 3510	8/14/00
11 VAC 10-150-90	Amended	16:26 VA.R. 3511	8/14/00
11 VAC 10-150-120	Amended	16:26 VA.R. 3511	8/14/00
11 VAC 10-150-130	Amended	16:26 VA.R. 3511	8/14/00
11 VAC 10-150-170	Amended	16:26 VA.R. 3511	8/14/00
11 VAC 10-180-10 through 11 VAC 10-180-80	Amended	16:23 VA.R. 2892-2898	7/10/00
Title 12. Health			
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
12 VAC 5-80-100	Repealed	16:16 VA.R. 2046	7/1/00
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 5-165-100	Erratum	16:19 VA.R. 2399	--

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 5-371-150	Amended	17:1 VA.R. 64	10/27/00
12 VAC 5-371-260	Amended	17:1 VA.R. 64	10/27/00
12 VAC 5-410-220	Amended	17:1 VA.R. 65	10/27/00
12 VAC 5-590-370	Amended	16:21 VA.R. 2647	8/3/00
12 VAC 5-590-545	Added	16:21 VA.R. 2662	8/3/00
12 VAC 5-590 Appendix O	Added	16:21 VA.R. 2667	8/3/00
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
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 5-610-450	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

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
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
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 30-10-140	Amended	16:18 VA.R. 2239	7/1/00
12 VAC 30-10-1000 emer	Added	16:23 VA.R. 2912	7/1/00-6/30/01
12 VAC 30-20-500 through 12 VAC 30-20-599 emer	Added	16:23 VA.R. 2912-2914	7/1/00-6/30/01
12 VAC 30-40-345	Added	16:15 VA.R. 1973	5/10/00
12 VAC 30-50-10	Amended	16:18 VA.R. 2240	7/1/00
12 VAC 30-50-100	Amended	16:18 VA.R. 2244	7/1/00
12 VAC 30-50-105	Amended	16:18 VA.R. 2246	7/1/00
12 VAC 30-50-140	Amended	16:18 VA.R. 2247	7/1/00
12 VAC 30-50-180	Amended	16:19 VA.R. 2380	7/5/00
12 VAC 30-50-220	Amended	16:18 VA.R. 2248	7/1/00
12 VAC 30-50-320	Added	16:18 VA.R. 2240	7/1/00
12 VAC 30-50-490 emer	Added	16:23 VA.R. 2920	7/1/00-6/30/01
12 VAC 30-50-560	Amended	16:18 VA.R. 2249	7/1/00
12 VAC 30-50-570	Amended	16:18 VA.R. 2250	7/1/00
12 VAC 30-50-580	Added	16:18 VA.R. 2251	7/1/00
12 VAC 30-70-140 through 12 VAC 30-70-143 emer	Repealed	16:23 VA.R. 2914-2916	7/1/00-6/30/01
12 VAC 30-70-200	Repealed	16:18 VA.R. 2253	7/1/00
12 VAC 30-70-201	Added	16:18 VA.R. 2261	7/1/00
12 VAC 30-70-210	Repealed	16:18 VA.R. 2253	7/1/00
12 VAC 30-70-211	Added	16:18 VA.R. 2261	7/1/00
12 VAC 30-70-220	Repealed	16:18 VA.R. 2256	7/1/00
12 VAC 30-70-221	Added	16:18 VA.R. 2261	7/1/00
12 VAC 30-70-230	Repealed	16:18 VA.R. 2256	7/1/00
12 VAC 30-70-231	Added	16:18 VA.R. 2263	7/1/00
12 VAC 30-70-240	Repealed	16:18 VA.R. 2257	7/1/00
12 VAC 30-70-241	Added	16:18 VA.R. 2264	7/1/00
12 VAC 30-70-250	Repealed	16:18 VA.R. 2257	7/1/00

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 30-70-251	Added	16:18 VA.R. 2264	7/1/00
12 VAC 30-70-260	Repealed	16:18 VA.R. 2258	7/1/00
12 VAC 30-70-261	Added	16:18 VA.R. 2264	7/1/00
12 VAC 30-70-270	Repealed	16:18 VA.R. 2258	7/1/00
12 VAC 30-70-271	Added	16:18 VA.R. 2264	7/1/00
12 VAC 30-70-280	Repealed	16:18 VA.R. 2258	7/1/00
12 VAC 30-70-281	Added	16:18 VA.R. 2265	7/1/00
12 VAC 30-70-290	Repealed	16:18 VA.R. 2258	7/1/00
12 VAC 30-70-291	Added	16:18 VA.R. 2265	7/1/00
12 VAC 30-70-300	Repealed	16:18 VA.R. 2258	7/1/00
12 VAC 30-70-301	Added	16:18 VA.R. 2265	7/1/00
12 VAC 30-70-310	Repealed	16:18 VA.R. 2259	7/1/00
12 VAC 30-70-311	Added	16:18 VA.R. 2266	7/1/00
12 VAC 30-70-320	Repealed	16:18 VA.R. 2259	7/1/00
12 VAC 30-70-321	Added	16:18 VA.R. 2266	7/1/00
12 VAC 30-70-330	Repealed	16:18 VA.R. 2260	7/1/00
12 VAC 30-70-331	Added	16:18 VA.R. 2266	7/1/00
12 VAC 30-70-340	Repealed	16:18 VA.R. 2260	7/1/00
12 VAC 30-70-341	Added	16:18 VA.R. 2267	7/1/00
12 VAC 30-70-350	Repealed	16:18 VA.R. 2260	7/1/00
12 VAC 30-70-351	Added	16:18 VA.R. 2267	7/1/00
12 VAC 30-70-360	Repealed	16:18 VA.R. 2260	7/1/00
12 VAC 30-70-361	Added	16:18 VA.R. 2267	7/1/00
12 VAC 30-70-370	Repealed	16:18 VA.R. 2260	7/1/00
12 VAC 30-70-371	Added	16:18 VA.R. 2267	7/1/00
12 VAC 30-70-380	Repealed	16:18 VA.R. 2260	7/1/00
12 VAC 30-70-381	Added	16:18 VA.R. 2268	7/1/00
12 VAC 30-70-390	Repealed	16:18 VA.R. 2261	7/1/00
12 VAC 30-70-391	Added	16:18 VA.R. 2268	7/1/00
12 VAC 30-70-400	Amended	16:18 VA.R. 2269	7/1/00
12 VAC 30-70-410	Amended	16:18 VA.R. 2269	7/1/00
12 VAC 30-70-420	Amended	16:18 VA.R. 2269	7/1/00
12 VAC 30-70-435	Added	16:18 VA.R. 2269	7/1/00
12 VAC 30-70-450	Amended	16:18 VA.R. 2270	7/1/00
12 VAC 30-70-460	Amended	16:18 VA.R. 2270	7/1/00
12 VAC 30-80-160	Repealed	16:19 VA.R. 2380	7/5/00
12 VAC 30-90-20 emer	Amended	16:23 VA.R. 2948	7/1/00-6/30/01
12 VAC 30-90-30 through 12 VAC 30-90-33 emer	Repealed	16:23 VA.R. 2948-2951	7/1/00-6/30/01
12 VAC 30-90-34 emer	Amended	16:23 VA.R. 2951	7/1/00-6/30/01
12 VAC 30-90-35 through 12 VAC 30-90-37 emer	Added	16:23 VA.R. 2953-2956	7/1/00-6/30/01
12 VAC 30-90-40 emer	Amended	16:23 VA.R. 2956	7/1/00-6/30/01
12 VAC 30-90-41 emer	Amended	16:23 VA.R. 2956	7/1/00-6/30/01
12 VAC 30-90-42 emer	Repealed	16:23 VA.R. 2958	7/1/00-6/30/01
12 VAC 30-90-43 emer	Repealed	16:23 VA.R. 2959	7/1/00-6/30/01
12 VAC 30-90-50 emer	Amended	16:23 VA.R. 2959	7/1/00-6/30/01
12 VAC 30-90-51 emer	Amended	16:23 VA.R. 2959	7/1/00-6/30/01
12 VAC 30-90-53 emer	Repealed	16:23 VA.R. 2960	7/1/00-6/30/01
12 VAC 30-90-54 emer	Repealed	16:23 VA.R. 2960	7/1/00-6/30/01
12 VAC 30-90-60 emer	Amended	16:23 VA.R. 2960	7/1/00-6/30/01
12 VAC 30-90-65 emer	Amended	16:23 VA.R. 2961	7/1/00-6/30/01
12 VAC 30-90-130 through 12 VAC 30-90-133 emer	Repealed	16:23 VA.R. 2916-2917	7/1/00-6/30/01
12 VAC 30-90-136 emer	Added	16:23 VA.R. 2961	7/1/00-6/30/01
12 VAC 30-90-160 emer	Amended	16:23 VA.R. 2961	7/1/00-6/30/01
12 VAC 30-90-220 through 12 VAC 30-90-222 emer	Repealed	16:23 VA.R. 2961-2962	7/1/00-6/30/01
12 VAC 30-90-260 emer	Repealed	16:23 VA.R. 2962	7/1/00-6/30/01
12 VAC 30-90-264 emer	Amended	16:23 VA.R. 2962	7/1/00-6/30/01

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 30-90-280 emer	Repealed	16:23 VA.R. 2965	7/1/00-6/30/01
12 VAC 30-100-260	Amended	16:18 VA.R. 2252	7/1/00
12 VAC 30-120-61 through 12 VAC 30-120-68	Added	16:18 VA.R. 2240-2243	7/1/00
12 VAC 30-120-700 through 12 VAC 30-120-800 emer	Added	16:23 VA.R. 2922-2946	7/1/00-6/30/01
Title 13. Housing			
13 VAC 5-21-10	Amended	16:20 VA.R. 2468	9/15/00
13 VAC 5-21-20	Amended	16:20 VA.R. 2468	9/15/00
13 VAC 5-21-30	Repealed	16:20 VA.R. 2468	9/15/00
13 VAC 5-21-31	Added	16:20 VA.R. 2470	9/15/00
13 VAC 5-21-40	Repealed	16:20 VA.R. 2469	9/15/00
13 VAC 5-21-41	Added	16:20 VA.R. 2470	9/15/00
13 VAC 5-21-50	Repealed	16:20 VA.R. 2470	9/15/00
13 VAC 5-21-51	Added	16:20 VA.R. 2471	9/15/00
13 VAC 5-21-60	Repealed	16:20 VA.R. 2470	9/15/00
13 VAC 5-21-61	Added	16:20 VA.R. 2471	9/15/00
13 VAC 5-21-71	Added	16:20 VA.R. 2472	9/15/00
13 VAC 5-51-10 through 13 VAC 5-51-120	Repealed	16:20 VA.R. 2473-2476	9/15/00
13 VAC 5-51-11 through 13 VAC 5-51-121	Added	16:20 VA.R. 2477-2484	9/15/00
13 VAC 5-51-130	Amended	16:23 VA.R. 2902	9/15/00
13 VAC 5-51-131	Added	16:20 VA.R. 2484	9/15/00
13 VAC 5-51-133	Added	16:20 VA.R. 2484	9/15/00
13 VAC 5-51-135	Added	16:23 VA.R. 2903	9/15/00
13 VAC 5-51-136	Added	16:20 VA.R. 2485	9/15/00
13 VAC 5-51-150	Amended	16:20 VA.R. 2485	9/15/00
13 VAC 5-51-170	Amended	16:20 VA.R. 2485	9/15/00
13 VAC 5-51-181	Added	16:20 VA.R. 2486	9/15/00
13 VAC 5-51-182	Added	16:20 VA.R. 2487	9/15/00
13 VAC 5-51-190	Added	16:20 VA.R. 2487	9/15/00
13 VAC 5-51-200	Added	16:20 VA.R. 2487	9/15/00
13 VAC 5-61-10 through 13 VAC 5-61-190	Repealed	16:20 VA.R. 2488-2495	9/15/00
13 VAC 5-61-11	Added	16:20 VA.R. 2495	9/15/00
13 VAC 5-61-15	Added	16:20 VA.R. 2496	9/15/00
13 VAC 5-61-21	Added	16:20 VA.R. 2496	9/15/00
13 VAC 5-61-25	Added	16:20 VA.R. 2497	9/15/00
13 VAC 5-61-31	Added	16:20 VA.R. 2497	9/15/00
13 VAC 5-61-35	Added	16:20 VA.R. 2498	9/15/00
13 VAC 5-61-41	Added	16:20 VA.R. 2498	9/15/00
13 VAC 5-61-45	Added	16:20 VA.R. 2499	9/15/00
13 VAC 5-61-51	Added	16:20 VA.R. 2499	9/15/00
13 VAC 5-61-55	Added	16:20 VA.R. 2501	9/15/00
13 VAC 5-61-61	Added	16:20 VA.R. 2502	9/15/00
13 VAC 5-61-65	Added	16:20 VA.R. 2503	9/15/00
13 VAC 5-61-71	Added	16:20 VA.R. 2503	9/15/00
13 VAC 5-61-75	Added	16:20 VA.R. 2503	9/15/00
13 VAC 5-61-81	Added	16:20 VA.R. 2504	9/15/00
13 VAC 5-61-85	Added	16:20 VA.R. 2504	9/15/00
13 VAC 5-61-91	Added	16:20 VA.R. 2504	9/15/00
13 VAC 5-61-95	Added	16:20 VA.R. 2504	9/15/00
13 VAC 5-61-101	Added	16:20 VA.R. 2505	9/15/00
13 VAC 5-61-105	Added	16:20 VA.R. 2505	9/15/00
13 VAC 5-61-111	Added	16:20 VA.R. 2506	9/15/00
13 VAC 5-61-115	Added	16:20 VA.R. 2507	9/15/00
13 VAC 5-61-121	Added	16:20 VA.R. 2508	9/15/00
13 VAC 5-61-125	Added	16:20 VA.R. 2508	9/15/00
13 VAC 5-61-131	Added	16:20 VA.R. 2508	9/15/00
13 VAC 5-61-135	Added	16:20 VA.R. 2509	9/15/00

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
13 VAC 5-61-141	Added	16:20 VA.R. 2509	9/15/00
13 VAC 5-61-145	Added	16:20 VA.R. 2510	9/15/00
13 VAC 5-61-151	Added	16:20 VA.R. 2510	9/15/00
13 VAC 5-61-155	Added	16:20 VA.R. 2511	9/15/00
13 VAC 5-61-165	Added	16:20 VA.R. 2511	9/15/00
13 VAC 5-61-171	Added	16:20 VA.R. 2512	9/15/00
13 VAC 5-61-200	Amended	16:23 VA.R. 2903	9/15/00
13 VAC 5-61-220	Amended	16:23 VA.R. 2905	9/15/00
13 VAC 5-61-225	Added	16:20 VA.R. 2515	9/15/00
13 VAC 5-61-230	Added	16:23 VA.R. 2906	9/15/00
13 VAC 5-61-245	Added	16:20 VA.R. 2515	9/15/00
13 VAC 5-61-290	Amended	16:20 VA.R. 2516	9/15/00
13 VAC 5-61-310	Amended	16:20 VA.R. 2516	9/15/00
13 VAC 5-61-315	Added	16:20 VA.R. 2516	9/15/00
13 VAC 5-61-317	Added	16:20 VA.R. 2516	9/15/00
13 VAC 5-61-340	Amended	16:20 VA.R. 2516	9/15/00
13 VAC 5-61-345	Added	16:20 VA.R. 2517	9/15/00
13 VAC 5-61-360	Amended	16:20 VA.R. 2517	9/15/00
13 VAC 5-61-390	Amended	16:20 VA.R. 2517	9/15/00
13 VAC 5-61-395	Added	16:20 VA.R. 2517	9/15/00
13 VAC 5-61-400	Amended	16:20 VA.R. 2517	9/15/00
13 VAC 5-61-410	Amended	16:20 VA.R. 2518	9/15/00
13 VAC 5-61-415	Added	16:20 VA.R. 2518	9/15/00
13 VAC 5-61-430	Amended	16:20 VA.R. 2518	9/15/00
13 VAC 5-61-440	Amended	16:20 VA.R. 2520	9/15/00
13 VAC 5-61-447	Added	16:20 VA.R. 2522	9/15/00
13 VAC 5-61-450	Amended	16:20 VA.R. 2522	9/15/00
13 VAC 5-61-460	Added	16:20 VA.R. 2522	9/15/00
13 VAC 5-100-10 through 13 VAC 5-100-20	Added	16:20 VA.R. 2523	5/31/00
13 VAC 5-111-10	Amended	16:17 VA.R. 2189	6/8/00
13 VAC 5-111-100	Amended	16:17 VA.R. 2193	6/8/00
13 VAC 5-111-120	Amended	16:17 VA.R. 2193	6/8/00
13 VAC 5-111-130	Amended	16:17 VA.R. 2194	6/8/00
13 VAC 5-111-160	Amended	16:17 VA.R. 2194	6/8/00
13 VAC 5-111-165	Added	16:17 VA.R. 2194	6/8/00
13 VAC 5-111-170	Amended	16:17 VA.R. 2194	6/8/00
13 VAC 5-111-180	Amended	16:17 VA.R. 2195	6/8/00
13 VAC 5-111-190	Amended	16:17 VA.R. 2195	6/8/00
13 VAC 5-111-240	Amended	16:17 VA.R. 2196	6/8/00
13 VAC 5-111-280	Amended	16:17 VA.R. 2196	6/8/00
13 VAC 5-111-300	Amended	16:17 VA.R. 2196	6/8/00
13 VAC 5-111-300	Amended	16:24 VA.R. 3103	9/14/00
13 VAC 5-111-310	Amended	16:17 VA.R. 2197	6/8/00
13 VAC 5-111-310	Amended	16:24 VA.R. 3104	9/14/00
13 VAC 5-111-390	Amended	16:17 VA.R. 2197	6/8/00
13 VAC 10-40-20	Amended	16:19 VA.R. 2384	5/17/00
13 VAC 10-40-120	Amended	16:19 VA.R. 2386	5/17/00
13 VAC 10-40-160	Amended	16:19 VA.R. 2386	5/17/00
13 VAC 10-40-170	Amended	16:19 VA.R. 2387	5/17/00
13 VAC 10-40-230	Amended	16:19 VA.R. 2387	5/17/00
13 VAC 10-160-10	Amended	16:26 VA.R. 3512	9/1/00
13 VAC 10-160-30	Amended	16:26 VA.R. 3513	9/1/00
13 VAC 10-160-41	Repealed	16:26 VA.R. 3514	9/1/00
13 VAC 10-160-51	Repealed	16:26 VA.R. 3514	9/1/00
13 VAC 10-160-55 through 13 VAC 10-160-90	Amended	16:26 VA.R. 3515-3518	9/1/00

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
Title 14. Insurance			
14 VAC 5-215-20	Erratum	16:14 VA.R. 1912	--
14 VAC 5-215-30	Erratum	16:14 VA.R. 1912	--
14 VAC 5-215-30 through 14 VAC 5-215-70	Amended	16:21 VA.R. 2675-2677	7/1/00
14 VAC 5-215-110	Amended	16:21 VA.R. 2678	7/1/00
14 VAC 5-370-20	Amended	16:25 VA.R. 3264	9/30/00
14 VAC 5-370-100	Amended	16:25 VA.R. 3264	9/30/00
Title 15. Judicial			
15 VAC 5-80-10 through 15 VAC 5-80-50	Added	16:20 VA.R. 2524-2526	5/24/00
15 VAC 10-10-10	Amended	16:16 VA.R. 2069	3/24/00
Title 16. Labor and Employment			
16 VAC 15-30-20	Amended	17:1 VA.R. 66	10/25/00
16 VAC 15-30-200	Amended	17:1 VA.R. 66	10/25/00
16 VAC 15-30-210	Added	17:1 VA.R. 68	10/25/00
16 VAC 15-30-220	Added	17:1 VA.R. 68	10/25/00
16 VAC 15-30-230	Added	17:1 VA.R. 69	10/25/00
16 VAC 15-40-10	Amended	16:18 VA.R. 2272	6/22/00
16 VAC 15-40-50	Amended	16:18 VA.R. 2272	6/22/00
16 VAC 25-120-1917.1	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-120-1917.2	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-120-1917.3	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-120-1917.23	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-120-1917.25	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-120-1917.26	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-120-1917.27	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-120-1917.30	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-120-1917.42 through 16 VAC 25-120-1917.45	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-120-1917.50	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-120-1917.71	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-120-1917.73	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-120-1917.92	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-120-1917.95	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-120-1917.112	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-120-1917.117 through 16 VAC 25-120-1917.122	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-120-1917.124	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-120-1917.151	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-120-1917.152	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-120-1917.153	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-120-1917.156	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-120 Appendix I	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-130-1918.1	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-130-1918.2	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-130-1918.24	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-130-1918.25	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-130-1918.37	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-130-1918.41	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-130-1918.42	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-130-1918.43	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-130-1918.51	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-130-1918.52	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-130-1918.54	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-130-1918.61	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-130-1918.62	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-130-1918.65	Amended	16:25 VA.R. 3265	10/1/00

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16 VAC 25-130-1918.66	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-130-1918.69	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-130-1918.85	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-130-1918.86	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-130-1918.94	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-130-1918.97	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-130-1918.98	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-130-1918.100	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-130-1918.102	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-130-1918.105	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-130 Appendix II	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-130 Appendix IV	Amended	16:25 VA.R. 3265	10/1/00
Title 18. Professional and Occupational Licensing			
18 VAC 30-20-10	Amended	16:18 VA.R. 2273	6/21/00
18 VAC 30-20-80	Amended	16:18 VA.R. 2273	6/21/00
18 VAC 30-20-170	Amended	16:18 VA.R. 2273	6/21/00
18 VAC 30-20-180	Amended	16:18 VA.R. 2274	6/21/00
18 VAC 30-20-230	Amended	16:18 VA.R. 2274	6/21/00
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 60-20-30	Amended	16:18 VA.R. 2278	6/21/00
18 VAC 60-20-110	Amended	16:18 VA.R. 2281	6/21/00
18 VAC 60-20-120	Amended	16:18 VA.R. 2281	6/21/00
18 VAC 76-10-65	Added	16:17 VA.R. 2198	4/19/00
18 VAC 85-20-22	Amended	16:13 VA.R. 1766	4/12/00
18 VAC 85-20-22	Amended	16:21 VA.R. 2679	8/2/00
18 VAC 85-20-131	Amended	16:21 VA.R. 2680	8/2/00
18 VAC 85-20-240	Amended	16:13 VA.R. 1767	4/12/00
18 VAC 85-20-280	Amended	16:21 VA.R. 2680	8/2/00
18 VAC 85-31-10	Amended	16:13 VA.R. 1772	4/13/00
18 VAC 85-31-10 through 18 VAC 85-31-160	Repealed	16:25 VA.R. 3266-3270	9/27/00
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 85-40-80	Amended	16:13 VA.R. 1769	4/12/00
18 VAC 85-50-115	Amended	16:21 VA.R. 2682	8/2/00
18 VAC 85-50-170	Amended	16:13 VA.R. 1770	4/12/00
18 VAC 85-80-120	Amended	16:13 VA.R. 1770	4/12/00
18 VAC 85-101-160	Amended	16:13 VA.R. 1771	4/12/00
18 VAC 85-110-10	Amended	16:21 VA.R. 2683	8/2/00
18 VAC 85-110-30	Amended	16:21 VA.R. 2683	8/2/00
18 VAC 85-110-35	Amended	16:13 VA.R. 1771	4/12/00
18 VAC 85-110-90	Amended	16:21 VA.R. 2683	8/2/00
18 VAC 85-110-100	Amended	16:21 VA.R. 2683	8/2/00
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

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18 VAC 90-20-230	Amended	16:13 VA.R. 1783	4/12/00
18 VAC 90-20-350	Amended	16:13 VA.R. 1783	4/12/00
18 VAC 90-40-10	Amended	16:21 VA.R. 2683	8/2/00
18 VAC 90-40-80	Repealed	16:21 VA.R. 2684	8/2/00
18 VAC 90-40-90	Amended	16:21 VA.R. 2684	8/2/00
18 VAC 90-40-120	Amended	16:21 VA.R. 2684	8/2/00
18 VAC 105-30-70	Amended	16:20 VA.R. 2534	7/19/00
18 VAC 110-20-10	Amended	16:21 VA.R. 2685	8/2/00
18 VAC 110-20-220	Amended	16:21 VA.R. 2687	8/2/00
18 VAC 112-20-10 through 18 VAC 112-20-150	Added	16:25 VA.R. 3266-3270	9/27/00
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 115-30-30	Amended	16:13 VA.R. 1793	4/12/00
18 VAC 115-30-40	Amended	16:13 VA.R. 1793	4/12/00
18 VAC 115-30-110	Amended	16:13 VA.R. 1793	4/12/00
18 VAC 115-30-120	Amended	16:13 VA.R. 1793	4/12/00
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 115-50-20	Amended	16:13 VA.R. 1795	4/12/00
18 VAC 115-50-30	Amended	16:13 VA.R. 1795	4/12/00
18 VAC 115-50-40	Amended	16:13 VA.R. 1796	4/12/00
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 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 125-20-30	Amended	16:13 VA.R. 1797	4/12/00
18 VAC 125-20-130	Amended	16:13 VA.R. 1797	4/12/00
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

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
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
Title 20. Public Utilities and Telecommunications			
20 VAC 5-200-21	Amended	16:25 VA.R. 3274	7/28/00
20 VAC 5-200-30	Amended	16:25 VA.R. 3296	7/28/00
20 VAC 5-200 Appendix	Amended	16:25 VA.R. 3298	7/28/00
20 VAC 5-203-10 through 20 VAC 5-203-50	Added	16:23 VA.R. 2908-2910	7/1/00
20 VAC 5-311-10 through 20 VAC 5-311-60	Added	16:20 VA.R. 2541-2553	5/26/00
20 VAC 5-315-10 through 20 VAC 5-315-90	Added	16:20 VA.R. 2555-2558	5/25/00
20 VAC 5-320-10 through 20 VAC 5-320-130	Added	16:24 VA.R. 3108-3113	7/19/00
Title 22. Social Services			
22 VAC 15-30-10	Amended	16:18 VA.R. 2282	6/21/00
22 VAC 40-30-10 et seq.	Repealed	16:18 VA.R. 2284	6/21/00
22 VAC 40-60 (Forms)	Amended	17:1 VA.R. 72	--
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
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

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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 40-130-10**	Amended	16:22 VA.R. 2745	**
22 VAC 40-130-25**	Added	16:22 VA.R. 2748	**
22 VAC 40-130-30 through 22 VAC 40-130-140**	Amended	16:22 VA.R. 2749-2751	**
22 VAC 40-130-155**	Added	16:22 VA.R. 2751	**
22 VAC 40-130-160**	Repealed	16:22 VA.R. 2751	**
22 VAC 40-130-170 through 22 VAC 40-130-190**	Amended	16:22 VA.R. 2751-2752	**
22 VAC 40-130-195**	Added	16:22 VA.R. 2753	**
22 VAC 40-130-198**	Added	16:22 VA.R. 2754	**
22 VAC 40-130-200**	Amended	16:22 VA.R. 2754	**
22 VAC 40-130-202**	Added	16:22 VA.R. 2754	**
22 VAC 40-130-210**	Amended	16:22 VA.R. 2754	**
22 VAC 40-130-211**	Added	16:22 VA.R. 2756	**
22 VAC 40-130-212**	Added	16:22 VA.R. 2757	**
22 VAC 40-130-213**	Added	16:22 VA.R. 2758	**
22 VAC 40-130-220**	Amended	16:22 VA.R. 2758	**
22 VAC 40-130-221**	Added	16:22 VA.R. 2759	**
22 VAC 40-130-223**	Added	16:22 VA.R. 2759	**
22 VAC 40-130-230 through 22 VAC 40-130-250**	Amended	16:22 VA.R. 2760	**
22 VAC 40-130-251**	Added	16:22 VA.R. 2760	**
22 VAC 40-130-260**	Amended	16:22 VA.R. 2760	**
22 VAC 40-130-261**	Added	16:22 VA.R. 2760	**

** Regulatory process suspended for 30 days beginning August 14, 2000.

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
22 VAC 40-130-270**	Amended	16:22 VA.R. 2761	**
22 VAC 40-130-271**	Added	16:22 VA.R. 2765	**
22 VAC 40-130-272**	Added	16:22 VA.R. 2765	**
22 VAC 40-130-280**	Amended	16:22 VA.R. 2766	**
22 VAC 40-130-289**	Added	16:22 VA.R. 2767	**
22 VAC 40-130-290**	Amended	16:22 VA.R. 2767	**
22 VAC 40-130-300**	Amended	16:22 VA.R. 2768	**
22 VAC 40-130-301**	Added	16:22 VA.R. 2768	**
22 VAC 40-130-310**	Amended	16:22 VA.R. 2769	**
22 VAC 40-130-312**	Added	16:22 VA.R. 2770	**
22 VAC 40-130-314**	Added	16:22 VA.R. 2771	**
22 VAC 40-130-320 through 22 VAC 40-130-360**	Amended	16:22 VA.R. 2771-2772	**
22 VAC 40-130-365**	Added	16:22 VA.R. 2773	**
22 VAC 40-130-370 through 22 VAC 40-130-400**	Amended	16:22 VA.R. 2773-2776	**
22 VAC 40-130-401**	Added	16:22 VA.R. 2776	**
22 VAC 40-130-402**	Added	16:22 VA.R. 2777	**
22 VAC 40-130-403**	Added	16:22 VA.R. 2778	**
22 VAC 40-130-404**	Added	16:22 VA.R. 2778	**
22 VAC 40-130-406**	Added	16:22 VA.R. 2778	**
22 VAC 40-130-410**	Amended	16:22 VA.R. 2778	**
22 VAC 40-130-420**	Amended	16:22 VA.R. 2779	**
22 VAC 40-130-424**	Added	16:22 VA.R. 2779	**
22 VAC 40-130-430 through 22 VAC 40-130-450**	Amended	16:22 VA.R. 2779-2780	**
22 VAC 40-130-452 through 22 VAC 40-130-459**	Added	16:22 VA.R. 2780-2784	**
22 VAC 40-130-470 through 22 VAC 40-130-550**	Amended	16:22 VA.R. 2784-2785	**
22 VAC 40-130-600 through 22 VAC 40-130-820**	Added	16:22 VA.R. 2785-2796	**
22 VAC 40-180 (Forms)	Amended	16:25 VA.R. 3331-3332	--
22 VAC 40-325-10	Added	16:22 VA.R. 2797	8/16/00
22 VAC 40-325-20	Added	16:22 VA.R. 2797	8/16/00
22 VAC 40-600-10	Amended	17:1 VA.R. 70	10/25/00
22 VAC 40-600-50	Amended	17:1 VA.R. 70	10/25/00
22 VAC 40-600-70	Amended	17:1 VA.R. 70	10/25/00
22 VAC 40-600-90	Repealed	17:1 VA.R. 71	10/25/00
22 VAC 40-600-130	Amended	17:1 VA.R. 71	10/25/00
22 VAC 40-600-140	Amended	17:1 VA.R. 71	10/25/00
22 VAC 40-600-170	Amended	17:1 VA.R. 71	10/25/00
22 VAC 40-600-200	Amended	17:1 VA.R. 71	10/25/00
22 VAC 40-600-210	Amended	17:1 VA.R. 71	10/25/00
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
Title 24. Transportation and Motor Vehicles			
24 VAC 30-40-30	Amended	16:18 VA.R. 2285	7/1/00
24 VAC 30-40-580	Amended	16:18 VA.R. 2287	7/1/00
24 VAC 30-40-600 through 24 VAC 30-40-640	Amended	16:18 VA.R. 2288-2290	7/1/00
24 VAC 30-380-10	Amended	16:26 VA.R. 3518	8/23/00

NOTICES OF INTENDED REGULATORY ACTION

Symbol Key

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

TITLE 2. AGRICULTURE

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Agriculture and Consumer Services intends to consider amending regulations entitled: **2 VAC 5-60-10 et seq. Rules and Regulations Governing the Operation of Livestock Markets.** The purpose of the proposed action is to review the regulation for effectiveness and continued need, amend the regulation to terminate the active testing of cattle in the markets, and implement a program to monitor the operation of livestock markets to assure that adequate disease surveillance measures are accomplished. The agency invites comments on whether there should be an advisor. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 3.1-724 and 3.1-730 of the Code of Virginia.

Public comments may be submitted until November 13, 2000.

Contact: Robert Whiting, Program Coordinator, Department of Agriculture and Consumer Services, 1100 Bank St., Room 602, Richmond, VA 23219, telephone (804) 786-2483 or FAX (804) 371-2380.

VA.R. Doc. No. R00-272; Filed August 14, 2000, 12:31 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Agriculture and Consumer Services intends to consider amending regulations entitled: **2 VAC 5-140-10 et seq. Health Requirements Governing the Admission of Livestock, Poultry, Companion Animals, and Other Animals or Birds into Virginia.** The purpose of the proposed action is to review the regulation for effectiveness and continued need, including amending the regulation to reflect (i) newer animal testing technology and procedures; (ii) fewer testing requirements as justified by the advances made in certain national eradication programs, including brucellosis; (iii) the application of knowledge gained from epidemiological investigations of disease spread; and (iv) the use of information gained from research indicating the best techniques for identifying, controlling, and eradicating animal diseases. The agency invites comments on whether there should be an advisor. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 3.1-724, 3.1-726 and 3.1-730 of the Code of Virginia.

Public comments may be submitted until November 13, 2000.

Contact: Robert Whiting, Program Coordinator, Department of Agriculture and Consumer Services, 1100 Bank St., Room 602, Richmond, VA 23219, telephone (804) 786-2483 or FAX (804) 371-2380.

VA.R. Doc. No. R00-274; Filed August 14, 2000, 12:31 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Agriculture and Consumer Services intends to consider amending regulations entitled: **2 VAC 5-320-10. Rules and Regulations for the Enforcement of the Endangered Plant and Insect Species Act.** The purpose of the proposed action is to review the regulation for effectiveness and continued need, and amend the regulation to (i) remove the currently named plants that are no longer considered globally rare and (ii) add those threatened or endangered plant and insect species that are considered rare both globally and in Virginia. The agency invites comments on whether there should be an advisor. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: Chapter 39 (§ 3.1-1020 et seq.) of Title 3.1 of the Code of Virginia.

Public comments may be submitted until November 13, 2000.

Contact: Frank Fulgham, Program Manager, Department of Agriculture and Consumer Services, 1100 Bank St., Room 703, Richmond, VA 23219, telephone (804) 786-3515 or FAX (804) 371-7793.

VA.R. Doc. No. R00-271; Filed August 14, 2000, 12:32 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Agriculture and Consumer Services intends to consider amending regulations entitled: **2 VAC 5-400-10 et seq. Rules and Regulations for the Enforcement of the Virginia Fertilizer Law.** The purpose of the proposed action is to review the regulation for effectiveness and continued need, and amend the regulation relating to (i) definitions, (ii) plant nutrients, (iii) labels, (iv) investigational allowances and penalties, (v) minimum plant food allowed, (vi) sampling and analysis procedures needed to clarify language, and (vii) changes needed to make the regulation compatible with the 1994 changes to the Virginia Fertilizer Act. The agency invites comments on whether there should be an advisor. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 3.1-106.4 of the Code of Virginia.

Public comments may be submitted until November 13, 2000.

Contact: Alan Rogers, Program Manager, Department of Agriculture and Consumer Services, 1100 Bank St., Room 402, Richmond, VA 23219, telephone (804) 786-2476 or FAX (804) 786-1571.

VA.R. Doc. No. R00-275; Filed August 14, 2000, 12:31 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Agriculture and Consumer Services intends to consider amending regulations entitled: **2 VAC 5-610-10 et seq. Rules Governing the Solicitation of Contributions.** The purpose of the proposed action is to review the regulation for effectiveness and continued need, and amend the regulation to conform with amendments to the Virginia Solicitation of Contributions Law relating to (i) the annual registration process and exemption to such registration, (ii) rules governing a professional solicitor, and (iii) general provisions relating to disclosure requirements by for-profit organizations and the use of private mailboxes by the regulated entities. The agency invites comments on whether there should be an advisor. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 57-66 of the Code of Virginia.

Public comments may be submitted until November 13, 2000.

Contact: Andres "Andy" Alvarez, Program Manager, Department of Agriculture and Consumer Services, 1100 Bank St., Room 1101, Richmond, VA 23219, telephone (804) 786-1381 or FAX (804) 786-5112.

VA.R. Doc. No. R00-273; Filed August 14, 2000, 12:32 p.m.



TITLE 9. ENVIRONMENT

STATE AIR POLLUTION CONTROL BOARD

† 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 Air Pollution Control Board intends to consider amending regulations entitled: **9 VAC 5-80-10 et seq. Regulations for the Control and Abatement of Air Pollution (Rev. D00).** The purpose of the proposed action is to bring the regulation into compliance with federal regulations and policies, to include addressing offset ratios for emission reductions and increases in nonattainment areas based on the 1997 eight-hour ozone air quality standard.

Need: One of the primary goals of the federal Clean Air Act (Act) is the attainment and maintenance of the National Ambient Air Quality Standards (NAAQS) and the prevention of significant deterioration (PSD) of air quality in areas cleaner than the NAAQS.

The Act gives the U.S. Environmental Protection Agency (EPA) the authority to establish the NAAQS, which are designed to protect the health of the general public with an adequate margin of safety. The NAAQS establish the maximum limits of pollutants that are permitted in the ambient air. The Act requires that each state submit a plan (called a State Implementation Plan or SIP), including any laws and regulations necessary to enforce the plan, showing how the air pollution concentrations will be reduced to levels at or below these standards (i.e., attainment). Once the pollution levels are within the standards, the plan must also demonstrate how the state will maintain the air pollution concentrations at reduced levels (i.e., maintenance).

In 1979, EPA established a NAAQS for ozone of 0.12 parts per million (ppm). This standard was based on a one-hour averaging period and is commonly called the one-hour standard. When concentrations of ozone in the ambient air exceed the federal standard the area is considered to be out of compliance and is designated as "nonattainment." Numerous counties and cities within the Commonwealth have at one time been identified as ozone nonattainment areas according to the Act. Currently, all but the Northern Virginia area have reached attainment of the one-hour standard.

The Act has a process for evaluating the air quality in each region and identifying and classifying each nonattainment area according to the severity of its air pollution problem. There are five nonattainment area classifications called marginal, moderate, serious, severe and extreme. Marginal areas are subject to the least stringent requirements and each subsequent classification (or class) is subject to successively more stringent control measures. Areas in a higher classification of nonattainment must meet the mandates of the lower classifications plus the more stringent requirements of its own class. If a particular area fails to attain the federal standard by the legislatively mandated attainment date, EPA is required to reassign it to the next higher classification level (denoting a worse air quality problem), thus subjecting the area to more stringent air pollution control requirements. The Northern Virginia Ozone Nonattainment Area is classified as serious and, therefore, has to meet the requirements for the marginal, moderate, and serious classes.

The Act contains comprehensive air quality planning requirements for areas that do not attain the federal air quality standard for ozone (that is, nonattainment areas). Once the nonattainment areas were defined, each state was then obligated to submit a SIP revision or plan demonstrating how it would attain the air quality standard in each nonattainment area. Failure to develop adequate plans to meet the ozone air quality standard: (i) will result in continued violations of the standard, (ii) may result in assumption of air quality programs by EPA, at which time the Commonwealth would lose authority over matters affecting its citizens, and (iii) may result in the implementation of sanctions by EPA, such as more restrictive requirements on new major industrial facilities and loss of federal funds for highway construction.

The heart of the SIP is the control strategy. The control strategy describes the measures to be used by the state to attain and maintain the air quality standards. There are three basic types of measures: stationary source control measures,

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mobile source control measures, and transportation source control measures. Stationary source control measures are directed at emissions primarily from commercial/industrial facilities and operations. Mobile source control measures are directed at tailpipe and other emissions from motor vehicles, and transportation source control measures affect motor vehicle location and use. The Act mandates that all such plans require the implementation of all reasonably available control measures (RACM). One of the RACMs is to require preconstruction approval of new major facilities or modifications to existing ones.

In 1997, EPA established a more stringent NAAQS for ozone of 0.08 parts per million (ppm). This standard is based on an eight-hour averaging period and is commonly called the eight-hour standard. The establishment of this new standard triggered the need for EPA to designate new nonattainment areas. Northern Virginia is the only area that has not attained the one-hour standard. If the standard is changed to a stricter eight-hour ozone standard, then more areas of the Commonwealth will be designated for ozone. EPA has indicated that, for the new eight-hour standard, the five-class system created under the Clean Air Act will not apply to these new areas.

A key control measure for managing the growth of new emissions is the permit program for new and modified stationary sources. The program requires that owners obtain a permit from DEQ prior to the construction of a new industrial or commercial facility or the expansion of an existing one. Program requirements differ according to the facility's potential to emit a certain amount of a specific pollutant and the air quality status of area where the facility is or will be located. Requirements for facilities considered major due to their potential to emit a specified pollutant are more stringent than for less polluting facilities. Requirements for major facilities in nonattainment areas are considerably more stringent than for those in areas which meet the standard.

Permits issued in nonattainment areas require the facility owner to apply control technology that meets the lowest achievable emission rate and to obtain emission reductions from existing sources. The emission reductions must offset the increases from the proposed facility by the ratio specified in the Act for that particular nonattainment classification. The offset ratio for areas classified as marginal is 1.1 to 1, for moderate areas 1.15 to 1, for serious areas 1.2 to 1, and for severe areas 1.3 to 1. For the new eight-hour standard, since no classification system exists, the offset ratio is 1 to 1. The current regulations do not address this 1 to 1 offset ratio and, therefore, must be changed to do so by:

1. Amending Article 9 of 9 VAC 5 Chapter 80 to reflect the permit requirements regarding emission offsets associated with the designation of nonattainment areas by EPA.
2. Amending Article 9 of 9 VAC 5 Chapter 80 to implement the requirements of any other pertinent federal regulations that may be promulgated during the regulation development process.

3. Amending other provisions of the new source review program as may be necessary to maintain consistency with the changes to Article 9 of 9 VAC 5 Chapter 80.

4. Updating other regulations to be consistent with any other changes to federal or state mandates that may become known during the regulation revision process.

The discussion under the "Need" section above focuses on the first potential issue in this list. The main changes to the regulation needed to address this first potential issue involve adding provisions to allow for a 1 to 1 emissions offset ratio in nonattainment areas with no classification. Upon further review, other changes may be needed to address this first issue.

As for the other potential issues, whether they will need to be addressed will depend on whether EPA promulgates any other federal regulations affecting nonattainment new source review. Such regulations may be promulgated by the end of this year.

Alternatives: Alternatives to the proposed regulation amendments are being considered by the department. The department has tentatively determined that the first alternative is appropriate, as it is the least burdensome and least intrusive alternative that fully meets the purpose of the regulatory action. The alternatives being considered by the department, along with the reasoning by which the department has rejected any of the alternatives being considered, are as follows:

1. Amend the regulations to satisfy the provisions of the law and associated regulations and policies. This option is being selected because it meets the stated purpose of the regulatory action: to bring the regulation into compliance with federal regulation and policy pursuant to the federal Clean Air Act.
2. Make alternative regulatory changes to those required by the provisions of the law and associated regulations and policies. This option is not being selected because it will not ensure consistency with federal requirements.
3. Take no action to amend the regulations. This option is not being selected because it will result in the imposition of a federal program and possible sanctions.

Public Participation: The department is soliciting comments on (i) the intended regulatory action, to include ideas to assist the department in the development of the proposal, and (ii) the costs and benefits of the alternatives stated in this notice or other alternatives.

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

Ad Hoc Advisory Group: The department is soliciting comments on the advisability of forming an ad hoc advisory group, utilizing a standing advisory committee or consulting with groups or individuals registering interest in working with

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the department to assist in the drafting and formation of any proposal. The primary function of any group, committee or individuals that may be utilized is to develop recommended regulation amendments for department consideration through the collaborative approach of regulatory negotiation and consensus. Any comments relative to this issue must be submitted to the agency contact in writing by 4:30 p.m. the last day of the comment period.

Federal Requirements:

Federal Clean Air Act (CAA):
<http://www.epa.gov/ttn/oarpg/gener.html>

Code of Federal Regulations (CFR):
<http://www.access.gpo.gov/nara/cfr/cfr-retrieve.html>

Federal Register (FR):
http://www.gpo.gov/su_docs/aces/aces140.html

Sections 109 (a) and (b) of the Clean Air Act require EPA to prescribe primary and secondary air quality standards to protect public health and welfare, respectively, for each air pollutant for which air quality criteria were issued before the enactment of the 1970 Clean Air Act. These standards are known as the National Ambient Air Quality Standards (NAAQS). Section 109 (c) requires EPA to prescribe such standards simultaneously with the issuance of new air quality criteria for any additional air pollutant. The primary and secondary air quality criteria are authorized for promulgation under Section 108.

Section 110(a) of the Clean Air Act mandates that each state adopt and submit to EPA a plan which provides for the state's implementation, maintenance, and enforcement of the NAAQS. Among the primary elements of the state implementation plan (SIP) are (i) enforceable emission limitations and other control measures; (ii) a program for enforcement of the emission limitations and schedules for compliance; and (iii) programs for the regulation and permitting of the modification and construction of stationary sources, including a permit program as required by Part D of the Clean Air Act.

Part D describes how nonattainment areas are established, classified, and required to meet attainment. Subpart 1 provides the overall framework of what nonattainment plans are to contain, while Subpart 2 provides more detail on what is required of areas designated nonattainment for ozone, including requirements for new source review programs. It mandates a new and modified major stationary source permit program that meets the requirements of §§ 172 and 173.

Section 173(a) requires that permits meet the following criteria:

- (1) Offsets must be obtained by new or expanding sources from existing sources so that total allowable emissions (i) from existing sources in the region, (ii) from new or modified sources that are not major emitting facilities, and (iii) from the proposed new source will be less than total emissions from existing sources prior to the application for the permit.
- (2) The proposed source must comply with the lowest achievable emission rate.

(3) The owner of the proposed source must demonstrate that all of their affected major stationary sources in the state either comply or are on a schedule for compliance with the emission limitations.

(4) The SIP must be adequate for the area in which the source is to be located.

(5) An analysis of alternative sites, sizes, processes, and environmental controls for the proposed source must demonstrate that its benefits significantly outweigh environmental and social costs.

Section 173(c) provides that the owner of the proposed new or modified source may obtain offsets only from the nonattainment area in which the proposed source is to be located. Offsets may be obtained from other nonattainment areas whose emissions affect the area where the proposed source is to be located, provided the other nonattainment area has an equal or higher classification and the offsets are based on actual emissions.

Section 182(a) sets out the offset ratio requirements for nonattainment areas, providing for a minimum ratio of total emissions reduction of VOCs to total increased emissions of VOCs. Currently, these offsets are 1.1 to 1 for marginal areas, 1.15:1 for moderate areas, and 1.2 to 1 for serious areas.

40 CFR Part 50 specifies the NAAQS: sulfur dioxide, particulate matter, carbon monoxide, ozone (and its precursors, volatile organic compounds) nitrogen dioxide, and lead.

40 CFR Part 51 sets out requirements for the preparation, adoption, and submittal of SIPs. Section 51.160 of Subpart I specifies that the SIP must stipulate legally enforceable procedures that enable the permitting agency to determine whether the construction or modification of a facility will result in a violation of a control strategy or interfere with attainment or maintenance of a NAAQS. Owners must submit information on the nature and amounts of emissions and on the location, construction and operation of the facility, and must comply with control strategies after permit approval. Section 51.163 requires that the SIP include administrative procedures to be followed in determining whether the construction or modification of a facility will violate control strategies or interfere with the attainment or maintenance of NAAQS.

Section 51.165 of Subpart I describes what permitting requirements are to be contained in the SIP and provides specific definitions of key terms such as "potential to emit," "major stationary source," "major modification," "allowable emissions," and "lowest achievable emission rate." This section requires that the SIP include a preconstruction review program to satisfy the requirements of §§ 172(b)(6) and 173 of the Act, and must apply to any new source or modification locating in a nonattainment area.

It is not anticipated that these regulation amendments will have a direct impact on families. However, the Commonwealth hopes there will be positive indirect impacts in that the regulation amendments will ensure that the Commonwealth's air pollution control regulations will function

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as effectively as possible, thus contributing to reductions in related health problems and property damage.

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

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

Public comments may be submitted until November 15, 2000.

Contact: Karen G. Sabasteanski, Policy Analyst, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4426, FAX (804) 698-4510, toll-free 1-800-592-5482 or (804) 698-4021/TTY ☎

VA.R. Doc. No. R01-14; Filed September 19, 2000, 9:04 a.m.

VIRGINIA WASTE MANAGEMENT BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Waste Management Board intends to consider amending regulations entitled: **9 VAC 20-60-10 et seq. Virginia Hazardous Waste Management Regulations**. The purpose of the proposed action is to incorporate federal regulatory text into the Commonwealth's regulations and maintain consistency between the Commonwealth and federal regulations. The regulations provide for the effective monitoring of the generation, transportation, treatment, storage, and disposal of hazardous waste in the Commonwealth. The proposed amendments are intended to maintain the equivalency of the Commonwealth's regulations with those issued by the United States Environmental Protection Agency (USEPA) under the Resource Conservation and Recovery Act of 1976 (RCRA) and the Hazardous and Solid Waste Amendments of 1984 (HSWA). Maintaining the Commonwealth's equivalency will enable the Commonwealth to remain eligible to carry out its own hazardous waste management program and be an authorized state under the federal acts.

Need: Monitoring of the generation, transportation, treatment, storage, and disposal of hazardous wastes in the Commonwealth is essential to protect the public health, safety and welfare of the citizens of the Commonwealth from the effects of these activities if improperly performed. These amendments are necessary to ensure the regulations of the Commonwealth are current and conform to applicable federal regulations. In addition, maintaining the equivalency of the Commonwealth's regulations with those issued by the U.S. Environmental Protection Agency under the Resource Conservation and Recovery Act of 1976 and the Hazardous and Solid Waste Amendments of 1984, the Commonwealth remains eligible to carry out its own hazardous waste management program and be an authorized state under the federal acts.

Substance: Amendment 15A will further consider incorporation of changes in the federal regulations in Title 40 of the Code of Federal Regulations occurring since Amendment 14 through at least July 1, 1999, including amendments promulgated in the Federal Register on the following dates: January 3, 1995, December 6, 1994,

January 13, 1995, February 9, 1995, April 17, 1995, May 12, 1995, April 4, 1995, May 19, 1995, June 29, 1995, July 11, 1995, September 29, 1995, October 30, 1995, December 11, 1995, February 9, 1996, March 26, 1996, April 8, 1996 (2), April 30, 1996, June 28, 1996, July 10, 1996, August 26, 1996, February 17, 1997, April 12, 1996, July 1, 1996, December 6, 1994, May 19, 1995, September 29, 1995, November 13, 1995, February 9, 1996, June 5, 1996, November 23, 1996, January 14, 1997, February 12, 1997, May 12, 1997, June 13, 1997, June 17, 1997, July 14, 1997, August 28, 1997, December 5, 1997, December 8, 1997, April 15, 1998, May 4, 1998, June 29, 1998, May 6, 1998, July 14, 1998, May 26, 1998, June 8, 1998, June 19, 1998, August 6, 1998, August 31, 1998, September 4, 1998, September 9, 1998, September 24, 1998, October 22, 1998, November 30, 1998, December 24, 1998, January 21, 1999, February 11, 1999, May 11, 1999, May 14, 1999, and July 6, 1999. These amendments of the federal regulations address, at least, the following items:

1. Revisions of the Universal Treatment Standards re: Land Disposal Restrictions or related changes;
2. Revisions to listings and exemptions of certain carbamate chemicals production wastes (U and K listings);
3. Housekeeping changes related to adoption errors and obsolete provisions;
4. Adoption of additional test methods related to rules that prohibit liquids in landfills;
5. New rules about the public participation process in the permitting of storage, treatment and disposal facilities and for test burns at incinerators and combustion facilities;
6. Correction of adoption errors in the exclusion rules for recovered oil which is recycled;
7. Addition of rules related to Phase III of the Land Disposal Restriction and treatment standards concerning carbamate pesticide production wastes, primary aluminum production wastes, characteristic wastes, listed wastes, and wastes that are diluted;
8. Identification of import and export wastes subject to the graduated system of controls under the Organization for Economic Cooperation and Development;
9. Revisions of rules for disposal of wastes from conditionally exempt small quantity generators;
10. Adoption of additional air standards for the control of organic emissions from tanks, surface impoundments, containers and miscellaneous units, including during accumulation of waste on site;
11. Extensions of the national capacity variance (under Phase III of the Land Disposal Restrictions) for spent potliners for primary aluminum production;
12. Adoption of Military Munitions Rule, which identifies when conventional and chemical military munitions become a hazardous waste, provides rules for the safe storage and transport of such waste, changes rules

regarding emergency responses involving munitions and explosives, and exempts generators and transporters from manifest requirements on right-of-ways that are on or along the border of contiguous properties under the control of the same person;

13. Adoption of Land Disposal Restrictions - Phase IV, which establishes treatment standards under the land disposal restrictions for waste from wood preserving operations, revises recordkeeping related to land disposal restrictions, regulates polymerizations as a treatment alternative, clarifies de minimis amounts exemption of characteristic wastewaters, and excludes processed circuit boards and scrap metal from regulation as hazardous wastes;

14. Update the incorporation by reference citation of SW-846, Third Edition, "Test Methods for Evaluation Solid Waste, Physical/Chemical Methods," to include changes through January 13, 1997 (through Update III);

15. Revisions and withdrawals of certain rules related to listing of carbamate wastes;

16. Extension of alternate treatment standard for carbamate under the land disposal restrictions (Aug. 26, 1997 to Aug. 26, 1998);

17. Clarifications of the rules for authorization of variances from the treatment standards of the land disposal restriction regulations, and incorporation of rules requiring public participation in site specific variance considerations;

18. Amendments and clarifications of the air standards for the control of organic emissions from tanks, surface impoundments, and containers;

19. Exclusions from regulation as hazardous waste of the condensates derived from the overhead gases from kraft mill steam strippers under specified conditions;

20. Additions of specific organobromine production wastes to the list of hazardous wastes and listings of land disposal treatment standards for those wastes;

21. Correction and adoption of rules related to the management standards of used oil contaminated with PCB's and other used oil;

22. Adoption of treatment standards under the land disposal restrictions for metal wastes, mineral processing waste and 12 metal constituents, adoption of land disposal prohibition and treatment standards for mineral processing waste that are ignitable, corrosive or reactive, amendment of the definition of when secondary materials being recycled are solid waste so as to exclude certain mineral processing waste, amendment of the definition of which wastes fall under the Bevill exemption, adoption of treatment standards under the land disposal restrictions for contaminated soils as waste, and adoption of corrections and clarifying provisions to the land disposal restrictions; and

23. Exclusion from regulation as solid waste those fuels produced from a hazardous waste which is comparable

to some currently used fossil fuels, and addition of provisions to make it easier for existing facilities to make changes to their existing permit.

24. Listing of four petroleum refining process wastes as hazardous (K169-K172) excluding certain recycled secondary materials from the definition of solid waste. The materials include both oil-bearing residuals from petroleum refineries and oil from associated petrochemical facilities, when they are inserted into the refining process; and spent caustic from liquid treating operations when used as a feedstock to make certain chemical products. The rule clarifies an existing exclusion for recovered oil from certain petroleum industry sources. Finally, this rule applies the universal treatment standards to the petroleum refining wastes.

25. On May 26, 1998 (63 FR 28556), EPA published an amendment to the Land Disposal Restriction treatment standards for metal-bearing hazardous wastes which exhibit the characteristic of toxicity (commonly referred to as the Phase IV rule). The new Phase IV treatment standards in that rule are not well-suited for zinc micronutrient fertilizers and the new standards could result in greater use of zinc fertilizers that contain relatively higher concentrations of hazardous constituents. EPA expects to develop a more consistent and comprehensive approach to regulating hazardous waste-derived fertilizers, and currently intends to leave this amendment, which places an administrative stay on the new treatment standards, in place until those new regulations are adopted. In the interim, the fertilizers affected by this amendment would remain subject to the previous treatment standards for toxic metals found at 40 CFR 268.41 in the July 1, 1990, edition of the CFR.

26. Revision of the waste treatment standards applicable to 40 waste constituents associated with the production of carbamate wastes. First, the rule establishes revised treatment standards for seven specific carbamate waste constituents (A2213; bendiocarb phenol; diethylene glycol, dicarbamate; dimetilan; formparanate; isolan; and tirpate) for which there are no available analytical reference standards. The rule also deletes the treatment standard for one additional constituent (o-phenylenediamine) for which available analytical methods do not achieve reliable measurements.

27. Extension of the compliance date until November 26, 1998, for a limited portion of the Phase IV Final Rule (63 FR 28556). The Phase IV Final Rule amended the Land Disposal Restriction treatment standards for metal-bearing hazardous wastes exhibiting the toxicity characteristic. This action extends the date for treatment standards only for secondary lead slags exhibiting the toxicity characteristic for one or more metals that are generated from thermal recovery of lead-bearing wastes (principally batteries). In the interim, the affected wastes are still subject to the treatment standards for TC metals set forth in the Third Final Rule (55 FR 22520).

28. Interim replacement standards for spent potliners from primary aluminum reduction (EPA hazardous waste K088) under its Land Disposal Restrictions program.

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Spent potliners will now be prohibited from land disposal unless the wastes have been treated in compliance with the numerical standards contained within this rule. The newly promulgated treatment standards will be in place until EPA has fully reviewed all information on all treatment processes which may serve as a basis for a more permanent revised standard. In addition, the K088 national capacity variance is extended until September 21, 1998.

29. Modification of the requirement for a post-closure permit to allow for the use of a variety of authorities to impose requirements on nonpermitted land disposal units requiring post-closure care. As a result, regulators have the flexibility to use alternate mechanisms under a variety of authorities to address post-closure care requirements based on the particular needs at the facility. The rule also amends the regulations governing closure of land-based units that have released hazardous constituents to allow certain regulated units where releases may have mingled with releases from solid waste management units to be addressed through the corrective action program. This will provide regulators the discretion to use corrective action requirements, rather than closure requirements, to address the closure of these regulated units. Finally, the rule specifies the Part B information submission requirements for facilities that receive post-closure permits.

30. Streamlining of the permitting process for treatment, storage and disposal of remediation wastes managed at cleanup sites. The new requirements: (i) make permits faster and easier to obtain, (ii) provide that obtaining these permits will not subject the owner/operator to facility-wide corrective action at remediation-only facilities, and (iii) allow the use of Remediation Action Plans (RAPs) as an alternative to traditional RCRA permits. Regulations are also finalized regarding use of staging piles during cleanup and providing an exclusion for dredged materials managed under appropriate Clean Water Act or Marine Protection Research and Sanctuaries Act permits. In addition, this rule expands the use of Corrective Action Management Units and Temporary Unit to include implementing clean-up remedies at permitted facilities that are not subject to 40 CFR 264.101.

31. Correction of errors that appeared in the May 11, 1995, Universal Waste Rule (60 FR 25492). No new regulatory requirements are created with this rule; instead it (i) makes three corrections to regulations governing the management of spent lead-acid batteries that are reclaimed, (ii) corrects the definition of a small quantity universal waste handler, and (iii) clarifies the export requirements which apply to destination facilities when the facilities act as universal waste handlers.

32. Clarification of certain regulatory text and reinstate certain regulatory provisions that were inadvertently removed contained in the rules to reduce organic air emissions from certain hazardous waste management activities to levels that are protective of human health and the environment (59 FR 62896, December 6, 1994).

33. Temporarily deferral from the definition of hazardous waste landfill leachate and landfill gas condensate derived from previously disposed wastes that now meet the listing descriptions of one or more of the recently added petroleum refinery wastes (K169, K170, K171, and K172). This exemption applies to landfill leachate and gas condensate subject to regulation under the Clean Water Act. The exempted leachate may not ordinarily be managed in surface impoundments or otherwise placed on the land after February 13, 2001, except for the purpose of providing storage under temporary or emergency conditions.

34. Clarification and/or technical corrections to the following five final rules published by EPA:

(1) May 12, 1997, regulations promulgating Land Disposal Restrictions (LDR) treatment standards for wood preserving wastes, as well as reducing the paperwork burden for complying with LDRs;

(2) May 26, 1998, regulations promulgating LDR treatment standards for metal-bearing wastes, as well as amending the LDR treatment standards for soil contaminated with hazardous waste, and amending the definition of which secondary materials from mineral processing are considered to be wastes subject to the LDRs;

(3) August 31, 1998, an administrative stay of the metal-bearing waste treatment standards as they apply to zinc micronutrient fertilizers;

(4) September 4, 1998, an emergency revision of the LDR treatment standards for hazardous wastes from the production of carbamate wastes; and

(5) September 24, 1998, revised treatment standards for spent aluminum potliners from primary aluminum production.

35. Approval of use of EPA Method 1664, Revision A: N-Hexane Extractable Material (HEM; Oil and Grease) and Silica Gel Treated N-Hexane Extractable Material (SGT-HEM; Non-polar Material) by Extraction and Gravimetry (hereafter Method 1664) for use in EPA's Clean Water Act (CWA) programs, and incorporates Method 1664 by reference for use in EPA's Resource Conservation and Recovery Act (RCRA) programs. The rule also deletes Method 9070 and adds revised Method 9071B as Update IIIA to the Third Edition of the EPA-approved test methods manual SW-846.

36. Addition of spent hazardous waste lamps to the list of universal wastes. Handlers of universal wastes are subject to less stringent standards for storing, transporting, and collecting these wastes. The streamlined universal waste management requirements under 40 CFR Part 273 should lead to better management of spent lamps and will facilitate compliance with hazardous waste requirements.

In addition to the promulgated amendments of federal regulations, Amendment 15A may consider the following items:

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37. Errors and omissions resulting from previous amendments of the regulations, including the change in the format of the regulations effected by Amendment 14;

38. Several amendments to the requirements for the transportation of hazardous waste, including insurance requirements; financial assurance requirements for hazardous waste management facilities; and documentation demonstrating compliance with financial assurance requirements which were recommended by commenters regarding Amendment 14, but which could not be addressed in Amendment 14 for procedural reasons;

39. Revision of the schedule of permit application fees to reflect increased cost of permit reviews;

40. Further use or expansion of the format of incorporation by reference of federal regulations;

41. Inclusion of additional waste streams as listed Universal Wastes;

42. Alterations or clarifications of the regulations concerning transfer station and the definition of transfer stations to prevent inappropriate siting of the transfer station and abusive practices; and

43. Alterations or clarifications of the regulations concerning receipt of waste from conditionally exempt small quantity generators to prevent threats caused by amassing such waste from several generators in an inappropriate manner.

Alternatives: The board will, during the Notice of Intended Regulatory Action Period and the Notice of Public Comment Period, request comments on or alternatives to the amendments. In addition, a technical advisory committee will advise the board on what amended regulatory text should be proposed. The committee will advise the board on less intrusive and less burdensome alternatives, where such exist.

The vast majority of changes to be considered will be the direct result of incorporation of federal regulatory text into the Commonwealth's regulations, and consistency with federal regulations is required by federal law and regulation and necessary for authorization of the Commonwealth's program the U.S. Environmental Protection Agency. Many of the changes resulting from changes to the federal regulations that are to be incorporated by this amendment are themselves a reduction in intrusion and burden on the regulated community from prior federal requirements currently incorporated into the Commonwealth regulations.

Public Participation: The board is seeking comments on the intended regulatory action, including ideas to assist in the development of a proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. A public meeting will be held and notice of the meeting can be found in the Calendar of Events section of this issue of the Virginia Register of Regulations.

The board intends to use the participatory approach to develop a proposal. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 10.1-1402 of the Code of Virginia.

Public comments may be submitted until October 10, 2000.

Contact: Robert G. Wickline, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4213.

VA.R. Doc. No. R00-267; Filed August 8, 2000, 4:30 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Waste Management Board intends to consider amending regulations entitled: **9 VAC 20-60-10 et seq. Virginia Hazardous Waste Management Regulations.** The purpose of the proposed action is to repeal 9 VAC 20-60-261 B 8 to clarify that low-level radioactive waste is not subject to the requirements of Chapter 60. During sweeping changes to the chapter during Amendment 14 (effective February 17, 1999) text that may be interpreted erroneously was inadvertently included in the regulation. The text may be read to require low-level radioactive waste to be managed as a hazardous waste. This action is to repeal 9 VAC 20-60-261 B 8 in its entirety and conform the Commonwealth's regulations to federal regulations.

Alternatives: The board will, during the Notice of Intended Regulatory Action and the Notice of Public Comment period, request comments on or alternatives to the amendments. At this time the only alternative that has been considered is to not repeal the language. This alternative is not recommended, as the language may be misconstrued to impose unnecessary requirements on the management of low-level radioactive wastes.

Public Participation: The board is seeking comments on the intended regulatory action, including ideas to assist in the development of a proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. A public meeting will be held and notice of the meeting can be found in the Calendar of Events section of this issue of the Virginia Register of Regulations.

The board seeks comment from the public on whether to use the participatory approach to assist the agency in the development of a proposal. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 10.1-1402 of the Code of Virginia.

Public comments may be submitted until October 10, 2000.

Contact: Robert G. Wickline, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4213.

VA.R. Doc. No. R00-253; Filed August 3, 2000, 12:02 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Waste Management Board intends to consider amending regulations entitled: **9 VAC 20-160-10 et seq. Voluntary Remediation Regulations.** The

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purpose of the proposed action is to amend regulations based on a periodic review that has determined that the regulations need, among other things, updating to include current sampling and analysis methods and deletion of obsolete language.

Alternatives: There are no known alternatives that would achieve the stated purpose of the program in a less burdensome and intrusive manner. The Voluntary Remediation Program is for *voluntary* clean up of contaminated sites where remediation is not clearly mandated by CERCLA, RCRA, Virginia Waste Management Act, State Water Control Law or other authority. It provides a streamlined approach for remediation projects by establishing minimum standards and procedures pertaining to eligibility, enrollment, reporting, remediation and termination criteria. The legislation mandates the promulgation of the regulations for the program, so there is no alternative to their promulgation.

Substance: The amendment of the regulations may include but will not be limited to the following:

1. Update the regulations to incorporate current sampling and analysis methodology and to consider alternative technologies.
2. Review the definitions section of the regulation.
3. Review the requirements for terminating participation in the program.
4. Delete obsolete language from the regulation.
5. Review documents incorporated by reference into the regulations.

In addition, the board may consider comments received in response to the NOIRA which will assist the department with the development of the proposed regulations.

Purpose: This program is designed to allow participants to remediate properties voluntarily to remediation levels that are protective of human health and the environment, while minimizing the expense and delay of the remediation process. The purpose of the program is to enhance the public health, safety and welfare of citizens residing in the vicinity of a contaminated property.

Need: The department has determined that the proposed regulatory action will encourage remediation of contaminated sites where remediation is not clearly mandated by CERCLA, RCRA, the Virginia Waste Management Act, or other applicable authority. By encouraging the remediation of the sites, the department is protecting the public health, safety and welfare of citizens in the vicinity of a contaminated property. Remediation of these sites should prevent the migration of contaminants to adjacent properties.

Public Participation: The board is seeking comments on the intended regulatory action, including ideas to assist in the development of a proposal, and the costs and benefits of the alternatives stated in this notice or other alternatives. Anyone wishing to submit written comments for the public comment file may do so at the public meeting or by mail. In order to be considered, written comments must include the name,

address and phone number of the commenter and must be received by the close of the comment period.

The board is inviting comment on whether to use the participatory approach to assist the agency in the development of a proposal.

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

Statutory Authority: § 10.1-1402 of the Code of Virginia.

Public comments may be submitted until November 13, 2000.

Contact: Melissa Porterfield, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4238.

VA.R. Doc. No. R01-9; Filed September 6, 2000, 11:23 a.m.

STATE WATER CONTROL BOARD

† 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 Water Control Board intends to consider amending regulations entitled: **9 VAC 25-260-5 et seq. Water Quality Standards**. The purpose of the rulemaking will be to amend the Water Quality Standards regulation to update certain criteria and use designations. Subject areas needing revision include updated surface water criteria for ammonia in freshwater, new alternative indicators for assessing bacterial water quality, updated contact recreational use designations for primary and secondary and/or seasonal uses, and updated use designations for intermittent, ephemeral and/or effluent dependent streams. DEQ also wants to review the existing shellfish classification in tidal waters to determine whether separate classifications/designations and criteria are needed for permanently restricted or prohibited shellfishing areas versus open shellfishing areas.

The intent of this rulemaking is to protect designated and beneficial uses of state waters by adopting regulations that are technically correct, necessary and reasonable. These standards will be used in setting Virginia Pollutant Discharge Elimination System Permit limits and for evaluating the waters of the Commonwealth for inclusion in the Clean Water Act § 305(b) report and on the § 303(d) list. Waters not meeting standards will require development of a Total Maximum Daily Load under the Clean Water Act at § 303(d).

The scope of the federal regulations at 40 CFR 131 is to describe the requirements and procedures for developing, reviewing, revising and approving water quality standards by the states as authorized by § 303(c) of the Clean Water Act. 40 CFR 131 specifically requires the states to adopt criteria to protect designated uses.

The scope and objective of the Clean Water Act is to restore and maintain the chemical, physical, and biological integrity of the nation's waters. The Clean Water Act at § 303(c)(1) requires that the states hold public hearings for the purpose of

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reviewing applicable water quality standards and, as appropriate, modifying and adopting standards.

The scope and purpose of the State Water Control Law is to protect and to restore the quality of state waters, to safeguard the clean waters from pollution, to prevent and to reduce pollution and to promote water conservation. The State Water Control Law at § 62.1-44.15(3a) of the Code of Virginia requires the board to establish standards of quality and to modify, amend or cancel any such standards or policies. It also requires the board to hold public hearings from time to time for the purpose of reviewing the water quality standards, and, as appropriate, adopting, modifying or canceling such standards.

The authority to adopt standards as provided by the provisions in the previously referenced citations is mandated, although the specific standards to be adopted or modified are discretionary to the EPA and the state.

Federal Regulation web site:

<http://www.epa.gov/epahome/cfr40.htm>

Clean Water Act web site:

<http://www4.law.cornell.edu/uscode/33/1313.html>

State Water Control Law (Code of Virginia) web site:

<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+62.1-44.2>

<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+62.1-44.15>

Need: This rulemaking is needed because new scientific information is available to update the water quality standards. Changes to the regulation are also needed to improve permitting, monitoring and assessment programs. Subject areas needing revision include updated surface water criteria for ammonia in freshwater, new alternative indicators for assessing bacterial water quality, updated contact recreational use designations for primary and secondary and/or seasonal uses, and updated use designations for intermittent, ephemeral and/or effluent dependent streams. DEQ also wants to consider revising the existing DEQ shellfish classification in tidal waters to determine whether separate classifications/designations and criteria are needed for permanently restricted or prohibited shellfishing areas.

The rulemaking is essential to the protection of health, safety or welfare of the citizens of the Commonwealth. Proper water quality standards protect water quality and living resources of Virginia's waters for consumption of fish and shellfish, recreational uses and conservation in general.

Potential issues that may need to be addressed are listed in the alternatives section. Another issue that may need to be addressed is how these water quality standards changes will effect the § 303(d) listing of state waters and subsequent TMDL development.

Substance: The amendments would change the existing numerical criteria for ammonia and bacteria in certain waters of the state. The existing regulation may also be changed to reflect more accurate designated or beneficial uses of state waters to ensure the correct application of the new criteria. The regulation may also be changed to recognize that intermittent, ephemeral and/or effluent dependent waters do not support all designated uses, particularly aquatic life uses.

Also, the regulation may be changed to recognize restricted or prohibited shellfishing areas and define alternate criteria for these waters.

Alternatives: Many alternatives in the subject areas listed will become available as DEQ staff and the public begin to review scientific data, permitting and monitoring needs. DEQ will work in conjunction with other state and federal agencies to consider various alternatives. Alternatives provided by the public will also be considered.

The department has neither accepted nor rejected any alternatives at this point. Some alternatives being considered by the agency now include, but are not limited to, the following:

1. Whether to use enterococci, E. coli, and/or fecal coliforms as a bacterial indicator of pollution, what these numerical values should be, and how and where we should apply these criteria;
2. Whether we should recognize primary and secondary contact and/or seasonal recreational uses, how these uses should be defined and what criteria would apply;
3. Whether we should recognize the limited aquatic life and recreational uses of intermittent streams, ephemeral streams and dry ditches, how these types of streams would be defined, what criteria should apply here, and/or whether any temporary variances that have been approved by DEQ in intermittent streams should be adopted as permanent use changes;
4. Whether effluent dependent streams should be protected as fully supporting aquatic life uses or be protected as intermittent streams, ephemeral streams or dry ditches (see above);
5. Whether information contained in EPA's 1998 Update of Ambient Water Quality Criteria for Ammonia (EPA 822-R-98-008) should be used to recalculate the freshwater ammonia criteria; and
6. Whether we should divide shellfish waters into two classifications (open shellfishing areas versus prohibited areas) and whether alternate criteria should apply here.

The board is seeking comments on the intended regulatory action, including ideas to assist in the development of a proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. A public meeting will be held and notice of the meeting can be found in the Calendar of Events section of the Virginia Register of Regulations.

The board seeks comment from the public on whether to use the participatory approach to assist the agency in the development of a proposal.

The direct impact resulting from the development of water quality standards is for the protection of public health and safety and has an indirect impact on families.

Statutory Authority: §§ 62.1-44.15(3a) and 62.1-44.15(10) of the Code of Virginia.

Public comments may be submitted until January 8, 2001.

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Contact: Eleanore Daub, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4111.

VA.R. Doc. No. R01-13; Filed September 14, 2000, 8:25 a.m.

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 Water Control Board intends to consider amending regulations entitled: **9 VAC 25-560-10 et seq. Potomac-Shenandoah River Basin Water Quality Management Plan.** The purpose of the proposed action is to amend the BOD₅ and Total Kjeldahl Nitrogen loadings and establish a total maximum daily load for Segment 1-4a of the plan.

Purpose: The proposed regulatory action is to consider amending the Potomac-Shenandoah River Basin Water Quality Management Plan (WQMP) (9 VAC 25-560 et seq.). The State Water Control Board adopted the plan June 18, 1981, and it became effective in June of 1982. Water quality management plans identify water quality problems, consider alternative solutions and recommend pollution control measures needed to attain or maintain water quality standards. The proposed amendment addresses changed conditions in Segment 1-4a of the Upper South Fork Shenandoah River, which begins at the Merck discharge (river mile 88.09) and continues downstream for 10 miles. New modeling data shows a total wasteload assimilative capacity in Segment 1-4a greater than that previously identified in the plan.

Need: The Potomac-Shenandoah River Basin Water Quality Management Plan is an existing regulation. Merck, Inc. has requested changes to the WLAs in its VPDES discharge permit. The changes will enable Merck and other dischargers to this stream segment to expand production. The proposed amendment reflects the use of a new, more sophisticated mathematical model based upon actual stream data. The model indicates that the 10-mile segment of the South Fork Shenandoah River can assimilate higher BOD₅ and Total Kjeldahl Nitrogen (TKN) loadings and continue to maintain water quality standards.

Amending the Potomac-Shenandoah River Basin Water Quality Management Plan by increasing BOD₅ and TKN wasteloads will protect existing water quality, ensure beneficial uses of the South Fork Shenandoah River and sustain the economic well-being of the communities through which it flows. Treating the wastewater will contribute to the protection of the health and safety of the citizens of Rockingham County.

Substance: The Potomac-Shenandoah River Basin Water Quality Management Plan provides that, in order to meet water quality goals, the State Water Control Board will adopt waste load allocations for dischargers located on water quality classified stream segments, subject to revision by further intensive stream sampling and detailed water quality modeling (9 VAC 25-560-50, Board Actions to Meet Water Quality Goals). This segment was originally modeled using the Streeter Phelps method with desktop or assumed stream conditions. The Merck discharge was given wasteload

allocations in the WQMP. These allocations were based upon the permitted effluent limits at the time the plan was developed. Merck is expanding its production, and greater BOD₅ and TKN loadings will result from the expansion. The current Potomac-Shenandoah River Water Quality Management Plan established a BOD₅ WLA of 3,454 lbs/day (1,567.55 kilograms per day (kg/d)) and a TKN WLA of 2,846 lbs/day (1,291.62 kilograms per day (kg/d)). The model submitted to DEQ by Merck indicated that the stream could assimilate 4,137.7 kg/day BOD₅ and 2,147.3 kg/day TKN.

The proposed amendment will consider recognizing the higher BOD₅ and TKN loadings for Segment 1-4a and, as necessary, allocate the loadings among the dischargers in this portion of the river. In addition a TMDL will be established for this segment.

Alternatives: The department has developed two alternatives. The recommended alternative is the least costly and eliminates the uncertainty of waiting until repeal of the existing WQMPs and development of a new plan for the basin, especially since these are technical issues surrounding a single segment of the South Fork Shenandoah River.

Recommended Alternative I: Amend the Potomac-Shenandoah River Basin Water Quality Management Plan to reflect the use of the more sophisticated mathematical model for the South Fork Shenandoah River Segment 1-4a and retain the segment's plan classification as WQL (Water Quality Limiting).

Alternative II: Deregulate all water quality management plans for the entire state.

Reason Alternative II was not chosen: The process for deregulating all water quality management plans for the entire state is in the early stages and is not expected to be completed prior to Merck needing additional BOD₅ and TKN loadings. Until the deregulation process is complete, permits cannot be issued, reissued or modified that conflict with water quality management plans (9 VAC 25-31-50, Prohibitions, C 7).

In compliance with the SWCB's Public Participation Guidelines (9 VAC 25-10-10 et seq.), the DEQ will, during the Notice of Intended Regulatory Action and the Notice of Public Comment, include the proposed amendment and alternatives, and request comments from the public on these and any other alternatives. The DEQ will also request comments on the costs and benefits of these alternatives or other alternatives the public may wish to provide.

Public Participation: The board is seeking comments on the intended regulatory action, including ideas to assist in the development of a proposal and the costs and benefits of the alternatives stated in this notice or other alternatives.

A public meeting will be held on Wednesday October 25, 2000, at 7 p.m. in the Town Hall in Elkton, Virginia. Notice of the meeting can be found in the Calendar of Events section of the Virginia Register of Regulations.

The board seeks comment from the public on whether to use the participatory approach to assist the agency in the development of a proposal. The agency intends to hold a public hearing on the proposed regulation after publication.

Notices of Intended Regulatory Action

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

Public comments may be submitted until October 24, 2000.

Contact: C.T. Mizell, Department of Environmental Quality, P.O. Box 1129, Harrisonburg, VA 22801, telephone (540) 574-7800.

VA.R. Doc. No. R01-10; Filed September 6, 2000, 11:23 a.m.

TITLE 12. HEALTH

STATE BOARD OF HEALTH

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 Health intends to consider amending regulations entitled: **12 VAC 5-220-10 et seq. Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations.** The purpose of the proposed action is to amend the regulations with respect to the timing of COPN requests and consideration of projects in rural areas. The agency does not intend to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 32.1-102.2 of the Code of Virginia.

Public comments may be submitted until October 27, 2000.

Contact: Carrie Eddie, Policy Analyst, Department of Health, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2157, e-mail ceddy@vdh.state.va.us.

VA.R. Doc. No. R01-1; Filed August 30, 2000, 11:50 a.m.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to consider amending regulations entitled: **12 VAC 30-10-10 et seq. State Plan Under Title XIX of the Social Security Act Medical Assistance Program--General Provisions;** and **12 VAC 30-20-10 et seq. Administration of Medical Assistance Services.** The purpose of the proposed action is to promulgate new provider appeals regulations for all provider types and to conform to the time requirements of Chapter 967. The agency does not intend to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until October 11, 2000, to Martha Smith, Director, Appeals Division, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8850 or (804) 371-4981.

VA.R. Doc. No. R00-291; Filed August 23, 2000, 10:22 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to consider amending regulations entitled: **12 VAC 30-90-10 et seq. Methods and Standards for Establishing Payment Rates for Long-Term Care.** The purpose of the proposed action is to establish a new nursing home payment system pursuant to policy mandates from the 2000 General Assembly. The agency does not intend to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until October 11, 2000, to Stan Fields, Director, Cost Settlement and Audit, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8850 or (804) 371-4981.

VA.R. Doc. No. R00-281; Filed August 15, 2000, 11:13 a.m.

TITLE 16. LABOR AND EMPLOYMENT

VIRGINIA EMPLOYMENT COMMISSION

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Employment Commission intends to consider amending regulations entitled: **16 VAC 5-10-10 et seq. Definitions and General Provisions.** The purpose of the proposed action is to ensure compliance with Executive Order 25 (98). The definitions will be expanded to encompass the changes made to the agency's other regulations. The agency does not intend to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 60.2-111 and 60.2-623 of the Code of Virginia.

Public comments may be submitted until October 11, 2000.

Contact: Michael Worthington, Director of Policy and Planning, P.O. Box 1358, Room 300, Richmond, VA 23218-1358, telephone (804) 371-6406, FAX (804) 225-3923 or toll-free 1-800-828-1120/TTY ☎

VA.R. Doc. No. R00-285; Filed August 22, 2000, 2:46 p.m.

Notices of Intended Regulatory Action

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Employment Commission intends to consider amending regulations entitled: **16 VAC 5-20-10 et seq. Unemployment Taxes.** The purpose of the proposed action is to eliminate language requiring reimbursable employers to post a surety bond. The agency does not intend to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 60.2-111 and 60.2-623 of the Code of Virginia.

Public comments may be submitted until October 11, 2000.

Contact: Michael Worthington, Director of Policy and Planning, P.O. Box 1358, Room 300, Richmond, VA 23218-1358, telephone (804) 371-6406, FAX (804) 225-3923 or toll-free 1-800-828-1120/TTY ☎

VA.R. Doc. No. R00-286; Filed August 22, 2000, 2:46 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Employment Commission intends to consider amending regulations entitled: **16 VAC 5-32-10 et seq. Required Records and Reports.** The purpose of the proposed action is to add specific language to ensure that employers know what information should be retained and that they know what information may be required by the agency. The agency does not intend to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 60.2-111 and 60.2-623 of the Code of Virginia.

Public comments may be submitted until October 11, 2000.

Contact: Michael Worthington, Director of Policy and Planning, P.O. Box 1358, Room 300, Richmond, VA 23218-1358, telephone (804) 371-6406, FAX (804) 225-3923 or toll-free 1-800-828-1120/TTY ☎

VA.R. Doc. No. R00-287; Filed August 22, 2000, 2:46 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Employment Commission intends to consider amending regulations entitled: **16 VAC 5-60-10 et seq. Benefits.** The purpose of the proposed action is to allow claimants to file initial claims, partial claims and continued claims by telephone and the Internet. The amendments will make technological improvements, allow the agency to comply with the mandate of Executive Order 65 (00), and replace references to the Job Training Partnership Act with references to the Workforce Investment Act. Finally, language will be added regarding the cancellation and withdrawal of claims. The agency does not intend to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 60.2-111 and 60.2-623 of the Code of Virginia.

Public comments may be submitted until October 11, 2000.

Contact: Michael Worthington, Director of Policy and Planning, P.O. Box 1358, Room 300, Richmond, VA 23218-1358, telephone (804) 371-6406, FAX (804) 225-3923 or toll-free 1-800-828-1120/TTY ☎

VA.R. Doc. No. R00-288; Filed August 22, 2000, 2:46 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Employment Commission intends to consider amending regulations entitled: **16 VAC 5-70-10 et seq. Interstate and Multi-state Claimants.** The purpose of the proposed action is to allow interstate claimants to file claims by telephone and the Internet. Also, language will be added regarding the cancellation and withdrawal of combined wage claims. The agency does not intend to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 60.2-111 and 60.2-623 of the Code of Virginia.

Public comments may be submitted until October 11, 2000.

Contact: Michael Worthington, Director of Policy and Planning, P.O. Box 1358, Room 300, Richmond, VA 23218-1358, telephone (804) 371-6406, FAX (804) 225-3923 or toll-free 1-800-828-1120/TTY ☎

VA.R. Doc. No. R00-289; Filed August 22, 2000, 2:46 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Employment Commission intends to consider amending regulations entitled: **16 VAC 5-80-10 et seq. Adjudication.** The purpose of the proposed action is to allow parties to file appeals by facsimile and over the Internet and to allow expanded use of telephonic hearings. Also, the agency recommends that (i) a 10-day notice of hearing be required for both lower and higher authority; (ii) language establishing the criteria for the approval of attorney's fees to lawyers representing claimants be added; (iii) language prohibiting ex-parte communications with presiding hearing officers be added; (iv) the language regarding transcripts be modified to make it consistent with § 60.2-623 of the Code of Virginia; (v) a provision is added to establish criteria for when the commission would consider a decision pursuant to § 60.2-630 of the Code of Virginia; and (vi) a provision is added regarding rescission of a withdrawal by a party. The agency does not intend to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 60.2-111 and 60.2-623 of the Code of Virginia.

Public comments may be submitted until October 11, 2000.

Contact: Michael Worthington, Director of Policy and Planning, P.O. Box 1358, Room 300, Richmond, VA 23218-1358, telephone (804) 371-6406, FAX (804) 225-3923 or toll-free 1-800-828-1120/TTY ☎

VA.R. Doc. No. R00-290; Filed August 22, 2000, 2:46 p.m.

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TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD FOR CONTRACTORS

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Contractors intends to consider amending regulations entitled: **18 VAC 50-30-10 et seq. Tradesman Rules and Regulations.** The purpose of the proposed action is to (i) implement the statutory provisions of §§ 54.1-1128 through 54.1-1135 of the Code of Virginia relating to licensure requirements for liquefied petroleum gas fitters and natural gas fitter providers; (ii) establish entry requirements for licensure; (iii) specify examination requirements for licensure; (iv) establish procedures and provisions regarding renewal, reinstatement, and the standards of practice and conduct; (v) establish standards of practice that will protect the health, safety and welfare of the public; and (vi) set forth provisions under which the board may reject an application for licensure, suspend or revoke a license or impose other sanctions for violations of the statutes and regulations governing the regulated practice. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 54.1-201 and 54.1-2202 and Article 3 (§ 54.1-1128 et seq.) of Chapter 11 of Title 54.1 of the Code of Virginia.

Public comments may be submitted until October 24, 2000.

Contact: Nancy T. Feldman, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8540, FAX (804) 367-2474, (804) 367-9753/TTY ☎ or e-mail contractors@dpor.state.va.us.

VA.R. Doc. No. R01-11; Filed September 6, 2000, 11:53 a.m.

BOARD OF NURSING

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Nursing intends to consider amending regulations entitled: **18 VAC 90-20-10 et seq. Regulations Governing the Practice of Nursing.** The purpose of the proposed action is to amend the regulation, as mandated by § 54.1-3012.1 of the Code of Virginia (Chapters 587 and 701 of the 2000 Acts of the Assembly), by adding a section to the regulation for data collection on the nursing workforce. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 54.1-2400, 54.1-3005 and 54.1-3028.1 of the Code of Virginia.

Public comments may be submitted until November 8, 2000.

Contact: Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909 or (804) 662-9512.

VA.R. Doc. No. R01-17; Filed September 19, 2000, 12:02 p.m.

BOARDS OF NURSING AND MEDICINE

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Boards of Nursing and Medicine intend to consider amending regulations entitled: **18 VAC 90-30-10 et seq. Regulations Governing the Licensure of Nurse Practitioners.** The purpose of the proposed action is to amend regulations to provide requirements for continued competency pursuant to a statutory mandate in the Code of Virginia. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 54.1-2400, 54.1-2912.1 and 54.1-2957.01 of the Code of Virginia.

Public comments may be submitted until October 11, 2000.

Contact: Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909 or FAX (804) 662-9943.

VA.R. Doc. No. R00-280; Filed August 17, 2000, 11:39 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Boards of Nursing and Medicine intend to consider amending regulations entitled: **18 VAC 90-40-10 et seq. Regulations for Prescriptive Authority for Nurse Practitioners.** The purpose of the proposed action is to amend regulations to provide requirements for continued competency pursuant to a statutory mandate in the Code of Virginia. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 54.1-2400, 54.1-2912.1, 54.1-2957 and 54.1-2957.01 of the Code of Virginia.

Public comments may be submitted until October 11, 2000.

Contact: Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909 or FAX (804) 662-9943.

VA.R. Doc. No. R00-279; Filed August 17, 2000, 11:39 a.m.

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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

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

November 7, 2000 - 7 p.m. -- Public Hearing
Virginia Commonwealth University, 907 Floyd Avenue,
Student Commons, Capitol Ball Room, Richmond, Virginia.

November 14, 2000 - 7 p.m. -- Open Meeting
Eastern Shore Community College, 29300 Lankford Highway,
Lecture Hall, Melfa, Virginia.

November 16, 2000 - 7 p.m. -- Open Meeting
Virginia Institute of Marine Science, 1208 Greate Road, John
L. McHugh Auditorium, Gloucester Point, Virginia.

November 21, 2000 - 7 p.m. -- Open Meeting
Fairfax County Government Center, 12000 Government
Center Parkway, Conference Rooms 4 and 5, Fairfax,
Virginia.

December 8, 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 Chesapeake Bay Local Assistance Board intends to amend regulations entitled: **9 VAC 10-20-10 et seq. Chesapeake Bay Preservation Area Designation and Management Regulations.** This regulation amendment is being proposed to accomplish the following:

1. Achieve greater clarity in all regulatory language to minimize confusion and misinterpretation.
2. Eliminate any conflicts and unnecessary redundancies between the requirements in the regulations and those in other related state and federal laws and regulations while still providing for maximum water quality protection. Specific issues under consideration where conflicts or redundancies are perceived to exist are as follows:

- a. Stormwater management criteria (9 VAC 10-20-120, subdivision 8);
- b. Erosion and sediment control criteria (9 VAC 10-20-120, subdivision 6);

c. Septic system criteria (9 VAC 10-20-120, subdivision 7);

d. Agricultural criteria [9 VAC 10-20-120, subdivision 9);

e. Silvicultural criteria (9 VAC 10-20-120, subdivision 10); and

3. Improve vegetative buffer area criteria (9 VAC 10-20-80, subdivision 5; and 9 VAC 10-20-130, subdivisions 3-5 and 7) to provide greater clarity as well as consistency with the riparian forest buffer policy developed by the Executive Council of the Regional Chesapeake Bay Program.

4. Improve agricultural conservation criteria (9 VAC 10-20-120, subdivision 9; and 9 VAC 10-20-130, subdivision 5 b, (1) – (3)) to correct the inability to meet the existing conservation plan approval deadline, reduce administrative overhead and result in more water quality protection practices on the land.

5. Add criteria regarding a board/department process to review local program implementation for consistency with the regulations (Parts V, VI and VII).

Accomplish numerous technical amendments necessitated by changes in terminology and numbering protocols.

A more detailed and specific explanation of the proposed amendments can be found on the agency's web site (<http://www.cblad.state.va.us>) or at the Department of Planning and Budget's Regulatory Town Hall web site (<http://www.townhall.state.va.us>) within the document entitled "Agency Background Statement."

Statutory Authority: §§ 10.1-2103 and 10.1-2107 of the Code of Virginia.

Contact: Scott Crafton, Regulatory Coordinator, Chesapeake Bay Local Assistance Department, James Monroe Bldg., 101 N. 14th St., 17th Floor, Richmond, VA 23219, telephone (804) 371-7503, FAX (804) 225-3447, toll-free 1-800-243-7229/TTY ☎



Public Comment Periods - Proposed Regulations

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF NURSING

November 15, 2000 - 3 p.m. -- Public Hearing
Department of Health Professions, 6606 West Broad Street,
5th Floor, Conference Room, Richmond, Virginia.

December 8, 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 Board of Nursing intends to amend regulations entitled: **18 VAC 90-30-10 et seq. Regulations Governing the Licensure of Nurse Practitioners.** The purpose of the proposed action is to increase application, renewal and other fees charged to applicants and regulated entities in order to cover the expenditures for the regulatory and disciplinary functions of the board.

Statutory Authority: §§ 54.1-113 and 54.1-2400 of the Code of Virginia.

Contact: Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909 or FAX (804) 662-9943.

November 15, 2000 - 3 p.m. -- Public Hearing
Department of Health Professions, 6606 West Broad Street,
5th Floor, Conference Room, Richmond, Virginia.

December 8, 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 Board of Nursing intends to amend regulations entitled: **18 VAC 90-40-10 et seq. Regulations for Prescriptive Authority for Nurse Practitioners.** The purpose of the proposed action is to increase application, renewal and other fees charged to applicants and regulated entities in order to cover the expenditures for the regulatory and disciplinary functions of the board.

Statutory Authority: §§ 54.1-113 and 54.1-2400 of the Code of Virginia.

Contact: Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909 or FAX (804) 662-9943.

BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

November 2, 2000 - 10 a.m. -- Public Hearing
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia.

December 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 Board for Waterworks and Wastewater Works Operators intends to amend regulations entitled: **18 VAC 160-20-10 et seq. Board for Waterworks and Wastewater Works Operators Regulations.** The proposed amendments will implement the "Environmental Protection Agency Guidelines for the Certification and Recertification of the Operators of Community and Nontransient Noncommunity Public Water Systems; Notice" (1999), by creating a new Class VI waterworks operator license and requiring continuing professional education for all licensed waterworks operators. In addition, the text of the regulations have been reorganized and revised for clarity and ease of use.

Statutory Authority: §§ 54.1-201 and 54.1-2301 of the Code of Virginia.

Contact: Joseph Kossan, Regulatory Board Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8505, FAX (804) 367-6128 or (804) 367-9753/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

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

Title of Regulation: **9 VAC 10-20-10 et seq. Chesapeake Bay Preservation Area Designation and Management Regulations (amending 9 VAC 10-20-30 through 9 VAC 10-20-130, 9 VAC 10-20-150, 9 VAC 10-20-170, 9 VAC 10-20-250, and 9 VAC 10-20-260; adding 9 VAC 10-20-105, 9 VAC 10-20-171, 9 VAC 10-20-181, 9 VAC 10-20-191, 9 VAC 10-20-201, 9 VAC 10-20-211, 9 VAC 10-20-215, 9 VAC 10-20-221, 9 VAC 10-20-225, and 9 VAC 10-20-231; repealing 9 VAC 10-20-140, 9 VAC 10-20-160, 9 VAC 10-20-180 through 9 VAC 10-20-230, 9 VAC 10-20-270, and 9 VAC 10-20-280).**

Statutory Authority: §§ 10.1-2103 and 10.1-2107 of the Code of Virginia.

Public Hearing Dates:

November 7, 2000 - 7 p.m. - Richmond.

November 14, 2000 - 7 p.m. - Melfa.

November 16, 2000 - 7 p.m. - Gloucester Point.

November 21, 2000 - 7 p.m. - Fairfax.

Public comments may be submitted until December 8, 2000.

(See Calendar of Events section for additional information)

Basis: Section 10.1-2103 of the Code of Virginia (Chesapeake Bay Preservation Act, Attachment 2, hereinafter referred to as "the Act") sets forth the powers and duties of the board and authorizes the board to promulgate regulations pursuant to the Administrative Process Act and to develop, promulgate and keep current the criteria required by § 10.1-2107 of the Act. Section 10.1-2107 of the Act states that "In order to implement the provisions of this chapter and to assist counties, cities and towns in regulating the use and development of land and in protecting the quality of state waters, the board shall promulgate regulations which establish criteria for use by local governments to determine the ecological and geographic extent of Chesapeake Bay Preservation Areas. The board shall also promulgate regulations which establish criteria for use by local governments in granting, denying, or modifying requests to rezone, subdivide, or to use and develop land in these areas."

Purpose: Water is one of the basic components of life on earth. Maintaining high quality state waters in general, and of the Chesapeake Bay and its tributaries in particular, is essential to protect the health of the Bay and its living resources, as well as the citizens of Virginia who come into contact with these waters. Restoring good water quality to the Bay and its tributaries is also essential to the welfare of Virginia citizens in that Bay water quality affects the economic productivity generated by sport and commercial fishing,

recreational boating, swimming, hunting of waterfowl, and tourism in general. These regulations are also important for the efficient and economical performance of an important governmental function: carrying out Virginia's commitments under the 1987 Chesapeake Bay Agreement and subsequent amendments of that Agreement, signed by the Governors of Virginia, Maryland and Pennsylvania, the Mayor of Washington, D.C., and the Administrator of the U.S. Environmental Protection Agency.

The purpose of the proposed regulation is to amend the existing regulation to accomplish the following:

1. Achieve greater clarity in all regulatory language to minimize confusion and misinterpretation.
2. Eliminate any conflicts and unnecessary redundancies between the requirements in the regulations and those in other related state and federal laws and regulations, while still providing for maximum water quality protection. Specific issues under consideration where conflicts or redundancies are perceived to exist are as follows:
 - a. Stormwater management criteria;
 - b. Erosion and sediment control criteria;
 - c. Septic system criteria;
 - d. Agricultural criteria;
 - e. Silvicultural criteria; and
3. Improve vegetative buffer area criteria to provide greater clarity as well as consistency with the riparian forest buffer policy developed by the Executive Council of the Regional Chesapeake Bay Program.
4. Improve agricultural conservation criteria to correct the inability to meet the existing conservation plan approval deadline, reduce administrative overhead and result in more water quality protection practices on the land.
5. Add criteria regarding a board/department process to review local program implementation for consistency with the regulations.
6. Accomplish numerous technical amendments necessitated by changes in terminology and numbering protocols. A regulation numbering matrix is attached to cross-reference the old regulation numbering with the Virginia Administrative Code (VAC) numbering protocol of the existing regulations and of the proposed amended regulation (Attachment 3).

Substance: The following is a brief overview of key provisions:

1. Language is amended at several places to clarify the intended meaning of vegetative buffer criteria, both for purposes of designation of Resource Protection Areas

and for purposes of determining appropriate uses and encroachments within the buffer. These changes are in response to numerous questions from local governments regarding clarifications or interpretations of the buffer requirements.

2. Language is added setting forth the board's policy regarding the sufficient extent of designation of local Resource Management Areas.

3. Three general performance criteria are being clarified, replacing ambiguous terms consistently with more concrete terms of art.

4. Septic system performance criteria are being amended to add some flexibility and compliance options for local governments and, ultimately, landowners.

5. The stormwater management performance criteria are being amended to reference the water quality provisions of the DCR stormwater management regulations for the purpose of consistency. The several agencies of the Natural Resources Secretariat have been working for several years to develop a set of stormwater management standards that all of the agencies could agree to use in their separate programs. This process has involved oversight from the General Assembly and several advisory committees composed of representatives of all affected interest groups. The goal has been to eliminate any conflicts and confusion generated by having different standards and criteria in each agency. The reconciled water quality standard being proposed by DCR is the result of a consensus reached by all interested parties and agencies after considerable public comment. All of the agencies have agreed that the Virginia Stormwater Management Regulations, under the authority of the Department of Conservation and Recreation, should be the location of these new standards and that the other agencies will stipulate their stormwater management requirements by reference to the DCR regulations. DCR is in the process of amending its regulations at this time and is slightly ahead of the CBLAB amendment process.

Also, flood control and stormwater management facilities are added as a new use by right in Resource Protection Areas, provided necessary permits can be obtained from the relevant state and federal agencies.

6. The unattainable deadline for completion and approval of all required agricultural conservation plans is being rescinded and replaced with location priorities for agricultural planning. As well, the mandatory conservation plan requirement is being replaced with a conservation assessment process, recognizing that many farmers are already implementing conservation practices and do not need plans developed for these measures. One new agricultural criterion is being added, requiring soil tests for the development of needed nutrient management plans, based on these assessments.

7. Language and requirements regarding nonconformities, exemptions, and exceptions is clarified.

8. For clarity and to improve understanding, the language that currently constitutes Part V of the regulations, addressing criteria for local comprehensive plans, subdivision ordinances, and zoning ordinances, is being subdivided into separate parts and additional criteria and guidance is provided regarding subdivision and zoning ordinances.

9. Language governing local program adoption and implementation is being amended to more accurately reflect the board's current three-phase process, and the original adoption deadlines are being rescinded, since the last of the 84 localities in Tidewater Virginia is poised to adopt its local program.

10. Language is added to clarify that local governments may use civil penalties to enforce requirements of their local Bay Act programs.

11. New language is being added in Part VIII (Enforcement) describing the board's process for reviewing the consistency of local program implementation with the requirements in the regulations.

Issues: The list of general issues described in the "Purpose" section is the result of several sequential reviews of the regulations conducted by the board. The board desires to accomplish a comprehensive amendment of the regulations to clarify the meaning of various provisions, provide greater implementation flexibility, and reduce costs for both local governments and members of the public who must comply with the state/local requirements. The advantages to the public are as follows:

1. The additional clarity provided by the amendments should prevent confusion about what is intended and result in more straightforward implementation of the regulations, achieving greater water quality protection;

2. The conformity of the stormwater management requirements of this regulation with the stormwater management requirements of two other state agencies, DCR in particular, will eliminate the potential for regulatory conflicts.

3. The added compliance options provided through some of the changes should provide greater implementation flexibility, lowering both administrative and implementation costs in some cases.

4. Proposed procedural changes (e.g., agricultural conservation plan requirements) will result in greater implementation efficiencies, allowing the agency to accomplish greater water quality protection using available resources.

Disadvantages to the public are as follows:

1. Local resources will need to be expended to modify local ordinances to incorporate these changes.

2. The public is generally aware of what this program requires and how it works. Any changes will disrupt that understanding and cause a need for additional information and education to restore the level of equilibrium currently existing.

Proposed Regulations

Advantages to the agency are as follows:

1. Advantages 1, 2, and 4 listed above for the public also benefit the agency.
2. With the clarifications of intent provided in these amendments, the agency should have reduced expenditures of staff time and effort attending to recurring interpretations and enforcement issues.

Disadvantages to the agency are as follows:

1. Staff resources will have to be expended to revisit all local Bay Act ordinances to ensure they are correctly amended to reflect these amendments.
2. Staff resources will have to be expended to update the agency's "Local Assistance Manual" and other guidance documents, as necessary to reflect these amendments.

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 purpose of the Chesapeake Bay Local Assistance Department (CBLAD) area designation and management regulations is to "protect and improve the water quality of the Chesapeake Bay, its tributaries, and other state waters by minimizing the effects of human activity upon these waters." (9 VAC 10-20-30) The mechanism for protecting water quality in the Bay is to regulate the use and development of certain lands in the Bay watershed where such use and development would be expected to result in deterioration of water quality in the Bay or its tributaries. These rules:

1. Establish the criteria that local governments shall use to determine the extent of the Chesapeake Bay Preservation Areas within their jurisdictions;
2. Establish criteria for use by local governments in granting, denying, or modifying requests to rezone, subdivide, or to use and develop land in Chesapeake Bay Preservation Areas; and
3. Identify the requirements for changes that local governments shall incorporate into their comprehensive plans, zoning ordinances, and subdivision ordinances.

In other words, the regulations establish mandatory land-use rules that must be implemented by local governments on those lands designated as part of the Chesapeake Bay Preservation Areas. Local governments are required to

implement a planning process that ensures that their land-use controls meet the criteria specified in the regulations.

The changes proposed here do not change the basic structure of the regulations. Many of the changes are intended to update and clarify the language in the regulation, to eliminate conflicts and redundancies, to delete obsolete provisions, and to update references. However, some of the changes may be significant and can be expected to have significant economic impact.

In analyzing the economic impact of this regulation, DPB will pay special attention to those parts of the proposal that will make significant changes in the regulation. The analysis will also examine the overall economic impact of the proposed regulation. In addition, this analysis will, as required by Executive Order 25 (1998), assess whether there are alternatives to the proposed language that are likely to be more efficient or less intrusive than the language proposed.

Estimated economic impact. The Chesapeake Bay provides an impressive array of economic benefits to the people of Virginia and also to many people who are not residents of the state. (Simpson and Christensen 1997; Bockstael, McConnell and Strand, 1989; Grambsch, Michaels and Peskin, 1993) Many of these benefits are obvious and are relatively easy to measure. Among these are the contribution to the economy from the commercial harvesting of the renewable natural resources that thrive in the protected boundary between land and sea, between fresh and salt water, between shallow and deep areas. Other benefits of the Bay, although every bit as real and probably larger in magnitude, are much more difficult to measure reliably in the traditional currency of economic analysis. People value the Bay for its recreational opportunities, aesthetic "services," and its contribution to a healthy environment. This last characteristic, often referred to as non-use values, is different from all of the others yet mentioned because, unlike the others, it may exist even for people who never expect to use the services of the Bay, and for those who do use the Bay it may add to the value they place on using the Bay for commerce or recreation.

Another important characteristic of the Bay is that, by in large, its services are freely available to all who care to use it. Yet, it is often the case that one person's use has an impact on the value that other people derive from the Bay. The use of the Bay and its tributaries for the disposal of human generated waste products is a well-known and obvious example of one person's direct impact on the value of the Bay to others. In economic parlance, this is known as an externality; it is a transfer of value between individuals that is not the result of a voluntary exchange mediated by a market. When this happens, the person who benefits does not have to face the "opportunity cost" of that benefit. In this case, the opportunity cost is the lost value to others; that is, someone else pays a cost for the benefits this person receives.

There are many other examples of externalities in the use of Bay resources. One person's catch of fish from the bay may lower another's. People on the beach and boaters in the water may become so numerous as to interfere with each other's activities, congestion. Building on the water's edge may be aesthetically offensive to some and may degrade water quality.

The presence of externalities may lead to economically inefficient use of resources. For example, when a person living upstream uses a river for waste disposal, he has little incentive to account for the damage he does to downstream users. So he would tend to use the disposal services even if they were only of small value to him but cleaner water was of great value to someone downstream. A given pattern of resource use is "inefficient" if some different arrangement for allocating resource use results in a higher social value for the resource once you subtract off the costs of implementing the new arrangement (Gramlich, 1990). In this way, externalities give rise to a potential justification for governmental action. Government actions can improve the economic value of a resource by establishing policies that rearrange resource use in a way that is more consistent with what would occur if users had to pay the opportunity cost of their use.

One way of measuring whether a change in resource patterns constitutes an efficiency improvement is to add up all of the costs imposed on individuals by the government action and then subtract these costs from the benefits that people derive from the change (Gramlich, 1990). If the net change is positive then we may reasonably conclude that economic efficiency has been advanced by the governmental policy. In the case of the upstream and downstream users of a river, a government regulation would constitute an efficiency improvement if the costs to the government and the upstream user were less than the benefits in cleaner water to the downstream user.

The regulation being analyzed here establishes a set of rules determining how land in the Chesapeake Bay watershed may be used and developed. The purpose of these land-use restrictions is, primarily, to protect water quality in the Bay and its tributaries. Economic theory assumes that people will adjust their behavior in response to the incentives they face, so the first step in measuring the costs of these restrictions is to determine what will be people's response to the rules. This must include an assessment of the rate of non-compliance with the rules given the anticipated level of monitoring and enforcement. One must also keep in mind that, as people respond to the rules, the prices of various resources will change and this will also affect what people do. How prices change will depend on the alternatives available to people.

Once we have established what responses people will make to the rules, we can work toward a measure of the expected benefits. The first step in measuring the benefits is to determine what will be the physical consequences of the behavioral changes made in response to the rules. These physical changes in flows of pollutants, sediment and runoff into the Bay watershed must be translated into changes in ambient water quality and then into changes in the biological systems of the Bay. Once this is known, we can attempt to assess the value that people would place on such a change.

In the next several sections, we will examine the specific provisions of the proposed regulation to assess the likely impact of each of the provisions and to examine whether there are feasible alternatives that could improve the economic performance of the rules. Following that, we will assess the likely overall economic consequences of the proposed regulations. Throughout this analysis, the proposed

rule, when quoted, will be quoted in strike-out form so that the agency's changes will be apparent.

1. Definitions (9 VAC 10-20-40). With a few exceptions, the definitions do not, by themselves, have significant content. There are a few cases, however, that merit some mention. The definition of "buffer area" is discussed at some length later in this document where we discuss the use and development criteria for resource protection areas.

The definition of "shoreline" is given as:

...the line describing the interface between land that is continually or, in the case of tidal flows, routinely submerged under water and land that is not continually or routinely submerged.

This definition, while necessary for implementation of the regulation, is somewhat vague. It is hard to figure out what the shoreline is for tidal lands. In tidal areas, is this "interface" landward or seaward of the mean high tide line? How often would water have to cover part of a riverbank before it was considered "routinely" submerged? This is important because it affects the delineation of areas subject to these regulations. It may be costly to leave the determination of which lands are and are not subject to these rules to local interpretation of what it means for land to be "routinely submerged." This could raise administrative costs at the local level and increase uncertainty for landowners.

The definition of "tributary stream" has been changed to add some flexibility in making that determination. The new language will allow local governments and applicants the option of choosing a default definition of tributary stream based on drainage area rather than proving whether each stream is or is not perennial. CBLAD indicates that it has chosen a somewhat conservative definition which ensures that, if this default definition is used it is unlikely to eliminate any truly perennial streams. Applicants and localities still have the option of using USGS maps or hydrologic investigations if that is preferable. This change can be expected to reduce somewhat the costs of the permitting process.

2. Local Government Programs (9 VAC 10-20-50 - 9 VAC 10-20-60). This part of the proposal specifies that local programs shall encourage and promote:

1. protection of existing high quality state waters and restoration of all other state waters;
2. safeguarding the clean waters of the Commonwealth from pollution;
3. prevention of any increase in pollution;
4. reduction of existing pollution;
5. promotion of water resource conservation in order to provide for the health, safety and welfare of the present and future citizens of the Commonwealth;
6. *assurance, to the extent feasible, that all streams and shorelines will be protected by a forested or other riparian buffer area.*

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All but this last item are specifically listed in the authorizing legislation. Item number six in the list is different from the rest in that it is not reasonably described as a desired end of the enabling legislation but, rather, as a means toward achieving the other ends specified in the Act.

CBLAD staff have provided evidence to show that vegetated buffers have intrinsic value aside from their function in protecting water quality. In 1996, Virginia joined with the other states in the Chesapeake Bay Executive Council in a commitment to conserve and restore riparian buffers.

That said, one possible difficulty with placing this language here is that it may prevent, as a matter of fundamental policy, applicants and localities from choosing techniques other than vegetated riparian buffers even if those other techniques would produce greater gains than would be expected of vegetated buffers. As we will discuss at some length in a later section of this analysis,¹ the best available scientific evidence indicates that there are many cases where alternative techniques for protecting water quality may actually perform better than vegetated buffers.² As a default policy, vegetated buffers may have much to recommend them. However, the uniform application of a vegetated buffer requirement could, under some reasonably foreseeable circumstances, actually result in both lower water quality and increased costs of compliance.

The language of item 6, by specifying “to the extent feasible,” does appear to envision a balancing of the interest in a “forested or other” buffer area against other considerations in the act. Thus it does not require the use of vegetated buffers in such cases where the use of vegetated buffers would work against the explicitly stated legislative authorization for these regulations. So long as this language is interpreted in a way that allows the balancing of other considerations against the policy favoring vegetated buffers, then this language is consistent with the economically efficient use of resources.

3. Area Designation Criteria (9 VAC 10-20-70 - 9 VAC 10-20-105). The next part of the proposed regulation, comprising 9 VAC 10-20-70 through 9 VAC 10-20-105, specifies the criteria for designating portions of the regulated localities as “resource protection areas” (RPAs), “resource management areas” (RMAs) and Intensely Developed Areas (IDAs). RPAs are lands more intrinsically connected with water quality and thus subject to stringent land-use controls. RMAs comprise lands where use and development have the potential to significantly degrade water quality. Lands in RMAs are subject to less stringent controls.

9 VAC 10-20-80 specifies the criteria for determining the extent of the RPAs. In particular, subsection B requires that the RPA in a jurisdiction include:

1. Tidal wetlands;
2. Nontidal wetlands connected by surface flow and contiguous to tidal wetlands or tributary streams;

3. Tidal shores;

4. Such other lands ~~under considered by the local government to meet the provisions of subsection A of 9 VAC 10-20-80~~ *this section and to be necessary to protect the quality of state waters;*

5. A buffer area not less than 100 feet in width located adjacent to and landward of the components listed in subdivisions 1 through 4 above, and along both sides of any tributary stream. The full buffer area shall be designated as the landward component of the Resource Protection Area notwithstanding the presence of permitted uses ~~or equivalent measures, encroachments, and permitted vegetation clearing~~ in compliance with Part IV of this chapter. ~~Designation of this area shall not be subject to reduction unless based on reliable site-specific information as provided in subsection B of 9 VAC 10-20-110, and subsections C and E of 9 VAC 10-20-220.~~

6. *Designation of the components listed in subdivisions 1-4 above shall not be subject to reduction unless based on reliable site-specific information as provided for in 9 VAC 10-20-105, subsection F of 9 VAC 10-20-130 of this chapter.*

9 VAC 10-20-80 B 5 appears to be the source of some confusion in these proposed rules. The word “buffer” is used to apply to two distinct ideas. In the definition section, “buffer area” is defined as:

an area of natural or established vegetation managed to protect other components of a Resource Protection Area and state waters from significant degradation due to land disturbances.

Combining this definition with the language of paragraph 9 VAC 10-20-80 B 5, we conclude that a buffer area is a vegetated 100-foot strip landward of waters and wetlands, but that the buffer area includes the landward 100-foot strip even if it is not vegetated because of permitted uses and encroachments. This has led to substantial confusion in the past by mixing the definition of the RPA with a vague inference about how that RPA along streams will be managed.

Since it is not true that this 100-foot strip that is part of the RPA is always a “buffer area,” that is, a vegetated area, then the regulations should use language to distinguish these two things. The term “buffer area” should simply be defined here as the 100 feet landward of the components listed in subdivisions 1 through 4. The phrase “vegetated buffer” could be used to refer to that part of the buffer area that is vegetated or required to be vegetated. This change allows the rule to be written in a much less confusing and convoluted way. Permitted uses would never reduce the size of the buffer area although they might reduce the extent of the vegetated part of the buffer area. This will make it perfectly clear that the RPA itself is not reduced by the use of best management practices (BMPs) or alternative management practices. The only justification for reducing the size of the RPA, if any, would be clear evidence that some portion of the 100-foot strip does not have any significant relationship to water quality in adjacent areas.

¹ See pages 26-31.

² See Chesapeake Bay Program, 1995. Information also came from personal conversations with CBLAD staff, Conrad Heatwole and Leonard Shabman of Virginia Tech, and Geoff Cowan of Dubury & Davis.

The language of 9 VAC 10-20-80 B 5 is primarily intended to specify a boundary. It does not seem appropriate to use this paragraph to specify implicitly what amounts to a particular management practice. The designation of appropriate management practices should be reserved for that part of the rule that establishes allowable management practices. While it may be appropriate to draw the conclusion that the land within 100 feet of a stream is important enough to stream quality to justify making it part of the RPA, it is another thing altogether to infer, without specifically saying so, that all of these lands will be managed as riparian buffers. What is done in the RPA is appropriately treated in the part of the regulation that specifies acceptable management practices and should, as far as possible, take into account the relative effectiveness of the available management practices in particular circumstances.

In 9 VAC 10-20-90, CBLAD specifies what land areas (in the jurisdictions subject to these rules) are to be included in the resource management areas. Section B lists certain land types that "shall be considered for inclusion" in the RMA, and new language specifies that, if any of these land types are found adjacent to the RPA, then they must be included in the RMA. CBLAD staff indicate that this change merely clarifies the language of the regulation to make it more clearly consistent with the actual practice. The indicated land types are chosen because of their close connection with the quality of adjacent waters.

9 VAC 10-20-90 C 5 helpfully clarifies that localities are not required to place all lands in their jurisdictions in the preservation areas. However, this should not preclude localities from doing so if such a choice is perceived to be in the best interest of the locality.

9 VAC 10-20-105 explicitly allows localities to deviate from the area designations in this part if actual field evaluations provide sufficient information to justify alternative area designations. This gives localities the opportunity to fine-tune area designations to local conditions once the information is available to justify the change. Not only is this flexibility valuable in its own right, but it has the added advantage of giving localities and potential applicants incentive to develop information that will be valuable for better managing land-use and water quality in the Bay region.

4. Purpose of the Land Use and Development Performance Criteria (9 VAC 10-20-110). 9 VAC 10-20-110 enunciates the overall goals of the specific regulations on land-use and development. These are to:

- a. prevent a net increase in non-point source pollution from new development and older development with BMPs,
- b. achieve up to a 10% reduction in non-point source pollution from older development without BMPs, and
- c. achieve up to a 40% reduction in non-point source pollution from agricultural and silvicultural uses.

These goals are not stated in terms of improvements in the flow of services from the Bay. The relationship between non-point source pollution to fishery production, the value of recreational opportunities, and even human health are still not

well understood. So, it is not known whether, even if the goals established in this section are reached, the improvement in water quality will generate a significant increase in the flow of services from the Bay. If the requirements of this regulation, in conjunction with the other requirements affecting the Bay region, are not sufficient to substantially increase the flow of value derived from the Bay, then little would be gained relative to the costs experienced, and the expenditure on meeting these goals would not be efficient. The value of improvements in water quality in the Bay is an issue that will be explicitly addressed later in this report.

Data from CBLAD and other sources of information about the economic value of the Bay seem to suggest that these rules, if fully implemented, would be more likely than not to have a positive impact at the margin on the flow of economic services from the Bay.³ However, even this tentative conclusion rests on the assumption that the provisions of this regulation will be effectively enforced. The prospect of sufficient resources being made available to CBLAD to provide for effective enforcement appears to be the most uncertain link in the chain of causality between the promulgation of these rules and improvements in the flow of services from the Bay.

Another way to view this is to say that investments in monitoring and enforcement, and to some degree in improved regulatory design, may be the cheapest ways of ensuring that these rules actually do have a measurable impact on the flow of economic value from the Bay. Enforcement issues will be discussed in their specific context as we examine the rules that are intended to force localities to meet the stated performance criteria.

5. General Performance criteria (9 VAC 10-20-120).

9 VAC 10-20-120 contains eleven standards for assessing the adequacy of local programs to regulate land use in all lands designated by localities as Chesapeake Bay Preservation Areas. In order to discuss this section effectively, some clarification in the standard use of language in economic analysis is required. While these 10 requirements are called *general performance criteria* in the regulation, an economist would use the term *technology standards* because the standards are not stated in terms of the primary goal of the regulation, protecting water quality. Instead, these criteria specify, sometimes in great detail, exactly what types of things may or may not be done in a given circumstance. Because localities have limited discretion in the technique they use to satisfy the requirement, no specific demonstration by the locality that their actions have actually improved water quality is required.

Another possible way of regulating localities would be to state the regulatory requirements in terms of actual reductions in pollution or, even more directly, in improvements in water quality. This type of rule would leave to the locality with the decision about how to achieve the required level of performance and generally would require that localities monitor their performance and report it to the regulatory

³ Later on we will discuss some of the provisions of this regulation that may prove to be counterproductive to the purposes listed in this section.

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authority. The standard term used in the economics literature for this type of regulation is "performance standard."

The relative merits of performance versus technology standards have been discussed at great length elsewhere (Baumol and Oates, 1988; Bohm and Russell, 1985). The difference can be stated succinctly. Performance standards give the maximum flexibility to sources on how to achieve the ends of the rule. This lowers cost and increases incentive to discover innovative techniques that further lower costs. Performance standards also open the door to the trading of responsibilities for water quality improvements between various parties, which further reduces compliance costs, and may provide greater assurance that the goals of the rules are actually met.

With all of these advantages, why would anyone ever choose technology standards? The answer is that performance standards generally involve higher monitoring and enforcement costs (Bohm and Russell, 1985). Observing performance, especially in efforts to reduce non-point source effluents, is notoriously difficult. The combined costs of monitoring and enforcement of a given performance standard could outweigh the lower costs of compliance. And without the monitoring and enforcement activity performance standards may provide even less reliability assurance that the goals of the rules are being met than would a set of technology standards.

There are a number of areas where these regulations could potentially be improved by making performance standards available as an alternative to the specific technology standards listed in the regulation even if CBLAD judges its own enforcement and monitoring costs to be too high for it to justify eliminating technology standards. This additional flexibility could be provided by giving localities and applicants the opportunity to provide for the monitoring and enforcement necessary to assure CBLAD that the alternative method will perform at least as well as the technology standard it replaces. The burden of demonstration would be on the locality or applicant. This way, a party would only choose an alternative strategy if, in its judgement, the costs of monitoring and enforcement could be kept low enough so that the benefits of the alternative strategy outweigh its costs.

For example, an applicant might choose to propose replacing the technology standard with a performance standard. Because of the enforcement problems associated with performance standards, the applicant would have the burden of proving that it had the mechanisms in place to both monitor and enforce the actual performance of the alternative. Those applicants that would find monitoring and enforcement difficult and expensive could fall back on the technology standards to ensure that they had satisfied the act. The performance alternative could stimulate innovation in alternative mechanisms for achieving the goals of the Act and lower compliance costs for a given level of water quality.

Before these performance-based alternatives would be useful, some development of assurance mechanisms would have to take place. CBLAD could assist in the development of contract mechanisms, private land-use restrictions and other legal and financial tools that would be required for implementing performance-based alternatives.

In the discussion of the eleven land use and development standards found in 9 VAC 10-20-120, we will repeatedly make reference to areas where the regulatory flexibility offered by voluntary performance-based standards may result in lower compliance costs. These suggestions will be generally subject to the condition that the appropriate assurance mechanisms can be put in place to satisfy CBLAD that actual performance is at least as good as or better than what would be achieved under the technology standards. Since the development of these compliance mechanisms may take time, one possible strategy might be to allow in these rules for pilot programs to determine whether such alternatives can be reliably implemented. If such strategies do turn out to be cost effective, then the regulations could be modified to explicitly allow for them at some later date. The encouragement of innovation in this area would seem to be a natural extension of CBLAD's traditional consultative role.

a. Minimize the extent of disturbed land: CBLAD indicates that this section does not set arbitrary limits on the amount of land that can be disturbed. Rather, it is used in the plan-of-development review process to discourage "indiscriminate" land clearing. The benefit of this is to leave existing vegetation in place since existing vegetation is generally more effective at protecting water quality than are the reasonably available alternatives. Costs may arise due to any required changes in the development plan. CBLAD staff indicate that observing this standard often saves developers money. This claim cannot be independently evaluated given the lack of data. Without more information, it is not possible to determine the net economic impact of this standard.

b. Preserve indigenous vegetation: It is not at all clear that native vegetation is necessarily the best choice for achieving improvements in water quality. CBLAD does provide guidance in its *Local Assistance Manual* on what this standard intends to accomplish and what constitutes *indigenous*. There is, according to the agency, some opportunity for innovation in what is allowed as indigenous vegetation. That said, this requirement is somewhat vague and is simply not written in a way that can be adequately justified in terms of water quality improvements. This explicitly rules out innovations in vegetative management that could improve water quality over what can be achieved by indigenous vegetation. DPB would suggest that this requirement be rephrased to make the language more consistent with the agency's actual stated intent of improving water quality.

c. Local governments must ensure appropriate BMP maintenance: CBLAD staff and a number of other sources⁴ report that this requirement is more often honored in the breach. The need for periodic monitoring and maintenance is one of the key weaknesses of using both BMPs and riparian vegetative buffers. There is almost no data available to assess the effectiveness of this provision, but observations by people in the field give reason to believe that this provision is not effectively enforced. Should the resources become available, it would seem reasonable to suggest that CBLAD

⁴ This is based on conversations with planning staff in three localities in the Bay watershed. These staff indicated that budget constraints prevented significant monitoring and enforcement activity in this area.

expand its program of evaluation and enforcement to determine whether these local government maintenance agreements are accomplishing what is intended. Some increased effort in this area would almost certainly produce positive net economic benefits.

d. New development of 2,500 feet or more must be reviewed: The “plan of development” review process is a procedural mechanism for ensuring that the other standards of this regulation are met. As such, it adds somewhat to the administrative costs that developers face in developing land in the preservation area. However, this procedure is familiar to developers and may be a relatively inexpensive way to enforce the terms of the regulation.

e. Minimizing impervious cover: The requirement that development minimize impervious cover is intended to reduce the numerous problems associated with stormwater runoff. According to CBLAD staff, one of the main affects of this provision is to require localities to make sure that their regulations do not require more impervious surface than is reasonably necessary for the intended purpose. For example, this provision has been used to change the standards for the minimum acceptable size of parking lots for developments. While there is a connection between stormwater runoff and reduced water quality, the connection between impervious surface and reduced water quality may be interrupted by numerous stormwater management practices. As applied to builders and developers, this seems like a promising area for allowing localities and applicants flexibility in return for sufficient assurances that actual performance will be as good as or better than the strategy of minimizing impervious surface (Technical Note 5, 1994; Technical Note 95, 1997).

f. Reduces the cut-off size of developments that must comply with local erosion and sediment control ordinance: This subsection is not being changed in any substantial way. It requires some applicants, who would not otherwise be covered by the Virginia Erosion and Sediment Control Law, to conform to its provisions. This will increase costs somewhat for those applicants whose proposed land disturbing activity falls between 2,500 and 10,000 square feet. The administrative costs for these applicants is not large since applicants need only fill out a form certifying that they will satisfy the requirements of the act. Enforcement is provided by local inspectors. CBLAD staff report informal observations indicating good overall levels of compliance with the rule. The added costs of erosion and sediment control at these smaller developments are not known but are expected to be balanced to some extent by benefits in water quality. CBLAD indicates that there is a substantial scientific literature supporting the effectiveness of the various erosion control techniques. However, there do not appear to have been any studies to measure the actual changes in erosion and sediment in the Chesapeake Bay watershed resulting from this rule. The data do not exist to determine whether this requirement results in cost-effective reductions in sediment load.

g. On-site sewage treatment system standards: Septic systems provide sewage disposal services for many homes and businesses in the Preservation Area. These systems process large quantities of sewage and have the potential of

contributing large quantities of biological nutrients to Bay waters. One of the key difficulties in assessing the impact of septic system regulations is the lack of reliable scientific evidence on important aspects of the problem. CBLAD staff have indicated that there is general scientific agreement that most of the nitrogen entering septic fields ends up entering the Bay watershed,⁵ but the impact of homeowner behavior on septic system performance is very important, and yet little data exists on how homeowners make decisions about septic maintenance and repair. Nor is there agreement on the costs and benefits of a given period for mandatory pump-out. Due to the great potential contribution of septic systems to Bay water quality, it would be worth considering whether a greater investment should be made in identifying and resolving some of the key uncertainties surrounding the environmental impact of septic systems.

Subdivision 7 a: Pump-outs and solids filters. The previous regulation required pump-out of septic systems every five years regardless of need. The proposed rule relaxes this requirement by allowing, as an alternative to mandatory pump-out, the use of a plastic filter device that removes solid material from the effluent stream. The filter is designed in such a way that once it is full, the septic system will no longer accept waste. Having this option available may reduce the costs of preventing failures of septic systems, failures that would lead to contamination of ground and surface water.

However, CBLAD should consider whether it is possible to offer owners of septic systems even greater opportunities for cost reductions. The pump-out rule is designed to prevent septic tank failure and a subsequent increase in nitrogen loading. The mandatory pump-out rule is used because, on older systems, there is no easy way to determine the state of the septic system. To inspect the fill-state of the tank one needs to open the tank which is a large part of the pump-out costs. Thus, it would rarely make sense to inspect a tank without going ahead and pumping it out.⁶ There is also the possibility that periodic inspection could destroy the integrity of tanks, hastening failure.

The Department of Health requires that all new septic tanks have an observation port installed (Department of Planning and Budget, 1996). This port, a length of PVC pipe, allows the fill-state of the tank to be easily observed using a “dip stick.” For tanks with an observation port, annual or biannual inspections along with the requirement that nearly full tanks be pumped-out could significantly reduce septic maintenance costs. Homeowners have strong economic incentive to have the tank pumped as it nears capacity. This avoids the significant costs of replacing a failed septic system. CBLAD could allow localities to offer, as an alternative to mandatory 5-year pump-out, demonstration of annual inspection by the owner of the septic field.

Because there is substantial evidence that many homeowners do not maintain their septic systems properly, resulting in

⁵ Not all nitrogen enters the groundwater because some of the nitrogen is vented to the atmosphere as gaseous nitrogen.

⁶ CBLAD staff, personal conversations.

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failures,⁷ CBLAD might require localities to implement a system whereby septic contractors certify that they have inspected homeowners' tanks. Chesterfield County has such a system in place for notification of pump-outs. The primary difficulty with implementing this alternative arrangement is that it shifts some of the costs of septic tank maintenance to the local government, which may not have the resources to implement a tracking and enforcement system as an alternative to automatic pump-out. Currently, all of the costs are paid by tank owners. It would be up to localities to determine whether it would be worth it to implement some arrangement for septic tank maintenance tracking, possibly paid for through a fee on tank owners, in order to save on the potentially much higher costs of mandatory pump-out.

The mandatory pump-out rule affects the various localities quite differently. Some localities already require almost all new development to provide hook-ups to municipal waste treatment while others rely almost exclusively on septic systems. The mandatory pump-out rule falls most heavily on these latter areas, and the benefits of increased flexibility would accrue primarily to these areas as well.

It is also important to ask whether the septic tank provisions are actually being implemented. CBLAD has indicated that many localities are not in compliance with these provisions. Thus, it is unclear what impact these regulations are having on water quality. The addition of the plastic filter as an alternative to pump-out will lower the cost of compliance and lower costs may improve compliance rates. Any further reductions in costs could improve compliance rates even further. The low rates of compliance may also indicate that an increase in the resources available for monitoring and enforcement could result in significant improvements in the performance of municipal regulation of septic systems.

Subdivision 7 b: Reserve site and alternating drainfields. Septic drainfields have an expected life of around 25 years. Once the field reaches the end of its useful life, it can no longer serve the nutrient removal functions for which it was designed. For this reason, CBLAD has, in the past, required a 100% reserve site, that is, enough land in reserve so that the owner could build a second drainfield when the first reaches the end of its useful life. CBLAD is proposing to allow an alternative to keeping a 100% reserve. This alternative allows owners the option of installing two, smaller drainfields which will be used in alternating years. The septic system will be fitted with a diversion valve that will allow effluent to be directed to one field or the other. Allowing drainfields to "rest" greatly increases their useful life and their ability to remove nitrogen from effluents.

The effect of this language is to allow landowners to choose two smaller drainfields, which will be subjected to intermittent use, for one main drainfield with an equal amount of reserve, the reserve to be used once the main drainfield fails.

Evidence indicates that alternating drainfields greatly improves the life expectancy of the combined system relative to the sequential use pattern previously allowed.⁸ While this

system is in use in Fairfax County, it is not clear whether many other jurisdictions have any interest in this alternative. The combined drainfield approach involves the substitution of much higher initial construction costs against some possible savings in land costs and a savings in the cost of constructing a new drainfield 25 years in the future.

The savings in future construction costs can be assumed to have little value to most homeowners and businesses. At any reasonable discount rate, the value of reducing costs at a date 25 years in the future is extremely small. The savings in the amount of land needed to support a development served by septic systems is much more likely to be a factor in this choice. However, where land prices are high enough to justify the increased construction costs, it is probably more likely that the land is served by municipal sewage service. Conversely, if land is not served by municipal sewage services, then it is somewhat less likely that land values are high enough to make the choice of the increased construction costs attractive to the applicant. Thus, while providing this flexibility may produce some benefits, it is unlikely that the savings will be large.

The rules specify that localities must require that owners alternate the drainfields annually and notify them of the requirement each year. Unfortunately, even in localities such as Fairfax, there is no data to indicate whether people do actually switch their drainfields in response to the notification. It is possible that low rates of compliance on switching could actually result in greater rates of drainfield failure than in the absence of the switching option. Such a perverse outcome is unlikely, in our view, because homeowners have substantial economic incentives to switch the drainfields annually in order to increase the expected life of the drainfields. Under the assumption that landowners will switch fields appropriately, the dual drainfield option, by increasing the range of options, can only work in the direction of improved economic efficiency. This option is not expected to have a large economic impact because it is likely to be more expensive than other options in most cases.

The proposed rule specifies, in some detail, the design of the diversion valve. Then, in subpart (7), the proposed language provides that:

In lieu of the aforementioned diversion valve, any device that can be designed and constructed to conveniently direct the flow of effluent from the tank into either one of the two distribution boxes may be approved if plans are submitted to the local health authority and found to be satisfactory.

This language allows the locality to replace all of the technology standards covering the design of the diversion valve with a local approval standard that essentially says: if the locality finds the design to be satisfactory then it may be used. No monitoring of actual performance is required. It may be questioned whether local health authorities have the technical expertise to predict with accuracy the performance of novel field switching devices or designs based on submitted plans. However, CBLAD indicates that localities will generally seek the advice of technical specialists at the regional or state level. Even so, some provision for monitoring the actual performance of novel designs may be

⁷ Virginia Department of Health staff, personal conversations.

⁸ CBLAD staff, personal conversations.

useful to ensure that the designs work as well as those specified in the regulations.

h. Stormwater management: CBLAD has worked with the Department of Conservation and Recreation and the Department of Environmental Quality to establish consistent stormwater management regulations for use by all state agencies with stormwater management responsibilities. DCR has already promulgated these new rules, and DPB analyzed the new stormwater rules at that time (Department of Planning & Budget, 1996). These new CBLAD rules incorporate the rules already promulgated by DCR. The cost of compliance should fall somewhat, but it is not known with any certainty what net impact this will have on water quality due to change in the pattern of stormwater runoff.

i. Water quality assessments on agricultural land: The existing regulations require that all agricultural land have a water quality conservation plan. The proposed rule changes this provision to require that all agricultural land have an "assessment conducted regarding the effectiveness of existing practices pertaining to soil erosion and sediment control, nutrient management, and management of pesticides to ensure that water quality protection is being accomplished consistent with the Act and this chapter." Once the assessment is done, agricultural practices that are deficient in some way would be addressed resulting in recommendations for additional conservation practices to correct only the deficiencies. This change reduces the likelihood that a farmer will have to have a management plan written that covers already adequate farm management practices.

The new regulations provide standards for what assessments must be done on lands where the assessment identifies weaknesses in the current management practices. In particular, soil tests will be explicitly required whenever the assessment indicates the need for a nutrient management plan. This is a new requirement that may impose some additional compliance costs. Soil tests cost \$8 each including administrative costs. A test must be performed for each field and each soil type. A typical set of soil tests may require five tests per hundred acres. For a 1,000 acre farm, this would cost \$400.⁹ The farmer does not have to pay the full cost of soil tests done in support of a nutrient management plan. The farmer is entitled to a 25% tax credit for these tests. CBLAD argues that the soil tests produce a net economic benefit on average by boosting farm profits by an amount greater than the cost of the test although there is some reason to doubt this conclusion (Dunn and Shortle, 1987). In fact, it is probably not true that soil tests are generally profitable for farmers when all of the costs of gathering and using the information are taken into account. We certainly do not need to require that farmers use fertilizer to boost yields on their crops. It is rarely, if ever, true that a regulatory action can increase business profits by requiring business people to do something that they would choose not to do in the absence of the regulation.

Supposing that it were true that soil tests generate net increases in farm profits, as is asserted by CBLAD and

others, then a regulation is not a necessary or appropriate response to the lack of soil tests. Rather, a program of providing farmers with information (that they have somehow failed to receive through farm publications, neighbors or the extension service) about their opportunities to increase their profits should be all that is necessary.

Even if the tests do not pay for themselves in terms of greater profits, they are probably essential for the development of appropriate and effective nutrient management plans. A number of studies do indicate that nutrient management is currently a cost effective method of reducing nutrient flows into the Chesapeake Bay (Dunn and Shortle, 1987; Letson, Crutchfield and Malik, 1993). This implies that the soil tests produce a net economic benefit. This conclusion does not depend on how the costs are allocated between farmers and others.

The rules do not require that farmers implement the provisions of any management plan. CBLAD argues that a regulatory requirement is not necessary since there is evidence that, in the past, persuasion has been effective in getting farmers to implement the needed changes. This assertion is at variance with the results of a number of economic studies, some of which were carried out in the Chesapeake Bay region (Dunn and Shortle, 1987). Given the divergence between CBLAD's perceptions and the results of these studies, additional monitoring by CBLAD would be useful for assessing just how effective these voluntary provisions are in generating improvements in water quality.

j. Silvicultural activities: Silvicultural activities can have very significant effects on water quality. Although forestry activities are exempt from erosion control laws, the Department of Forestry (DOF) does have the legal authority to control deterioration of water quality due to silvicultural activities. CBLAD staff and a representative of the Chesapeake Bay Foundation¹⁰ indicate that the record of compliance of silvicultural operations with the DOF's Best Management Practices manual has varied widely both over time and across firms resulting in sometimes substantial contributions to effluent loads moving into the Bay.

The regulation of forestry activities is not under CBLAD's jurisdiction because the Board has deferred to DOF in regulating silvicultural activities. This means that local governments cannot make the control of silvicultural runoff part of its overall strategy for controlling water quality although, as pointed out by CBLAD, localities can require a demonstration that a logging site is in compliance with the DOF best management practice guidelines. This gives rise to the possibility that the costs of control of pollution loadings may vary widely between forestry and non-forestry activities. If there is a large difference in control costs per unit of loadings removed, then there would be a loss of economic efficiency. If the costs of compliance are low relative to the costs facing other sources of pollutants in the Bay, then it might be worthwhile for CBLAD to work more closely with the Department of Forestry to ensure that forestry BMP compliance rates are maintained at high levels.

⁹ Per Dana Balis, Department of Conservation and Recreation, personal conversation.

¹⁰ Per Ms. Estie Thomas, Chesapeake Bay Foundation, personal conversation.

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In the longer run, it may be worth exploring whether the control of water quality impacts from forestry activities in the Chesapeake Bay watershed might logically be placed under the control of localities as part of their comprehensive control of the water quality affects of land use practices. Whether this would be an efficiency enhancing move would depend on a number of factors that are beyond the scope of this study.

6. Use and development criteria for RPAs (9 VAC 10-20-130). This section contains the key substantive limits on the use of the lands designated to be in the resource protection area. As discussed earlier, the RPA includes areas in direct contact with waters and tributaries of the Bay and a 100-foot strip on the landward edge of those areas in contact with water. The land included in the RPA is generally the land where use and development are likely to have the greatest impact on water quality. The substantive restrictions on these areas are significantly greater than those for the resource management areas. These use and development criteria are in addition to the criteria that apply to RMAs.

This section generally restricts activities in the RPA to those activities that are logically connected to the type of land found in the RPA, that is, uses directly related to the proximity of the land to water, and to those activities that are “grandfathered” in due to nonconforming uses predating local adoption of land management regulations.

a. Permitted uses and exemptions. The permitted uses in the RPA are quite limited. They include:

1. Water dependent uses,
2. Continuance or redevelopment of existing use existing at the time of program adoption,
3. New use on non-conforming lots predating enactment,
4. Roads or driveways, or
5. Flood control or stormwater management facilities.

The regulations establish standards for when these uses are permissible and how they should be carried out. The substance of the requirements is that encroachments and adverse impacts on water quality should be minimized as far as practical.

Water wells, passive recreation facilities, and historic preservation and archeological activities are exempt from the restrictions as long as they are done in a way that minimizes their water quality impact. They must be reviewed by local government, and any land disturbance over 2,500 square feet in extent must comply with erosion and sediment control rules.

b. Buffer area requirements. Subdivision 3 of 9 VAC 10-20-130 of the proposed regulation adds the following language:

The 100-foot wide buffer area shall be the landward component of the Resource Protection Area as set forth in subdivision 5 of subsection B of 9 VAC 10-20-80 of this chapter. Notwithstanding permitted uses, encroachments and vegetation clearing, as set forth in this subsection, the 100-foot wide buffer area is never reduced in width. Except as noted in this subsection, a combination of a buffer area not less than 50 feet in width

~~and appropriate best management practices located landward of the buffer area which collectively achieve water quality protection, pollutant removal, and water resource conservation at least the equivalent of the 100-foot buffer area may be employed in lieu of the 100-foot buffer.~~

The added language seems to be redundant given the language of 9 VAC 10-20-80 B 5. The perceived need for this language probably arose from the dual role of the “buffer” in this regulation: as a delineation of a regulated land area and as a description of a specific water quality control practice to be used on much of the designated land area. As discussed previously, a rewording of the regulation could eliminate this confusion along with the need to restate this language here.

Subdivision 3 continues:

To minimize the adverse effects of human activities on the other components of the Resource Protection Area, state waters, and aquatic life, a 100-foot wide buffer area of vegetation that is effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff shall be retained if present and established where it does not exist. The 100-foot wide buffer area shall be deemed to achieve a 75% reduction of sediments and a 40% reduction of nutrients.

In our discussion of 9 VAC 10-20-80 we argued that the definition of “buffer area” should not automatically establish that the buffer area be fully vegetated. On agricultural lands, the regulations clearly envision the prospect of non-vegetated portions of the buffer area.¹¹ This is not the case with non-agricultural land. The proposed changes would greatly limit the ability of owners of non-agricultural lands to use alternatives to vegetated buffers even if they could show a net benefit to water quality.

It should be noted that the last sentence of the foregoing quote deems something to be true that is not true in general, and the data do not exist to determine with any certainty whether it is even approximately true on average. What is known to be true is that the effectiveness of riparian vegetated buffers varies greatly across localities within the region subject to these regulations and, indeed, varies widely from place to place and from vegetation type to vegetation type (Chesapeake Bay Program, 1995). Moreover, the performance of riparian buffers depends on how well the buffer is managed by the individual landowner. The performance of riparian buffers will be discussed at some length in the next section of this report.

Improved data on actual performance of riparian buffers may indeed show that they perform on average as well as or better than this language asserts, however no regulatory language can make something true that is not true or is not known. Even if this assertion were true on average, it is certainly not

¹¹ While, as CBLAD points out, agricultural buffer modifications generally maintain some vegetative cover such as crops, and farmers do have some economic incentive to control silt and nutrient runoff, it is obvious that this incentive is not strong enough to prevent the large contribution that agricultural uses make to non-point source pollution in the Bay. If these economic incentives were strong enough, little of this regulation would be needed.

generally true of any given parcel of riparian land. This language is unnecessary, and since it is also counterfactual, it should be removed from the proposed regulation.

The last part of subdivision 3 deletes a provision from the existing version of the regulation that allowed non-agricultural owners to substitute BMPs for vegetation on part of the buffer area:

[Deleted] Except as noted in this subsection, a combination of a buffer area not less than 50 feet in width and appropriate best management practices located landward of the buffer area which collectively achieve water quality protection, pollutant removal, and water resource conservation at least the equivalent of the 100-foot buffer area may be employed in lieu of the 100-foot buffer.

This is a critically important deletion because it will almost certainly increase the cost of compliance with the regulations and it is not known with any degree of certainty that the increased costs will result in an improvement in water quality. In fact, given the wide variation in the performance of riparian buffers in removing nutrients from groundwater entering the watershed, it is possible that removing this flexibility could actually increase the amount of plant nutrients (nitrogen and phosphorus) entering the Bay.¹²

The deletion of this language removes a measure of flexibility in how localities may meet their requirements under these regulations. Since this change reduces options now available to localities and landowners, it cannot logically reduce costs of compliance, only increase them. Those localities using the flexibility to substitute more effective BMPs will now be prevented from using a management tool that they had determined was in their own interest to use. Thus, we conclude that this change can only act to increase the costs of complying with the regulation.¹³ The extent to which these costs are balanced by benefits of having larger buffers is the subject of the next section of this analysis.

The confusion about the meaning of "buffer area" in the existing regulations may be one reason why CBLAD decided to delete this language. If the buffer area and the RPA are synonymous, then allowing localities to allow the substitution of BMPs for buffer might be seen as allowing localities to reduce the size of the 100-foot riparian border strip that is included in the RPA. According to CBLAD, the agency did not intend that the original language would allow a reduction in the size of the RPA, although it is clear that the rules did intend to allow reduction in the extent of the vegetative buffer that were already platted at the time the regulations were established. Separating the definition of "buffer area" from the definition of "vegetated buffer," as suggested earlier, would resolve this particular difficulty with the flexibility language that CBLAD is proposing to delete.

¹² Conrad Heatwole and Leonard Shabman, Virginia Tech, personal conversations.

¹³ CBLAD asserts in its supporting documents that this is not a change in the regulation but, rather, a clarification of the Board's existing intentions. Since some localities have used the flexibility implied by this language and will now be prevented from doing so, it is reasonable to conclude that this change will likely increase local compliance costs.

CBLAD staff has indicated that there is another reason for removing the language that allows the substitution of BMPs for vegetated buffers in non-agricultural lands. They argue that, while in theory BMPs can often perform at least as well as or even better than riparian vegetated buffers (RVBs), CBLAD's experience is that, in practice, the failure rate is higher for BMPs than it is for RVBs. Since the issue of allowing BMPs to substitute for RVBs depends critically on the characteristics of these buffers and the BMPs that might serve in their place, it is worth examining some of the properties of these two tools for protecting water quality in the Bay.

(1) Riparian vegetative buffers and non-agricultural riparian BMPs. It is well understood that land use in the riparian zone has the potential for influencing water quality in the adjacent streams (Chesapeake Bay Program, 1995). Agriculture, residential yards and septic systems, commercial establishments, and, increasingly, golf courses contribute plant nutrients, sediment, and other pollutants to nearby waterways. One way to intercept these pollutants is to install a man-made system for treating runoff from the land. Such systems are often referred to as best management practices.¹⁴ Another way to control the pollution load in the receiving stream is to use vegetation to physically slow the flow of water. Then the soil and vegetation can absorb a number of contaminants that would otherwise enter the watershed.

The U.S. Department of Agriculture has developed a specification for a "Riparian Forest Buffer System" (RFBS) designed to control non-point source pollution and improve the stream environment. Not all buffers match the design of the RFBS, of course. This is merely a reference system to allow comparisons of function and effectiveness across different buffer designs. According to a report from the Chesapeake Bay Program, along with its function in removing non-point source pollutants from water entering streams, the buffer reduces sediment, modifies stream temperature, controls light quantity and quality, enhances habitat diversity, protects channel morphology, and enhances the food web and species richness (Chesapeake Bay Program, 1995). This buffer system consists of three "zones." Zone 1, next to the stream, is an area of permanent forest vegetation. Zone 2 is an area of managed forest up-slope from zone 1. Zone 3 is a filter strip, planted in grass or some other herbaceous vegetation.

Each of the three zones provides a unique function that contributes to the overall effectiveness of the RFBS. Zone 3, the grassy strip, acts to slow runoff from adjacent land and to spread the flow out into a sheet rather than a gully. Water flowing through a gully bypasses the biological removal capabilities of the other 2 zones, whereas sheet flow is easily assimilated, and biological removal can be effective. This zone is responsible for the removal of a significant portion of the sediment load from nearby land.

¹⁴ This terminology may be confusing for some since there are cases where a vegetated or forest buffer is the best way to manage the riparian zone, thus a vegetated riparian buffer would seem to be the BMP. However, for the purposes of this analysis we will use BMP to refer to management options other than vegetated buffers.

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Zone 2 is a forested area that is managed in a long-term rotation. Its function is to remove pollutants in both the subsurface and surface flow through biological and chemical transformations, storage in woody vegetation, infiltration, and sediment deposition. Tree and other plant roots can sometimes reach down into the underlying water table and extract nitrate and, to a lesser extent, dissolved phosphorus. The managed harvesting of woody biomass from zone 2 is encouraged both for permanent removal of nutrients from the riparian zone and to encourage greater uptake of nutrients by young, vigorously growing woody vegetation.

Zone 1 is an area of permanent forest vegetation adjacent to the stream channel. It shades the stream thereby reducing water temperature, it contributes woody debris that enhances the biological function of the stream, and it controls stream-bank erosion by slowing water flow and holding soil particles in place. These functions of zone 1 have a larger impact on small streams, although they do affect shoreline conditions in larger streams. The forest in zone 1 also enhances the aesthetic qualities of the stream-bank, providing a wooded view from the water and land on the other side of the stream.

The effectiveness of a RFBS in removing pollutants varies widely depending on the geology and hydrology of the site. Based on the studies available, the report from the Chesapeake Bay Program on RFBS performance concluded that, depending on the circumstances, forested buffers can be expected to remove from 4.0% to 80% of nitrate pollution from ground and surface water before the water enters the nearby stream. For a number of regions, the potential for removing nitrates with vegetated buffers is extremely low. Even for areas where an RFBS can be expected to perform well, local variations and unknowns lead to estimates of nitrogen removal capacity that vary by factors of two and three (Chesapeake Bay Program, 1995, 42). It is important to note that, according to available data, the effectiveness of buffer systems in removing pollutants is greatest in the coastal plain and the lower piedmont areas where these regulations are being implemented.

The RFBS report also points out that the performance of a RFBS depends on a number of factors under the control of the landowner. For example, the failure of zone 3 vegetation to transform runoff into a sheet flow can permanently compromise the performance of the buffer. Landowners must carefully maintain zone 3 characteristics to sustain RFBS pollutant removal properties. The type of vegetative management on zone 2 can have a significant effect on nutrient removal efficiencies, these include rotation period, type of plantings, cut for view, and forest litter management.

There is another source of uncertainty concerning the effectiveness of the riparian vegetated buffers required in the buffer area. The management requirements for vegetative buffers used in this regulation differ from the grassy strip and forest combination standard specified by the U.S. Department of Agriculture. Due to the lack of good scientific studies, we cannot yet say how different vegetated buffer arrangements will perform in different regions of the Bay watershed.

For areas where RFBS are reasonably effective in removing pollutants, the width of the vegetated buffer is one of the factors that determines how much of the pollutants are filtered

out by the vegetation. Up to a point, adding to the width of the vegetated area also adds to pollutant removal capacity. However, after a certain point, the marginal effectiveness of adding width to the vegetated buffer falls dramatically. In one study, a 19% increase in vegetated buffer width, from 23.6 meters to 28.3 meters, increased the percentage of nitrogen removed from 75.3% to 80.1%, a 6.0% improvement (Chesapeake Bay Program, 1995, 30). Thus, the cost of removing the last 6.0% of nitrogen using a wider vegetative buffer has become quite expensive in terms of land used per amount of nitrogen removed. In fact, a 19 meter forest strip without a grassy strip produced all but 1.0% of the 75.3% reduction in nitrogen. This result could be due to many factors and should not be construed as proving that grassy strips are ineffective. However, it may well be that a somewhat narrower buffer would be more appropriate given the cost of the next best technology for removing nitrogen from Bay waters. The subject requires further study.

In areas where the RFBS is not particularly effective, the relative cost effectiveness of the buffer in removing nitrogen is probably extremely low. Varying the width of the buffer may have little or no effect on water quality. In these cases, buffer width must be justified on other grounds beside their impact on water quality. For example, since buffers offer other environmental services besides water quality protection, an analysis into the optimal width of the buffer would investigate the marginal contribution to aesthetics, habitat, diversity, etc. of the landward 25 feet of vegetation. CBLAD has provided substantial scientific evidence that some important functions of buffers such as flood control and wildlife habitat actually increase more rapidly with greater width up to widths often much greater than 100 feet. Thus, even though the marginal benefits of nitrogen removal begin to fall well before the 100-foot boundary, other services of buffers are still very substantial at this distance. In addition, it stands to reason that the probability of having a buffer compromised by a gully falls as buffer size increases. This issue deserves more study given the requirement in these rules that all 100 feet of the buffer area be vegetated in non-agricultural settings.

Given the wide range of performance of RVBs in controlling non-point source pollution of the Bay, it is reasonable to conclude that there are many cases where other BMPs could be more effective at protecting Bay waters. In theory this is correct. A number of designs for controlling the migration of nutrients from the surface of the land into the Bay are already in use. Their performance, when they are operating properly, can clearly outperform RVBs in areas where vegetated buffers have low effectiveness (Technical Note 95, 1997). Thus, there is a potential for improved water quality by allowing the substitution of BMPs for vegetated buffers.

CBLAD staff have indicated that allowing the substitution of BMPs for vegetated buffers was not allowed in this proposal because the actual performance of BMPs has been disappointing relative to their theoretical potential. This opinion is supported by empirical analysis of BMP performance in the field. One 1992 study (Galli, 1993) found that less than half of the stormwater infiltration trenches surveyed were working as designed and that the performance of the trenches declined over time, with less than one third still functioning after five years. Studies of other BMP types

give similarly disturbing results (Metropolitan Washington Council of Governments, 1988).

These studies found that the primary reasons for failure of the BMPs were improper construction and improper maintenance. A number of BMPs studied were constructed in inappropriate soils, were placed too close to the water table, or were compacted by heavy machinery during construction. Others were contaminated by sediments during or shortly after construction or were clogged due to inadequate treatment of runoff. Grassy strips and sump pits, used for sediment filtration which needs to occur before the water enters infiltration trenches, were not maintained. The study on the performance of infiltration trenches concluded that "communities will need to carefully review their ability to provide or enforce regular maintenance activity if the longevity of infiltration practices is to be measurably improved" (Galli, 1993).

From the foregoing discussion, we conclude that, for a given location, the physical characteristics of the site will determine whether a RVB or a BMP would be most likely to produce the greatest improvements in water quality. In many areas, there may not be a significant difference between these two approaches, at least in their theoretical potential. Much depends on the expected actual performance given expected levels of care in construction and maintenance. CBLAD has concluded that, given their experience with both of these approaches and given the available resources for monitoring and enforcement, RVBs are more likely, on average, to give better performance than BMPs. Thus, the agency has opted to require RVBs as the exclusive management option in non-agricultural settings.

If there were no reason to believe that the agency could have any impact on the levels of care in construction and maintenance, then such a policy might be justified.¹⁵ However, the distinct advantage that BMPs have in some parts of the Bay watershed suggest two possible strategies. First, since much of the uncertainty over the performance of both of these practices is due to uncertainty over how they are constructed and maintained, it may be possible to achieve some savings if resources could be made available for increasing levels of enforcement in return for some added flexibility in the use of BMPs in lieu of RVBs. This alternative may be difficult to implement because, while the savings would accrue to riparian landowners, CBLAD and localities would face higher enforcement costs, which would involve raising revenues to support the increased enforcement activity.

One way to resolve this dilemma is to maintain the RVB requirement as the default management technique but to allow riparian landowners to use a BMP so long as they can provide CBLAD or the locality with sufficient assurance that the BMP will be properly designed, constructed and maintained so that the system would perform at least as well as a properly installed RVB. Since not all RVBs perform as well in practice as theory might suggest, it is important that

the assurances provide for monitoring, maintenance and repair.

It is possible to think of a number of mechanisms that could be used to provide the needed assurances. These would probably involve some contractual obligation, recorded with title and running with the land, along with some financial assurance that the funds needed would be available. The contractual obligation would require that monitoring be carried out to demonstrate compliance. If these arrangements became common, it would be in the interest of the various industry associations to standardize this process so as to reduce the cost of this compliance alternative option. If there is some residual risk of BMP failure to perform as well as RVBs, the agency would be justified in requiring proposed alternatives to perform better than, rather than as well as, the RVB alternative. This would give the agency assurance that the expected improvement in water quality will actually be achieved. The development of alternative compliance assurance mechanisms would appear to be a worthwhile area for future research.

Given the lack of sufficiently detailed geophysical information about individual sites, the lack of appropriate contractual mechanisms, and the increased costs of enforcement that would be required, DPB has found no sufficient reason to dispute CBLAD's conclusion that redesigning these regulations to allow for routine exceptions to the requirement for vegetated buffers is not warranted at this time. However, the prospect for improved geophysical information and the potential for the development for efficient assurance mechanisms argue strongly for CBLAD to give consideration to whether such flexibility could be part of some future version of these regulations.

(2) Some economic impacts of RVBs. Up to this point, we have only discussed the direct costs of RVBs and the associated water quality benefits. There are, however, other costs and other benefits associated with requiring vegetated buffers. These arise because RVBs change the characteristics of adjacent properties and because they induce a change in human settlement patterns.

The impact of the RVB requirement may be broken down into two components. First, it reduces the supply of housing units to some extent by taking land out of the housing market. Second, the RVB requirement increases the value of land by reducing density and providing better views for people living near the water and using the water.

While a 100-foot riparian buffer may not seem like much, when the total area included in the buffer area is considered, a substantial amount of land is made unavailable for development. For every 50 miles of undeveloped shoreline or riparian bank, approximately one square mile of land is removed from the development market. Since a stream has two banks, every 25 miles of stream will see one square mile of vegetated buffer. Not all land in the buffer would have been appropriate for development, so this estimate represents the upper bound, however, even after you take this into account, a large amount of land near the waterfront will have its potential for development eliminated.

¹⁵ The agency has also had to balance the many other costs and benefits of using vegetated buffers. These considerations are discussed elsewhere in this report.

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In terms of standard supply and demand analysis, the RVB rule shifts the supply curve for coastal land to the left. For a given level of demand for coastal land, this shift can be expected to increase the price of coastal land by reducing the quantity of coastal land available for development. The shift of the supply curve to the left implies a reduction in the net economic value to consumers available from owning and using coastal properties. (This measure of net economic value to consumers is referred to as "consumer surplus.") However, the affect on landowners' producer surplus (or net economic profit) is ambiguous because it depends on the elasticity of the demand curve.¹⁶ Not including the effect on water quality, aggregate welfare of those in the market would go down, and there could be a gain or a loss of profits to those owning land in the coastal zone because the gain in price is offset to some extent by the loss of land that can be used for development.

The second impact of the RVB requirement is to increase the amenity value of living or visiting the coastal zone. This can be represented on the traditional supply and demand graph as a shift outward of the demand curve for the land still available for development. For a given supply curve, an outward shift in the demand curve can be expected to raise the price of the good and the quantity of land developed. There is an unambiguous increase in consumer surplus and in producer surplus.

It is critically important to understand where this gain comes from. The increase in the value of coastal properties due to the RVB requirement does not come from the benefit to a developer or landowner of putting such a buffer on his or her own land. That possibility already exists and is built into the shape and position of the current demand curve. The argument is sometimes made that developers will benefit from the RVB requirement because their own land will improve in value from having a vegetated buffer. This argument is almost certainly incorrect. Since developers already have the opportunity to put such buffers in place and a clear profit motive to do so when it does increase profits, then we must conclude that either it is not really profitable to them or that developers do not read the newspaper, watch TV, read their trade publications, or talk to each other because they are clearly passing up an opportunity to make themselves richer. Since this latter possibility does not seem likely, we conclude that those vegetated buffers that would be profitable for the owner of the property on which they are placed would be put in place in the absence of this regulation.

Thus, we cannot ascribe any shift in the demand curve to increased value from placing a vegetated buffer on one's own land. It must arise from the advantage that people gain from having a buffer on everyone else's land. To use the term of art from economic analysis, there is an *external* benefit to my putting a vegetated buffer on my land. Some of the benefits of my doing so accrue to other people, and in particular, to other landowners. These external benefits are only likely to

be achieved if the RVB requirement applies generally to everyone.¹⁷

Returning to the supply and demand analysis, we conclude that the RVB requirement must raise the price of riparian land both because it limits supply and because it increases the average amenity value of the land. Some portion of that price increase represents the impact of the increased scarcity of land and the remainder of the price increase represents the increased amenity value of the land. It cannot be determined whether there is a net gain in society to this change without much more information. It is clear that there is a significant transfer of value toward the current landowners and toward those who make the most use of the amenities of riparian properties. Those people who do not make significant use of Bay recreational opportunities but do live in the area where property values increase will be made worse off by the change. While it would require more data to confirm this hypothesis, it would not be surprising to find that the costs of this regulation fall somewhat disproportionately on the less well-off while the benefits accrue disproportionately to the relatively well-off.¹⁸

However, this is not quite the end of the story. Most observers would probably agree that the impact of the increased demand is greater in magnitude than the impact of the reduced supply. If that is true, then we would expect the combination of these two effects to lead to a net increase in the equilibrium quantity demanded of riparian land. Such a result works to some extent at cross purposes with the intent of these regulations because it will tend to increase development along the riparian zone. Because the riparian zone is essentially linear, this increased demand for riparian property would not only increase the population in the riparian zone but could also contribute to a tendency already observed in the Bay watershed for development to "sprawl" along the lines of riparian zones.

Even with these regulations in place, the increased population will put increasing pressure on water quality in the Bay. Also, if these rules do increase the tendency for development to disperse along the riparian zone, then we would expect an increase in average vehicle miles traveled and in the number of septic systems used. Airborne nitrogen from automobiles and power plants are thought to be significant contributors to the nitrogen load in the Bay watershed (Chesapeake Bay Program, 1997; Alliance for the Chesapeake Bay, 1993). Septic fields are suspected of contributing to the nitrogen load in the Bay, but clear scientific evidence is lacking as to the extent of this contribution. The uniform application of RVBs will have some tendency to produce effects that work against the outcome intended by the agency. This is not to say that the regulations will not produce benefits, they will. However, some of the benefits may be offset by regulation induced changes in development patterns.

c. Permitted modifications of buffer areas. On non-agricultural lands, the only allowed modifications involve

¹⁶ Elasticity is a measure of how quickly the quantity demanded changes as the price changes. For example, if a 1.0% increase in price leads to a greater than 1.0% change in the quantity of land demanded then demand for land would be considered "elastic." If a 1.0% change in price led to less than a 1.0% change in quantity demanded, then demand would be "inelastic."

¹⁷ It bears repeating that we do not know whether most of the aesthetic benefits of RVBs could be achieved by much narrower buffers. This is a subject worthy of study.

¹⁸ This assertion is based on the income distribution of property owners.

routine management of a fully vegetated strip. There is a great deal of uncertainty about the impact on RVB function of such practices as sight-line management, removing fallen trees, and silvicultural thinning. Under some circumstances these activities can improve buffer performance in protecting water quality and in other circumstances water quality protection is reduced. CBLAD has a research program for resolving some of these issues, but much more needs to be known before the water quality effects of various practices can be predicted with any accuracy.

Farmers are given much greater flexibility than are commercial facilities, residential developers, or individual landowners. The proposed language continues to provide that agricultural activities may encroach into the landward 50 feet of the vegetated strip. The conditions for allowing this encroachment have been clarified:

when at least one agricultural best management practice which, in the opinion of the local Soil and Water Conservation District Board, addresses the more predominant water quality issue on the adjacent land - erosion control or nutrient management - is being implemented on the adjacent land, provided that the combination of the undisturbed buffer area and the best management practice achieves water quality protection, pollutant removal, and water resource conservation at least the equivalent of the 100-foot buffer area.

If nutrients are the "predominant water quality issue" then the farmer must develop and implement a nutrient management plan. No specific response is required for a sediment and erosion problem, only that the Soil and Water Conservation District Board (SWCDB) must approve whatever is implemented to control erosion. Also, if the SWCDB identifies a pollution problem then the farmer must correct these problems in a timely fashion in order to be allowed to encroach on the 100-foot RVB.

In addition to the 50-foot encroachment rule, the proposed language continues to allow farmers to encroach on 75 feet of the buffer area.

Agricultural activities may encroach within the landward 75 feet of the 100-foot wide buffer area when agricultural best management practices which address erosion control, nutrient management, and pest chemical control, are being implemented on the adjacent land. The erosion control practices must prevent erosion from exceeding the soil loss tolerance level, referred to as "T," as defined in the "National Soil Handbook: of 1996" in the "Field Office Technical Guide" of the U.S. Department of Agriculture Natural Resource Conservation Service. A full nutrient management plan, including soil tests, must be developed, consistent with the Virginia Nutrient Management Standards and Criteria (4 VAC 5-15-10 et seq. of the Virginia Administrative Code). ... Such problems requiring correction shall be reported to the local government for the purposes of follow-up and, if necessary, enforcement. In conjunction with the remaining buffer area, this collection of best management practices shall be presumed to achieve water quality protection at least the equivalent of that provided by the 100-foot buffer area.

The difference between what is allowed on agricultural lands and non-agricultural lands is very great indeed. For there to be such a difference in treatment, it may be expected that there should be a commensurate difference in performance of BMPs as between these two land uses. The evidence for such a dramatic difference is not strong.¹⁹ CBLAD staff has indicated that, although it is difficult to monitor and enforce BMP performance at the level of individual lots, these problems are less severe at commercial facilities and larger developments. As discussed earlier, it may be possible to craft assurance arrangements that would allow applicants on non-agricultural lands some of the flexibility offered to agricultural users.

d. Buffer area requirements for Intensely Developed Areas (IDAs). Subdivision 7 of 9 VAC 10-20-130 provides that, in IDAs, reestablishing vegetation in the buffer area "may not be required." The regulations require only that localities "give consideration to" requiring reestablishment of vegetation over time. The rules do not specify any circumstances where revegetation is required, so it must be concluded that revegetation is not required in buffer areas located in IDAs. This is essentially the same as the requirement in the existing regulations. In all probability, establishing vegetation in the buffer area in IDAs would be more expensive than establishing vegetation in buffers in most other areas, and CBLAD indicates that there is evidence that vegetated buffers are not as effective in IDAs as in less developed areas. Thus, not requiring vegetation in buffer areas in IDAs would appear to be an appropriate response to the higher costs involved; to do otherwise would not be expected to produce a net economic gain.

7. Non-conformities, exemptions, and exceptions (9 VAC 10-20-150). Subsection C of this section changes somewhat the standards for granting exceptions to the requirements of Part IV of these regulations. According to CBLAD, under the existing regulations, people were granted exceptions to the zoning rules by right. CBLAD argues that this is inconsistent with the Code of Virginia which requires that the applicant demonstrate hardship status in order for an exception from zoning rules to be granted. While the language of the regulation is being changed, CBLAD staff report that localities have been using the hardship demonstration rule for some years now. Thus, this change in the regulation merely makes the language comport with current practice.

This standard for granting exemptions probably has higher compliance costs than the earlier rule. First, it increases the cost of making a successful application for a variance due to the increased procedural requirements. Second, the hardship test almost certainly precludes some activities that would have been allowed by the existing language. No data exists with which one could estimate these increased costs.

The more stringent exemption rule will result in higher water quality and other economic values associated with more

¹⁹ CBLAD staff note that one reason for this difference is that agricultural uses do not usually result in permanent impervious cover on the land. If, indeed, this is the major difference, then the regulations could be written in a way that addresses this concern rather than, as they are now written, treat the uses differently regardless of the amount of impervious cover.

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tightly regulated land-use near the Bay. Since it cannot be readily determined how many cases would be affected by this change or which development projects would be affected, it is not possible to estimate the benefits that would arise from use of the more stringent exception standard. Given the lack of data, it is not possible to reliably estimate the economic value of the move from the earlier rule to the current one.

8. Comprehensive Plan Criteria (9 VAC 10-20-170 - 9 VAC 10-20-171). In all probability, the changes in this section do not greatly alter the costs localities will incur in complying with the rules. However, the fine-tuning of information requirements in comprehensive plans may provide better focus for local planning efforts and, hence, improve the benefits expected from the Chesapeake Bay Preservation Act (hereinafter, the Act).

9. Zoning and Subdivision Ordinances (9 VAC 10-20-181 - 9 VAC 10-20-201). This part of the rules requires that local zoning and subdivision ordinances be revised to be consistent with the Act and with the rules. As already discussed in our examination of the proposed regulations, these requirements make substantial use of specific technology standards such as minimizing impervious cover and land disturbance, preserving existing vegetation, concentrating development and increasing its density. These technology standards should be considered suspect because they may unnecessarily increase the cost of achieving the goals of the regulation: protecting water quality and other valuable environmental services provided by the Bay. Where possible, localities should be offered the possibility of proving that they have provided equivalent or greater protection of Bay environmental services by using methods not specifically enumerated in the Act or the regulations.

Technology standards may be appropriate if monitoring and enforcement problems outweigh the benefits of improved flexibility. CBLAD has argued strongly that, under current circumstances, the increased flexibility is not a feasible option. However, it would seem appropriate to begin to investigate whether mechanisms may be developed to offer localities the option of making a demonstration that an alternative approach would work to meet the ends of the Act. Shifting the burden of proof in this way would allow flexibility where the additional monitoring and enforcement costs are not too high. Under these new arrangements, localities and landowners could make proposals that include arrangements that resolve any enforcement and monitoring concerns that CBLAD might have.

The proposed regulations add requirements that are designed to ensure that landowners receive constructive notice of all restrictions and requirements that control the uses and activities of parcels of land. The regulations require plat notation of a number of provisions of the rules. It is appropriate to provide an effective mechanism for informing current and future owners of land of the regulatory restrictions affecting their land. This ensures that market transactions involving regulated property will be carried out with full information on the part of both buyer and seller about these important land-use rules that may have a significant impact on the value of the land to the parties to the transaction. One would expect that, on average, the seller would have better

information about these restrictions but would not have incentive to disclose all of the restrictions to potential buyers. Recording the restrictions on land records goes a long way toward ensuring that buyers and sellers have equal access to information concerning regulatory restrictions on land use.

Overall economic impact of the proposed regulation. In order to evaluate the overall economic impact of this regulation we would have to know what water quality and other amenities would be with and without this rule and how people would value that difference. We would also need to know what costs would be incurred because of the rule. The foregoing discussion makes it quite clear that a numerical measure of the costs and benefits of this regulation would be quite speculative.

Each step in this analysis is subject to uncertainty. The behavioral, physical and biological systems that are affected by the terms of this regulation are highly complex and many of the interactions between the various components of the system are only partly understood. For example, the response of landowners and hence housing prices to land-use restrictions has been estimated, but the estimates are subject to considerable uncertainty. This is especially true since each time a regulation is changed, the responses expected of landowners is likely to change somewhat as well. Much depends on changes in the population, the level of economic activity, and consumers' perceptions of what alternatives are available to them.

In addition to uncertainty about behavioral responses, there is great uncertainty about the effectiveness of the various effluent control strategies required in these regulations, about the physical distribution of effluents, about the biological consequences of a given temporal and geographic distribution of effluents, and about how much people value the change in biological and physical attributes of the Bay. Many of these interactions have been measured with some degree of success, and each year, more is learned. However, while the direction of many responses is fairly certain, the magnitudes are still subject to very great uncertainty.

The proposed rule is not likely to lead to a significant reduction (from the current levels) in pollutants entering the Bay although some reductions may occur over time. The largest part of the gain from these regulations will be in reducing the growth in the contribution of land use practices to the pollution load in the Bay. CBLAD claims that this program places a cap on the amount of pollutants that will enter the Bay from the regulated area. It is hard to see how this could be true. An increased number of septic connections, more residential development, any increases in agriculture and forestry activities will give rise to the potential for more pollutants entering the Bay. Vegetated riparian buffers, even where they are the most effective can only remove a percentage of the nutrients, chemicals and sediment flowing into Bay waters. Once a system of vegetated buffers are in place, then any additional growth will almost certainly lead to some increase in pollutant loads.

However, if water quality in the Bay is better with the regulation than without it, then economic benefits will flow from the land use controls. In the one study that has made an attempt to add up all of the benefits of a net improvement in

water quality in the Bay, the authors of the study concluded that, in 1984, Bay users in the Baltimore-Washington region would be willing to pay up to \$100 million per year for a moderate improvement in the recreational services derived from the Bay (Bockstael, McConnell and Strand, 1989). In today's dollars, this would be approximately \$150 million per year. This estimate did not associate any net economic value to the commercial fisheries in the Bay since most economists would agree that there is little net economic value in the commercial catch from the currently depleted fisheries. Most, if not all, of the value of the catch is consumed by the cost of harvest. If improved management of fisheries were to result in healthier fish stocks, then improved water quality may add net economic value to the commercial catch.

In many ways, the estimate given for the value of improvements in water quality were probably somewhat conservative. They did not include the value to people outside of the study area. Nor did they include the value that some people may place on improving Bay water quality even though they do not intend to use the Bay for recreation. The study did not attempt to estimate any increase in tourism that might occur due to the improvement. Also, if the attractiveness of Bay recreation increased, investments in greater public access to the Bay might increase willingness to pay for improvements above the amount measured by the study.

Naturally, the estimate given combines benefits that fall mostly to residents of Washington, D.C. and Maryland. They do give a range of values that indicates the general magnitude of economic gain that may be earned in Virginia from improvements in water quality in the Bay. To develop a Virginia-specific estimate would require a study of Virginia Bay users similar to the one used to develop the estimate just discussed.

Costs of compliance with this rule are likely to be considerable. These costs include: increased farm management costs, increased administration costs to localities,²⁰ increased scarcity of land near the Bay,²¹ possible increased costs due to a greater tendency for development to "sprawl" along the riparian zone, higher costs to homeowners for septic services and other requirements, and reduced profits to developers due to explicit compliance costs and lost development opportunities. The economic costs of these regulations almost certainly add up to millions of dollars per year, although a precise estimate is not possible given the available data.

Another relatively intractable source of uncertainty in estimating the net economic impact of these rules is due to our limited knowledge about the physical affect of the rules on

²⁰ Some of these costs are shared by CBLAD through its grant program. This does not change the level of costs, but it does shift the costs away from the localities where most of the benefits accrue to the general taxpayer in the state. It is not within the scope of this report to assess the appropriateness of having taxpayers from western Virginia pick up the tab for part of the expense of managing land use in localities in the Bay watershed.

²¹ Keep in mind that the increase in property values due to improved amenities is already accounted for in the study of the benefits of improved water quality. The increased scarcity cost of land must be counted on the cost side of the ledger.

water quality. The performance of vegetated riparian buffers is not well understood and varies widely from site to site. BMP substitutes for buffers cannot be expected to perform well without significantly increased expenditures on enforcement and monitoring. The impact of septic fields on water quality is not clearly understood. The impact of a given reduction of nutrients on the growth of submerged aquatic vegetation is poorly understood. The list of physical and biological interactions about which we have limited understanding is quite long.

Since we do not know with any precision what physical and biological responses to expect from these rules, calculating the net economic impact of the proposal is not yet possible. The most we can say is that the services of the Bay are very valuable and that the land use controls specified in this rule, while quite expensive, will help preserve water quality in the Bay. In order to maximize any expected net gain from these regulations, CBLAD should be somewhat aggressive in finding ways to reduce compliance costs. This will give Virginians their best chance of achieving a positive economic outcome from land use controls in the Bay region.

Businesses and entities affected. Since land prices will rise due to these regulations, all businesses and economic entities in the regulated region will be affected by the rules. Those who owned (at the time this regulation was implemented) property in the area close to the amenities of the Bay will benefit from both increased scarcity of their land and increased amenity values because the value of their land will rise. People who do not make recreational use of the Bay and people who are renters will probably suffer a net loss because their costs will be higher but without much prospect of offsetting benefits.

Increases in land scarcity transfers wealth from future generations of landowners to present generations of landowners by increasing the current value of land in the Bay region. This occurs since much of the expected future gains in amenity values are capitalized into the value of property near the Bay. The price of land on the real estate market is equal to the present value of the risk adjusted stream of future benefits. If the expected amount of future benefits rises, the price of the land will respond very quickly. Thus, the current owner receives most of the economic gain from an increase in the future amenity value of a piece of land.

Localities particularly affected. The Counties of Accomack, Arlington, Caroline, Charles City, Chesterfield, Essex, Fairfax, Gloucester, Hanover, Henrico, Isle of Wight, James City, King George, King and Queen, King William, Lancaster, Mathews, Middlesex, New Kent, Northampton, Northumberland, Prince George, Prince William, Richmond, Spotsylvania, Stafford, Surry, Westmoreland, and York, and the Cities of Alexandria, Chesapeake, Colonial Heights, Fairfax, Falls Church, Fredericksburg, Hampton, Hopewell, Newport News, Norfolk, Petersburg, Poquoson, Portsmouth, Richmond, Suffolk, Virginia Beach, and Williamsburg are required to comply with the provisions of this regulation. Thus, most of the direct costs of the regulation will fall primarily on these localities.

Other localities will also feel varying affects from this regulation. Areas near the Bay will see an increase in property values and possibly tourism revenues. Other

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regions of the state will be more likely to see a net loss from this regulation since people in these areas make less use of Bay amenities but pay for some of the improvements through their tax revenues.

The benefits of the regulation may be expected to accrue more to the regulated localities than to others, due to their proximity to the Bay. A substantial portion of this benefit will be capitalized into land values and will accrue mostly to the current generation of landowners. Thus, some of the immediate impact of the regulation may be seen as a transfer between current and future residents of these localities.

This last point may bear some explanation. Suppose that I currently own a piece of riparian land in the Bay region. If these regulations are expected to increase the quality of water in the Bay at some point in the future, then the rental price of the land at that future date will be higher than it would otherwise have been. As the current owner of the land, I can use this fact to charge a higher price for my property when I sell it. The overall impact of this market activity is that the current owner can extract in his or her sale price much of the increased value that would otherwise accrue to someone in the future.

Projected impact on employment. The net impact of this regulation on employment in Virginia is unknown. There will be losses due to the increased scarcity of land and gains from any increase in tourism resulting from improved water quality in the Bay. The net impact cannot be estimated at this time.

Effects on the use and value of private property. The value of many parcels near the Bay may increase in value as a result of this regulation due to increases in amenity values and due to increased scarcity of riparian land. Also, the revenues of commercial establishments serving the area near the Bay will tend to increase, but, in the long run, as profits from commercial establishments increase, land rents will rise and will absorb a substantial share of any increased profits in commercial establishments.

Summary of analysis. This regulation comprises a set of comprehensive land use rules designed to reduce the water quality impact of development in the Chesapeake Bay watershed. The mechanism for protecting water quality is to regulate the use and development of certain lands in the Bay watershed where such use and development would be expected to result in deterioration of water quality in the Bay or its tributaries. Much of the regulation is accomplished by establishing specific standards for where certain types of development may take place and how that development should be carried out.

We have noted a number of areas where it may be possible for CBLAD to consider offering localities and applicants increased flexibility without placing water quality at risk. In the case of vegetated riparian buffers, there will almost certainly be cases where limiting the flexibility of riparian landowners in substituting BMPs for vegetation may come at the expense of water quality or economic efficiency or both.

CBLAD's justification for limiting flexibility is that CBLAD and the localities lack the resources to effectively enforce more flexible rules since those rules would entail significantly greater monitoring and enforcement costs. Due to the

relatively limited funding available for monitoring and enforcement, it is difficult to make any definitive inferences about how effective the provisions of the regulation have been to date.

One way of granting increased flexibility in a situation where public monitoring and enforcement efforts are limited is to give localities and applicants the opportunity to provide for the monitoring and enforcement efforts themselves. DPB encourages CBLAD to consider the development of innovative compliance assurance mechanisms that would make it possible for the agency to allow increased flexibility at the local level. This may be done in such a way that the alternative compliance plan will provide the authorities with sufficient assurance that water quality will be as good as or better than what could be achieved by the methods specified in the regulation. This strategy has much to recommend it. Localities and applicants will only seek the flexibility if it will lower costs, so any use of alternative methods will be sure to lower compliance costs. Also, the flexibility gives all parties continuing incentives to seek out better and cheaper methods for protecting water quality. CBLAD could take the lead in helping localities generate innovations in the area of assurance mechanisms.

We are led to the conclusion that too little is known to estimate how much of a reduction in non-point source emissions will result from the implementation of this regulation. Nor do we have the data necessary to estimate the costs of compliance. Estimating benefits and costs is extremely difficult in this instance because the changes in land-use patterns are so large that significant transfers of wealth are taking place, and it is very difficult to disentangle the wealth transfers from changes in net economic value. Given this uncertainty, CBLAD should make every effort to minimize compliance costs and to encourage private interests to find ways of lowering the costs of protecting the Bay.

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Agency's Response to the 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 amendment in accordance with §9-6.14:7.1 G of the Administrative Process Act and Executive Order Number 13 (94). The DPB has delivered a draft of its analysis to the Chesapeake Bay Local Assistance Department (CBLAD), which provides staff support to the regulating agency, the Chesapeake Bay Local Assistance Board (CBLAB). Section 9-6.14:7.1 H of the Administrative Process Act requires that the CBLAB develop a response to the DPB analysis to be delivered to the Registrar of Regulations at the time the regulation is submitted for public comment. This document is that response.

It is instructive to point out in the beginning that DPB appears to have established a double-standard for its analysis of this regulation, allowing the DPB analysis to be based on broad assumptions associated with "economic theory" while admitting that "[e]ach step of this analysis is subject to uncertainty." However, DPB's comments establish an expectation for CBLAD to demonstrate scientifically defensible connections between each regulatory requirement and specific improvements in water quality.

It is also important to point out that the Bay Act and Regulations aim at protecting existing water quality, even in the face of growth, through reasonable land use restrictions effectuated through local planning, zoning subdivision and other land use management ordinances. The Bay Act and Regulations are intended to proactively prevent nonpoint source pollution from various polluting land uses, resulting in enhanced protection of the water quality of the Bay and its tributaries.

This program is reflective of the difficulty faced by many state and local governments is that land owners, developers and other land users have often taken actions on their lands that have resulted in negative consequences for water quality and other natural resources. This presents three significant problems. First, the negative impact has already occurred, rather than being prevented by the responsible party through proper management. Second, the costs of repairing the damages has often been borne by taxpayers in general, through clean-up and restoration programs such as the Chesapeake Bay Program, the SuperFund program, etc., rather than by the individual(s) responsible for causing the damage, who usually have benefited economically from the

action. Third, the cost of repair/restoration is often significantly greater than the cost of preventing the problem in the first place. The goal of this program is to prevent or, at least, minimize the negative water pollution consequences of prominent land uses and development, and to ensure that those who are causing potential impacts and, presumably, benefiting from the results of their actions, actually pay the cost of prevention.

The following is a point-by-point response to the DPB comments.

A. DPB attempts to estimate the economic impact of the proposed changes, section by section.

1. Definitions (9 VAC 10-20-40).

a. Shoreline - This is a new definition, which DPB characterizes as vague and ambiguous. DPB recommends that the definition have more clarity, especially for tidal areas. This will be done. In fact, the intention for tidal areas is to define the land between MLW and MHW as shoreline, which is already done in state code (definition of nonvegetated wetlands).

CBLAD is concerned about DPB's perception of the program as portrayed in the statement that "[i]t may be costly to leave the determination of which lands are and are not subject to these rules to local interpretation of what it means for land to be 'routinely submerged.'" This entire program is based on the idea that such decisions can be made more accurately at the local level by those who are familiar with the setting and conditions. In reality, such decisions are typically made interactively during the site plan review process. When there is a question or dispute, local government officials usually discuss the issue with landowners and their consultants to resolve the problem. The intent of the Act was to empower local governments to proactively protect their environment. CBLAD has never been given the requirement or resources to determine every shoreline tidal area.

b. Tributary Stream - DPB agrees that the proposed change in this definition affords local governments and, ultimately, landowners complying with the regulations more flexibility and should lower compliance costs.

2. Local Government Programs (9 VAC 10-20-50 - 9 VAC 10-20-60). DPB states concerns about the addition of a new item to the list of regulation objectives and recommends that the language be removed. The item in question specified "assurance, to the extent feasible, that all streams and shorelines will be protected by a forested or other riparian buffer area." DPB contends that this is "not a desired end of the enabling legislation but, rather, a means toward achieving the other ends specified in the Act." While this may be true, this objective was proposed to be added as one means toward fulfillment of Virginia's 1996 Chesapeake Bay Executive Council (Governor Allen's) commitment to conserve and restore riparian buffers along all streams and shorelines.

Furthermore, DPB states that ". . . the best available scientific evidence indicates that there are many cases where alternative techniques for protecting water quality may [emphasis added] actually perform significantly better than vegetated buffers." This statement is footnoted, referencing conversations with CBLAD staff, two Virginia Tech professors, and a member of the agency's regulation advisory committee. CBLAD suggests that this position is anecdotal, reflecting the personal opinions and biases of those interviewed. In fact, scientific research continues to demonstrate the extremely high removals of nitrogen, phosphorus, and sediments by vegetated (especially forested) buffer areas in settings similar to Tidewater Virginia. It is most difficult for CBLAD to respond to unknown statements made in response to unknown questions within an unknown context, yet CBLAD has provided written scientific evidence supporting the agency's position.

DPB goes on to state that "So long as this language is interpreted in a way that allows the balancing of other considerations against the policy favoring vegetated buffers, then this language is consistent with the economically efficient use of resources." The CBLAB does, in fact, allow such balancing of considerations as a matter of routine. Since this regulation has always included vegetated buffers as a core component, inclusion of this objective is not inconsistent with the program, even if not mentioned in the legislation. On the other hand, not including this objective in this regulation will not necessarily hinder the Commonwealth from fulfilling its Bay Program commitment.

3. Area Designation Criteria (9 VAC 10-20-70 - 9 VAC 10-20-105). DPB takes the position that language in 9 VAC 10-20-80 B 5 confuses a linear measurement for the required "buffer area" and a management practice (vegetated buffer area). DPB recommends that these two concepts should be clearly separated to avoid the confusion they perceive. However, we are not convinced that DPB's proposed solution will, indeed, avoid confusion where none previously existed. Furthermore, since the participating local governments are familiar with the way this part of the regulations is constructed, making such a change may introduce confusion. Numerous localities commented during the NOIRA phase of this process that the board should minimize the changes to the regulations, since their constituents were now familiar with the regulations and how they worked. It was their opinion that needless changes would, indeed, cause unnecessary confusion.

The board fully intended that the buffer area would be vegetated, ideally with trees but, as needed, with other types of appropriate vegetation, except where encroachments are allowed or in the case of locally designated Intensely Developed Areas that consist of impervious surfaces. The CBLAB views these changes as clarifications of existing regulations and practice and, therefore, fails to see how they will result in a negative economic impact, as DPB predicts.

4. Purpose of Performance Requirements (9 VAC 10-20-110).

a. The only changes in this section were (i) the relocation of the language regarding local discretion to consider better site-specific information in their CBPA designations, and (ii) incorporation of some language from the Act directing localities to incorporate these requirements into their zoning and subdivision ordinances and comprehensive plans, included herein for the sake of continuity. There are no substantive changes. The language at issue has been publicly debated and resolved through the legislative process and previous regulatory processes. Therefore, it should not be at issue in this regulatory process. This has been previously discussed many times with DPB and was explained in the explanation document accompanying the draft amendments, which was provided to DPB for their evaluation.

However, DPB chose to comment on this language anyway, most notably in the following: ". . . it is not known whether, even if the goals established in this section are reached, the improvement in water quality will generate a significant increase in the flow of services from the Bay. If the requirements of this regulation, in conjunction with the other requirements affecting the Bay region, are not sufficient to substantially increase the flow of value derived from the Bay, then little would be gained relative to the costs experienced, and the expenditure on meeting these goals would not be efficient." Here DPB appears to call into question the entire CBPA program, rather than focusing on their statutory responsibility B to evaluate the potential economic impacts of the proposed changes to the regulations.

b. DPB then states that "Data from CBLAD and other sources of information about the economic value of the Bay seem to suggest that these rules, if fully implemented, would be more likely than not to have a positive impact at the margin on the flow of economic services from the Bay." While indicating that program enforcement will be addressed more specifically elsewhere in their evaluation, DPB goes on here to comment that ". . . even this tentative conclusion rests on the assumption that the provisions of this regulation will be effectively enforced. The prospect of sufficient resources being made available to CBLAD to provide for effective enforcement appears to be the most uncertain link in the chain of causality between the promulgation of these rules and improvements in the flow of services from the Bay." The CBLAB would agree that while the enforcement aspect of the program is evolving, the agency has very limited resources for this purpose. It has been necessary to focus up until now on assisting localities in developing their local programs and beginning their implementation. Within the past year, the agency has been able to reorient some staff toward enforcement. This pattern is true of virtually all regulations: develop the program, begin implementation, then turn attention to auditing implementation effectiveness and, where

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necessary, enforcing compliance. However, resources for effective enforcement of the program remain limited, compared to those needed for other program priorities.

5. General Performance Criteria (9 VAC 10-20-120).

a. DPB makes a distinction between how the term "performance standards" is intended to be interpreted in the regulations and what it means to an economist. While we understand the point DPB is trying to make, nevertheless, the terms "performance standard" and "technology standard" also have specific meanings in the arena of regulations. To the regulator, "performance standard" means a requirement that states a general objective but leaves a great deal of flexibility regarding how to accomplish that objective (i.e., which practice, from among numerous alternatives, will be used to achieve the desired objective, etc.). A "technology standard" is a specified method or practice for achieving the desired objective. In that regard, the CBLAB chose to use, as much as possible, performance standards to give those complying with the program the greatest amount of flexibility in satisfying the requirements. Limitations in the application of this concept were considered administratively prudent in order to evaluate the many local programs for consistency and/or equivalency in their implementation of program standards.

DPB does recognize that the reason for choosing technology standards (or a mix of technology and performance standards) is that pure performance standards generally involve much higher monitoring, oversight and enforcement costs B costs that the state and local governments can rarely sustain. DPB states that "Observing performance, especially in efforts to reduce non-point source effluents, is notoriously difficult. The combined costs of monitoring and enforcement of a given performance standard could outweigh the lower costs of compliance [with the technology standards]. And without the monitoring and enforcement activity, performance standards may provide even less reliability assurance that the goals of the rules are being met than would a set of technology standards."

Furthermore, while it is true that monitoring performance of the existing standards is not required, it is important to understand that there is a body of evidence that supports the effectiveness of these measures in protecting and/or improving water quality. When the regulations were initially considered, a number of stakeholder advisory committees were involved in recommending the specific standards to be included, the effectiveness of which were generally understood and accepted, based on research available at that time. While this approach relied on generalized assumptions about BMP performance and the effectiveness of other criteria, this was considered to be the preferred approach. It is important to recognize that regulatory processes involve not only political considerations, but a great deal of objectivity and

science. Sometimes compromises are necessary, but CBLAD contends that under controlled conditions these standards have an overall positive effect. Rather than requiring routine monitoring of implemented practices, CBLAD is conducting an extensive ten-year monitoring project (as a surrogate for the whole) to determine if the program is effective in protecting water quality.

b. DPB goes on to suggest that the regulations could be potentially improved by making performance standards available as an alternative to specific technology standards, as long as appropriate conditions are applied to their use (e.g., equivalent results, etc.). DPB recognizes that "[b]efore these performance-based alternatives would be useful, some development of assurance mechanisms would have to take place. CBLAD could assist in the development of contract mechanisms, private land-use restrictions and other legal and financial tools that would be required for implementing performance-based alternatives." This comment assumes a much greater role for CBLAD in providing guidance and oversight for individual local development projects. Since there has never been a clear legislative or executive policy for CBLAD to assume such involvement, and no resources provided to assume this greater role, we question how this could be achieved. In fact, during the original debate of the Act, the legislature and Governor agreed that CBLAD's roles were to (i) develop the regulations that would provide the parameters for the program and (ii) provide assistance and oversight to localities implementing it, but that the localities themselves would have primary responsibility regarding land use decision-making. We doubt that our local government partners or their citizens would agree with DPB's proposal.

c. This section is another example of DPB commenting on existing regulatory language that is not being changed, although we have contended repeatedly that these comments exceed DPB's review authority. DPB commented on 10 of the 11 performance standards, although only three of them - septic system criteria, stormwater management criteria, and agricultural criteria - involved substantive changes. Furthermore, of those three, one includes language intended to provide more compliance flexibility without making the existing requirement more stringent; the second achieves language consistency with the other state stormwater program without really changing the requirement; and the third deals more with process than with the actual standard, but in fact should result in greater efficiency as well as faster development of agricultural water quality plans and their implementation. The following are responses to DPB comments with which we take issue.

d. Minimize the extent of disturbed land: The minor change in the language of this standard is intended to provide consistency in the use of terms in several of the "general" standards (nos. 1, 2 and 5). Indeed, through the local plan-of-development review

processes, developers and localities routinely agree on the extent of land disturbance and management practices for specific projects. Landowners are free to develop to whatever density the underlying zoning allows. The intent of this standard is simply to discourage indiscriminate land clearing. An extreme example would be not clearing an entire five acre site of vegetation if the development will only involve two acres. Existing vegetation, especially tree cover, is without question the best protector of soil and water. Observing this standard often saves both money and negative impacts on water quality and other environmental resources, especially on single lots. The CBLAB views these changes as clarifications and, therefore, fails to see how they will result in a negative economic impact.

e. Preserve indigenous vegetation: DPB comments that "[i]t is not at all clear that native vegetation is necessarily the best choice for achieving improvements in water quality." However, it is generally accepted that vegetation native to an area has the best chance of thriving with minimal disease and climatic impacts. The objective of this standard is to discourage indiscriminate removal of native vegetation (closely associated with the above standard of minimizing land disturbance) and to encourage the planting of native vegetation where it is called for. This standard does not prevent the planting of non-native species, nor does it prevent or even discourage innovations in vegetative management. The language change here is, once again, minor and intended to ensure the consistent use of terms. The CBLAB views these changes as clarifications, with no substantive change in the way the standard is applied. Therefore, we fail to see how the change will result in a negative economic impact and do not believe DPB has substantiated their contention that it may.

In addition to guidance provided in CBLAD's *Local Assistance Manual*, the board and department have a grant to develop a site planning guidance document that will provide additional guidance. Furthermore, the board has provided grants to several PDCs for development of vegetative BMP manuals that more specifically explain how to use vegetation to accomplish the purposes of this program. Each of those manuals includes lists of vegetation that are considered appropriate for water quality protection purposes, emphasizing species native to each region. Where such local criteria exist, that criteria is commonly used in determining appropriate vegetation to be planted.

f. Local governments must ensure appropriate BMP maintenance: No change is proposed for this standard. DPB comments that this requirement of BMP maintenance agreements between developers and local governments appears to lack effective enforcement and, thus, is potentially one of the key weaknesses in using both BMPs and vegetated buffer areas. The intent of these agreements is to establish who will be legally responsible for maintaining the

BMPs and, generally, what kinds of maintenance will be performed and at what intervals. While the CBLAB agrees that little oversight has been provided for this standard in the past, it is one of the objectives of CBLAD local program implementation oversight. DPB comments that "some increased effort in this area would almost certainly produce positive net economic benefits."

g. New development of 2,500 feet or more must be reviewed: DPB had only neutral comments on the plan-of-development review requirement although, once again, this requirement does not involve any proposed changes.

h. Minimizing impervious cover: This is the third standard that is being changed only to ensure the consistent use of terms. This should not result in any substantive change in the way this standard is applied. The intent is that, in the context of the proposed development, no unnecessary impervious cover be constructed. If the cover can be justified for the proposed use, in the context of an evaluation intended to minimize water quality impacts, then it is typically approved by the locality. Minimizing imperviousness is important not only to reduce the amount of runoff and associated pollutants, but conversely to continue providing for infiltration of rainwater into the soil. This replenishes groundwater supplies and the base-flow of nearby streams, but it also provides some treatment of the pollutants in the water. Again, this is not a new standard, and the one change is not substantive but rather to provide consistency in the language of the entire set of performance standards.

i. Reduces the cut-off size of developments must comply with local erosion and sediment control ordinance: DPB states that "there do not appear to have been any studies to measure the actual changes in erosion and sediment in the Chesapeake Bay watershed resulting from this rule." This is a programmatic issue, not a regulatory issue. In fact, an entire industry has arisen around providing erosion and sediment control in various settings, such as development, mining, agriculture and forestry. There is an international trade association and a couple of specific journals aimed at these issues. They are full of research documenting the effectiveness of various erosion and sediment control practices as well as continuing innovations. The average citizen can describe the differences observed in streams near construction sites that do not use appropriate erosion and sediment controls as opposed to those that do. Again, this is not a new standard. The only change is not substantive; it merely removes language no longer necessary because it has been incorporated into the basic DCR state erosion and sediment control regulations, which this requirement supplements.

j. On-site sewage treatment system standards: The first alternative proposed to the existing regulations would give local governments the option of allowing septic system owners to install a plastic filter in the

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outflow pipe from the tank in lieu of the mandatory five-year pumpout. When the filter clogs and the tank fills to a critical point, it will become obvious in the building that the tank needs to be pumped, aligning pumpouts with need rather than an arbitrary schedule.

DPB suggests that the regulations should also allow septic system owners or pumping contractors to provide evidence of annual or semi-annual inspections, especially for newer systems with inspection ports. DPB suggests that allowing such routine inspections could ". . . significantly reduce septic maintenance costs." The basis of this statement is not provided and appears hypothetical at best. We therefore disagree that the savings would be significant. A significant portion of the cost of a septic system inspection is in the travel time to the site. Just as a plumber or electrician charges a flat rate of \$40-\$60 for the first hour of a repair visit, we expect a septic system contractor will charge a flat rate for an inspection visit, even if there is an inspection port to make the task easier. Furthermore, the plastic filter allows the building occupant to determine if the tank needs pumping without the cost of an inspection. It appears that DPB's suggestion would be a more costly alternative, would not be locally implemented without large resource requirements, and would not result in a cleaner environment.

DPB points out that the Virginia Department of Health (VDH), in recent amendments to its own septic system regulations, would require observation ports to be installed on all new septic tanks. Systems that have such ports enable inspections without opening the tanks. However, there are few, if any, such systems installed in Virginia at this time. Furthermore, the VDH amendments actually provide three options to address the maintenance issue: (i) an inspection port, (ii) a baffle (two-compartment) tank or two separate tanks, or (iii) the plastic filter.

Department staff suggested a mandatory periodic inspection to the agency's regulatory advisory committee as an alternative to mandatory pump-out. However, the idea was rejected for numerous reasons. For example, local government representatives noted that more alternatives would further complicate what they already view as a difficult tracking process. DPB further discusses options for funding local septic pumpout tracking systems, perhaps implying that localities have few or no options for implementing this provision. In fact, the Board has approved several different implementation mechanisms and will consider still others, as long as they prove to be effective in implementing the requirement. Furthermore, most local set-up costs to date for septic maintenance tracking systems have been funded through grants from the CBLAB. In fact, septic system pumpout tracking has been one of the CBLAB's priority purposes for local assistance grants at this time.

DPB also questions whether this provision of the regulations is being enforced. However, the CBLAB

has already recognized this problem and has made septic system criteria enforcement among the top priorities for the department's oversight and enforcement efforts.

Once again, however, it seems that DPB is questioning the existing program. The option that is proposed merely offers some flexibility for localities and their citizens, should the localities choose to extend it. They are not required to, in which case this criterion will continue to be implemented in its current form. DPB's discussion far exceeds the evaluation of proposed regulatory language.

The second component of the septic system criteria is the requirement of a 100% reserve drainfield area. Once again, there was interest in providing alternative ways to satisfy this requirement. The option proposed has been used for numerous years in Fairfax County, and the advisory committee agreed that it would be appropriate to include it as an alternative. Therefore, the Fairfax County language was included verbatim in order to provide consistency. Again, the option that is proposed merely offers some flexibility for localities and their citizens, should the localities choose to extend it. They are not required to offer it, in which case this criterion will be implemented in its current form. Therefore, we fail to see why there should be any negative economic impact and disagree with DPB's assumptions.

k. Stormwater management: Regarding the proposed changes to the stormwater management criteria, DPB recognizes that the CBLAB is conforming its language to that of the new DCR Stormwater Management Regulations, the result of an effort to reconcile varying stormwater management requirements among DCR, CBLAB and DEQ.

l. Water quality assessments on agricultural land: Regarding the proposed changes to the agricultural criteria, DPB begins by questioning the department's position that conducting soil tests and developing nutrient management plans based on the results generally produces an economic benefit by boosting farm profits (through reducing the quantities of nutrients applied). However, during our regulatory advisory committee process, even farm industry representatives (Virginia Farm Bureau, Virginia Agribusiness Council) agreed that there is an economic benefit for the farmer, while achieving the water quality benefit. DPB assumes that if using soil tests is truly profitable for the farmers, they would embrace them on their own initiative and not need a regulation to require them. DPB's statement assumes all people have all knowledge of what is best and they will always do what's best for themselves. However, in counterpoint, there are many things required by law and regulation in our society for our own good (and often economic well-being) which some do not necessarily embrace on their own initiative - for example, speed limits, seat belt laws, etc. - but comply reluctantly because it is the law.

DPB does go on to state that "[e]ven if the tests do not pay for themselves in terms of greater profits, they are probably essential for the development of appropriate and effective nutrient management plans. A number of studies do indicate that nutrient management is currently a cost effective method of reducing nutrient flows into the Chesapeake Bay . . . This implies that the soil tests produce a net economic benefit."

DPB states that "[t]he rules do not require that farmers implement the provisions of any management plan." However, in 9 VAC 10-20-130 5 b, varying levels of implementation are required if there is to be a modification of the buffer. Otherwise, the board and department stand by their view, based on much anecdotal evidence from federal, state and local government staff working with farmers, that there is much voluntary BMP implementation in the agricultural sector and it is becoming easier to demonstrate the economic as well as environmental benefits of practicing good conservation. DPB suggests that further studies to confirm this phenomenon would be useful.

m. Silvicultural activities: Again, DPB's comments regarding the silvicultural criteria demonstrate misunderstanding of the program. Furthermore, the only change proposed is the elimination of outdated language regarding a 1991 benchmark for the Department of Forestry to demonstrate the adequacy of its non-regulatory water quality protection program. Therefore, there is no substantive change in this criterion and, therefore, no need for DPB to comment at all.

However, DPB does make some statements that need to be corrected. First, DPB states that "[t]he regulation of forestry activities is not under CBLAD's jurisdiction because the board has deferred to DOF in regulating silvicultural activities." This is only due to the board's choice. The CBLAB has the necessary authority to regulate silvicultural activities in its basic law. The board chose to allow an exemption for silvicultural activities (most notably logging) if forestry BMPs were used effectively, in deference to the Department of Forestry's claims over the effectiveness of its non-regulatory water quality protection program. This position could be reversed if evidence accrues that the DOF program is not effective enough. There is some concern about that at this time, since there is information indicating decreasing inconsistent or even decreasing voluntary implementation of forestry BMPs.

DPB goes on to state that "[i]n the longer run, it may be worth exploring whether the control of water quality impacts from forestry activities in the Chesapeake Bay watershed might logically be placed under the control of localities as part of their comprehensive control of the water quality effects of land use practices." In fact, under the current regulatory language local governments could require demonstration of proof that a logging site is in compliance with the DOF BMP guidelines in order to establish the exemption status.

Local governments have been resistant to taking on more responsibility for directly regulating activities such as agriculture and forestry, because they have no tradition and experience with these fields and, in most cases, lack adequate staff and resources to administer such programs effectively. However, logging in particular is regulated by localities in other states, such as Maryland, so there is precedent for this. Furthermore, the tributary strategy planning processes have divulged recognition that total suspended solids (e.g., sediment) is a much more significant pollutant than had previously been believed. Logging activities, especially if they do not effectively employ BMPs, are often significant contributors of sediment until the sites become stabilized with new vegetation. Even though the Regulatory Advisory Committee recommended that this criterion be left unchanged substantively, the CBLAB expects it to receive substantial public comment revolving around the issues noted above.

6. Use and Development Criteria for RPAs (9 VAC 10-20-130).

a. The first significant DPB comments regarding this section pertain to the buffer area requirements in subdivision 3 of this section. DPB questions the addition of language in subdivision 3 of 9 VAC 10-20-130 which is redundant with language in 9 VAC 10-20-80 B 5. However, this redundancy is intended as a reinforcement of the clarification of buffer requirements, since some local governments are not applying the buffer criteria as the board intends.

After repeating an earlier comment, DPB goes on to state that the last sentence of this subdivision ". . . deems something to be true that is not true in general, and the data do not exist to determine whether it is even approximately true on average." DPB contends that the language is counterfactual and should be removed from the regulation. We disagree. The comment refers to pollution removal rates arbitrarily assigned to vegetated buffers in the original regulations. These removal rates were included to provide the basis for calculating equivalent removals for BMPs employed due to the allowance of buffer encroachments in the cases of pre-1989 lots where there is not sufficient area to build outside the buffer. These rates were based on the best available research at the time. The rates were considered an average for all buffers, and they assumed the large proportion of buffers would be wooded, even though the regulations do not require wooded buffers in all cases.

A significant amount of research on buffer pollution removal has been conducted since then, and the data generally demonstrate even higher pollution removal rates in the coastal plain and lower piedmont geophysical provinces, where this program is being implemented. It is not unusual to see the older removal rates applied to grass buffers, and removal rates of 40% for nitrogen, 60% for phosphorus, and 90-98% for sediment applied to wooded buffers at least 100 feet wide. While we agree that effectiveness

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varies some based on the buffer width, type of vegetation and level of maintenance provided, on average these numbers are reasonable assumptions for the purposes described.

b. Regarding that same subdivision, DPB addresses language that is proposed to be deleted at the end of the subsection. This language has been the source of considerable confusion regarding allowable buffer modifications or encroachment and has been the subject of numerous letters and interpretive documents. This was explained in the explanation document accompanying the proposed amendments and provided to DPB. DPB states that deletion of this language ". . . will almost certainly increase the cost of compliance with the regulations" This is an unsupported statement. DPB does not attempt to explain why compliance costs should rise, or what specific costs are being described. Once again, the change being discussed is, from the board's point of view, not substantive but, rather, clarifying. An attempt is being made to clarify the confusion surrounding this language because some local governments have not complied properly in the first place. However, the requirement is staying the same, as demonstrated through numerous CBLAD guidance documents and interpretations issued since localities began to implement the regulations in the early 1990's. Therefore, we fail to see why there should be any negative economic impact. The fact that some have saved money in the past by wrongly interpreting or misapplying this rule should not be construed to mean this change will drive costs up. The expectation has not changed.

In fact, the rules do allow encroachment into the vegetated buffer by right only for grandfathered lots (those platted prior to the adoption of this program locally, where the lots were platted too small originally to accommodate all of the new requirements. The buffer modifications allowed in agricultural settings generally maintain some type of vegetative cover (pasture, crops, often using reduced tillage practices that leave significant vegetative cover on the ground surface). Also, these agricultural modifications are not permanent. Furthermore, allowing the option for agricultural encroachments was viewed as necessary because the farmer may produce income from that land on an annual basis. Finally, farmers have a built-in incentive to practice good conservation and land stewardship: their economic productivity is tied to the quality of their topsoil and efficient use of nutrients and other resources. However, the encroachments allowed in non-agricultural settings were intended to be the minimum necessary to allow building to occur, they result in permanent changes with the vegetation replaced largely by impervious surfaces, and natural incentives for conservation and land stewardship are not as prominent in such areas.

Next DPB devotes nearly six pages to ". . . examining the properties of these two tools [buffers and alternative BMPs] for protecting water quality in the

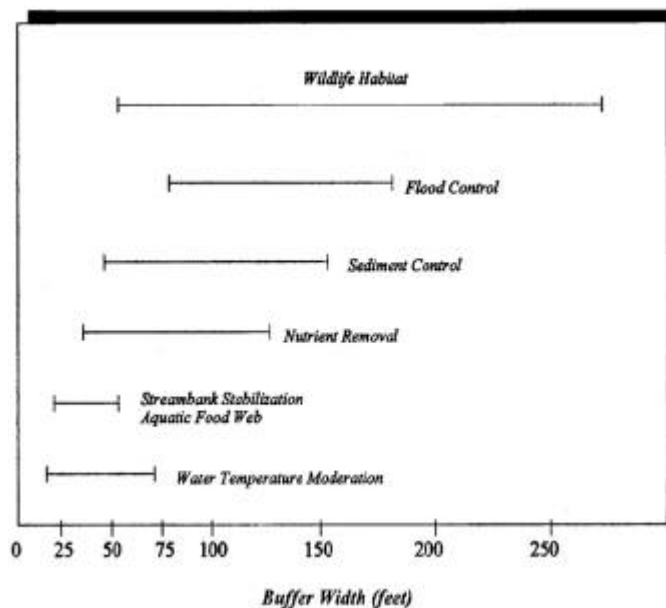
Bay." It is important to note that such an examination was done when the regulations were first developed and adopted. At that time, the CBLAB, upon consideration of all the factors, chose to include the buffer requirements, with modifications and encroachment allowed under specified conditions.

The following are some of the points DPB raises that are reflective of discussions that have taken place in the past, leading to existing regulatory language or the proposed changes:

(1) Most of the stream and water quality protective functions of buffers listed in the DPB's next-to-last paragraph on page 25 of their draft comments are not accomplished by alternative, structural BMPs.

(2) On page 27, DPB questions whether we can really know "how different vegetated buffer arrangements will perform in different regions of the Bay watershed." As CBLAD has noted previously, considerable research provides a high level of confidence about how the typical buffer types perform in the two physiographic regions in which the program is being implemented.

(3) DPB asserts that there does not appear to be any evidence regarding optimal widths of buffers to provide some of the additional environmental benefits. We disagree. The table below, from the Chesapeake Bay Program *Riparian Forest Buffer Panel Report: Technical Support Document* (based on numerous research citations), illustrates the optimal widths for various functions, including several categories of water quality protection. It can be clearly seen that the 100-foot wide buffer captures all of these functions, including flood control, which is just beginning to be addressed at a width of 75-feet generally.



Range of Minimum Widths for Reaching Specific Buffer Objectives

(4) DPB seems to assume that by vegetated buffers the CBLAB means, in all cases, wooded buffers. This is an incorrect assumption.

(5) DPB characterizes both BMPs and buffers as "constructed" practices, when the intent of the CBLAB buffer requirements is to conserve and protect existing buffers and only "construct" (restore) buffers where they do not exist or are inadequate to protect water quality.

(6) DPB contends that increased local enforcement of BMP maintenance requirements could justify added flexibility in substituting structural BMPs for buffers. This has been attempted in other states, such as Maryland, with no significant improvements in BMP long-term effectiveness.

(7) DPB suggests that industry associations (building industry, etc.) could standardize processes of assuring BMP effectiveness, leading to added flexibility to substitute structural BMPs for buffers. However, local maintenance agreements are executed with individual landowners, homeowner associations, and businesses, not with industry associations.

(8) DPB suggests that the agency might provide, as an alternative, the option of using BMPs if assurance can be provided that they will continually perform better than the buffer being replaced. And finally,

(9) DPB asserts that the kind of incentive recommended in item 7 above would require no additional local revenues to monitor and enforce. We fail to understand why. Without an objective oversight process (reports, inspections and/or monitoring), neither the state nor localities can have any confidence that the effectiveness data being reported by the private sector (that is, policing themselves) is accurate. The recent case of Smithfield Foods falsifying effluent treatment records is a case in point. This kind of accountability would likely be demanded by environmental groups and the public at large. Such state or local oversight programs would require additional resources.

Next, DPB devotes three more pages to evaluating the economic impacts of vegetated buffers. While DPB attempts to translate discussions based on economic theories into layman's language, they are not completely successful. In addition, this discussion includes admitted speculation. More important, however, is that this economic evaluation is focused on aspects of the regulation that are not being changed substantively. Including this discussion merely causes confusion.

DPB takes issue with the argument that developers will benefit from the buffer requirement because their own land will improve in value from having a vegetated buffer, stating that "[t]his argument is almost certainly incorrect. Since developers already have the opportunity to put such buffers in place and a clear profit motive to do so, when it does increase profits,

then we must conclude that either it is not really profitable to them or that developers do not read the newspaper, watch TV, read their trade publications, or talk to each other because they are clearly passing up an opportunity to make themselves richer." And yet, there is anecdotal evidence that, indeed, in some areas raw waterfront lots are selling for more because they have wooded buffers on them. We would propose a simpler explanation for the reluctance of the development industry to embrace riparian buffers: (i) people (in this case, developers) are reluctant to change practices that they have found to work in the past, especially when large sums of money are at risk; and (ii) those who have taken the risk and found that buffers and other sustainable development practices, such as clustering, not only add value (i.e., profit) but, once seen by buyers, are considered extremely desirable or even preferable to traditional developments, have not yet gotten the word out effectively because, in historic time frames, this is still a relatively new phenomenon.

The final conclusion of this brief DPB analysis is the opinion that the buffer requirement ". . . will tend to increase development along the riparian zone . . . could also contribute to a tendency for development to 'sprawl' along the lines of the riparian zones."

We would note that the same development pattern was evident before the adoption of the Chesapeake Bay Preservation Act or implementation of this regulation. Increasing pressure was being placed on development within the riparian zone even then, because more people want to live on the water and there is a diminishing supply of land along the water. However, as a result of this program, new development has occurred with less impact on the environment through implementation of good site planning and management requirements. We would also point out that "sprawl" type development is not a necessary result, since there are other development patterns (clustering, etc.), which CBLAD supports and promotes, that can be used to subdivide riparian land in ways that provide more effective water quality protection. However, this is not a "growth management" program, and should not be expected to require significant changes in patterns of development. All this has been debated in previous regulatory processes.

c. Next DPB comments on subsections 4 and 5 of 9 VAC 10-20-130, regarding encroachments into and modifications of buffers. Again, most of the proposed changes are clarifications or relocations of text and are not substantive. The only changes pertain to agricultural buffer modifications resulting from a change of process requirements. The net result should be an improvement in efficiency both for farmers complying with the regulation and SWCD staff assisting them. In that respect, we fail to see why there should be any negative economic impact.

DPB appears to be confused regarding comments pertaining to agricultural conservation plans. They

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make a distinction between the requirement of a nutrient management plan where nutrients are the predominant problem and the apparent lack of a similar "plan" requirement where erosion is the predominant problem. The reference to a full nutrient management plan is due to the need for coordination and consistency with plans developed under a separate state conservation program, administered by DCR, also aimed at developing nutrient management plans for farm land. However, when erosion is the problem, similar plans are still developed, including BMPs for controlling erosion.

DPB takes this opportunity to further build the case that the differences in the regulation between how buffer modifications are treated in agricultural settings versus encroachments are treated in urban/suburban settings is unfair and results in an economic disadvantage to urban/suburban landowners. Once again, we would make the point that this issue has been debated and resolved in previous regulatory processes and is not at issue in this set of proposed amendments. Again, one of the primary reasons for the difference is that buffer modifications on agricultural lands do not result in permanent, impervious cover to the land and must include adequate vegetative cover. Again, these different standards for differing situations were the result of a compromise among stakeholder advisors, recognizing the valid differences between the two settings.

d. Next DPB comments on 9 VAC 10-20-130 7 regarding buffer area criteria for locally designated Intensely Developed Areas. DPB notes that the minor changes of language in this subsection are not substantive, but they still comment. In this case, they note that this criteria ". . . would appear to be an appropriate response to the higher costs involved." We agree, although we do not feel any comments from DPB are warranted.

7. Non-conformities, exemptions, and exceptions (9 VAC 10-20-150). DPB comments that in subsection C the additional criteria for granting exceptions raises the standard and will result in additional compliance costs. DPB also points out that the "additional proposed criteria" has always been required through CBLAD issued guidance to local governments. Therefore, we do not consider this a substantive change in practice and, therefore, fail to see how there would be a negative economic impact.

8. Comprehensive Plan Criteria (9 VAC 10-20-170 - 9 VAC 10-20-171). DPB notes that the proposed changes in these sections should not alter costs greatly and should improve water quality benefits to the Bay.

9. Zoning and Subdivision Ordinances (9 VAC 10-20-181 - 9 VAC 10-20-201). Once again DPB criticizes the use of "technology standards," recommending instead that localities be given the option of providing for "equivalent or greater" protections. DPB states that "[t]hese technology standards should be considered suspect because they may [emphasis added]

unnecessarily increase the cost of achieving the goals of the regulation . . ." We consider this statement to be very speculative and unsupported. In fact, the CBLAB has allowed local governments to offer equivalent ways of achieving some regulatory requirements and has approved negotiated solutions. The board intends that this flexibility will continue to be offered. DPB suggests that where this is done, ". . . localities and landowners could make proposals that include arrangements that resolve any enforcement and monitoring concerns that CBLAD might have." We consider this to be true only if there is a role for CBLAD in establishing the parameters.

B. DPB concludes its comments with an summary of the "Overall economic impact of the proposed regulation." DPB begins this summary by making it clear that ". . . a numerical measure of the costs and benefits of this regulation would be quite speculative." This is due to admitted uncertainties about program effectiveness and behavioral responses.

DPB goes on to say that ". . . the proposed rule is not likely to lead to a significant reduction (from current levels) in pollutants entering the Bay although some reductions may occur over time. The largest part of the gain from these regulations will be in reducing the growth in the contribution of land use practices to the pollution load in the Bay. CBLAD claims that this program places a cap on the amount of pollutants that will enter the Bay from the regulated area. It is hard to see how this could be true." In fact, this is a "cap" program, intended to generally prevent increases in pollution, despite significant population growth projected for the program area. Any reductions in pollution from existing population will be a bonus. We would merely call attention to the basic goals of the program: no net increase of pollution from new development, a 10% decrease of pollution from redevelopment, and a 40% decrease of pollution from agriculture and forestry. Given the relative amounts of agricultural land to urban/suburban land and the immense acknowledged cost-benefit of agricultural BMPs applied to large tracts of land, there is a great possibility that over the long haul, this program may indeed produce a net reduction in pollutant loadings. However, the implementation will take a significant amount of time due to limited resources in support of the program. The CBLAB acknowledges that only limited monitoring of program effectiveness has been conducted up to now, again due to limited resources. However, we still expect the program to result in significant benefits to the Bay.

DPB states that "[a]n increased number of septic connections, more residential development, and increases in agriculture and forestry activities will give rise to the potential for more pollutants entering the Bay." In fact, agricultural activity in the region is gradually diminishing as farmland is developed. The residential development and septic system connections will increase anyway. At least with these regulations in place, there is an opportunity to prevent an increasing degradation of water quality. DPB seems to acknowledge this point, stating ". . . if water quality in the Bay is better with the regulation than without it, then economic benefits will flow from the land use controls."

DPB notes, in a footnote, that the CBLAB financial assistance grant program shifts the cost of implementation

away from the implementing localities to the general taxpayer. One could argue, however, that the tax dollars are being distributed programmatically so that taxpayer contributions for this program come from citizens in the remainder of the Bay drainage basin in Virginia, and that this is their "contribution" to the Bay restoration efforts in response to commitments made by the Governors and the General Assembly.

DPB states that "[c]osts of compliance with this rule are likely to be considerable. These costs include: increased farm management costs, increased administration costs to localities, increased scarcity of land near the Bay, possible increased costs due to a greater tendency for development to "sprawl" along the riparian zone" In response, we would first reiterate that there may be economic gain to farmers from implementing, in particular, nutrient management practices. On the other hand, this is an example of transferring the cost back to those responsible for creating (or preventing) the pollution. Second, waterfront land scarcity is a trend that had begun before this program and would be continuing even without the program in place. Third, we would reiterate that sprawl development is not an outcome of these regulations. In fact, one of the purposes of comprehensive planning is to establish a vision of a way to grow without degrading local natural resources, pointing toward more environmentally protective and economically beneficial development patterns.

DPB goes on to comment that limited knowledge about the physical effect of the Act and Regulations on water quality creates uncertainty regarding their net economic impact. As examples, DPB points to uncertainties regarding the performance of vegetated buffers and the impact of septic system drainfields on water quality. However, as we have pointed out previously, there is significant new research data regarding buffer effectiveness showing them to be even better for water quality protection than previously believed. Furthermore, if one talks to experts in the field of septic systems, it becomes obvious that some of the kinds of water quality problems this regulation attempts to address typically result from septic systems.

C. DPB makes some very general statements regarding "Businesses and entities affected" by this regulation. Once again, it appears that the remarks are aimed at the regulation in general rather than the specific changes proposed for this amendment process. The comments, which involve discussion of transfers of costs and values among categories of landowners and users as well as among generations, appear to be based on economic theory and are not explained clearly in layman's language.

D. The CBLAB generally agrees with the DPB description of "Localities particularly affected." However, as has been previously noted, we do not necessarily agree with the characterization of "net loss" to regions outside the program area through use of their tax dollars in support of the program. Again, the meaning and significance of comments regarding inter-generational transfer of value is not clear.

E. The CBLAB agrees with DPB that the impacts on employment are unclear and cannot be estimated given the many uncertainties and the nature of the program.

F. Finally, in its 'Summary,' DPB draws several conclusions. First, DPB states that "Due to the relatively limited funding available for monitoring and enforcement, it is difficult to make any definitive inferences about how effective the provisions of the regulation have been to date." While it is true that, in the big picture, a relatively small amount of resources are aimed at monitoring and enforcement, as a percentage the amounts are significant. This fiscal year, CBLAD estimates that it will spend nearly 12% of its annual budget on monitoring, oversight and enforcement, after approximately 43% of its budget is committed to providing financial assistance for its local government and SWCD partners. There is not much left over. While the agency did obtain an additional \$60,000 per year for monitoring from the 1998 General Assembly, those dollars merely replace vanishing federal grants. CBLAD has not been able to procure any more funds for monitoring, oversight and enforcement. The funds we have are targeted carefully and efficiently. Obviously, more funding for these purposes would produce greater dividends programmatically.

Next, DPB states that "[o]ne way of granting increased flexibility in a situation where public monitoring and enforcement efforts are limited is to give localities and applicants the opportunity to provide for the monitoring and enforcement efforts themselves. . . . This may be done in such a way that the alternative compliance plan will provide the authorities with sufficient assurance that water quality will be as good as or better than what could be achieved by the methods specified in the regulation. . . . Localities and applicants will only seek the flexibility if it will lower costs, so any use of alternative methods will be sure to lower compliance costs." We question whether DPB understands clearly how much it costs to adequately monitor water quality on a continual basis to provide such assurances. Not only would the applicant have an on-going significant cost, but the local government would have additional costs involved in auditing compliance. While we agree this concept has merit in theory, we believe it would be doomed in practice because lower costs are not likely to occur.

It is also important to note that the water quality requirements of this regulation are typically piggy-backed onto other, more costly requirements of other regulations, such as the water quantity requirements of the Virginia Erosion and Sediment Control Regulations. Where water quantity controls are required, such as retention and detention ponds, water quality control can often be achieved at minimal additional cost. Therefore, in many cases, especially for costly development on large tracts of land, the costs of complying with this regulation are incremental and minimal.

DPB concludes its summary by saying that "[e]stimating benefits and costs is extremely difficult in this instance because the changes in land-use patterns are so large that significant transfers of wealth are taking place, and it is very difficult to disentangle the wealth transfers from changes in net economic value." We would argue that, to the degree this is true, the stimulants for changing land use patterns and transfers of wealth extend beyond the scope of this single program and regulation. Therefore, it is not reasonable to attempt to assign any significant responsibility to this program and regulation alone. DPB states that ". . . CBLAD should

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make every effort to minimize compliance costs and to encourage private interests to find ways of lowering the costs of protecting the Bay." In fact, CBLAD routinely spends time and energy attempting to accomplish those very objectives.

In conclusion, as stated earlier, we reiterate concerns raised at the beginning of this response. First, it appears to the CBLAB that the DPB staff extended the scope of their analysis far beyond the criteria specified in the Administrative Process Act. Second, the CBLAB believes that the DPB staff have applied theoretical assumptions in the face of substantial uncertainties to arrive at some of its conclusions, while expecting CBLAD to demonstrate scientifically defensible connections with each regulatory requirement and specific improvements in water quality.

Third, a number of comments in the analysis are aimed at the overall program for which this regulation provides the foundation, rather than being limited to evaluating the specific changes the amendment proposes. In several cases, significant comments, or even criticisms, are aimed at provisions of the regulations that are not proposed to be changed, having been debated and resolved in previous regulatory processes.

Finally, DPB admits that due to much uncertainty about causes and effects, costs and benefits, it is difficult to draw any sound conclusions about the economic impact of this regulation and its benefits to the Bay. While we agree with this statement, we would take the position that the few substantive changes in the regulation indeed provide greater flexibility and the opportunity to lower compliance costs.

Summary:

The proposed amendments:

1. *Clarify language to minimize confusion and misinterpretation.*
2. *Eliminate any conflicts and unnecessary redundancies between the requirements in the regulations and those in other related state and federal laws and regulations, while still providing for maximum water quality protection. Specific issues under consideration where conflicts or redundancies are perceived to exist are as follows:*
 - a. *Stormwater management criteria;*
 - b. *Erosion and sediment control criteria;*
 - c. *Septic system criteria;*
 - d. *Agricultural criteria;*
 - e. *Silvicultural criteria; and*
3. *Improve vegetative buffer area criteria to provide greater clarity as well as consistency with the riparian forest buffer policy developed by the Executive Council of the Regional Chesapeake Bay Program.*
4. *Improve agricultural conservation criteria to correct the inability to meet the existing conservation plan approval deadline, reduce administrative overhead and result in more water quality protection practices on the land.*

5. *Add criteria regarding a board/department process to review local program implementation for consistency with the regulations (Parts 5, 6 and 7).*

6. *Accomplish numerous technical amendments necessitated by changes in terminology and numbering protocols.*

9 VAC 10-20-30. Purpose of chapter.

A. The purpose of this chapter is to protect and improve the water quality of the Chesapeake Bay, its tributaries, and other state waters by minimizing the effects of human activity upon these waters and implementing the Act, which provides for the definition and protection of certain lands called Chesapeake Bay Preservation Areas, which if improperly used or developed may result in substantial damage to the water quality of the Chesapeake Bay and its tributaries.

B. This chapter establishes the criteria that counties, cities and towns (hereinafter "local governments") shall use to determine the extent of the Chesapeake Bay Preservation Areas within their jurisdictions. This chapter establishes criteria for use by local governments in granting, denying or modifying requests to rezone, subdivide, or to use and develop land in Chesapeake Bay Preservation Areas. This chapter identifies the requirements for changes which local governments shall incorporate into their comprehensive plans, zoning ordinances and subdivision ordinances ~~and employ to protect~~ *ensure that the use and development of land in Chesapeake Bay Preservation Areas shall be accomplished in a manner that protects* the quality of state waters pursuant to §§ 10.1-2109 and 10.1-2111 of the Act.

9 VAC 10-20-40. Definitions.

The following words and terms used in this chapter have the following meanings, unless the context clearly indicates otherwise. In addition, some terms not defined herein are defined in § 10.1-2101 of the Act.

"Act" means the Chesapeake Bay Preservation Act found in Chapter 21 (§ 10.1-2100 et seq.) of Title 10.1 of the Code of Virginia.

"Best management practice" means a practice, or combination of practices, that is determined by a state or designated area-wide planning agency to be the most effective, practicable means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water quality goals.

"Board" means the Chesapeake Bay Local Assistance Board.

"Buffer area" means an area of natural or established vegetation managed to protect other components of a Resource Protection Area and state waters from significant degradation due to land disturbances.

"Chesapeake Bay Preservation Area" means any land designated by a local government pursuant to Part III (9 VAC 10-20-70 et seq.) of this chapter and § 10.1-2107 of the Act. A Chesapeake Bay Preservation Area shall consist of a Resource Protection Area and a Resource Management Area.

"Department" means the Chesapeake Bay Local Assistance Department.

"Development" means the construction or substantial alteration of residential, commercial, industrial, institutional, recreation, transportation or utility facilities or structures.

"Director" means the executive director of the Chesapeake Bay Local Assistance Department.

"Floodplain" means all lands that would be inundated by flood water as a result of a storm event of a 100-year return interval.

"Highly erodible soils" means soils (excluding vegetation) with an erodibility index (EI) from sheet and rill erosion equal to or greater than eight. The erodibility index for any soil is defined as the product of the formula $RKLS/T$, as defined by the "Food Security Act (F.S.A.) Manual" of August, 1988 in the "Field Office Technical Guide" of the U.S. Department of Agriculture Natural Resources Soil Conservation Service, where K is the soil susceptibility to water erosion in the surface layer; R is the rainfall and runoff; LS is the combined effects of slope length and steepness; and T is the soil loss tolerance.

"Highly permeable soils" means soils with a given potential to transmit water through the soil profile. Highly permeable soils are identified as any soil having a permeability equal to or greater than six inches of water movement per hour in any part of the soil profile to a depth of 72 inches (permeability groups "rapid" and "very rapid") as found in the "National Soils Soil Survey Handbook" of July, 1983 November 1996 in the "Field Office Technical Guide" of the U.S. Department of Agriculture Natural Resources Soil Conservation Service.

"Impervious cover" means a surface composed of any material that significantly impedes or prevents natural infiltration of water into the soil. Impervious surfaces include, but are not limited to, roofs, buildings, streets, parking areas, and any concrete, asphalt or compacted gravel surface.

"Infill" means utilization of vacant land in previously developed areas.

"Intensely Developed Areas" means those areas designated by the local government pursuant to 9 VAC 10-20-100 of this chapter.

"Local governments" means counties, cities and towns. This chapter applies to local governments in Tidewater Virginia, as defined in § 10.1-2101 of the Act, but the provisions of this chapter may be used by other local governments.

"Local program" means the measures by which a local government complies with the Act and this chapter.

"Local program adoption date" means the date a local government meets the requirements of subsections A and B of 9 VAC 10-20-60 of Part II.

"Nontidal wetlands" means those wetlands other than tidal wetlands that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil

conditions, as defined by the U.S. Environmental Protection Agency pursuant to § 404 of the federal Clean Water Act, in 33 CFR 328.3b.

"Plan of development" means any process for site plan review in local zoning and land development regulations designed to ensure compliance with § 10.1-2109 of the Act and this chapter, prior to issuance of a building permit.

"Public road" means a publicly owned road designed and constructed in accordance with water quality protection criteria at least as stringent as requirements applicable to the Virginia Department of Transportation, including regulations promulgated pursuant to (i) the Erosion and Sediment Control Law (§ 10.1-560 et seq. of the Code of Virginia) and (ii) the Virginia Stormwater Management Act (§ 10.1-603.1 et seq. of the Code of Virginia). This definition includes those roads where the Virginia Department of Transportation exercises direct supervision over the design or construction activities, or both, and cases where secondary roads are constructed or maintained, or both, by a local government in accordance with the standards of that local government.

"Redevelopment" means the process of developing land that is or has been previously developed so that there is no increase in the amount of impervious cover and no further encroachment within the Resource Protection Area.

"Resource Management Area" means that component of the Chesapeake Bay Preservation Area that is not classified as the Resource Protection Area.

"Resource Protection Area" means that component of the Chesapeake Bay Preservation Area comprised of lands at or near the shoreline that have an intrinsic water quality value due to the ecological and biological processes they perform or are sensitive to impacts which may result in significant degradation to the quality of state waters.

"Shoreline" means the line describing the interface between land that is continually or, in the case of tidal flows, routinely submerged under water and land that is not continually or routinely submerged.

"Substantial alteration" means expansion or modification of a building or development which that would result in a disturbance of land exceeding an area of 2,500 square feet in the Resource Management Area only.

"Tidal shore" or "shore" means land contiguous to a tidal body of water between the mean low water level and the mean high water level.

"Tidal wetlands" means vegetated and nonvegetated wetlands as defined in § 62.1-13.2 of the Code of Virginia.

"Tidewater Virginia" means those jurisdictions named in § 10.1-2101 of the Act.

"Tributary stream" means any perennial stream that is so depicted on the most recent U.S. Geological Survey 7-1/2 minute topographic quadrangle map (scale 1:24,000), or any stream segment that has a drainage area of at least 320 acres (one-half square mile), or both. Alternatively, local governments may conduct more thorough investigations to accurately determine the perennality of streams.

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"Use" means an activity on the land other than development including, but not limited to, agriculture, horticulture and silviculture.

"Water-dependent facility" means a development of land that cannot exist outside of the Resource Protection Area and must be located on the shoreline by reason of the intrinsic nature of its operation. These facilities include, but are not limited to (i) ports; (ii) the intake and outfall structures of power plants, water treatment plants, sewage treatment plants and storm sewers; (iii) marinas and other boat docking structures; (iv) beaches and other public water-oriented recreation areas; and (v) fisheries or other marine resources facilities.

PART II. LOCAL GOVERNMENT PROGRAMS.

9 VAC 10-20-50. Local program development.

Local governments shall develop measures (hereinafter called "local programs") necessary to comply with the Act and this chapter. Counties and towns are encouraged to cooperate in the development of their local programs. In conjunction with other state water quality programs, local programs shall encourage and promote: (i) protection of existing high quality state waters and restoration of all other state waters to a condition or quality that will permit all reasonable public uses and will support the propagation and growth of all aquatic life, including game fish, which might reasonably be expected to inhabit them; (ii) safeguarding the clean waters of the Commonwealth from pollution; (iii) prevention of any increase in pollution; (iv) reduction of existing pollution; ~~and~~ (v) promotion of water resource conservation in order to provide for the health, safety and welfare of the present and future citizens of the Commonwealth; *and (vi) assurance, to the extent feasible, that all streams and shorelines will be protected by a forested or other riparian buffer area.*

9 VAC 10-20-60. Elements of program.

Local programs shall contain the elements listed below. ~~Local governments shall adopt elements A and B concurrently and no later than 12 months after the adoption date of these regulations. Elements C through G shall also be in place within 12 months after the adoption date.~~

- ~~A.~~ 1. A map delineating Chesapeake Bay Preservation Areas.
- ~~B.~~ 2. Performance criteria applying in Chesapeake Bay Preservation Areas that employ the requirements in Part IV (9 VAC 10-20-110 et seq.) of this chapter.
- ~~C.~~ 3. A comprehensive plan or revision that incorporates the protection of Chesapeake Bay Preservation Areas and of the quality of state waters, *in accordance with criteria set forth in Part V (9 VAC 10-20-170 et seq.) of this chapter.*
- ~~D.~~ 4. A zoning ordinance or revision that (i) incorporates measures to protect the quality of state waters in Chesapeake Bay Preservation Areas, as set forth in 9 VAC 10-20-191, and (ii) requires compliance with all

criteria set forth in Part IV (9 VAC 10-20-110 et seq.) of this chapter.

~~E.~~ 5. A subdivision ordinance or revision that (i) incorporates measures to protect the quality of state waters in Chesapeake Bay Preservation Areas, as set forth in 9 VAC 10-20-201, and (ii) assures that all subdivisions in Chesapeake Bay Preservation Areas comply with the criteria set forth in Part IV (9 VAC 10-20-110 et seq.) of this chapter.

~~F.~~ 6. An erosion and sediment control ordinance or revision that requires compliance with the criteria in Part IV (9 VAC 10-20-110 et seq.) of this chapter.

~~G.~~ 7. A plan of development process prior to the issuance of a building permit to assure that use and development of land in Chesapeake Bay Preservation Areas is accomplished in a manner that protects the quality of state waters.

PART III. CHESAPEAKE BAY PRESERVATION AREA DESIGNATION CRITERIA.

9 VAC 10-20-70. Purpose.

The criteria in this part provide direction for local government designation of the ecological and geographic extent of Chesapeake Bay Preservation Areas. Chesapeake Bay Preservation Areas are divided into Resource Protection Areas and Resource Management Areas that are subject to the criteria in Part IV (9 VAC 10-20-110 et seq.) and the requirements in Part V (9 VAC 10-20-170 et seq.) of this chapter. In addition, the criteria in this part provide guidance for local government identification of areas suitable for redevelopment that are subject to the redevelopment criteria in Part IV (9 VAC 10-20-110 et seq.) of this chapter.

9 VAC 10-20-80. Resource Protection Areas.

A. Resource Protection Areas shall consist of sensitive lands at or near the shoreline that have an intrinsic water quality value due to the ecological and biological processes they perform or are sensitive to impacts which may cause significant degradation to the quality of state waters. In their natural condition, these lands provide for the removal, reduction or assimilation of sediments, nutrients and potentially harmful or toxic substances in runoff entering the bay and its tributaries, and minimize the adverse effects of human activities on state waters and aquatic resources.

B. The Resource Protection Area shall include:

1. Tidal wetlands;
2. Nontidal wetlands connected by surface flow and contiguous to tidal wetlands or tributary streams;
3. Tidal shores;
4. Such other lands ~~under~~ *considered by the local government to meet* the provisions of subsection A of ~~9 VAC 10-20-80~~ *this section and to be necessary to protect the quality of state waters; and*
5. A buffer area not less than 100 feet in width located adjacent to and landward of the components listed in

subdivisions 1 through 4 above, and along both sides of any tributary stream. The full buffer area shall be designated as the landward component of the Resource Protection Area notwithstanding the presence of permitted uses or equivalent measures, encroachments, and permitted vegetation clearing in compliance with Part IV (9 VAC 10-20-110 et seq.) of this chapter. ~~Designation of this area shall not be subject to reduction unless based on reliable site-specific information as provided in subsection B of 9 VAC 10-20-110, and subsections C and E of 9 VAC 10-20-220.~~

C. Designation of the components listed in subdivisions 1-4 of subsection B of this section shall not be subject to reduction unless based on reliable, site-specific information as provided for in 9 VAC 10-20-105 and subdivision 6 of 9 VAC 10-20-130.

9 VAC 10-20-90. Resource Management Areas.

A. Resource Management Areas shall include land types that, if improperly used or developed, have a potential for causing significant water quality degradation or for diminishing the functional value of the Resource Protection Area.

B. A Resource Management Area shall be provided contiguous to the entire inland boundary of the Resource Protection Area. The following land categories shall be considered for inclusion in the Resource Management Area and, where mapping resources indicate the presence of these land types contiguous to the Resource Protection Area, should be included in designations of Resource Management Areas:

1. Floodplains;
2. Highly erodible soils, including steep slopes;
3. Highly permeable soils;
4. Nontidal wetlands not included in the Resource Protection Area;
5. Such other lands ~~under~~ considered by the local government to meet the provisions of subsection A of ~~9 VAC 10-20-90~~ this section and to be necessary to protect the quality of state waters.

C. Resource Management Areas shall encompass a land area large enough to provide significant water quality protection through the employment of the criteria in Part IV (9 VAC 10-20-110 et seq.) and the requirements in Parts II (9 VAC 10-20-50 et seq.) and V (9 VAC 10-20-170 et seq.) of this chapter.

1. Local governments with few or no Resource Management Area land types evident from available mapping resources should evaluate the relationships of the following land categories to water quality protection in making their Resource Management Area designations. The board will consider the degree to which these land categories are included when evaluating the consistency of a locality's Resource Management Area designation for achievement of significant water quality protection:

- a. Known Resource Management Area land types;*

- b. Developable land within the jurisdiction;*
- c. Areas targeted for redevelopment; and*
- d. Areas served by piped or channelized stormwater drainage systems which provide no treatment of stormwater discharges.*

2. Localities with no mapping resources or with mapping resources for only portions of their jurisdiction should evaluate the relationships of the following land categories to water quality protection in making their Resource Management Area designations. The board will consider the degree to which these land categories are included when evaluating the consistency of a local government's Resource Management Area designation for achievement of significant water quality protection. Furthermore, such designations may be considered an interim designation until such time as appropriate mapping resources become available if such resources are considered by the board to be useful in determining the Resource Management Area boundaries, in which case the board will reevaluate the interim Resource Management Area designations at a later date:

- a. Known Resource Management Area land types;*
- b. Developable land within the jurisdiction;*
- c. Areas targeted for redevelopment; and*
- d. Areas served by piped or channelized stormwater drainage systems which provide no treatment of stormwater discharges.*

3. Local governments should consider extending the Resource Management Area boundary to the remainder of the lot, parcel, or development project upon which Resource Management Area-type features are present.

4. The board will expect local governments to demonstrate how significant water quality protection will be achieved within designated Resource Management Areas, as well as by each local program as a whole, and to explain the rationale for excluding eligible Resource Management Area components that are not designated.

5. It is not the intent of the board, nor is it the intent of the Act or this chapter, to require that local governments designate all lands within their jurisdiction as Chesapeake Bay Preservation Areas. The extent of the Resource Management Area designation should always be based on the prevalence and relation of Resource Management Area land types and other appropriate land areas to water quality protection.

9 VAC 10-20-100. Intensely Developed Areas.

A. At their option, local governments may designate Intensely Developed Areas as an overlay of Chesapeake Bay Preservation Areas within their jurisdictions. For the purposes of this chapter, Intensely Developed Areas shall serve as redevelopment areas in which development is concentrated as of the local program adoption date. Areas so designated shall comply with the performance criteria for redevelopment in Part IV (9 VAC 10-20-110 et seq.) of this chapter.

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B. Local governments exercising this option shall examine the pattern of residential, commercial, industrial and institutional development within Chesapeake Bay Preservation Areas. Areas of existing development and infill sites where little of the natural environment remains may be designated as Intensely Developed Areas provided at least one of the following conditions ~~exists~~ existed at the time the local program was adopted:

A. 1. Development has severely altered the natural state of the area such that it has more than 50% impervious surface;

B. 2. Public sewer and water ~~is~~ systems, or a constructed stormwater drainage system, or both, have been constructed and ~~currently serves~~ served the area by the effective local program adoption date. This condition does not include areas planned for public sewer and water or constructed stormwater drainage systems;

C. 3. Housing density is equal to or greater than four dwelling units per acre.

9 VAC 10-20-105. Site-specific refinement of Chesapeake Bay Preservation Area boundaries.

Local governments may exercise judgement in determining site-specific boundaries of Chesapeake Bay Preservation Area components and in making determinations of the application of this chapter, based on more reliable or specific information gathered from actual field evaluations of the parcel, in accordance with plan of development requirements in subdivision 1 e of 9 VAC 10-20-231.

PART IV.

LAND USE AND DEVELOPMENT PERFORMANCE CRITERIA.

9 VAC 10-20-110. Purpose.

A. The purpose of this part is to achieve the goals of the Act and 9 VAC 10-20-50 by establishing criteria to implement the following objectives: prevent a net increase in nonpoint source pollution from new development and development on *previously developed land where the runoff was treated by a water quality protection best management practice*, achieve a 10% reduction in nonpoint source pollution from ~~redevelopment~~ development on *previously developed land where the runoff was not treated by one or more water quality best management practices*, and achieve a 40% reduction in nonpoint source pollution from agricultural and silvicultural uses.

B. In order to achieve these goals and objectives, these criteria establish performance standards to minimize erosion and sedimentation potential, reduce land application of nutrients and toxics, maximize rainwater infiltration, and ensure the long-term performance of the measures employed.

A. C. These criteria become mandatory upon the local program adoption date. They are supplemental to the various planning and zoning concepts employed by local governments in granting, denying, or modifying requests to rezone, subdivide, or to use and develop land in Chesapeake Bay Preservation Areas.

~~B. Local governments may exercise judgment in determining site-specific boundaries of Chesapeake Bay Preservation Area components and in making determinations of the application of this chapter, based on more reliable or specific information gathered from actual field evaluations of the parcel, in accordance with plan of development requirements in Part V. D. Local governments shall incorporate the criteria in this part into their comprehensive plans, zoning ordinances, subdivision ordinances, and such other police and zoning powers as may be appropriate, in accordance with §§ 10.1-2108 and 10.1-2111 of the Act and Parts V (9 VAC 10-20-170 et seq.), VI (9 VAC 10-20-181 et seq.), and VII (9 VAC 10-20-211 et seq.) of this chapter. The criteria may be employed in conjunction with other planning and zoning concepts to protect the quality of state waters.~~

9 VAC 10-20-120. General performance criteria.

~~Local governments must be demonstrated to the satisfaction of local governments ensure that any use, development or redevelopment of land in Chesapeake Bay Preservation Areas meets the following performance criteria:~~

1. No more land shall be disturbed than is necessary to provide for the ~~desired~~ proposed use or development.

2. Indigenous vegetation shall be preserved to the maximum extent ~~possible~~ practicable, consistent with the use ~~and~~ or development ~~allowed~~ proposed.

3. Where the best management practices utilized require regular or periodic maintenance in order to continue their functions, such maintenance shall be ensured by the local government through a maintenance agreement with the owner or developer or some other mechanism that achieves an equivalent objective.

4. All development exceeding 2,500 square feet of land disturbance shall be accomplished through a plan of development review process consistent with ~~§ 15.1-494~~ ~~(h)~~ 15.2-2286 A 8 of the Code of Virginia *and subdivision 1 e of 9 VAC 10-20-231.*

5. Land development shall minimize impervious cover consistent with the *proposed* use or development ~~allowed~~.

6. Any land disturbing activity that exceeds an area of 2,500 square feet (including construction of ~~all single family houses~~, septic tanks and drainfields, but otherwise as defined in § 10.1-560 of the Code of Virginia) shall comply with the requirements of the local erosion and sediment control ordinance.

7. On-site sewage treatment systems not requiring a Virginia Pollutant Discharge Elimination System (VPDES) permit shall:

a. Have pump-out accomplished for all such systems at least once every five years; *However, if deemed appropriate by the local health department and subject to conditions the local health department may set, local governments may offer to the owners of such systems, as an alternative to the mandatory pump-out, the option of having a plastic filter installed in the outflow pipe from the septic tank to filter solid material from the*

effluent while sustaining adequate flow to the drainfield to permit normal use of the septic system. Such a filter should satisfy standards established in the Sewage Handling and Disposal Regulations (12 VAC 5-610-10 et seq. of the Virginia Administrative Code) administered by the Virginia Department of Health.

b. For new construction, provide a reserve sewage disposal site with a capacity at least equal to that of the primary sewage disposal site. This reserve sewage disposal site requirement shall not apply to any lot or parcel recorded prior to October 1, 1989, if the lot or parcel is not sufficient in capacity to accommodate a reserve sewage disposal site, as determined by the local health department. Building shall be prohibited on the area of all sewage disposal sites until the structure is served by public sewer or an on-site sewage treatment system which operates under a permit issued by the State Water Control Board. All sewage disposal site records shall be administered to provide adequate notice and enforcement. *As an alternative to the 100% reserve sewage disposal site, local governments may offer the owners of such systems the option of installing an alternating drainfield system meeting the following conditions:*

(1) *Each of the two alternating drainfields in the system shall have, at a minimum, an area not less than 50% of the area that would otherwise be required if a single primary drainfield were constructed.*

(2) *An area equaling 50% of the area that would otherwise be required for the primary drainfield site must be reserved for subsurface absorption systems that utilize a flow diversion device, in order to provide for future replacement or repair to meet the requirements for a sewage disposal system. Expansion of the primary system will require an expansion of this reserve area.*

(3) *The two alternating drainfields shall be connected by a diversion valve, approved by the local health department, located in the pipe between the septic (aerobic) tank and the distribution boxes. The diversion valve shall be used to alternate the direction of effluent flow to one drainfield or the other at a time. However, diversion valves shall not be used for the following types of treatment systems:*

- (a) Sand mounds;
 - (b) Low-pressure distribution systems;
 - (c) Repair situations when installation of a valve is not feasible; and
 - (d) Any other approved system for which the use of a valve would adversely affect the design of the system, as determined by the local health department.
- (4) *The diversion valve shall be a three-port, two-way valve of approved materials (i.e., resistant to sewage and leakproof and designed so that the*

effluent from the tank can be directed to flow into either one of the two distribution boxes).

(5) *There shall be a conduit from the top of the valve to the ground surface with an appropriate cover to be level with or above the ground surface.*

(6) *The valve shall not be located in driveways, recreational courts, parking lots, or beneath sheds or other structures.*

(7) *In lieu of the aforementioned diversion valve, any device that can be designed and constructed to conveniently direct the flow of effluent from the tank into either one of the two distribution boxes may be approved if plans are submitted to the local health department and found to be satisfactory.*

(8) *The local government shall require that the owner(s) alternate the drainfields every 12 months to permit the yearly resting of half of the absorption system.*

(9) *The local government shall notify the owner(s) annually of the requirement to switch the valve to the opposite drainfield.*

~~8. Stormwater management criteria which accomplish the goals and objectives of this chapter shall apply. For development, the post-development nonpoint source pollution runoff load shall not exceed the pre-development load based upon average land cover conditions. Redevelopment of any site not currently served by water quality best management practices shall achieve at least a 10% reduction of nonpoint source pollution in runoff compared to the existing runoff load from the site. Post-development runoff from any site to be redeveloped that is currently served by water quality best management practices shall not exceed the existing load of nonpoint source pollution in surface runoff consistent with the water quality protection provisions (4 VAC 3-20-71 et seq.) of the Virginia Stormwater Management Regulations (4 VAC 3-20-10 et seq.) shall be satisfied.~~

a. The following stormwater management options shall be considered to comply with this subsection of this chapter:

(1) ~~Incorporation on the site of best management practices that achieve meet the required control water quality protection requirements set forth in this subsection;~~

(2) ~~Compliance with a locally adopted regional stormwater management program incorporating pro-rata share payments pursuant to the authority provided in § 15.1-466(j) of the Code of Virginia that results in achievement of equivalent reviewed and found by the board to achieve water quality protection equivalent to that required by this subsection; and~~

(3) ~~Compliance with an individual permit issued by a state or locally implemented program of stormwater discharge permits pursuant to § 402(p) of the federal~~

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Clean Water Act, as set forth in 40 CFR Parts 122, 123, 124, and 504; ~~and, provided that the local government specifically determines that the permit requires measures that collectively achieve water quality protection equivalent to that required by this subsection.~~

~~(4) For a redevelopment site that is completely impervious as currently developed, restoring a minimum 20% of the site to vegetated open space.~~

b. Any maintenance, alteration, use or improvement to an existing structure ~~which~~ *that* does not degrade the quality of surface water discharge, as determined by the local government, may be exempted from the requirements of this subsection.

c. Stormwater management criteria for redevelopment shall apply to any redevelopment, whether or not it is located within an Intensely Developed Area designated by a local government.

9. Land upon which agricultural activities are being conducted, including but not limited to crop production, pasture, and dairy and feedlot operations, or lands otherwise defined as agricultural land by the local government, shall have a soil and water quality conservation plan. ~~Such a plan shall be based upon the "Field Office Technical Guide" of the U.S. Department of Agriculture Natural Resource Soil Conservation Service and accomplish assessment conducted regarding the effectiveness of existing practices pertaining to soil erosion and sediment control, nutrient management, and management of pesticides to ensure that water quality protection is being accomplished consistent with the Act and this chapter. Such a plan will be approved by the local Soil and Water Conservation District by January 1, 1995.~~

~~The board will request the Department of Conservation and Recreation to evaluate the existing state and federal agricultural conservation programs for effectiveness in providing water quality protection. In the event that, by July 1, 1991, the Department of Conservation and Recreation finds that the implementation of the existing agricultural conservation programs is inadequate to protect water quality consistent with the Act and this chapter, the board will consider the promulgation of regulations to provide more effective protection of water quality from agricultural activities and may require implementation of best management practices on agricultural lands within the Chesapeake Bay Preservation Areas.~~

a. *Recommendations for additional conservation practices need address only those conservation issues applicable to the tract or field being assessed. Any soil and water quality conservation practices that are recommended as a result of such an assessment and are subsequently implemented with financial assistance from federal or state cost-share programs must be designed, consistent with cost-share practice standards effective in January 1998 in the "Field Office Technical Guide" of the U.S. Department of Agriculture*

Natural Resource Conservation Service or the January 2001 edition of the "Virginia Agricultural BMP Manual" of the Virginia Department of Conservation and Recreation, respectively. Unless otherwise specified in this section, general standards pertaining to the various agricultural conservation practices being assessed shall be as follows:

(1) *For erosion and sediment control recommendations, the goal shall be, where feasible, to prevent erosion from exceeding the soil loss tolerance level, referred to as "T," as defined in the "National Soil Survey Handbook" of November 1996 in the "Field Office Technical Guide" of the U.S. Department of Agriculture Natural Resource Conservation Service. However, in no case shall erosion exceed the soil loss consistent with an Alternative Conservation System, referred to as an "ACS", as defined in the "Field Office Technical Guide" of the U.S. Department of Agriculture Natural Resource Conservation Service.*

(2) *For nutrient management, whenever nutrient management plans are developed, the operator or landowner must provide soil test information, consistent with the Virginia Nutrient Management Training and Certification Regulations (4 VAC 5-15-10 et seq.).*

(3) *For pest chemical control, referrals shall be made to the local cooperative extension agent or an Integrated Pest Management Specialist of the Virginia Cooperative Extension Service. Recommendations shall include copies of applicable information from the "Virginia Pest Management Guide" or other Extension materials related to pest control.*

b. *A higher priority shall be placed on conducting assessments of agricultural fields and tracts adjacent to Resource Protection Areas. However, if the landowner or operator of such a tract also has Resource Management Area fields or tracts in his operation, the assessment for that landowner or operator may be conducted for all fields or tracts in the operation. When such an expanded assessment is completed, priority must return to Resource Protection Area fields and tracts.*

c. *The findings and recommendations of such assessments and any resulting soil and water quality conservation plans will be submitted to the local Soil and Water Conservation District Board, which will be the plan-approving authority.*

10. Silvicultural activities in Chesapeake Bay Preservation Areas are exempt from this chapter provided that silvicultural operations adhere to water quality protection procedures prescribed by the Virginia Department of Forestry in ~~its~~ *the January 1997 edition of "Forestry Best Management Practices Handbook for Water Quality in Virginia."* The Virginia Department of Forestry will oversee and document installation of best management practices and will monitor ~~instream~~ *in-*

~~stream impacts of forestry operations in Chesapeake Bay Preservation Areas. In the event that, by July 1, 1994, the Department of Forestry programs are unable to demonstrate equivalent protection of water quality consistent with the Act and this chapter, the Department of Forestry will revise its programs to assure consistency of results and may require implementation of best management practices.~~

11. Local governments shall require evidence of all wetlands permits required by law prior to authorizing grading or other on-site activities to begin.

9 VAC 10-20-130. Performance Use and development criteria for Resource Protection Areas.

~~The following criteria shall apply specifically within Resource Protection Areas and supplement~~ *In addition to the general performance criteria set forth in 9 VAC 10-20-120, the criteria in this section are applicable in Resource Protection Areas.*

~~A. Allowable development. A water quality impact assessment shall be required for any proposed development in accordance with Part V. 1. Permitted uses. Land development may be allowed in the Resource Protection Area only if it (i) is water dependent or; (ii) constitutes the continuance or redevelopment of a use existing at the time of local program adoption; (iii) is a new use established pursuant to subdivision 4 a of this section; (iv) is a road or driveway crossing satisfying the conditions set forth in subdivision 1 d of this section; or (v) is a flood control or stormwater management facility satisfying the conditions set forth in subdivision 1 e of this section.~~

a. A water quality impact assessment shall be required for any proposed land disturbance in accordance with subdivision 6 of this section.

~~4. b.~~ *A new or expanded water-dependent facility may be allowed provided that the following criteria are met:*

~~a.~~ *(1) It does not conflict with is proposed to be located in an area designated for such facilities in the comprehensive plan;*

~~b.~~ *(2) It complies with the performance criteria set forth in this part 9 VAC 10-20-120;*

~~e.~~ *(3) Any nonwater-dependent component is located outside of Resource Protection Areas; and*

~~d.~~ *(4) Access to the water-dependent facility will be provided with the minimum disturbance necessary. Where possible practicable, a single point of access will be provided.*

~~2. c.~~ *Redevelopment shall conform to applicable stormwater management and erosion and sediment control criteria in this part and stormwater management criteria set forth in subdivisions 6 and 8, respectively, of 9 VAC 10-20-120, as well as all applicable stormwater management requirements of other state and federal agencies.*

~~3. d.~~ *Roads and driveways not exempt under subdivision 4 of subsection B 1 of 9 VAC 10-20-150 and which, therefore, must comply with the provisions of this chapter, may be constructed in or across Resource Protection Areas if each of the following conditions is met:*

~~a.~~ *(1) The local government makes a finding that there are no reasonable alternatives to aligning the road or driveway in or across the Resource Protection Area;*

~~b.~~ *(2) The alignment and design of the road or driveway are optimized, consistent with other applicable requirements, to minimize (i) encroachment in the Resource Protection Area and (ii) adverse effects on water quality;*

~~e.~~ *(3) The design and construction of the road or driveway satisfy all applicable criteria of this chapter, including submission of a water quality impact assessment; and*

~~d.~~ *(4) The local government reviews the plan for the road or driveway proposed in or across the Resource Protection Area in coordination with local government site plan, subdivision and plan of development approvals.*

e. Subdivision-scale and regional-scale flood control and stormwater management facilities may be constructed in Resource Protection Areas if all applicable permits for construction in state or federal waters have been obtained from the appropriate state and federal agencies, such as the U.S. Army Corps of Engineers, the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission.

2. Exemptions in Resource Protection Areas. The following land disturbances in Resource Protection Areas: (i) water wells; (ii) passive recreation facilities such as boardwalks, trails and pathways; and (iii) historic preservation and archaeological activities may be exempt from the criteria of Part IV (9 VAC 10-20-110 et seq.) of this chapter, provided that they comply with the following requirements:

a. Local governments shall establish administrative procedures to review such exemptions.

b. Any land disturbance exceeding an area of 2,500 square feet shall comply with the erosion and sediment control criteria in subdivision 6 of 9 VAC 10-20-120.

~~B. 3.~~ *Buffer area requirements. The 100-foot wide buffer area shall be the landward component of the Resource Protection Area as set forth in subdivision B 5 of 9 VAC 10-20-80. Notwithstanding permitted uses, encroachments, and vegetation clearing, as set forth in this section, the 100-foot wide buffer area is never reduced in width. To minimize the adverse effects of human activities on the other components of the Resource Protection Area, state waters, and aquatic life, a 100-foot wide buffer area of vegetation that is effective in retarding runoff, preventing erosion, and filtering*

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nonpoint source pollution from ~~run-off runoff~~ shall be retained if present and established where it does not exist. The 100-foot *wide* buffer area shall be deemed to achieve a 75% reduction of sediments and a 40% reduction of nutrients. ~~Except as noted in this subsection, a combination of a buffer area not less than 50 feet in width and appropriate best management practices located landward of the buffer area which collectively achieve water quality protection, pollutant removal, and water resource conservation at least the equivalent of the 100-foot buffer area may be employed in lieu of the 100-foot buffer. The following additional performance criteria shall apply:~~

~~1. In order to maintain the functional value of the buffer area, indigenous vegetation may be removed only to provide for reasonable sight lines, access paths, general woodlot management, and best management practices, as follows:~~

~~a. Trees may be pruned or removed as necessary to provide for sight lines and vistas, provided that where removed they shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff.~~

~~b. Any path shall be constructed and surfaced so as to effectively control erosion.~~

~~c. Dead, diseased or dying trees or shrubbery may be removed at the discretion of the landowner, and silvicultural thinning may be conducted based upon the recommendation of a professional forester or arborist.~~

~~d. For shoreline erosion control projects, trees and woody vegetation may be removed, necessary control techniques employed, and appropriate vegetation established to protect or stabilize the shoreline in accordance with the best available technical advice and applicable permit conditions or requirements.~~

~~2. 4. Permitted encroachments into the buffer area. When the application of the buffer area would result in the loss of a buildable area on a lot or parcel recorded prior to October 1, 1989, modifications to the width of encroachments into the buffer area may be allowed in accordance with the following criteria:~~

~~a. Modifications to Encroachments into the buffer area shall be the minimum necessary to achieve a reasonable buildable area for a principal structure and necessary utilities.~~

~~b. Where possible practicable, an a vegetated area that will maximize water quality protection, mitigate the effects of the buffer encroachment, and is equal to the area encroaching of encroachment into the buffer area shall be established elsewhere on the lot or parcel in a way to maximize water quality protection.~~

~~c. In no case shall the reduced portion of the buffer area be less than 50 feet in width. Regarding the provisions of this subdivision, the encroachment may not extend into the seaward 50 feet of the buffer area.~~

~~3. Redevelopment within Intensely Developed Areas may be exempt from the requirements of this subsection. However, while the immediate establishment of the buffer area may be impractical, local governments shall give consideration to implementing measures that would establish the buffer in these areas over time in order to maximize water quality protection, pollutant removal, and water resource conservation.~~

~~5. Permitted modifications of the buffer area.~~

~~a. In order to maintain the functional value of the buffer area, existing vegetation may be removed only to provide for reasonable sight lines, access paths, general woodlot management, and best management practices, including those that prevent upland erosion and concentrated flows of stormwater, as follows:~~

~~(1) Trees may be pruned or removed as necessary to provide for sight lines and vistas, provided that where removed, they shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff.~~

~~(2) Any path shall be constructed and surfaced so as to effectively control erosion.~~

~~(3) Dead, diseased, or dying trees or shrubbery and noxious weeds (such as Johnson grass, kudzu, and multiflora rose) may be removed at the discretion of the landowner, and silvicultural thinning may be conducted based upon the recommendation of a professional forester or arborist.~~

~~(4) For shoreline erosion control projects, trees and woody vegetation may be removed, necessary control techniques employed, and appropriate vegetation established to protect or stabilize the shoreline in accordance with the best available technical advice and applicable permit conditions or requirements.~~

~~4. b. On agricultural lands the agricultural buffer area shall be managed to prevent concentrated flows of surface water from breaching the buffer area and appropriate measures may be taken to prevent noxious weeds (such as Johnson grass, kudzu, and multiflora rose) from invading the buffer area. The Agricultural activities may encroach into the buffer area may be reduced as follows:~~

~~a. To a minimum width of 50 feet when the adjacent land is enrolled in a federal, state or locally funded agricultural best management practices program, and the program is being implemented, provided that the combination of the reduced buffer area and the best management practices achieves water quality protection, pollutant removal, and water resource conservation at least the equivalent of the 100-foot buffer area;~~

~~b. To a minimum width of 25 feet when a soil and water quality conservation plan, as approved by the local Soil and Water Conservation District, has been implemented on the adjacent land, provided that the~~

~~portion of the plan being implemented for the Chesapeake Bay Preservation Area achieves water quality protection at least the equivalent of that provided by the 100-foot buffer area in the opinion of the local Soil and Water Conservation District Board. Such plan shall be based upon the "Field Office Technical Guide" of the U.S. Department of Agriculture Natural Resource Soil Conservation Service and accomplish water quality protection consistent with the Act and this chapter;~~

~~c. The buffer area is not required for agricultural drainage ditches if the adjacent agricultural land has in place best management practices in accordance with a conservation plan approved by the local Soil and Water Conservation District.~~

(1) Agricultural activities may encroach into the landward 50 feet of the 100-foot wide buffer area when at least one agricultural best management practice which, in the opinion of the local soil and water conservation district board, addresses the more predominant water quality issue on the adjacent land -- erosion control or nutrient management -- is being implemented on the adjacent land, provided that the combination of the undisturbed buffer area and the best management practice achieves water quality protection, pollutant removal, and water resource conservation at least the equivalent of the 100-foot wide buffer area.

(a) If nutrient management is identified as the predominant water quality issue, a nutrient management plan, including soil tests, must be developed consistent with the November 1995 edition of the "Virginia Nutrient Management Standards and Criteria," administered by the Virginia Department of Conservation and Recreation.

(b) In addition, if specific problems are identified which, in the opinion of the local soil and water conservation district board, are causing pollution of the nearby tributary stream or violate performance standards pertaining to the vegetated buffer area, such problems must be corrected within a specified period of time, consistent with time frames and conditions in the implementation guidelines of the Virginia Agricultural Stewardship Act (§§ 10.1-559.1 through 10.1-559.11 of the Code of Virginia). Such problems requiring correction shall be reported to the local government for the purposes of follow-up and, if necessary, enforcement.

(2) Agricultural activities may encroach within the landward 75 feet of the 100-foot wide buffer area when agricultural best management practices which address erosion control, nutrient management, and pest chemical control, are being implemented on the adjacent land. The erosion control practices must prevent erosion from exceeding the soil loss tolerance level, referred to as "T," as defined in the "National Soil Survey Handbook" of November 1996

in the "Field Office Technical Guide" of the U.S. Department of Agriculture Natural Resource Conservation Service. A nutrient management plan, including soil tests, must be developed, consistent with the November 1995 edition of the "Virginia Nutrient Management Standards and Criteria," administered by the Virginia Department of Conservation and Recreation. In addition, if specific problems are identified which, in the opinion of the local soil and water conservation district board, are causing pollution of the nearby tributary stream or violate performance standards pertaining to the vegetated buffer area, such problems must be corrected within a specified period of time, consistent with time frames and conditions in the implementation guidelines of the Virginia Agricultural Stewardship Act (§§ 10.1-559.1 through 10.1-559.11 of the Code of Virginia). Such problems requiring correction shall be reported to the local government for the purposes of follow-up and, if necessary, enforcement. In conjunction with the remaining buffer area, this collection of best management practices shall be presumed to achieve water quality protection at least the equivalent of that provided by the 100-foot wide buffer area.

(3) The buffer area is not required to be designated adjacent to agricultural drainage ditches if at least one best management practice which, in the opinion of the local soil and water conservation district board, addresses the more predominant water quality issue on the adjacent land -- either erosion control or nutrient management -- is being implemented on the adjacent land.

6. Water quality impact assessment. *A water quality impact assessment shall be required for any proposed development within the Resource Protection Area consistent with Part IV (9 VAC 10-20-110 et seq.) of this chapter and for any other development in Chesapeake Bay Preservation Areas that may warrant such assessment because of the unique characteristics of the site or intensity of the proposed use or development.*

a. The purpose of the water quality impact assessment is to identify the impacts of proposed development on water quality and lands in the Resource Protection Areas consistent with the goals and objectives of the Act, this chapter, and local programs, and to determine specific measures for mitigation of those impacts. The specific content and procedures for the water quality impact assessment shall be established by each local government. Local governments should notify the board of all development requiring such an assessment. Upon request, the board will provide review and comment regarding any water quality impact assessment within 90 days, in accordance with the advisory state review requirements of § 10.1-2112 of the Act.

b. The water quality impact assessment shall be of sufficient specificity to demonstrate compliance with the criteria of the local program.

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7. *Buffer area requirements for Intensely Developed Areas. In Intensely Developed Areas and isolated redevelopment and in-fill sites which meet the criteria set forth in 9 VAC 10-20-100 for designating Intensely Developed Areas, establishment of vegetation in the 100-foot wide buffer area may not be required. However, while the immediate establishment of vegetation in the buffer area may be impractical, local governments shall give consideration to implementing measures that would establish vegetation in the buffer in these areas over time in order to maximize water quality protection, pollutant removal, and water resource conservation.*

9 VAC 10-20-140. ~~Local program development. (Repealed.)~~

~~Local governments shall incorporate the criteria in this part into their comprehensive plans, zoning ordinances, subdivision ordinances, and such other police and zoning powers as may be appropriate, in accordance with §§ 10.1-2111 and 10.1-2108 of the Act and Part V of this chapter. The criteria may be employed in conjunction with other planning and zoning concepts to protect the quality of state waters.~~

9 VAC 10-20-150. ~~Administrative waivers and Nonconformities, exemptions, and exceptions.~~

~~A. Nonconforming use uses and development waivers noncomplying structures.~~

~~1. Local governments may permit the continued use, but not necessarily the expansion, of any structure in existence on the date of local program adoption. Local governments may establish an administrative review procedure to waive or modify the criteria of this part for structures on legal nonconforming lots or parcels provided that:~~

- ~~a. There will be no net increase in nonpoint source pollutant load; and~~
- ~~b. Any development or land disturbance exceeding an area of 2,500 square feet complies with all erosion and sediment control requirements of this part.~~

~~2. It is not the intent of this chapter to prevent the reconstruction of pre-existing structures within Chesapeake Bay Preservation Areas from occurring as a result of casualty loss unless otherwise restricted by local government ordinances.~~

~~B. Public utilities, railroads, roads, and facilities exemptions.~~

~~1. Construction, installation, operation, and maintenance of electric, gas, fiber-optic, and telephone transmission lines, railroads, and public roads and their appurtenant structures in accordance with (i) regulations promulgated pursuant to the Erosion and Sediment Control Law (§ 10.1-560 et seq. of the Code of Virginia) and the Stormwater Management Act (§ 10.1-603.1 et seq. of the Code of Virginia), (ii) an erosion and sediment control plan and a stormwater management plan approved by the Virginia Department of Conservation and Recreation, or (iii) local water quality protection criteria at least as~~

stringent as the above state requirements will be deemed to constitute compliance with this chapter. The exemption of public roads is further conditioned on the following:

- a. Optimization of the road alignment and design, consistent with other applicable requirements, to prevent or otherwise minimize (i) encroachment in the Resource Protection Area and (ii) adverse effects on water quality; and
- b. Local governments may choose to exempt (i) all public roads as defined in 9 VAC 10-20-40, or (ii) only those public roads constructed by the Virginia Department of Transportation.

2. Construction, installation and maintenance of local water, sewer and local, gas, fiber-optic and cable television lines shall be exempt from the criteria in this part provided that:

- a. To the degree possible, the location of such utilities and facilities should be outside Resource Protection Areas;
- b. No more land shall be disturbed than is necessary to provide for the desired proposed utility installation;
- c. All such construction, installation and maintenance of such utilities and facilities shall be in compliance with all applicable state and federal permits and designed and conducted in a manner that protects water quality; and
- d. Any land disturbance exceeding an area of 2,500 square feet complies with all erosion and sediment control requirements of this part.

~~C. Exemptions in Resource Protection Areas. The following land disturbances in Resource Protection Areas may be exempt from the criteria of this part provided that they comply with subdivisions 1 and 2 below of this subsection: (i) water wells; (ii) passive recreation facilities such as boardwalks, trails and pathways; and (iii) historic preservation and archaeological activities.~~

- ~~1. Local governments shall establish administrative procedures to review such exemptions.~~
- ~~2. Any land disturbance exceeding an area of 2,500 square feet shall comply with the erosion and sediment control requirements of this part.~~

~~C. Exceptions to the requirements of Part IV (9 VAC 10-20-110 et seq.) of this chapter may be granted, provided that: (i) exceptions to the criteria shall be the minimum necessary to afford relief, (ii) reasonable and appropriate conditions upon any exception granted shall be imposed as necessary so that the purpose and intent of the Act is preserved, and (iii) the provisions of § 15.2-2309 of the Code of Virginia are met. Each local government shall design an appropriate process or processes for the administration of exceptions, in accordance with § 15.2-2309 of the Code of Virginia and subdivision 6 of 9 VAC 10-20-130.~~

9 VAC 10-20-160. Exceptions to the criteria. (Repealed.)

~~Exceptions to the requirements of this chapter may be granted, provided that: (i) exceptions to the criteria shall be the minimum necessary to afford relief, and (ii) reasonable and appropriate conditions upon any exception granted shall be imposed as necessary so that the purpose and intent of the Act are preserved. Local governments shall design an appropriate process or processes for the administration of exceptions, in accordance with Part V.~~

PART V.

IMPLEMENTATION, ASSISTANCE, AND DETERMINATION OF CONSISTENCY COMPREHENSIVE PLAN CRITERIA.

9 VAC 10-20-170. Purpose.

~~The purpose of this part is to assist local governments in the timely preparation of local programs to implement development of a comprehensive plan or plan component that is consistent with the Act, and to establish guidelines for determining local program the consistency of the local comprehensive plan or plan component with the Act.~~

9 VAC 10-20-180. Local assistance manual. (Repealed.)

~~A. The department will prepare a manual to provide guidance to assist local governments in the preparation of local programs in order to implement the Act and this chapter. The manual will be updated periodically to reflect the most current planning and zoning techniques and effective best management practices. The manual will be made available to the public.~~

~~B. The manual will recommend a schedule for the completion of local program elements and their submission to the board for its information, to ensure timely achievement of the requirements of the Act and timely receipt of assistance. The board will consider compliance with the schedule in allocating financial and technical assistance. Those elements of the manual necessary to assist local governments in meeting the requirements of subsections A and B of 9 VAC 10-20-60 will be completed by the effective date of this chapter.~~

~~C. The manual is for the purpose of guidance only and is not mandatory.~~

9 VAC 10-20-190. Board to establish liaison. (Repealed.)

~~The board will establish liaison with each local government to assist that local government in developing and implementing its local program, in obtaining technical and financial assistance, and in complying with the Act and this chapter.~~

9 VAC 10-20-200. Planning district comments. (Repealed.)

~~Local governments are encouraged to enlist the assistance and comments of regional planning district agencies early in the development of their local programs.~~

9 VAC 10-20-210. Designation of Chesapeake Bay Preservation Areas. (Repealed.)

~~A. The designation of Chesapeake Bay Preservation Areas as an element of the local program should:~~

~~1. Utilizing existing data and mapping resources, identify and describe tidal wetlands, nontidal wetlands, tidal shores, tributary streams, floodplains, highly erodible soils including steep slopes, highly permeable areas, and other sensitive environmental resources as necessary to comply with Part III;~~

~~2. Determine, based upon the identification and description, the extent of Chesapeake Bay Preservation Areas within the local jurisdiction;~~

~~3. Prepare an appropriate map or maps delineating Chesapeake Bay Preservation Areas;~~

~~4. Prepare amendments to local ordinances which incorporate the performance criteria of Part IV or the model ordinance prepared by the board.~~

~~B. Review by the board. The board will review a proposed program within 60 days. If it is consistent with the Act, the board will schedule a conference with the local government to determine what additional technical and financial assistance may be needed and available to accomplish the proposed program. If not consistent, the board will notify the local government and recommend specific changes.~~

~~C. Adoption of designation and performance criteria. After being advised of program consistency, local governments shall hold a public hearing, delineate Chesapeake Bay Preservation Areas on an appropriate map or maps, and adopt the performance criteria. Copies of the adopted program documents and subsequent changes thereto shall be provided to the board.~~

9 VAC 10-20-220. Preparation and submission of management program. (Repealed.)

~~Local governments must adopt the full management program, including any revisions to comprehensive plans, zoning ordinances, subdivision ordinances and other local authorities necessary to implement the Act, within 12 months of the adoption date of this chapter. Prior to adoption, local governments may submit any proposed revisions to the board for comments. Guidelines are provided below for local government use in preparing local programs and the board's use in determining local program consistency.~~

A. 9 VAC 10-20-171. Comprehensive plans.

~~Local governments shall review and revise their comprehensive plans, as necessary, for compliance with § 10.1-2109 of the Act. As a minimum, the comprehensive plan or plan component should shall consist of the following basic elements: (i) a summary of data collection and analysis; (ii) a analysis and policy discussion discussion(s); (iii) a land use plan map map(s); and (iv) implementing measures, including specific objectives and a time frame for accomplishment.~~

~~1. Local governments should shall establish and maintain, as appropriate, an information base from which to make policy choices are made about future land use and development that will protect the quality of state waters. This element of the plan should be based upon the following, as applicable to the locality.~~

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- a. ~~Information used to designate~~ *The location and extent of Chesapeake Bay Preservation Areas;*
- b. ~~Other marine resources~~ *Physical constraints to development, including soil limitations;*
- c. *Shoreline and streambank erosion problems and location of erosion control structures;*
- d. ~~Conflicts between~~ *Existing and proposed land uses and water quality protection;*
- e. *Catalog of existing pollution sources;*
- f. *Public and private waterfront access areas;*
- g. A map or map series accurately representing the above information.

2. As part of the comprehensive plan, local governments should clearly indicate local policy on land use issues relative to water quality protection *based on an analysis of the data referred to in subdivision 1 of this section.* Local governments should ensure consistency among the policies developed.

a. Local governments should discuss each component of Chesapeake Bay Preservation Areas in relation to the types of land uses considered appropriate and consistent with the goals and objectives of the Act, this chapter, and their local programs.

b. As a minimum, local governments ~~should~~ *shall* prepare policy statements for inclusion in the plan on the following issues, *as applicable to the locality:*

(1) *Physical constraints to development, including a discussion of the relationship between soil limitations and existing and proposed land use, with an explicit discussion of soil suitability for septic tank use;*

(2) *Protection of potable water supply, including groundwater resources and threats to the water supply or groundwater resources from existing pollution sources;*

~~(3) Relationship of land use to commercial and recreational fisheries;~~

~~(4) Appropriate density for docks and piers;~~

~~(5) (3) Public and private access to waterfront areas and effect on water quality;~~

~~(6) Existing pollution sources;~~

~~(4) Shoreline and streambank erosion problems; and~~

~~(7) (5) Potential water quality improvement and reduction of existing pollution sources through the redevelopment of Intensely Developed Areas and other areas targeted for redevelopment.~~

c. For each of the policy issues listed above, the plan should contain a discussion of the scope and importance of the issue, ~~alternative policies considered,~~ the policy adopted by the local government for that issue, and a description of how the local policy will be implemented.

d. Within the policy discussion, local governments should address ~~consistency~~ *the relationship* between the plan and ~~all adopted,~~ *existing and proposed* land use, public services, ~~land use value taxation ordinances and policies,~~ and capital improvement plans and budgets *to ensure a consistent local policy.*

PART VI.

ZONING AND SUBDIVISION ORDINANCES.

9 VAC 10-20-181. Purpose.

The purpose of this part is to assist local governments in the development of zoning and subdivision ordinances that are consistent with the Act, and to establish guidelines for determining the consistency of zoning and subdivision ordinances with the Act.

~~B.~~ 9 VAC 10-20-191. Zoning ordinances.

A. Local governments shall review and revise their zoning ordinances, as necessary, to comply with § 10.1-2109 of the Act. ~~The ordinances~~ *To achieve this, each local government shall demonstrate and establish, as necessary, a development suitability hierarchy of land uses and performance standards within the local zoning ordinance that (i) protects sensitive environmental features as listed in 9 VAC 10-20-80 and 9 VAC 10-20-90; (ii) ensures that the uses permitted by the local zoning ordinance are consistent with the comprehensive plan, the Act and this chapter; (iii) minimizes the amount of impervious cover and land disturbance; and (iv) preserves existing vegetation and open space to the maximum extent practicable. Each local zoning ordinance should:*

1. Make provisions for the protection of the quality of state waters; by:

a. *Incorporating appropriate design considerations that concentrate development in areas without physical constraints to development as identified in the comprehensive plan or that address the appropriate development density in areas with physical constraints to development; and*

b. *Encouraging compact, efficient development concentrated in the most appropriate portions of the locality as identified in the comprehensive plan, in order to minimize land disturbance and impervious cover and preserve existing vegetation, drainage patterns, and open space.*

2. Incorporate either explicitly or by direct reference the performance criteria in Part IV; (9 VAC 10-20-110 et seq.) of this chapter. *At a minimum, specific development standards that implement the following performance criteria from subdivisions 1, 2, and 5 of 9 VAC 10-20-120 (minimizing land disturbance and impervious cover and preserving existing vegetation, respectively) shall be included as part of the zoning ordinance.*

3. ~~Be consistent~~ *Ensure consistency with the water quality protection goals, objectives, policies, and implementation strategies identified in the local*

comprehensive plan within Chesapeake Bay Preservation Areas.

~~C. Plan of development review. Local governments shall make provisions as necessary to ensure that any development of land within Chesapeake Bay Preservation Areas must be accomplished through a plan of development procedure pursuant to § 15.1-491(h) of the Code of Virginia to ensure compliance with the Act and this chapter. Any exemptions from these review requirements shall be established and administered in a manner that ensures compliance with these this chapter.~~

B. Local governments should evaluate the relationship between the submission standards, performance standards, and permitted uses in local land management ordinances to identify any obstacles to achieving the water quality goals of the Act and this chapter. Local governments should revise these ordinances as necessary to eliminate any identified obstacles based in the procedural or development standards.

D. 9 VAC 10-20-201. Subdivision ordinances.

Local governments shall review and revise their subdivision ordinances, as necessary, to comply with § 10.1-2109 of the Act. The ordinances should shall:

1. Make provisions for the protection of the quality of state waters by:

a. Incorporating specific development standards in the subdivision ordinance regarding (i) lot sizes, coverage, and layout, and (ii) street widths, materials and layout, in order to minimize land disturbance and impervious cover and preserve existing vegetation; and

b. Local governments may also incorporate other appropriate standards including, but not limited to, cluster development, conservation easements, open space design, planned unit developments, and common septic systems and artificial wetlands for sewage treatment.

~~4.~~ 2. Include language to ensure the integrity of Chesapeake Bay Preservation Areas; by incorporating standards to ensure (i) the protection of water quality; (ii) the preservation of Resource Protection Area land categories, as set forth in 9 VAC 10-20-80, including the 100-foot wide buffer area; and (iii) the compatibility of development with Resource Management Area land categories, as set forth in 9 VAC 10-20-90.

~~2.~~ 3. Incorporate, either explicitly or by direct reference, the performance criteria of Part IV (9 VAC 10-20-110 et seq.) of this chapter by including standards to (i) limit land disturbance; (ii) limit the clearing of existing vegetation; (iii) limit impervious cover; (iv) delineate Resource Protection Area and Resource Management Area boundaries on plats, including a notation on plats of the requirement to retain an undisturbed and vegetated 100-foot wide buffer area, as specified in subdivision 3 of 9 VAC 10-20-130; (v) require a plat notation of the requirement for pump-out and 100% reserve drainfield sites for on-site sewage treatment systems, when applicable; and (vi) require a plat notation of the permissibility of only water dependent facilities or

redevelopment in Resource Protection Areas, including the 100-foot wide buffer area.

~~E. Water quality impact assessment. A water quality impact assessment shall be required for any proposed development within the Resource Protection Area consistent with Part IV and for any other development in Chesapeake Bay Preservation Areas that may warrant such assessment because of the unique characteristics of the site or intensity of the proposed use or development.~~

~~1. The purpose of the water quality impact assessment is to identify the impacts of proposed development on water quality and lands in Resource Protection Areas consistent with the goals and objectives of the Act, this chapter, and local programs, and to determine specific measures for mitigation of those impacts. The specific content and procedures for the water quality impact assessment shall be established by local governments. Local governments should notify the board of all development requiring such assessment. Upon request, the board will provide review and comment on any water quality impact assessment within 90 days, in accordance with advisory state review requirements of § 10.1-2112 of the Act.~~

~~2. The assessment shall be of sufficient specificity to demonstrate compliance with the criteria of the local program.~~

~~F. Review by the board. The board will review any proposed management program within 90 days. If it is consistent with the Act, the board will schedule a conference with the local government to determine what additional technical and financial assistance may be needed and available to accomplish the long-term aspects of the local program. If the program or any part thereof is not consistent, the board will notify the local government in writing stating the reasons for a determination of inconsistency and recommending specific changes. Copies of the adopted program documents and subsequent changes thereto shall be provided to the board.~~

To accomplish these standards, local governments shall require, at a minimum, the delineation of the buildable areas that are allowed on each lot. The delineation of buildable areas shall be based on the performance criteria specified in Part IV (9 VAC 10-20-110 et seq.) of this chapter, local front and side yard setback requirements, and any other relevant easements or limitations regarding lot coverages.

4. Local governments shall review and revise their subdivision ordinances to assure that their subdivision ordinances, comprehensive plans, zoning ordinances, and all other components of their local Chesapeake Bay Preservation Act programs are consistent with each other in promoting and achieving the protection of state waters. In addition, local governments shall identify and resolve any conflicts among the components of the local programs and with other local regulations and administrative policies to assure that the intent of the Act and this chapter are fulfilled.

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PART VII.
LOCAL ASSISTANCE AND LOCAL PROGRAM
CONSISTENCY REVIEW PROCESS.

9 VAC 10-20-211. Purpose.

The purpose of this part is to assist local governments in the timely preparation of local programs to implement the Act and to establish an administrative procedure for determining local program consistency with the Act.

9 VAC 10-20-215. Local assistance manual.

A. The department will prepare a manual to provide guidance to assist local governments in the preparation of local programs in order to implement the Act and this chapter. The manual will be updated periodically to reflect the most current planning and zoning techniques and effective best management practices. The manual will be made available to the public.

B. The manual will recommend a schedule for the completion of local program elements and their submission to the board for its information to ensure timely achievement of the requirements of the Act and timely receipt of assistance. The board will consider compliance with the schedule in allocating financial and technical assistance.

C. The manual is for the purpose of guidance only.

9 VAC 10-20-221. Board to establish liaison.

The board will establish liaison with each local government to assist the local government in developing and implementing its local program, in obtaining technical and financial assistance, and in complying with the Act and this chapter.

9 VAC 10-20-225. Planning district comments.

Local governments are encouraged to enlist the assistance and comments of regional planning district agencies early in the development of their local programs.

**9 VAC 10-20-230. ~~Certification of local program.~~
(Repealed.)**

~~Upon request, the board will certify that a local program complies with the Act and this chapter.~~

9 VAC 10-20-231. Preparation and submission of management program.

Local governments must adopt the full management program, which will consist of Phases I - III as defined in this section and including any revisions to comprehensive plans, zoning ordinances, subdivision ordinances, and other local authorities necessary to implement the Act. Prior to adoption, local governments may submit any proposed revisions to the board for comments. Criteria are provided below for local government use in preparing local programs and the board's use in determining local program consistency.

1. Phase I shall consist of the designation of Chesapeake Bay Preservation Areas and adoption of the performance criteria. This phase of designating Chesapeake Bay Preservation Areas as an element of the local program should include:

a. Utilizing existing data and mapping resources to identify and describe tidal wetlands, nontidal wetlands, tidal shores, tributary streams, flood plains, highly erodible soils including steep slopes, highly permeable areas, and other sensitive environmental resources as necessary to comply with Part III (9 VAC 10-20-70 et seq.) of this chapter;

b. Determining, based upon the identification and description, the extent of Chesapeake Bay Preservation Areas within the local jurisdiction;

c. Preparing an appropriate map or maps delineating Chesapeake Bay Preservation Areas;

d. Preparing amendments to local ordinances that incorporate the performance criteria of Part IV (9 VAC 10-20-110 et seq.) of this chapter or the model ordinance prepared by the board;

e. Establishing, if necessary, and incorporating a plan of development review process. Local governments shall make provisions as necessary to ensure that any development of land within Chesapeake Bay Preservation Areas shall be accomplished through a plan of development procedure pursuant to § 15.2-2286 A 8 of the Code of Virginia to ensure compliance with the Act and this chapter. Any exemptions from those review requirements shall be established and administered in a manner that ensures compliance with this chapter.

f. Conducting a public hearing. Prior to adopting Chesapeake Bay Preservation Areas and the performance criteria, each local government shall hold a public hearing to solicit public comment regarding these local program components.

g. Providing copies of the adopted program documents and subsequent changes thereto to the board for consistency review, as set forth in subdivision 5 of this section.

2. Phase II shall consist of local governments reviewing and revising their comprehensive plans, as necessary, for compliance with § 10.1-2109 of the Act, in accordance with the provisions set forth in Part V (9 VAC 10-20-170 et seq.) of this chapter.

3. Phase III shall consist of local governments reviewing and revising their zoning and subdivision ordinances, as necessary, to comply with § 10.1-2109 of the Act, in accordance with the provisions set forth in Part VI (9 VAC 10-20-181 et seq.) of this chapter.

4. Consistent with §§ 10.1-2108, 10.1-2109, and 10.1-2113 of the Act, and to the degree that a local program is adopted pursuant to or as a part of local zoning authority, local governments may use civil penalties consistent with § 15.2-2209 of the Code of Virginia to enforce compliance with the requirements of local programs.

5. Review by the board.

a. The board will review proposed elements of a program phase within 60 days according to review policies adopted by the board. If the proposed program phase is consistent with the Act, the board will schedule a conference with the local government to determine what additional technical and financial assistance may be needed and available to accomplish the proposed program phase. If the proposed program phase or any part thereof is not consistent, the board will notify the local government in writing, stating the reasons for a determination of inconsistency and specifying needed changes. Copies of the adopted program documents and subsequent changes thereto shall be provided to the board.

b. The board will review locally adopted elements of a program phase according to review policies adopted by the board and as set forth in 9 VAC 10-20-250.

PART ❷ VIII.

IMPLEMENTATION AND ENFORCEMENT.

9 VAC 10-20-250. Administrative proceedings.

Section 10.1-2103.8 of the Act provides that the board shall ensure that local government comprehensive plans, subdivision ordinances and zoning ordinances are in accordance with the provisions of the Act, and that it shall determine such compliance in accordance with the provisions of the Administrative Process Act. When the board determines to decide such compliance, it will give the subject local government at least 15 days notice of its right to appear before the board at a time and place specified for the presentation of factual data, argument and proof as provided by § 9-6.14:11 of the Code of Virginia. The board will provide a copy of its decision to the local government. If any deficiencies are found, the board will establish a schedule for the local government to come into compliance.

1. In order to carry out its mandated responsibilities under § 10.1-2103.10 of the Act, the board will:

a. Request that each Tidewater local government submit an annual implementation report outlining the implementation of the local program. The board will develop reporting criteria which outline the information to be included in the reports and the time frame for their submission. The board will use the information in these reports to assess local patterns of compliance with the Act and this chapter and to evaluate the need for an administrative proceeding to more closely review any individual local government's compliance. All proceedings of this nature will be developed and conducted in accordance with this section.

b. Develop a four-year compliance review process that will consist of a self-evaluation by each local government of local program implementation and enforcement as well as an evaluation by department staff. Based on these evaluations, the board will make a consistency finding regarding the implementation of each local program.

(1) The self-evaluation shall be conducted by each local government according to procedures developed by the board.

(2) At a minimum, the department staff's evaluation will include a review of previous annual reports and site visits.

2. Certification of a local program. Upon a satisfactory finding resulting from the compliance review process, the board will certify that the local program is being implemented and enforced by the local government consistent with the Act and this chapter and is, therefore, in compliance. Such a certification shall be valid for a period of four years until the local government's next scheduled review, unless the board finds a pattern of noncompliance during the interim period of time, pursuant to subdivision 1 of this section.

9 VAC 10-20-260. Legal proceedings.

Section 10.1-2103.10 of the Act provides that the board shall take administrative and legal actions to ensure compliance by local governments with the provisions of the Act. Before taking legal action against a local government to ensure compliance, the board shall, unless it finds extraordinary circumstances, *initiate an administrative proceeding under the Act and 9 VAC 10-20-250 to obtain such compliance* and give the local government at least 15 days notice of the time and place at which it will decide whether or not to take legal action. If it finds extraordinary circumstances, the board may proceed directly to request the Attorney General to enforce compliance with the Act and ~~regulations this chapter~~. Administrative actions will be taken pursuant to 9 VAC 10-20-250.

9 VAC 10-20-270. ~~Adoption date. (Repealed.)~~

~~The adoption date of this chapter shall be November 15, 1990.~~

9 VAC 10-20-280. ~~Effective date. (Repealed.)~~

~~The effective date of this chapter shall be October 1, 1991, at which date this chapter shall supersede the Emergency Chesapeake Bay Preservation Area Designation and Management Regulations (VR 173-02-01.1).~~

DOCUMENTS INCORPORATED BY REFERENCE

"Field Office Technical Guide," US Department of Agriculture-Natural Resource Conservation Service, Second Edition, 1999.

~~"Natural Soils National Soil Survey Handbook,"~~ US Department of Agriculture-Natural Resource Conservation Service, 1996.

Forestry Best Management Practices for Water Quality in Virginia, January 1997, Virginia Department of Forestry.

Virginia Nutrient Management Standards and Criteria, Virginia Department of Conservation and Recreation, 1995.

Virginia Agricultural BMP Manual, Virginia Department of Conservation and Recreation, 2000.

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Pest Management Guide, Virginia Polytechnic Institute and State University, 1999.

VA.R. Doc. No. R96-358; Filed September 20, 2000, 10:26 a.m.

◆ **TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING** ◆

BOARD OF NURSING

Title of Regulation: 18 VAC 90-30-10 et seq. Regulations Governing the Licensure of Nurse Practitioners (amending 18 VAC 90-30-50 and 18 VAC 90-30-110).

Statutory Authority: §§ 54.1-113 and 54.1-2400 of the Code of Virginia.

Public Hearing Date: November 15, 2000 - 3 p.m.
Public comments may be submitted until December 8, 2000.
(See Calendar of Events section for additional information)

Basis: Section 54.1-2400 of the Code of Virginia establishes the general powers and duties of health regulatory boards including the responsibility to promulgate regulations and levy fees.

The proposed regulation is mandated by § 54.1-113 of the Code of Virginia; however, the board must exercise some discretion in the amount and type of fees that will be increased in order to comply with the statute.

Purpose: The purpose of the proposed amendments to these regulations is to establish fees sufficient to cover the administrative and disciplinary activities of the Board of Nursing under which these professions are regulated. Without adequate funding, the licensing of nurse practitioners and the approval of prescriptive authority could be delayed. In addition, sufficient funding is essential to carry out the investigative and disciplinary activities of the board in order to protect the public health, safety and welfare.

Need for fee increases: The need to increase fees for the Board of Nursing was established in the submission of proposed regulations, 18 VAC 90-20-10 et seq., which sets fees for registered nurses, licensed practical nurses, clinical nurse specialists, and certified nurse aides. Approval for promulgation of those regulations was given on November 3, 1999. In the analysis of projected fees submitted with those proposed regulations, it was assumed that fees for nurse practitioners and massage therapists would be increased accordingly and consistently with the Principles for Fee Development. Therefore, in order to meet the revenue projections that were submitted, it is necessary to adopt the fees in Proposal #2 of the attached analysis.

It is necessary for the Board of Nursing to increase their fees in order to cover expenses for essential functions of licensing, investigation of complaints against nurses, adjudication of disciplinary cases, and the review and approval of nursing education programs. The budget for the Board of Nursing is

funded through fees set in regulations governing nurses (18 VAC 90-20-10), nurse practitioners (18 VAC 90-30-10), prescriptive authority (18 VAC 90-40-10) and massage therapists (18 VAC 90-50-10). Proposed amendments to increase fees for registered nurses, practical nurses, and nurse aides (in 18 VAC 90-20-10 et seq.) have been published, and final amended regulations will be adopted February 15, 2000.

In its analysis of the funding under the current fee structure for programs under the Board of Nursing, the following deficits were projected:

<u>FY Ending</u>	<u>Board</u>	<u>Amount</u>	<u>Percent</u>
6/30/00	Nursing	-\$1,299,307	-17.4%
6/30/02	Nursing	-\$4,615,498	-50.5%

Section 54.1-113 of the Code of Virginia requires that at the end of each biennium, an analysis of revenues and expenditures of each regulatory board shall be performed. It is necessary that each board have sufficient revenue to cover its expenditures. Since the fees from licensees no longer generate sufficient funds to pay operating expenses for the Board of Nursing, a fee increase for all its licensees is essential.

Despite the efficiencies and reductions in staff (MEL from 132 to 125) that the department and the board have undertaken in the past five years, funding from fees has failed to keep up with expenditures. Renewal fees for nurse practitioners are currently \$30 each biennium and have not been increased since 1989. The biennial renewal fee for prescriptive authority has been \$25 since such authorizations were first issued in 1992, and no increase is proposed at this time.

Fee increases are related to increased need for funds for staff pay and related benefit increases included in the Governor's budget and for the general costs of doing business beyond the department's control (Y2K compliance, the health practitioner intervention program, installation of new computer system, relocation of the department, etc.).

Fee increases for some categories of licensees regulated by the Board of Nursing are necessary in order for the board and the department to continue performing essential functions of licensing new nurses and of protecting the public from continued practice by incompetent or unethical nurses.

Substance:

18 VAC 90-30-50. Fees. Fees are amended as follows:

1. Fees for application for licensure have increased from \$50 to \$85 for nurse practitioners and now include \$25 for application processing and credential review, the cost of a biennial renewal and license (\$50), and the cost of the wall certificate.
2. The proposed biennial renewal fee increases from \$30 to \$50 and reflects the cost of the administrative and disciplinary activities of the Board of Nursing and the allocated costs of the department.
3. Currently, anyone who does not renew his license by the due date must be "reinstated" at a cost of \$25, regardless of the amount of time the license was expired.

Proposed regulations would establish a late fee of \$20 for anyone who renews the expired license within the biennium (approximately 35% of the biennial renewal). If the license is allowed to lapse beyond the biennium, it would require reinstatement with an application review fee and payment of the late fee and biennial renewal fee for a combined total of \$95. For reinstatement following suspension or revocation, the applicant would pay a fee of \$125 to help offset the additional disciplinary cost for a reinstatement hearing.

4. The cost for producing and sending a duplicate license has been reduced, so the proposed fee decreases from \$10 to \$5 and reflects the actual cost.

5. A fee for replacing a wall certificate is currently being paid by the person making the request directly to the vendor. The proposed fee of \$15 would make the process and fee uniform for all boards within the department.

6. The cost of verifying a license to another jurisdiction or sending all or part of a transcript is estimated to be \$25, so the proposed fees of \$25 for either activity reflects those costs.

7. The proposed fee of \$25 is estimated to be the actual administrative costs for processing and collecting on a returned check; it is proposed to be the same fee for all boards within the department.

18 VAC 90-30-110. Reinstatement of license. Amendments are proposed to conform the policies on reinstatement of the Board of Nursing to those in the "Principles for Fee Development" for all boards within the department. Under the current rule, anyone who is late renewing his license (even by one day) would pay the current renewal fee and a reinstatement fee of \$25. The proposed rule will require a person who wants to renew an expired license within one renewal cycle to pay a late fee of \$20 and the current renewal fee. Beyond the biennium, the lapsed license could be reinstated by submission of a reinstatement application and payment of a reinstatement fee.

The board also proposes a higher fee for reinstatement of a license, which has been suspended or revoked to recover some of the costs for holding a hearing of the board.

Issues: Prior to consideration of amendments to regulations by the Board of Nursing, the Department of Health Professions set forth a set of principles by which all boards would be guided in the development of regulations. The "Principles for Fee Development" are intended to provide structure, consistency, and equity for all professionals regulated within the department. In consideration of various alternatives and issues surrounding the adoption of fees, the principles served to guide the board in the development of an appropriate and necessary fee.

ISSUE 1: Proration of initial licensure fees based on timing within the renewal cycle an applicant is initially licensed.

It is unknown at the time of application for initial licensure when or if the applicant will qualify. Applicants may be delayed or ineligible because they fail to subsequently submit required information (such as transcripts or verification from

other states), do not meet substantive requirements (education, experience, moral character, etc.) or fail to pass an examination. While most candidates are eventually found eligible, it is impossible to predict when or if any given candidate will be licensed.

Therefore, in order to prorate an initial 'license fee' for the current period of licensure it would require the assessment, after the determination of eligibility, of each newly qualified candidate. To accomplish this, the department would need to incur a cost to program automated systems to generate assessments in various occupational categories. In addition to generating the assessment, the agency will be required to receive and account for the additional payment. This task could possibly be contracted out, as we do with a number of lock box transactions. All exceptions to lock box transactions, however, are handled in house, which is an activity that would result in additional administrative costs.

Prorating of fees would have negative impact on prompt licensing of nurse practitioners and issuance of prescriptive authority. It is likely that it would add a minimum of 14 days and likely average 21 days to the time it will take to issue a license after approval (the period to generate an assessment, mail out, write a check, return by mail, and process the accounting for the fee). In many cases a candidate is legally prohibited from employment until the license is in hand. Therefore, the equity that may be achieved by prorating fees will not be of sufficient value to lead to its implementation. During the two to three weeks of delay, the applicant could have been working with a license issued promptly upon approval by the board. The additional income earned during that period would far exceed the small amount of the initial licensure fee that might have been saved by a system of proration.

In the proposed regulations, all applicants for a nurse practitioner license or prescriptive authority would be licensed for a full two years once eligibility has been determined. Since these professions renew biennially in their birth month, some applicants may receive more than two years, but no one would receive less than the equivalent of a biennial renewal, which is the amount calculated for initial licensure in the application fee.

Advantages and disadvantages to the licensees. As is stated above, the advantage of not prorating fees is that initial licensure can occur in a more timely manner. For those who are applying for licensure, the license is issued as soon as examination results or verifying documentation has been forwarded to the board, usually within one or two working days. All newly licensed nurse practitioners receive at least a full biennial renewal cycle, so there is no advantage to prorating the initial licensure fee.

ISSUE 2. Establishment of different fees for renewing an expired license versus reinstating a lapsed license.

Currently, the Board of Nursing regulations require a fee of \$25 for an expired license, regardless of the amount of time elapsed – one day or 10 years. For a person who is simply late in paying the renewal fee, the current "reinstatement" fee may seem excessive. In the principles, there is a distinction made between those who are expired (have failed to renew

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within one renewal cycle) and those who are lapsed (have failed to renew beyond one renewal cycle). The appropriate late fee for an expired license should be set at 35% of the renewal fee (\$20 for a nurse practitioner and \$10 for prescriptive authority); the current renewal fee must also be paid. Since a reinstatement application is required for a licensee to reinstate a lapsed license, the reinstatement fee should include the current renewal fee, the late fee, and a credential review fee.

Reinstatement of a license that has been suspended or revoked necessitates an additional cost of a hearing before a panel of the board. Therefore, a fee of \$125 is proposed for reinstatement of a suspended or revoked nurse practitioner license and \$85 for reinstatement of prescriptive authority in order to recover some of those costs to the board.

Advantages and disadvantages to the licensees. For persons who are late in paying their biennial renewal but who pay within two years, there would be an advantage in the proposed regulations. Currently, the late fee is \$25; the proposed late fee is \$20. For those who fail to renew a license for more than a biennium, the proposed reinstatement will be a higher fee to cover the costs of a reinstatement application and the late fee.

ISSUE 3. Uniformity among boards for setting miscellaneous fees.

In setting proposed fees for miscellaneous activities of the board, the principles call for uniformity among boards and regulated entities. Such activities as replacement of a duplicate license, duplicate certificate, or processing and collecting on a bad check are similar for all boards and should be based on cost estimates provided by the Deputy Director for Finance of the department.

Advantages and disadvantages to the licensees. The advantage of proposed regulations is that all persons licensed or certified by a board under the Department of Health Professions will consistently pay a fee for miscellaneous activities determined by actual costs for that activity. There will not be inconsistent fees for licensees regulated under different boards. For nurse practitioners, the fee for a duplicate license or authorization will be reduced from \$10 to \$5; the fee for a returned check will increase from \$15 to \$25.

Advantage or disadvantages to the public. Fee increases proposed by the Board of Nursing should have no disadvantage to the consuming public. There is no projection of a reduction in the number of applicants for licensure or the number of licensed persons available to provide nursing services to the public. An increase in the biennial renewal fee will result in an additional \$10 per year for a nurse practitioner's license, and there is no proposed increase in the biennial renewal for prescriptive authority.

There would be considerable disadvantages to the public if the Board of Nursing took no action to address its deficit and increase fees to cover its expenses. The only alternative currently available under the Code of Virginia would be a reduction in services and staff, which would result in delays in licensing applicants who would be unable to work. Potentially, the most serious consequence would be a reduction in or reprioritization of the investigation of

complaints against nurse practitioners. In addition, there may be delays in adjudicating cases of substandard care, neglect, abuse or other violations, resulting in potential danger to the patients who are often the most sick and vulnerable consumers in the Commonwealth.

Advantages or disadvantages to the agency. It is necessary for the Board of Nursing to increase its fees in order to cover expenses for essential functions of licensing, investigation of complaints against nurses, adjudication of disciplinary cases, and the review and approval of nursing education programs. The budget for the Board of Nursing is funded through fees set in regulations governing nurses (18 VAC 90-20-10), nurse practitioners (18 VAC 90-30-10), prescriptive authority (18 VAC 90-40-10) and massage therapists (18 VAC 90-50-10). Proposed amendments to increase fees for registered nurses, practical nurses, and nurse aides (in 18 VAC 90-20-10 et seq.) have been published, and final amended regulations were adopted February 15, 2000. In order to balance expenditures and revenue of the board, it is necessary for fees to be uniformly applied.

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 increases various fees paid by nurse practitioners to the Board of Nursing. The purpose of these fee increases is to bring the board into compliance with the board's interpretation of § 54.1-113 of the Code of Virginia. Section 54.1-113 requires all regulatory boards under the Department of Health Professions to revise their fee schedules if, after the close of any biennium, there is more than a 10% difference between revenues and expenditures. The proposed fee changes are as follows:

1. Application for licensure as a nurse practitioner will increase from \$50 to \$85;
2. Biennial licensure renewal will increase from \$30 to \$50;
3. The penalty for late renewal of a license will decrease from \$25 to \$20;
4. Reinstatement of a lapsed license (a license not renewed for at least one biennium after expiration) will increase from \$25 to \$95;
5. Reinstatement of a suspended or revoked license will increase from \$25 to \$125;

6. The cost of obtaining a duplicate license would be reduced from \$10 to \$5;

7. The cost of obtaining a replacement wall certificate (\$15) will now be paid to the board rather than directly to the vendor; and

8. The returned check charge will increase from \$15 to \$25.

Estimated economic impact. These regulatory amendments are part of a broader set of fee changes proposed for the Board of Nursing. Fee increases for nurses and certified nurse aides were published in the Virginia Register on November 22, 1999. The primary effect of the proposed fee changes will be to increase licensing costs for all licensees under the Board of Nursing in Virginia by approximately \$4.8 million biannually.¹ Specifically, application and renewal fees paid by licensed nurse practitioners will increase by approximately \$60,000 per year.

Under the current fee structure, the Board of Nursing projects a \$5.2 million deficit for the 2000-2002 biennium.² The proposed fee increases would substantially reduce the projected deficits during the 2000-2002 biennium and, thereafter, would begin to generate a modest surplus, thereby bringing the board into compliance with the Code of Virginia.

According to the Board of Nursing, several circumstances have been responsible for the failure of fee revenue to keep up with expenditures. Such circumstances include implementation of the Health Practitioner Intervention Program and, to a lesser extent, staff pay raises and related benefit increases included in the Governor's budget, Y2K compliance, installation of a new computer system, and relocation of the Department of Health Professions (DHP). These circumstances have increased costs despite other efforts to improve efficiency (i.e., the privatization of certain functions, reductions in staff, etc.) undertaken by the department and the board during the past five years. According to DHP, the proposed fee increases are necessary so that the Board of Nursing can continue to perform its essential functions of licensing, investigations of complaints, adjudication of disciplinary cases, and the review and approval of nursing education programs. These functions sustain the supply of nurses in Virginia and protect the public from continued practice by incompetent or unethical nurses.

The level of the proposed fee increases, specifically the biennial renewal fee, is based on revenue and expenditure projections prepared by DHP for the Board of Nursing. The proposed amounts were selected such that projected revenues would be sufficient to cover projected expenditures but would not result in anything more than a modest surplus.

¹ This figure reflects the difference between projected revenue for the Board of Nursing under the current fee structure and Proposal #2 (\$5,946,750 and \$10,311,590). Also included is the difference between projected revenues for the Certified Nurse Aide program (\$816,250 under the current fees and \$1,221,250 under the proposed \$45 renewal fee).

² This figure reflects the sum of the \$4,615,498 deficit projected for the Board of Nursing plus the \$624,744 deficit projected for the Certified Nurse Aide Program.

The changes in fee structures are largely based on DHP's *Principles for Fee Development* and are discussed below.³

Application fees. Currently, newly licensed nurse practitioners pay only the costs of application processing and document review. They receive their first biennial license and their wall certificate at no cost. These costs are currently borne by nurse practitioners in their renewal fee. The proposed application fee of \$85 includes \$25 for application processing and credential review, \$50 for one biennial renewal period, and \$10 for a wall certificate.

Though the proposed application fee is higher than the existing fee, it represents a very small portion of the total cost of entry into the nurse practitioner profession, which includes all education and training expenses. Therefore, this fee increase is unlikely to have a significant effect on the decision of individuals to enter or exit the profession and consequently should not affect the number of applicants or the supply of nurse practitioners in Virginia.

Reinstatement and late renewal fees. The existing regulations require all individuals who do not renew their license by the expiration date to reinstate their license. Reinstatement includes submission of a reinstatement application and a fee of \$25. This policy does not differentiate between persons who are merely a day late in renewing their license from persons who have chosen to let their license lapse for a lengthy period of time (i.e., someone who had left the state, obtained a license in another jurisdiction, and then has returned to Virginia). The proposed rules would establish a \$20 late fee for licensees renewing within one biennium of the expiration date and require reinstatement for the renewal of any licenses (now lapsed) beyond the biennium. The proposed reinstatement fee of \$95 includes \$25 for application processing and document review, a \$20 late fee, and the \$50 biennial license renewal fee. Applicants reinstating a suspended or revoked license would be required to pay an additional \$30 (total fee of \$125) since a disciplinary reinstatement hearing must be held.

The board estimates that 15 nurse practitioners will benefit from a reduction in the late fee from \$25 to \$20. According to DHP, the proposed fee more accurately reflects the costs incurred by the department for processing late renewals, which cannot be processed through the automated system but must be manually entered. The estimated number of nurse practitioners who will request reinstatement of lapsed or suspended/revoked licenses is under 10. Licensing costs for these individuals would increase under the proposal.

Miscellaneous fees. Almost all of the other proposed fee changes are intended to represent more accurately the actual cost of service. For example, the fee charged for a duplicate license is reduced from \$10 to \$5 and the returned check charge is raised from \$15 to \$25. By charging individuals for the full costs incurred on their behalf, the proposed changes are both more efficient and equitable.

³ This document, dated May 20, 1999, outlines the principles by which DHP sets its licensing fees. The principles are intended to provide structure, consistency, and equity for all the professionals regulated within the department.

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Summary of analysis. While the proposed regulation does reduce some fees charged by the Board of Nursing, the net effect of the new fees will be an increase in application and licensure costs for nurse practitioners in Virginia. According to DHP, the proposed fee increases are necessary to prevent a delay in the performance of or the elimination of investigations and discipline, license renewals, and educational program approvals, a delay which could negatively affect public health and safety and reduce the supply of nurses and nurse practitioners in Virginia.

Businesses and entities affected. There are currently 3,840 nurse practitioners licensed by the Board of Nursing in Virginia.

Localities particularly affected. The proposed fee changes will not affect any particular localities since they apply statewide.

Projected impact on employment. Since the application and licensure renewal fees represent a very small portion of the total cost of entry into the nurse practitioner profession, no significant impact on employment in Virginia is expected.

Effects on the use and value of private property. The proposed fee changes are not expected to have any significant effects on the use and value of private property in Virginia.

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

Summary:

The proposed amendments would increase certain fees pursuant to statutory mandate to levy fees as necessary to cover expenses of the board. Biennial renewal fees for nurse practitioners would be increased from \$30 to \$50; the \$25 renewal fee for prescriptive authority would be changed. While other fees would also be increased, the fee for a late renewal of a nurse practitioner license within one biennium would decrease from \$25 to \$20.

18 VAC 90-30-50. Fees.

Fees required in connection with the licensure of nurse practitioners are:

- | | |
|---|--------------------|
| 1. Application | \$50 85 |
| 2. Biennial licensure renewal | \$30 50 |
| 3. <i>Late renewal</i> | \$20 |
| 3- 4. Reinstatement of licensure | \$25 85 |
| 4- 5. Verification of licensure to another jurisdiction | \$25 |
| 5- 6. Duplicate license | \$40 5 |
| 7. <i>Duplicate wall certificate</i> | \$15 |
| 6- 8. Return check charge | \$45 25 |

18 VAC 90-30-110. Reinstatement of license.

A. A licensed nurse practitioner whose license has lapsed may be reinstated within one renewal period by payment of the current renewal fee and the late renewal fee.

~~A-~~ B. An applicant for reinstatement of ~~lapsed~~ license ~~lapsed for more than one renewal period~~ shall:

1. File the required application and *reinstatement fee*;
2. Be currently licensed as a registered nurse in Virginia; and
3. Provide evidence of current professional certification or, if applicable, licensure or certification in another jurisdiction.

~~B-~~ C. An applicant for reinstatement of license following suspension or revocation shall:

1. Petition for a reinstatement *and pay the reinstatement fee*;
2. Present evidence that he is currently licensed as a Registered Nurse in Virginia; and
3. Present evidence that he is competent to resume practice as a licensed nurse practitioner in Virginia.

The committee shall act on the petition pursuant to the Administrative Process Act, § 9-6.14:1 et seq. of the Code of Virginia.

NOTICE: The forms used in administering 18 VAC 90-30-10 et seq., Regulations Governing the Licensure of Nurse Practitioners, are listed below. Any amended or added forms are reflected in the listing and are published following the listing.

FORMS

Instructions for Licensure--Nurse Practitioner (rev. 1/98).

Application for Licensure as a Nurse Practitioner (rev. ~~4/98~~ 11/99).

Renewal Notice and Application (rev. ~~7/97~~ 1999).



APPLICATION FOR LICENSURE AS A NURSE PRACTITIONER

***I hereby make application for licensure as a Nurse Practitioner in the category of _____ (See categories in the regulations.)
 ***The following evidence of my qualifications is submitted with a check or money order in the amount of \$85 made payable to the Treasurer of Virginia. The application fee is non-refundable.

APPLICANT - Please provide the information requested below and on the back of this page. (Print or Type)

Name: Last _____ First _____ Middle _____ Maiden _____

Print your name as you wish it to appear on your license: _____

Street Address _____ Area Code & Telephone Number _____

City _____ State _____ Zip Code _____

Date of Birth (M/D/Y) _____ Social Security Number or Virginia DMV Control Number _____ Virginia RN License Number & Expiration Date _____

Nurse Practitioner, Nurse Anesthetist, or Nurse Midwife Program Name: _____

Program Address: _____ City _____ State _____

Program Completion Date: _____ Length of Program: _____

Program Accredited/Approved by: (Accrediting Authority) _____

Professional Certification held from: (Name of Organization) _____

I (am) (am not) certified or registered with an equivalent title in another state.

Title: _____ State: _____

Date Certified or Registered: _____ Current Lapsed

Prospective employer: _____

Address: _____

Date you expect to begin employment as a Licensed Nurse Practitioner in Virginia: _____

AFFIDAVIT
 (To be completed before a Notary Public)

State of _____ County/City of _____

Name _____ being duly sworn, says that he/she is the person who is referred to in the foregoing application for licensure as a registered nurse in the Commonwealth of Virginia; that the statements herein contained are true in every respect; that he/she has complied with all requirements of the law; and that he/she has read and understands the affidavit.

Subscribed to and sworn to before me this _____ day of _____, _____

My commission expires on _____.

Signature of Applicant _____

SEAL _____ Signature of Notary Public _____

For Office Use Only

Computer File Pending # _____

Practitioner Type Code # _____

Practitioner _____

Date Issued _____

Approved by: _____ Board of Nursing

Revised 11/99

RECEIPT—KEEP THIS PORTION FOR YOUR RECORDS—DO NOT RETURN

«First_Name» «Last_Name»	Renewal Fee—Amount \$30.00
«License_Type» - «License_No»	
Renewal Period: «begin_period» to «end_period»	Current Expiration Date: «L_Expiration_Date»

1. For name changes, cross out any incorrect information on the front of the renewal form, write the correct name and check the box on return envelope. Enclose a copy of your marriage license or court order for name changes.
2. Address changes, cross out any incorrect information on the front of the renewal form, write the correct address and check the box on return envelope.
3. Detach "renewal form" portion and return completed form with your check in attached return envelope.
4. Make checks payable to "Treasurer of Virginia." Visit our website at www.dhp.state.va.us

Please fold and tear on perforated line.

Renewal Form for «License_Type»	Amount Due:
«License_No» Renewal Period: «begin_period» to «end_period»	\$30.00
«First_Name» «Middle_Name» «Last_Name»	
«L_Address_Line_1», «L_Address_Line_2», «L_Address_Line_3»	

*****For LNP renewals, RN license must be current in order to renew*****

NOTE: Renewal fee is nonrefundable. Renewed License Should Be Received In 14-21 Days

If Payment is Received by Board After «L_Expiration_Date», Amount Due \$55.00

Do not staple check to renewal form or fold renewal form.

«Scan_Line»

Pharmacists Allowed Perforation
LICHTFZL AHWSTLHLS LHSJLAL

RECEIVED
DEPARTMENT OF HEALTH PROFESSIONALS
DIVISION OF PHARMACY
1000 COMMONWEALTH AVENUE
RICHMOND, VA 23298
TEL: (804) 781-2000
FAX: (804) 781-2001
WWW.DHP.STATE.VA.US

RECEIVED
DEPARTMENT OF HEALTH PROFESSIONALS
DIVISION OF PHARMACY
1000 COMMONWEALTH AVENUE
RICHMOND, VA 23298
TEL: (804) 781-2000
FAX: (804) 781-2001
WWW.DHP.STATE.VA.US

Proposed Regulations

* * * * *

Title of Regulation: 18 VAC 90-40-10 et seq. Regulations for Prescriptive Authority for Nurse Practitioners (amending 18 VAC 90-40-60 and 18 VAC 90-40-70).

Statutory Authority: §§ 54.1-113 and 54.1-2400 of the Code of Virginia.

Public Hearing Date: November 15, 2000 - 3 p.m.
Public comments may be submitted until December 8, 2000.
(See Calendar of Events section for additional information)

Basis: Section 54.1-2400 of the Code of Virginia establishes the general powers and duties of health regulatory boards including the responsibility to promulgate regulations and levy fees.

Section 54.1-113 requires the board to revise the fees levied by it for certification or licensure and renewal thereof so that the fees are sufficient but not excessive to cover expenses.

Purpose: The purpose of the proposed amendments is to establish fees sufficient to cover the administrative and disciplinary activities of the Board of Nursing under which these professions are regulated. Without adequate funding, the licensing of nurse practitioners and the approval of prescriptive authority could be delayed. In addition, sufficient funding is essential to carry out the investigative and disciplinary activities of the board in order to protect the public health, safety and welfare.

Substance:

18 VAC 90-40-60. Reinstatement of prescriptive authority. Amendments are proposed to conform the policies on reinstatement of the Board of Nursing to those in the "Principles for Fee Development" for all boards within the department. Under the current rule, anyone who is late renewing his prescriptive authority (even by one day) would pay the current renewal fee and a reinstatement fee of \$25. The proposed rule requires a person who wants to renew an expired license within one renewal cycle to pay a late fee of \$10 and the current renewal fee. Beyond the biennium, the lapsed authority could be reinstated by submission of a reinstatement application and payment of a reinstatement fee of \$60.

The board also proposes a higher fee for reinstatement of a license, which has been suspended or revoked (\$85), to recover some of the costs for holding a hearing of the board.

18 VAC 90-40-70. Fees for prescriptive authority. Fees are amended as follows:

1. Currently, anyone who does not renew his prescriptive authority by the due date must be "reinstated" at a cost of \$25, regardless of the amount of time the license was expired. Proposed regulations would establish a late fee of \$10 for anyone who renews the expired license within the biennium (approximately 35% of the biennial renewal). If the license is allowed to lapse beyond the biennium, it would require reinstatement with an application review fee and payment of the late fee and

biennial renewal fee for a combined total of \$60. For reinstatement following suspension or revocation, the applicant would pay a fee of \$85 to help offset the additional disciplinary cost for a reinstatement hearing.

2. The cost for producing and sending a duplicate authorization has been reduced, so the proposed fee decreases from \$10 to \$5 and reflects the actual cost.

3. The proposed fee of \$25 is estimated to be the actual administrative costs for processing and collecting on a returned check; it is proposed to be the same fee for all boards within the department.

Issues: Prior to consideration of amendments to regulations by the Board of Nursing, the Department of Health Professions set forth a set of principles by which all boards would be guided in the development of regulations. The "Principles for Fee Development" are intended to provide structure, consistency, and equity for all professionals regulated within the department. In consideration of various alternatives and issues surrounding the adoption of fees, the principles served to guide the board in the development of an appropriate and necessary fee.

ISSUE 1: Proration of initial licensure fees based on timing within the renewal cycle an applicant is initially licensed.

It is unknown at the time of application for initial licensure when or if the applicant will qualify. Applicants may be delayed or ineligible because they fail to subsequently submit required information (such as transcripts or verification from other states), do not meet substantive requirements (education, experience, moral character, etc.), or fail to pass an examination. While most candidates are eventually found eligible, it is impossible to predict when or if any given candidate will be licensed.

Therefore, in order to prorate an initial 'license fee' for the current period of licensure, it would require the assessment, after the determination of eligibility, of each newly qualified candidate. To accomplish this, the department would need to incur a cost to program automated systems to generate assessments in various occupational categories. In addition to generating the assessment, the agency will be required to receive and account for the additional payment. This task could possibly be contracted out, as we do with a number of lock box transactions. All exceptions to lock box transactions, however, are handled in-house, which is an activity that would result in additional administrative costs.

Prorating of fees would have negative impact on prompt licensing of nurse practitioners and issuance of prescriptive authority. It is likely that it would add a minimum of 14 days and likely average 21 days to the time it will take to issue a license after approval (the period to generate an assessment, mail it out, write a check, return by mail, and process the accounting for the fee). In many cases a candidate is legally prohibited from employment until the license is in hand. Therefore, the equity that may be achieved by prorating fees will not be of sufficient value to lead to its implementation. During the two to three weeks of delay, the applicant could have been working with a license issued promptly upon approval by the board. The additional income earned during that period would far exceed the small amount of the initial

licensure fee that might have been saved by a system of proration.

In the proposed regulations, all applicants for a nurse practitioner license or prescriptive authority would be licensed for a full two years once eligibility has been determined. Since these professions renew biennially in their birth month, some applicants may receive more than two years, but no one would receive less than the equivalent of a biennial renewal, which is the amount calculated for initial licensure in the application fee.

Advantages and disadvantages to the licensees. As is stated above, the advantage of not prorating fees is that initial licensure can occur in a more timely manner. For those who are applying for licensure, the license is issued as soon as examination results or verifying documentation has been forwarded to the board, usually within one or two working days. All newly licensed nurse practitioners receive at least a full biennial renewal cycle, so there is no advantage to prorating the initial licensure fee.

ISSUE 2. Establishment of different fees for renewing an expired license versus reinstating a lapsed license.

Currently, the Board of Nursing regulations require a fee of \$25 for an expired license, regardless of the amount of time elapsed – one day or 10 years. For a person who is simply late in paying the renewal fee, the current “reinstatement” fee may seem excessive. In the principles, there is a distinction made between those who are expired (have failed to renew within one renewal cycle) and those who are lapsed (have failed to renew beyond one renewal cycle). The appropriate late fee for an expired license should be set at 35% of the renewal fee (\$20 for a nurse practitioner and \$10 for prescriptive authority); the current renewal fee must also be paid. Since a reinstatement application is required for a licensee to reinstate a lapsed license, the reinstatement fee should include the current renewal fee, the late fee, and a credential review fee.

Reinstatement of a license that has been suspended or revoked necessitates an additional cost of a hearing before a panel of the board. Therefore, a fee of \$125 is proposed for reinstatement of a suspended or revoked nurse practitioner license and \$85 for reinstatement of prescriptive authority in order to recover some of those costs to the board.

Advantages and disadvantages to the licensees. For persons who are late in paying their biennial renewal but who pay within two years, there would be an advantage in the proposed regulations. Currently, the late fee is \$25; the proposed late fee is \$20. For those who fail to renew a license for more than a biennium, the proposed reinstatement will be a higher fee to cover the costs of a reinstatement application and the late fee.

ISSUE 3. Uniformity among boards for setting miscellaneous fees.

In setting proposed fees for miscellaneous activities of the board, the Principles call for uniformity among boards and regulated entities. Such activities as replacement of a duplicate license, duplicate certificate, or processing and collecting on a bad check are similar for all boards and should

be based on cost estimates provided by the Deputy Director for Finance of the department.

Advantages and disadvantages to the licensees. The advantage of proposed regulations is that all persons licensed or certified by a board under the Department of Health Professions will consistently pay a fee for miscellaneous activities determined by actual costs for that activity. There will not be inconsistent fees for licensees regulated under different boards. For nurse practitioners, the fee for a duplicate license or authorization will be reduced from \$10 to \$5; the fee for a returned check will increase from \$15 to \$25.

Advantage or disadvantages to the public. Fee increases proposed by the Board of Nursing should have no disadvantage to the consuming public. There is no projection of a reduction in the number of applicants for licensure or the number of licensed persons available to provide nursing services to the public. An increase in the biennial renewal fee will result in an additional \$10 per year for a nurse practitioner’s license, and there is no proposed increase in the biennial renewal for prescriptive authority.

There would be considerable disadvantages to the public if the Board of Nursing took no action to address its deficit and increase fees to cover its expenses. The only alternative currently available under the Code of Virginia would be a reduction in services and staff, which would result in delays in licensing applicants who would be unable to work. Potentially, the most serious consequence would be a reduction in or reprioritization of the investigation of complaints against nurse practitioners. In addition, there may be delays in adjudicating cases of substandard care, neglect, abuse or other violations, resulting in potential danger to the patients who are often the most sick and vulnerable consumers in the Commonwealth.

Advantages or disadvantages to the agency. It is necessary for the Board of Nursing to increase their fees in order to cover expenses for essential functions of licensing, investigation of complaints against nurses, adjudication of disciplinary cases, and the review and approval of nursing education programs. The budget for the Board of Nursing is funded through fees set in regulations governing nurses (18 VAC 90-20-10), nurse practitioners (18 VAC 90-30-10), prescriptive authority (18 VAC 90-40-10) and massage therapists (18 VAC 90-50-10). Proposed amendments to increase fees for registered nurses, practical nurses, and nurse aides (in 18 VAC 90-20-10 et seq.) have been published, and final amended regulations were adopted February 15, 2000. In order to balance expenditures and revenue of the board, it is necessary for fees to be uniformly applied.

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

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employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the proposed regulation. The proposed regulation amends various fees paid by nurse practitioners with prescriptive authority to the Board of Nursing. The purpose of these fee increases is to bring the board into compliance with the board's interpretation of § 54.1-113 of the Code of Virginia. Section 54.1-113 requires all regulatory boards under the Department of Health Professions to revise their fee schedules if, after the close of any biennium, there is more than a 10% difference between revenues and expenditures. The proposed fee changes are as follows:

1. The penalty for late renewal of prescriptive authority will decrease from \$25 to \$10;
2. Reinstatement of a lapsed authorization (an authorization not renewed for at least one biennium after expiration) will increase from \$25 to \$60;
3. Reinstatement of a suspended or revoked authorization will increase from \$25 to \$85;
4. The cost of obtaining a duplicate authorization would be reduced from \$10 to \$5; and
5. The returned check charge will increase from \$15 to \$25.

Estimated economic impact. These regulatory amendments are part of a broader set of fee changes proposed for the Board of Nursing. Fee increases for nurses and certified nurse aides were published in the Virginia Register on November 22, 1999. The primary effect of the proposed fee changes will be to increase licensing costs for all licensees under the Board of Nursing in Virginia by approximately \$4.8 million biannually.¹ No changes are proposed to the application and renewal fees paid by licensed nurse practitioners with prescriptive authority.

Under the current fee structure, the Board of Nursing projects a \$5.2 million deficit for the 2000-2002 biennium.² The proposed fee increases would substantially reduce the projected deficits during the 2000-2002 biennium and, thereafter, would begin to generate a modest surplus, thereby bringing the board into compliance with the Code of Virginia.

According to the Board of Nursing, several circumstances have been responsible for the failure of fee revenue to keep up with expenditures. Such circumstances include implementation of the Health Practitioner Intervention Program and, to a lesser extent, staff pay raises and related benefit increases included in the Governor's budget, Y2K

compliance, installation of a new computer system, and relocation of the Department of Health Professions (DHP). These circumstances have increased costs despite other efforts to improve efficiency (i.e., the privatization of certain functions, reductions in staff, etc.) undertaken by the department and the board during the past five years. According to DHP, the proposed fee increases are necessary so that the Board of Nursing can continue to perform its essential functions of licensing, investigations of complaints, adjudication of disciplinary cases, and the review and approval of nursing education programs. These functions sustain the supply of nurses in Virginia and protect the public from continued practice by incompetent or unethical nurses.

The level of the proposed fee increases is based on revenue and expenditure projections prepared by DHP for the Board of Nursing. The proposed amounts were selected such that projected revenues would be sufficient to cover projected expenditures but would not result in anything more than a modest surplus. The changes in fee structures are largely based on DHP's Principles for Fee Development and are discussed below.³

Reinstatement and late renewal fees. The existing regulations require all individuals who do not renew by the expiration date to reinstate their authorization. Reinstatement includes submission of a reinstatement application and a fee of \$25. This policy does not differentiate between persons who are merely a day late in renewing their authorization from persons who have chosen to let their authorization lapse for a lengthy period of time (i.e., someone who had left the state to practice in another jurisdiction, and then has returned to Virginia). The proposed rules would establish a \$10 late fee for licensees renewing within one biennium of the expiration date and require reinstatement for the renewal of any authorizations (now lapsed) beyond the biennium. The proposed reinstatement fee of \$60 includes \$25 for application processing and document review, a \$10 late fee, and the \$25 biennial license renewal fee. Applicants reinstating a suspended or revoked license would be required to pay an additional \$25 (total fee of \$85) since a disciplinary reinstatement hearing must be held.

The board estimates that 25 nurse practitioners with prescriptive authority will benefit from a reduction in the late fee from \$25 to \$10. According to DHP, the proposed fee more accurately reflects the costs incurred by the department for processing late renewals, which cannot be processed through the automated system but must be manually entered. The estimated number of nurse practitioners with prescriptive authority who will request reinstatement of lapsed or suspended/revoked licenses is under 10. Licensing costs for these individuals would increase under the proposal.

Miscellaneous fees. Almost all of the other proposed fee changes are intended to represent more accurately the actual cost of service. For example, the fee charged for a duplicate license is reduced from \$10 to \$5 and the returned check

¹ This figure reflects the difference between projected revenue for the Board of Nursing under the current fee structure and Proposal #2 (\$5,946,750 and \$10,311,590). Also included is the difference between projected revenues for the Certified Nurse Aide program (\$816,250 under the current fees and \$1,221,250 under the proposed \$45 renewal fee).

² This figure reflects the sum of the \$4,615,498 deficit projected for the Board of Nursing plus the \$624,744 deficit projected for the Certified Nurse Aide Program.

³ This document, dated May 20, 1999, outlines the principles by which DHP sets its licensing fees. The principles are intended to provide structure, consistency, and equity for all the professionals regulated within the department.

charge is raised from \$15 to \$25. By charging individuals for the full costs incurred on their behalf, the proposed changes are both more efficient and equitable.

Summary of analysis. The proposed regulation amends certain fees charged by the Board of Nursing for nurse practitioners with prescriptive authority in Virginia. According to DHP, the proposed fee increases are necessary to prevent a delay in the performance of or the elimination of investigations and discipline, license renewals, and educational program approvals, a delay that could negatively affect public health and safety and reduce the supply of nurses and nurse practitioners in Virginia.

Businesses and entities affected. There are currently 1,747 nurse practitioners with prescriptive authority licensed by the Board of Nursing in Virginia.

Localities particularly affected. The proposed fee changes will not affect any particular localities since they apply statewide.

Projected impact on employment. The proposed fee changes are not expected to have any significant impact on employment of nurse practitioners with prescriptive authority in Virginia.

Effects on the use and value of private property. The proposed fee changes are not expected to have any significant effects on the use and value of private property in Virginia.

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

Summary:

The amendments increase the fee for reinstatement of a lapsed authorization and reinstatement of a suspended or revoked authorization, and increase the charge for a returned check. The penalty for late renewal and the cost of obtaining a duplicate authorization are decreased.

18 VAC 90-40-60. Reinstatement of prescriptive authority.

A. A nurse practitioner whose prescriptive authority has lapsed may reinstate within one renewal period by payment of the current renewal fee and the late renewal fee.

~~A. An applicant~~ B. A nurse practitioner who is applying for reinstatement of lapsed prescriptive authority after one renewal period shall:

1. File the required application and practice agreement as required for renewal in 18 VAC 90-40-50; ~~and~~
2. Provide evidence of a current, unrestricted license to practice as a nurse practitioner in Virginia; ~~and~~
3. Pay the fee required for reinstatement of a lapsed authorization as prescribed in 18 VAC 90-40-70; ~~and~~
4. If the authorization has lapsed for a period of five or more years, the applicant shall provide proof of:

- a. Continued practice as a licensed nurse practitioner with prescriptive authority in another state; or
- b. Continuing education consisting of 30 contact hours in pharmacology or pharmacotherapeutics.

~~B.~~ C. An applicant for reinstatement of suspended or revoked authorization shall:

1. Request a hearing pursuant to the provisions of the Virginia Administrative Process Act (§ 9-6.14:1 of the Code of Virginia) to be held before the committee;
2. Present evidence of competence to resume practice as a nurse practitioner with prescriptive authority; ~~and~~
3. *Pay the fee for reinstatement of a suspended or revoked authorization as prescribed in 18 VAC 90-40-70; and*
- ~~3.~~ 4. Meet the qualifications and resubmit the application ~~and fees as~~ required for initial authorization in 18 VAC 90-40-40 ~~of this chapter.~~

18 VAC 90-40-70. Fees for prescriptive authority.

The following fees have been established by the boards:

1. Initial issuance of prescriptive authority	\$50
2. Biennial renewal	\$25
3. <i>Late renewal</i>	\$10
3. 4. Reinstatement of lapsed authorization	\$25 60
4. 5. Reinstatement of suspended or revoked authorization	\$50 85
5. 6. Duplicate of authorization	\$40 5
6. 7. Return check charge	\$15 25

NOTICE: The forms used in administering 18 VAC 90-40-10 et seq., Regulations for Prescriptive Authority for Nurse Practitioners, are listed below. Any amended or added forms are reflected in the listing and are published following the listing.

FORMS

Application for Prescriptive Authority for Nurse Practitioner (rev. ~~12/4/92~~ 11/99).

Practice Agreement (rev. 6/22/00).

Application for Controlled Substances Registration (eff. 5/00).

Renewal Notice and Application, C-31728 (rev. 6/22/00).

FOR OFFICE USE ONLY:
 Fee Received: _____ P
 Pending #0017 _____
 Practice Agreement Approved: _____
 Permanent #0017 _____
 Date Issued: _____

COMMONWEALTH OF VIRGINIA
 DEPARTMENT OF HEALTH PROFESSIONS
 BOARDS OF NURSING AND MEDICINE
 6606 WEST BROAD STREET, 4TH FLOOR
 RICHMOND, VIRGINIA 23230-1717
 (804) 662-9099
 (804) 662-5512

APPLICATION FOR PRESCRIPTIVE AUTHORITY FOR LICENSED NURSE PRACTITIONERS

Please provide the information below and on the back of this page.

I hereby make application for approval of prescriptive authority. The following information in support of my application is submitted with a check or money order for \$50.00, made payable to the Treasurer of Virginia.

PART A. IDENTIFYING INFORMATION

Last Name	First Name	Middle Name	Maiden Name
Street Address (include Apt. #)	City	State	Zip Code
Social Security # or Virginia DMV Control #	Virginia LNP #	Date of Birth	Telephone Number

PART B. REQUIRED QUALIFICATIONS

Circle the number of ONE of the following and provide the documentation indicated:

1. Copy of document that verifies current professional certification as a nurse practitioner or nurse-midwife (such as ANCC, NCC or ACNSM); **OR**
2. Transcript or letter sent to the Board of Nursing office from an educational program verifying satisfactory completion of a graduate level course in pharmacology or pharmacotherapeutics obtained as a part of your nurse practitioner or nurse-midwife education within the past five years; **OR**
3. A statement from a supervisor or a personal affidavit in "Part F. EXPLANATIONS" on the back of this page attesting to no less than 1000 hours of practice in each of the last two years and copies of documents verifying 15 hours of continuing education in each of the last two years; **OR**
4. Evidence of 30 hours of education in pharmacology or pharmacotherapeutics taken within the last five years which includes applicable federal and state laws, prescription writing, drug selection, dosage, route and interactions, information resources, and clinical application related to your area of practice. This evidence must be either an official transcript from the institution offering a formal course or copies of documents verifying non-credit continuing education offerings.

Circle the number of your LNP category. If you have more than one NP license, circle each in which you wish to use prescriptive authority:

- 01 Adult
- 02 Family
- 03 Pediatric
- 04 Family Planning
- 05 Obstetric/Gynecologic
- 06 Emergency
- 07 Geriatric
- 09 Certified Nurse Midwife
- 10 School
- 11 Medical
- 12 Maternal/Child Health
- 13 Neonatology
- 14 Women's Health
- 16 Acute Care

PART C. PRACTICE AGREEMENTS

Complete and submit. (See attached.)

PART D. EMPLOYER (If Applicable)

Name: _____
 Address: _____
 Name of Primary Supervising Physician (if different from above): _____
 Address (if different from above): _____

PART E. ANSWER THE FOLLOWING QUESTIONS. If either is answered "YES," explain in "PART F" below:

1. Have you ever had disciplinary action taken against your license or certification in Virginia or any jurisdiction? YES ___ NO ___
2. Is there any investigation of you or action pending against you in Virginia or any other jurisdiction? YES ___ NO ___

PART F. EXPLANATIONS

PART G. AFFIDAVIT

TO BE COMPLETED BEFORE A NOTARY PUBLIC

State of _____ County/City of _____
 Name _____, being duly sworn, says that he/she is the person who is referred to in the foregoing application; that the statements contained herein are true; that he/she has complied with all requirements of the law, and that he/she has read and understands this affidavit.

Sworn and subscribed to before me this _____ day of _____, _____
 Signature of Applicant

SEAL _____ My commission expires on: _____
 Signature of Notary Public
 Revised 11/99

BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

Title of Regulation: 18 VAC 160-20-10 et seq. Board for Waterworks and Wastewater Works Operators Regulations (amending 18 VAC 160-20-10, 18 VAC 160-20-80, 18 VAC 160-20-90, and 18 VAC 160-20-160; adding 18 VAC 160-20-74, 18 VAC 160-20-76, 18 VAC 160-20-85, 18 VAC 160-20-102, 18 VAC 160-20-104, 18 VAC 160-20-106, 18 VAC 160-20-109, 18 VAC 160-20-120, 18 VAC 160-20-130, and 18 VAC 160-20-140; repealing 18 VAC 160-20 through 18 VAC 160-20-70, 18 VAC 160-20-100, and 18 VAC 160-20-110).

Statutory Authority: §§ 54.1-201 and 54.1-2301 of the Code of Virginia.

Public Hearing Date: November 2, 2000 - 10 a.m.

Public comments may be submitted until December 9, 2000.

(See Calendar of Events section for additional information)

Basis: Sections 54.1-201 and 54.1-2301 of the Code of Virginia authorize the board to promulgate the proposed regulations.

The imperative form of the verb "shall" is used in the statute making the rulemaking provisions mandatory rather than discretionary.

Subsection B of 54.1-2301 states "The Board shall examine operators and issue licenses. The licenses may be issued in specific operator classifications to attest to the competency of an operator to supervise and operate waterworks and wastewater works while protecting the public health, welfare and property and conserving and protecting the water resources of the Commonwealth."

The web site address for locating the text of the cited authority is <http://leg1.state.va.us/000/cod/code9115.htm#156944>.

By memorandum dated April 28, 2000, the Office of the Attorney General stated that the agency has the authority to promulgate the proposed regulations under the authority granted the board under § 54.1-201(5) of the Code of Virginia.

Purpose: The board's proposed regulations are necessary to implement the mandates of the "Environment Protection Agency: Final Guidelines for the Certification and Recertification of the Operators of Community and Nontransient Noncommunity Public Water Systems; Notice" for small water systems which the board must implement on or before February 5, 2001. The new EPA guidelines require all waterworks operators fulfill continuing profession education (CPE) requirements. Revisions to the regulations have been made in accordance with the changes brought forward by the Office of the Attorney General. If the EPA guidelines are not implemented by February 5, 2001, the Commonwealth will lose substantial federal funding.

The public health objectives of the guidelines and proposed regulations are to ensure that: customers of any public water system be provided with an adequate supply of safe, potable drinking water; consumers are confident that their water is safe to drink; public water system operators are trained and

certified and that they have knowledge and understanding of the public health reasons for drinking water standards.

Substance: The following is a summary of the revisions being proposed to implement changes to the regulations and to implement "Environmental Protection Agency Final Guidelines for the Certification and Recertification of Community and Nontransient Noncommunity Public Water Systems; Notice" (1999).

Under 18 VAC 160-20-10, certain definitions have been added, modified or deleted to comply with the Office of Attorney General comments and the board's decisions.

18 VAC 160-20-20, 18 VAC 160-20-30, 18 VAC 160-20-40, 18 VAC 160-20-50, 18 VAC 160-20-60, 18 VAC 160-20-70, and 18 VAC 160-20-100 are proposed for repeal in their entirety.

The substance of 18 VAC 160-20-20 and 18 VAC 160-20-70 has been moved to 18 VAC 160-20-74. The language now found in 18 VAC 160-20-74 continues to require an operator to apply for and hold a valid license in the class and category of the facility operated. Language has been added to void a lower classification of license when a higher classification authorizes practice in all lower classifications. The new language simplifies the regulatory program for licensees and for DPOR.

The substance of 18 VAC 160-20-30 has been moved to 18 VAC 160-20-106. The language now found in 18 VAC 160-20-106 continues to specify the license renewal procedure and adds the requirement for licensed waterworks operators to comply with the CPE requirement. The language in the current subsection E has been deleted.

The substance of 18 VAC 160-20-40 has been moved to 18 VAC 160-20-102. In 18 VAC 160-20-102, the fee structure remains the same. Language has been added to clarify that the date a fee is received by the board is the date that will determine whether the fee is received timely. In addition, language is added to make clear that an additional fee of \$25 will be charged to anyone who submits a check that is dishonored by the institution on which it is drawn.

The substance of 18 VAC 160-20-50 has been moved to 18 VAC 160-20-120. In 18 VAC 160-20-120, a new Class VI facility has been added in order to implement the EPA guidelines. The descriptions of the other facilities have been modified to reflect current operation practice. The new language makes clear that a licensee may lawfully operate a facility of a lower classification than the classification on his license.

The substance of 18 VAC 160-20-60 has been moved to 18 VAC 160-20-130. In 18 VAC 160-20-130, the descriptions have been modified to reflect current operation practice. The new language makes clear that a licensee may lawfully operate a facility of a lower classification than the classification that appears on his license.

18 VAC 160-20-74 is a new section that continues the substance of repealed 18 VAC 160-20-20 and 18 VAC 160-20-70 requiring an individual to hold a license pertinent to the facility to be operated and prohibits the possession of more

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than one classification of license in the same category by a single individual.

18 VAC 160-20-76 is a new section that continues the substance of repealed 18 VAC 160-20-100, except for the language describing practices that do not comply with the Virginia Administrative Process Act (APA). Language is added that more accurately describes the application procedure, establishes the age of majority as an entry standard and requires disclosure of conviction and disciplinary actions. The language also requires the applicant to disclose his physical address and makes clear that receipt of an application and deposit of fees in no way indicates application approval.

18 VAC 160-20-80 has been amended to simplify the language. In substance, any individual licensed in another jurisdiction who can document that he meets the experience and education requirements of the board may take the Virginia license examination.

18 VAC 160-20-85 is a new section that implements a provision of the EPA guidelines recommending the grandparenting of operators of small water systems described as Class VI in the proposed regulations. The EPA is concerned that there are currently many competent operators who should be allowed to continue to function as operators until they can meet the new entry requirements, in order to allow a transition period.

18 VAC 160-20-90 has been amended to clarify language, to reflect the suggestions of the Office of the Attorney General, by deleting "Table 1," which caused confusion, and by adding the entry requirements for the new restricted Class VI waterworks license.

18 VAC 160-20-100 has been proposed for repeal as addressed above under the comments for 18 VAC 160-20-76.

18 VAC 160-20-102 has been added and contains the substance of 18 VAC 160-20-40, which has been proposed for repeal, as addressed above under comments for 18 VAC 160-20-40. In addition, language has been added to make clear that an additional fee of \$25 will be charged to anyone who submits a check that is dishonored by the institution on which it is drawn.

18 VAC 160-20-104 has been added and contains a requirement for regulants to notify the board in writing of any change in name and address, and mandates that regulants practice under the name in which their license is issued.

18 VAC 160-20-106 has been added and contains the substance of deleted 18 VAC 160-20-30. The language continues to specify the license renewal procedure and adds the requirement for licensed waterworks operators to comply with the CPE requirement. The language in the current 18 VAC 160-20-30 E has been deleted because it is obsolete.

18 VAC 160-20-109 has been added to articulate the new CPE requirement mandated by the new EPA guidelines. The number of contact hours of CPE required varies depending on the class of license held. More hours are required for higher classes because of the more complicated nature of the higher-class facility operation. CPE is not required for license renewal for less than two years from the date of expiration,

because the board feels the effort to qualify for the examination meets the CPE requirement for the first renewal cycle. CPE subject matter is limited to those areas covered on the board's current examination. Copies of the examination content are available from DPOR free of charge and will be posted to the DPOR web site. Courses approved by the board to substitute for training credits or formal education are acceptable as CPE.

18 VAC 160-20-110 has been repealed and its substance moved to new 18 VAC 160-20-140. The new language contains the provisions of the repealed section, one of which has been revised for clarity. A provision concerning criminal convictions has been added to make clear that individuals convicted of felonies and certain misdemeanors are subject to license denial, suspension or revocation. Licensees are required to notify the board of convictions of certain felonies. Gross negligence or a continued pattern of incompetence has been added as grounds for disciplinary action.

18 VAC 160-20-160 is the former "Appendix A," that contained the standards for approval of specialized training courses. The appendix has been restyled as 18 VAC 160-20-160 and contains the language found in the appendix with some clarifying amendments. The language specifies how the training can be substituted for the experience required for licensure and the standards the training courses must meet to be approved. The information to be submitted by those seeking training course approval is specified. Additional provisions are included for recurring training programs, which will save some cost and effort for both providers of the training and the board.

Issues: The primary advantage to the public of implementing the new regulatory provisions is the added protection to the public resulting from the additional oversight of the waterworks and wastewater works professions. Implementation of CPE provides for more competent operators, which assures the public of a potable water supply. The primary advantage to the board and to the Commonwealth is to prevent the loss of funding provided by the EPA. The disadvantages to the public would be the added cost to license small water system operators (Class VI) and the CPE costs for all waterworks operators, which will put some upward pressure on water bills.

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. In order to comply with federal guidelines¹ and continue to receive federal funding, the Board for Waterworks and Wastewater Works Operators Regulations (board) proposes to require continuing professional education (CPE) for the retention of all waterworks licenses and to create a new class of restricted waterworks license.

Estimated economic impact.

Continuing Professional Education. Waterworks operators' licenses expire on the last day of February of each odd-number year. Under the current regulations, waterworks operators are required to apply for license renewal prior to the expiration of their license by returning the renewal notice they should have received in the mail and by paying the renewal fee. The board proposes to add another item required in order to renew a waterworks license: a statement that the applicant for license renewal has met a specified CPE requirement for his class prior to the expiration date shown on his license. For Classes I, II, and III, "operators shall obtain a minimum of 20 contact hours during each license renewal cycle." For Classes IV, V, and VI, operators are required to obtain a minimum of 16, eight, or four hours, respectively.

At present, about half of Virginia's waterworks operators could meet the CPE requirements due to ongoing training, such as that mandated by OSHA regulations, by documenting their attendance.² Due to the wide variety of free training available, the remaining operators would likely be able to meet the requirements without paying any course fees, if so desired. The Virginia Department of Health provides free interactive video-streaming training seminars at nine locations located throughout the Commonwealth. By request, the Department of Health provides onsite instruction at waterworks facilities, which would also count toward CPE contact hours.^{3, 4} The Virginia Rural Water Association also provides several training seminars for free or a small fee. It also appears that time spent with an equipment vendor who shows an operator how to use purchased equipment may count toward CPE hours. Though it is likely that operators would be able to comply with CPE requirement without having to pay a course fee or only a small fee, the operators would face some time and perhaps travel costs. There are some potential benefits to the CPE requirements. Say there are some operators who do not properly keep informed of important developments within their profession. They might not become aware of new procedures that could be conducted to minimize the risk to the public of potentially contaminated drinking water. The CPE requirements could compel such operators to attend training seminars where they learn of new beneficial procedures. It is possible that such operators may put into practice newly learned procedures that produce benefits to the public (in reduced risk of water

contamination) that outweigh the cost to the operator of attending the training. There is no data available that would allow estimates of the magnitude of this potential benefit. Thus, the net economic impact cannot be determined.

Class VI License. Under the current regulations, there are five classes of waterworks operators' licenses. The board proposes to add a sixth license (Class VI) for operators who operate waterworks that provide no treatment and serve fewer than 400 persons. Under the current regulations, these individuals are not required to hold an operator's license.⁵ In order to obtain a Class VI license, applicants would need to (i) pass a board-approved examination, and (ii) have a high school diploma or GED and at least six months of experience as an operator-in-training in a waterworks, or no high school diploma and at least one year of experience as an operator-in-training in a waterworks. Post-secondary education and certain subject-relevant training may be substituted for the experience requirement. The application fee for the initial license will be \$85; every two years a renewal fee of \$45 dollars will be required. After the initial licensing period is over, the Class VI operator will be required to obtain four contact hours of CPE every two years.

The proposed regulations include a "grandparenting" provision that effectively allows current operators of Class VI waterworks up to five years to gain the knowledge needed to pass the board-approved examination and the required operator-in-training experience, while continuing to work as Class VI operators. Current operators of Class VI waterworks are given two years from the date that the proposed regulations become effective to apply for a restricted version of the Class VI license; the restricted Class VI license lasts for three years. In order to obtain the restricted Class VI license, the operator would need to (i) be at least 18 years of age, (ii) have a high school diploma or GED and at least six months of experience, or no high school diploma and at least one year of experience, and (iii) currently operate a Class VI waterworks. The restricted Class VI license would last three years, after which the operator would be required to apply for a standard Class VI license. In order to obtain the standard Class VI license, the operator would need to pass the board-approved examination and have the operator-in-training experienced described earlier. According to the Department of Professional and Occupational Regulation, the current operator would be able to satisfy the operator-in-training experience by having an operator with a Class V or higher level license act as a mentor for the required time period.

The proposed Class VI license will clearly produce significant new costs for current operators of Class VI type waterworks, including fees, time and effort to prepare and take the exam and possibly training and experience costs. The proposed new license does have the potential to be beneficial to the public. Currently, operators of Class VI waterworks are permitted to provide drinking water to the public without any official demonstration of competence. It is possible that some operators of Class VI waterworks are not aware of all the proper procedures to be conducted to prevent contamination of drinking water. Thus, by requiring that only individuals who

¹ "Environment Protection Agency Final Guidelines for the Certification and Recertification of the Operators of Community and Nontransient Noncommunity Public Water Systems; Notice," 1999.

² Source: Mark Anderson, Training and Certification Chief at the Virginia Department of Health

³ Ibid.

⁴ The Virginia Department of Health training is funded by a federal grant.

⁵ Source: Department of Professional and Occupational Regulation

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demonstrate their knowledge of proper procedures by passing a board-approved examination be allowed to operate waterworks, a significant benefit to the public may be gained by reducing the risk of drinking water contamination. The benefit of requiring an experienced operator who has passed an exam demonstrating applicable knowledge to obtain operator-in-training experience is less clear. Since there is no data available that would allow estimates of the magnitude of the potential benefits, a meaningful numerical estimate of the net economic impact of this proposal cannot be made at this time.

Businesses and entities affected. All waterworks operators in the Commonwealth are potentially affected by the proposed amendments. According to the Department of Professional and Occupational Regulation, there were the following numbers of licensed waterworks operators in the Commonwealth on 4/30/00: 1,104 Class I; 1,283 Class II; 1,871 Class III; 1,826 Class IV; and 173 Class V.

Localities particularly affected. The proposed amendments potentially affect all localities within the Commonwealth.

Projected impact on employment. Some operators at Class VI type waterworks who are unable to show competence by passing the examination may switch to a different career. Some of the operators at the smaller waterworks, such as Class VI, only do the work part-time. Some of these operators may decide that the costs of the new license are too much and choose to leave the profession.

The proposal to add CPE requirements may increase the demand for training. Thus, trainers may work longer hours or new trainers may be hired.

Effects on the use and value of private property. Since it appears that time spent with an equipment vendor who shows an operator how to use purchased equipment may count toward CPE hours, there may be a slightly greater likelihood that new equipment may be purchased. This may increase the value of some private equipment vendors by a small amount. Private sector training firms may encounter somewhat greater demand for their services. The value of such firms may increase.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The agency agrees with the Department of Planning and Budget's Economic Impact Analysis.

Summary:

The proposed regulations are necessary to implement the "Environment Protection Agency Final Guidelines for the Certification and Recertification of the Operators of Community and Nontransient Noncommunity Public Water Systems; Notice" (1999). Specifically, the proposed regulations implement the new EPA guidelines that establish a new class for restricted waterworks licenses and require continuing professional education for waterworks licenses. In addition, the proposed regulations include substantial reorganization and revision of text for clarity and ease of use.

18 VAC 160-20-10. Definitions.

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

"Board" means the Board for Waterworks and Wastewater Works Operators.

"Category" means the two divisions of waterworks and wastewater works and operators' licenses, one being waterworks and the second being wastewater works.

"Classification" means the divisions of each category of waterworks and wastewater works and operators' licenses into classes where Class "I" represents the highest classification.

"Contact hour" means 50 minutes of participation in a structured training activity.

"Continuing Professional Education (CPE)" means participation in a structured training activity that enables a licensed waterworks operator to maintain and increase the competence required to assure the public's protection.

"Department" means the Virginia Department of Professional and Occupational Regulation.

"Experience" means time spent learning how to physically and theoretically operate the waterworks or wastewater works as an operator-in-training or time spent operating a waterworks or wastewater works for which the operator is currently licensed.

"Licensed operator" means an operator with a license in the category and with a classification equal to or higher than the classification of the waterworks or wastewater works being operated.

"Licensee" means an individual holding a valid license issued by the board.

"Licensure" means a method of regulation whereby the Commonwealth, through the issuance of a license, authorizes a person possessing the character and minimum skills to engage in the practice of a profession or occupation which that is unlawful to practice without a license.

"Operate" means any act of an individual, which may impact on the finished water quality at a waterworks or the plant effluent at a wastewater works.

"Operating staff" means individuals employed or appointed by an owner to work at a waterworks or wastewater works.

"Operator" means any individual employed or appointed by any owner, and who is designated by such owner to be the person in responsible charge, such as a supervisor, a shift operator, or a substitute in charge, and whose duties include testing or evaluation to control waterworks or wastewater works operations. Not included in this definition are superintendents or directors of public works, city engineers, or other municipal or industrial officials whose duties do not include the actual operation or direct supervision of waterworks or wastewater works.

"Operator-in-training" means an individual employed by an owner to work under the direct supervision and direction of an operator holding a valid license in the proper category and classification for the purpose of gaining experience and knowledge in the duties and responsibilities of an operator of a waterworks or wastewater works. An operator-in-training is not an operator.

"Owner" means the Commonwealth of Virginia, or any political subdivision thereof, any public or private institution, corporation, association, firm or company or any other entity organized or existing under the laws of this Commonwealth or of any other state or nation, or any person or group of persons acting individually or as a group, who own, manage, or maintain waterworks or wastewater works.

"Person" means any individual, group of individuals, a corporation, a partnership, a business trust, an association or other similar legal entity engaged in operating waterworks or wastewater works.

"Renewal" means continuing the effectiveness of a license for another period of time.

"Responsible charge" means the designation by the owner of any individual to have the duty and the authority to operate or modify the operation of a waterworks or wastewater works.

"Structured training activity" means a formal educational process designed to permit a participant to learn a given subject or subjects through interaction with an instructor in a course, seminar, conference or other performance-oriented format.

"Wastewater works" means each a system of (i) sewerage systems or sewage treatment works serving more than 400 persons, as set forth in § 62.1-44.18 of the Code of Virginia; (ii) sewerage systems or sewage treatment works serving fewer than 400 persons, as set forth in § 62.1-44.18 of the Code of Virginia, if so certified by the State Water Control Board; and (iii) facilities for discharge to into state waters of industrial wastes or other wastes, if certified by the State Water Control Board.

"Waterworks" means each a system of structures and appliances used in connection with the collection, storage, purification, and treatment of that serves piped water for drinking or domestic use and the distribution thereof to the public, except distribution piping. Systems serving fewer than 400 persons shall not be considered to be a waterworks unless certified by the Department of Health to be such to (i) at least 15 connections, or (ii) at least 25 of the same individuals for more than six months out of the year. The term waterworks shall include all structures, equipment, and appurtenances used in the storage, collection, purification, treatment and distribution of pure water, except the piping and fixtures inside the building where such water is delivered.

18 VAC 160-20-20. License required. (Repealed.)

To serve as an operator of a waterworks or wastewater works, it shall be necessary to hold a valid license issued by the board of a classification equal to or greater than the classification of the waterworks or wastewater works and in the appropriate category.

18 VAC 160-20-30. License renewal required. (Repealed.)

A. Licenses for waterworks operators shall expire on the last day of February of each odd-numbered year. Licenses for wastewater works operators shall expire on the last day of February of each even-numbered year. The Department of Professional and Occupational Regulation shall mail a renewal notice to the licensee outlining the procedures for renewal. Failure to receive this notice shall not relieve the licensee of the obligation to renew.

B. Each licensee applying for renewal shall return the renewal notice and fee established in 18 VAC 160-20-40 of this chapter to the Department of Professional and Occupational Regulation prior to the expiration date shown on the license. If the licensee fails to receive the renewal notice, a copy of the expired license may be submitted with the required fee.

C. If the operator fails to renew the license within 30 days after the expiration date on the license, a penalty fee as established in 18 VAC 160-20-40 of this chapter shall be required, in addition to the renewal fee.

D. Any operator failing to renew within one year of the expiration date on the license must apply for a new license by examination in accordance with Part II of this chapter. Such an individual shall be deemed to be eligible to sit for the same category and class of license as the expired license.

E. Limited waterworks operator licenses, issued under the authority of § 4.02.2 of the Rules and Regulations of the State Board for Certification of Operators of Water and Wastewater Works (effective March 1, 1977), expiring on February 28, 1993, will not be renewed. Limited wastewater works operator licenses, issued under the authority of § 4.02.2 of the Rules and Regulations of the State Board for Certification of Operators of Water and Wastewater Works (effective March 1, 1977), expiring on February 28, 1994, will not be renewed. A holder of a limited license shall be deemed to have met the experience and education requirements of this chapter and shall be eligible to sit for an examination upon application in the same category and in the same or lower classification as the limited license currently held.

18 VAC 160-20-40. Fees. (Repealed.)

Fees are nonrefundable and shall not be prorated.

The following fees shall apply:

- 1. Application for licensure by examination or by reciprocity _____ \$85
- 2. Application for reexamination _____ \$75
- 3. Renewal of license _____ \$45
- 4. Penalty for failure to renew license within 30 days of expiration _____ \$25

18 VAC 160-20-50. Waterworks. (Repealed.)

A. Class V shall mean any waterworks as follows:

- 1. Waterworks employing no treatment other than chlorine disinfection, including consecutive water systems or groundwater systems with no treatment or

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~~consecutive systems employing repumping or rechlorination or both, and classified by the Department of Health as public water supplies; or~~

~~2. Waterworks classified by the Department of Health as Class V waterworks.~~

~~B. Class IV shall mean any waterworks as follows:~~

~~1. Waterworks employing disinfection, corrosion control, iron and manganese removal, softening, slow sand filtration, rechlorination, and other approved methods of treatment, or any combination thereof, except fluoridation, serving less than 5,000 persons and classified by the Department of Health as public water supplies; or~~

~~2. Waterworks classified by the Department of Health as Class IV waterworks.~~

~~C. Class III shall mean any waterworks as follows:~~

~~1. Waterworks employing processes including, but not limited to, chemical coagulation, sedimentation, filtration other than slow sand filtration, disinfection, fluoridation, aeration, corrosion control, or any combination thereof, serving a population of less than 5,000, or having a rated capacity of less than 0.5 mgd; or~~

~~2. Waterworks employing processes including disinfection, corrosion control, iron and manganese removal, softening, rechlorination, and other approved methods of treatment serving 5,000 persons or more; or~~

~~3. Waterworks employing fluoridation which are not under a higher classification and which are classified by the Department of Health as public water supplies; or~~

~~4. Waterworks classified by the Department of Health as Class III waterworks.~~

~~D. Class II shall mean any waterworks as follows:~~

~~1. Waterworks employing processes including, but not limited to, chemical coagulation, sedimentation, filtration, disinfection, fluoridation, aeration, corrosion control, or any combination thereof, serving a population of at least 5,000 persons, but less than 50,000 persons, or having a rated capacity of at least 0.5 mgd, but less than 5.0 mgd; or~~

~~2. Waterworks employing processes including, but not limited to, chemical coagulation, sedimentation, filtration, and disinfection, employing the high rate filtration process, and having a filter rate greater than 2.0 gpm/sq. ft., serving a population less than 50,000 persons, or having a rated capacity less than 5.0 mgd; or~~

~~3. Waterworks classified by the Department of Health as Class II waterworks.~~

~~E. Class I shall mean any waterworks employing processes including, but not limited to, chemical coagulation, sedimentation, filtration, disinfection, fluoridation, aeration, corrosion control, or any combination thereof, serving a population of 50,000 persons or more or having a rated capacity of 5.0 mgd or more.~~

18 VAC 160-20-60. Wastewater works. (Repealed.)

~~A. Class IV shall mean any wastewater works as follows:~~

~~1. Raw sewage stabilization ponds with a design hydraulic capacity greater than 0.04 mgd but equal to or less than 1.0 mgd; or~~

~~2. Wastewater works classified by the State Water Control Board as Class IV wastewater works.~~

~~B. Class III shall mean any wastewater works as follows:~~

~~1. Wastewater works using biological treatment methods having a design hydraulic capacity greater than 0.04 mgd, but equal to or less than 0.5 mgd; or~~

~~2. Wastewater works using physical/chemical treatment methods having a design hydraulic capacity greater than 0.04 mgd, but equal to or less than 0.5 mgd; or~~

~~3. Wastewater works using combinations of biological and physical/chemical treatment methods having a design hydraulic capacity greater than 0.04 mgd, but equal to or less than 0.1 mgd; or~~

~~4. Raw sewage stabilization ponds, with a design hydraulic capacity greater than 1.0 mgd; or~~

~~5. Wastewater works that do not use biological or physical/chemical treatment methods but are classified by the State Water Control Board as Class III wastewater works.~~

~~C. Class II shall mean any wastewater works as follows:~~

~~1. Wastewater works using biological treatment methods having a design hydraulic capacity greater than 0.5 mgd, but equal to or less than 5.0 mgd; or~~

~~2. Wastewater works using physical/chemical treatment methods having a design hydraulic capacity greater than 0.5 mgd, but equal to or less than 5.0 mgd; or~~

~~3. Wastewater works using combinations of biological and physical/chemical treatment methods, having a design hydraulic capacity greater than 0.1 mgd, but equal to or less than 2.5 mgd.~~

~~D. Class I shall mean any wastewater works as follows:~~

~~1. Wastewater works using biological treatment methods having a design hydraulic capacity greater than 5.0 mgd; or~~

~~2. Wastewater works using physical/chemical treatment methods having a design hydraulic capacity greater than 5.0 mgd; or~~

~~3. Wastewater works using combinations of biological and physical/chemical treatment methods, having a design hydraulic capacity greater than 2.5 mgd.~~

~~E. Biological treatment methods as used in this section shall mean a fixed film or suspended growth biological treatment process, such as:~~

~~1. Activated sludge.~~

~~2. Trickling filter.~~

- ~~3. Aerated lagoon.~~
- ~~4. Rotating biological contactor.~~
- ~~5. Land application.~~
- ~~6. Biological nutrient removal process.~~

~~F. Physical/chemical treatment methods as used in this section shall mean a treatment process such as:~~

- ~~1. Chemical coagulation, flocculation and precipitation.~~
- ~~2. Filtration.~~
- ~~3. Carbon adsorption.~~
- ~~4. Breakpoint chlorination.~~
- ~~5. Demineralization (including but not limited to ion exchange, reverse osmosis, electrodialysis).~~

PART II.
ENTRY LICENSE REQUIREMENTS.

18 VAC 160-20-70. Licensure. (Repealed.)

~~The board shall issue a Class V, IV, III, II, or I license only after an individual has met all experience and examination requirements as set forth in this chapter. Each license shall be in the appropriate category and classification and shall indicate the highest classification of works the holder is qualified to operate.~~

18 VAC 160-20-74. License required.

To serve as an operator of a waterworks or wastewater works, it shall be necessary to hold a valid license issued by the board for a classification equal to or greater than the classification of the waterworks or wastewater works to be operated and in the appropriate category. Issuance of a new classification of license shall void all previously issued licenses in the same category. No licensee shall hold two licenses of different classifications in the same category. The board shall issue a license only after an individual has met all experience and examination requirements as set forth in this chapter.

18 VAC 160-20-76. Application.

A. Individuals desiring to be issued a license shall apply on forms supplied by the board. The application shall be completed according to the instructions provided with the application. Incomplete applications will be returned to the applicant. Fees shall remain valid for 90 days and shall not be refunded.

B. Individual applicants shall be at least 18 years of age.

C. The applicant shall disclose the following information about himself:

- 1. Any conviction by a court in any jurisdiction of any felony or of any misdemeanor involving lying, cheating or stealing, or of any material misrepresentation while engaged in waterworks or wastewater works activities. Any plea of nolo contendere shall be considered a conviction for purposes of this subsection. A certified copy of a final order, decree or case decision by a court or regulatory agency with the lawful authority to issue*

such order, decree or case decision shall be prima facie evidence of such conviction or discipline.

2. Any disciplinary action taken by the board or another jurisdiction in connection with the applicant's activities as a waterworks or wastewater works operator, including but not limited to, monetary penalties, fines, suspension, revocation, or surrender of a license in connection with a disciplinary action.

3. His physical address. A post office box shall not be accepted in lieu of a physical address.

D. The fee established by 18 VAC 160-20-102 shall accompany the application and shall not be refunded.

E. The receipt of an application and the deposit of fees in no way indicates approval of the application by the board.

18 VAC 160-20-80. Licensure by reciprocity Individuals certified or licensed in other jurisdictions.

~~The board may issue a license to Any person applicant holding a currently valid license or certificate in any state, territory, or possession of the United States, or in any foreign country, or a certificate issued by the Association of Boards of Certification, provided the requirements and standards under which the license or certificate was issued are equivalent to those established by this chapter another jurisdiction who meets the requirements of this chapter, including experience and education, may take the examination in the Virginia category and classification comparable to the license or certificate held in the other jurisdiction.~~

18 VAC 160-20-85. Restricted License of Class VI Waterworks.

A. The board shall issue a restricted license to operate a Class VI waterworks to the Class VI waterworks owner or the Class VI waterworks owner's designee upon application for such restricted license by the waterworks owner or his designee and provided said application is received within two years after the effective date of this chapter. Waterworks owners or their designees who fail to apply within the two-year period must apply for a license pursuant to 18 VAC 160-20-90. A restricted license shall be limited to one license per Class VI waterworks facility. The restricted license is site specific and nontransferable. The restricted license expires three years from the date of issuance and is not subject to renewal.

B. Each applicant for a restricted license to operate a Class VI waterworks shall apply on the application form provided by the board which establishes that the applicant:

- 1. Is at least 18 years of age.*
- 2. Has the following education and experience:*
 - a. A high school diploma or G.E.D. and six months experience, or has no high school diploma or G.E.D. and has 12 months experience.*
 - b. Is the current operator of a specific Class VI system and does not hold a waterworks license issued by the board; and*

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c. Understands that the restricted Class VI license that may be issued becomes invalid if he leaves the facility for which the license is sought or is issued a waterworks operator license in any other class.

18 VAC 160-20-90. Licensure by experience and examination.

Licensure is based upon having applicable experience and demonstrating minimum required knowledge, skills and abilities *by through an examination*. Education, specialized training, and experience in the other category may be substituted for the required experience as specified in this section. ~~These requirements are summarized in Table 1.~~

A. Experience. For purposes of this chapter, experience requirements are expressed in terms of calendar periods of full-time employment ~~with actual hands-on experience~~ as an operator or as an operator-in-training at a waterworks or wastewater works in the same category as the license being applied for. All experience claimed on the application for licensure must be certified by the individual's immediate supervisor.

1. A year of full-time employment is defined as a *minimum of 1,760 hours per year during a 12-month period or a minimum of 220 workdays per year in a 12-month period*. A workday is defined as attendance at a waterworks or wastewater works to the extent required

for proper operation. *More than 1,760 hours or 220 work days during a 12-month period will not be considered as more than one year of full-time employment.*

2. Experience gained as an operator-in-training must be obtained under the supervision of an operator holding a valid license of the same category and of a classification equal to or higher than the classification of the waterworks or wastewater works at which the experience is gained. The supervising operator shall certify the experience on the application form as *accurate and relevant to the classification and category of license for which the application is being submitted.*

3. Partial credit may be given for actual hours of work or workdays experience if the applicant works as an operator or as an operator-in-training less than full time.

4. Experience *solely limited to the operation and maintenance of wastewater collection system operation and maintenance systems and water distribution systems*, laboratory work, plant maintenance, and other nonoperating duties shall not be counted as experience as an operator or as an operator-in-training.

5. Experience limited to water distribution system operation and maintenance shall be considered only when applying for a Class V waterworks operator license.

Table 1. Summary of requirements for operator's license by class.

License Class	Education ¹	Current License	Total Experience Required (Years)	Experience must be at this class facility or higher (Years)				Maximum Substitution Permitted (Years)
				C1,IV	C1,IV	C1,III	C1,II	
V	BS degree	None	0.5	0.5				0.0
	High School	None	0.5	0.5				0.0
	None	None	1.0	1.0				0.0
IV	BS degree	None	0.5		0.5			0.0
	High School	None	0.5		0.5			0.0
	None	None	1.0		1.0			0.0
III	BS degree	None	1.0	1.0	1.0			0.0
		IV	1.0		1.0			0.0
	High School	None	2.0		2.0			1.0
		IV	2.0		2.0			1.0
	None	IV	4.0		4.0			2.0
	II	BS degree	None	1.5			0.5	
IV			1.5			0.5		0.0
III			1.5			0.5		0.0
High School		III	4.0			2.0		2.0
None		III	7.0			3.0		3.5
I		BS degree	II	2.5				1.0
	High School	II	6.0				2.0	3.0
	None	II	10.0		4.0	3.0	3.0	5.0

¹BS degree = bachelor's degree in engineering or engineering technology; or in physical, biological, or chemical science or engineering. All other bachelor's degrees will be considered the equivalent of high school education for the purpose of meeting the education requirement, although individual courses in science,

engineering, or public health may be substitutes for experience in accordance with 18 VAC 160-20-90.

High School = high school diploma or GED or college degree other than BS degree defined above.

All experience must be at a waterworks or wastewater works of the appropriate category and of a class equal to or higher than the class equal to or higher than the class indicated in the table. Experience gained at a waterworks or wastewater works of higher class than currently held license must be direct supervision and direction of a properly licensed operator.

B. Specific requirements for licenses.

1. *Specific requirements for a Class VI license. Applicants for licensure as a Class VI waterworks operator shall meet one of the following requirements and pass a board-approved examination:*

a. *Have (i) a high school diploma or GED and (ii) at least six months of experience as an operator-in-training in a Class VI, Class V, Class IV, Class III, Class II, or Class I waterworks; or*

b. *Have (i) no high school diploma and (ii) at least one year of experience as an operator-in-training in a Class VI, Class V, Class IV, Class III, Class II, or Class I waterworks.*

2. *Specific requirements for a Class V license. Applicants for licensure as a Class V waterworks operator shall meet one of the following requirements and pass a board-approved examination:*

a. *Have (i) a high school diploma or GED and (ii) at least six months of experience as an operator-in-training of waterworks of in a Class V, Class IV, Class III, Class II, or Class I waterworks; or*

b. *Have (i) no high school diploma and (ii) at least one year of experience as an operator-in-training of waterworks of in a Class V, Class IV, Class III, Class II, or Class I waterworks.*

3. *Specific requirements for a Class IV license. Applicants for licensure as either a Class IV waterworks or wastewater works operator shall meet one of the following requirements and pass a board-approved examination:*

a. *Have (i) a high school diploma or GED and (ii) at least six months of experience as an operator-in-training of waterworks or wastewater works of in a Class IV, Class III, Class II, or Class I waterworks or wastewater works (as appropriate); or*

b. *Have (i) no high school diploma and (ii) at least one year of experience as an operator-in-training of waterworks or wastewater works of in a Class IV, Class III, Class II, or Class I waterworks or wastewater works (as appropriate).*

4. *Specific requirements for a Class III license. Applicants for licensure as either a Class III waterworks or wastewater works operator shall meet one of the following requirements and pass a board-approved examination:*

a. *Have (i) a bachelor's degree in engineering or engineering technology, or in physical, biological or chemical science; and (ii) at least one year of*

experience as an operator-in-training of waterworks or wastewater works of in a Class IV, Class III, Class II, or Class I waterworks or wastewater works (as appropriate); or

b. *Have (i) a bachelor's degree in engineering or engineering technology, or in physical, biological or chemical science; (ii) a Class IV license; and (iii) a total of at least one year of experience as an operator or operator-in-training of waterworks or wastewater works of in a Class IV waterworks or wastewater works (as appropriate) or as an operator-in-training of waterworks or wastewater works of in a Class III, Class II, or Class I waterworks or wastewater works (as appropriate); or*

c. *Have (i) a high school diploma or GED and (ii) at least two years of experience as an operator-in-training of waterworks or wastewater works of in a Class IV, Class III, Class II, or Class I waterworks or wastewater works (as appropriate); or*

d. *Have (i) a high school diploma or GED, (ii) a Class IV license, and (iii) a total of at least two years of experience as an operator or operator-in-training of waterworks or wastewater works of in a Class IV waterworks or wastewater works (as appropriate) or as an operator-in-training of waterworks or wastewater works of in a Class III, Class II, or Class I waterworks or wastewater works (as appropriate); or*

e. *Have (i) no high school diploma, (ii) a Class IV license, and (iii) a total of at least four years of experience as an operator or operator-in-training of waterworks or wastewater works of in a Class IV waterworks or wastewater works (as appropriate) or as an operator-in-training of waterworks or wastewater works of in a Class III, Class II, or Class I waterworks or wastewater works (as appropriate).*

5. *Specific requirements for a Class II license. Applicants for licensure as either a Class II waterworks or wastewater works operator shall meet one of the following requirements and pass a board-approved examination:*

a. *Have (i) a bachelor's degree in engineering or engineering technology, or in physical, biological or chemical science; and (ii) a total of at least 1- 1/2 years of experience, of which at least six months without substitutions shall be as an operator-in-training of waterworks or wastewater works of in a Class III, Class II or Class I waterworks or wastewater works (as appropriate); or*

b. *Have (i) a bachelor's degree in engineering or engineering technology, or in physical, biological or chemical science; (ii) a Class IV license; and (iii) a total of at least 1-1/2 years of experience, of which at least six months without substitutions shall be as an operator-in-training of waterworks or wastewater works of in a Class III, Class II or Class I waterworks or wastewater works (as appropriate); or*

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c. Have (i) a bachelor's degree in engineering or engineering technology, or in physical, biological or chemical science; (ii) a Class III license; and (iii) a total of at least 1-1/2 years of experience, of which at least six months, without substitutions shall be as an operator or operator-in-training ~~of waterworks or wastewater works of in a Class III waterworks or wastewater works (as appropriate)~~ or as an operator-in-training ~~of waterworks or wastewater works of in a Class II or Class I waterworks or wastewater works (as appropriate)~~; or

d. Have (i) a high school diploma or GED, (ii) a Class III license, and (iii) a total of at least four years of experience of which at least two years without substitutions shall be as an operator or operator-in-training ~~of waterworks or wastewater works of in a Class III waterworks or wastewater works (as appropriate)~~ or as an operator-in-training ~~of waterworks or wastewater works of in a Class II or Class I waterworks or wastewater works (as appropriate)~~; or

e. Have (i) no high school diploma, (ii) a Class III license, and (iii) a total of at least seven years of experience of which at least three years without substitutions shall be as an operator or operator-in-training ~~of waterworks or wastewater works of in a Class III waterworks or wastewater works (as appropriate)~~ or as an operator-in-training ~~of waterworks or wastewater works of in a Class II or Class I waterworks or wastewater works (as appropriate)~~.

5. 6. Specific requirements for a Class I license. Applicants for licensure as *either* a Class I waterworks or wastewater works operator shall meet one of the following requirements and pass a board-approved examination:

a. Have (i) a bachelor's degree in engineering or engineering technology, or in physical, biological or chemical science; (ii) a Class II license; and (iii) a total of at least 2-1/2 years of experience, of which at least one year without substitutions shall be as an operator or operator-in-training ~~of waterworks or wastewater works of in a Class II waterworks or wastewater works (as appropriate)~~ or as an operator-in-training ~~of waterworks or wastewater works of in a Class I waterworks or wastewater works (as appropriate)~~; or

b. Have (i) a high school diploma or GED, (ii) a Class II license and (iii) a total of at least six years of experience of which at least two years without substitutions shall be as an operator or operator-in-training ~~of waterworks or wastewater works of in a Class II waterworks or wastewater works (as appropriate)~~ or as an operator-in-training ~~of waterworks or wastewater works of in a Class I waterworks or wastewater works (as appropriate)~~; or

c. Have (i) no high school diploma, (ii) a Class II license, and (iii) a total of at least 10 years of experience of which at least three years without

substitutions shall be as an operator or operator-in-training ~~of waterworks or wastewater works of in a Class II waterworks or wastewater works (as appropriate)~~ or as an operator-in-training ~~of waterworks or wastewater works of in a Class I waterworks or wastewater works (as appropriate)~~.

C. Substitutions for required experience. For the purpose of meeting the experience requirements for ~~licenses of Class III, Class II, and Class I licenses~~, experience in the other category, relevant training in waterworks and wastewater works operation, and formal education may be substituted for actual hands-on experience in the category being applied for.

~~1. Limitations on substitution.~~

~~a. Substitutions may not reduce the actual operator experience required to less than 2 1/2 years for a Class I license, to less than 1 1/2 years for a Class II license, to less than one year for a Class III license, or to less than 1/2 year for a Class IV or Class V license.~~

~~b. Under no circumstances shall experience, training, and education substitutions exceed 50% of the total experience required in the appropriate subdivision of 18 VAC 160-20-90.~~

~~c. No experience, training, or education substitutions are permitted for the experience required to obtain a Class V or a Class IV license as specified in 18 VAC 160-20-90-B.~~

~~2. Experience substitution. One half of the actual experience gained in the other category may be substituted for required experience in the category of the license being applied for.~~

~~3. Education substitution. Education may be substituted for part of the required experience, subject to the limitations in 18 VAC 160-20-100 A as follows:~~

~~a. Education used to meet the educational requirements for any class of license may not be substituted for experience.~~

~~b. Formal education. Formal education courses at a post-secondary level in physical, biological or chemical science; engineering or engineering technology; waterworks or wastewater works operation; or public health may be substituted for part of the required experience.~~

~~(1) All education substituted for experience must be relevant to the category and classification of the license being applied for.~~

~~(2) Education may be substituted for experience at a rate of one month experience for each semester hour of college credit approved by the board. One quarter hour of college credit will be considered equal to 2/3 of a semester hour.~~

~~c. Specialized training. Waterworks or wastewater works operator training courses, seminars, workshops, or similar specialized training, specifically approved by the board, may be substituted for part of the required experience.~~

~~(1) All training substituted for experience must be relevant to the category and classification of the license being applied for.~~

~~(2) Training may be substituted for experience at a rate of one month experience for each training credit (TC) approved by the board. One TC is awarded for each 10 hours of classroom contact time or for each 20 hours of laboratory exercise and field trip time. No credit towards TCs is granted for breaks, meals, receptions, and time other than classroom, laboratory and field trip contact time.~~

~~(3) All courses used for substitution must be approved by the board utilizing the criteria set forth in Appendix A.~~

1. *Category experience substitution.* One half of the actual experience gained in the other category may be substituted for required experience in the category of the license being applied for.

2. *Education substitution.* Education may be substituted for part of the required experience in the category of the license being applied for, subject to the following limitations:

a. *Education used to meet the educational requirements for any class of license may not be substituted for experience.*

b. *Formal education courses at a post-secondary level in physical, biological or chemical science; engineering or engineering technology; waterworks or wastewater works operation; or public health may be substituted for part of the required experience.*

~~(1) All education substituted for experience must be relevant to the category and classification of the license being applied for.~~

~~(2) Education may be substituted for experience at a rate of up to one month experience for each semester hour of college credit approved by the board. One quarter hour of college credit will be considered equal to two thirds of a semester hour.~~

~~(3) Substitution of formal education experience will be approved by the board only for applicants who submit a transcript from the institution where the course was taken.~~

c. *Training substitution.* Waterworks or wastewater works operator training courses, seminars, workshops, or similar training, specifically approved by the board, may be substituted for part of the required experience.

~~(1) All training substituted for experience must be relevant to the category and classification of the license being applied for.~~

~~(2) Training may be substituted for experience at a rate of one month experience for each training credit approved by the board. Up to one training credit is awarded for each 10 hours of classroom contact time or for each 20 hours of laboratory exercise and field trip contact time. No credit towards training~~

~~credits is granted for breaks, meals, receptions, and time other than classroom, laboratory and field trip contact time.~~

~~(3) All courses used for substitution must be approved by utilizing the criteria set forth in Part VI (18 VAC 160-20-160) of this chapter.~~

~~(4) Substitution of training for experience will be approved by the board only for applicants who submit a copy of an appropriate certificate identifying the subject matter of the course and the training credit value, and signed by a representative of the organization sponsoring the training.~~

3. *Limitations on substitution.*

a. *Under no circumstances shall category experience, education, and training substitutions exceed 50% of the total experience required under this subsection.*

b. *No category experience, education, or training substitutions are permitted for the experience required to obtain a Class VI, Class V or a Class IV license as specified in subsection B of this section.*

D. *Examination.* A board-approved examination shall be administered at least twice a year.

1. An individual may take the examination prior to fulfilling the education and experience requirements, provided all requirements will be met within three months after the date the applicant will take the examination. The ~~results of the examination and the~~ license shall not be issued until all applicable requirements have been met and satisfactorily verified.

2. An individual who is unable to take an examination at the time scheduled shall notify the board prior to the date of the examination; such an individual shall be rescheduled for the next examination. Failure to notify the board may require the submittal of a new application and payment of fees, ~~in accordance with 18 VAC 160-20-40 and 18 VAC 160-20-100 A.~~

3. Upon submission of an application for reexamination form provided by the board and payment of the reexamination fee, an applicant who is unsuccessful in passing an examination will be allowed to retake ~~any examination(s) given the examination up to two times~~ within two years of the date of notification of initial unsuccessful examination results. ~~After~~ If the two-year period ~~has elapsed~~ elapses, or if an applicant fails to pass both reexaminations, ~~an~~ then the applicant will be required to submit a new application with fee in accordance with these regulations ~~this chapter~~ in order to take an examination. ~~Applications for reexamination must be received in the Department of Professional and Occupational Regulation at least 60 days prior to a scheduled examination in order to be eligible to sit for that examination.~~

4. *Applications for examination and reexamination must be received by the Department of Professional and Occupational Regulation at least 60 days prior to a*

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scheduled examination in order to be eligible to sit for that examination.

18 VAC 160-20-100. Application. (Repealed.)

~~A. Any person seeking licensure by reciprocity or by education, experience, and examination shall submit a fully completed application with the appropriate fee(s) attached. Incomplete applications will be returned to the applicant. Application for licensure by examination must be received in the Department of Professional and Occupational Regulation 60 days prior to a scheduled examination in order to be eligible to sit for that examination.~~

~~B. All applications of candidates will be reviewed by the Department of Professional and Occupational Regulation staff to determine eligibility for licensure and examination within 50 days of receipt at the offices of the Department of Professional and Occupational Regulation. Any applicant may appeal the initial review, in writing, to the board within 60 days of the staff's determination. No applicant will be approved for licensure unless he meets all of the requirements of Part II of this chapter.~~

~~C. Applicants who have been found ineligible to sit for an examination may request further consideration by submitting a letter to the board with the necessary evidence of additional qualifications, training, or experience. No additional fee will be required, provided all requirements for licensing are met within two years from the date of original application.~~

18 VAC 160-20-102. Fees.

A. All fees are nonrefundable.

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

C. The following fees shall apply:

Application fee	\$85
Renewal fee	\$45
Late renewal fee, additional	\$25
Reexamination fee	\$75
Bad check or other instrument penalty	\$25

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

18 VAC 160-20-104. Maintenance of license.

A. Notice in writing shall be given to the board in the event of any change of the licensee's name or address. Such notice shall be received by the board within 30 days of the change of the name or address.

B. All licensees shall operate under the name in which the license is issued.

PART III. STANDARDS OF PRACTICE RENEWAL.

18 VAC 160-20-106. Renewal.

A. Licenses for waterworks operators shall expire on the last day of February of each odd-numbered year. Licenses for wastewater works operators shall expire on the last day of February of each even-numbered year.

B. The Department of Professional and Occupational Regulation shall mail a renewal notice to the licensee outlining the procedures for renewal. Renewal notices shall be mailed to the licensee at the last known address of record. Failure to receive written notice shall not relieve the licensee of the obligation to renew and pay the required fee outlined in 18 VAC 160-20-102.

C. Each licensee applying for renewal shall return the renewal notice, fee, and, in the case of waterworks licensees only, a statement that the applicant for license renewal has met the CPE requirement established in 18 VAC 160-20-109 prior to the expiration date shown on the license. If the licensee fails to receive the renewal notice, a copy of the expired license may be submitted in place of the renewal notice along with the required fee and, in the case of waterworks licensees only, a statement that the CPE requirement in 18 VAC 160-20-109 has been met.

D. The date on which the renewal fee and any required forms are actually received by the board or its agent shall determine whether an additional fee is due.

E. If the requirements of subsection C of this section are met more than 30 days but less than 12 months after the expiration date on the license, a late penalty fee shall be required as established in 18 VAC 160-20-102. The date on which the renewal application, any required documentation and the required fees are actually received by the board or its agent shall determine whether the licensee is eligible for renewal and whether an additional fee is due.

F. Any individual who fails to renew his license within 12 months after the expiration date printed on the license shall apply for a new license by examination in accordance with Part II (18 VAC 160-20-74 et seq.) of this chapter. Such individual shall be deemed to be eligible to sit for the examination for the same category and class of license as the expired license.

G. The board may deny renewal of a license for the same reasons as it may refuse initial licensure or discipline a licensee.

18 VAC 160-20-109. Waterworks operator continuing profession education (CPE).

A. Effective with the February 2003 license renewal cycle, each licensed waterworks operator shall have completed the following number of CPE contact hours required for his class of license:

1. Class I, II, and III operators shall obtain a minimum of 20 contact hours during each license renewal cycle.
2. Class IV operators shall obtain a minimum of 16 contact hours during each license renewal cycle.

3. Class V operators shall obtain a minimum of eight contact hours during each license renewal cycle.

4. Class VI operators shall obtain a minimum of four contact hours during each license renewal cycle.

CPE provisions do not apply for the renewal of licenses that were held for less than two years on the date of expiration.

B. The subject matter addressed during CPE contact hours shall be limited to the content areas covered by the board's examination.

C. Any course approved by the board for substitution as training credits or formal education semester hours, as provided for in 18 VAC 160-20-160, shall also be acceptable on an hour-for-hour basis for CPE contact hours. One semester hour of college credit shall equal 15 CPE contact hours, and one quarter hour of college credit shall equal 10 CPE credit hours.

D. The following evidence shall be maintained to document completion of the hours of CPE specified in subsection A of this section:

1. Evidence of completion of a structured training activity which shall consist of the name, address and telephone number of the sponsor;
2. The dates the applicant participated in the training;
3. Descriptive material of the subject matter presented; and
4. A statement from the sponsor verifying the number of hours completed.

E. Each licensee shall maintain evidence of the satisfactory completion of CPE for a period of at least one year following the end of the license renewal cycle for which the CPE was taken. Such documentation shall be in the form required by subsection D of this section and shall be provided to the board or its duly authorized agents upon request.

F. The licensee shall not take the same training course or structured training activity more than once during a single license renewal cycle to meet the CPE requirement unless the same training course or structured training activity is an annual requirement established by Virginia or federal regulations.

G. The licensee may take a training course or structured training activity which has been mandated by Virginia or federal regulation towards fulfilling the CPE requirement.

H. The licensee may petition the board for additional time to meet the CPE requirement. However, CPE hours earned during a license renewal cycle to satisfy the CPE requirement of the preceding license renewal cycle shall be valid only for that preceding license renewal cycle.

18 VAC 160-20-110. Discipline. (Repealed.)

~~A. The Board, in its discretion, may fine any licensee, or may suspend or revoke a license, either or both, if it finds that:~~

~~1. The license was obtained or renewed through fraud or misrepresentation; or~~

~~2. The licensed operator has been found guilty by the board, or by a court of any material misrepresentation in the course of performing his operating duties; or~~

~~3. The licensed operator has not demonstrated reasonable care, judgment or application of his knowledge and ability in the performance of his operating duties; or~~

~~4. The licensed operator violates or induces another person to violate any provisions of Chapters 1, 2, 3, and 23 of Title 54.1 of the Code of Virginia, or any provisions of this chapter.~~

~~B. The board, in its discretion, may refuse to grant or renew a license of any person for any of the reasons specified in subsection A of this section.~~

PART IV.
CLASSIFICATION REQUIREMENTS.

18 VAC 160-20-120. Waterworks.

A. A Class VI waterworks licensee may operate any waterworks as follows:

1. A waterworks providing no treatment and serving fewer than 400 persons; or
2. A waterworks classified by the Virginia Department of Health as a Class VI waterworks.

B. A Class V waterworks licensee may operate any waterworks as follows:

1. A waterworks serving 400 or more persons which (i) provides no treatment; or (ii) employs hypochlorination for disinfection; or
2. A waterworks classified by the Virginia Department of Health as either a Class V or Class VI waterworks.

C. A Class IV waterworks licensee may operate any waterworks as follows:

1. A waterworks serving fewer than 5,000 persons or having a design hydraulic capacity of less than 0.5 MGD, employing one or more of the following (i) disinfection other than with hypochlorination, (ii) corrosion control, (iii) iron and manganese removal, (iv) ion exchange, (v) membrane technology without pretreatment, (vi) slow sand filtration, (vii) aeration, (viii) rechlorination other than with hypochlorination, or (iv) activated carbon contactors; or
2. A waterworks classified by the Virginia Department of Health as either a Class IV, V, or VI waterworks.

D. A Class III waterworks licensee may operate any waterworks as follows:

1. A waterworks serving fewer than 5,000 persons or having a design capacity less than 0.5 MGD, employing chemical coagulation or lime softening in combination with one or more of the following (i) sedimentation, (ii) rapid sand filtration with a filtration rate of 2 gpm/square

Proposed Regulations

foot or less, (iii) fluoridation, (iv) disinfection, (v) aeration, (vi) corrosion control, or (vii) membrane technologies;

2. A waterworks serving 5,000 or more persons or having a design hydraulic capacity of 0.5 MGD, employing one or more of the following: (i) disinfection other than with hypochlorination, (ii) corrosion control, (iii) iron and manganese removal, (iv) ion exchange, (v) membrane technology without pretreatment, (vi) slow sand filtration, (vii) aeration, (viii) rechlorination other than with hypochlorination, or (ix) activated carbon contactors;

3. A waterworks employing (i) membrane technology requiring pretreatment consisting of pH adjustment; or (ii) diatomaceous earth filtration, coupled with aeration, corrosion control, disinfection, or fluoridation;

4. A waterworks employing fluoridation which is not under a higher classification; or

5. A waterworks classified by the Virginia Department of Health as either a Class III, IV, V or VI waterworks.

E. A Class II waterworks licensee may operate any waterworks as follows:

1. A waterworks serving 5,000 or more persons but fewer than 50,000 persons or having a design hydraulic capacity of 0.5 MGD or more but less than 5.0 MGD, whichever falls within the range, employing chemical coagulation or lime softening in combination with one or more of the following: (i) sedimentation, (ii) rapid sand filtration, (iii) fluoridation, (iv) disinfection, (v) aeration, (vi) corrosion control, or (vii) membrane technologies;

2. A waterworks serving fewer than 50,000 persons or having a design hydraulic capacity of less than 5.0 MGD which employs chemical coagulation or lime softening coupled with multimedia granular filtration or granular filtration at rates above 2.0 gpm/square foot (high rate filtration) in combination with one or more of the following: (i) sedimentation, (ii) fluoridation, (iii) disinfection, (iv) aeration, or (v) corrosion control;

3. A waterworks employing biological activated carbon contactors or membrane technology requiring pretreatment other than pH adjustment; or

4. A waterworks classified by the Virginia Department of Health as either a Class II, III, IV, V or VI waterworks.

F. A Class I waterworks licensee may operate any waterworks listed in subsections A through E of this section.

G. The term membrane technologies includes (i) electrical dialysis reversal, (ii) reverse osmosis, (iii) ultra filtration, (iv) micro filtration, and (v) nano filtration.

18 VAC 160-20-130. Wastewater works.

A. A Class IV wastewater works licensee may operate any wastewater works as follows:

1. A wastewater works employing natural treatment methods (i.e., those not utilizing aerated or mixed flows and not using electrical or outside energy sources to accomplish treatment) with a design hydraulic capacity

greater than 0.4 MGD but equal to or less than 1.0 MGD; or

2. A wastewater works classified by the Virginia Department of Health or the Virginia Department of Environmental Quality as a Class IV wastewater works.

B. A Class III wastewater works licensee may operate any wastewater works as follows:

1. A wastewater works using biological treatment methods consisting of but not limited to (i) suspended growth reactors, (ii) aerated lagoons, (iii) constructed wetlands, (iv) biological filters or other attached growth contactors, (v) processes utilizing biological nutrient control, or (vi) processes utilizing land application having a design hydraulic capacity greater than 0.04 MGD, but equal to or less than 0.5 MGD;

2. A wastewater works using advanced waste treatment methods consisting of but not limited to (i) ammonia stripping, (ii) breakpoint chlorination, (iii) carbon adsorption, (iv) chemical coagulation, (v) flocculation, (vi) precipitation, (vii) filtration, or (viii) demineralization (ion exchange, reverse osmosis or electrodialysis) having a design hydraulic capacity greater than 0.04 MGD, but equal to or less than 0.5 MGD;

3. A wastewater works using combinations of biological and advanced waste treatment methods having a design hydraulic capacity greater than 0.04 MGD, but equal to or less than 0.1 MGD;

4. A wastewater works using natural treatment methods (i.e., those not using aerated or mixed flows and not using electrical or outside energy sources to accomplish treatment) with a design hydraulic capacity greater than 1.0 MGD; or

5. A wastewater works classified by the Virginia Department of Health or the Virginia Department of Environmental Quality as either a Class III or IV wastewater works.

C. A Class II wastewater works licensee may operate any wastewater works as follows:

1. A wastewater works using biological treatment methods consisting of but not limited to (i) suspended growth reactors, (ii) aerated lagoons, (iii) constructed wetlands, (iv) biological filters or other attached growth contactors, (v) processes utilizing biological nutrient control, or (vi) processes utilizing land application having a design hydraulic capacity greater than 0.5 MGD, but equal to or less than 5.0 MGD;

2. A wastewater works using advanced waste treatment methods consisting of but not limited to (i) ammonia stripping, (ii) breakpoint chlorination, (iii) carbon adsorption, (iv) chemical coagulation, (v) flocculation, (vi) precipitation, (vii) filtration, or (viii) demineralization (ion exchange, reverse osmosis or electrodialysis) having a design hydraulic capacity greater than 0.5 MGD, but equal to or less than 5.0 MGD;

3. A wastewater works using combinations of biological and advanced waste treatment methods, having a design hydraulic capacity greater than 0.1 MGD, but equal to or less than 2.5 MGD; or

4. A wastewater works classified by the Virginia Department of Health or the Virginia Department of Environmental Quality as either a Class II, III or IV wastewater works.

D. A Class I wastewater works licensee may operate any wastewater works listed in subsections A through C of this section.

PART V. STANDARDS OF PRACTICE.

18 VAC 160-20-140. Discipline.

A. The board may fine any licensee and/or revoke or suspend any license, in accordance with the provisions of the Administrative Process Act, when a licensee has been found to have violated or cooperated with others in violating any of the provisions of Chapter 23 of Title 54.1 of the Code of Virginia or any regulations of the board including the following grounds of discipline:

1. The license was obtained or renewed through fraud or misrepresentation;
2. Any conviction by a court in any jurisdiction of any felony or of any misdemeanor involving lying, cheating or stealing, or of any material misrepresentation while engaged in waterworks or wastewater works activities. Any plea of nolo contendere shall be considered a conviction for purposes of this subsection. A certified copy of a final order, decree or case decision by a court or regulatory agency with the lawful authority to issue such order, decree or case decision shall be prima facie evidence of such conviction or discipline;
3. The licensee did not demonstrate reasonable care, judgment, or application of the required knowledge, skill and ability in the performance of the operating duties;
4. The licensee violated or induced another person to violate any provisions of Chapters 1, 2, 3 or 23 of Title 54.1 of the Code of Virginia, or any provision of this chapter.
5. Having been found guilty by the board, an administrative body or by a court of any material misrepresentation in the course of performing his operating duties.
6. Failing to inform the board in writing within 30 days of pleading guilty or nolo contendere or being convicted or found guilty of any felony which resulted in the significant harm or the imminent and substantial threat of harm to human health or the environment.
7. Gross negligence, or a continued pattern of incompetence, in the practice as a waterworks or wastewater works operator.

B. The board may refuse to grant a license to or renew the license of any person for the same reasons as it may discipline a licensee.

APPENDIX A PART VI. APPROVAL OF SPECIALIZED TRAINING.

18 VAC 160-20-160. Approval of training.

Specialized Waterworks and wastewater works operator training for all licenses may be substituted for some of the experience required for Class III, Class II and Class I licenses, subject to the limitations in this ~~appendix~~ section. Training courses that may be substituted for required experience must be approved by the board ~~prior to the training activity~~ except those provided by federal or state agencies institutions, schools and universities approved by the State Council of Higher Education for Virginia, for which continuing education units are awarded. Training courses requiring board approval shall be approved by the board prior to commencing in accordance with the following procedure:

A. Training ~~activities~~ courses for which experience credit may be granted must be conducted in general conformance with the guidelines of the ~~Council on the Continuing Education Unit International Association for Continuing Education and Training~~. The board reserves the right to waive any of the requirements of the ~~council's~~ association's guidelines on a case-by-case basis. Only classroom, laboratory and field trip contact time will be used to compute training credits. No credit will be given for breaks, meals, or receptions.

1. Organization. The board will only approve training offered by a sponsor who is an identifiable organization with a mission statement outlining its functions, structure, process and philosophy, and that has a staff of one or more persons with the authority to administer and coordinate a training credit (TC) program.
2. TC records. The board will only approve training offered by a sponsor who maintains TC records for all participants for a minimum of ~~20~~ seven years, and who has a written policy on retention and release of TC records.
3. Instructors. The board will only approve training conducted by personnel who have demonstrated competence in the subject being taught, an understanding of the learning objective, a knowledge of the learning process to be used, and a proven ability to communicate.
4. Objectives. The board will only approve courses that have a series of stated objectives that are consistent with the job requirements of waterworks and wastewater works operators. The training course content must be consistent with those objectives.
5. Course completion requirements. For successful completion of a training ~~program~~ course, participants must attend 90% or more of the class contact time and must demonstrate their learning through written examinations, completion of a project, self-assessment, oral examination, or other assessment technique.

Proposed Regulations

B. The board shall consider the following information, to be submitted by the course sponsor or instructor on forms provided by the board, at least 45 days prior to the scheduled training activity course:

1. Course information.
 - a. Course title
 - b. Planned audience
 - c. Name of sponsor
 - d. Name, address, phone number of contact person
 - e. Scheduled presentation dates
 - f. Detailed course schedule, hour-by-hour
 - g. List of planned breaks
 - h. Scheduled presentation location
 - i. Relevancy of course to waterworks or wastewater works operator licensing
2. Instructor qualifications.
 - a. Name of instructor
 - b. Title, employer
 - c. Summary of qualifications to teach this course
3. Training materials.
 - a. Course objectives. A listing of the course objectives stated in the terms of the skills, knowledge, or attitude the participant will be able to demonstrate as a result of the training.
 - b. Course outline. A detailed outline showing the planned activities that will occur during the training program course, including major topics, planned presentation sequence, laboratory and field activities, audio-visual presentation, and other major activities.
 - c. Course reference materials. A list of the name, publisher and publication date for commercially available publications; for reference materials developed by the course sponsor or available exclusively through the course, a copy of the reference.
 - d. Audio-visual support materials. A listing of any commercially available audio-visual support material that will be used in the program; a brief description of any sponsor or instructor generated audio-visual material that will be used.
 - e. Handouts. Identification of all commercially available handout materials that will be used; as well as copies of all other planned handouts.
4. Determination of successful completion. A description of the means that will be used to assess the learning of each participant to determine the successful completion of the training program by individual attendees, such as examinations, projects, personal evaluations by the instructor, or other recognized evaluation techniques.

~~C. Substitution of training for experience will be approved by the board only for applicants whose names appear on a roster of those participants who successfully completed the course, including their names and social security numbers, submitted to the board by the sponsor, and who submit a copy of an appropriate certificate identifying the subject matter of the course and the TC value, provided to the participant by the sponsor.~~

~~D. C. Recurring training programs. If there are plans to present the same course of instruction routinely at multiple locations with only minor modifications and changes, the board may approve the overall program rather than individual presentations if so requested by the sponsor.~~

1. The board shall consider all of the information listed above except those items related to specific offerings of the course.
2. Board approval may be granted for a specific period of time or for an indefinite period.
3. Board approval will apply only to those specific offerings appearing on listings provided to the board prior to conducting the training. The listing shall contain for each offering the dates, locations, and instructors certified by the sponsoring organization as having been conducted by instructors meeting the established criteria and in accordance with the board approved course outlines and objectives.
4. To maintain approval of the program, changes made to the program since its approval must be submitted.
5. ~~Substitution of training for experience will be approved by the board only for applicants whose names appear on a roster of those who have successfully completed the course, including their names and social security numbers, submitted to the board by the sponsor following the course offering, and who submit a copy of an appropriate certificate identifying the subject matter of the course and the TC value, provided to the participant by the sponsor.~~

NOTICE: The forms used in administering 18 VAC 160-20-10 et seq., Board for Waterworks and Wastewater Works Operators Regulations, are listed below. Any amended or added forms are reflected in the listing and are published following the listing.

FORMS

License Application, 19LIC (eff. 11/99).

Re-Examination Application, 19REEX (eff. 4/99).

Application for Training Course Approval, 19CRS (eff. 11/98 rev. 9/99).

Commonwealth of Virginia
 Department of Professional and Occupational Regulation
 3600 West Broad Street
 Post Office Box 11066
 Richmond, Virginia 23230-1066
 (804) 367-8505



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

To obtain board approval of your waterworks and wastewater works operator specialized training course, your application package must include the following documentation:

- * Audio-visual support materials
- * Course and instructor evaluation form
- * Course objectives
- * Course outline (hour by hour detail including breaks)
- * Course reference materials
- * Handouts
- * Instructor resume(s)
- * Sample of Certificate of Course Completion

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

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

11. How will satisfactory completion of this course be determined? Please check all that apply.
 - Attendance
 - Examination
 - Site visits
 - Skill demonstrations
 - Other
12. Contact Person's Signature _____ Date _____

19CRS (9/1/99)

Board for Waterworks & Wastewater Works Operators/CRS APP

VA.R. Doc. No. R00-74; Filed September 15, 2000, 11:57 p.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

VIRGINIA WASTE MANAGEMENT BOARD

REGISTRAR'S NOTICE: The following regulatory action is exempt from the Administrative Process Act in accordance with § 9-6.14:4.1 C 4 (c) of the Code of Virginia, which excludes regulations that are necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation. The Virginia Waste Management Board will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: **9 VAC 20-60-10 et seq. Virginia Hazardous Waste Management Regulations (amending 9 VAC 20-60-18).**

Statutory Authority: §§ 10.1-1402(11) and 10.1-1426 et seq. of the Code of Virginia.

Effective Date: November 8, 2000.

Summary:

Amendment 14 to the Hazardous Waste Management Regulations included requirements in the form of incorporated federal regulatory text in Title 40 of the Code of Federal Regulations. The incorporated text as it existed July 1, 1995, was specified as that incorporated; however, certain amendments contained in nine Federal Register issues prior to that date were specifically cited as not being incorporated. Amendment 15 C addresses only 9 VAC 20-60-18, the section making the specification of the date of incorporated text. This section is amended by striking the previous prescribed date and citations of exceptions. A new date of July 1, 2000, replaces the struck material, thus making it the new date of reference of all incorporated federal regulatory text.

9 VAC 20-60-18. Applicability of incorporated references based on the dates on which they became effective.

Except as noted, when a regulation of the United States Environmental Protection Agency set forth in Title 40 of the Code of Federal Regulations is adopted herein and incorporated by reference, that regulation shall be as it exists and is in effect on ~~June 30, 1995~~ *July 1, 2000*, unless an exception or an alternate date is specified. ~~The amendments to Title 40 of the Code of Federal Regulations contained in the following Federal Register publications are not incorporated by reference and are not a part of the Virginia Hazardous Waste Management Regulations:~~

~~December 6, 1994, Volume 59, Number 233, pages 62896 through 62953;~~

~~January 3, 1995, Volume 60, Number 1, pages 241 through 302;~~

~~January 13, 1995, Volume 60, Number 9, pages 3089 through 3095;~~

~~February 9, 1995, Volume 60, Number 27, pages 7824 through 7859;~~

~~April 4, 1995, Volume 60, Number 64, pages 17004 through 17004;~~

~~April 17, 1995, Volume 60, Number 73, pages 19165 through 19167;~~

~~May 12, 1995, Volume 60, Number 92, pages 25619 through 25620;~~

~~May 19, 1995, Volume 60, Number 97, pages 26828 through 26829; and~~

~~June 29, 1995, Volume 60, Number 125, pages 33914 through 33915.~~

VA.R. Doc. No. R01-15; Filed September 19, 2000, 9:03 a.m.

TITLE 22. SOCIAL SERVICES

DEPARTMENT OF SOCIAL SERVICES

Notice of Effective Date

Title of Regulation: **22 VAC 40-130-10 et seq. Minimum Standards for Licensed Child-Placing Agencies.**

Notice of suspension of the regulatory process was published in 16:24 VA.R. 3113 August 14, 2000. The above-referenced regulations will become effective on November 1, 2000, unless the Board of Social Services takes further action on the regulations prior to November 1, 2000. If the board should decide to delay the effective date or withdraw the regulations, notice of such action must be filed with the office of the Registrar of Regulations prior to the effective date.

The next meeting of the board is scheduled on October 18, 2000, at 9 a.m. at the Department of Social Services, Western Regional Office, 190 Patton Street, Abingdon, Virginia. A public comment period is scheduled at 2 p.m. For information on any action taken at the board meeting, contact Richard Martin, Department of Social Services, 730 East Broad Street, Richmond, Virginia 23219, telephone (804) 692-1825, e-mail lrm2@dss.state.va.us, after October 18, 2000.

EMERGENCY REGULATIONS

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF NURSING

Title of Regulation: 18 VAC 90-20-10 et seq. **Regulations Governing the Practice of Nursing (adding 18 VAC 90-20-36).**

Statutory Authority: § 54.1-2400 and 54.1-3012.1 of the Code of Virginia.

Effective Dates: September 19, 2000, through September 18, 2001.

Preamble:

Amendments to the regulation are required in order to conform to an enactment clause in Chapters 587 and 701 of the 2000 Acts of the Assembly requiring the board to promulgate regulations within 280 days of enactment for the implementation of workforce data collection for nurses. The deadline for having emergency regulations in effect is January 12, 2001.

Basis:

The legal authority to promulgate the emergency regulation is in second enactment clauses of House Bill 1249 and Senate Bill 488 of the 2000 Acts of the Assembly, which state: "That the Board of Nursing shall promulgate regulations to implement the provisions of this act within 280 days of enactment."

The board is mandated to "promulgate regulations to implement the provisions of this section. Such regulations shall include: (i) the specific number and types of nursing workforce data elements to be collected; (ii) the process by which the information is collected, stored, and made available to interested parties; (iii) provisions to ensure the confidentiality of the data to be collected and to protect the identity of all individuals submitting information; and (iv) other provisions as determined by the Board."

Substance:

A new section of the Code of Virginia (§ 54.1-3012.1) stipulates that the board shall collect, store and make available nursing workforce information on the various categories of nurses "with such funds as are appropriated for that purpose." Therefore, the board is mandated to promulgate regulations for the collection of data on the nursing workforce, but the extent of data collection and distribution is dependent on the amount of General Fund money available through the budget.

The law further specifies in subsection C of § 54.1-3012.1 the data elements to be collected to include (i) demographic data; (ii) level of education; (iii) employment status; (iv) employment setting such as in a hospital, physician's office, or nursing home; (v) geographic location of employment; (vi) type of nursing position or area of specialty; and (vii) number of hours worked per

week. It requires the board to collect and update information biennially and to make the data available to interested parties only in aggregate form. Information which could identify individual nurses cannot be released in any form or manner.

The Code has specifically set out minimal requirements for data elements, a schedule for collection and provisions for confidentiality, but the board is required to promulgate regulations that address at least the data elements to be collected, the process for collection and distribution, and provisions for confidentiality.

The Code of Virginia, as amended by Chapters 587 and 701 also adds the collection, storage and distribution of nursing workforce information to the powers and duties of the board prescribed in § 54.1-3005.

Most of the issues related to workforce data collection have already been addressed by passage of the legislation in HB1249 and SB488. That legislation, as introduced, would have required the Board of Nursing to collect, store and distribute information from special dedicated funds of the board, which are derived from fees charged to nurses. Since the data is intended for workforce planning and not for public protection, the Office of the Attorney General ruled during a previous session of the General Assembly that the board could not use its funds for that purpose. Therefore, the enabling legislation was amended to specify that data collection would occur with "such funds as are appropriated for this purpose." Accompanying the legislation was a budget amendment appropriating \$40,000 for each of the two years of the biennium for data collection by the board.

With the limitation of the funding and the specific prohibition against distribution of information that identifies individual nurses, some of the intended uses for and issues related to data collection became moot. For example, some nursing education programs had wanted to use the information to send mailings to nurses, customized according to data provided on a survey by the board. That would require identification of nurses by name and address with the responses given on the data survey form, which is prohibited by law. Also, collection of data on all 140,000 nurses licensed or certified under the board will not be possible with the funds available. With only \$40,000 available each year to collect, store and develop reports, the board will be required to solicit information from a sampling of its licensees. A sampling of the workforce may be useful but may not provide the extensive informational base that hospitals and educational institutions had intended to be accumulated.

Once the parameters of the legislation and the limitations of funding were discussed and understood by an advisory group on nursing workforce data, issues surrounding the promulgation of regulations were resolved in favor of rules that are reflective of and conforming to the law. By making available data on the nursing workforce, institutions charged with planning for nursing education and employment will be able to more

Emergency Regulations

accurately plan their curriculum and recruitment to address manpower needs for the future.

Alternatives:

While there was no alternative to the legal mandate for promulgation of regulations, the scope of nursing workforce data collection is limited by the amount appropriated for that purpose and the restriction of distribution of information that identifies an individual nurse. The board elected to propose regulations that are consistent with the provisions of law but do not expand the limited scope of the collection requirement. It did consider alternatives to the wording of data collection surveys, which are required by other states and nursing organizations. The content of the survey form was not set forth in regulation, but the general data elements to be collected were specified. An ad hoc advisory committee, composed of representatives of nursing organizations, educational institutions and other health related groups met to discuss the legislation, its limitations, and the type of data that was essential for inclusion in any gathering and transmittal of information on the nursing workforce. The recommendations of that group were considered by the board in the adoption of proposed regulations.

Family Impact Statement:

The board has determined that there is no impact on the family or family stability, the rights of parents, economic self-sufficiency or disposable family income as a result of amendments to regulations.

I approve the agency's request to take emergency action to promulgate regulations on the collection of workforce data to comply with 2000 legislative changes.

/s/ James S. Gilmore, III
Governor
Date: August 30, 2000

18 VAC 90-20-36. Data collection of nursing workforce information.

A. With such funds as are appropriated for the purpose of data collection, the board shall collect workforce information biennially from a representative sample of licensed nurses and shall make such information available to the public. Data collected shall be compiled, stored and released only in the aggregate and shall not provide information which would identify individual responders.

B. The information to be collected on nurses shall include, but not be limited to: (i) demographic data to include age, sex and ethnicity; (ii) level of education; (iii) employment status; (iv) employment setting or settings such as in a hospital, physician's office, or nursing home; (v) geographic location of employment; (vi) type of nursing position or area of specialty; and (vii) number of hours worked per week in each setting. In addition, the board may determine other data to be collected as necessary.

VA.R. Doc. No. R01-16; Filed September 19, 2000, 12:02 p.m.



GOVERNOR

EXECUTIVE ORDER NUMBER SEVENTY-ONE (00)

COMMONWEALTH COMMUTER CHOICE COMMUTER ASSISTANCE FOR STATE EMPLOYEES USING VAN POOLS OR TRANSIT FACILITIES

The Commonwealth of Virginia must lead the way for state employees to use van pools and transit in their daily commutes, particularly in the northern part of Virginia. Traffic congestion wastes precious hours that could be spent with family, costs millions of dollars per year in lost time and reduced productivity, and contributes to the degradation of air quality. Therefore, I am instituting *Commonwealth Commuter Choice*, a program of qualified transportation fringe benefits for state employees who commute using qualified van pools or transit facilities.

I am directing all state agencies with offices in the northern part of Virginia to provide a tax-free qualified transportation fringe benefit to full-time employees who regularly commute to their offices using a qualified van pool or transit facility. In addition, I am encouraging all other state agencies to provide a similar fringe benefit to their employees. Increasing state employee use of van pools and transit facilities will help reduce traffic congestion, air pollution, and wasted time away from families. Increasing participation will also help preserve energy resources for future generations, and move the Commonwealth closer to achieving the goals of her Energy Plan.

By virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and under the laws of the Commonwealth, including but not limited to Chapter 5 of Title 2.1 of the *Code of Virginia*, and subject to my continuing and ultimate authority and responsibility to act in such matters, I do hereby direct that the state employee commuter assistance program described below be implemented by all agencies of the executive branch of the Commonwealth no later than October 1, 2000.

All executive branch agencies with offices to which employees regularly report for work in the Counties of Arlington, Fairfax, Loudoun, Prince William, Spotsylvania, and Stafford and the cities of Alexandria, Fairfax, Falls Church, Fredericksburg, Manassas, and Manassas Park shall implement a commuter assistance program for full-time employees who regularly report for work in those localities, and who commute using qualified van pools or transit facilities. The commuter assistance program in these localities shall provide employees, as described above, with a tax-free qualified transportation fringe benefit. The benefit shall be equal to the employee's cost of commuting to and from their workplace using van pools or transit facilities, as provided in 26 U.S.C. § 132(f)(1)(A) and (B), up to the maximum allowable amount under 26 U.S.C. § 132(f)(2). The agency plans shall comply with the requirements of all Internal Revenue service regulations for qualified transportation fringe benefits, including but not limited to 26 C.F.R. § 1.132-9.

In addition, all agencies of the Commonwealth not required to implement this commuter assistance program are encouraged to do so by providing the same tax-free qualified

transportation fringe benefit to their full-time employees that commute by qualified van pools or transit facilities. Further, it is within the discretion of all Commonwealth agencies to provide this benefit to P-14 employees as well.

The Secretary of Transportation, in conjunction with the Department of Rail and Public Transportation (DRPT), shall develop guidelines for implementing *Commonwealth Commuter Choice*, and shall work with any agency needing assistance to implement this order. All agencies that implement this initiative shall absorb the cost of implementation within their existing resources.

This Executive Order shall become effective upon its signing and shall remain in full force and effect until superseded or rescinded by further executive action.

Given under my hand and under the Seal of the Commonwealth of Virginia this 23rd day of August, 2000.

/s/ James S. Gilmore, III, Governor

VA.R. Doc. No. R01-12; Filed September 7, 2000, 10:16 a.m.

GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

TITLE 8. EDUCATION

STATE BOARD OF EDUCATION

Title of Regulation: 8 VAC 20-160-10 et seq. Regulations Governing Secondary School Transcripts.

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: August 29, 2000

VA.R. Doc. No. R99-185; Filed September 7, 2000, 10:16 a.m.

TITLE 9. ENVIRONMENT

VIRGINIA WASTE MANAGEMENT BOARD

Title of Regulation: 9 VAC 20-170-10 et seq. Transportation of Solid Medical Wastes on State Waters.

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

Governor

have no objection to this regulation based on the information and public comment currently available.

/s/ James S. Gilmore, III
Governor

Date: August 29, 2000

VA.R. Doc. No. R98-255; Filed September 14, 2000, 1:46 p.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARDS OF PHARMACY AND MEDICINE

Title of Regulation: **18 VAC 110-40-10 et seq. Regulations Governing Collaborative Practice Agreements.**

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: August 1, 2000

VA.R. Doc. No. R00-97; Filed September 12, 2000, 12:40 p.m.

TITLE 22. SOCIAL SERVICES

STATE BOARD OF SOCIAL SERVICES

Title of Regulation: **22 VAC 40-35-10 et seq. Virginia Independence Program.**

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: August 29, 2000

VA.R. Doc. No. R00-61; Filed September 14, 2000, 1:46 p.m.

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DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

GUIDELINES

AGRICULTURAL STEWARDSHIP ACT

July 1, 2000

Nature of Guidelines

The Agricultural Stewardship Act¹ ("ASA" or "Act") requires that the Commissioner of Agriculture and Consumer Services ("Commissioner") develop guidelines to assist in the implementation of the ASA. These guidelines are not regulations, and no one is required to abide by them. In fact, there are no regulations concerning the ASA. The only document that anyone must abide by is the ASA itself.

These guidelines are simply advice on how to implement the ASA. The Commissioner expects that these guidelines will be reviewed periodically to determine whether changes are needed.

The Commissioner welcomes your questions and requests for information about the ASA Program. All correspondence regarding the ASA guidelines can be directed to the address listed below or you can contact the ASA Program at 804/786-3538.

Commissioner of Agriculture and Consumer Services
Agricultural Stewardship Program
Virginia Department of Agriculture and Consumer Services
1100 Bank Street
P.O. Box 1163
Richmond, Virginia 23218

Background on the Agricultural Stewardship Act

During the past seven to 10 years, a number of federal and state laws and regulations have been proposed that would have created strict rules to prevent pollution by governing the way we farm. Only a few of these proposed laws and regulations were adopted, but public opinion polls show that the public continues to value a clean environment. In the 1990 census, Virginia had for the first time more people living in urban and suburban areas than in rural areas. Of the nonpoint sources of pollution, due to the vast number of acres in agriculture, agriculture is a major contributor of nutrients and sediments to rivers, streams and lakes. Given the public's continued support for a clean environment, Virginia's increasing urbanization, and the recognition that most farmers are good stewards of the land, Virginia's agricultural leadership decided to take a proactive approach to water pollution coming from agricultural lands.

Virginia's agricultural leadership sought a way of dealing with agricultural water pollution that was different from the approaches used with other industries, such as manufacturers. Most manufacturing plants must obtain

permits and follow strict rules of operation. The agricultural community wanted a different approach that did not rely on permits and strict operating rules, but took into account the wide variety of farming practices used in Virginia.

The ASA resulted from the joint work of representatives of Virginia's agricultural community, environmental community, Association of Soil and Water Conservation Districts, and state agencies. They sought to develop procedures by which individual agricultural producers can be alerted to areas of their operations that may be causing water pollution. Rather than developing regulations with strict rules governing every type of farming practice, the ASA looks at each farm individually.

Abbreviations and Definitions

Where personal pronouns are used, "he" and "she" are used interchangeably. The following terms and abbreviations, when used in these guidelines have the following meanings:

Act or ASA	Agricultural Stewardship Act
BMP	Best management practice
Board	Virginia Soil and Water Conservation Board
Commissioner	Virginia Commissioner of Agriculture and Consumer Services
Complainant	Person who submits complaint to Commissioner pursuant to ASA
DCLS	Division of Consolidated Laboratory Services
DCR	Virginia Department of Conservation and Recreation
DEQ	Virginia Department of Environmental Quality
District	Soil and Water Conservation District
Extension	Virginia Cooperative Extension
Farmer	Agricultural producer, whether owner or operator of farming operation in question.
FOTG	USDA, NRCS' Field Office Technical Guide
FSA	USDA, Farm Service Agency
Initial investigation	First investigation of a complaint to gather information so that the Commissioner can determine whether or not the agricultural activity in question is creating or will create pollution.
Jurisdiction	Authority to do something under the ASA or other law
NRCS	USDA, Natural Resources Conservation Service
SWCB	State Water Control Board (a.k.a. Virginia Water Control Board)
USDA	United States Department of Agriculture

¹ Article 3.1 (§ 10.1-559.1 et seq.) of Chapter 5 of Title 10.1 of the Code of Virginia.

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VDACS	Virginia Department of Agriculture and Consumer Services
VPA	Virginia Pollution Abatement permit from SWCB
VPDES	Virginia Pollution Discharge Elimination System permit from SWCB
VWCB	Virginia Water Control Board (a.k.a. State Water Control Board)

Brief Summary Agricultural Stewardship Act

The procedures created by the ASA begin with a complaint made to the Commissioner. The Commissioner must accept complaints alleging that a specific agricultural activity is causing or will cause water pollution. Not all complaints must be investigated, however. After the Commissioner receives a complaint and the complaint is one that must be investigated, he will ask the local Soil and Water Conservation District ("District" or "local district") whether it wishes to investigate the complaint. If the District does not wish to investigate the complaint, the Commissioner will. (A copy of the ASA is in Appendix A.)

The purpose of the investigation is to determine whether the agricultural activity (that was the subject of the complaint) is causing or will cause water pollution. If not, the Commissioner will dismiss the complaint and inform the person who made the complaint ("complainant").

If the agricultural activity is causing or will cause water pollution, the ASA gives the farmer an opportunity to correct the problem. The farmer will be asked to develop a plan containing "stewardship measures" (often referred to as "best management practices") to prevent the water pollution. The farmer then develops the plan, and once the plan is complete, the District reviews it and makes recommendations to the Commissioner. If the Commissioner approves the plan, he will then ask the farmer to implement the plan within specified periods of time.

If the farmer fails to implement an approved plan, enforcement action under the ASA will be taken against the farmer.

In some cases, the ASA investigation will not produce sufficient evidence to support the conclusion that the agricultural activity in question is causing or will cause pollution. In those cases, the investigator will see if the farmer is receptive to suggestions on how the farmer might improve his practices to prevent complaints in the future. This educational role of the investigator is just as important as anything else the investigator does pursuant to the ASA.

SECTION A - WHAT THE ACT COVERS

1. Activities Covered by the ASA

The ASA applies to agricultural activities that are causing or will cause water pollution by sedimentation, nutrients or toxins. The only exception is when the agricultural activity in question is already permitted by the State Water Control Board (through the Department of Environmental Quality).

The permits are usually: a Virginia Pollution Abatement ("VPA") permit (general or individual) for the storage and land application of animal waste; a Virginia Pollution Discharge Elimination System ("VPDES") permit for certain aquaculture facilities or for mixed production and processing operations; or a VPA permit for the land application of sewage sludge.

The ASA does not apply to forestry activities, nor does it apply to odor concerns. Nor does the ASA apply to landfills. In terms of waste problems, the ASA would only apply to farm dumps where agricultural products or animal carcasses are disposed of and that have clear water quality impacts. Finally, the ASA does not apply to air pollution, nor does it apply to water pollution caused by nonagricultural activities.

If a complaint alleges that a farming operation is causing unpleasant odors, for example, neither the Commissioner nor the local District has the authority to investigate the complaint or to take any other action under the ASA. In that case, the Commissioner would inform the complainant that the ASA does not give authority to deal with anything other than water pollution.

The Commissioner's staff will use Form 1 to determine whether or not the complaint can be investigated under the ASA.

2. Definitions of Sedimentation, Nutrients and Toxins

Sedimentation is soil material, either mineral or organic matter, that has been transported from its original site by air, water, or ice through the force of gravity and has been deposited in another location. The primary focus under the ASA will be on erosion of soil and its deposition in adjacent surface water.

Nutrients are dry or liquid materials that provide elements, such as nitrogen, phosphorus, and potassium, that can nourish plants. Commercial fertilizers and animal manure are the two primary sources used to supply nutrients to plants in agricultural operations, and will be the focal point of the ASA.

For the purposes of these guidelines, a toxin is any substance or mixture of substances intended to be used to prevent, destroy, repel or mitigate agricultural pests, or to be used as a plant regulator, defoliant or desiccant, commonly called pesticides. In addition, oil, gasoline, diesel fuel and other petroleum products are potentially toxic materials that are usually employed in farming operations.

Each of these potential pollutants -- soil, nutrients, pesticides, oil, gasoline and other petroleum products -- are good and useful things when they are kept in their proper places. It is only when any of these things reaches a stream, river, well, lake or other water body that they become a problem.

3. What the Act Means by "Pollution"

The ASA defines pollution as "any alteration of the physical, chemical or biological properties of any state waters resulting from sedimentation, nutrients, or toxins." (§ 10.1-559.1 of the ASA.) This means that when sediments, nutrients or toxins enter the water from an agricultural activity, they constitute pollution under the ASA.

However, even if pollution is occurring, the ASA gives the Commissioner the power to dismiss a case if the Commissioner determines that:

". . . the pollution is the direct result of unusual weather events or other exceptional circumstances which could

not have been reasonably anticipated, or determines that the pollution is not a threat to human health, animal health, or aquatic life, water quality or recreational or other beneficial uses . . ." (From § 10.1-559.3 C of the ASA.)

Examples

You Can See It – Suppose an investigator is visiting a farm during a rainstorm. A gully has eroded through the field, so the investigator can actually see the rain washing sediment into the stream. If an investigator can see pollution occurring, he can conclude that the agricultural activity is causing pollution.

Result:

A plan can be required for this field.

You Would See It – If the same investigator were visiting the same farm on a dry day, he would not see the pollution actually occurring. But, given the law of gravity, he can be certain that sediment will be washed from the gully into the stream during future rainstorms. He can be certain that this will cause pollution.

Result:

A plan can be required for this field.

Logic Tells You -- Suppose a complaint alleges that fertilizer is washing from a field into the adjacent stream. The farmer uses fertilizer and does not follow a nutrient management plan. The farmer's fertilizer application rate exceeds the amount required by the crop. The field, which slopes slightly toward the stream, is plowed to within five feet of the stream's edge. Between the field's edge and the stream is a stream bank, which has only thin vegetation. Because of the amount of fertilizer applied, the slope of the field, the law of gravity, and the thin vegetation on the bank, the investigator can be certain that fertilizer will wash from this field into the stream and thus will cause pollution.

Result:

A plan can be required for this field.

You Can't Be Certain – Suppose that in relation to the same complaint, the farmer applies fertilizer, but he follows a nutrient management plan. The amount of fertilizer applied does not exceed the crop's needs and is applied when the crop will use it. In addition, the field is plowed to within 20 feet of the stream's edge, but the buffer and stream bank are thickly vegetated with grass. Because of the farmer's nutrient management practices and the characteristics of the buffer and bank, the investigator cannot be sure the nutrients will wash from this field into the stream.

Result:

A plan cannot be required.

As with all nonpoint source pollution, proof that a specific agricultural activity is causing or will cause pollution can be difficult, since nonpoint source pollution is, by definition, diffuse. In addition, two of the three categories of pollutants at issue here -- sediments and nutrients -- find their way into water naturally as well as from man's activities. Thus, for example, it can be difficult to prove that the nutrients came from a farming operation and not from natural or other source.

4. What the Investigation Has to Prove

The ASA requires that before a plan can be required, the agricultural activity must be one that "is creating or will create pollution." The following is the Commissioner's standard for determining whether the activity "is creating or will create pollution."

To conclude that an agricultural activity is creating or will create pollution, there must be a reasonably certain link

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of cause and effect between the agricultural activity and the pollution that is being created or that will be created.

(The term "is causing" will be used interchangeably with the term "is creating." Similarly, the term "will create" will be used interchangeably with "will cause.") The central question is how certain the investigator must be that the activity is causing or will cause pollution.

If no plan can be required under the ASA, is this the end of the investigator's relationship with this farmer? Not necessarily. The investigator is free to see if the farmer is receptive to some suggestions on how the farmer might improve his practices to prevent complaints in the future. This educational role of the investigator will be just as important as anything else the investigator does pursuant to the ASA. As a result, water quality can still be improved, and the farmer can enhance his protection against future complaints.

This underscores the importance of the investigator's maintaining a positive, nonjudgmental attitude towards the farmer during the investigation. Even though the investigation may be somewhat upsetting for the farmer, it can be the beginning of a positive new relationship between the farmer and the District or VDACS.

SECTION B - HOW INVESTIGATIONS ARE CONDUCTED

1. Decision to Investigate

The ASA is "complaint-driven." There can be no investigation of any farm activity unless the Commissioner receives a complaint. If the person making the complaint gives his name, the ASA requires that the Commissioner or the local District investigate the validity of the complaint. If the local district performs the investigation, the chairman or his staff turns over evidence within the 21-day investigation period. The ASA gives the Commissioner the choice of whether or not to investigate a complaint that was made anonymously. After the district and/or the Commissioner's staff submit the evidence to the Commissioner, the Commissioner will make the final determination on the complaint's validity.

2. Priority of Complaints

The Commissioner will give top priority to complaints -- non-anonymous or anonymous -- that may prove to be serious and immediate threats to human health, animal health, aquatic life or water quality. The ASA requires that non-anonymous complaints be investigated, and they will receive second priority. Anonymous complaints will receive the lowest priority and may not be investigated at all.

3. Who Investigates

The decision as to who performs the investigation of a complaint really lies with the local District. Upon receiving a complaint, the Commissioner must notify the local District and give the District the option to investigate the complaint. Form 2 shows the standard manner of notification to a District and requests their assistance.

The District then has five days to tell the Commissioner whether or not the District will investigate the complaint. The District may base this decision on anything the District

chooses, and the District does not have to tell the Commissioner the reason for its decision. Form 3 is designed to provide the Districts with sample language that they may use in responding to the Commissioner's requests that they investigate.

Some Districts have chosen not to perform any investigations. Once a District has informed the Commissioner that it does not intend to perform investigations, the District does not have to respond to the Commissioner's notification that there is a complaint. As a courtesy, the Commissioner will always inform these Districts of complaints in their Districts so that these Districts will be aware of the situation.

Some Districts have chosen to perform all of their investigations jointly with VDACS. This means that representatives of the District and VDACS ASA staff conduct the investigation together. This approach has worked well, and other Districts are welcome to try this approach.

If a farmer has a preference as to who performs the investigation, the farmer should let the Commissioner know, and the Commissioner will try to accommodate his request.

4. Time Limitations on Investigations

After receiving the complaint, the Commissioner or the District has 21 days to investigate. If the District conducts the investigation, the District then needs to send their findings to the Commissioner so that he can determine whether a plan is necessary. The Commissioner is responsible for reporting his decision to the farmer.

5. Notice to Farmer of Investigation

The farmer is entitled to notice that a complaint has been received regarding his operation that must be investigated. The notice may come from the Commissioner or from the District. In all cases in which the Commissioner will investigate, his staff in the Virginia Department of Agriculture and Consumer Services ("VDACS") will make the initial phone call to the farmer, following it with a written notice.

Some Districts may feel comfortable in performing investigations, but would prefer to have the initial notice of the investigation come from VDACS. VDACS will make the initial call to the farmer, if the District has adopted a written policy (e.g., a resolution or in meeting minutes) stating that the District wishes to have VDACS make the initial call. If a District has adopted such a policy, the District should send the Commissioner a copy of it. In the initial call, VDACS will explain that a complaint has been received, that an investigation is necessary, and that someone from the District will call to arrange a time to meet. After the District representative calls to arrange a time, the District should follow the phone call with a short letter or memorandum documenting the arrangements. (See Form 5)

Some Districts may prefer to make all pre-investigation contacts with the farmer themselves. Unless VDACS receives a policy from a particular District to the contrary, VDACS will assume that the District will make all of the pre-investigation contacts. The phone call should be documented and followed by a written notice. (See Forms 4 & 5)

Regardless of who makes the initial call, the person who sends the written notice of the investigation to the farmer should also send written information regarding the ASA. (VDACS has provided this information to the Districts.) This gives the farmer an opportunity to get a better understanding of the ASA, its procedures, and what the farmer can expect regarding resolution of the complaint.

6. Notice of Findings from Investigation

The Commissioner will notify the farmer of his decision as to whether a plan is necessary. When a District performs an investigation, they need to provide their findings to the Commissioner so that he can make this decision. This includes all materials produced and collected during the investigation period. (See Form 9.) The Commissioner's notice to the farmer will either dismiss the complaint or inform the farmer that he needs to submit a plan to the Commissioner describing what will be done to correct the pollution problem. This plan is due 60 days after the farmer receives the written notice informing him that a plan is necessary. (See Form 6.) Information regarding planning and implementation will be sent with this notification to assist the farmer. The Commissioner may consider a corrective order if a plan is not submitted within 60 days.

The farmer must begin implementing his plan within six months of receiving notice that a plan is necessary. Then, the farmer must complete implementation of his plan within a period specified by the Commissioner not to exceed 18 months of receiving the notice. The farmer can receive an extension in some cases, as described in Section 7 below.

Upon approving the farmer's plan, the Commissioner will inform the farmer and the District. (See Forms 7 and 8.) Later, the complainant will then be informed that their complaint was founded and that the farmer has agreed to implement solutions to correct the water pollution problem. The farmer has the right to appeal the Commissioner's decision, therefore, notification to the complainant's is delayed until the farmer has an approved Plan.

7. Extensions of Deadlines

Sometimes a farmer may need more time to complete implementation of his plan because of circumstances beyond his control. The ASA provides that the Commissioner may grant an extension of up to six months (180 days) if a hardship exists and if the farmer has made a request for an extension at least 60 days prior to the date he was supposed to have completed implementing his plan. The Commissioner will determine that a situation constitutes a hardship if it was caused by circumstances beyond the farmer's control, and if the farmer has been making a good faith effort to implement his plan. Hardship can include financial problems.

8. Notification of Landowner, if Different from Operator

The Commissioner will determine on a case-by-case basis whether to notify the landowner when the complaint involves an agricultural activity on land that the farmer rents from someone else. If the investigation shows that no pollution problem exists, or if the problem is easily corrected by the operator's change in field management, the Commissioner may determine that notification of the landowner is

unnecessary. If the problem involves an old feature (e.g., an old gully) that was created before the present operator began renting the land, or if correcting the problem requires construction, the Commissioner may determine that the landowner needs to be notified.

9. Right of Entry Explained

The ASA gives the Commissioner, his designee, or the District the right to enter the farmer's land to determine whether or not the complaint is valid. This entry onto the farmer's private property must be handled in accordance with the farmer's rights. (See Section F for more information on the farmer's rights.)

a. Constitutional Right

The United States Constitution provides that the "right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches ... shall not be violated..."

This is part of the Fourth Amendment (4th Amendment) to the U. S. Constitution, which protects the people against unreasonable searches of their property by the government. The investigation of the complaint is a "search" under the 4th Amendment. Therefore, the right of entry and investigation, like any other governmental entry and investigation, always remain subject to the 4th Amendment, as explained below.

b. Scope of the Right of Entry

The physical scope of the right of entry is determined by the scope of the complaint. If the complaint alleges water pollution created by erosion coming from a specific field on the farm, then the ASA investigator does not have the right to enter other fields. If the complaint is made more broadly to say that erosion is coming from the farm as a whole into X stream, then the investigator's right of entry covers all of the farm that drains into X stream. If the complaint is made even more broadly to say that erosion is coming from the farm as a whole without naming the water body, then the investigator's right of entry covers the whole farm.

Under the 4th Amendment, the ASA's right of entry is subject to further limitations. With the farmer's consent, however, the ASA investigator can enter, examine or do other things:

	Consent Necessary?*
Enter fields not covered by the complaint	Yes
Enter sheds, barns, houses, and other enclosed structures	Yes
Open glove compartments, trunks, tanks, and other containers	Yes
Bring a non-District or non-VDACS person along	Yes

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View the farming operation from off-site	No
Enter streams adjacent to farm	No

(**To be valid, consent must be given voluntarily by someone who has the intelligence and ability to understand the situation and the possible consequences. For example, the consent of the farmer's 5-year-old child probably would not work because the child would not understand the consequences.)

Under the ASA, the right to entry is granted to the Commissioner or his designee to enter land that is the subject of a complaint. In addition, the right of entry is also granted on the same land to check implementation of stewardship measures specified in a corrective order and maintenance of stewardship measures.

c. When Right of Entry Begins

Under the ASA, there is no right to enter a specific farm until the Commissioner has received a complaint regarding that particular farm and the farmer has been given notice of the intended entry. The ASA does not require that this notice be in writing, so a phone call or statement to the farmer is sufficient. To prevent misunderstandings, however, VDACS and District investigators should keep records of such phone calls, at a minimum, and follow with a written notice to the farmer to confirm the investigator's oral statements. (See Forms 4 & 5.)

d. Role of the Investigator

The ASA investigator is not a police officer, but a witness who has the right to enter land to conduct an investigation and collect information.

e. Right of Entry

If the farmer denies the investigator entry onto the land or if the farmer later withdraws his consent regarding the investigator's entry, the investigator must leave the farmer's property immediately. The investigator should report this to the VDACS Agricultural Stewardship

Coordinator as soon as possible. It may be possible for the Commissioner to obtain a court order allowing entry, and the farmer may be subject to a civil penalty under the ASA.

If a farmer threatens the investigator, then the investigator should leave immediately. The investigator should make no counter-threats nor do anything that could escalate the situation, but maintain a professional manner. The investigator should report the threat to a VDACS Agricultural Stewardship Coordinator immediately, so that VDACS can take over the case.

f. Unclear Situations

If questions arise regarding unclear situations, call the VDACS ASA staff at 804/786-3538, who will try to find the answer.

In the long run, understanding and respecting the farmer's rights is important because violation of Constitutional rights tends to give the government agency and program a bad reputation, eroding public support. In the short run, violation of a person's rights can jeopardize the case. Evidence obtained in violation of the 4th Amendment is likely to be inadmissible in court.

10. Purpose and Scope of Initial Investigation

The purpose of the initial investigation is to answer a single question: Is there substantial evidence that the agricultural activity in question is causing or will cause water pollution from sedimentation, nutrients or toxins, as alleged in the complaint? When performing an investigation, information to answer this question can be recorded on Form 9.

Activities that are causing or will cause pollution that were not the subject of the complaint should be pointed out to the farmer as areas that the farmer needs to address, but with the understanding that these areas are not covered by the ASA complaint. The ASA's jurisdiction is "complaint-driven" and limited to the terms of the complaint. Thus, trying to enforce the ASA's requirements with respect to activities that were not mentioned in the complaint would be impossible.

Examples:

<p>The complaint alleges that severe erosion in a farm field bordering a stream is causing pollution. The investigation confirms that this erosion is causing pollution of the stream through sedimentation. During the investigation, the investigator also notices that the farmer's manure-management practices in the nearby loafing lot are also causing pollution. The nutrients from the loafing lot are draining into the stream, but not through the eroded area that was the subject of the complaint.</p>
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Result:

The investigator should advise the farmer that the manure also appears to be causing pollution and that the farmer would be wise to correct the situation. An ASA plan can be required, however, only for the erosion problem specified in the complaint.

A similar complaint alleges that erosion in a field bordering a stream is causing pollution. The investigation confirms that this erosion is causing pollution of the stream through sedimentation. During the investigation, the investigator also notices that the farmer's manure-management practices in the nearby loafing lot are also causing pollution through nutrients. The nutrients are draining into the stream -- this time, through the eroded area that was the subject of the complaint.

Sometimes, the question of whether or not a particular activity is covered by the complaint and, thus, should be included in the ASA plan will be difficult to answer. If a District employee or anyone else has a question regarding such a situation, he may call the VDACS ASA staff at 804/786-3538, who will assist in determining the answer.

11. Evidence

The ASA requires that there be "substantial evidence" that the agricultural activity is causing or will cause water pollution. This means that the evidence must be clear and must show cause and effect: that the agricultural activity caused or will cause pollution. In addition, there must be some evidence to support each step in the logical conclusion that activity X caused pollution Y.

a. "Real" Evidence

"Real" evidence is physical evidence (as opposed to testimony). Water samples, maps, and photographs are examples of real evidence. Developing a standard procedure within the office as to the labeling and storage of physical evidence should be done. Keeping physical evidence in locked closets or cabinets is necessary. This will assist VDACS if any enforcement action becomes necessary.

With maps, it will help to know who made the map (e.g., USGS or FSA), whether there have been any changes on the farm since the map was made, and if the map is labeled.

With all physical evidence, investigators need to maintain an unbroken chain of custody (possession). The purpose of the chain of custody is to be able to account for the whereabouts of the evidence at any time between the taking of the evidence and the evidence's arrival at VDACS in connection with an enforcement action. The investigator does not have to prove that no one ever tampered with the sample -- only that the handling of the sample adhered to a system of identification (e.g., labeling) and custody.

b. Transporting Evidence

To maintain the chain of custody, evidence needs to be transported by the investigator, by someone the investigator knows and trusts (and who would be willing to testify, if necessary), or by any standard means that will provide a receipt (e.g., registered mail, return receipt requested; a private courier service; or a private mail service). For samples to be tested, laboratories are

Result:

An ASA plan that covers both the manure-management practices and the eroded area can be required, because the nutrients are being delivered to the stream through the eroded area, which was the subject of the complaint.

generally aware of chain-of-custody questions and have procedures to prevent chain-of-custody problems. Thus, ASA investigators need to be concerned about custody issues only before the evidence reaches VDACS.

c. Written Evidence

Official publications, such as the Field Office Technical Guide ("FOTG"), are often easily admitted into evidence in court. The rules regarding other types of writings (e.g., the plans) are too complex to go into detail, except to say that original documents are preferred over duplicates (e.g., photocopies). Duplicates are usually admissible, but only if they are exact copies of the original and if the original is unavailable.

d. Oral Testimony

ASA investigators may have to appear as witnesses at hearings pursuant to the ASA. A witness' testimony is just as good evidence as any other kind. It will help the investigator if the investigator keeps notes regarding an investigation.

12. Sample Collection Techniques

To maintain uniformity in the state's system of collecting water samples, VDACS will use the procedures developed by the Virginia Water Control Board (VWCB), as set forth in the applicable sections of VWCB's "Water Quality Assessment Operating Procedures Manual."

Due to the complexity and cost of water and fecal sampling and analysis, samples should be taken only when they are absolutely necessary to prove a case. When an investigator can see that pollutants are entering or will enter the water body in question, he will not need to take samples because the case can be proven through photographs, maps, eye-witness testimony, and the law of gravity. The experience of other states that have programs similar to the ASA suggests that sampling is only necessary in a few cases. For scientific analysis of any water or other evidence, the District investigator should contact a VDACS Agricultural Stewardship Coordinator for specific instructions. VDACS will pay for the scientific analysis of any water or other evidence collected during the investigation period.

SECTION C - CONFIDENTIALITY OF INFORMATION

While an investigation is under way, disclosing information regarding the investigation can, in many cases, compromise or ruin any enforcement actions that may need to be taken later. The farmer may be understandably anxious to review whatever notes and records the investigator has made before

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the investigation is concluded, but the farmer should not be allowed to do so until the investigation is concluded. If at the conclusion of the investigation the farmer wants to know whether or not he will need to develop a plan, the investigator may give the farmer his opinion, but should also tell the farmer that this is subject to the Commissioner's ultimate decision. At the conclusion of the investigation, the farmer also has the right to review the investigator's materials.

It is inappropriate (perhaps illegal) to disclose information about an on-going investigation to anyone who does not work for the District or VDACS. The farmer's interest in keeping matters regarding an investigation of his practices confidential should be respected. In addition, allowing outside parties (e.g., the press) to, in effect, participate in the investigation by disclosing information about it is likely to compromise the case, in one way or another. Thus, it is essential that all information regarding on-going investigations be kept confidential until the Commissioner has decided whether the farmer needs to develop an ASA plan and, if so, until he has approved the plan.

This confidentiality extends to all aspects of the case, including disclosure of the name of the farmer or the name or location of the farm. For example, if someone (other than the complainant) asks whether Mr. Jones' farming operation is being investigated, the investigator (or anyone else from the District, whether employee or director) should simply respond that the District is unable to say either "yes" or "no" because the District has a strict policy that prohibits discussion of anything related to such matters.

The same principles apply to disclosing information regarding the complainant. Until the investigation is over, neither VDACS nor the District should disclose any information to anyone other than the farmer regarding the complaint. An investigation is over when the Commissioner makes his decision as to whether or not the farmer must develop an ASA plan and if so, has approved the plan.

The District board of directors should go into executive session to discuss any on-going investigations and, if any have been filed, appeals or other litigated matters. In addition, the Board's minutes that will be made available to the public should not disclose information regarding on-going investigations, appeals or other litigated matters. (The Department of Conservation and Recreation has supplied Districts with information on how to go into and out of executive session and related matters.)

A District may receive a request under the Virginia Freedom of Information Act (Chapter 21 (§ 2.1-340 et seq.) of Title 2.1 of the Code of Virginia) ("FOIA") to disclose records regarding an on-going investigation. Each request for records must be made in writing; if a District receives an oral request for records, the District must then advise the person making the request that the request must be made in writing. The District should not respond to any oral requests, only written requests. If the District does receive a written request for records, FOIA gives the District five workdays to respond to the request. (This five-day deadline may be extended under limited circumstances.) If the District receives a written request for records regarding an on-going investigation, the District's response must: (i) deny disclosure of all records or

portions of records that contain information regarding the on-going investigation; (ii) state that records related to on-going investigations are not subject to disclosure; and (iii) cite as authority for denying the records (§§ 2.1-342 A and 10.1-559.9 of the Code of Virginia).

Once an investigation has been concluded, the records regarding it may legally be disclosed, in many instances. To minimize the possibility of FOIA requests made to Districts, the Districts may turn over all of their written material (including notes) and evidence to VDACS. Failure to abide by the requirements of FOIA can subject a District director or employee to personal liability. To minimize their exposure to liability, Districts may choose to not keep copies of matters related to the investigation. VDACS will supply copies to the District later if the District wants them.

The District may decide that it is better policy not to disclose (except pursuant to a FOIA request) the names of farmers involved in ASA matters or locational information regarding their farms, even after the investigations have been concluded. If a District has a question regarding its legal obligations in connection with disclosure of records, the District should pose these to their lawyer or to the local Commonwealth's Attorney who represents the District.

While making records, investigators should remember that the records will be shared with the farmer, in many cases, and, occasionally, the public. These records may even be published in the newspaper or on radio or television. Thus, the investigator should record only accurate, factual information, such as what was seen and even what was said - never the investigator's opinion of the farmer (or anyone else) as a person. Untrue statements or statements of opinion regarding a person's character, health or looks may constitute slander and, if published, libel.

SECTION D - SUBSEQUENT VISITS TO FARM TO CHECK IMPLEMENTATION

In most cases, once the initial investigation has been completed, no further on-site reviews are necessary if the Commissioner has determined that no plan is necessary. Subsequent on-site reviews are necessary only when an ASA plan is required. The purpose of the subsequent on-site review is to determine whether the farmer is implementing his ASA plan in accordance with his implementation schedule.

Subsequent on-site reviews have enforcement implications, which are the Commissioner's responsibility; so, Districts should not undertake subsequent visits without VDACS' express agreement. (This need for agreement from the Commissioner does not apply to a District's best management practices "spot-check" to determine compliance with a District cost-share agreement, even for a practice installed to meet ASA requirements.)

SECTION E - APPEALS AND FACT-FINDING CONFERENCES

The ASA gives "persons aggrieved" the right to appeal any decision of the Commissioner to the Virginia Soil and Water Conservation Board ("Board"). "Persons aggrieved" means the farmer and may also include anyone else who has a

"substantial, immediate pecuniary interest" (e.g., economic harm).

The farmer or other appellant also has the right to request a discussion with the Commissioner before he makes any of these decisions (except the decisions regarding jurisdiction and whether the complaint should be investigated, which will be made before the farmer is aware of the complaint).

If he or she is dissatisfied with the Board's decision in an appeal, a party to the proceeding may then appeal to circuit court. Appeals may be made, in some instances, from circuit court decisions to higher courts.

The ASA provides that the farmer or other appellant may have an informal fact-finding conference before the Commissioner in connection with the issuance of any order pursuant to the ASA. (See e.g., § 10.1-559.4 B of the ASA, which gives the farmer or other appellant the right to an informal fact-finding conference prior to the issuance of a corrective order.) During this proceeding, the informal fact-finding conference, the propriety of the issuance of the order will be determined. An informal fact-finding conference may be more formal than a simple discussion with the Commissioner, if the farmer desires a more formal proceeding.

The term "informal fact-finding conference" comes from Virginia's Administrative Process Act, the statute that sets the basic ground rules and establishes the types of proceedings for appealing decisions made by government agencies or officials. A number of the Commissioner's decisions under the ASA are official decisions that can be appealed, and the way in which an appeal will be conducted is according to the Administrative Process Act's rules for informal fact-finding conferences. These conferences are less formal and less expensive than agency informal fact-finding conference, in which evidence is presented in much the same manner as it would be in a trial in court.

During informal fact-finding conferences and appeals, District investigators and VDACS staff may be called as witnesses. District investigators and VDACS staff have no obligation in these proceedings to make any determinations, but only to provide evidence. Staff from the Department of Conservation and Recreation ("DCR") provides staff services to the Board.

SECTION F - FARMER'S RIGHTS

The farmer always has all of the rights given to him by the U.S. and Virginia Constitutions, and the ASA cannot take those rights away. Of his Constitutional rights, the farmer's right to be protected from unreasonable searches and seizures and the farmer's right to due process would be the greatest concerns in relation to the ASA. The farmer also has the right to consult with his own attorney, if he wishes, in connection with any aspect of, or proceeding under the ASA.

A list that shows the farmer's rights at each stage of the initial investigation is attached.

SECTION G - SOURCES OF ASSISTANCE FOR FARMERS

There are several sources of assistance available to farmers to address pollution problems and to develop

stewardship measures and plans. Areas of assistance and possible sources are listed below:

1. Technical Assistance

Planning and, if necessary, engineering assistance is often available through:

- Local Soil and Water Conservation District
- Department of Conservation and Recreation
- Natural Resources Conservation Service
- Virginia Cooperative Extension
- Virginia Department of Agriculture and Consumer Services
- Private businesses
- Consultants
- Agribusiness organizations

2. Cost-Sharing

Cost-Share assistance that may be available to implement plans is offered by:

- Local Soil and Water Conservation Districts
- U.S. Department of Agriculture, Farm Service Agency
- U.S. Department of Agriculture, Natural Resources Conservation Service
- Virginia Department of Environmental Quality

3. Financial Planning

Financial planning is always a consideration when making decisions that affect a farming operation. There are several organizations that can be of assistance to the farmer in his financial planning:

- Virginia Cooperative Extension (e.g., Farm Management Agents)
- Private financial institutions (e.g., commercial banks, agricultural financing organizations)

4. Physical Planning for Compliance with ASA

The ASA requires that the plan be returned to the Commissioner's Office and the District within 60 days after receiving notice that a plan is necessary. The local District must then review the plan. If the plan meets the ASA's requirements, then Commissioner must approve the plan within 30 days after he receives it from the farmer, and send notice of approval to the farmer. The farmer must begin implementing the plan within six months and complete plan implementation within 18 months unless specified differently by the Commissioner. The Commissioner may require an implementation schedule consistent with seasons and other temporal considerations, therefore, increasing the chance of success in establishment or construction of the measures required in the plan. The Commissioner may consider a corrective order if plan implementation schedule is not met or if the problem is not corrected.

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- A. Public Sources of assistance in planning
- Local Soil and Water Conservation District
 - Department of Conservation and Recreation
 - Natural Resource Conservation Service
 - Virginia Cooperative Extension
 - Virginia Department of Agriculture and Consumer Services

B. Private Sources

- Private businesses (e.g., engineering and consulting firms)
- Agribusiness organizations

C. Required Contents of Plans

The following are the minimum requirements of a plan under the ASA: The plan must include:

- Stewardship measures needed to prevent the pollution, and
- Implementation schedule.

The plan should also include:

- A tract map
- Affected water feature designated- Soils map
- Statement of pollution problem
- Signature page
 - Farmer
 - Local District
 - Commissioner

These plans may be submitted in the simplest form (e.g., in handwriting with photocopies of maps). More sophisticated forms of plans, such as plans developed using the various conservation computer programs, are acceptable, too. Planners simply need to remember that the ASA sets a 60-day deadline for developing the plan, so planners may want to develop simple plans to prevent or eliminate the pollution to meet the 60-day deadline.

The farmer will have received a letter from the Commissioner notifying the farmer of the results of the investigation. This letter specifies the components of the agricultural activity that are causing or will cause water pollution. All of these components must be addressed in the plan.

If necessary, simple plans can be converted into more sophisticated formats later, after this deadline has been met. Planners should be also sensitive to the fact that the farmer then has a second deadline to meet: the farmer must begin implementing the plan within six months of receiving the official notice that the plan has been approved.

Amendments to existing conservation plans are acceptable, too, as long as the amendments prevent or eliminate the pollution.

Form 10 provides an example format of the "bare necessities" of an ASA plan.

To make the planning process most effective, farmers should be given options for solving their pollution problem whenever possible. In terms of appropriate options, the ASA defines stewardship measures as "the best available nonpoint source control methods, technologies, processes, siting criteria, operating methods or other alternatives." There are often a variety of best management practices that can be employed to solve a single pollution problem. Thus, the planner will often have a wide variety of types of options -- from structural practices to changing sites for an activity to changes in operating methods -- that can be offered to the farmer as solutions to the pollution problem. These options need not be the most expensive or employ the most sophisticated technology; they only need to prevent the pollution in question to be the "best".

5. Support & preventative measures -- Roles of agricultural and commodity organizations

The agricultural and commodity organizations can be leaders in supporting their producers and in educating them on Best Management Practices to avoid conflicts and potential pollution problems. As Virginia continues to urbanize, it will become more important for producers to become more aware of environmental concerns and address these issues before problems arise. Some groups have already begun taking action on educating their producers, as described below:

- National Pork Producers Council and the Virginia Pork Industry Association -- Environmental Assurance Program
- Virginia Poultry Federation -- nutrient management planning commitment
- Virginia Farm Bureau Federation -- Natural and Environmental Resources Regional Workshops

In addition, Virginia Cooperative Extension has developed an on-farm self-assessment program that can help producers identify potential sources of water pollution. This program is called a Farm*A*Syst.

Local Extension agents can help farmers learn more about Farm*A*Syst. Using Farm*A*Syst can be an important step that farmers can take to prevent certain ground water pollution problems.

SECTION H – VIOLATIONS AND PENALTIES

Under the ASA, no violation occurs until the Commissioner issues a corrective order and the farmer fails to comply with it or if the farmer denies an investigator the right of entry. The Commissioner must issue a corrective order if the farmer is found to need a plan and fails to implement his plan according to the Act's standards.

This means that if a farmer allows the investigator to enter the land and complete the investigation and then develops a plan and implements it according to schedule, the farmer is not in violation of the ASA -- despite the fact that the farmer's operation was causing or would have caused pollution. If the

farmer complies with the process established by the ASA, he is a "good steward" despite the previous problems because he corrected them.

If a farmer fails to comply, he may be subject to civil penalties and orders issued by either the Commissioner or a court. The ASA does not create any crime -- only civil violations.

SECTION I - INTERGOVERNMENTAL COOPERATION

The ASA requires that agricultural activities that are causing or will cause water pollution be corrected. It is very important that all agencies work together in a cooperative effort using a common-sense approach to assist farmers in effectively correcting these problems. Listed below are agencies and their roles in relation to the ASA.

1. The Department of Environmental Quality and the Virginia Water Control Board ("DEQ" and "VWCB")

Virginia's State Water Control Law gives the VWCB broad jurisdiction over almost all types of water pollution, whether point source or nonpoint source, whether agricultural or nonagricultural in origin, and involving any type of pollutant. (See § 62.1-44.5 of the Code of Virginia.) The ASA gives the Commissioner jurisdiction over a smaller portion of this same area of concern: water pollution caused by three types of pollutants coming from agricultural activities not currently subject to a permit issued by VWCB through DEQ. The Commissioner's and the VWCB's jurisdiction overlap, but the Commissioner's jurisdiction is a subset of the VWCB's. (This concept is illustrated by the figure in Appendix C.)

The VWCB has asserted its jurisdiction over certain types of agricultural operations by requiring them to obtain permits. For those agricultural activities that are subject to a permit issued by the VWCB (through DEQ), the ASA is not applicable. The ASA expressly provides that those operations are exempt from the ASA. When a complaint arises regarding an operation that is subject to a VWCB permit (most often a VPA or VPDES permit), the complaint must be dismissed, and the farmer should be informed that he should check to make certain that the farmer is in compliance with his VWCB permit. The farmer should be given the address and phone number of his regional DEQ office so that DEQ can answer any questions that the farmer may have. After the complaint is dismissed, the complainant will be notified explaining that DEQ's has jurisdiction.

2. The Department of Conservation and Recreation ("DCR")

DCR is Virginia's primary natural resource conservation agency and provides farmers with technical assistance in developing nutrient management plans. In this program, DCR maintains a staff of specialists in field offices throughout the state to provide nutrient management planning (NMP) assistance. Closely connected with the NMP technical assistance program is DCR's certification program for nutrient management planners from both private and public organizations.

In addition to its programs related to NMP, DCR provides the Districts with coordination services at the state level. DCR is the major conduit of funds for Districts. An integral part of this program is the state cost-share program that DCR

administers and the Districts implement. In relation to the ASA, DCR can provide its NMP assistance to farmers with corresponding ASA planning needs, as well as cost-share assistance.

DCR collects land-use and related data from across the state to identify small watersheds where the potential for nonpoint source pollution is high. DCR also provides various predictive modeling services that help estimate the progress made in reducing nonpoint source pollution.

Of particular interest to the ASA program is DCR's close relationship with the Virginia Soil and Water Conservation Board ("Board"). DCR provides the staff services to the Board that help the Board meet its ASA obligations.

3. Natural Resources Conservation Service ("NRCS")

The United States Department of Agriculture was formed in response to the "Dust Bowl" that devastated agricultural production in the 1930s and contributed to the Depression. Over the years, the NRCS has developed numerous conservation techniques and practices to conserve, improve and sustain natural resources on private lands. The NRCS pioneered the planning approach to conservation management.

Today, in addition to setting the standards for a wide-variety of conservation practices, the NRCS provides technical assistance to landowners and managers in many localities throughout the state. These technical assistants often work closely with the local Districts. The NRCS also assists other federal agencies in administering the federal cost-share program for agricultural conservation practices. In relation to the ASA, the NRCS continues to provide its technical and cost-share assistance (when and where appropriate) to farmers faced with ASA needs.

4. Virginia Cooperative Extension ("Extension")

Extension has played an important role over the years by providing landowners and managers with education regarding a wide variety of concerns. These educational services range from production matters to farm financial planning to natural resource technical and planning assistance.

In relation to the ASA, Extension continues to provide technical and planning assistance to farmers to prevent complaints under the ASA and to assist in the preparation of ASA plans, at least in those areas where Extension has resources to provide such assistance. Extension's Farm Management Agents, who provide financial planning assistance, may be called upon to provide financial planning assistance in relation to the development of an ASA plan. In response to farmers' questions, Extension is also likely to provide some education to farmers regarding the ASA itself.

5. Soil and Water Conservation Districts ("Districts")

As described in other sections of these guidelines, the Districts may play a role in investigating complaints, if they choose to do so. The decision of whether or not to perform investigations lies with each District individually. Pursuant to the ASA, all Districts will play a role in the ASA by reviewing ASA plans that are being sent to the Commissioner.

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As actual political subdivisions of the Commonwealth, the Districts are the local sources of technical and planning assistance for agricultural conservation practices, in many instances. Like the NRCS, the District system was developed in response to the Dust Bowl of the 1930s. Over the decades, the Districts, together with other conservation agencies, have helped produce an advanced agricultural system that blends conservation and resource protection with enhanced production techniques.

The Districts are the local administrators of the cost-share program. Beyond the investigative and review roles that the ASA speaks to directly, the Districts can provide continued planning and technical assistance to farmers with ASA needs. Where and when appropriate, the Districts can provide cost-share assistance.

6. Chesapeake Bay Local Assistance Department ("CBLAD")

The Chesapeake Bay Preservation Act ("Bay Act") was enacted in 1988, and CBLAD was established shortly thereafter to administer the Bay Act's programs.

Section 10.1-559.10 of the ASA makes it clear that any local government may adopt an ordinance establishing a process for filing complaints, investigating them, and creating agricultural stewardship plans where necessary to correct pollution problems, provided that such ordinances meet certain conditions set forth in this section. Subsection B also states that adoption of such ordinances shall not interfere, conflict with, supplant, or otherwise affect any other ordinance previously adopted (prior to July 1, 1996). This includes ordinances adopted pursuant to the Bay Act. If any localities adopt ASA ordinances, these ASA ordinances are intended to supplement and work alongside those other ordinances.

Likewise, § 10.1-559.11 seeks to address potential conflicts with the Bay Act regulations. This section states that nothing in the ASA shall be interpreted to duplicate the agricultural requirements in the regulations adopted pursuant to the Bay Act. In fact, the ASA is intended to supplement and work alongside the Bay Act and its regulations. ASA investigators and planners should note that, while the ASA guidelines seek to provide consistent implementation process across local jurisdictional boundaries, local enforcement of violations of Bay Act ordinances may vary somewhat from one locality to another.

Under the Bay Act regulations and local Bay Act ordinances, agricultural landowners are required to (1) establish (where one does not exist) and maintain a 100-foot-wide vegetated buffer separating the land upon which agricultural activities are being conducted and adjacent environmentally sensitive features, and (2) obtain a soil and water quality conservation plan (SWQCP) addressing erosion, nutrients and pesticides. This plan must be approved by the local District Board. A SWQCP, or parts thereof, is only required to be implemented if a reduction in the width of the 100-foot-buffer is sought.

- If an ASA investigator is informed by the farmer that the farmer has a Bay Act SWQCP, the investigator should review the plan to see what best management practices (BMPs) have been recommended for water quality

protection and what is actually being implemented by the farmer.

- In some cases, the ASA investigator may find that the BMP recommended in the SWQCP already addresses the water quality problem complained of, but was not required to be implemented under the Bay Act. Rather than duplicating efforts, the ASA investigator may simply refer to the information in the SWQCP and recommend that the farmer implement any or all relevant parts of the plan that address the identified ASA water quality problem.
- Local governments in Tidewater Virginia may consider the ASA as a way by which the ASA's enforcement mechanisms may be used to further the goals of the Bay Act.
- If an ASA complaint involves a Bay Act vegetated buffer (e.g., a channel has formed in the field and continues through the buffer emptying directly into the stream), the stewardship measures included in the ASA plan must not conflict with either the allowable buffer reductions under the Bay Act regulations or with the buffer performance criteria established via the Bay Act. If the ASA investigator or planner has questions regarding the reduction rules or the performance criteria, the investigator or planner should contact the local CBLAD-funded Agricultural Water Quality Specialist for assistance. The local District should be able to provide the name and telephone number of the Agricultural Water Quality Specialist.

7. Soil & Water Conservation Board ("Board")

As discussed in the previous section of these guidelines entitled "Appeals and Other Fact-Finding Conference," the Board provides the initial forum in which appeals from any of the Commissioner's decision may be heard. This serves to protect important Constitutional rights of farmers and others in obtaining due process. The ASA also empowers the Board to assess, after affording due process, civil penalties against any farmer who has not complied with an order issued pursuant to the ASA.

8. Virginia Department of Agriculture and Consumer Services ("VDACS")

VDACS provides staff assistance to the Commissioner, who is in a sense the "point person" for the ASA. Beyond providing assistance to the Commissioner in investigations and enforcement, VDACS' staff assists in communicating the results of the investigations with complainants.

VDACS also serves as the primary coordinating agency for administering the ASA. In addition to helping draft these guidelines, VDACS initiates the reporting and assessment processes annually. The purposes of the annual reporting and assessment process is to identify trends and needs and to seek means of addressing any problems that develop in the system of administering the ASA.

In some cases, VDACS provides technical and planning assistance to farmers in the wake of a complaint. VDACS' other main role is to coordinate the administration of the ASA

with the Districts and other partners. VDACS' main goal in administering the ASA is to institute a "farmer-friendly" set of mechanisms by which farmers can address water pollution problems on a case-by-case basis, without the necessity of further overall regulation.

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STEPS IN ADDRESSING ASA COMPLAINTS

1. Commissioner's Office receives the complaint.
2. Commissioner's Office informs District.
3. District has five calendar days to inform the Commissioner's Office of their decision regarding whether or not they will investigate.
4. Phone call or visit to inform farmer of complaint and the need to set up a time to investigate
5. Send letter to farmer to follow-up phone call along with information on ASA.
6. Investigate complaint and report findings to Commissioner's Office within 21 days of receiving complaint.
7. Commissioner's Office reviews investigation report, makes decision and contacts farmer (via certified mail) and District within 30 days.
 - ↳ unfounded – case dismissed and complainant contacted
 - ↳ founded – farmer requested to complete the following steps
8. Farmer develops plan to address problem and sends copy to the Commissioner's Office and District within 60 days of receiving notice to develop plan.
9. District reviews plan and sends comments to Commissioner's Office. If plan addresses problem then the Commissioner's Office will approve plan and notify farmer. This entire process must be completed within 30 days of receipt of plan from farmer (**PLAN REVIEW IS THE ONLY REQUIREMENT THAT DISTRICT PERFORMS IN ALL CASES**).
10. Commissioner's Office will notify complainant of action taken.
11. Six months after notice to develop plan, Commissioner's Office will check to ensure that the farmer has begun implementing plan. (District may perform this duty if approved by the

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12. Commissioner's Office.) If implementation has not begun, corrective measures will be taken by the Commissioner's Office.
13. Plan implementation must be completed within 18 months or other periods as specified by the Commissioner's after notice to develop plan, at which time another farm visit to ensure compliance will be necessary. (Hardship extensions can be granted if correct process has been followed.)
14. Farmer maintains plan.

STEPS IN ADDRESSING AN ASA COMPLAINTS

1. **Commissioner's Office receives complaint:**
 - Commissioner's Office reviews complaint and determines if the ASA has jurisdiction.
 - If not under ASA's jurisdiction, Commissioner dismisses complaint.
 - If under the ASA's jurisdiction, Commissioner determines whether investigation is necessary.
2. **Commissioner's Office determines whether investigation is necessary:**
 - In cases with non-anonymous complaints, an investigation is required.
 - In cases with anonymous complaints, the Commissioner has the option to investigate.
3. **If investigation is needed:**
 - Commissioner's Office contacts local Soil and Water Conservation District and informs them of the complaint.
 - District has five days to decide if they will investigate or if they want the Commissioner's office to investigate.

(If the owner/operator has a preference on whether the District or the Commissioner's Office performs the investigation; we will try to accommodate the request.)

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4. **Contact the owner/operator to inform him or her of complaint and the need to investigate, followed by a letter as follow-up.**
 - Farmer options:
 - *Grant permission to enter land, or*
 - *Denies request to enter land*
 - If farmer denies request to enter land, the Commissioner may see a court order and the farmer may be subject to civil penalties.
 - *Owner/operator can appeal to the court or the Soil and Water Board*
5. **Investigate complaint and report findings to Commissioner's Office within 21 days of receiving complaint.**
6. **Commissioner's Office reviews investigation report and, if needed, gathers more information. Commissioner's Office then makes decision as to whether complaint is founded, then contacts farmer with findings (via certified mail) and the District within 30 days of receiving investigation report. (As this point, the farmer can obtain all information pertaining to the case.)**
 - If complaint is unfounded
 - Action on complaint complete
 - Complainant contacted and informed on reasons complaint was unfounded.
 - If complaint is founded – Finding is reviewed and discussed with farmer
 - *Farmer accepts decision, or*
 - *Farmer appeals decision to the Virginia Soil and Water Conservation Board*
 - Farmer accepts Boards decision, or
 - Farmer appears to local Circuit Court
7. **Farmer develops plan to address problem and sends copy to the Commissioner's Office and District within 60 days after receiving notice of investigation finds and of the need to develop a plan.**

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8. **District reviews plan and sends its recommendations to the Commissioner's Office.**
9. **Commissioner's Office reviews plan; District recommendations and notifies farmer.**
 - Plan approved, and/or amended with conditions
 - Plan rejected
 - *Farmer develops new plan and repeats submittal process, or*
 - *Farmer appeals through the process described in item 5.*
10. **Commissioner's Office contacts complainant, informs him or her of action taken, and plan implementation completion date.**
11. **Six months after farmer is notified that plan is necessary, Commissioner's Office will check to ensure that farmer has begun implementing plan.**
 - Implementation has begun, or
 - Implementation has not begun
 - Commissioner institutes an informal fact-finding conference with the owner/operator
 - ASA requires Commissioner to issue a corrective order to farmer at this point
 - Owner/operator may be subject to civil penalties
 - *Owner/operator may appeal through same process as described in item 5.*
12. **By the completion date, a site review will be conducted to ensure complete plan implementation.**
 - Once plan is implemented, farmer is required to maintain
 - *Hardship cases can receive a 180-day extension if farmer's request is received 60 days prior to completion date and is approved by the Commissioner's Office.*
 - *Farmer can appeal through the same process described above in item 5.*

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APPENDIX C

Steps To Consider During An Investigation

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Steps to Consider During An Investigation

When beginning an investigation, it is likely to help if you keep several key questions in the back of your mind. These questions are:

1. What is pollutant (sediment, nutrient, pesticide or petroleum product) was the subject of the complaint?
2. What water body (stream, river, well, etc.) was the subject of the complaint?
3. Is there a physical barrier (e.g., buffer, berm, slope, etc.) that would help prevent the pollutant in question (soil, nutrients, pesticides or petroleum products) from reaching the stream, river or well?
4. Is the farmer using any BMPs that are designed to help prevent the pollutant in question from reaching the stream, river or well?

With these questions in mind, begin to assess the physical layout and the farmer's operation of the field, feedlot or pasture that is the subject of your investigation. Some things to assess are as follows (Use the ones that would be applicable to the pollutant that was the subject of the complaint):

- ❖ Is there evidence of erosion?
- ❖ What sources of nutrients are used or produced in the operation?
- ❖ What types of pesticides and petroleum products are used in the operation?
- ❖ If pesticides are used, are they water-soluble, evaporative or do they tend to bind to soil?
- ❖ What are the characteristics of the topography in relation to the water body?
 - Slope

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- Sink holes
- Soil Types
- Etc.
- ❖ Is there a buffer or other barrier between the site where the problem is alleged to be occurring and the water body?
- ❖ If there is a buffer, what are the characteristics for the buffer?
 - Mixed vegetation (trees and shrubs, etc.)
 - Grass
 - Etc.
- ❖ What condition is the buffer in?
 - Well vegetated
 - Killed areas
 - Eroded
 - Etc.
- ❖ Does the farmer use nutrient management practices, and if so what are they?
- ❖ Are stream banks eroded, and if so, what was the cause?
 - Natural causes
 - Livestock
 - Etc.
- ❖ Are BMPs used on the land, such as residue management, conservation tillage, sod waterways, animal waste system, hardened access, etc.?

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❖ *Are BMPs well maintained?*

- Is sod waterway or filter strip being filled with sediment?
- Is animal waste storage facility emptied on schedule?
- Etc.

This is not an all-inclusive list because there may be other site-specific and complaint-specific circumstances that you'll want to consider, but this gives you an idea of what to assess.

Taking what you've learned about this operation in your assessment, begin to answer the following questions:

- Can the alleged pollution even be a product of this farming operation?
- Is there a route from the field, feedlot or pasture that the pollutants would travel easily (e.g., unobstructed by a physical barrier) to the water body?
- Given the management of the field, feedlot or pasture and other factors, how large is the level of pollution that could be occurring (e.g., large, medium, minimal, none)?
- If there is a pollution occurring, could the pollution in question be occurring from natural causes (e.g., natural stream bank erosion)?
- If there is pollution occurring, was it caused by circumstances beyond the farmer's control?

Using your answers to these questions, you can begin to write up your investigation report and formulate your opinion regarding this case. If you have questions, feel free to contact Glenn Martin or Hunter Richardson at (804) 786-3538.

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APPENDIX D

Agricultural Stewardship Act Forms

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INVESTIGATION TRACKING CALENDAR REGARDING THE AGRICULTURAL STEWARDSHIP ACT Complaint No. _____

Completion Date	Required Completion Date	STEPS IN ADDRESSING COMPLAINTS
		1. Commissioner's office receives complaint (use Form 1)
		2. Letter from Commissioner's office to inform District of complaint (use Form 2)
		District sends response back within five day to Commissioner to inform if they will investigate the complaint (use Form 3)
		Phone calls to owner/operator to inform them of the complaint and inform of intent to investigate (use Form 4)
		Letter sent to owner/operator to follow-up on phone call as well as information on the Act (use Form 5)
		6. Investigate and report to Commissioner within 21 days (use Form 9)
		7. Commissioner's decision to landowner (via certified mail) and District within 30 days (use Form 6)
		Agricultural Stewardship Plan to Commissioner's Office within 60 days (can use Form 10)
		9. Agricultural Stewardship Plan reviewed by SWCD
		Agricultural Stewardship approval letter to owner/operator within 30 days (use Form 7)
		11. Letter to Complainant informing them of complaint status (use Form 8)
		12. Implementation of plan (begin within six months) <input type="checkbox"/> yes <input type="checkbox"/> no → Site visit after six months to insure compliance → If not implementing, Commissioner sends a corrective action by certified mail.
		13. Implementation completion not to exceed 18 months. → Hardship cases can be extended by Commissioner for 180 days only if request is received 60 days before the final implementation or after a natural disaster occurs. Request received: _____ Granted date: _____ New Implementation Completion Date: _____
		14. Plan implementation complete
		15. Site inspection review

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Today's Date _____

Complaint No. _____

FORM 1
COMPLAINT TRACKING FORM
AGRICULTURAL STEWARDSHIP ACT

Name of person receiving complaint: _____

1. Was the complaint made anonymously? Yes ___ No ___

If "Yes," what reason (if any) did complainant give for not wanting to give (his/her) name?

Note: If complainant would not give his/her name, Commissioner must make decision regarding whether or not to investigate.

If "No," complainant's name and mailing address and phone number are:

2. Does the complaint concern an agricultural activity? Yes ___ No ___

If "Yes," go to question 3. If "No," dismiss complaint and inform complainant that we have no jurisdiction over non-agricultural activities.

3. What was the agricultural activity? **Beef, Dairy, Poultry, Hogs, Horses, Cropland,** or other:

Did complainant say that the agricultural activity is causing or will cause water pollution?

Yes ___ No ___

If "Yes," go to question 4. If "No," dismiss complaint and inform complainant that we have jurisdiction only over complaints concerning water pollution.

4. What is the nature of the alleged water pollution?

Could this pollution have been caused or be caused by sedimentation, nutrient enrichment or toxins from this agricultural activity?

Yes ___ No ___ Uncertain ___

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If "Yes," go to question 5. If "Uncertain," go to question 5. If "No," dismiss complaint and inform complainant that we have jurisdiction only over complaints concerning water pollution caused or threatened by sedimentation nutrient enrichment and toxins coming from agricultural activities.

5. To the best of your knowledge, is this specific agricultural activity covered by a permit (e.g., VPA, VPDES, etc.) issued by the State Water Control Board/ Department of Environmental Quality?
Yes _____ No _____ Uncertain _____

NOTE: "Specific agricultural activity" means the portion of the farming operation that is complained. For example, if the farm has a VPA permit for land application of manure, but complaint involves runoff from field to which manure is not applied, then answer is "No."

If "No" OR "Uncertain" go to question 6. If "Yes," dismiss complaint and inform complainant that we have no jurisdiction over complaints concerning water pollution from activities that are subject to a DEQ water permit.

6. Name and address of farmer whose operation is subject of complaint:

Phone Number(s): _____

County Name: _____

Special directions to farm/section of farm: _____

Name of Soil and Water Conservation District ("local District") in which complained-of agricultural activity located:

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(VDACS Letterhead)

FORM 2
**NOTIFICATION TO DISTRICT OF COMPLAINT
AND REQUEST TO INVESTIGATE
AGRICULTURE STEWARDSHIP ACT**

TO: Directors, _____ Soil & Water
Conservation District

FROM: Commissioner of Agriculture and Consumer Services

THROUGH: _____
Agricultural Stewardship Coordinator

DATE: _____

RE: Complaint of Water Pollution from Agricultural Activity in Your
District (Complaint No.____)

We have received a complaint alleging that an agricultural activity in your District is causing or will cause water pollution. That agricultural activity is described in greater detail on the attached Complaint Tracking Form. Pursuant to §10.1-559.3 of the Code of Virginia, I hereby request that you determine the validity of the information in the complaint.

According to §10.1-559.3, you must advise me by the end of the fifth (5th) calendar day following the day on which you receive this request of your decision regarding whether or not you wish to determine the validity of the information in this complaint. (Our standard response form #3 can be used.)

The Agricultural Stewardship Act gives us only 21 days to complete investigations to determine the validity of complaints, so if you choose to investigate to determine the validity of the information in the complaint, I will need to receive your decision by the date of _____. If you choose to investigate, the standard investigation form #9 can be used.

Thank you for your consideration of this request. If you have any questions, please feel free to call me or my staff at 804/786-3538.

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[District letterhead]

FORM 3
**DISTRICT'S DECISION REGARDING
REQUEST TO INVESTIGATE VALIDITY OF COMPLAINT
AGRICULTURAL STEWARDSHIP ACT**

TO: Commissioner of Agriculture and Consumer Services

FROM: _____
Soil & Water Conservation District

DATE: _____

RE: Complaint of Water Pollution from Agricultural Activity in Our
District (Complaint No. _____)

We have received your request regarding a complaint alleging that an agricultural activity in our District is causing or will cause water pollution by sedimentation, nutrient enrichment or toxins. That agricultural activity is described in greater detail on the attached copy of the first page of the corresponding Complaint Tracking Form. Pursuant to §10.1-559.3 of the Code of Virginia, I hereby notify you that this Soil & Water Conservation District _____ will _____ will not investigate to determine the validity of the information in that complaint.

Copy: Agricultural Stewardship Coordinator
Commissioner, VDACS

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(Letterhead of VDACS or District, as appropriate)

FORM 5
FOLLOW-UP FORM OF PHONE CALL TO LANDOWNER

TO: _____

FROM: _____
Agricultural Stewardship Coordinator

DATE: _____

RE: Complaint of Water Pollution from Agricultural Activities on Your Farming
Operation. (Complaint # _____)

This letter is to follow-up on our phone conversation on _____, and to act as a
reminder that we will enter your land to determine if the agricultural activity is causing or
will cause water pollution on _____ around _____.

If we need to reschedule, please contact the office as soon as possible to see if we can
arrange for an alternate time for our visit.

Enclosed please find information regarding the Agricultural Stewardship Act.

Copy: Local District SWCD

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(VDACS Letterhead)

FORM 6
NOTIFICATION TO FARMER OF INVESTIGATION FINDINGS

TO: _____

FROM: J. Carlton Courter, III
Commissioner of Agriculture and Consumer Services

THROUGH: Agriculture Stewardship Coordinator

DATE: _____

RE: Complaint pursuant to the Agricultural Stewardship Act regarding your farming operation (COMPLAINT # _____)

After receiving a complaint alleging that an agricultural activity on your farm is causing or will cause water pollution by sedimentation, an investigation was performed on *(date)* by *(investigators name)* from the Virginia Department of Agriculture and Consumer Services. The findings from this investigation are as follows:

- ◆ *The land cleared to expand pasture next to State Rt. 000 in Distant County is allowing runoff to carry excessive amounts of sediment to a tributary of Your Creek. Soil becomes sediment after it enters water. [Sedimentation constitutes elements of "pollution" as defined in the Agricultural Stewardship Act. (See Section 10.1-559.1 of the Code of Virginia.)]*

Several factors that contribute to this problem are:

- Lack of permanent vegetation next to creek
- Inadequate erosion control measures in disturbed drainage area
- High degree of slope and large watershed

In conclusion, this agricultural activity was found to be one that is causing and will cause water pollution and measures must be taken to correct the water pollution problem according to the Agricultural Stewardship Act. **You need to submit an Agriculture Stewardship Plan that addresses the water pollution problem within 60 days of receiving this notice (approximately date) to the Commissioner of Agriculture and Consumer Services and a copy to the local Soil and Water Conservation District.** A list of possible sources of assistance and the requirements for this plan are attached.

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Plan Requirements

- ◆ Best Management Practices that will correct the water pollution problem
- ◆ An implementation schedule to begin within six months of receiving this notice (***approximate date***).
- ◆ *Complete implementation within twelve months of receiving this notice (approximate date).*

Possible assistance in plan development and cost-share

- ◆ Local Soil and Water Conservation District (phone number)
- ◆ Natural Resources Conservation Service (phone number)
- ◆ Local County Cooperative Extension phone number)
- ◆ Virginia Department of Agriculture and Consumer Services
Hunter Richardson (804-786-2653) or Glenn Martin (804-786-2658)
- ◆ Private consultants in your area

If you would like to discuss this decision with the Commissioner, please contact the Commissioner's Office at 804-786-3501. If after this discussion, we are unable to reach agreement, you may appeal the Commissioner's decision to the Virginia Soil and Water Conservation Board. To appeal to the Soil and Water Conservation Board, contact Jack Frye with the Department of Conservation and Recreation at 804-786-6523. Mr. Frye will make the necessary arrangements with the Virginia Soil and Water Conservation Board. More information on farmers' rights and the ASA can be found in the informational packet that was sent with the original complaint notice. If you have any question about the investigation or the planing process, please call us at 804-786-2653.

copy: Local Soil and Water Conservation District

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(VDACS Letterhead)

FORM 7
**NOTIFICATION TO FARMER OF APPROVAL OF
AGRICULTURAL STEWARDSHIP PLAN
FOR AGRICULTURAL STEWARDSHIP ACT**

TO: _____ (Name of Farmer)
_____ Farming Operation
_____ (Address)

DATE: _____

FROM: Commissioner of Agriculture and Consumer Services

THROUGH: Agricultural Stewardship Coordinator

RE: Complaint # _____

This memorandum is to notify you that the Commissioner of Agriculture and Consumer Services has approved your Natural Resources Conservation Service Plan as well as your proposed loafing barn with two provisions. First, manure collected in the loafing barn must be stored and land applied using sound agronomic practices to reduce the risk of environmental problems. Second, the excessive manure build-up in the old feeding areas must be removed and also be land applied.

Please be mindful of the implementation schedule to ensure that all dates are met. In your case, the Agriculture Stewardship Act (ASA) requires you to begin correcting the identified water pollution problem before *(date)*. Please notify the Stewardship Coordinators after you begin implementing your plan to arrange a six-month inspection. If, after this inspection, you have not completed all of the components need to prevent the water pollution identified in my letter dated _____. An 18-month inspection will be conducted to insure full implementation before *(date)*.

Thank you for cooperating with the Agricultural Stewardship Program. Through cooperation from producers like you, agriculture can address water pollution problems without the need for more stringent legislation and regulations.

copy: Local Soil and Water Conservation District

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(VDACS Letterhead)

FORM 8
**RESPONSE TO COMPLAINANT
REGARDING AGRICULTURAL STEWARDSHIP ACT**

DATE: _____

TO: _____

FROM: Commissioner of Agriculture and Consumer Services

THROUGH: Agriculture Stewardship Coordinator

RE: Complaint of water pollution on a Dairy operation
(Complaint # _____)

An investigation was conducted after receiving your complaint alleging that a dairy cattle feedlot operation, located at the end of State Rout 000 in Distant County, was causing water pollution from excess nutrients (manure from feedlot) and sedimentation (erosion in lots). This investigation was performed on *(date)* by *(investigator's name)* from the Virginia Department of Agriculture and Consumer Services and *(investigator's name)* from a local Soil and Water Conservation District.

The findings during this investigation included both gully erosion and excess manure build-up next to a tributary of Happy Creek. This evidence does support the conclusion that this agricultural activity is causing and will cause water pollution. Therefore, the Commissioner of Agriculture and Consumer Services has determined this to be a founded complaint.

The farmer has developed a plan to prevent the water pollution problem from continuing. The plan has been reviewed by the Local Soil and Water Conservation District and has been approved by the Commissioner's Office. The law requires that the plan implementation begins by *(date)* and be completed by *(date)*.

Thank you for making us aware of this situation and for being patient as we address water pollution problems caused by agricultural activities.

copy: Local Soil and Water Conservation District

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Complaint Number _____
Date of Complaint _____

FORM 9
**COMPLAINT INVESTIGATION FOR
AGRICULTURAL STEWARDSHIP ACT**

Investigator(s) Name/Agency: _____

List of all present during investigation: _____

Description of complaint: _____

Did you find that the complained-of agricultural activity is subject to a VPA or VPDES permit?
 Yes No

If yes, stop here and return this form to the Commissioner's Office.

Description of findings during investigation. (Attach additional sheets if necessary): _____

In your opinion, does the evidence support the claim that this agricultural activity is causing or
will cause water pollution? Yes No

If no, please list reasons for your conclusion. (Use additional sheets, if necessary.)

Stop here and return this form to the Commissioner's Office or continue.

If yes, list all evidence that was collected onsite and other supporting data (e.g., pictures, water
samples, aerial photographs with stream, and problem areas clearly identified, soil loss).

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Complaint Number _____

Date of Complaint _____

FORM 10 STEWARDSHIP PLAN

Owner/Operator: _____

Statement of water pollution problem: _____

Solutions to the problems including Best Management Practices and implementation schedule.

<u>Solution(s)</u>	<u>Implementation Date(s)</u>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

ATTACHMENTS

- Aerial Photographs (can obtain from Farm Service Agency)
- Indicated on photo the affected water feature, problem area, and Best Management Practices
- Practices Soils map (can obtain from Natural Resource Conservation Service or local Soil and Water Conservation District)

SIGNATURES:

Owner/Operator _____ Date _____

Soil & Water Conservation
District Representative _____ Date _____

Commissioner's Signature _____ Date _____

This planning form is only a guide. Other types of plans are acceptable providing the plan meets Agricultural Stewardship Act requirements.

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DEPARTMENT OF CONSERVATION AND RECREATION

Notice of Public Meeting and Public Comment

The Department of Conservation and Recreation seeks written and oral comments from interested persons on the development of a Total Maximum Daily Load Implementation Plan for fecal coliform bacteria on four segments of the Blackwater River. These impaired segments are located in Franklin County on the North Fork Blackwater, South Fork Blackwater, and two are on the main stem Blackwater.

The first public meeting on the development of a TMDL Implementation Plan will be held on Thursday, October 26, 2000, at 6:30 p.m. in the Town Council Chambers, Allen O. Woody, Jr., Municipal Building, 345 Donald Avenue in Rocky Mount.

The public comment period will end on November 26, 2000. Questions or information requests should be addressed to Timothy Ott. Written comments should include the name, address, and telephone number of the person submitting the comments and should be sent to Timothy Ott, Department of Conservation and Recreation, 411 Boyd Street, Chase City, VA 23924, telephone (804) 372-2191, FAX (804) 372-4962 or e-mail tott@dcr.state.va.us.

STATE CORPORATION COMMISSION

AT RICHMOND,
SEPTEMBER 13, 2000

COMMONWEALTH OF VIRGINIA, ex rel.
STATE CORPORATION COMMISSION

Ex Parte: In the matter concerning CASE NO. PUE000346
a draft plan for retail electric
metering and billing services

ORDER SETTING HEARING

On July 12, 2000, the State Corporation Commission (Commission) entered an Order Prescribing Notice and Inviting Comment (Order) directing its Staff to publish notice of this proceeding to assist in the development of a recommendation and draft plan pertaining to retail metering and billing services to be presented to the Legislative Transition Task Force on or before January 1, 2001.¹

Interested persons were invited to evaluate and respond to, or to request a hearing on, the discussion draft plans and issues associated with implementation contained in Attachment 1 and Attachment 2 (collectively, the Attachments) to the July 12, 2000, Order to suggest alternatives to provisions in the discussion draft plans, as well as comment on issues of concern to them. As our Order noted, the Attachments were intended to initiate the

¹ The Commission issued the July 12, 2000, Order pursuant to § 56-581.1 of the Virginia Electric Utility Restructuring Act (the Act), Chapter 23 (§§ 56-576 et seq.) of Title 56 of the Code of Virginia (the Code).

development of a recommendation and draft plan, and to serve as a basis for deliberation.

Comments and requests for hearing in response to the July 12, 2000, Order were to be filed with the Clerk of the Commission on or before August 25, 2000. On August 24, 2000, the Potomac Edison Company d/b/a Allegheny Power (Allegheny Power), stating the need for more time to provide a full response, filed a motion for an extension of time until September 1, 2000. Also on August 24, 2000, Appalachian Power Company d/b/a American Electric Power (AEP) filed a motion requesting an extension of time until September 1, 2000. The Commission granted these motions on August 25, 2000.

By September 1, 2000, the Commission received 14 comments on the retail metering and billing discussion draft plans and issues for implementation from a variety of industry participants. Allegheny Power, AEP, the Division of Consumer Counsel of the Office of the Attorney General, Automated Energy, Inc., the Cooperatives,² Delmarva Power & Light Company, Edison Electric Institute, the Industrial Electric Customers,³ LG&E Energy Corporation, National Energy Marketers Association, RGC Resources, Inc., Schlumberger Resource Management Services North America, Utility.com, and Virginia Electric and Power Company (Virginia Power) each filed comments. In addition to filing comments, the Cooperatives and Virginia Power requested an evidentiary hearing in this matter.

NOW UPON consideration of the foregoing, the Commission is of the opinion and finds that a public hearing should be convened to receive evidence relevant to the retail metering and billing services recommendation and draft plan to be developed in this proceeding. We find that the Staff should prefile direct testimony pertaining to a recommendation and draft plan the Staff regards as appropriate. Staff's recommendation should consider the comments filed in this proceeding. The Staff should serve a copy of its direct testimony upon those parties who have filed comments in response to our July 12, 2000, Order. We find that persons who have not previously filed comments, but wish to do so at this time, may submit written comments on the Staff's prefiled direct testimony. We further find that those persons who wish to participate in the public hearing should have an opportunity to prefile direct testimony concerning a recommendation and draft plan for implementation and responding to prefiled Staff testimony. Parties may adopt as their prefiled testimony their comments already filed. Any party adopting its comments as its testimony must identify the

² The Cooperatives is a group consisting of A & N Electric Cooperative, BARC Electric Cooperative, Community Electric Cooperative, Central Virginia Electric Cooperative, Craig-Botetourt Electric Cooperative, Mecklenburg Electric Cooperative, Northern Neck Electric Cooperative, Inc., Northern Virginia Electric Cooperative, Powell Valley Electric Cooperative, Prince George Electric Cooperative, Rappahannock Electric Cooperative, Shenandoah Valley Electric Cooperative, Southside Electric Cooperative, Inc., and the Virginia, Maryland & Delaware Association of Electric Cooperatives.

³ The Industrial Electric Customers is a group consisting of the Virginia Committee for Fair Utility Rates and the Old Dominion Committee for Fair Utility Rates.

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witness or witnesses who will sponsor the comments, and must provide a brief description of the specific issues within those comments the party intends to address at the hearing.

Accordingly, IT IS THEREFORE ORDERED THAT:

A public hearing hereby is scheduled before the Commission for November 1, 2000, at 10:45 a.m., in the Commission's second floor courtroom located in the Tyler Building, 1300 East Main Street, Richmond, Virginia for the purpose of receiving evidence relevant to the retail metering and billing services recommendation and draft plan.

(2) Copies of the comments filed in this matter shall be available for public inspection in the Commission's Document Control Center located on the first floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia, between the hours of 8:15 a.m. and 5:00 p.m., Monday through Friday. Copies may also be obtained by directing a written request for the same to Joel H. Peck, Clerk of the Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218. Such requests must refer to Case No. PUE000346 and include payment for applicable copying charges.

(3) On or before October 10, 2000, the Staff shall file with the Clerk of the Commission an original and fifteen (15) copies of the direct testimony that it intends to present pertaining to a recommendation and draft plan for implementation of retail metering and billing services the Staff regards as appropriate. The Staff shall mail a copy of its testimony to each party who has filed comments in response to our July 12, 2000, Order.

(4) On or before October 23, 2000, interested persons who wish to comment in writing on the Staff's direct testimony may do so by directing an original and five (5) copies of such comments to the Clerk of the Commission at the address set forth in Ordering Paragraph (2) above. Such comments must refer to Case No. PUE000346. Parties filing such comments shall serve a copy of the same upon counsel for the Staff, Katharine B. Austin, Esquire, Office of General Counsel, State Corporation Commission, P.O. Box 1197, Richmond, Virginia 23218. Such comments shall be part of the record in this matter and given appropriate consideration. Any person desiring to comment at the public hearing on the recommendation and draft plan for implementation need only appear in the Commission's second floor courtroom located in the Tyler Building, at the address set forth in Ordering Paragraph (2) above, at 10:30 a.m. on the day of the hearing and identify himself or herself to the Bailiff as a public witness.

(5) On or before October 23, 2000, those persons who wish to participate in the public hearing to be convened herein shall file an original and fifteen (15) copies of direct testimony with the Clerk of the Commission at the address set forth in Ordering Paragraph (2) above, and shall serve on or before October 23, 2000, a copy of the same upon counsel for the Staff at the address set forth in Ordering Paragraph (4) above, and all other parties of record. Any party that is a corporate entity and that wishes to submit evidence or cross-examine witnesses must be represented by legal counsel in accordance with the requirements of Rule 4:8, 5 VAC 5-10-200, of the Commission's Rules of Practice and Procedure.

(6) Any party desiring to adopt its comments, that already have been filed, as its testimony at the hearing shall notify the Clerk of the Commission in writing of such intent on or before October 23, 2000. Any party adopting its comments as its testimony must identify the witness or witnesses who will sponsor the comments and must provide a brief description of the specific issues within those comments the party intends to address at the hearing.

(7) Any rebuttal evidence Staff desires to present may be given orally at the hearing scheduled in this matter by leave of the Commission.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: Kathy L. Mitchell, Senior Attorney, Philip J. Bray, Attorney, and Robert C. Carder, Jr., General Manager, Regulatory Services, Allegheny Power, 10435 Downsview Pike, Hagerstown, Maryland 21740; Anthony J. Gambardella, Jr., Esquire, and Michael J. Quinan, Esquire, Woods, Rogers & Hazlegrove, P.L.C., 823 East Main Street, Suite 1200, Richmond, Virginia 23219; James R. Bacha, Esquire, American Electric Power Corporation, 1 Riverside Plaza, Columbus, Ohio 43215; John F. Dudley, Senior Assistant Attorney General, and Rebecca W. Hartz, Assistant Attorney General, Division of Consumer Counsel, Office of the Attorney General, 900 East Main Street, Second Floor, Richmond, Virginia 23219; Cody Graves, Chief Executive Officer, Automated Energy, Inc., 101 Park Avenue, 5th Floor, Oklahoma City, Oklahoma 73102; John A. Pirko, Esquire, Robert A. Omberg, Esquire, and David A. Addison, Jr., Esquire, LeClair Ryan P.C., 4201 Dominion Boulevard, Suite 200, Richmond, Virginia 23060; Guy T. Tripp III, Esquire, Hunton & Williams, Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, Virginia 23219; Mr. Mack Wathen, Director, Regulatory Affairs, Delmarva Power & Light Company, 800 King Street, P.O. Box 231, Wilmington, Delaware, 19899; Johannes W. Williams, Director, Industry Legal Affairs, Edison Electric Institute, 701 Pennsylvania Avenue, N.W., Washington, D.C. 20004; Ronald L. Willhite, Director, Rates and Regulatory Affairs, LG&E Energy Corporation, 220 West Main Street, P.O. Box 32030, Louisville, Kentucky 40232; Craig G. Goodman, Esquire, President, National Energy Marketers Association, 3333 K Street, N.W., Suite 425, Washington, D.C. 20007; Dale P. Moore, Assistant Vice President and Assistant Secretary, RGC Resources, Inc., 519 Kimball Avenue, N.E., P.O. Box 13007, Roanoke, Virginia 24030-3007; George C. Roberts, Director, Regulatory Relations and Strategy, Schlumberger Resource Management Services North America, 5430 Metric Place, Norcross, Georgia 30092; Andrew Madden, Regulatory Affairs Manager, Utility.com, 5650 Hollis Street, Emeryville, California 94608; Robert M. Gillespie, Esquire, Christian & Barton, L.L.P., 909 East Main Street, Suite 1200, Richmond, Virginia 23219; Karen L. Bell, Senior Counsel, Virginia Electric and Power Company, One James River Plaza, 701 East Cary Street, 14th Floor, Richmond, Virginia 23219; Kodwo Ghartey-Tagoe, McGuireWoods LLP, One James Center, 901 East Cary Street, Richmond Virginia 23219; and the Commission's Divisions of Energy Regulation, Economics and Finance, and Public Utility Accounting.

Contact: Thomas Lamm, Division of Energy Regulation, State Corporation Commission, P.O. Box 1197, Richmond, VA 23218, telephone (804) 371-9392.

* * *

AT RICHMOND,
SEPTEMBER 5, 2000

COMMONWEALTH OF VIRGINIA, ex rel.
STATE CORPORATION COMMISSION

Ex Parte: In the matter concerning CASE NO. PUE990786
Rules implementing the State
Corporation Commission's authority
to enforce the Underground Utility
Damage Prevention Act

ORDER SETTING HEARING

On June 14, 2000, the State Corporation Commission (Commission) entered an Order that, among other things, directed its Division of Energy Regulation (Staff) to publish notice of the Staff's proposed revised Rules to Enforce the Underground Utility Damage Prevention Act (Rules) and invited interested persons to comment or request a hearing on these Rules. As the June 14 Order noted, the Proposed Rules were developed by the Staff in its report which was filed on May 26, 2000. This report summarized the filed comments; discussed the development of the underground utility damage prevention program in Virginia; reviewed national best practices relative to damage prevention; and proposed specific revisions and additions to the existing Rules for Enforcement of the Underground Utility Damage Prevention Act adopted in Case No. PUE940071.

In response to the Commission's June 14, 2000, Order Prescribing Notice and Inviting Comments, the Commission received sixteen comments from excavators, utility operators, cities, towns, and counties. These commentors offered helpful, insightful comments on and revisions to the rules. Virginia Electric and Power Company (Virginia Power or the Company) commented on the Rule revisions and requested an evidentiary hearing in the matter. Virginia Power noted that it expected to offer evidence on, among other things, the merits of focusing on appropriate training and educational efforts and proper excavation techniques rather than requirements such as the maintenance of detailed maps of underground facilities. Appalachian Power Company, d/b/a American Electric Power, A & N Electric Cooperative, BARC Electric Cooperative, Central Virginia Electric Cooperative, Community Electric Cooperative, Craig-Botetourt Electric Cooperative, Mecklenburg Electric Cooperative, Northern Neck Electric Cooperative, Inc., Northern Virginia Electric Cooperative, Powell Valley Electric Cooperative, Prince George Electric Cooperative, Rappahannock Electric Cooperative, Shenandoah Valley Electric Cooperative, Southside Electric Cooperative, Inc., the Virginia, Maryland & Delaware Association of Electric Cooperatives, and Columbia Gas Transmission Corporation did not request a hearing, but instead, sought leave to participate in any further proceedings in this matter.

NOW UPON consideration of the foregoing, the Commission is of the opinion and finds that a public hearing

should be convened to receive evidence relevant to the Rules proposed in this proceeding, together with any revisions thereto. Such a proceeding will serve to develop and clarify the changes to the proposed Rules now under consideration as well as offer an opportunity for the Staff and interested parties to suggest any additional revisions to the Rules. In this regard, we find that the Staff should prefile an original and fifteen (15) copies of direct testimony addressing the proposed Rules, the comments filed on the proposed Rules, and proposing any additional revisions to the Rules, as appropriate. The Staff should serve a copy of its direct testimony upon those parties filing comments on the proposed Rules appended to the June 14, 2000, Order Prescribing Notice and Inviting Comments. We further find that those filing comments in response to the June 14, 2000, Order Prescribing Notice and Inviting Comments should have an opportunity to prefile direct testimony concerning the proposed Rules or, in the alternative, to adopt their comments as their prefiled testimony; and that the Staff should have an opportunity to file rebuttal testimony responsive to the direct testimony or comments filed by these parties.

Accordingly, IT IS ORDERED THAT:

(1) A public hearing is hereby scheduled before the Commission for October 23, 2000, at 2 p.m., in the Commission's second floor courtroom located in the Tyler Building, 1300 East Main Street, Richmond, Virginia for the purpose of receiving evidence relevant to the Rules proposed in Appendix 1 of the Commission's June 14, 2000, Order Prescribing Notice and Inviting Comments.

(2) On or before September 22, 2000, the Commission Staff shall file with the Clerk of the Commission an original and 15 copies of the direct testimony that it intends to present regarding the proposed Rules, the comments thereon, and proposing any additional revisions thereto, as appropriate. The Staff shall mail a copy of its testimony to each party filing comments in response to the Commission's June 14, 2000, Order Prescribing Notice and Inviting Comments.

(3) On or before September 22, 2000, the Staff shall make copies of its May 26, 2000, Staff Report and prefiled direct testimony filed in this matter available for public inspection in the Commission's Document Control Center located on the first floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, between the hours of 8:15 a.m. and 5 p.m., Monday through Friday. In the alternative, these documents may be ordered from Massoud Tahamtani, Assistant Director, Division of Energy Regulation, State Corporation Commission, P.O. Box 1197, Richmond, Virginia 23218.

(4) On or before October 2, 2000, those persons filing comments in response to the Commission's June 14, 2000, Order Prescribing Notice and Inviting Comments who wish to participate in the public hearing to be convened herein shall file an original and fifteen (15) copies of direct testimony with the Clerk of the Commission at the address set forth below and shall serve on or before October 2, 2000, a copy of the same upon counsel for the Commission Staff, Sherry H. Bridewell, Esquire, Office of General Counsel, State Corporation Commission, P.O. Box 1197, Richmond, Virginia 23218 and all other parties of record. Any corporate entity

General Notices/Errata

that wishes to submit evidence or cross-examine witnesses must be represented by legal counsel in accordance with the requirements of Rule 4:8, 5 VAC 5-10-200, of the Commission's Rules of Practice and Procedure.

(5) Any party desiring to adopt its comments as its testimony at the hearing and not planning to add any additional comments or testimony shall notify the Clerk of the Commission in writing of such intent on or before September 29, 2000. Any party that is a corporate entity and that wishes to submit evidence or cross-examine witnesses must be represented by legal counsel in accordance with the requirements of Rule 4:9, 5 VAC 5-10-200, of the Commission's Rules of Practice and Procedure.

(6) On or before October 2, 2000, those parties that filed comments in response to the Commission's June 14, 2000, Order and who wish to comment in writing on the Staff's direct testimony and proposed Rules may do so by directing an original and five (5) copies of such comments to the Clerk of the Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218. Such comments must refer to Case No. PUE990786. Parties filing such comments shall serve a copy of the same on or before October 2, 2000, on counsel for the Staff at the address set forth in Ordering Paragraph (4). Any person desiring to make a statement at the public hearing concerning the proposed Rules need only appear in the Commission's second floor courtroom at 9:45 a.m. on the day of the hearing and identify himself or herself to the Bailiff as a public witness.

(7) On or before October 13, 2000, the Staff shall file with the Clerk of the Commission an original and 15 copies of all testimony it expects to introduce in rebuttal to all of the direct prefiled testimony and comments of the parties hereto; additional rebuttal evidence may be presented without prefiling, provided it is presented in response to evidence which was not prefiled but elicited at the time of the hearing and, provided further, the need for additional rebuttal evidence is timely addressed by motion during the hearing and leave to present evidence is granted by the Commission. A copy of the Staff's prefiled rebuttal evidence shall be promptly mailed to all parties filing direct testimony or comments in response to this Order.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: Michael Quinan, Esquire, Woods, Rogers & Hazlegrove, P.L.C., 823 East Main Street, Suite 1200, Richmond, Virginia 23219; James R. Bacha, American Electric Power Service Corporation, One Riverside Plaza, Columbus, Ohio 43215; Pamela Johnson, Esquire, and Cynthia Oakey, Esquire, Law Department-OJRP-14, Dominion Resources, Inc., P.O. Box 26666, Richmond, Virginia 23261-6666; Kodwo Ghartey-Tagoe, Esquire, McGuireWoods LLP, One James Center, 901 East Cary Street, Richmond, Virginia 23219-4030; Mark C. Darrell, Esquire, and James S. Copenhaver, Esquire, Columbia Gas of Virginia, Inc., P.O. Box 35674, Richmond, Virginia 23235-0674; Donald A. Fickenschier, Chief Counsel and Corporate Secretary, Virginia Natural Gas, Inc., 5100 East Virginia Beach Boulevard, Norfolk, Virginia 23502-3488; Jeffrey M. Karp, Esquire, and Heather A. Thomas, Esquire, Swidler, Berlin, Shereff, Friedman, LLP, 3000 K Street, N.W.,

Suite 300, Washington, D.C. 20007-5116; Kevin Robertson, Miss Utility Supervisor, Capco Construction Corporation, 15433 Farm Creek Drive, Woodbridge, Virginia 22191; Ifty Khan, Director, Fairfax County Wastewater Collection Division, 6000 Fred's Oak Road, Burke, Virginia 22015; Danny R. Hylton, Operations Superintendent, Campbell County Utilities and Service Authority, 20644 Timberlake Road, Lynchburg, Virginia 24502; Steven C. Vermillion, Executive Director, Associated General Contractors of Virginia, Inc., P.O. Box 71660, Richmond, Virginia 23294; Robert A. Omberg, Esquire, LeClair Ryan, P.C., 4201 Dominion Boulevard, Suite 200, Glen Allen, Virginia 23060; Kenneth E. Tawney, Esquire, Columbia Gas Transmission Corporation, 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314; Richard D. Gary, Esquire, and Gregory M. Romano, Esquire, Hunton & Williams, Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, Virginia 23219-4074; Robert M. Gillespie, Esquire, Christian & Barton, L.L.P., 909 East Main Street, Suite 1200, Richmond, Virginia 23219; Dale P. Moore, Director of Rates, Regulatory Affairs, and Financial Planning, Roanoke Gas, P.O. Box 13007, Roanoke, Virginia 24030; Robert B. Evans, Esquire, Washington Gas Light Company, 1100 H Street, N.W., Washington, D.C. 20080; Ronald L. Willhite, Director-Regulatory Affairs, LG&E Energy Corp., P.O. Box 32010, 220 West Main Street, Louisville, Kentucky 40232; and the Commission's Division of Energy Regulation.

STATE BOARD OF HEALTH

Periodic Review of Regulation

Pursuant to Executive Order Number 25 (98), the State Board of Health will review the Regulations for the Licensure of Nursing Facilities (12 VAC 5-371) to determine whether they should be terminated, amended or retained in their current form. The review of these regulations will be guided by the principles listed in Executive Order Twenty-five.

The department and board seek public comment on the review of these regulations regarding any pertinent issue relating to these regulations, including: (i) whether the regulations are effective in achieving their goals; (ii) whether the regulations are essential to protect the health, safety or welfare of citizens or for the economical performance of important governmental functions; (iii) whether there are less burdensome and less intrusive alternatives for achieving the purpose of the regulations; and (iv) whether the regulations are clearly written and easily understandable by affected persons.

Written and electronically-submitted comments on these regulations are welcome and will be accepted until 5 p.m., October 30, 2000. All comments should be addressed to Douglas R. Harris, Office of the State Health Commissioner, Virginia Department of Health, 1500 East Main Street, Suite 214, Richmond, VA 23219, e-mail dharris@vdh.state.va.us, FAX(804) 786-4616.

REAL ESTATE BOARD

Periodic Review of Regulation

The Real Estate Board invites public comment on 18 VAC 135-10-10 et seq., Public Participation Guidelines. This review is being conducted under Executive Order 25 (98). The board welcomes written comments on the performance and effectiveness of this regulation in achieving the following goal:

To meet the notification requirements contained in the Administrative Process Act and to increase input into the regulatory process in the most cost efficient manner possible.

Copies of the regulation may be obtained from the board. Written or faxed comments may be submitted through 5 p.m. on October 29, 2000. Comments or questions should be sent to Karen W. O'Neal, Assistant Director, Real Estate Board, 3600 W. Broad Street, Richmond, VA 23230, telephone 804-367-8537.

DEPARTMENT OF TRANSPORTATION

Periodic Review of Regulation

Pursuant to Executive Order Number 25 (98), the Virginia Department of Transportation has scheduled the regulation listed below for review. VDOT will conduct this review to determine whether the regulation should be terminated, amended, or retained as written. The General Assembly chose not to fund the program addressed by this regulation after FY 1998. However, the statute (§ 33.1-223.3 et seq.) authorizing the program has not yet been repealed. Therefore, to comply with the Executive Order, VDOT is publishing this notice to collect input that may be incorporated into future versions of the regulation should the General Assembly choose to fund the program in the future.

When funded, this program was intended to meet the following goals:

1. To encourage the use of alternate fuels to improve air quality.
2. To aid Virginia's economy.
3. To reduce dependence on imported fuels.

Regulation Title: Virginia Alternative Fuels Revolving Fund Regulations

Subject: This regulation establishes the procedures VDOT will use in administering the Virginia Alternative Fuels Revolving Fund, a program designed to encourage the use of alternative fuels. This program was not funded by the General Assembly after FY 98, but the regulation was not rescinded because funding may be restored in the future.

APA Exemption: § 9-6.14:4.1 B 4

VAC Number: 24 VAC 30-220-10 et seq.

Comments may be submitted from October 9, 2000, to October 30, 2000, to Thomas V. Finan, Virginia Department

of Transportation, Financial Planning & Debt Management Division, 1401 E. Broad St., Richmond, VA 23219, telephone (804)-786-1508, FAX (804)-786-2564, e-mail address: finan_tv@vdot.state.va.us.

Pursuant to Executive Order Number 25 (98), the Virginia Department of Transportation has scheduled the regulation listed below for review. VDOT will conduct this review to determine whether the regulation should be terminated, amended, or retained as written. If any changes are deemed necessary, VDOT will file the appropriate documentation as required by statute or procedures established by the Registrar of Regulations.

VDOT seeks public comment regarding the following question: Does the regulation meet the following goals?

1. To ensure that only disadvantaged business owners are certified to simplify compliance with state and federal requirements, thereby improving their opportunity to compete for contracts.
2. To protect the public's health, safety, and welfare with the least possible intrusiveness to the citizens and businesses of the Commonwealth.
3. To receive satisfactory audit reports on program components.
4. Is the regulation written clearly and understandably?

Regulation Title: Certification Procedures for the Disadvantaged and Women-Owned Business Program

Subject: These regulations establish the rules, criteria, and procedures to be followed to determine if the firm (i) meets federal guidelines to be considered a small business; (ii) can be considered owned by a disadvantaged person or persons (minorities or women, or both); (iii) has an owner that can be considered to be in control of critical, day-to-day operations; and (iv) has the necessary expertise and resources to perform the work.

APA Exemption: § 9-6.14:4.1 B 2

Comments may be submitted from October 9, 2000, to October 30, 2000, to Doretha W. Davis, Certification Supervisor, Virginia Department of Transportation, Equal Opportunity Division, 1401 E. Broad St., Richmond, VA 23219, telephone (804)-786-3761, FAX (804)-371-8040, e-mail Address: davis_dw@vdot.state.va.us.

Pursuant to Executive Order Number 25 (98), the Virginia Department of Transportation has scheduled the regulation listed below for review. VDOT will conduct this review to determine whether the regulation should be terminated, amended, or retained as written. If any changes are deemed necessary, VDOT will file the appropriate documentation as required by statute or procedures established by the Registrar of Regulations.

General Notices/Errata

VDOT seeks public comment regarding the following question: Does the regulation meet the following goals?

1. To comply with state statute.
2. To protect the public's health, safety, and welfare with the least possible intrusiveness to the citizens and businesses of the Commonwealth.
3. Is the regulation written clearly and understandably?

Regulation Title: Urban Division Manual, Chapter II

Subject: This regulation is Chapter II of the Urban Division Manual. The whole manual is intended to provide information to municipalities and VDOT users concerning the policies and procedures that have been developed to carry out the urban highway maintenance and construction programs established by Title 33.1 of the Code of Virginia. Chapter II deals with the specific policies and procedures for the Urban Maintenance Program.

APA Exemption: § 9-6.14:4.1 B 4

VAC Number: 24 VAC 30-320-10 et seq.

Comments may be submitted from October 9, 2000, to October 30, 2000, to Bruce R. Clarke, Asst. State Urban Engineer, Virginia Department of Transportation, Urban Division, 1401 E. Broad St., Richmond, VA 23219, telephone (804)-786-2585, FAX (804)-371-0847, e-mail address clarke_br@vdot.state.va.us.

Pursuant to Executive Order Number 25 (98), the Virginia Department of Transportation has scheduled the regulation listed below for review. VDOT will conduct this review to determine whether the regulation should be terminated, amended, or retained as written. If any changes are deemed necessary, VDOT will file the appropriate documentation as required by statute or procedures established by the Registrar of Regulations.

VDOT seeks public comment regarding the following question: Does the regulation meet the following goals?

1. To comply with state statute.
2. To protect the public's health, safety, and welfare with the least possible intrusiveness to the citizens and businesses of the Commonwealth.
3. Is the regulation written clearly and understandably?

Regulation Title: Urban Division Manual, Chapter III

Subject: This regulation is Chapter III of the Urban Division Manual. The whole manual is intended to provide information to municipalities and VDOT users concerning the policies and procedures that have been developed to carry out the urban highway maintenance and construction programs established by Title 33.1 of the Code of Virginia. Chapter III deals with the specific policies and procedures for the Urban Construction Program.

APA Exemption: § 9-6.14:4.1 B 4

VAC Number: 24 VAC 30-330-10 et seq.

Comments may be submitted from October 9, 2000, to October 30, 2000, to Bruce R. Clarke, Asst. State Urban Engineer, Virginia Department of Transportation, Urban Division, 1401 E. Broad St., Richmond, VA 23219, telephone (804)-786-2585, FAX (804)-371-0847, e-mail address: clarke_br@vdot.state.va.us.

Pursuant to Executive Order Number 25 (98), the Virginia Department of Transportation has scheduled the regulation listed below for review. VDOT will conduct this review to determine whether the regulation should be terminated, amended, or retained as written. If any changes are deemed necessary, VDOT will file the appropriate documentation as required by statute or procedures established by the Registrar of Regulations.

VDOT seeks public comment regarding the following question: Does the regulation meet the following goals?

1. To protect the public's health, safety, and welfare with the least possible cost and intrusiveness to the citizens and businesses of the Commonwealth.
2. To ensure compliance with statute concerning the transportation of cargo on state-owned highways.
3. Is the regulation written clearly and understandably?

Regulation Title: Hauling Permit Manual

Subject: This regulation sets forth the general provisions VDOT, on behalf of the Commonwealth Transportation Board (CTB), will follow in issuing hauling permits for qualified vehicles subject to statutory and agency limitations and procedures. It replaced 24 VAC 30-110-10 et seq. under the same title.

APA Exemption: None

VAC Number: 24 VAC 30-111-10 et seq.

Comments may be submitted from October 9, 2000, to October 30, 2000, to Lynn D. Wagner, Permit Operations Program Manager, Virginia Department of Transportation, Maintenance Division, 1221 E. Broad St., Richmond, VA 23219, telephone 804-225-3676, e-mail address wagner_ld@vdot.state.va.us.

Pursuant to Executive Order Number 25 (98), the Virginia Department of Transportation has scheduled the regulation listed below for review. VDOT will conduct this review to determine whether the regulation should be terminated, amended, or retained as written. If any changes are deemed necessary, VDOT will file the appropriate documentation as required by statute or procedures established by the Registrar of Regulations.

VDOT seeks public comment regarding the following question: Does the regulation meet the following goals?

1. To protect the public's health, safety, and welfare with the least possible cost and intrusiveness to the citizens and businesses of the Commonwealth.
2. To ensure work done on state-owned right of way is performed safely and in accordance with good engineering principles to preserve the integrity of the road systems.
3. Is the regulation written clearly and understandably?

Regulation Title: Land Use Permit Manual

Subject: This regulation sets forth the policies and procedures that VDOT will use to issue permits on behalf of the Commonwealth Transportation Board (CTB) to perform work on state-owned property.

APA Exemption: None

VAC Number: 24 VAC 30-150-10 et seq.

Comments may be submitted from October 9, 2000, to October 30, 2000, to Lynn D. Wagner, Permit Operations Program Manager, Virginia Department of Transportation, Maintenance Division, 1221 E. Broad St., Richmond, VA 23219, telephone 804-225-3676, e-mail address wagner_ld@vdot.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 (CSO) to the Bedford County Public School Board regarding settlement of a civil enforcement action related to compliance with, the 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, Department of Environmental Quality, West Central Regional Office, 3019 Peters Creek Road, NW, Roanoke, VA 24019. The final CSO 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 Mansour Akbari-Zarin and Fred Gerber for The New Yorker Restaurant and Hill Mobile Home Park Sewage Treatment Plant

The State Water Control Board (board) proposes to take an enforcement action against Mansour Akbari-Zarin and Fred Gerber, owners of Hill Mobile Home Park Sewage Treatment Plant and The New Yorker Restaurant. The enforcement action to be taken is a consent special order (order). The order requires Mansour Akbari-Zarin and Fred Gerber to implement actions to improve the operation of the Sewage Treatment Plant (STP), submit a detailed plan and schedule to the Department of Environmental Quality Northern Virginia Regional Office for review and approval to meet final effluent

limitations by January 17, 2001, which is the end of the current permit cycle, or for taking the STP off-line and eliminating the STP discharge by January 17, 2002. Mansour Akbari-Zarin and Fred Gerber have agreed to the issuance of the order.

On behalf of the board, the Department of Environmental Quality's Northern Virginia Regional Office will receive written comments relating to the order through November 13, 2000. Please address comments to Douglas E. Washington, Northern Virginia Regional Office, Department of Environmental, Quality, 13901 Crown Court, Woodbridge, Virginia, 22193, or call (703) 583-3888.

VIRGINIA CODE COMMISSION

Change in Subscription Rate for the Virginia Register of Regulations

The Virginia Code Commission approved an increase of the annual subscription rate for the Virginia Register of Regulations to \$125 and an increase for single copy issues of the Register to \$5.00 per issue. The new rates became effective with Volume 17, Issue 1, published on September 25, 2000.

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


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. If you are unable to find a meeting notice for an organization in which you are interested, please check the Commonwealth Calendar at www.vipnet.org or contact the organization directly.

For additional information on open meetings and public hearings held by the standing committees of the legislature during the interim, please call Legislative Information at (804) 698-1500 or Senate Information and Constituent Services at (804) 698-7410 or (804) 698-7419/TTY , or visit the General Assembly web site's Legislative Information System (<http://leg1.state.va.us/lis.htm>) and select "Meetings."

VIRGINIA CODE COMMISSION


EXECUTIVE

BOARD OF ACCOUNTANCY


October 30, 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 Board of Accountancy intends to **repeal** regulations entitled: **18 VAC 5-20-10 et seq. Board for Accountancy Regulations and adopt** regulations entitled: **18 VAC 5-21-10 et seq. Board of Accountancy Regulations.** The board is currently operating under emergency regulations that implement the provisions of Senate Bill 926 passed by the 1999 Session of the General Assembly. The proposed regulations are necessary to replace the emergency regulations and to continue to implement the provisions of SB 926.

Statutory Authority: §§ 54.1-201 and 54.1-2002 of the Code of Virginia.

Contact: Christine Martine, Regulatory Board Administrator, Board of Accountancy, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8505, FAX (804) 367-6128 or (804) 367-9753/TTY 

NOTE: CHANGE IN MEETING DATE

November 15, 2000 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 4W, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting to conduct routine business. A public comment period will be held at the beginning of the meeting.

Contact: David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2648, FAX (804) 367-6128, (804) 367-9753/TTY , e-mail accountancy@dpor.state.va.us.


BOARD OF AGRICULTURE AND CONSUMER SERVICES

† **October 19, 2000 - 9 a.m.** -- Open Meeting
Washington Building, 1100 Bank Street, 2nd Floor, Board Room, Richmond, Virginia. 

A regular meeting to discuss issues related to Virginia agriculture and consumer services. The board may consider and discuss any regulation under its authority, in addition to those specifically designated by this notice. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact Roy Seward at least five days before the meeting date so that suitable arrangements can be made.

Contact: Roy Seward, Board Secretary, Department of Agriculture and Consumer Services, Washington Bldg., 1100 Bank St., Suite 211, Richmond, VA 23219, telephone (804) 786-3538, FAX (804) 371-2945, e-mail rseward@vdacs.state.va.us.

Virginia Marine Products Board

† **October 11, 2000 - 6 p.m.** -- Open Meeting
Ramada Inn, 950 J. Clyde Morris Boulevard, Newport News, 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 Shirley Estes at least one day before the meeting date so that suitable arrangements can be made.

Contact: Shirley Estes, Executive Director, Department of Agriculture and Consumer Services, Virginia Marine Products Board, 554 Denbigh Blvd., Suite B, Newport News, VA, telephone (757) 874-3474, FAX (757) 886-0671.

Virginia Winegrowers Advisory Board

† **November 1, 2000 - 10 a.m.** -- Open Meeting
State Capitol, Capitol Square, House Room 1, Richmond,
Virginia. ☎

A meeting to elect a board chairman and vice chairman. Agenda items will include committee reports, a report from a representative of the Alcoholic Beverage Control Board, hearing and approval of minutes of the last board meeting, and presentation of the board's financial statement. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact Mary Davis-Barton at least five days before the meeting date so that suitable arrangements can be made.

Contact: Mary Davis-Barton, Board Secretary, Department of Agriculture and Consumer Services, Virginia Winegrowers Advisory Board, 1100 Bank St., Suite 1010, Richmond, VA 23219, telephone (804) 371-7685, FAX (804) 786-3122.

STATE AIR POLLUTION CONTROL BOARD

† **November 8, 2000 - 2 p.m.** -- Open Meeting
† **November 9, 2000 - 9 a.m.** -- Open Meeting
Embassy Suites Hotel, 2925 Emerywood Parkway,
Richmond, Virginia.

The annual meeting of the State Air Pollution Control Board and the State Advisory Board on Air Pollution.

Contact: Janet Wynne, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4140, FAX (804) 698-4510, (804) 698-4021/TTY ☎, e-mail jtwynne@deq.state.va.us.

† **November 14, 2000 - 9 a.m.** -- Open Meeting
Main Street Centre, Lower Level Conference Room, 600 East Main Street, Richmond, Virginia.

A public meeting to receive comments on the Notice of Intended Regulatory Action issued for 9 VAC 5-80-10 et seq. Regulations for the Control and Abatement of Air Pollution (Rev. D00) to bring the regulation into conformance with federal regulation.

Contact: Karen G. Sabasteanski, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4426, FAX (804) 698-4510, (804) 698-4021/TTY ☎ e-mail kgsabastea@deq.state.va.us.

ALCOHOLIC BEVERAGE CONTROL BOARD

October 31, 2000 - 11 a.m. -- Public Hearing
Department of Alcoholic Beverage Control, 2901 Hermitage Road, Richmond, Virginia.

November 10, 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 Alcoholic Beverage Control Board intends to amend regulations entitled: **3 VAC 5-10-10 et seq. Procedural Rules for the Conduct of Hearings Before the Board and Its Hearing Officers and the Adoption or Amendment of Regulations.** The purpose of the proposed amendment is to require that notices of initial decisions of the board's hearing officers be sent by both certified mail and regular mail and to extend the present 10-day appeal period to 30 days.

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

Contact: W. Curtis Colburn, III, Secretary to the Board, P.O. Box 27491, Richmond, VA 23261, telephone (804) 213-4409, FAX (804) 213-4411 or (804) 213-4687/TTY ☎

October 31, 2000 - 11 a.m. -- Public Hearing
Department of Alcoholic Beverage Control, 2901 Hermitage Road, Richmond, Virginia.

November 10, 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 Alcoholic Beverage Control Board intends to amend regulations entitled: **3 VAC 5-70-10 et seq. Other Provisions.** The purpose of the proposed amendment is to allow for the acceptance of credit or debit cards from licensees for the purchase of alcoholic beverages at government stores.

Statutory Authority: §§ 4.1-103, 4.1-111 and 4.1-119 of the Code of Virginia.

Contact: W. Curtis Colburn, III, Secretary to the Board, P.O. Box 27491, Richmond, VA 23261, telephone (804) 213-4409, FAX (804) 213-4411 or (804) 213-4687/TTY ☎

October 31, 2000 - 11 a.m. -- Public Hearing
Department of Alcoholic Beverage Control, 2901 Hermitage Road, Richmond, Virginia.

November 10, 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 Alcoholic Beverage Control Board intends to amend regulations entitled: **3 VAC 5-70-10 et seq. Other Provisions.** The proposed amendment adds a new section that lists a number of administrative violations for which a licensee may waive administrative hearing and accept a predetermined penalty in lieu of license suspension for a first violation within three years.

Statutory Authority: §§ 4.1-103 and 4.1-227 of the Code of Virginia.

Contact: W. Curtis Colburn, III, Secretary to the Board, P.O. Box 27491, Richmond, VA 23261, telephone (804) 213-4409, FAX (804) 213-4411 or (804) 213-4687/TTY ☎

Calendar of Events

COMPREHENSIVE SERVICES FOR AT-RISK YOUTH AND FAMILIES

State Executive Council

October 25, 2000 - 9 a.m. -- Open Meeting

November 29, 2000 - 9 a.m. -- Open Meeting

Department of Social Services, 730 East Broad Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to provide for interagency programmatic and fiscal policies, oversee the administration of funds appropriated under the Act, and advise the Secretary of Health and Human Resources and the Governor.

Contact: Alan G. Saunders, Director, Comprehensive Services for At-Risk Youth and Families, 1604 Santa Rosa Rd., Suite 137, Richmond, VA 23219, telephone (804) 662-9815, FAX (804) 662-9831, e-mail ags992@central.dss.state.va.us.

AUCTIONEERS BOARD

† **October 17, 2000 - 10 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 board business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made for an appropriate accommodation. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., 5th Floor, Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY, e-mail auctioneers@dpor.state.va.us.

VIRGINIA AVIATION BOARD

† **October 17, 2000 - 3 p.m.** -- Open Meeting

† **October 18, 2000 - 9 a.m.** -- Public Hearing

Hilton Richmond Airport, 5501 Eubank Road, Sandston, Virginia.

A regular bimonthly meeting of the board. Application for state funding will be presented to the board and other matters of interest to the aviation community will be discussed. Individuals with disabilities should contact Carolyn Toth 10 days prior to the meeting if assistance is needed.

Contact: Carolyn Toth, Administrative Assistant, Virginia Aviation Board, 5702 Gulfstream Rd., Richmond, VA 23250, telephone (804) 236-3637, FAX (804) 236-3635, toll-free (800) 292-1034, (804) 236-3624/TTY

BOARD FOR BARBERS AND COSMETOLOGY

October 30, 2000 - 8:30 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)

A meeting of the Regulatory Review Committee to discuss regulatory review. 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, Board for Barbers and Cosmetology, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8590, FAX (804) 367-6295, (804) 367-9753/TTY, e-mail barbercosmo@dpor.state.va.us.

CEMETERY BOARD

October 11, 2000 - 8:30 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

A general meeting of the Recovery Fund Committee.

Contact: Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2039, FAX (804) 367-2475, (804) 367-9753/TTY, e-mail cemetery@dpor.state.va.us.

October 11, 2000 - 9:30 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

A general meeting.

Contact: Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2039, FAX (804) 367-2475, (804) 367-9753/TTY, e-mail cemetery@dpor.state.va.us.

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

† **October 30, 2000 - 10 a.m.** -- Open Meeting

Chesapeake Bay Local Assistance Department, James Monroe Building, 101 North 14th Street, 17th Floor, Richmond, Virginia. (Interpreter for the deaf provided upon request)

The Review Committee will review Chesapeake Bay Preservation Area programs for the Southern Area. Persons interested in observing should call the Chesapeake Bay Local Assistance Department to verify meeting time, location and schedule. No comments from

the public will be entertained at the meeting, however, written comments are welcome.

Contact: Carolyn J. Elliott, Executive Secretary Sr., Chesapeake Bay Local Assistance Department, James Monroe Bldg., 101 N. 14th St., 17th Floor, Richmond, VA 23219, telephone (804) 371-7505, FAX (804) 225-3447, toll-free (800) 243-7229, (800) 243-7229/TTY ☎, e-mail celliott@cblad.state.va.us.

† **October 30, 2000 - 2 p.m.** -- Open Meeting
Chesapeake Bay Local Assistance Department, James Monroe Building, 101 North 14th Street, 17th Floor, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

The Review Committee will review Chesapeake Bay Preservation Area programs for the Northern Area. Persons interested in observing should call the Chesapeake Bay Local Assistance Department to verify meeting time, location and schedule. No comments from the public will be entertained at the meeting, however, written comments are welcome.

Contact: Carolyn J. Elliott, Executive Secretary Sr., Chesapeake Bay Local Assistance Department, James Monroe Bldg., 101 N. 14th St., 17th Floor, Richmond, VA 23219, telephone (804) 371-7505, FAX (804) 225-3447, toll-free (800) 243-7229, (804) 243-7229/TTY ☎, e-mail celliott@cblad.state.va.us.

† **November 7, 2000 - 7 p.m.** -- Public Hearing
Virginia Commonwealth University, 907 Floyd Avenue, Student Commons, Capitol Ball Room, Richmond, Virginia.

† **November 14, 2000 - 7 p.m.** -- Public Hearing
Eastern Shore Community College, 29300 Lankford Highway, Lecture Hall, Melfa, Virginia.

† **November 16, 2000 - 7 p.m.** -- Public Hearing
Virginia Institute of Marine Science, 1208 Greate Road, John L. McHugh Auditorium, Gloucester Point, Virginia.

† **November 21, 2000 - 7 p.m.** -- Public Hearing
Fairfax County Government Center, 12000 Government Center Parkway, Conference Rooms 4 and 5, Fairfax, Virginia.

December 8, 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 Chesapeake Bay Local Assistance Board intends to amend regulations entitled: **9 VAC 10-20-10 et seq. Chesapeake Bay Preservation Area Designation and Management Regulations.** This regulation amendment is being proposed to accomplish the following:

1. Achieve greater clarity in all regulatory language to minimize confusion and misinterpretation.
2. Eliminate any conflicts and unnecessary redundancies between the requirements in the regulations and those in other related state and federal laws and regulations while still providing for maximum water quality protection.

Specific issues under consideration where conflicts or redundancies are perceived to exist are as follows:

- a. Stormwater management criteria (9 VAC 10-20-120, subdivision 8);
- b. Erosion and sediment control criteria (9 VAC 10-20-120, subdivision 6);
- c. Septic system criteria (9 VAC 10-20-120, subdivision 7);
- d. Agricultural criteria [9 VAC 10-20-120, subdivision 9);
- e. Silvicultural criteria (9 VAC 10-20-120, subdivision 10); and

3. Improve vegetative buffer area criteria (9 VAC 10-20-80, subdivision 5; and 9 VAC 10-20-130, subdivisions 3-5 and 7) to provide greater clarity as well as consistency with the riparian forest buffer policy developed by the Executive Council of the Regional Chesapeake Bay Program.

4. Improve agricultural conservation criteria (9 VAC 10-20-120, subdivision 9; and 9 VAC 10-20-130, subdivision 5 b, (1) – (3)) to correct the inability to meet the existing conservation plan approval deadline, reduce administrative overhead and result in more water quality protection practices on the land.

5. Add criteria regarding a board/department process to review local program implementation for consistency with the regulations (Parts V, VI and VII).

Accomplish numerous technical amendments necessitated by changes in terminology and numbering protocols.

A more detailed and specific explanation of the proposed amendments can be found on the agency's web site (<http://www.cblad.state.va.us>) or at the Department of Planning and Budget's Regulatory Town Hall web site (<http://www.townhall.state.va.us>) within the document entitled "Agency Background Statement."

Statutory Authority: §§ 10.1-2103 and 10.1-2107 of the Code of Virginia.

Contact: Scott Crafton, Regulatory Coordinator, Chesapeake Bay Local Assistance Department, James Monroe Bldg., 101 N. 14th St., 17th Floor, Richmond, VA 23219, telephone (804) 371-7503, FAX (804) 225-3447, toll-free 1-800-243-7229/TTY ☎

CHILD DAY CARE COUNCIL

† **October 12, 2000 - 9 a.m.** -- Open Meeting
Theater Row Building, 730 East Broad Street, Conference Room 1, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)


A meeting to discuss issues and concerns that impact child day centers, camps, school age programs and preschools/nursery schools. Public comment period will

Calendar of Events

be at noon. Please call ahead for possible changes in meeting time.

Contact: Arlene Kasper, Program Consultant, Child Day-Care Council, 730 E. Broad St., 7th Floor, Richmond, VA 23219-1849, telephone (804) 692-1791, FAX (804) 692-2370.


VIRGINIA COLLEGE BUILDING AUTHORITY

October 13, 2000 - 1:30 p.m. -- Open Meeting
James Monroe Building, 101 North 14th Street, 3rd Floor, Richmond, Virginia. 

A meeting to discuss the pooled bond program.

Contact: Evelyn R. Whitley, Manager, VCBA, Department of the Treasury, Monroe Bldg., 101 N. 14th Street, 3rd Floor, Richmond, VA 23219, telephone (804) 371-6006, FAX (804) 225-3187, e-mail evelyn.whitley@trs.state.va.us.


COMPENSATION BOARD

October 24, 2000 - 11 a.m. -- Open Meeting
Compensation Board, Ninth Street Office Building, 202 North 9th Street, 10th Floor, Richmond, Virginia. 

A monthly board meeting.

Contact: Cindy Waddell, Administrative Staff Assistant, Compensation Board, P.O. Box 710, Richmond, VA 23218, telephone (804) 786-0786, FAX (804) 371-0235, e-mail cwaddell@scb.state.va.us.


BOARD OF CONSERVATION AND RECREATION


† **October 23, 2000 - 10 a.m.** -- Open Meeting
Lake Anna State Park, Virginia.  (Interpreter for the deaf provided upon request)

A regular business meeting.

Contact: Leon E. App, Acting Deputy Director, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-6124, FAX (804) 786-6141, e-mail leonapp@dcr.state.va.us.

DEPARTMENT OF CONSERVATION AND RECREATION

October 10, 2000 - 2 p.m. -- Open Meeting
Eastern Shore Community College, 29300 Lankford Highway, Room C-111, Melfa, Virginia.  (Interpreter for the deaf provided upon request)


October 10, 2000 - 7:30 p.m. -- Open Meeting
Eastern Shore Community College, 29300 Lankford Highway, Room A-75, Melfa, Virginia.  (Interpreter for the deaf provided upon request)

The Virginia Outdoor Planning District Commission 22 will meet to provide the public information about the 2001 Virginia Outdoor Plan and to solicit comments on

possible issues and recommendations that should be considered for the plan.

Contact: Richard G. Gibbons, Environmental Program Manager, Department of Conservation and Recreation, 203 Governor St., Richmond, VA 23219, telephone (804) 786-4132, e-mail rgibbons@dcr.state.va.us, homepage <http://dit1.state.va.us/~dcr/>.


October 11, 2000 - 2 p.m. -- Open Meeting

October 11, 2000 - 7 p.m. -- Open Meeting
First Landing State Park Trail Center, Conference Center, 2500 State Park Road, Virginia Beach, Virginia.  (Interpreter for the deaf provided upon request)

The Virginia Outdoor Planning District Commission 23 will meet to provide the public information about the 2001 Virginia Outdoor Plan and to solicit comments on possible issues and recommendations that should be considered for the plan.

Contact: James Guyton, Environmental Program Planner, Department of Conservation and Recreation, 203 Governor St., Richmond, VA 23219, telephone (804) 786-2093, e-mail jguyton@dcr.state.va.us.


October 12, 2000 - 2 p.m. -- Open Meeting

October 12, 2000 - 7 p.m. -- Open Meeting
Twin Lakes State Park, Route 2, Cedar Crest Conference Center, Green Bay, Virginia.  (Interpreter for the deaf provided upon request)

The Virginia Outdoor Planning District Commission 14 will meet to provide the public information about the 2001 Virginia Outdoor Plan and to solicit comments on possible issues and recommendations that should be considered for the plan.

Contact: Richard G. Gibbons, Environmental Program Manager, Department of Conservation and Recreation, 203 Governor Street Richmond, VA 23219, telephone (804) 786-4132, e-mail rgibbons@dcr.state.va.us, homepage <http://dit1.state.va.us/~dcr/>.


October 12, 2000 - 2 p.m. -- Open Meeting

October 12, 2000 - 7 p.m. -- Open Meeting
Regional Park Authority, 60 Butler Road, Stafford, Virginia.  (Interpreter for the deaf provided upon request)

The Virginia Outdoor Planning District Commission 16 will meet to provide the public information about the 2001 Virginia Outdoor Plan and to solicit comments on possible issues and recommendations that should be considered for the plan.


Contact: Deidre Clark, Environmental Program Planner, Department of Conservation and Recreation, 203 Governor St., Richmond, VA 23219, telephone (804) 786-6140, e-mail dbclark@dcr.state.va.us.

October 16, 2000 - 2 p.m. -- Open Meeting

October 16, 2000 - 7 p.m. -- Open Meeting
Thomas Jefferson PDC Office, 300 East Main Street, Charlottesville, Virginia.  (Interpreter for the deaf provided upon request)


The Virginia Outdoor Planning District Commission 10 will meet to provide the public information about the 2001 Virginia Outdoor Plan and to solicit comments on possible issues and recommendations that should be considered for the plan.

Contact: James Guyton, Environmental Program Planner, Department of Conservation and Recreation, 203 Governor St., Richmond, VA 23219, telephone (804) 786-6140, e-mail jguyton@dcr.state.va.us.

October 16, 2000 - 7 p.m. -- Open Meeting
Lynchburg PDC Office, 915 Main Street, 2nd Floor, Conference Room, Suite 302, Lynchburg, Virginia.  (Interpreter for the deaf provided upon request)


The Virginia Outdoor Planning District Commission 11 will meet to provide the public information about the 2001 Virginia Outdoor Plan and to solicit comments on possible issues and recommendations that should be considered for the plan.

Contact: Richard G. Gibbons, Environmental Program Manager, Department of Conservation and Recreation, 203 Governor St., Richmond, VA 23219, telephone (804) 786-4132, e-mail rgibbons@dcr.state.va.us.

October 17, 2000 - 2 p.m. -- Open Meeting
October 17, 2000 - 6 p.m. -- Open Meeting
Natural Tunnel State Park, Cove Ridge Center, Duffield, Virginia.  (Interpreter for the deaf provided upon request)


The Virginia Outdoor Planning District Commission 1 will meet to provide the public information about the 2001 Virginia Outdoor Plan and to solicit comments on possible issues and recommendations that should be considered for the plan.

Contact: Robert S. Munson, Environmental Program Planner, Department of Conservation and Recreation, 203 Governor St., Richmond, VA 23219, telephone (804) 786-6140, e-mail rmunson@dcr.state.va.us.

October 17, 2000 - 2 p.m. -- Open Meeting
October 17, 2000 - 7 p.m. -- Open Meeting
Douthat State Park, Lakeview Restaurant, Route 1, Millboro, Virginia.  (Interpreter for the deaf provided upon request)

The Virginia Outdoor Planning District Commission 5 will meet to provide the public information about the 2001 Virginia Outdoor Plan and to solicit comments on possible issues and recommendations that should be considered for the plan.


Contact: Richard G. Gibbons, Environmental Program Manager, Department of Conservation and Recreation, 203 Governor St., Richmond, VA 23219, telephone (804) 786-4132, e-mail rgibbons@dcr.state.va.us.

October 17, 2000 - 2 p.m. -- Open Meeting
October 17, 2000 - 6 p.m. -- Open Meeting
Augusta County Public Library, 1759 Jefferson Highway (intersection of Routes 250 and 608), Fishersville, Virginia.  (Interpreter for the deaf provided upon request)

The Virginia Outdoor Planning District Commission 6 will meet to provide the public information about the 2001


Virginia Outdoor Plan and to solicit comments on possible issues and recommendations that should be considered for the plan.

Contact: Derral Jones, Environmental Program Manager, Department of Conservation and Recreation, 203 Governor St., Richmond, VA 23219, telephone (804) 786-9042, e-mail rgibbons@dcr.state.va.us.

October 17, 2000 - 2 p.m. -- Open Meeting
October 17, 2000 - 7 p.m. -- Open Meeting
Northern Virginia PDC, 7535 Little River Turnpike, Suite 100, Annandale, Virginia.  (Interpreter for the deaf provided upon request)


The Virginia Outdoor Planning District Commission 8 will meet to provide the public with information about the 2001 Virginia Outdoor Plan and to solicit comments on possible issues and recommendations that should be considered for the plan.

Contact: Deidre Clark, Environmental Program Planner, Department of Conservation and Recreation, 203 Governor St., Richmond, VA 23219, telephone (804) 786-6140, e-mail dbclark@dcr.state.va.us.

October 17, 2000 - 2 p.m. -- Open Meeting
October 17, 2000 - 7 p.m. -- Open Meeting
The Heritage Center, Pocahontas State Park, 10302 State Park Road, Chesterfield, Virginia.  (Interpreter for the deaf provided upon request)


The Virginia Outdoor Planning District Commission 15 will meet to provide the public information about the 2001 Virginia Outdoor Plan and to solicit comments on possible issues and recommendations that should be considered for the plan.

Contact: James Guyton, Environmental Program Planner, Department of Conservation and Recreation, 203 Governor St., Richmond, VA 23219, telephone (804) 786-6140, e-mail jguyton@dcr.state.va.us.

October 18, 2000 - 2 p.m. -- Open Meeting
October 18, 2000 - 6 p.m. -- Open Meeting
Cumberland Plateau PDC Office, 950 Clydesway Road, Lebanon, Virginia.  (Interpreter for the deaf provided upon request)

The Virginia Outdoor Planning District Commission 2 will meet to provide the public with information about the 2001 Virginia Outdoor Plan and to solicit comments on possible issues and recommendations that should be considered for the plan.

Contact: Robert S. Munson, Environmental Program Planner, Department of Conservation and Recreation, 203 Governor St., Richmond, VA 23219, telephone (804) 786-6140, e-mail rsmunson@dcr.state.va.us.

October 18, 2000 - 2 p.m. -- Open Meeting
October 18, 2000 - 7 p.m. -- Open Meeting
Strasburg Town Hall, 174 East King Street, Strasburg, Virginia.  (Interpreter for the deaf provided upon request)

The Virginia Outdoor Planning District Commission 7 will meet to provide the public with information about the

Calendar of Events

2001 Virginia Outdoor Plan and to solicit comments on possible issues and recommendations that should be considered for the plan.

Contact: Derral Jones, Environmental Program Manager, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-9042, e-mail djones@dcr.state.va.us.

October 18, 2000 - 2 p.m. -- Open Meeting

October 18, 2000 - 7 p.m. -- Open Meeting


Belle Isle State Park, Belle Air Guest House, 1632 Belle Isle Road, Lancaster, Virginia.  (Interpreter for the deaf provided upon request)

The Virginia Outdoor Planning District Commission 17 will meet to provide the public with information about the 2001 Virginia Outdoor Plan and to solicit comments on possible issues and recommendations that should be considered for the plan.

Contact: Richard G. Gibbons, Environmental Program Manager, Department of Conservation and Recreation, 203 Governor St. Richmond, VA 23219, telephone (804) 786-4132, e-mail rgibbons@dcr.state.va.us.

October 19, 2000 - 2 p.m. -- Open Meeting

October 19, 2000 - 6 p.m. -- Open Meeting


Mount Rogers PDC Office, 1021 Terrace Drive, Marion, Virginia.  (Interpreter for the deaf provided upon request)

The Virginia Outdoor Planning District Commission 3 will meet to provide the public with information about the 2001 Virginia Outdoor Plan and to solicit comments on possible issues and recommendations that should be considered for the plan.

Contact: Robert S. Munson, Environmental Program Planner, Department of Conservation and Recreation, 203 Governor St., Richmond, VA 23219, telephone (804) 786-6140, e-mail rsmunson@dcr.state.va.us.

October 19, 2000 - 2 p.m. -- Open Meeting

October 19, 2000 - 7 p.m. -- Open Meeting


Holiday Inn, Route 29 Junction, Business 29/Route 29 Bypass, Culpeper, Virginia.  (Interpreter for the deaf provided upon request)

The Virginia Outdoor Planning District Commission 9 will meet to provide the public with information about the 2001 Virginia Outdoor Plan and to solicit comments on possible issues and recommendations that should be considered for the plan.

Contact: Deidre Clark, Environmental Program Planner, Department of Conservation and Recreation, 203 Governor St., Richmond, VA 23219, telephone (804) 786-5054, e-mail dbclark@dcr.state.va.us.

October 19, 2000 - 2 p.m. -- Open Meeting

October 19, 2000 - 7 p.m. -- Open Meeting

Whitcomb Lodge, Beaverdam Park, 8687 Roaring Springs Road, Gloucester, Virginia.  (Interpreter for the deaf provided upon request)


The Virginia Outdoor Planning District Commission 18 will meet to provide the public with information about the

2001 Virginia Outdoor Plan and to solicit comments on possible issues and recommendations that should be considered for the plan.

Contact: Richard Gibbons, Environmental Program Manager, Department of Conservation and Recreation, 203 Governor St., Richmond, VA 23219, telephone (804) 786-4132, e-mail rgibbons@dcr.state.va.us, homepage <http://dit1.state.va.us/~dcr/>.

October 20, 2000 - 2 p.m. -- Open Meeting

October 20, 2000 - 6 p.m. -- Open Meeting


New River Valley PDC Office, 1612 Wadsworth Street, Radford, Virginia.  (Interpreter for the deaf provided upon request)

The Virginia Outdoor Planning District Commission 4 will meet to provide the public with information about the 2001 Virginia Outdoor Plan and to solicit comments on possible issues and recommendations that should be considered for the plan.

Contact: Robert S. Munson, Environmental Program Planner, Department of Conservation and Recreation, 203 Governor St., Richmond, VA 23219, telephone (804) 786-6140, e-mail rsmunson@dcr.state.va.us.

October 23, 2000 - 2 p.m. -- Open Meeting

October 23, 2000 - 6 p.m. -- Open Meeting


Southside PDC Office, 200 South Mecklenburg Avenue, South Hill, Virginia.  (Interpreter for the deaf provided upon request)

The Virginia Outdoor Planning District Commission 13 will meet to provide the public with information about the 2001 Virginia Outdoor Plan and to solicit comments on possible issues and recommendations that should be considered for the plan.

Contact: Robert S. Munson, Environmental Program Planner, Department of Conservation and Recreation, 203 Governor St., Richmond, VA 23219, telephone (804) 786-6140, e-mail rsmunson@dcr.state.va.us.

October 24, 2000 - 2 p.m. -- Open Meeting

October 24, 2000 - 6 p.m. -- Open Meeting

West Piedmont PDC Office, One Starling Avenue, Martinsville, Virginia.  (Interpreter for the deaf provided upon request)

The Virginia Outdoor Planning District Commission 12 will meet to provide the public with information about the 2001 Virginia Outdoor Plan and to solicit comments on possible issues and recommendations that should be considered for the plan.

Contact: Robert S. Munson, Environmental Program Planner, Department of Conservation and Recreation, 203 Governor Street Richmond, VA 23219, telephone (804) 786-6140, e-mail rsmunson@dcr.state.va.us, homepage <http://dit1.state.va.us/~dcr/>.

Board on Conservation and Development of Public Beaches

October 16, 2000 - 11 a.m. -- Open Meeting
College of William and Mary, Williamsburg, Virginia.

A regular business meeting.

Contact: Lee Hill, Environmental Engineer, Department of Conservation and Recreation, 203 Governor St., Richmond, VA 23219, telephone (804) 786-3998, FAX (804) 786-6141, e-mail leehill@dcr.state.va.us.


Falls of the James Scenic River Advisory Board

November 2, 2000 - Noon -- Open Meeting
City Hall, 900 East Broad Street, Planning Commission Conference Room, 5th Floor, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular meeting.

Contact: Richard G. Gibbons, Environmental Programs Manager, Department of Conservation and Recreation, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-4132, FAX (804) 371-7899, e-mail rgibbons@dcr.state.va.us.


Virginia State Parks Foundation

October 12, 2000 - 9 a.m. -- Open Meeting
Fairy Stone State Park, Stuart, Virginia.  (Interpreter for the deaf provided upon request)


A regular business meeting.

Contact: Leon E. App, Acting Deputy Director, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-6124, FAX (804) 786-6141, e-mail leonapp@dcr.state.va.us.


BOARD OF CORRECTIONAL EDUCATION

† **October 17, 2000 - 12 p.m.** -- Open Meeting
Hanover Juvenile Correctional Center, Hanover, Virginia.  (Interpreter for the deaf provided upon request)

A meeting to discuss general business.


Contact: Patty Ennis, Board Clerk, Board of Correctional Education, James Monroe Building, 101 N. 14th Street, 7th Floor, Richmond, VA 23219, telephone (804) 225-3314, FAX (804) 786-7642, (804) 371-8647/TTY , e-mail paennis@dce.state.va.us.

BOARD OF CORRECTIONS

† **October 17, 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 Reyes, Executive Secretary, Board of Corrections, 6900 Atmore Dr., telephone (804) 674-3288, FAX (804) 674-3509, e-mail reyesbb@vadoc.state.va.us.

† **October 18, 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 Reyes, Executive Secretary, Board of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3288, FAX (804) 674-3509, e-mail reyesbb@vadoc.state.va.us.

† **October 18, 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 Reyes, Executive Secretary, Board of Corrections, 6900 Atmore Dr., Richmond, VA 23227, telephone (804) 674-3288, FAX (804) 674-3509, e-mail reyesbb@vadoc.state.va.us.


BOARD OF DENTISTRY

† **October 20, 2000 - 9 a.m.** -- Open Meeting
† **October 27, 2000 - 9 a.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 West Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9906, FAX (804) 662-7246, e-mail mmiller@dhp.state.va.us.

STATE BOARD OF EDUCATION

† **October 12, 2000 - 9 a.m.** -- Open Meeting
Comfort Suites Hotel-Innsbrook, 4051 Innslake Drive, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

This is the first of three required meetings per year of the Virginia Intercommunity Transition Council (VITC). The VITC is an interagency initiative that ensures effective coordination of transition services for youth and young adults with disabilities. The purpose of this meeting is to develop activities to assist the VITC to comply with its interagency agreement effective October 1, 1998 through June 30, 2002. An opportunity for public comment to

Calendar of Events

enable persons or groups who are not standing members to express their opinions and recommendations regarding progress toward the mission and goals of VITC will begin at 1 p.m. Individuals needing accommodations for this meeting should contact Erica Lovelace at (804) 662-7007. Persons requesting services of interpreter for the deaf should do so in advance.

Contact: Karen Trump, Transition Specialist, Board of Education, P. O. Box 2120, 101 N. 14th St., 25th Floor Richmond, VA 23219, telephone (804) 225-2702, FAX (804) 371-8796, toll-free (800) 422-2083.


* * * * *

October 27, 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 Board of Education intends to amend regulations entitled: **9 VAC 20-160-10 et seq. Regulations Governing Secondary School Transcripts.** The proposed amendments specify the manner in which the public schools shall account for and exhibit verified credit on the student transcript.

Statutory Authority: §§ 22.1-16 and 22.1-253.13:3 of the Code of Virginia.

Contact: Vernon Wildy, Division of Secondary Education, Department of Education, P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 225-2877 or FAX (804) 225-2524.

October 19, 2000 - 9 a.m. -- Open Meeting
Longwood College, 201 High Street, Farmville, Virginia.  (Interpreter for the deaf provided upon request)

A business meeting of the board. Persons requesting services of an interpreter for the deaf should do so in advance.

Contact: Dr. Margaret N. Roberts, Office of Policy, Board of Education, Post Office Box 2120, 101 N. 14th St., 25th Floor, Richmond, VA 23219, telephone (804) 225-2540, FAX (804) 225-2524, e-mail mroberts@mail.vak12ed.edu.

October 19, 2000 - 2:30 p.m. -- Public Hearing
Longwood College, 201 High Street, Lancaster Hall, Farmville, Virginia.

November 24, 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 Education intends to **repeal** regulations entitled: **8 VAC 20-540-10 et seq. Regulations Governing Approved Programs for Virginia Institutions of Higher Education** and **adopt** regulations entitled: **8 VAC 20-541-10 et seq. Regulations Governing Approved Programs for Virginia Institutions of Higher Education.** The Board of Education seeks to repeal the current regulations (8 VAC 20-540) and promulgate regulations by the same title (8 VAC 20-541). The purpose is to ensure that

prospective teachers receive the academic training necessary to become a quality teacher.

Statutory Authority: §§ 22.1-16, 22.1-298, and 22.1-305.2 of the Code of Virginia.

Contact: Dr. Thomas A. Elliott, Assistant Superintendent, Department of Education, P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 371-2522 or FAX (804) 225-2524.


October 19, 2000 - 2:45 p.m. -- Public Hearing
Longwood College, 201 High Street, Lancaster Hall, Farmville, Virginia.

November 24, 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 Education intends to amend regulations entitled: **8 VAC 20-110-10 et seq. Regulations Governing Pupil Accounting Records.** The purpose of the proposed amendments is to eliminate the requirement that school divisions either maintain paper records of student enrollment and attendance data or implement equivalent systems.


Statutory Authority: §§ 22.1-16, 22.1-20, and 22.1-259 of the Code of Virginia.

Contact: Jerry Mathews, Principal Specialist-Software, Department of Education, P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 225-2950 or FAX (804) 225-2524.

November 6, 2000 - 9 a.m. -- Open Meeting
Richmond Hotel and Conference Center, 6531 West Broad Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)


A meeting of the History SOL Management and Advisory Committee. All sessions will consist of work sessions, and public comment will not be received. Persons requesting services of interpreter for the deaf should do so in advance.

Contact: Dr. Margaret N. Roberts, Office of Policy, Department of Education, P.O. Box 2120, 101 N. 14th St., 25th Floor, Richmond, VA 23219, telephone (804) 225-2540, FAX (804) 225-2524, e-mail mroberts@mail.vak12ed.edu, homepage <http://www.pen.k12.va.us>.

November 9, 2000 - 9 a.m. -- Open Meeting
Richmond Hotel and Conference Center, 6531 West Broad Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)


A meeting of the History SOL Task Force. All sessions will be work sessions and public comment will not be received. Persons requesting services of interpreter for the deaf should do so in advance.

Contact: Dr. Margaret N. Roberts, Office of Policy, Department of Education, P.O. Box 2120, 101 N. 14th St., 25th Floor, Richmond, VA 23219, telephone (804) 225-2540, FAX (804) 225-2524, e-mail mroberts@mail.vak12ed.edu, homepage <http://www.pen.k12.va.us>.

† **November 20, 2000 - 9 a.m.** -- Open Meeting
Virginia Commonwealth University, Richmond, Virginia. 
(Interpreter for the deaf provided upon request)

A work session of the Advisory Board on Teacher Education and Licensure. Public comment will not be received at this meeting. Persons requesting services of interpreter for the deaf should do so in advance. Contact the board for exact location.


Contact: Dr. Thomas Elliott, Assistant Superintendent for Teacher Licensure, Board of Education, P.O. Box 2120, James Monroe Bldg., 101 N. 14th St., 25th Floor, Richmond, VA 23219, telephone (804) 371-2522, FAX (804) 225-2524.

† **November 30, 2000 - 9 a.m.** -- Open Meeting
General Assembly Building, 9th and Broad Streets, Senate Room B, Richmond, Virginia. 
(Interpreter for the deaf provided upon request)

A regular business meeting. Persons requesting services of interpreter for the deaf should do so in advance.

Contact: Dr. Margaret N. Roberts, Office of Policy, Board of Education, P.O. Box 2120, James Monroe Bldg., 101 N. 14th St., 25th Floor, Richmond, VA 23219, telephone (804) 225-2540, FAX (804) 225-2524, e-mail mroberts@mail.vak12ed.edu.


LOCAL EMERGENCY PLANNING COMMITTEE - GLOUCESTER

† **October 25, 2000 - 6:30 p.m.** -- Open Meeting
Gloucester Courthouse Office Building, 6467 Main Street, Conference Room, Gloucester, Virginia. 

A meeting to include election of officers, an update on the public information campaign, and goals for 2001.

Contact: Georgette N. Hurley, Assistant County Administrator, Local Emergency Planning Committee, P.O. Box 329, Gloucester, VA 23061, telephone (804) 693-4042, FAX (804) 693-2998.

DEPARTMENT OF ENVIRONMENTAL QUALITY

October 17, 2000 - 9 a.m. -- Public Hearing
Main Street Centre, 600 East Main Street, Lower Level, Conference Room, Richmond, Virginia. 

A public hearing to receive comments and testimony on the proposed plan to control emissions of designated pollutants to the atmosphere from municipal waste combustors.


Contact: Karen G. Sabasteanski, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4426, FAX (804) 698-4510, toll-free (804) 698-4021, e-mail kgsabastea@deq.state.va.us.

† **November 6, 2000 - 1 p.m.** -- Open Meeting
Center for Innovative Technology, Reston, Virginia.


A meeting of the Virginia Environmental Education Advisory Committee advising the Governor on all matters

related to environmental education in the Commonwealth. Contact the department for exact location.

Contact: Ann Regn, Environmental Education Coordinator, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4442, FAX (804) 698-4522, e-mail amregn@deq.state.va.us.

† **November 14, 2000 - 9 a.m.** -- Open Meeting
Main Street Centre, 600 East Main Street, Conference Room, Lower Level, Richmond, Virginia. 
(Interpreter for the deaf provided upon request)

A meeting to receive comments on and to discuss the notice of intended regulatory action for Permits for Major Stationary Sources and Major Modifications Locating in Nonattainment Areas regulation. Unlike a public hearing, which is intended only to receive testimony, this meeting is being held to discuss and exchange ideas and information relative to regulation development.

Contact: Karen G. Sabasteanski, Policy Analyst, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4426, FAX (804) 698-4510, toll-free (800) 592-5482, (804) 698-4021/TTY 


† **December 8, 2000 - 9 a.m.** -- Open Meeting

† **December 9, 2000 - 9 a.m.** -- Open Meeting
Virginia Commonwealth University, Student Commons Building, Richmond, Virginia.

A meeting of the Virginia Environmental Education Advisory Committee in conjunction with the Governor's Forum on Environmental Education.

Contact: Ann Regn, Environmental Education Coordinator, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4442, FAX (804) 698-4522, e-mail amregn@deq.state.va.us.

VIRGINIA FIRE SERVICES BOARD

October 12, 2000 - 8:30 a.m. -- Open Meeting
Ramada Inn and Conference Center, Route 29 Expressway and Odd Fellows Road, Lynchburg, Virginia. 

The following committees of the Virginia Fire Services Board will meet at the designated times:


Fire Education and Training -- 8:30 a.m.

Administration and Policy -- 10 a.m.

Fire Prevention and Control -- 1 p.m.

Finance -- 3 p.m.

Contact: Troy H. Lapetina, Executive Director, Virginia Fire Services Board, James Monroe Bldg., 101 North 14th St., 18th Floor, Richmond, VA 23219, telephone (804) 371-0220, FAX (804) 371-0219.


October 13, 2000 - 9 a.m. -- Open Meeting
Ramada Inn and Conference Center, Route 29 Expressway and Odd Fellows Road, Lynchburg, Virginia. 

A regular meeting.

Calendar of Events

Contact: Troy H. Lapetina, Executive Director, Virginia Fire Services Board, James Monroe Bldg., 101 North 14th St., 18th Floor, Richmond, VA 23219, telephone (804) 371-0220, FAX (804) 371-0219.


BOARD OF FUNERAL DIRECTORS AND EMBALMERS

October 11, 2000 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Room 3, Richmond, Virginia. 

A meeting of the Task Force on Inspection Process to discuss the establishment of an inspection process. There will be a public comment period during the first 15 minutes of the meeting.

Contact: Cheri Emma-Leigh, Administrative Staff Assistant, Board of Funeral Directors and Embalmers, 6606 W. Broad Street, 4th Floor, Richmond, VA 23230, telephone (804) 662-9907, FAX (804) 662-9523, e-mail CEmma-Leigh@dhp.state.va.us.

DEPARTMENT OF GAME AND INLAND FISHERIES


October 26, 2000 - 9 a.m. -- Public Hearing
Department of Game and Inland Fisheries, 4000 West Broad Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting to consider for final adoption fish, fishing, and wildlife diversity regulations to be effective from January 2001 through December 2002. Under board procedures, regulatory actions occur over two sequential board meetings. At the October 26, 2000, meeting, the board will determine whether the amendments to regulations for fish, fishing, and wildlife diversity which were proposed at its August 24, 2000, meeting, will be adopted as final regulations. The board will solicit comments from the public during the public hearing portion of the meeting on October 26, at which time any interested citizen present shall be heard. The board reserves the right to adopt final amendments which may be more liberal than, or more stringent than, the regulations currently in effect or the regulation amendments proposed at the August 24, 2000, meeting, as necessary for the proper management of wildlife resources. Additional information on this review of regulations, including a list of the specific regulations subject to review and additional details on opportunities for public involvement, was published in a separate announcement in the "General Notices" section of the July 17, 2000, Virginia Register of Regulations, and is also available online at www.dgif.state.va.us. At the October 26 meeting the board may discuss general and administrative issues; it may hold an executive session before the public session begins. The board may elect to hold a dinner Wednesday evening, October 25, at a location and time to be determined.


Contact: Phil Smith, Policy Analyst and Regulatory Coordinator, Department of Game and Inland Fisheries, 4010

W. Broad St., Richmond, VA 23230, telephone (804) 367-1000, e-mail RegComments@dgif.state.va.us.


BOARD FOR GEOLOGY

October 19, 2000 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 


A general business meeting.

Contact: William H. Ferguson, II, Board Administrator, Board for Geology, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2406, FAX (804) 367-2475, (804) 367-9753/TTY 

STATE BOARD OF HEALTH

† **November 2, 2000 - 10 a.m.** -- Open Meeting
Southwest Virginia Higher Education Center, Abingdon, Virginia. 

The State Board of Health meets several times a year and strives to conduct each meeting in a different location of the Commonwealth in order to maintain awareness of regional and local public health issues. The board will have a routine two-day meeting, beginning on November 2, 2000, at 10 a.m., and continuing on November 3, 2000, from 9 a.m. to 12 p.m. The November 2 session will be a work session; the November 3 session will be a business session. Matters pertaining generally to public health, agency administration and regulatory initiatives are typically discussed. Citizens may attend and observe the sessions and may sign up to speak to relevant issues during a brief period toward the end of the business session on November 3. An agenda is not yet available.

Contact: Paul Matthias, Staff to the State Board of Health, Department of Health, 1500 E. Main St., Richmond, VA 23219, telephone (804) 371-2909, FAX (804) 371-0116, (804) 828-1120/TTY , e-mail pmatthias@vdh.state.va.us.

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November 15, 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 Health is adopting regulations entitled: **12 VAC 5-185-10 et seq. Policies and Procedures for Administering the Commonwealth Neurotrauma Initiative Trust Fund.** These regulations will establish (i) policies and procedures for handling applications for funding received by the Commonwealth Neurotrauma Initiative (CNI) Advisory Board, (ii) criteria for reviewing applications, and (iii) procedures for distributing moneys from the CNI Trust Fund.

Statutory Authority: § 32.1-73.1 of the Code of Virginia.

Contact: Douglas R. Harris, Adjudication Officer, State Board of Health, 1500 E. Main St., Room 308, Richmond, VA 23218, telephone (804) 786-3561, FAX (804) 786-4616 or toll-free 1-800-828-1120/TTY ☎

Biosolids Use Information Committee (BUIC)

† **October 26, 2000 - 1 p.m.** -- Open Meeting
Henrico County Human Services Building, 8600 Dixon Powers Drive, Richmond, Virginia. ☎

A meeting to discuss the agricultural use of biosolids and related issues concerning the Biosolids Use Regulations (12 VAC 5-585) and the land application distribution and marketing of biosolids.

Contact: Dr. C. M. Sawyer, Director, Wastewater Engineering, Department of Health, Main Street Station, 1500 E. Main St., Room 109, Richmond, VA 23219, telephone (804) 786-1755, FAX (804) 786-5567, e-mail csawyer@vdh.state.va.us.

Biosolids Use Regulations Advisory Committee

† **October 26, 2000 - 10 a.m.** -- Open Meeting
Henrico County Human Services Building, 8600 Dixon Powers Drive, Richmond, Virginia. ☎

A meeting to discuss implementation issues concerning the Biosolids Use Regulations (12 VAC 5-585) and land application, distribution and marketing of biosolids.

Contact: Dr. C. M. Sawyer, Director, Wastewater Engineering, Department of Health, Main Street Station, 1500 E. Main St., Room 109, Richmond, VA 23219, telephone (804) 786-1755, FAX (804) 786-5567, e-mail csawyer@vdh.state.va.us.

DEPARTMENT OF HEALTH PROFESSIONS

Health Practitioners' Intervention Program Committee

October 13, 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 with the committee's contractor and representatives to review reports, policies and procedures for the Health Practitioners' Intervention Program. The committee will meet in open and closed session for general discussion of the program. The committee may convene in a closed meeting for the purpose of consideration of specific requests from applicants or participants in the program.

Contact: John W. Hasty, Director, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9424, FAX (804) 662-9114.

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

† **October 11, 2000 - 9 a.m.** -- Open Meeting
James Monroe Building, 101 North 14th Street, 5th Floor, Richmond, Virginia. ☎

A regular board meeting.

Contact: Elizabeth Dutton, Director of Administration, Virginia Higher Education Tuition Trust Fund, 101 N. 14th St., Monroe Bldg., 5th Floor, Richmond, VA 23219, telephone (804) 786-0719, FAX (804) 786-2453, toll-free (888) 567-0540, e-mail edutton@vpep.state.va.us.

October 17, 2000 - 9 a.m. -- Open Meeting
Virginia State University, Petersburg, Virginia.

Monthly committee and council meetings.

Contact: Lee Ann Rung, Executive Assistant, State Council of Higher Education for Virginia, James Monroe Building, 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-2602, FAX (804) 371-7911, e-mail lrung@schev.edu.

† **November 21, 2000 - 9 a.m.** -- Open Meeting
James Monroe Building, 101 North 14th Street, Richmond, Virginia. ☎

A general meeting. Agenda materials will be available on the web site approximately one week prior to the meeting at www.schev.edu.

Contact: Lee Ann Rung, Executive Assistant, State Council of Higher Education for Virginia, James Monroe Building, 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-2602, FAX (804) 371-7911, e-mail lrung@schev.edu.

HOPEWELL INDUSTRIAL SAFETY COUNCIL

November 7, 2000 - 9 a.m. -- Open Meeting
December 5, 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 Street, Hopewell, VA 23860, telephone (804) 541-2298.

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

† **October 14, 2000 - 4 p.m.** -- Open Meeting
Radisson Fort Magruder Hotel and Conference Center, 6945 Pocahontas Trail, Williamsburg, Virginia. ☎

The Board of Commissioners will hold a retreat on October 14-16 and will hold its regular meeting on October 16. During the retreat, the Board of Commissioners will consider and discuss various policies and issues relating to the authority's programs and

Calendar of Events

operations. At the regular meeting, the Board of Commissioners will (i) review and, if appropriate, approve the minutes from the prior monthly meeting; (ii) consider for approval and ratification mortgage loan commitments under its various programs; (iii) review the authority's operations for the prior month; and (iv) consider such other actions as they may deem appropriate. Various committees of the Board of Commissioners may also meet during the retreat and before or after the regular meeting and consider matters within their purview. The planned agenda of the retreat and the meeting will be available at the offices of the authority one week prior to the date of the date of the retreat and 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 ☎

COUNCIL ON HUMAN RIGHTS

November 18, 2000 - 10 a.m. -- Open Meeting
Washington Building, 1100 Bank Street, 12th Floor, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular board meeting.

Contact: Sandra D. Norman, Administration/Operations Manager, Council on Human Rights, Washington Bldg., 1100 Bank St., 12th Floor, Richmond, VA 23219, telephone (804) 225-2292, FAX (804) 225-3294, e-mail snorman@chr.state.va.us.

COUNCIL ON INDIANS

October 17, 2000 - 6 p.m. -- Open Meeting
State Capitol, Capitol Square, House Room 1, Richmond, Virginia. ♿

A meeting to discuss issues pertinent to the Indian communities.

Contact: Mary Wade, Secretary, Council on Indians, P.O. Box 1475, Richmond, VA 23218, telephone (804) 786-7765, FAX (804) 371-6984, e-mail dovmonacan@aol.com.

INNOVATIVE TECHNOLOGY AUTHORITY

October 11, 2000 - 10 a.m. -- Open Meeting
The Library of Virginia, 800 East Broad Street, Richmond, Virginia

A meeting of the Board of Directors to elect officers.

Contact: June Portch, Executive Assistant, Innovative Technology Authority, 2215 Rock Hill Road, Herndon, VA 20170, telephone (703) 689-3049, FAX (703) 464-1708.

JAMESTOWN-YORKTOWN FOUNDATION

November 2, 2000 - Noon -- Open Meeting
November 3, 2000 - 8:30 a.m. -- Open Meeting
Williamsburg Hospitality House, 415 Richmond Road, Williamsburg, Virginia. ♿ (Interpreter for the deaf provided upon request)

Semi-annual board and committee meetings of the Board of Trustees. Specific schedule to be confirmed. No public comment will be heard.

Contact: Laura W. Bailey, Executive Assistant to the Board, Jamestown-Yorktown Foundation, P.O. Box 1607, Williamsburg, VA 23187, telephone (757) 253-4840, FAX (757) 253-5299, (757) 253-7236/TTY ☎, e-mail lwbailey@jyf.state.va.us.

DEPARTMENT OF LABOR AND INDUSTRY

Virginia Migrant and Seasonal Farmworkers Board

October 11, 2000 - 10 a.m. -- Open Meeting
State Capitol, House Room 1, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular quarterly meeting.

Contact: Patti C. Bell, Board Staff Director, Department of Labor and Industry, 13 S. 13th St., Richmond, VA 23219, telephone (804) 225-3083, FAX (804) 371-6524, (804) 786-2376/TTY ☎, e-mail pcb@doli.state.va.us.

LIBRARY BOARD

October 13, 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 Library Board intends to amend regulations entitled: **17 VAC 15-20-10 et seq. Standards for Microfilming Public Records.** The purpose of the proposed amendments is to establish criteria necessary to ensure that microfilm copies of vital and historical records meet archival requirements for permanent retention. Reference standards are updated and a section on resolution requirements for procedural microfilm recording is added.

Statutory Authority: §§ 42.1-8 and 42.1-82 of the Code of Virginia.

Contact: Janice M. Hathcock, Regulatory Coordinator, The Library of Virginia, 800 East Broad Street, Richmond, VA 23219, telephone (804) 692-3592, FAX (804) 692-3594 or (804) 692-3976/TTY ☎

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October 13, 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 Library Board intends to repeal regulations entitled: **17 VAC 15-30-10 et seq. Archival Standards for Recording Deeds and Other Writings by a Procedural Micrographic Process.** This regulation is being incorporated into 17 VAC 5-20-10 et seq.

Statutory Authority: § 42.1-8 of the Code of Virginia.

Contact: Janice M. Hathcock, Regulatory Coordinator, The Library of Virginia, 800 East Broad Street, Richmond, VA 23219, telephone (804) 692-3592, FAX (804) 692-3594 or (804) 692-3976/TTY ☎

October 13, 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 Library Board intends to repeal regulations entitled: **17 VAC 15-40-10 et seq. Standards for Microfilming of Ended Law Chancery and Criminal Cases of the Clerks of the Circuit Courts Prior to Disposition.** This regulations is being incorporated into 17 VAC 5-20-10 et seq.

Statutory Authority: § 42.1-8 of the Code of Virginia.

Contact: Janice M. Hathcock, Regulatory Coordinator, The Library of Virginia, 800 East Broad Street, Richmond, VA 23219, telephone (804) 692-3592, FAX (804) 692-3594 or (804) 692-3976/TTY ☎

October 13, 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 Library Board intends to amend regulations entitled: **17 VAC 15-50-10 et seq. Standards for Computer Output Microfilm (COM) for Public Records.** The purpose of the proposed amendments is to ensure that public records on computer are transferred to microfilm that meets archival requirements, and includes revisions that are minor and technical in nature.

Statutory Authority: §§ 42.1-8 and 42.1-82 of the Code of Virginia.

Contact: Janice M. Hathcock, Regulatory Coordinator, The Library of Virginia, 800 East Broad Street, Richmond, VA 23219, telephone (804) 692-3592, FAX (804) 692-3594 or (804) 692-3976/TTY ☎

November 13, 2000 - 8:15 a.m. -- Open Meeting
The Library of Virginia, 800 East Broad Street, Richmond, Virginia. ♿

A meeting to discuss matters pertaining to The Library of Virginia and the Library Board. Committees of the board will meet as follows:

8:15 a.m. -- Public Library Development Committee, Orientation Room
Publications and Educational Services Committee, Conference Room B
Records Management Committee, Conference Room C

9:30 a.m. -- Archival and Information Services Committee, Orientation Room
Collection Management Services Committee, Conference Room B
Legislative and Finance Committee, Conference Room C

10:30 a.m. The full board will meet in the Conference Room on 2M.

Public comments will be received at approximately 11 a.m.

Contact: Jean H. Taylor, Executive Secretary to the Librarian of Virginia, The Library of Virginia, Richmond, VA 23219, telephone (804) 692-3535, FAX (804) 692-3594, (804) 692-3976/TTY ☎, e-mail jtaylor@lva.lib.va.us.

LITTER CONTROL AND RECYCLING FUND ADVISORY BOARD

† **October 17, 2000 - 10 a.m.** -- Open Meeting
701 East Franklin Street, Lower Level, Conference Room, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A work session to review and make recommendations on pending competitive applications for the 2000 Litter Prevention and Recycling Education Program Competitive Grant.

Contact: Michael P. Murphy, Director, Environmental Enhancement, Litter Control and Recycling Fund Advisory Board, P.O. Box 10009, Richmond, VA 23240-0009, telephone (804) 698-4003, FAX (804) 698-4319, toll-free (800) 592-5482, (804) 698-4021/TTY ☎

MARINE RESOURCES COMMISSION

October 23, 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.

Calendar of Events

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 ☎

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

October 13, 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 Department of Medical Assistance Services intends to amend regulations entitled: **12 VAC 30-50-10 et seq. Amount, Duration and Scope of Medical and Remedial Care Services.** This regulatory action proposes to cover Medicaid transportation as an administrative expense as permitted by federal regulations instead of as a medical expense. This would apply to nonemergency transportation services only. This change will permit the coordination of trips and a reduction in expenditures by broker contractors.

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

Public comments may be submitted until October 13, 2000, to Jeff Nelson, Analyst, Policy Division, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8854 or FAX (804) 371-4981.

November 10, 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 Department of Medical Assistance Services intends to amend regulations entitled: **12 VAC 30-50-10 et seq. Amount, Duration and Scope of Medical and Remedial Care Services; 12 VAC 30-60-10 et seq. Standards Established and Methods Used to Assure High Quality of Care; and 12 VAC 30-70-10 et seq. Methods and Standards for Establishing Payment--Inpatient Hospital Services.** The proposed regulations incorporate the agency's restrictions for covering Medicaid services in out-of-state facilities.

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

Public comments may be submitted until November 10, 2000, to Jim Cohen, Director, Division of Program Operations, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8854 or FAX (804) 371-4981.

November 10, 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 Department of Medical Assistance Services intends to amend regulations entitled: **12 VAC 30-50-10 et seq. Amount, Duration and Scope of Medical and Remedial Care Services and 12 VAC 30-80-10 et seq. Methods and Standards for Establishing Payment Rates--Other Types of Care: Pharmacy Services: Pharmacy Intravenous Infusion Therapy Services.** The purpose of the proposed amendments is to provide a consistent payment methodology for all pharmacy intravenous infusion therapy services provided in a fee-for-service program regardless of the patient's place of residence. By simplifying their billing and documentation procedures, this consistent payment methodology will benefit pharmacists who are asked to render specialized and highly technical pharmacological services to patients who require medicinal and nutritional intravenous therapies.

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

Public comments may be submitted until November 10, 2000, to Marianne Rollings, Program Operations, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8854 or FAX (804) 371-4981.

BOARD OF MEDICINE


October 12, 2000 - 8 a.m. -- Public Hearing
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia.

November 10, 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 Board of Medicine intends to amend regulations entitled: **18 VAC 85-20-10 et seq. Regulations Governing the Practice of Medicine, Osteopathy, Podiatry, Chiropractic and Physician Acupuncture.** The purpose of the proposed amendments is to modify the seven-year rule for completion of Steps 1, 2 and 3 of the USMLE examination and delete the provision permitting an applicant to take combination USMLE and FLEX examinations.


Statutory Authority: §§ 54.1-2400 and 54.1-2913 of the Code of Virginia.

Contact: Elaine J. Yeatts, Senior Policy Analyst, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9918 or FAX (804) 662-9114.


October 12, 2000 - 8 a.m. -- Public Hearing
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia 

The board will receive comment on the proposed regulation to modify examination requirements.


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.

October 12, 2000 - 8 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, Conference Room 2, 5th Floor, Richmond, Virginia 


A meeting to conduct general board business, receive committee and board reports, and discuss any other items which may come before the board. The board will also review reports, interview licensees/applicants, and conduct administrative proceedings. The board will also review any regulations that may come before it. The board will entertain public comments during the first 15 minutes on agenda items.

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.


October 13, 2000 - 8:30 a.m. -- Open Meeting

October 14, 2000 - 8:30 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, Conference Room 2, 5th Floor, Richmond, Virginia 


The board will meet to review disciplinary procedures.


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.

October 13, 2000 - 8:30 a.m. -- Open Meeting


December 1, 2000 - 1 p.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, Fifth Floor, Conference Room 3, Richmond, Virginia 


A meeting of the Credentials Committee will be held in open and closed session to conduct general business, interview and review medical credentials of applicants applying for licensure in Virginia, and discuss any other items which may come before the committee. The committee will receive public comments of those persons appearing on behalf of candidates.

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.


November 17, 2000 - 8:45 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, Fifth Floor, Conference Room 2, Richmond, Virginia 

The Executive Committee will meet to consider adoption of final regulations for collaborative practice, jointly promulgated with the Board of Pharmacy. Public comment will be received immediately following adoption of the agenda.

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.

December 1, 2000 - 8 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, Fifth Floor, Conference Room 2, Richmond, Virginia 

The Executive Committee will meet to review disciplinary files requiring administrative action, adopt amendments and approve for promulgation regulations as presented, interview applicants, and act on other issues that come before the board. The chairman will entertain public comments on agenda items for 15 minutes following adoption of the agenda.

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

October 20, 2000 - 9 a.m. -- Open Meeting

† **December 15, 2000 - 9 a.m.** -- Open Meeting
Williamsburg Marriott, 50 Kingsmill Road, Williamsburg, Virginia.

October 26, 2000 - 9:30 a.m. -- Open Meeting
Wyndham Roanoke Hotel, 2801 Hershberger Road, Roanoke, Virginia.

November 2, 2000 - 9 a.m. -- Open Meeting
Holiday Inn Select, 2801 Plank Road, Fredericksburg, Virginia.

November 17, 2000 - 9:15 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, Richmond, 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.

Calendar of Events

Contact: Peggy Sadler or Renee Dixon, Board of Medicine, 6606 West Broad Street, 4th Floor, Richmond, VA 23230, telephone (804) 662-7332, FAX (804) 662-9517, (804) 662-7197/TTY ☎

STATE MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES BOARD

† **October 23, 2000 - 4 p.m.** -- Open Meeting
Douthat State Park, Route 1, Millboro, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular meeting.

Contact: Marlene Butler, State Board Secretary, State Mental Health, Mental Retardation and Substance Abuse Services Board, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-7945, FAX (804) 371-2308.

STATE MILK COMMISSION

† **November 15, 2000 - 10 a.m.** -- Public Hearing
Department of Agriculture and Consumer Services, Washington Building, 1100 Bank Street, 2nd Floor, Board Room, Richmond, Virginia. ♿

A public hearing to receive evidence and testimony relative to 2 VAC 15-20-100 6(b)(c). The commission seeks public input on a proposal made during the periodic review of its regulations. The proposal would permit promotional specials below cost selling on fluid milk products. The hearing will be conducted under the provisions of 2 VAC 15-20-125.

Contact: Edward C. Wilson, Jr., Deputy Administrator, State Milk Commission, Ninth Street Office Bldg., 202 N. 9th St., Room 915, Richmond, VA 23219, telephone (804) 786-2013 or (804) 786-3779, e-mail ewilson@smc.state.va.us.

† **November 15, 2000 - 1 p.m.** -- Open Meeting
Department of Agriculture and Consumer Services, Washington Building, 1100 Bank Street, 2nd Floor, Board Room, Richmond, Virginia. ♿

A regular meeting to consider industry issues, distributor licensing, base transfers, fiscal matters, and to review reports from staff of the agency. The commission will review and discuss public input from the hearing on 2 VAC 15-20-100 6(b)(c) to determine if any regulatory action should be commenced. Any persons requiring special accommodations in order to participate in the meeting should contact Edward C. Wilson, Jr. at least five days prior to the meeting date so that suitable arrangements can be made.

Contact: Edward C. Wilson, Jr., Deputy Administrator, State Milk Commission, Ninth Street Office Bldg., 202 N. Ninth St., Room 915 Richmond, VA 23219, telephone (804) 786-2013, FAX (804) 786-3779, (804) 786-2013/TTY ☎, e-mail ewilson@smc.state.va.us.

DEPARTMENT OF MINES, MINERALS AND ENERGY

Virginia Remining Ad Hoc Advisory Work Group

† **October 25, 2000 - 9:30 a.m.** -- Open Meeting
Department of Mines, Minerals and Energy, Buchanan-Smith Building, Room 219, Route 23 South, Big Stone Gap, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting to be held with the Office of Surface Mining and other agencies to discuss remining incentives. Public comment will not be received at this meeting.

Contact: Bradley C. Lambert, Agency Management Lead Analyst, Department of Mines, Minerals and Energy, P.O. Drawer 900, Big Stone Gap, VA 24219, telephone (540) 523-8286, FAX (540) 523-8163, (800) 828-1120/TTY ☎, e-mail bcl@mme.state.va.us.

BOARD OF NURSING

October 10, 2000 - 8:30 a.m. -- Open Meeting
October 12, 2000 - 8:30 a.m. -- Open Meeting
October 16, 2000 - 8:30 a.m. -- Open Meeting
October 17, 2000 - 8:30 a.m. -- Open Meeting
October 26, 2000 - 8:30 a.m. -- Open Meeting
October 31, 2000 - 8:30 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Rooms 1, 2, 3 or 4, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A panel of the board will conduct formal hearings with licensees and/or certificate holders. Public comment will not be received.

Contact: Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 W. Broad Street, 4th Floor, Richmond, VA 23230, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY ☎, e-mail nursebd@dhp.state.va.us.

† **November 15, 2000 - 3 p.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. ♿

The board will hear comments on proposed fee changes for nurse practitioner licensure and prescriptive authority.

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.

† **November 15, 2000 - 3 p.m.** -- Public Hearing
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room, Richmond, Virginia.

December 8, 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 Board of Nursing intends to amend regulations entitled: **18 VAC 90-30-10 et seq.**

Regulations Governing the Licensure of Nurse Practitioners. The purpose of the proposed action is to increase application, renewal and other fees charged to applicants and regulated entities in order to cover the expenditures for the regulatory and disciplinary functions of the board.

Statutory Authority: §§ 54.1-113 and 54.1-2400 of the Code of Virginia.

Contact: Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909 or FAX (804) 662-9943.

† **November 15, 2000 - 3 p.m.** -- Public Hearing
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room, Richmond, Virginia.

December 8, 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 Board of Nursing intends to amend regulations entitled: **18 VAC 90-40-10 et seq. Regulations for Prescriptive Authority for Nurse Practitioners.** The purpose of the proposed action is to increase application, renewal and other fees charged to applicants and regulated entities in order to cover the expenditures for the regulatory and disciplinary functions of the board.

Statutory Authority: §§ 54.1-113 and 54.1-2400 of the Code of Virginia.

Contact: Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909 or FAX (804) 662-9943.


November 30, 2000 - 8:30 a.m. -- Open Meeting

December 4, 2000 - 8:30 a.m. -- Open Meeting


December 5, 2000 - 8:30 a.m. -- Open Meeting

December 11, 2000 - 8:30 a.m. -- Open Meeting

December 14, 2000 8:30 a.m. -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Rooms 1, 2, 3 or 4, Richmond, Virginia. 


A Special Conference Committee, comprised of two or three members of the Virginia Board of Nursing, will conduct informal conferences with licensees or certificate holders. Public comment will not be received.

Contact: Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 W. Broad Street, 4th Floor, Richmond, VA 23230, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY , e-mail nursebd@dhp.state.va.us.

BOARD OF NURSING HOME ADMINISTRATORS


† **October 10, 2000 - 9:30 a.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 nursing home administrators. No public comment will be heard.


Contact: Marcia J. Miller, Executive Director, Board of Nursing Home Administrators, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9906, FAX (804) 662-7246, (804) 662-7197/TTY , e-mail mmiller@dhp.state.va.us.

† **October 11, 2000 - 1 p.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 4th Floor, Richmond, Virginia. 

A formal administrative hearing to hear possible violations of the regulations governing the practice of nursing home administrators. No public comment will be heard.

Contact: Marcia J. Miller, Executive Director, Board of Nursing Home Administrators, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-7457, FAX (804) 662-7246, (804) 662-7197/TTY , e-mail mmiller@dhp.state.va.us.


OLD DOMINION UNIVERSITY

December 7, 2000 - 2:30 p.m. -- Open Meeting
Old Dominion University, Webb University Center, Norfolk, Virginia.  (Interpreter for the deaf provided upon request)

A quarterly meeting of the governing board of the institution to discuss business of the board and the institution as determined by the Rector and the President.

Contact: Donna Meeks, Assistant to the Vice President for Administration and Finance, Old Dominion University, 225 Koch Hall, Norfolk, VA 23529, telephone (757) 683-3072, FAX (757) 683-5679, e-mail dmeeks@odu.edu.


October 9, 2000 - 3 p.m. -- Open Meeting

November 13, 2000 - 3 p.m. -- Open Meeting
Old Dominion University, Webb University Center, Norfolk, Virginia.  (Interpreter for the deaf provided upon request)

A regular meeting of the executive committee of the governing board of the institution to discuss business of the board and the institution as determined by the Rector and the President.

Contact: Donna Meeks, Assistant to the Vice President for Administration and Finance, Old Dominion University, 225 Koch Hall, Norfolk, VA 23529, telephone (757) 683-3072, FAX (757) 683-5679, e-mail dmeeks@odu.edu.

BOARD FOR OPTICIANS

October 27, 2000 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

Calendar of Events

† **November 17, 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. 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 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., 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.

BOARD OF OPTOMETRY

† **October 20, 2000 - 9 a.m.** -- Public Hearing
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A formal hearing. This is a public meeting; however, public comment will not be received.

Contact: Carol Stamey, Administrative Assistant, Board of Optometry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9910, FAX (804) 662-7098, (804) 662-7197/TTY, e-mail cstamey@dhp.state.va.us.

† **October 20, 2000 - 1 p.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia. (Interpreter for the deaf provided upon request)

Informal hearings. This is a public meeting; however, public comment will not be received.

Contact: Carol Stamey, Administrative Assistant, Board of Optometry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9910, FAX (804) 662-7098, (804) 662-7197/TTY, e-mail cstamey@dhp.state.va.us.

VIRGINIA OUTDOORS FOUNDATION

December 5, 2000 - 10 a.m. -- Open Meeting
December 6, 2000 - 9 a.m. -- Open Meeting
State Capitol, Capitol Square, House Room 2, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular meeting of the Board of Trustees to discuss business of the foundation and to accept conservation easements. Public input will be accepted after the regular business meeting.

Contact: Tamara A. Vance, Executive Director, Virginia Outdoors Foundation, 203 Governor Street, Richmond, VA 23219, telephone (804) 225-2147.

Preservation Trust Fund Advisory Board-Region II

November 15, 2000 - 10 a.m. -- Open Meeting
Virginia Outdoors Foundation, 1010 Harris Street, Charlottesville, Virginia.

A meeting to review Region II Preservation Trust Fund Applications.

Contact: Sherry Buttrick, Director, Charlottesville Office, Virginia Outdoors Foundation, 1010 Harris St., #4, Charlottesville, VA 22903, telephone (804) 293-3423, FAX (804) 293-3859, e-mail vofsherry@aol.com.

Preservation Trust Fund Advisory Board-Region V

November 8, 2000 - 10:30 a.m. -- Open Meeting
Lynchburg Chamber of Commerce, Conference Room, Lynchburg, Virginia.

A meeting to review Preservation Trust Fund Region V applications.

Contact: Sherry Buttrick, Virginia Outdoors Foundation, 1010 Harris St., #4, Charlottesville, VA 22903, telephone (804) 293-3423, FAX (804) 293-3859, e-mail vofsherry@aol.com.

VIRGINIA BOARD FOR PEOPLE WITH DISABILITIES

October 17, 2000 - 9 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular meeting of the Disability Commission. Any questions about this meeting should be directed to Brian Parsons or Barbara Ettner.

Contact: Barbara Ettner, Assistant Director of Board Operations, Virginia Board for People with Disabilities, 202 N. 9th St., 9th Floor, Richmond, VA 23219, telephone (804) 786-0016, FAX (804) 786-1118, toll-free (800) 846-4464.

PESTICIDE CONTROL BOARD

October 12, 2000 - 9 a.m. -- Open Meeting
Washington Building, 1100 Bank Street, 2nd Floor, Board Room, Richmond, Virginia.

A general business meeting. Portions of the meeting may be held in closed session, pursuant to § 2.1-344 of the Code of Virginia. The public will have an opportunity to comment on any matter not on the board's agenda beginning at 9 a.m. 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 board secretary at least five days before the meeting date, so that suitable arrangements can be made.

Contact: Dr. Marvin A. Lawson, Board Secretary, Pesticide Control Board, Washington Bldg., 1100 Bank St., Room 401, Richmond, VA 23219, telephone (804) 371-6558, FAX (804) 371-8598, toll-free (800) 552-9963, e-mail jknight@vdacs.state.va.us.

BOARD OF PHARMACY

October 10, 2000 - 9 a.m. -- Public Hearing
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia.

November 10, 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 Board of Pharmacy intends to amend regulations entitled: **18 VAC 110-20-10 et seq. Regulations Governing the Practice of Pharmacy.** The proposed amendments provide for approval of robotic technology in hospital pharmacies through application to an informal conference committee.

Statutory Authority: §§ 54.1-2400 and 54.1-3307 of the Code of Virginia.

Contact: Elizabeth Scott Russell, Executive Director, Board of Pharmacy, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9911 or FAX (804) 662-9313.

October 10, 2000 - 9 a.m. -- Public Hearing
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia.

November 10, 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 Board of Pharmacy intends to amend regulations entitled: **18 VAC 110-30-10 et seq. Regulations for Practitioners of the Healing Arts to Sell Controlled Substances.** The proposed amendments would update and clarify sections of the regulation to provide consistency with current law, current practices in pharmacy, and the board's regulations for licensed pharmacists.

Statutory Authority: §§ 54.1-2400 and 54.1-3304.1 of the Code of Virginia.

Contact: Elizabeth Scott Russell, Executive Director, Board of Pharmacy, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9911 or FAX (804) 662-9313.

BOARDS OF PHARMACY AND MEDICINE

October 10, 2000 - 9 a.m. -- Public Hearing
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia.

October 27, 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 Boards of Pharmacy and Medicine intend to adopt regulations entitled: **18 VAC 110-40-10 et seq. Regulations Governing Collaborative Practice Agreements.** The boards are proposing regulations governing collaborative practice agreements, which will replace the emergency regulations currently in effect.

Statutory Authority: §§ 54.1-2400, 54.1-3303 and 54.1-3303.1 of the Code of Virginia.

Contact: Elizabeth Scott Russell, Executive Director, Board of Pharmacy, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9911 or FAX (804) 662-9943.

BOARD FOR PROFESSIONAL AND OCCUPATIONAL REGULATION

† November 13, 2000 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulations, 3600 West Broad Street, Conference Room 5W, Richmond, Virginia. ☎

A regular meeting.

Contact: Judith A. Spiller, Administrative Staff Assistant, Board for Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8519, FAX (804) 367-9537, e-mail spiller@dpor.state.va.us.

BOARD OF PSYCHOLOGY

October 27, 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 Board of Psychology intends to amend regulations entitled: **18 VAC 125-20-10 et seq. Regulations Governing the Practice of Psychology.** The purpose of the proposed action is to set the criteria and fees for licensure of school psychologists-limited.

Statutory Authority: § 54.1-2400 and Chapter 36 (§ 54.1-3600 et seq.) of Title 54.1 of the Code of Virginia.

Contact: Janet Delorme, Executive Director, Board of Psychology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9913 or FAX (804) 662-9943.

Calendar of Events

VIRGINIA RACING COMMISSION

† **October 18, 2000 - 9:30 a.m.** -- Open Meeting
State Corporation Commission, Tyler Building, Courtroom B,
1300 East Main Street, Richmond, Virginia. 


A monthly meeting to include a segment for public participation and to hear a report from Colonial Downs concerning the recently completed Thoroughbred race meeting and the upcoming harness racing meet.

Contact: William H. Anderson, Policy Analyst, Virginia Racing Commission, 10700 Horsemen's Rd., New Kent, VA 23124, telephone (804) 966-7404, FAX (804) 966-7418, e-mail Anderson@vrc.state.va.us.

REAL ESTATE APPRAISER BOARD

October 17, 2000 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia.


A general meeting.


Contact: Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-2039, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail reappraiser@dpor.state.va.us.

REAL ESTATE BOARD


October 25, 2000 - 1 p.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia.


A general meeting of the Education Committee.

Contact: Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8552, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail reboard@dpor.state.va.us.

† **October 25, 2000 - 2:30 p.m.** -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. 


A meeting to hold fair housing training.

Contact: Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8552, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail reboard@dpor.state.va.us.

October 26, 2000 - 8:30 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. 

A general meeting of the Fair Housing Committee.


Contact: Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8552, FAX (804) 367-2475, e-mail reboard@dpor.state.va.us.


October 26, 2000 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. 


A general meeting.


Contact: Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8552, FAX (804) 367-2475, e-mail reboard@dpor.state.va.us.


DEPARTMENT OF REHABILITATIVE SERVICES

† **November 1, 2000 - 4 p.m.** -- Public Hearing
Roanoke area; location to be determined, Roanoke,
Virginia.  (Interpreter for the deaf provided upon request)


† **November 8, 2000 - 4 p.m.** -- Public Hearing
Department of Rehabilitative Services, Bristol Square Station,
307 County Street, Room 220, Portsmouth, Virginia.  (Interpreter for the deaf provided upon request)

† **December 4, 2000 - 4 p.m.** -- Public Hearing
Department of Rehabilitative Services, Lee Building, 8004
Franklin Farms Drive, Conference Room, Richmond,
Virginia.  (Interpreter for the deaf provided upon request)


† **December 7, 2000 - 4 p.m.** -- Public Hearing
Fairfax County Government Center, Pennino Human Services
Center, 2011 Government Center Parkway, Fairfax,
Virginia.  (Interpreter for the deaf provided upon request)

† **December 11, 2000 - 4 p.m.** -- Public Hearing
Woodrow Wilson Rehabilitation Center, Fishersville,
Virginia.  (Interpreter for the deaf provided upon request)

The Virginia Department of Rehabilitative Services and the State Rehabilitation Council invite public comment for use in the development of the FY 2000-2001 State Plan for Vocational Rehabilitation and Supported Employment. This notice is for the public hearings to be held across the state during the 2000-2001 public comment period which lasts until March 9, 2001. Input to the state plan may be submitted by mail, telephone, FAX, or e-mail. Consumer input to the department's planning efforts is welcomed at any time.

Contact: Gloria O'Neal, Program Support Technician, Department of Rehabilitative Services, 8004 Franklin Farms Dr., P.O. Box K-300, Richmond, VA 23288-0300, telephone (804) 662-7611, FAX (804) 662-7696, toll-free (800) 552-5019, (800) 464-9950/TTY , e-mail onealgb@drs.state.va.us.

VIRGINIA RETIREMENT SYSTEM

† **October 19, 2000 - 1 p.m.** -- Open Meeting
† **December 21, 2000 - 1 p.m.** -- Open Meeting
Virginia Retirement System Headquarters, 1200 East Main
Street, Richmond, Virginia. 

A regular meeting of the Board of Trustees.

Contact: Darla K. Glazier, Office Manager, Virginia Retirement System, P.O. Box 2500, Richmond, VA 23218, telephone (804) 649-8059, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY ☎, e-mail dkestner@vrs.state.va.us.

† **November 14, 2000 - Noon** -- Open Meeting

† **December 20, 2000 - Noon** -- Open Meeting

Virginia Retirement System Headquarters, 1200 East Main Street, Richmond, Virginia. ♿

A regular meeting of the Investment Advisory Committee.

Contact: Darla K. Glazier, Office Manager, Virginia Retirement System, P.O. Box 2500, Richmond, VA 23218, telephone (804) 649-8059, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY ☎, e-mail dkestner@vrs.state.va.us.

November 16, 2000 - 10 a.m. -- Open Meeting

Virginia Retirement System Headquarters, 1200 East Main Street, Richmond, Virginia. ♿

A regular meeting of the Benefits and Actuarial Committee.

Contact: Darla K. Glazier, Office Manager, Virginia Retirement System, P.O. Box 2500, Richmond, VA 23218, telephone (804) 649-8059, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY ☎, e-mail dkestner@vrs.state.va.us.

† **November 16, 2000 - 11 a.m.** -- Open Meeting

Virginia Retirement System Headquarters, 1200 East Main Street, Richmond, Virginia. ♿

A regular meeting of the Audit and Compliance Committee.

Contact: Darla K. Glazier, Office Manager, Virginia Retirement System, P.O. Box 2500, Richmond, VA 23218, telephone (804) 649-8059, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY ☎, e-mail dkestner@vrs.state.va.us.

November 16, 2000 - Noon -- Open Meeting

Virginia Retirement System Headquarters, 1200 East Main Street, Richmond, Virginia. ♿

A regular meeting of the Administration and Personnel Committee.

Contact: Darla K. Glazier, Office Manager, Virginia Retirement System, P.O. Box 2500, Richmond, VA 23218, telephone (804) 649-8059, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY ☎, e-mail dkestner@vrs.state.va.us.

VIRGINIA SMALL BUSINESS FINANCING AUTHORITY

October 24, 2000 - 10 a.m. -- Open Meeting

Department of Business Assistance, 707 East Main Street, 3rd Floor, Main Board Room, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting of the Board of Directors to review applications for loans submitted to the authority for approval and for general business of the board. Contact the authority for confirmation of meeting time.

Contact: Cathleen M. Surface, Executive Director, Virginia Small Business Financing Authority, P.O. Box 446, Richmond, VA 23218-0446, telephone (804) 371-8254 or FAX (804) 225-3384.

STATE BOARD OF SOCIAL SERVICES

October 18, 2000 - 9 a.m. -- Open Meeting

October 19, 2000 - 9 a.m. -- Open Meeting

Department of Social Services, Western Regional Office, 190 Patton Street, Abingdon, Virginia. ♿

A work session and formal business meeting.

Contact: Pat Rengnerth, State Board Liaison, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1826, FAX (804) 692-1962.

† **October 19, 2000 - 2 p.m.** -- Open Meeting

Department of Social Services, Western Regional Office, 190 Patton Street, Abingdon, Virginia. ♿

A meeting of the Child Support Enforcement Subcommittee.

Contact: Pat Rengnerth, State Board Liaison, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1826, FAX (804) 692-1962.

November 10, 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 40-35-10 et seq. Virginia Independence Program.** The purpose of the proposed amendment is to provide one year of supportive transitional employment and training services to VIEW (Virginia Initiative for Employment not Welfare) participants.

Statutory Authority: §§ 63.1-25 and 63.1-133.46 of the Code of Virginia.

Contact: Chris Raines, Human Services Program Consultant, Department of Social Services, 730 E. Broad St., 7th Floor, Richmond, VA 23219, telephone (804) 692-1323 or FAX (804) 692-1704.

Calendar of Events

VIRGINIA TOURISM AUTHORITY

Motion Picture Development Committee

October 10, 2000 - 11 a.m. -- Open Meeting
Virginia Tourism Authority, 901 E. Byrd Street, 20th Floor, Presentation Room, Richmond, Virginia.

A meeting to establish criteria for the incentive program that will result in producing up to two Civil War film projects in Virginia.

Contact: Nanette Maguire, Administrative Staff Assistant - Film Office, Virginia Tourism Authority, 901 E. Byrd St. Richmond, VA 23219, telephone (804) 371-8204, FAX (804) 371-8177, toll-free (800) 854-6233, e-mail nmaguire@virginia.org.

COMMONWEALTH TRANSPORTATION BOARD

October 18, 2000 - 1 p.m. -- Open Meeting
Hampton Inn-Col Alto, 401 East Nelson Street, Lexington, Virginia.

A work session of the Commonwealth Transportation Board and the Department of Transportation staff.


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.


October 18, 2000 - 2 p.m. -- Open Meeting
Hampton Inn-Col Alto, 401 East Nelson Street, Lexington, Virginia.

A monthly meeting 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 one individual to speak for the group. The board reserves the right to amend these conditions. Separate committee meetings may be held on call of the Chairman. Contact VDOT Public Affairs at (804) 786-2715 for schedule.


Contact: 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.

BOARD OF VETERINARY MEDICINE


† **October 25, 2000 - 2 p.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, Conference Room 4, Richmond, Virginia. 

† **November 8, 2000 - 1 p.m.** -- Public Hearing
Virginia-Maryland Regional College of Veterinary Medicine, Classroom 102, Blacksburg, Virginia. 


A meeting to receive public comment on regulations governing the practice of veterinary medicine and veterinary technology, particularly issues related to practice by unlicensed assistants, facility regulations, and educational standards.

Contact: Elizabeth A. Carter, Ph.D., Executive Director, Board of Veterinary Medicine, Southern States Bldg., 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9915, FAX (804) 662-9504, (804) 662-7197/TTY , e-mail ecarter@dhp.state.va.us.


BOARD FOR THE VISUALLY HANDICAPPED


October 17, 2000 - 1 p.m. -- Open Meeting
Department for the Visually Handicapped, 397 Azalea Avenue, Richmond, Virginia.  (Interpreter for the deaf provided upon request)


The board will review information regarding department activities and operations, review expenditures from the board's endowment fund, and discuss other issues raised for board members.


Contact: Katherine C. Proffitt, Administrative Staff Assistant, Department for the Visually Handicapped, 397 Azalea Ave., Richmond VA 23227, telephone (804) 371-3145, FAX (804) 371-3157, toll-free (800) 622-2155, (804) 371-3140/TTY , e-mail proffikc@dvh.state.va.us.


DEPARTMENT FOR THE VISUALLY HANDICAPPED

October 9, 2000 - 10 a.m. -- Open Meeting
Indian River Baptist Church, 1700 Laurel Avenue, Chesapeake, Virginia.  (Interpreter for the deaf provided upon request)

October 11, 2000 - 1 p.m. -- Open Meeting
Department for the Visually Handicapped; 111 Commonwealth Avenue, Bristol, Virginia.  (Interpreter for the deaf provided upon request)

October 18, 2000 - 7 p.m. -- Open Meeting
Lions Sight Foundation, 502 Elm Avenue, S.W., Roanoke, Virginia.  (Interpreter for the deaf provided upon request)

October 21, 2000 - 1:30 p.m. -- Open Meeting
Wyndham Garden Hotel, 4700 South Laburnum Avenue, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

November 18, 2000 - 1:30 p.m. -- Open Meeting
Holiday Inn, 1017 Millwood Pike, Winchester, Virginia.  (Interpreter for the deaf provided upon request)

A meeting to invite comments from the public regarding vocational rehabilitation services for persons with visual disabilities. All comments will be considered in developing the state plan for this program.

Contact: James G. Taylor, Vocational Rehabilitation 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 ☎, e-mail taylorjg@dvh.state.va.us.

VIRGINIA VOLUNTARY FORMULARY BOARD

October 20, 2000 - 10 a.m. -- Public Hearing
Washington Building, 1100 Bank Street, 2nd Floor
Conference Room, Richmond, Virginia. ♿

A public hearing to consider the adoption and issuance of revisions to the Virginia Voluntary Formulary. The proposed revisions to the formulary add and delete drugs and drug products to/from the formulary that became effective July 27, 1998 and the most recent supplement to that revision. Copies of the proposed revisions to the Virginia Voluntary Formulary are available for inspection at the Bureau of Pharmacy Services, Virginia Department of Health, Monroe Building, 101 North 14th Street, Room S-45, Richmond, Virginia 23219. Written comments sent to the above address and received prior to 5 p.m. on October 20, 2000, will be made a part of the hearing record and considered by the Formulary Board.

Contact: James K. Thomson, Director - Bureau of Pharmacy Services, State Board of Health, James Monroe Bldg., 101 N. 14th St., Room S-45, P.O. Box 2448, Richmond, Virginia 23218, telephone (804) 786-4326.

November 9, 2000 - 10:30 a.m. -- Open Meeting
Washington Building, 1100 Bank Street, 2nd Floor,
Conference Room, Richmond, Virginia. ♿

A meeting to review public hearing comments and product data for drug products being considered for inclusion in the Virginia Voluntary Formulary.

Contact: James K. Thomson, Director, Bureau of Pharmacy Services, Department of Health, James Monroe Bldg., 101 N 14th St., Room S-45, Richmond VA 23219, telephone (804) 786-4326.

VIRGINIA WASTE MANAGEMENT BOARD

October 18, 2000 - 7 p.m. -- Public Hearing
James City County Government Center, 101-C Mounts Bay
Road, Building C, Board of Supervisors Room, First Floor,
Williamsburg, Virginia. ♿

A public hearing to receive comments on the proposed regulation governing the transportation of solid and regulated medical wastes on state waters.

Contact: Robert G. Wickline, Department of Environmental Quality, P.O. Box 10009 Richmond, VA 23240, telephone (804) 698-4213, e-mail rwickline@deq.state.va.us.

October 25, 2000 - 10 a.m. -- Open Meeting
Department of Environmental Quality, 629 East Main Street,
Richmond, Virginia. ♿

A public meeting to receive comments on the board's intent to consider amendments to the Voluntary Remediation Program Regulation.

Contact: Melissa Porterfield, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4238, e-mail msporterfi@deq.state.va.us.

October 27, 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 Virginia Waste Management Board intends to amend regulations entitled: **9 VAC 20-80-10 et seq. Solid Waste Management Regulations.** The proposed amendments clarify and correct minor matters or improve procedural requirements, reduce regulatory burden, and reflect changes in the Virginia Waste Management Act.

Statutory Authority: § 10.1-1402 of the Code of Virginia.

Contact: Michael J. Dieter, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4146.

November 10, 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 Virginia Waste Management Board intends to adopt regulations entitled: **9 VAC 20-170-10 et seq. Transportation of Solid Medical Wastes on State Waters.** The proposed regulation sets forth guidelines for the permitting of facilities and establishes a permit-by-rule requirement for facilities receiving solid and regulated medical wastes from a ship, barge or other vessel transporting such wastes upon navigable waters of the Commonwealth and includes provisions governing the commercial transport, loading and off-loading of solid and regulated medical wastes by ship, etc. The board is requesting comments from the public on:

1. The costs and benefits of the proposal;
2. Alternatives to the requirements of the proposal, including the advantages and disadvantages of the alternatives;
3. The social costs of the proposal, including a description of the types of costs (i.e., increased paperwork, duplicative reporting requirements, etc.), potential nondollar impacts of the proposal (i.e., increased volume of waste transported by trucks due to increased regulation of water transport) and the possible health and environmental consequences associated with such impacts;
4. Quantitative information, if possible, regarding incremental benefits of the proposed regulation over

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existing federal and state regulations and current industry practices;

5. The relationship of the proposed regulation to federal regulations regarding nonhazardous and medical waste transport, including the identification of redundancy or conflict; and

6. Whether the board should make further distinctions between solid wastes and medical wastes which are regulated under the Resource Conservation and Recovery Act and covered by this rulemaking and hazardous wastes which are covered by the Resource Conservation and Recovery Act and not addressed in this rulemaking.

Statutory Authority: §§ 10.1-1402 and 10.1-1454.1 of the Code of Virginia.

Contact: Daniel S. Gwinner, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4218, FAX (804) 698-4327 or e-mail dsgwinner@deq.state.va.us.

STATE WATER CONTROL BOARD

October 13, 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 Water Control Board intends to amend regulations entitled: **9 VAC 25-640-10 et seq. Aboveground Storage Tank and Pipeline Facility Financial Responsibility Requirements.** The proposed regulation provides the criteria by which operators of aboveground storage tank and pipeline facilities can demonstrate that they have adequate financial resources to perform their responsibility to contain and clean up any oil discharges that may occur at their facilities.

Statutory Authority: § 62.1-44.34:16 of the Code of Virginia.

Contact: Leslie Beckwith, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4123 or FAX (804) 698-4021, e-mail ldbeckwith@deq.state.va.us.

October 18, 2000 - 9:30 a.m. -- Open Meeting

October 31, 2000 - 9:30 a.m. -- Open Meeting

Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. ♿

A meeting of the advisory committee assisting the department in the development of General VWP Permits for Activities Impacting Wetlands regulations and in amendments to 9 VAC 25-210-10 et seq., Virginia Water Protection Permit Regulation.

Contact: Ellen Gilinsky, Virginia Water Protection Permit Program Manager, State Water Control Board, P.O. Box 10009, Richmond, Virginia 23240, telephone (804) 698-4375, FAX (804) 698-4032, (804) 698-4021/TTY ♿, e-mail egilinsky@deq.state.va.us.

† October 19, 2000 - 9:30 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room C, Richmond, Virginia.

A special meeting to consider two permits and possibly consent special orders.

Contact: Cindy Berndt, Regulatory Coordinator, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4378, FAX (804) 698-4346, e-mail cmberndt@deq.state.va.us.

October 25, 2000 - 7 p.m. -- Open Meeting
Elkton Town Hall, Elkton, Virginia.

A public meeting to receive comments on the board's intent to consider amending the wasteload allocation in segment 1-4a of the Upper South Fork Shenandoah River based on new modeling information.

Contact: Tom Mizell, Department of Environmental Quality, P.O. Box 1129, Harrisonburg, VA 22801, telephone (540) 574-7800, FAX (540) 574-7878, e-mail ctmizell@deq.state.va.us.

† November 8, 2000 - 2 p.m. -- Open Meeting
Roanoke County Administration Center, 5204 Bernard Drive, 1st Floor Meeting Room, Roanoke, Virginia.

† November 13, 2000 - 2 p.m. -- Open Meeting
Virginia War Memorial, 621 South Belvidere Street, Auditorium, Richmond, Virginia.

A public meeting to receive comments on the notice of intended regulatory action to amend the Water Quality Standards.

Contact: Eleanore Daub, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4111, toll-free (804) 698-4021, e-mail emdaub@deq.state.va.us.

BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

† November 2, 2000 - 10 a.m. -- Public Hearing
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

December 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 Board for Waterworks and Wastewater Works Operators intends to amend regulations entitled: **18 VAC 160-20-10 et seq. Board for Waterworks and Wastewater Works Operators Regulations.** The proposed amendments will implement the "Environmental Protection Agency Guidelines for the Certification and Recertification of the Operators of Community and Nontransient Noncommunity Public Water Systems; Notice" (1999), by creating a new Class VI waterworks operator license and requiring continuing professional education for all licensed waterworks operators. In addition, the text of the regulations have been reorganized and revised for clarity and ease of use.

Statutory Authority: §§ 54.1-201 and 54.1-2301 of the Code of Virginia.

Contact: Joseph Kossan, Regulatory Board Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8505, FAX (804) 367-6128 or (804) 367-9753/TTY ☎

VIRGINIA WORKERS' COMPENSATION COMMISSION

October 19, 2000 - 10 a.m. -- Public Hearing
Virginia Workers' Compensation Commission, 1000 DMV Drive, Richmond, Virginia.

November 28, 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 Virginia Workers' Compensation Commission intends to adopt regulations entitled: **16 VAC 30-100-10 et seq. Regulations for Professional Employer Organizations.** The proposed regulations relate to implementation of the registration and reporting requirements imposed upon professional employer organizations by amendments to Title 65.2 at the 2000 legislative session.

Statutory Authority: §§ 65.2-201 and 65.2-803.1 of the Code of Virginia.

Contact: Sam Lupica, Virginia Workers' Compensation Ombudsman, 1000 DMV Drive, Richmond, VA 23220, telephone (804) 367-8269, FAX (804) 367-9740, toll-free 1-877-664-2566, or (804) 367-3600/TTY ☎

LEGISLATIVE

VIRGINIA CODE COMMISSION

October 18, 2000 - 10 a.m. -- Canceled

October 19, 2000 - 10 a.m. -- Canceled

† **December 13, 2000 - 10 a.m.** -- Open Meeting
General Assembly Building, 9th and Broad Streets, 6th Floor, Speaker's Conference Room, Richmond, Virginia. ♿
(Interpreter for the deaf provided upon request)

A regularly scheduled meeting. Public comment will be scheduled.

Contact: Jane D. Chaffin, Registrar of Regulations, Division of Legislative Services, General Assembly Building, 910 Capitol Street, 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591, FAX (804) 692-0625 or e-mail jchaffin@leg.state.va.us.

COMMITTEE ON CORPORATIONS, INSURANCE AND BANKING

Subcommittee 2

† **October 30, 2000 - 10 a.m.** -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room C, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular meeting. Questions regarding the meeting should be addressed to Frank Munyan or Maureen Stinger, Division of Legislative Services, (804) 786-3591. Individuals requiring interpreter services or other special assistance should contact the committee operations office at least 10 working days prior to the meeting.

Contact: Lois V. Johnson, House Committee Operations, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY ☎

HOUSE COMMITTEE ON COUNTIES, CITIES AND TOWNS

October 12, 2000 - 10 a.m. -- Public Hearing
Loudoun County Government Center, 1 Harrison Street, S.E., Board of Supervisor's Room, Leesburg, Virginia. ♿
(Interpreter for the deaf provided upon request)

A public hearing relating to growth issues in Loudoun County. The committee will be joined by the Senate Committee on Local Government. Questions regarding the meeting should be addressed to Jeff Sharp or Dennis Walter, Division of Legislative Services, (804) 786-3591. Individuals requiring interpreter services or other special assistance should contact the committee operations office at least 10 working days prior to the meeting.

Contact: Scott Maddrea or Barbara Regen, House Committee Operations, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY ☎

DISABILITY COMMISSION (HJR 34)

October 17, 2000 - 9 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia.

A regular meeting. Questions regarding the retreat or the agenda should be directed to Brian Parsons or Barbara Etnner, Virginia Board for People with Disabilities, (804) 786-0016.

Contact: Barbara Regen, House Committee Operations, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY ☎

COMMISSION ON EDUCATIONAL INFRASTRUCTURE AND TECHNOLOGY (HJR 223)

October 17, 2000 - 2 p.m. -- Open Meeting
December 5, 2000 - 2 p.m. -- Open Meeting

Calendar of Events

General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular meeting. Questions regarding the meeting should be addressed to Norma Szakal, Division of Legislative Services, (804) 786-3591. Individuals requiring interpreter services or other special assistance should contact the committee operations office at least 10 working days prior to the meeting.

Contact: Lois V. Johnson, House Committee Operations, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY

JOINT SUBCOMMITTEE TO EXAMINE THE CURRENT MEANS AND ADEQUACY OF COMPENSATION TO VIRGINIA'S CITIZENS WHOSE PROPERTIES ARE TAKEN THROUGH THE EXERCISE OF EMINENT DOMAIN (SJR 37, 2000)

October 23, 2000 - 1 p.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. Individuals requiring interpreter services or other accommodations should call or write Senate Committee Operations seven working days before the meeting.

Contact: Brian B. Taylor, Senate Committee Operations, P.O. Box 396, Richmond, VA 23218, telephone (804) 698-7450 or (804) 698-7419/TTY

HOUSE COMMITTEE ON FINANCE

November 13, 2000 - 1 p.m. -- Open Meeting

General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular meeting. Questions regarding the meeting should be addressed to Joan Putney or David Rosenberg, Division of Legislative Services, (804) 786-3591. Individuals requiring interpreter services or other special assistance should contact the committee operations office at least 10 working days prior to the meeting.

Contact: Lois V. Johnson, House Committee Operations, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY

VIRGINIA FREEDOM OF INFORMATION ADVISORY COUNCIL

November 29, 2000 - 10 a.m. -- Open Meeting

General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A general meeting.

Contact: Maria J.K. Everett, Executive Director, Virginia Freedom of Information Advisory Council, 910 Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591, FAX (804) 371-0169, toll-free (866) 448-4100, e-mail meverett@leg.state.va.us.

HOUSE COMMITTEE ON GENERAL LAWS

November 14, 2000 - 1 p.m. -- Open Meeting

General Assembly Building, 9th and Broad Streets, House Room C, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular meeting. Questions regarding the meeting should be addressed to Maria Everett, Division of Legislative Services, (804) 786-3591. Individuals requiring interpreter services or other special assistance should contact the committee operations office at least 10 working days prior to the meeting.

Contact: Lois V. Johnson, House Committee Operations, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY

SENATE COMMITTEE ON GENERAL LAWS

October 16, 2000 - 10 a.m. -- Open Meeting

General Assembly Building, 9th and Broad Streets, 3rd Floor West, Conference Room, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting of Subcommittee #5 to discuss the Charitable Gaming Commission; volunteer fire departments and rescue squads (SB 426), and fraternal and veterans' organizations (SB 556). Individuals requiring interpreter services or other accommodations should call or write Senate Committee Operations seven working days before the meeting.

Contact: John McE. Garrett, Senate Committee Operations, P.O. Box 396, Richmond, VA 23218, telephone (804) 698-7450 or (804) 698-7419/TTY

December 6, 2000 - 2 p.m. -- Open Meeting

General Assembly Building, 9th and Broad Streets, Senate Room B, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to consider legislation continued to the 2001 Session of the General Assembly.

Contact: John McE. Garrett, Senate Committee Operations, P.O. Box 396, Richmond, VA 23218, telephone (804) 698-7450 or (804) 698-7419/TTY

JOINT SUBCOMMITTEE STUDYING COMMERCIAL PROMOTIONAL ACTIVITIES IN HIGH SCHOOLS (HJR 239)

October 30, 2000 - 1 p.m. -- Open Meeting

General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular meeting. Individuals requiring interpreter services or other special assistance should contact the committee operations office at least 10 working days prior to the meeting.

Contact: Lois V. Johnson, House Committee Operations, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY ☎

JOINT LEGISLATIVE AUDIT AND REVIEW COMMISSION

October 10, 2000 - 10 a.m. -- Open Meeting
General Assembly Building, 910 Capitol Street, Senate Room B, Richmond, Virginia. ♿

A meeting for staff briefings on the review of child support enforcement and the costs of raising children.

Contact: Phillip A. Leone, Director, Joint Legislative Audit and Review Commission, General Assembly Building, 910 Capitol St., Suite 1100, Richmond, VA 23219, telephone (804) 786-1258.

COMMISSION ON PUBLIC-PRIVATE PARTNERSHIPS FOR THE OPERATION OF NONSTATE MUSEUMS AND OTHER EDUCATIONAL AND CULTURAL ENTITIES (HJR 285)

October 30, 2000 - 2 p.m. -- Open Meeting
State Capitol, Capitol Square, House Room 2, Richmond, Virginia.

A regular meeting. Questions regarding the retreat or the agenda should be directed to Kathleen Harris or Mark Vucci, Division of Legislative Services, (804) 786-3591.

Contact: Barbara Regen, House Committee Operations, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY ☎

JOINT SUBCOMMITTEE TO STUDY CREATION OF A NORTHERN VIRGINIA REGIONAL TRANSPORTATION AUTHORITY (SJR 121, 2000)

October 11, 2000 - 9:30 a.m. -- Open Meeting
November 8, 2000 - 9:30 a.m. -- Open Meeting
December 13, 2000 - 9:30 a.m. -- Open Meeting
Northern Virginia Planning District Commission Headquarters, 7535 Little River Turnpike, Suite 100, Annandale, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular meeting. Please direct all questions regarding the agenda to Senate Committee Operations. Individuals requiring interpreter services or other accommodations should contact the committee operations office at least 10 working days prior to the meeting.

Contact: Thomas G. Gilman, Senate Committee Operations, P.O. Box 396, Richmond, VA 23218, telephone (804) 698-7450 or (804) 698-7419/TTY ☎

JOINT REAPPORTIONMENT COMMITTEE

October 16, 2000 - 2 p.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. Questions regarding the meeting agenda should be directed to Mary Spain or Jack Austin, Division of Legislative Services, (804) 786-3591.

Contact: Patricia J. Lung, Senate Committee Operations, P.O. Box 396, Richmond, VA 23218, telephone (804) 698-7450 or (804) 698-7419/TTY ☎

JOINT SUBCOMMITTEE STUDYING SATELLITE CHIP MILLS (HJR 730)

NOTE: CHANGE IN MEETING DATE

† **December 6, 2000 - 1 p.m.** -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia.

A regular meeting. Questions regarding the retreat or the agenda should be directed to Marty Farber, Division of Legislative Services, (804) 786-3591. The meeting scheduled for December 14, 2000, has been canceled.

Contact: Barbara Regen, House Committee Operations, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY ☎

COMMISSION ON VIRGINIA'S STATE AND LOCAL TAX STRUCTURE FOR THE 21ST CENTURY

October 31, 2000 - 9 a.m. -- Open Meeting
University of Virginia, Newcomb Hall, South Meeting Room, Charlottesville, Virginia. ♿

A regular meeting of the commission devoted to the discussion and consideration of issues concerning the adequacy of Virginia's state and local tax structure to address the needs of the Commonwealth in the 21st Century.

Contact: Leisa Steele, Executive Assistant, Weldon Cooper Center for Public Service, 700 E. Franklin St., Suite 700, Richmond, VA 23219-2318, telephone (804) 786-4273, FAX (804) 371-0234, e-mail leisasteele@erols.com.

JOINT COMMISSION ON TECHNOLOGY AND SCIENCE

Advisory Committee 3 (E-Government)

† **October 11, 2000 - 10 a.m.** -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

Calendar of Events

A regular meeting. Please refer to the commission's website for details (<http://jcots.state.va.us>).

Contact: John Jung, Staff Attorney, Joint Commission on Technology and Science, General Assembly Bldg., 910 Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591, FAX (804) 371-0169, e-mail JJung@leg.state.va.us.

Advisory Committee 5 (UCITA)

October 17, 2000 - 1 p.m. -- Open Meeting
George W. Johnson Center, George Mason University, 4400 University Drive, Multipurpose Room, Fairfax, Virginia. (Interpreter for the deaf provided upon request)

November 9, 2000 - 10 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular meeting. Please refer to the commission's website for details (<http://jcots.state.va.us>).

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Advisory Committee 6 (Criminal Law)

October 19, 2000 - 10 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular meeting. Please refer to the commission's website for details (<http://jcots.state.va.us>).

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November 16, 2000 - 10 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular meeting. Please refer to the commission's website for details (<http://jcots.state.va.us>).

Contact: John S. Jung, Staff Attorney, Joint Commission on Technology and Science, 910 Capitol Street, 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591, FAX (804) 371-0169, e-mail JJung@leg.state.va.us.

CHRONOLOGICAL LIST

OPEN MEETINGS

October 9

Old Dominion University
- Board of Visitors' Executive Committee
Visually Handicapped, Department for the

October 10

Conservation and Recreation, Department of
- Virginia Outdoor Planning District Commission 22
Legislative Audit and Review Commission, Joint
Nursing, Board of
- Special Conference Committee
† Nursing Home Administrators, Board of
Tourism Authority, Virginia
- Motion Picture Development Committee

October 11

† Agriculture and Consumer Services, Department of
- Virginia Marine Products Board
Cemetery Board
- Recovery Fund Committee
Conservation and Recreation, Department of
- Virginia Outdoor Planning District Commission 23
Funeral Directors and Embalmers, Board of
- Task Force on Inspection Process
† Higher Education for Virginia, State Council of
Innovative Technology Authority
- Board of Directors
Labor and Industry, Department of
- Virginia Migrant and Seasonal Farmworkers Board
† Nursing Home Administrators, Board of
Northern Virginia Regional Transportation Authority, Joint
Subcommittee to Study Creation of a
† Technology and Science, Joint Commission on
- Advisory Committee 3 (E-Government)
Visually Handicapped, Department for the

October 12

† Child Day-Care Council
Conservation and Recreation, Department of
- Virginia Outdoor Planning District Commission 14
- Virginia Outdoor Planning District Commission 16
- Virginia State Parks Foundation
† Education, Board of
- Virginia Intercommunity Transition Council
Fire Services Board, Virginia
- Administration and Policy Committee
- Finance Committee
- Fire Education and Training Committee
- Fire Prevention and Control Committee
Medicine, Board of
Nursing, Board of
- Special Conference Committee
Pesticide Control Board

October 13

College Building Authority, Virginia
Fire Services Board, Virginia
Health Professions, Department of

- Health Practitioners' Intervention Program Committee
Medicine, Board of
- Credentials Committee

October 14

† Housing Development Authority, Virginia
- Board of Commissioners
Medicine, Board of

October 16

Conservation and Recreation, Department of
- Board on Conservation and Development of Public
Beaches
- Virginia Outdoor Planning District Commission 10
- Virginia Outdoor Planning District Commission 11
General Laws, Senate Committee on
Nursing, Board of
- Special Conference Committee
Reapportionment Committee, Joint

October 17

† Auctioneers Board
† Aviation Board
Conservation and Recreation, Department of
- Virginia Outdoor Planning District Commission 1
- Virginia Outdoor Planning District Commission 5
- Virginia Outdoor Planning District Commission 6
- Virginia Outdoor Planning District Commission 8
- Virginia Outdoor Planning District Commission 15
† Correctional Education, Board of
† Corrections, Board of
- Correctional Services Committee
Disability Commission
Educational Infrastructure and Technology, Commission
on
Higher Education for Virginia, State Council on
† Litter Control and Recycling Fund Advisory Board
Indians, Council on
Nursing, Board of
- Special Conference Committee
People with Disabilities, Board for
- Disability Commission
Real Estate Appraiser Board
Technology and Science, Joint Commission on
- Advisory Committee 5 (UCITA)
Visually Handicapped, Board for the

October 18

† Aviation Board
Conservation and Recreation, Department of
- Virginia Outdoor Planning District Commission 2
- Virginia Outdoor Planning District Commission 7
- Virginia Outdoor Planning District Commission 17
† Corrections, Board of
- Administration Committee
† Racing Commission, Virginia
Social Services, State Board of
Transportation Board, Commonwealth
Visually Handicapped, Department for the
Water Control Board, State

October 19

† Agriculture and Consumer Services, Board of
Conservation and Recreation, Department of

- Virginia Outdoor Planning District Commission 3
- Virginia Outdoor Planning District Commission 9
- Virginia Outdoor Planning District Commission 18
Education, State Board of
Geology, Board for
† Retirement System, Virginia
Social Services, State Board of
- Child Support Enforcement Subcommittee
Technology and Science, Joint Commission on
- Advisory Committee 6 (Criminal Law)
† Water Control Board, State

October 20

Conservation and Recreation, Department of
- Virginia Outdoor Planning District Commission 4
† Dentistry, Board of
- Informal Conference Committee
Medicine, Board of
- Informal Conference Committee
† Optometry, Board of

October 21

Visually Handicapped, Department for the

October 23

† Conservation and Recreation, Board of
Conservation and Recreation, Department of
- Virginia Outdoor Planning District Commission 13
Eminent Domain, Joint Subcommittee to Examine the
Current Means and Adequacy of Compensation to
Virginia's Citizens Whose Properties are Taken
Through the Exercise of
Marine Resources Commission
† Mental Health, Mental Retardation and Substance
Abuse Services Board, State

October 24

Compensation Board
Conservation and Recreation, Department of
- Virginia Outdoor Planning District Commission 12
Small Business Financing Authority, Virginia

October 25

At-Risk Youth and Families, Comprehensive Services for
- State Executive Council
† Emergency Planning Committee, Local - Gloucester
† Mines, Minerals and Energy, Department of
- Virginia Remining Ad Hoc Advisory Work Group
Real Estate Board
- Education Committee
Waste Management Board, Virginia
Water Control Board, State
† Veterinary Medicine, Board of

October 26

† Health, State Board of
- Biosolids Use Information Committee
- Biosolids Use Regulations Advisory Committee
Medicine, Board of
- Informal Conference Committee
Nursing, Board of
- Special Conference Committee
† Real Estate Board
- Fair Housing Committee

Calendar of Events

October 27

- † Dentistry, Board of
 - Informal Conference Committee
- Opticians, Board for

October 30

- Barbers and Cosmetology, Board for
- † Chesapeake Bay Local Assistance Board
 - Northern Area Review Committee
 - Southern Area Review Committee
- † Corporations, Insurance and Banking, Committee on
 - Subcommittee 2
- High Schools, Joint Subcommittee Studying Commercial Promotional Activities in
- Nonstate Museums and other Educational and Cultural Entities, Commission on Public-Private Partnerships for the Operation of

October 31

- Nursing, Board of
 - Special Conference Committee
- Tax Structure for the 21st Century, Commission on Virginia's State and Local
- Water Control Board, State

November 1

- † Agriculture and Consumer Services, Department of
 - Virginia Winegrowers Advisory Board

November 2

- Conservation and Recreation, Department of
 - Falls of the James Scenic River Advisory Board
- † Health, State Board of
- Jamestown-Yorktown Foundation
 - Board of Trustees
- Medicine, Board of
 - Informal Conference Committee

November 3

- Jamestown-Yorktown Foundation
 - Board of Trustees

November 6

- Education, Board of
- † Environmental Quality, Department of
 - Virginia Environmental Education Advisory Committee

November 7

- Hopewell Industrial Safety Council

November 8

- † Air Pollution Control Board
- Northern Virginia Regional Transportation Authority, Joint Subcommittee to Study Creation of a
- Outdoors Foundation, Virginia
 - Preservation Trust Fund Advisory Board - Region V
- † Water Control Board, State

November 9

- † Air Pollution Control Board, State
- Education, Board of
- Technology and Science, Joint Commission on
 - Advisory Committee 5 (UCITA)
- Voluntary Formulary Board, Virginia
- † Water Control Board, State

November 13

- Finance, House Committee on
- Library Board
 - Archival and Information Services Committee
 - Collection Management Services Committee
 - Legislative and Finance Committee
 - Public Library Development Committee
 - Publications and Educational Services Committee
 - Records Management Committee
- Old Dominion University
 - Board of Visitors' Executive Committee
- † Professional and Occupational Regulation, Board for
- † Water Control Board, State

November 14

- † Air Pollution Control Board, State
- † Environmental Quality, Department of
- General Laws, House Committee on
- † Retirement System, Virginia
 - Investment Advisory Committee

November 15

- Accountancy, Board of
- † Nursing, Board of
- Outdoors Foundation, Virginia
 - Preservation Trust Fund Advisory Board - Region II

November 16

- † Education, Board of
- † Retirement System, Virginia
 - Administration and Personnel Committee
 - Audit and Compliance Committee
 - Benefits and Actuarial Committee
- Technology and Science, Joint Commission on
 - Advisory Committee 6 (Criminal Law)

November 17

- Medicine, Board of
 - Executive Committee
 - Informal Conference Committee
- † Opticians, Board for

November 18

- Human Rights, Council on
- Visually Handicapped, Department for the

November 20

- † Education, Board of
 - Advisory Board of Teacher Education and Licensure

November 21

- † Higher Education for Virginia, State Council of

November 29

- At-Risk Youth and Families, Comprehensive Services for
 - State Executive Council
- Freedom of Information Advisory Council, Virginia

November 30

- † Education, Board of
- Nursing, Board of
 - Special Conference Committee

December 1

- Medicine, Board of
 - Credentials Committee

- Executive Committee

December 4

Nursing, Board of
- Special Conference Committee

December 5

Educational Infrastructure and Technology, Commission
on
Hopewell Industrial Safety Council
Nursing, Board of
- Special Conference Committee
Outdoors Foundation, Virginia
- Board of Trustees

December 6

General Laws, Senate Committee on
Outdoors Foundation, Virginia
- Board of Trustees
† Satellite Chip Mills, Joint Subcommittee Studying

December 7

Old Dominion University
- Board of Visitors

December 8

† Environmental Quality, Department of
- Virginia Environmental Education Advisory
Committee

December 9

† Environmental Quality, Department of
- Virginia Environmental Education Advisory
Committee

December 11

Nursing, Board of
- Special Conference Committee

December 13

† Code Commission, Virginia
Northern Virginia Regional Transportation Authority, Joint
Subcommittee to Study Creation of a

December 14

Nursing, Board of
- Special Conference Committee

December 15

† Medicine, Board of
- Informal Conference Committee

December 20

† Retirement System, Virginia
- Investment Advisory Committee

December 21

† Retirement System, Virginia
- Board of Trustees

Counties, Cities and Towns, House Committee on
Medicine, Board of

October 17

Environmental Quality, Department of

October 18

Waste Management Board, Virginia

October 19

Education, Board of
Workers' Compensation Commission, Virginia

October 20

Voluntary Formulary Board, Virginia

October 26

Game and Inland Fisheries, Department of

October 31

Alcoholic Beverage Control Board

November 1

† Rehabilitative Services, Department of

November 2

† Waterworks and Wastewater Works Operators, Board
for

November 7

† Chesapeake Bay Local Assistance Board

November 8

† Rehabilitative Services, Department of
† Veterinary Medicine, Board of

November 14

† Chesapeake Bay Local Assistance Board

November 15

† Chesapeake Bay Local Assistance Board
† Milk Commission, State
† Nursing, Board of

November 21

† Chesapeake Bay Local Assistance Board

December 4

† Rehabilitative Services, Department of

December 7

† Rehabilitative Services, Department of

December 11

† Rehabilitative Services, Department of

PUBLIC HEARINGS

October 10

Pharmacy, Board of
Pharmacy and Medicine, Boards of

October 12
