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CUMULATIVE TABLE OF VIRGINIA ADMINISTRATIVE CODE SECTIONS ADOPTED, AMENDED, OR REPEALED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printed below lists regulation sections, by Virginia Administrative Code (VAC) title, that have been amended, added or repealed in the *Virginia Register* since the regulations were originally published or last supplemented in VAC (the Spring 2002 VAC Supplement includes final regulations published through *Virginia Register* Volume 18, Issue 11, dated February 11, 2002). 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 5-400-10	Amended	18:21 VA.R. 2768	8/1/02
2 VAC 5-400-20	Amended	18:21 VA.R. 2768	8/1/02
2 VAC 5-400-30	Amended	18:21 VA.R. 2768	8/1/02
2 VAC 5-400-50	Amended	18:21 VA.R. 2768	8/1/02
2 VAC 5-400-80	Amended	18:21 VA.R. 2768	8/1/02
2 VAC 5-400-90	Added	18:21 VA.R. 2768	8/1/02
2 VAC 5-610-10 through 2 VAC 5-610-80	Amended	18:21 VA.R. 2768	8/1/02
Title 3. Alcoholic Beverages			
3 VAC 5-20-10	Amended	18:23 VA.R. 3094	8/28/02
3 VAC 5-20-60	Amended	18:23 VA.R. 3095	8/28/02
3 VAC 5-30-60	Amended	18:23 VA.R. 3095	8/28/02
3 VAC 5-50-170	Amended	18:23 VA.R. 3096	8/28/02
3 VAC 5-60-80	Amended	18:23 VA.R. 3096	8/28/02
3 VAC 5-70-20	Amended	18:23 VA.R. 3097	8/28/02
3 VAC 5-70-90	Amended	18:23 VA.R. 3097	8/28/02
Title 4. Conservation and Natural Resources			
4 VAC 5-35-10 through 4 VAC 5-35-50	Repealed	18:14 VA.R. 1800	4/25/02
4 VAC 5-36-10 through 4 VAC 5-36-210	Added	18:14 VA.R. 1800-1827	4/25/02
4 VAC 15-20-160	Amended	19:1 VA.R. 102	10/23/02
4 VAC 15-380-60 emer	Repealed	18:23 VA.R. 3102	7/1/02-6/30/03
4 VAC 15-380-120 emer	Added	18:23 VA.R. 3102	7/1/02-6/30/03
4 VAC 20-252-150	Amended	18:21 VA.R. 2836	5/29/02-6/27/02
4 VAC 20-252-150	Amended	18:22 VA.R. 2927	6/19/02
4 VAC 20-270-30	Amended	18:14 VA.R. 1827	3/5/02
4 VAC 20-270-40	Amended	18:14 VA.R. 1828	3/5/02
4 VAC 20-270-55	Amended	18:14 VA.R. 1828	3/5/02
4 VAC 20-270-56	Added	18:14 VA.R. 1828	3/5/02
4 VAC 20-430-50	Amended	18:18 VA.R. 2287	5/1/02
4 VAC 20-430-60	Amended	18:18 VA.R. 2287	5/1/02
4 VAC 20-560-20	Erratum	18:14 VA.R. 1911	--
4 VAC 20-560-20 emer	Amended	18:14 VA.R. 1904	3/4/02-3/31/02
4 VAC 20-560-20	Amended	18:16 VA.R. 2054	4/1/02
4 VAC 20-560-50 emer	Amended	18:14 VA.R. 1905	3/4/02-3/31/02
4 VAC 20-560-50	Amended	18:16 VA.R. 2055	4/1/02
4 VAC 20-562-10 through 4 VAC 20-562-50 emer	Added	18:25 VA.R. 3570	8/16/02-8/30/02
4 VAC 20-610-60	Amended	18:25 VA.R. 3548	8/1/02
4 VAC 20-620-20	Amended	18:14 VA.R. 1828	3/5/02
4 VAC 20-620-40	Amended	18:12 VA.R. 1646	1/31/02
4 VAC 20-620-50	Amended	18:14 VA.R. 1828	3/5/02
4 VAC 20-620-50	Amended	18:21 VA.R. 2836	6/1/02-6/30/02
4 VAC 20-620-50	Amended	18:22 VA.R. 2927	6/19/02
4 VAC 20-620-60	Amended	18:14 VA.R. 1829	3/5/02
4 VAC 20-620-60	Erratum	18:21 VA.R. 2846	--
4 VAC 20-620-60	Amended	18:21 VA.R. 2836	6/1/02-6/30/02

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4 VAC 20-620-60	Amended	18:22 VA.R. 2928	6/19/02
4 VAC 20-620-70	Amended	18:14 VA.R. 1829	3/5/02
4 VAC 20-620-70	Amended	18:21 VA.R. 2837	6/1/02-6/30/02
4 VAC 20-620-70	Amended	18:22 VA.R. 2928	6/19/02
4 VAC 20-670-30 emer	Amended	18:22 VA.R. 2935	6/20/02-7/20/02
4 VAC 20-670-30	Amended	18:25 VA.R. 3550	8/1/02
4 VAC 20-720-47 emer	Added	18:12 VA.R. 1697	2/1/02-2/28/02
4 VAC 20-752-10	Amended	18:21 VA.R. 2769	6/1/02
4 VAC 20-752-20	Amended	18:21 VA.R. 2769	6/1/02
4 VAC 20-752-20 emer	Amended	18:24 VA.R. 3300	7/15/02-8/14/02
4 VAC 20-752-20	Amended	19:1 VA.R. 102	9/1/02
4 VAC 20-752-30	Amended	18:21 VA.R. 2769	6/1/02
4 VAC 20-754-30 emer	Amended	19:1 VA.R. 137	8/28/02-9/27/02
4 VAC 20-910-45	Amended	18:21 VA.R. 2769	6/1/02
4 VAC 20-910-45	Erratum	18:21 VA.R. 2846	--
4 VAC 20-950-30	Amended	18:14 VA.R. 1829	3/4/02
4 VAC 20-950-40	Amended	18:14 VA.R. 1829	3/4/02
4 VAC 20-950-45	Amended	18:12 VA.R. 1647	1/31/02
4 VAC 20-950-45	Amended	18:14 VA.R. 1830	3/4/02
4 VAC 20-950-45	Amended	18:16 VA.R. 2055	4/1/02
4 VAC 50-20-30	Amended	18:14 VA.R. 1831	7/1/02
4 VAC 50-20-50	Amended	18:14 VA.R. 1832	7/1/02
4 VAC 50-20-50	Erratum	18:17 VA.R. 2183	--
4 VAC 50-20-70	Amended	18:14 VA.R. 1832	7/1/02
4 VAC 50-20-120	Amended	18:14 VA.R. 1834	7/1/02
4 VAC 50-20-220	Amended	18:14 VA.R. 1834	7/1/02
4 VAC 50-20-320	Amended	18:14 VA.R. 1835	7/1/02
Title 6. Criminal Justice and Corrections			
6 VAC 15-40-10	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-40	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-90 through 6 VAC 15-40-130	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-150	Amended	18:20 VA.R. 2584	7/17/02
6 VAC 15-40-155	Added	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-160	Amended	18:20 VA.R. 2585	7/17/02
6 VAC 15-40-280	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-290	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-360 through 6 VAC 15-40-390	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-393	Added	18:20 VA.R. 2585	7/17/02
6 VAC 15-40-395	Added	18:20 VA.R. 2585	7/17/02
6 VAC 15-40-400	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-410	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-450	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-460	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-470	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-490	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-520	Amended	18:20 VA.R. 2585	7/17/02
6 VAC 15-40-540 through 6 VAC 15-40-580	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-620	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-640 through 6 VAC 15-40-670	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-690	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-740	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-800 through 6 VAC 15-40-830	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-833	Added	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-835	Added	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-840	Amended	18:20 VA.R. 2585	7/17/02
6 VAC 15-40-870	Amended	18:20 VA.R. 2585	7/17/02

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6 VAC 15-40-900	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-910	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-920	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-940 through 6 VAC 15-40-970	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-1020	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-1030	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-1040	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-1070	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-1080	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-1100	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-1110	Repealed	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-1130	Repealed	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-1190	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-1193	Added	18:20 VA.R. 2585	7/17/02
6 VAC 15-40-1195	Added	18:20 VA.R. 2585	7/17/02
6 VAC 15-40-1200	Amended	18:20 VA.R. 2585	7/17/02
6 VAC 15-40-1330	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-1350	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 20-171-10	Amended	18:15 VA.R. 1955	5/10/02
6 VAC 20-171-50	Amended	18:15 VA.R. 1957	5/10/02
6 VAC 20-171-120	Amended	18:15 VA.R. 1958	5/10/02
6 VAC 20-171-200	Amended	18:15 VA.R. 1958	5/10/02
6 VAC 20-171-220	Amended	18:15 VA.R. 1959	5/10/02
6 VAC 20-171-230	Amended	18:15 VA.R. 1960	5/10/02
6 VAC 20-171-240	Amended	18:15 VA.R. 1961	5/10/02
6 VAC 20-171-250	Amended	18:15 VA.R. 1961	5/10/02
6 VAC 20-171-260	Amended	18:15 VA.R. 1962	5/10/02
6 VAC 20-171-280	Amended	18:15 VA.R. 1963	5/10/02
6 VAC 20-171-310	Amended	18:15 VA.R. 1964	5/10/02
6 VAC 20-171-320	Amended	18:15 VA.R. 1964	5/10/02
6 VAC 20-171-330	Amended	18:15 VA.R. 1965	5/10/02
6 VAC 20-171-340	Amended	18:15 VA.R. 1965	5/10/02
6 VAC 20-171-350	Amended	18:15 VA.R. 1966	5/10/02
6 VAC 20-171-350	Erratum	18:20 VA.R. 2680	--
6 VAC 20-171-445	Amended	18:15 VA.R. 1968	5/10/02
6 VAC 20-171-450	Amended	18:15 VA.R. 1968	5/10/02
6 VAC 20-171-480	Amended	18:15 VA.R. 1968	5/10/02
6 VAC 20-171-520	Amended	18:15 VA.R. 1969	5/10/02
6 VAC 20-171-530	Amended	18:15 VA.R. 1969	5/10/02
6 VAC 20-171-540	Amended	18:15 VA.R. 1969	5/10/02
6 VAC 35-60-10	Amended	18:25 VA.R. 3551	11/1/02
6 VAC 35-60-20	Repealed	18:25 VA.R. 3551	11/1/02
6 VAC 35-60-30	Repealed	18:25 VA.R. 3551	11/1/02
6 VAC 35-60-40	Amended	18:25 VA.R. 3551	11/1/02
6 VAC 35-60-170	Amended	18:25 VA.R. 3551	11/1/02
6 VAC 35-60-215	Amended	18:25 VA.R. 3551	11/1/02
6 VAC 35-60-225	Added	18:25 VA.R. 3551	11/1/02
6 VAC 35-60-236	Added	18:25 VA.R. 3551	11/1/02
6 VAC 35-60-237	Added	18:25 VA.R. 3551	11/1/02
6 VAC 35-60-280	Repealed	18:25 VA.R. 3551	11/1/02
6 VAC 35-60-290	Amended	18:25 VA.R. 3551	11/1/02
6 VAC 35-60-320	Amended	18:25 VA.R. 3551	11/1/02
6 VAC 35-60-330	Amended	18:25 VA.R. 3551	11/1/02
6 VAC 35-60-390	Amended	18:25 VA.R. 3551	11/1/02
6 VAC 35-60-400	Repealed	18:25 VA.R. 3551	11/1/02
6 VAC 35-60-410	Amended	18:25 VA.R. 3551	11/1/02

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6 VAC 35-60-415	Added	18:25 VA.R. 3552	11/1/02
6 VAC 35-60-440	Repealed	18:25 VA.R. 3552	11/1/02
6 VAC 35-60-450	Amended	18:25 VA.R. 3552	11/1/02
6 VAC 35-60-460	Repealed	18:25 VA.R. 3552	11/1/02
6 VAC 35-60-480	Repealed	18:25 VA.R. 3552	11/1/02
6 VAC 35-60-490	Repealed	18:25 VA.R. 3552	11/1/02
6 VAC 35-60-495	Repealed	18:25 VA.R. 3552	11/1/02
6 VAC 35-60-500	Amended	18:25 VA.R. 3552	11/1/02
6 VAC 35-60-575	Added	18:25 VA.R. 3552	11/1/02
6 VAC 35-60-580	Amended	18:25 VA.R. 3552	11/1/02
6 VAC 35-60-600	Amended	18:25 VA.R. 3552	11/1/02
6 VAC 35-60-605	Repealed	18:25 VA.R. 3552	11/1/02
6 VAC 35-150-10	Amended	18:24 VA.R. 3284	10/1/02
6 VAC 35-150-35	Added	18:24 VA.R. 3285	10/1/02
6 VAC 35-150-55	Amended	18:24 VA.R. 3285	10/1/02
6 VAC 35-150-70 through 6 VAC 35-150-165	Amended	18:24 VA.R. 3285-3286	10/1/02
6 VAC 35-150-170	Repealed	18:24 VA.R. 3286	10/1/02
6 VAC 35-150-175	Amended	18:24 VA.R. 3286	10/1/02
6 VAC 35-150-180	Amended	18:24 VA.R. 3286	10/1/02
6 VAC 35-150-190	Amended	18:24 VA.R. 3286	10/1/02
6 VAC 35-150-200 through 6 VAC 35-150-350	Amended	18:24 VA.R. 3286-3288	10/1/02
6 VAC 35-150-360	Repealed	18:24 VA.R. 3288	10/1/02
6 VAC 35-150-370 through 6 VAC 35-150-420	Amended	18:24 VA.R. 3288	10/1/02
6 VAC 35-150-427	Added	18:24 VA.R. 3288	10/1/02
6 VAC 35-150-430	Amended	18:24 VA.R. 3288	10/1/02
6 VAC 35-150-435	Amended	18:24 VA.R. 3288	10/1/02
6 VAC 35-150-440	Amended	18:24 VA.R. 3289	10/1/02
6 VAC 35-150-450	Amended	18:24 VA.R. 3289	10/1/02
6 VAC 35-150-460	Amended	18:24 VA.R. 3289	10/1/02
6 VAC 35-150-490 through 6 VAC 35-150-540	Amended	18:24 VA.R. 3289	10/1/02
6 VAC 35-150-620 through 6 VAC 35-150-650	Amended	18:24 VA.R. 3289	10/1/02
6 VAC 35-150-670 through 6 VAC 35-150-720	Amended	18:24 VA.R. 3289	10/1/02
Title 8. Education			
8 VAC 20-21-10	Amended	18:12 VA.R. 1648	3/28/02
8 VAC 20-21-40	Amended	18:12 VA.R. 1649	3/28/02
8 VAC 20-21-50	Amended	18:12 VA.R. 1650	3/28/02
8 VAC 20-21-90	Amended	18:12 VA.R. 1651	3/28/02
8 VAC 20-21-100	Amended	18:12 VA.R. 1651	3/28/02
8 VAC 20-21-120	Amended	18:12 VA.R. 1652	3/28/02
8 VAC 20-21-170	Amended	18:12 VA.R. 1653	3/28/02
8 VAC 20-21-590	Amended	18:12 VA.R. 1653	3/28/02
8 VAC 20-21-660	Amended	18:12 VA.R. 1655	3/28/02
8 VAC 20-21-680	Amended	18:12 VA.R. 1656	3/28/02
8 VAC 20-80-30	Amended	18:12 VA.R. 1657	3/27/02
8 VAC 20-80-40	Amended	18:12 VA.R. 1660	3/27/02
8 VAC 20-80-54	Amended	18:12 VA.R. 1661	3/27/02
8 VAC 20-80-56	Amended	18:12 VA.R. 1664	3/27/02
8 VAC 20-80-60	Amended	18:12 VA.R. 1666	3/27/02
8 VAC 20-80-66	Amended	18:12 VA.R. 1668	3/27/02
8 VAC 20-80-70	Amended	18:12 VA.R. 1671	3/27/02
8 VAC 20-80-76	Amended	18:12 VA.R. 1676	3/27/02
8 VAC 20-630-10 through 8 VAC 20-630-70	Added	18:12 VA.R. 1683-1684	3/28/02
8 VAC 40-70-10 through 8 VAC 40-70-50	Amended	18:21 VA.R. 2770-2773	7/1/02
8 VAC 40-120-10 through 8 VAC 40-120-50	Amended	18:21 VA.R. 2774-2778	7/31/02
8 VAC 40-120-55	Added	18:21 VA.R. 2778	7/31/02
8 VAC 40-120-60 through 8 VAC 40-120-140	Amended	18:21 VA.R. 2778-2787	7/31/02

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8 VAC 40-120-190	Amended	18:21 VA.R. 2787	7/31/02
8 VAC 40-120-210 through 8 VAC 40-120-230	Amended	18:21 VA.R. 2787-2788	7/31/02
8 VAC 40-120-250	Amended	18:21 VA.R. 2788	7/31/02
8 VAC 40-120-270	Amended	18:21 VA.R. 2788	7/31/02
8 VAC 40-120-280	Amended	18:21 VA.R. 2788	7/31/02
8 VAC 40-130-10	Amended	18:21 VA.R. 2789	7/1/02
8 VAC 40-130-25	Added	18:21 VA.R. 2790	7/1/02
8 VAC 40-130-30	Amended	18:21 VA.R. 2790	7/1/02
8 VAC 40-130-50	Amended	18:21 VA.R. 2791	7/1/02
8 VAC 40-130-70	Amended	18:21 VA.R. 2791	7/1/02
8 VAC 40-130-90	Amended	18:21 VA.R. 2791	7/1/02
8 VAC 40-130-100	Repealed	18:21 VA.R. 2791	7/1/02
8 VAC 40-130-120	Amended	18:21 VA.R. 2791	7/1/02
8 VAC 40-130-130	Amended	18:21 VA.R. 2791	7/1/02
8 VAC 40-130-140	Repealed	18:21 VA.R. 2792	7/1/02
8 VAC 40-130-150 through 8 VAC 40-130-180	Amended	18:21 VA.R. 2792	7/1/02
8 VAC 40-130-200	Amended	18:21 VA.R. 2792	7/1/02
8 VAC 40-130-220	Amended	18:21 VA.R. 2793	7/1/02
Title 9. Environment			
9 VAC 5-10-10	Amended	18:21 VA.R. 2793	8/1/02
9 VAC 5-10-20	Amended	18:21 VA.R. 2794	8/1/02
9 VAC 5-20-180	Amended	18:21 VA.R. 2800	8/1/02
9 VAC 5-40-10	Amended	18:21 VA.R. 2802	8/1/02
9 VAC 5-40-20	Amended	18:21 VA.R. 2803	8/1/02
9 VAC 5-40-30	Amended	18:21 VA.R. 2807	8/1/02
9 VAC 5-40-40	Amended	18:21 VA.R. 2808	8/1/02
9 VAC 5-40-50	Amended	18:21 VA.R. 2809	8/1/02
9 VAC 5-40-160 through 9 VAC 5-40-230	Repealed	18:14 VA.R. 1836-1840	5/1/02
9 VAC 5-50-10	Amended	18:21 VA.R. 2810	8/1/02
9 VAC 5-50-20	Amended	18:21 VA.R. 2810	8/1/02
9 VAC 5-50-30	Amended	18:21 VA.R. 2813	8/1/02
9 VAC 5-50-40	Amended	18:21 VA.R. 2814	8/1/02
9 VAC 5-50-50	Amended	18:21 VA.R. 2815	8/1/02
9 VAC 5-50-160 through 9 VAC 5-50-230	Repealed	18:14 VA.R. 1840-1844	5/1/02
9 VAC 5-50-240	Amended	18:20 VA.R. 2586	9/1/02
9 VAC 5-50-250	Amended	18:20 VA.R. 2586	9/1/02
9 VAC 5-50-260	Amended	18:20 VA.R. 2587	9/1/02
9 VAC 5-50-320	Amended	18:20 VA.R. 2587	9/1/02
9 VAC 5-50-390	Amended	18:20 VA.R. 2587	9/1/02
9 VAC 5-60-10	Amended	18:21 VA.R. 2816	8/1/02
9 VAC 5-60-20	Amended	18:21 VA.R. 2816	8/1/02
9 VAC 5-60-30	Amended	18:21 VA.R. 2817	8/1/02
9 VAC 5-60-200 through 9 VAC 5-60-270	Added	18:14 VA.R. 1836-1840	5/1/02
9 VAC 5-60-200	Erratum	18:17 VA.R. 2183	--
9 VAC 5-60-300 through 9 VAC 5-60-370	Added	18:14 VA.R. 1840-1844	5/1/02
9 VAC 5-60-300	Erratum	18:17 VA.R. 2183	--
9 VAC 5-80-10	Repealed	18:20 VA.R. 2587	9/1/02
9 VAC 5-80-11	Repealed	18:20 VA.R. 2608	9/1/02
9 VAC 5-80-1100 through 9 VAC 5-80-1320	Added	18:20 VA.R. 2587-2612	9/1/02
9 VAC 5-80-1250	Erratum	18:23 VA.R. 3136	--
9 VAC 5-80-2000 through 9 VAC 5-80-2090	Amended	18:14 VA.R. 1845-1852	5/1/02
9 VAC 5-80-2100	Repealed	18:14 VA.R. 1852	5/1/02
9 VAC 5-80-2110	Amended	18:14 VA.R. 1852	5/1/02
9 VAC 5-80-2120	Amended	18:14 VA.R. 1852	5/1/02
9 VAC 5-80-2150	Amended	18:14 VA.R. 1853	5/1/02
9 VAC 5-80-2160	Repealed	18:14 VA.R. 1853	5/1/02

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
9 VAC 5-80-2180	Amended	18:14 VA.R. 1853	5/1/02
9 VAC 5-80-2190	Amended	18:14 VA.R. 1853	5/1/02
9 VAC 5-80-2200	Added	18:14 VA.R. 1853	5/1/02
9 VAC 5-80-2210	Added	18:14 VA.R. 1853	5/1/02
9 VAC 5-80-2220	Added	18:14 VA.R. 1853	5/1/02
9 VAC 5-80-2230	Added	18:14 VA.R. 1853	5/1/02
9 VAC 5-80-2240	Added	18:14 VA.R. 1853	5/1/02
9 VAC 5-91-20	Amended	18:20 VA.R. 2613	10/1/02
9 VAC 5-91-30	Amended	18:20 VA.R. 2619	10/1/02
9 VAC 5-91-41	Repealed	18:20 VA.R. 2621	10/1/02
9 VAC 5-91-50	Amended	18:20 VA.R. 2621	10/1/02
9 VAC 5-91-70	Amended	18:20 VA.R. 2622	10/1/02
9 VAC 5-91-120	Amended	18:20 VA.R. 2622	10/1/02
9 VAC 5-91-160 through 9 VAC 5-91-230	Amended	18:20 VA.R. 2622-2623	10/1/02
9 VAC 5-91-260	Amended	18:20 VA.R. 2623	10/1/02
9 VAC 5-91-270	Amended	18:20 VA.R. 2623	10/1/02
9 VAC 5-91-290 through 9 VAC 5-91-340	Amended	18:20 VA.R. 2623-2625	10/1/02
9 VAC 5-91-360	Amended	18:20 VA.R. 2625	10/1/02
9 VAC 5-91-370	Amended	18:20 VA.R. 2625	10/1/02
9 VAC 5-91-380	Amended	18:20 VA.R. 2626	10/1/02
9 VAC 5-91-410 through 9 VAC 5-91-450	Amended	18:20 VA.R. 2626-2636	10/1/02
9 VAC 5-91-460	Repealed	18:20 VA.R. 2636	10/1/02
9 VAC 5-91-470	Repealed	18:20 VA.R. 2636	10/1/02
9 VAC 5-91-480 through 9 VAC 5-91-620	Amended	18:20 VA.R. 2636-2639	10/1/02
9 VAC 5-91-650 through 9 VAC 5-91-720	Amended	18:20 VA.R. 2639-2641	10/1/02
9 VAC 5-91-680	Erratum	18:23 VA.R. 3136	--
9 VAC 5-91-740	Amended	18:20 VA.R. 2641	10/1/02
9 VAC 5-91-750	Amended	18:20 VA.R. 2641	10/1/02
9 VAC 5-91-770	Repealed	18:20 VA.R. 2641	10/1/02
9 VAC 5-91-780	Repealed	18:20 VA.R. 2641	10/1/02
9 VAC 5-91-790	Amended	18:20 VA.R. 2641	10/1/02
9 VAC 5-91-800	Amended	18:20 VA.R. 2642	10/1/02
9 VAC 5-140-10 through 9 VAC 5-140-940	Added	18:20 VA.R. 2654-2657	7/17/02
9 VAC 5-140-20	Erratum	18:22 VA.R. 2953	--
9 VAC 5-140-60	Erratum	18:22 VA.R. 2953	--
9 VAC 5-140-430	Erratum	18:22 VA.R. 2953	--
9 VAC 5-140-860	Erratum	18:22 VA.R. 2953	--
9 VAC 5-140-870	Erratum	18:22 VA.R. 2953	--
9 VAC 10-20-40	Erratum	18:13 VA.R. 1763	--
9 VAC 10-20-130	Erratum	18:13 VA.R. 1764	--
9 VAC 10-20-181	Erratum	18:13 VA.R. 1764	--
9 VAC 10-20-191	Erratum	18:13 VA.R. 1764	--
9 VAC 20-60	Erratum	18:12 VA.R. 1714	--
9 VAC 20-60-1285 emer	Amended	18:21 VA.R. 2837	7/1/02-6/30/03
9 VAC 20-60-1285	Erratum	18:25 VA.R. 3607	--
Appendix 3.1 of 9 VAC 20-90 emer	Amended	18:21 VA.R. 2838	7/1/02-6/30/03
9 VAC 20-120-10	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-20	Repealed	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-40 through 9 VAC 20-120-100	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-120	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-130	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-150 through 9 VAC 20-120-180	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-200 through 9 VAC 20-120-310	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-330	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-340	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-360	Amended	18:18 VA.R. 2287	6/19/02

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9 VAC 20-120-370	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-380	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-390	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-410 through 9 VAC 20-120-480	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-500	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-530	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-540	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-560	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-590	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-640	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-680 through 9 VAC 20-120-760	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-770 through 9 VAC 20-120-800	Repealed	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-810	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-835	Added	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-840	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-880	Amended	18:18 VA.R. 2287	6/19/02
Appendix 10.1	Repealed	18:18 VA.R. 2287	6/19/02
Appendix 10.4	Repealed	18:18 VA.R. 2287	6/19/02
9 VAC 20-160-10 through 9 VAC 20-160-40	Amended	18:18 VA.R. 2288-2290	7/1/02
9 VAC 20-160-50	Repealed	18:18 VA.R. 2290	7/1/02
9 VAC 20-160-60 through 9 VAC 20-160-120	Amended	18:18 VA.R. 2290-2292	7/1/02
9 VAC 20-160-130	Repealed	18:18 VA.R. 2292	7/1/02
9 VAC 25-20-110 emer	Amended	18:21 VA.R. 2839	7/1/02-6/30/03
9 VAC 25-20-120 emer	Amended	18:21 VA.R. 2840	7/1/02-6/30/03
9 VAC 25-20-130 emer	Amended	18:21 VA.R. 2841	7/1/02-6/30/03
9 VAC 25-31-50	Amended	18:25 VA.R. 3552	9/25/02
9 VAC 25-31-100	Amended	18:25 VA.R. 3553	9/25/02
9 VAC 25-60	Repealed	18:20 VA.R. 2657	7/17/02
9 VAC 25-194-10	Amended	18:19 VA.R. 2452	10/15/02
9 VAC 25-194-40 through 9 VAC 25-194-70	Amended	18:19 VA.R. 2452	10/15/02
9 VAC 25-194-80	Repealed	18:19 VA.R. 2452	10/15/02
9 VAC 25-260-5	Amended	18:20 VA.R. 2658	*
9 VAC 25-260-50	Amended	17:16 VA.R. 2381	6/5/02**
9 VAC 25-260-55	Added	17:16 VA.R. 2381	6/5/02**
9 VAC 25-260-140	Amended	18:24 VA.R. 3289	*
9 VAC 25-260-140	Erratum	18:25 VA.R. 3607	--
9 VAC 25-260-155	Amended	18:24 VA.R. 3289	*
9 VAC 25-260-160	Amended	18:20 VA.R. 2658	*
9 VAC 25-260-170	Amended	18:20 VA.R. 2658	*
9 VAC 25-260-310	Amended	18:20 VA.R. 2659	*
9 VAC 25-260-390	Amended	18:20 VA.R. 2661	*
9 VAC 25-420	Repealed	18:26 VA.R. 3808	***
9 VAC 25-430	Repealed	18:26 VA.R. 3808	***
9 VAC 25-440	Repealed	18:26 VA.R. 3808	***
9 VAC 25-450	Repealed	18:26 VA.R. 3808	***
9 VAC 25-452	Repealed	18:26 VA.R. 3808	***
9 VAC 25-460	Repealed	18:26 VA.R. 3808	***
9 VAC 25-470	Repealed	18:26 VA.R. 3808	***
9 VAC 25-480	Repealed	18:26 VA.R. 3808	***
9 VAC 25-490	Repealed	18:26 VA.R. 3808	***
9 VAC 25-500	Repealed	18:26 VA.R. 3808	***

* 30 days after notice in the *Virginia Register* of EPA approval.

** Notice of effective date published in 18:17 VA.R. 2174.

*** Effective date suspended at publication for further public comment.

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
9 VAC 25-510	Repealed	18:26 VA.R. 3808	***
9 VAC 25-520	Repealed	18:26 VA.R. 3808	***
9 VAC 25-530	Repealed	18:26 VA.R. 3808	***
9 VAC 25-540	Repealed	18:26 VA.R. 3808	***
9 VAC 25-550	Repealed	18:26 VA.R. 3808	***
9 VAC 25-560	Repealed	18:26 VA.R. 3808	***
9 VAC 25-570	Repealed	18:26 VA.R. 3808	***
9 VAC 25-572	Repealed	18:26 VA.R. 3808	***
9 VAC 25-720-10 through 9 VAC 25-720-140	Added	18:26 VA.R. 3809-3852	***
Title 10. Finance and Financial Institutions			
10 VAC 5-160-50	Added	18:19 VA.R. 2453	5/15/02
10 VAC 5-200-10 through 10 VAC 5-200-80	Added	18:24 VA.R. 3296-3299	7/22/02
Title 11. Gaming			
11 VAC 10-20-260 through 11 VAC 10-20-310	Amended	18:20 VA.R. 2661-2664	5/22/02
11 VAC 10-20-330	Amended	18:20 VA.R. 2664	5/22/02
11 VAC 10-20-340	Amended	18:20 VA.R. 2671	5/22/02
11 VAC 10-100-80	Amended	18:23 VA.R. 3097	7/1/02
11 VAC 10-100-100	Amended	18:23 VA.R. 3097	7/1/02
11 VAC 10-100-110	Repealed	18:23 VA.R. 3097	7/1/02
11 VAC 10-100-140	Repealed	18:23 VA.R. 3097	7/1/02
11 VAC 10-100-150	Amended	18:23 VA.R. 3097	7/1/02
11 VAC 10-100-150	Erratum	18:23 VA.R. 3136	--
11 VAC 10-100-151	Added	18:23 VA.R. 3097	7/1/02
11 VAC 10-100-152	Added	18:23 VA.R. 3097	7/1/02
11 VAC 10-100-170	Amended	18:23 VA.R. 3097	7/1/02
11 VAC 10-100-190	Amended	18:23 VA.R. 3097	7/1/02
11 VAC 10-110-10	Amended	18:23 VA.R. 3098	7/1/02
11 VAC 10-110-20	Amended	18:23 VA.R. 3098	7/1/02
11 VAC 10-110-40	Amended	18:23 VA.R. 3098	7/1/02
11 VAC 10-110-60	Amended	18:23 VA.R. 3098	7/1/02
11 VAC 10-110-80	Amended	18:23 VA.R. 3098	7/1/02
11 VAC 10-110-90	Amended	18:23 VA.R. 3098	7/1/02
11 VAC 10-110-150	Amended	18:23 VA.R. 3098	7/1/02
11 VAC 10-110-180	Amended	18:23 VA.R. 3098	7/1/02
11 VAC 10-120-20	Amended	18:23 VA.R. 3098	7/1/02
11 VAC 10-120-40	Amended	18:23 VA.R. 3098	7/1/02
11 VAC 10-120-50	Amended	18:23 VA.R. 3098	7/1/02
11 VAC 10-120-80	Amended	18:23 VA.R. 3098	7/1/02
11 VAC 10-120-90	Repealed	18:23 VA.R. 3098	7/1/02
11 VAC 10-120-100	Amended	18:23 VA.R. 3098	7/1/02
11 VAC 10-130-10	Amended	18:20 VA.R. 2672	5/22/02
11 VAC 10-130-20	Amended	18:20 VA.R. 2673	5/22/02
11 VAC 10-130-51	Amended	18:20 VA.R. 2674	5/22/02
11 VAC 10-130-52	Added	18:20 VA.R. 2674	5/22/02
11 VAC 10-130-60	Amended	18:20 VA.R. 2674	5/22/02
11 VAC 10-140-10	Amended	18:23 VA.R. 3098	7/1/02
11 VAC 10-140-30	Amended	18:23 VA.R. 3098	7/1/02
11 VAC 10-140-40	Amended	18:23 VA.R. 3098	7/1/02
11 VAC 10-140-60	Amended	18:23 VA.R. 3098	7/1/02
11 VAC 10-140-130	Amended	18:23 VA.R. 3098	7/1/02
11 VAC 10-140-140	Amended	18:23 VA.R. 3098	7/1/02
11 VAC 10-140-170	Amended	18:23 VA.R. 3098	7/1/02
11 VAC 10-140-180	Amended	18:23 VA.R. 3098	7/1/02

*** Effective date suspended at publication for further public comment.

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
11 VAC 10-140-310	Amended	18:23 VA.R. 3098	7/1/02
11 VAC 10-150-130	Amended	18:23 VA.R. 3099	7/1/02
11 VAC 10-150-130	Erratum	18:23 VA.R. 3136	--
11 VAC 10-150-140	Amended	18:23 VA.R. 3099	7/1/02
11 VAC 10-150-190	Added	18:23 VA.R. 3099	7/1/02
11 VAC 10-150-200	Added	18:23 VA.R. 3099	7/1/02
11 VAC 10-160-10	Amended	18:23 VA.R. 3099	7/1/02
11 VAC 10-160-20	Amended	18:23 VA.R. 3099	7/1/02
11 VAC 10-160-90	Repealed	18:23 VA.R. 3099	7/1/02
11 VAC 10-160-120 through 11 VAC 10-160-150	Amended	18:23 VA.R. 3099	7/1/02
11 VAC 10-180-10	Amended	18:19 VA.R. 2453	5/10/02
11 VAC 10-180-20	Amended	18:19 VA.R. 2454	5/10/02
11 VAC 10-180-40 through 11 VAC 10-180-90	Amended	18:19 VA.R. 2455-2462	5/10/02
11 VAC 10-180-60	Erratum	18:20 VA.R. 2681	--
Title 12. Health			
12 VAC 5-65	Repealed	18:12 VA.R. 1685	3/27/02
12 VAC 5-66-10 through 12 VAC 5-66-80	Added	18:12 VA.R. 1685-1688	3/27/02
12 VAC 5-66-10 through 12 VAC 5-66-80	Erratum	18:13 VA.R. 1764	--
12 VAC 5-410-230	Amended	19:1 VA.R. 103	11/1/02
12 VAC 5-410-390	Amended	19:1 VA.R. 103	11/1/02
12 VAC 5-410-1170	Amended	19:1 VA.R. 104	11/1/02
12 VAC 5-410-1180	Amended	19:1 VA.R. 104	11/1/02
12 VAC 5-120-10 through 12 VAC 5-120-90	Added	18:16 VA.R. 2057-2058	5/22/02
12 VAC 5-475-10 through 12 VAC 5-475-90	Added	18:12 VA.R. 1691	3/27/02
12 VAC 5-520-10	Amended	18:15 VA.R. 1969	5/8/02
12 VAC 5-520-20	Amended	18:15 VA.R. 1969	5/8/02
12 VAC 5-520-30	Amended	18:15 VA.R. 1969	5/8/02
12 VAC 5-520-30	Erratum	18:18 VA.R. 2369	--
12 VAC 5-520-40 through 12 VAC 5-520-70	Repealed	18:15 VA.R. 1969	5/8/02
12 VAC 5-520-80	Amended	18:15 VA.R. 1969	5/8/02
12 VAC 5-520-90 through 12 VAC 5-520-120	Repealed	18:15 VA.R. 1969	5/8/02
12 VAC 5-520-130 through 12 VAC 5-520-210	Added	18:15 VA.R. 1969	5/8/02
12 VAC 5-590-10	Amended	18:19 VA.R. 2462	7/3/02
12 VAC 5-590-370	Amended	18:19 VA.R. 2468	7/3/02
12 VAC 5-590-370	Erratum	18:22 VA.R. 2953	--
12 VAC 5-590-410	Amended	18:19 VA.R. 2474	7/3/02
12 VAC 5-590-420	Amended	18:19 VA.R. 2477	7/3/02
12 VAC 5-590-420	Erratum	18:22 VA.R. 2954	--
12 VAC 5-590-440	Amended	18:19 VA.R. 2490	7/3/02
12 VAC 5-590-500	Amended	18:19 VA.R. 2496	7/3/02
12 VAC 5-590-530	Amended	18:19 VA.R. 2496	7/3/02
12 VAC 5-590-540	Amended	18:19 VA.R. 2502	7/3/02
12 VAC 5-590-550	Amended	18:19 VA.R. 2504	7/3/02
12 VAC 5-590 Appendix B	Amended	18:19 VA.R. 2505	7/3/02
12 VAC 5-590 Appendix F	Amended	18:19 VA.R. 2506	7/3/02
12 VAC 5-615-10 through 12 VAC 5-615-470	Added	18:18 VA.R. 2293-2300	7/1/02
12 VAC 30-40-220	Amended	18:18 VA.R. 2304	7/1/02
12 VAC 30-40-280	Amended	18:18 VA.R. 2307	7/1/02
12 VAC 30-40-280	Amended	18:23 VA.R. 3099	9/1/02
12 VAC 30-40-290	Amended	18:18 VA.R. 2307	7/1/02
12 VAC 30-40-345	Amended	18:18 VA.R. 2308	7/1/02
12 VAC 30-50-190	Amended	18:18 VA.R. 2309	7/1/02
12 VAC 30-50-210	Amended	18:18 VA.R. 2310	7/1/02
12 VAC 30-60-300	Amended	18:18 VA.R. 2312	6/20/02
12 VAC 30-60-303	Added	18:18 VA.R. 2313	6/20/02
12 VAC 30-60-307	Added	18:18 VA.R. 2315	6/20/02

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 30-60-312	Added	18:18 VA.R. 2315	6/20/02
12 VAC 30-60-316	Added	18:18 VA.R. 2316	6/20/02
12 VAC 30-60-318	Added	18:18 VA.R. 2316	6/20/02
12 VAC 30-70-201 emer	Amended	18:26 VA.R. 3906	9/1/02-8/31/03
12 VAC 30-70-221 emer	Amended	18:22 VA.R. 2936	7/1/02-6/30/03
12 VAC 30-70-281 emer	Amended	18:22 VA.R. 2938	7/1/02-6/30/03
12 VAC 30-70-351 emer	Amended	18:22 VA.R. 2939	7/1/02-6/30/03
12 VAC 30-70-425 emer	Added	18:25 VA.R. 3571	8/1/02-7/31/03
12 VAC 30-70-426 emer	Added	18:25 VA.R. 3571	8/1/02-7/31/03
12 VAC 30-80-20	Amended	18:21 VA.R. 2818	8/1/02
12 VAC 30-80-20 emer	Amended	18:22 VA.R. 2939	7/1/02-6/30/03
12 VAC 30-80-20 emer	Amended	18:25 VA.R. 3571	8/1/02-7/31/03
12 VAC 30-80-25	Added	18:21 VA.R. 2820	8/1/02
12 VAC 30-80-30 emer	Amended	18:25 VA.R. 3573	8/1/02-7/31/03
12 VAC 30-80-30 emer	Amended	18:25 VA.R. 3576	8/1/02-7/31/03
12 VAC 30-80-40 emer	Amended	18:22 VA.R. 2941	7/1/02-6/30/03
12 VAC 30-90-10	Amended	18:18 VA.R. 2319	7/1/02
12 VAC 30-90-18 emer	Added	18:25 VA.R. 3575	8/1/02-7/31/03
12 VAC 30-90-19 emer	Amended	18:25 VA.R. 3575	8/1/02-7/31/03
12 VAC 30-90-20	Amended	18:18 VA.R. 2320	7/1/02
12 VAC 30-90-38	Amended	18:18 VA.R. 2321	7/1/02
12 VAC 30-90-40	Amended	18:18 VA.R. 2321	7/1/02
12 VAC 30-90-41	Amended	18:18 VA.R. 2321	7/1/02
12 VAC 30-90-41.1 emer	Added	18:23 VA.R. 3103	7/1/02-6/30/03
12 VAC 30-90-60	Amended	18:18 VA.R. 2324	7/1/02
12 VAC 30-90-271	Amended	18:18 VA.R. 2324	7/1/02
12 VAC 30-90-272	Amended	18:18 VA.R. 2325	7/1/02
12 VAC 30-90-280	Amended	18:18 VA.R. 2325	7/1/02
12 VAC 30-90-300	Repealed	18:18 VA.R. 2327	7/1/02
12 VAC 30-90-301	Repealed	18:18 VA.R. 2327	7/1/02
12 VAC 30-90-302	Repealed	18:18 VA.R. 2327	7/1/02
12 VAC 30-90-303	Repealed	18:18 VA.R. 2327	7/1/02
12 VAC 30-90-304	Repealed	18:18 VA.R. 2327	7/1/02
12 VAC 30-90-305	Added	18:18 VA.R. 2327	7/1/02
12 VAC 30-90-306	Added	18:18 VA.R. 2327	7/1/02
12 VAC 30-90-306	Erratum	18:20 VA.R. 2681	--
12 VAC 30-90-307	Added	18:18 VA.R. 2328	7/1/02
12 VAC 30-110-720	Amended	18:21 VA.R. 2821	8/1/02
12 VAC 30-110-741	Amended	18:21 VA.R. 2823	8/1/02
12 VAC 30-110-831	Added	18:21 VA.R. 2823	8/1/02
12 VAC 30-120-10 emer	Amended	18:12 VA.R. 1698	2/1/02-1/31/03
12 VAC 30-120-40 emer	Amended	18:12 VA.R. 1699	2/1/02-1/31/03
12 VAC 30-120-50 emer	Amended	18:12 VA.R. 1701	2/1/02-1/31/03
12 VAC 30-120-55 emer	Added	18:12 VA.R. 1702	2/1/02-1/31/03
12 VAC 30-120-60 emer	Amended	18:12 VA.R. 1704	2/1/02-1/31/03
12 VAC 30-120-210	Repealed	18:26 VA.R. 3853	10/16/02
12 VAC 30-120-211 through 12 VAC 30-120-219	Added	18:26 VA.R. 3855-3865	10/16/02
12 VAC 30-120-220	Repealed	18:26 VA.R. 3865	10/16/02
12 VAC 30-120-221 through 12 VAC 30-120-229	Added	18:26 VA.R. 3867-3875	10/16/02
12 VAC 30-120-230	Repealed	18:26 VA.R. 3875	10/16/02
12 VAC 30-120-231 through 12 VAC 30-120-237	Added	18:26 VA.R. 3878-3883	10/16/02
12 VAC 30-120-240	Repealed	18:26 VA.R. 3883	10/16/02
12 VAC 30-120-241 through 12 VAC 30-120-249	Added	18:26 VA.R. 3885-3893	10/16/02
12 VAC 30-120-250	Repealed	18:26 VA.R. 3893	10/16/02
12 VAC 30-135-10 through 12 VAC 30-135-80 emer	Added	18:25 VA.R. 3579-3580	10/1/02-9/30/03
12 VAC 30-141-90	Erratum	18:18 VA.R. 2369	--

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 30-141-10 through 12 VAC 30-141-650 emer	Adding	19:1 VA.R. 138-150	9/1/02-8/31/02
12 VAC 30-141-10 through 12 VAC 30-141-650 emer	Added	18:25 VA.R. 3580-3590	8/1/02-7/31/03
12 VAC 30-150-10 through 12 VAC 30-150-100	Added	18:17 VA.R. 2174	6/6/02
12 VAC 30-150	Erratum	18:18 VA.R. 2370	--
12 VAC 35-20	Repealed	18:12 VA.R. 1691	3/27/02
12 VAC 35-102	Repealed	18:18 VA.R. 2330	9/19/02
12 VAC 35-105-10 through 12 VAC 35-105-1410	Added	18:18 VA.R. 2331-2365	9/19/02
12 VAC 35-105-20 emer	Amended	18:25 VA.R. 3591	9/19/02-9/18/03
12 VAC 35-105-30 emer	Amended	18:25 VA.R. 3597	9/19/02-9/18/03
12 VAC 35-105-280 emer	Amended	18:25 VA.R. 3598	9/19/02-9/18/03
12 VAC 35-105-590 emer	Amended	18:25 VA.R. 3598	9/19/02-9/18/03
12 VAC 35-105-660 emer	Amended	18:25 VA.R. 3598	9/19/02-9/18/03
12 VAC 35-105-800 emer	Amended	18:25 VA.R. 3599	9/19/02-9/18/03
12 VAC 35-140	Repealed	18:12 VA.R. 1691	3/27/02
12 VAC 35-150	Repealed	18:12 VA.R. 1691	3/27/02
12 VAC 35-160	Repealed	18:12 VA.R. 1691	3/27/02
12 VAC 35-170	Repealed	18:18 VA.R. 2330	9/19/02
12 VAC 35-200-10	Amended	18:16 VA.R. 2059	5/22/02
12 VAC 35-200-20	Amended	18:16 VA.R. 2060	5/22/02
12 VAC 35-200-30	Amended	18:16 VA.R. 2061	5/22/02
Title 13. Housing			
13 VAC 5-51-11	Amended	18:22 VA.R. 2928	8/15/02
13 VAC 5-51-180	Amended	18:22 VA.R. 2929	8/15/02
13 VAC 5-51-181	Amended	18:22 VA.R. 2929	8/15/02
13 VAC 5-51-182	Amended	18:22 VA.R. 2930	8/15/02
Title 14. Insurance			
14 VAC 5-70-10 through 14 VAC 5-70-40	Amended	18:22 VA.R. 2931-2932	7/1/02
14 VAC 5-70-80	Amended	18:22 VA.R. 2932	7/1/02
14 VAC 5-70-130	Amended	18:22 VA.R. 2933	7/1/02
14 VAC 5-71-10 through 14 VAC 5-71-100	Amended	19:1 VA.R. 104	9/4/02
14 VAC 5-80-160 through 14 VAC 5-80-190	Repealed	18:14 VA.R. 1896	3/31/02
14 VAC 5-140-20 through 14 VAC 5-140-90	Amended	18:21 VA.R. 2824	7/1/02
14 VAC 5-210-70	Amended	18:26 VA.R. 3896	9/1/02
14 VAC 5-210-90	Amended	18:26 VA.R. 3896	9/1/02
14 VAC 5-350-20	Amended	19:1 VA.R. 107	9/1/02
14 VAC 5-350-30	Amended	19:1 VA.R. 107	9/1/02
14 VAC 5-350-40 through 14 VAC 5-350-80	Repealed	19:1 VA.R. 108	9/1/02
14 VAC 5-350-85	Added	19:1 VA.R. 108	9/1/02
14 VAC 5-350-95	Added	19:1 VA.R. 108	9/1/02
14 VAC 5-350-110 through 14 VAC 5-350-140	Repealed	19:1 VA.R. 108	9/1/02
14 VAC 5-350-150	Amended	19:1 VA.R. 108	9/1/02
14 VAC 5-350-155	Added	19:1 VA.R. 108	9/1/02
14 VAC 5-350-160	Amended	19:1 VA.R. 108	9/1/02
14 VAC 5-350-165	Added	19:1 VA.R. 108	9/1/02
14 VAC 5-350-170	Repealed	19:1 VA.R. 108	9/1/02
14 VAC 5-350-180	Repealed	19:1 VA.R. 108	9/1/02
14 VAC 5-350-210	Amended	19:1 VA.R. 108	9/1/02
14 VAC 5-390-20	Amended	18:12 VA.R. 1692	2/1/02
14 VAC 5-390-30	Amended	18:12 VA.R. 1692	2/1/02
14 VAC 5-390-40	Amended	18:12 VA.R. 1692	2/1/02
14 VAC 5-395-20	Amended	18:21 VA.R. 2825	6/3/02
14 VAC 5-395-30 through 14 VAC 5-395-60	Amended	18:21 VA.R. 2825	6/3/02
Title 16. Labor and Employment			
16 VAC 5-10-10	Amended	18:26 VA.R. 3897	11/3/02
16 VAC 5-10-20	Amended	18:26 VA.R. 3897	11/3/02
16 VAC 5-10-21	Added	18:26 VA.R. 3898	11/3/02

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16 VAC 5-10-22	Added	18:26 VA.R. 3898	11/3/02
16 VAC 5-10-30	Amended	18:26 VA.R. 3898	11/3/02
16 VAC 5-20-10	Amended	18:26 VA.R. 3900	11/3/02
16 VAC 5-20-20	Amended	18:26 VA.R. 3900	11/3/02
16 VAC 5-32-10	Amended	18:26 VA.R. 3900	11/3/02
16 VAC 5-32-20	Amended	18:26 VA.R. 3900	11/3/02
16 VAC 5-60-10	Amended	18:26 VA.R. 3898	11/3/02
16 VAC 5-60-20	Amended	18:26 VA.R. 3900	11/3/02
16 VAC 5-60-40	Amended	18:26 VA.R. 3900	11/3/02
16 VAC 5-70-10	Amended	18:26 VA.R. 3900	11/3/02
16 VAC 5-70-20	Amended	18:26 VA.R. 3900	11/3/02
16 VAC 5-80-10	Amended	18:26 VA.R. 3900	11/3/02
16 VAC 5-80-20	Amended	18:26 VA.R. 3900	11/3/02
16 VAC 5-80-30	Amended	18:26 VA.R. 3900	11/3/02
16 VAC 5-80-40	Amended	18:26 VA.R. 3900	11/3/02
Title 18. Professional and Occupational Licensing			
18 VAC 41-20-10 through 18 VAC 41-20-280 emer	Added	18:23 VA.R. 3103-3113	7/2/02-7/1/03
18 VAC 45-10-10	Amended	18:19 VA.R. 2508	7/8/02
18 VAC 45-10-20	Amended	18:19 VA.R. 2508	7/8/02
18 VAC 45-10-30	Amended	18:19 VA.R. 2508	7/8/02
18 VAC 45-10-50	Amended	18:19 VA.R. 2508	7/8/02
18 VAC 45-10-90	Amended	18:19 VA.R. 2508	7/8/02
18 VAC 60-20-10 emer	Amended	18:24 VA.R. 3301	7/19/02-7/18/03
18 VAC 60-20-90 emer	Amended	18:24 VA.R. 3303	7/19/02-7/18/03
18 VAC 60-20-106 emer	Added	18:24 VA.R. 3303	7/19/02-7/18/03
18 VAC 60-20-200 emer	Amended	18:24 VA.R. 3302	7/19/02-7/18/03
18 VAC 60-20-210 emer	Amended	18:24 VA.R. 3302	7/19/02-7/18/03
18 VAC 60-20-220 emer	Amended	18:24 VA.R. 3302	7/19/02-7/18/03
18 VAC 85-20-225 emer	Added	18:24 VA.R. 3307	7/19/02-7/18/03
18 VAC 85-20-280 emer	Amended	18:22 VA.R. 2943	6/19/02-6/18/03
18 VAC 85-20-285 emer	Added	18:22 VA.R. 2944	6/19/02-6/18/03
18 VAC 85-20-290 emer	Amended	18:22 VA.R. 2944	6/19/02-6/18/03
18 VAC 85-20-300 emer	Amended	18:22 VA.R. 2944	6/19/02-6/18/03
18 VAC 85-40-55 emer	Added	18:24 VA.R. 3307	7/19/02-7/18/03
18 VAC 85-50-10 emer	Amended	18:24 VA.R. 3309	7/19/02-7/18/03
18 VAC 85-50-35	Added	18:21 VA.R. 2826	7/31/02
18 VAC 85-50-40 emer	Amended	18:24 VA.R. 3309	7/19/02-7/18/03
18 VAC 85-50-56	Amended	18:21 VA.R. 2826	7/31/02
18 VAC 85-50-59 emer	Added	18:24 VA.R. 3309	7/19/02-7/18/03
18 VAC 85-50-101 emer	Amended	18:24 VA.R. 3309	7/19/02-7/18/03
18 VAC 85-50-110 emer	Amended	18:24 VA.R. 3310	7/19/02-7/18/03
18 VAC 85-50-115	Amended	18:21 VA.R. 2826	7/31/02
18 VAC 85-50-115 emer	Amended	18:24 VA.R. 3310	7/19/02-7/18/03
18 VAC 85-50-170	Repealed	18:21 VA.R. 2826	7/31/02
18 VAC 85-80-10	Amended	19:1 VA.R. 108	10/23/02
18 VAC 85-80-26	Added	19:1 VA.R. 108	10/23/02
18 VAC 85-80-35	Amended	19:1 VA.R. 108	10/23/02
18 VAC 85-80-40	Amended	19:1 VA.R. 108	10/23/02
18 VAC 85-80-45	Added	19:1 VA.R. 108	10/23/02
18 VAC 85-80-60 through 18 VAC 85-80-110	Amended	19:1 VA.R. 108	10/23/02
18 VAC 85-80-120	Repealed	19:1 VA.R. 109	10/23/02
18 VAC 85-80-65 emer	Added	18:24 VA.R. 3307	7/19/02-7/18/03
18 VAC 85-101-10	Amended	19:1 VA.R. 109	10/23/02
18 VAC 85-101-60	Amended	19:1 VA.R. 109	10/23/02
18 VAC 85-101-70	Amended	19:1 VA.R. 110	10/23/02
18 VAC 85-101-150	Amended	19:1 VA.R. 110	10/23/02

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18 VAC 85-101-145 emer	Added	18:24 VA.R. 3308	7/19/02-7/18/03
18 VAC 85-110-145 emer	Added	18:24 VA.R. 3308	7/19/02-7/18/03
18 VAC 85-120-85 emer	Added	18:24 VA.R. 3308	7/19/02-7/18/03
18 VAC 90-20-200	Amended	18:21 VA.R. 2826	7/31/02
18 VAC 90-20-210	Amended	18:21 VA.R. 2826	7/31/02
18 VAC 90-20-271 emer	Added	18:24 VA.R. 3311	7/19/02-7/18/03
18 VAC 90-30-20	Amended	18:15 VA.R. 1970	5/8/02
18 VAC 90-30-100	Amended	18:15 VA.R. 1970	5/8/02
18 VAC 90-30-105	Added	18:15 VA.R. 1970	5/8/02
18 VAC 90-30-220	Amended	18:15 VA.R. 1970	5/8/02
18 VAC 90-40-20	Amended	18:15 VA.R. 1977	5/8/02
18 VAC 90-40-50	Amended	18:15 VA.R. 1977	5/8/02
18 VAC 90-40-55	Added	18:15 VA.R. 1977	5/8/02
18 VAC 90-40-60	Amended	18:15 VA.R. 1977	5/8/02
18 VAC 90-40-130	Amended	18:15 VA.R. 1977	5/8/02
18 VAC 105-20-75 emer	Added	18:24 VA.R. 3311	7/19/02-7/18/03
18 VAC 110-20-20	Amended	18:12 VA.R. 1693	3/27/02
18 VAC 110-20-75 emer	Added	18:24 VA.R. 3312	7/19/02-7/18/03
18 VAC 110-20-240 emer	Amended	18:24 VA.R. 3314	7/19/02-7/18/03
18 VAC 110-20-255 emer	Added	18:24 VA.R. 3315	7/19/02-7/18/03
18 VAC 110-20-270	Amended	18:12 VA.R. 1693	3/27/02
18 VAC 110-20-275 emer	Added	18:24 VA.R. 3315	7/19/02-7/18/03
18 VAC 110-20-280	Amended	18:12 VA.R. 1693	3/27/02
18 VAC 110-20-285	Amended	18:12 VA.R. 1694	3/27/02
18 VAC 110-20-320 emer	Amended	18:24 VA.R. 3316	7/19/02-7/18/03
18 VAC 110-20-400 emer	Amended	18:24 VA.R. 3316	7/19/02-7/18/03
18 VAC 110-20-430	Amended	18:12 VA.R. 1694	3/27/02
18 VAC 110-20-430 emer	Repealed	18:24 VA.R. 3316	7/19/02-7/18/03
18 VAC 110-20-530 emer	Amended	18:24 VA.R. 3316	7/19/02-7/18/03
18 VAC 110-20-730 emer	Added	18:24 VA.R. 3317	7/19/02-7/18/03
18 VAC 112-20-10	Amended	19:1 VA.R. 110	10/23/02
18 VAC 112-20-130	Amended	19:1 VA.R. 110	10/23/02
18 VAC 112-20-131	Added	19:1 VA.R. 110	10/23/02
18 VAC 112-20-135	Amended	19:1 VA.R. 110	10/23/02
18 VAC 112-20-136	Added	19:1 VA.R. 110	10/23/02
18 VAC 112-20-140	Amended	19:1 VA.R. 110	10/23/02
18 VAC 115-30-140	Amended	19:1 VA.R. 110	10/23/02
18 VAC 115-60-130	Amended	19:1 VA.R. 111	10/23/02
18 VAC 125-10-10	Amended	18:12 VA.R. 1694	3/27/02
18 VAC 125-10-20	Amended	18:12 VA.R. 1694	3/27/02
18 VAC 125-10-30	Amended	18:12 VA.R. 1695	3/27/02
18 VAC 125-10-40	Amended	18:12 VA.R. 1695	3/27/02
18 VAC 125-10-60	Amended	18:12 VA.R. 1695	3/27/02
18 VAC 125-10-70	Amended	18:12 VA.R. 1695	3/27/02
18 VAC 125-10-80	Amended	18:12 VA.R. 1695	3/27/02
18 VAC 125-10-100	Amended	18:12 VA.R. 1695	3/27/02
18 VAC 125-30 (Forms)	Amended	18:15 VA.R. 1985	--
18 VAC 125-30-10 through 18 VAC 125-30-50	Amended	18:13 VA.R. 1753-1754	4/10/02
18 VAC 125-30-60	Repealed	18:13 VA.R. 1754	4/10/02
18 VAC 125-30-80	Amended	18:13 VA.R. 1755	4/10/02
18 VAC 125-30-90	Amended	18:13 VA.R. 1755	4/10/02
18 VAC 150-20-135 emer	Added	18:24 VA.R. 3320	7/19/02-7/18/03
Title 20. Public Utilities and Telecommunications			
20 VAC 5-300-90	Amended	18:21 VA.R. 2832	6/7/02
20 VAC 5-302-20	Amended	19:1 VA.R. 115	8/21/02
20 VAC 5-302-25	Added	19:1 VA.R. 117	8/21/02

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20 VAC 5-302-35	Added	19:1 VA.R. 118	8/21/02
20 VAC 5-312-90	Erratum	18:23 VA.R. 3136	--
20 VAC 5-312-90	Amended	19:1 VA.R. 121	1/1/03
20 VAC 5-312-100	Amended	18:26 VA.R. 3904	1/1/03
20 VAC 5-312-120	Added	18:26 VA.R. 3905	1/1/03
20 VAC 5-423-10 through 20 VAC 5-423-90	Added	18:14 VA.R. 1899-1902	3/6/02
Title 22. Social Services			
22 VAC 5-10-10	Amended	19:1 VA.R. 124	10/23/02
22 VAC 5-10-20	Amended	19:1 VA.R. 124	10/23/02
22 VAC 5-10-100	Amended	19:1 VA.R. 124	10/23/02
22 VAC 5-20-20 through 22 VAC 5-20-100	Amended	19:1 VA.R. 124-132	10/23/02
22 VAC 5-20-110	Repealed	19:1 VA.R. 132	10/23/02
22 VAC 5-20-120	Amended	19:1 VA.R. 132	10/23/02
22 VAC 5-20-140	Amended	19:1 VA.R. 133	10/23/02
22 VAC 5-20-150	Amended	19:1 VA.R. 134	10/23/02
22 VAC 5-20-170	Amended	19:1 VA.R. 134	10/23/02
22 VAC 5-20-180	Amended	19:1 VA.R. 134	10/23/02
22 VAC 5-20-190	Amended	19:1 VA.R. 134	10/23/02
22 VAC 5-20-210	Amended	19:1 VA.R. 134	10/23/02
22 VAC 5-20-230	Amended	19:1 VA.R. 134	10/23/02
22 VAC 5-20-250	Amended	19:1 VA.R. 134	10/23/02
22 VAC 5-20-300	Amended	19:1 VA.R. 134	10/23/02
22 VAC 5-20-310	Amended	19:1 VA.R. 134	10/23/02
22 VAC 5-20-330	Amended	19:1 VA.R. 134	10/23/02
22 VAC 5-20-450	Amended	19:1 VA.R. 135	10/23/02
22 VAC 5-20-460	Amended	19:1 VA.R. 135	10/23/02
22 VAC 5-20-580	Amended	19:1 VA.R. 135	10/23/02
22 VAC 5-20-600	Amended	19:1 VA.R. 136	10/23/02
22 VAC 15-10-10	Amended	18:14 VA.R. 1902	5/1/02
22 VAC 15-10-30	Amended	18:14 VA.R. 1902	5/1/02
22 VAC 15-10-40	Amended	18:14 VA.R. 1902	5/1/02
22 VAC 15-10-50	Amended	18:14 VA.R. 1902	5/1/02
22 VAC 15-10-60	Amended	18:14 VA.R. 1902	5/1/02
22 VAC 15-10-70	Amended	18:14 VA.R. 1902	5/1/02
22 VAC 40-41-10	Amended	18:12 VA.R. 1696	4/1/02
22 VAC 40-41-20	Amended	18:12 VA.R. 1696	4/1/02
22 VAC 40-41-40	Amended	18:12 VA.R. 1696	4/1/02
22 VAC 40-41-50	Amended	18:12 VA.R. 1696	4/1/02
22 VAC 40-41-55	Added	18:12 VA.R. 1696	4/1/02
22 VAC 40-685-10 emer	Added	18:24 VA.R. 3320	9/1/02-8/31/03
22 VAC 40-685-20 emer	Added	18:24 VA.R. 3321	9/1/02-8/31/03
22 VAC 40-685-30 emer	Added	18:24 VA.R. 3321	9/1/02-8/31/03
22 VAC 40-690 (Forms)	Amended	18:22 VA.R. 2945	--
22 VAC 40-880-10	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-30	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-60	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-80	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-110	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-120	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-130	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-170	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-190	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-200 through 22 VAC 40-880-300	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-270	Erratum	18:17 VA.R. 2183	--
22 VAC 40-880-290	Erratum	18:17 VA.R. 2183	--
22 VAC 40-880-320	Amended	18:14 VA.R. 1903	4/24/02

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22 VAC 40-880-330	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-340	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-360	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-380	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-385	Added	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-410	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-430	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-440	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-480 through 22 VAC 40-880-520	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-550	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-560	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-650	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-670	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-680	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-700	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-720	Added	18:14 VA.R. 1903	4/24/02
22 VAC 40-910-10 through 22 VAC 40-910-100 emer	Added	18:24 VA.R. 3322-3325	9/1/02-8/31/03
Title 24. Transportation and Motor Vehicles			
24 VAC 15-100	Repealed	18:22 VA.R. 2933	6/26/02
24 VAC 15-110	Repealed	18:22 VA.R. 2933	6/26/02
24 VAC 15-120	Repealed	18:22 VA.R. 2933	6/26/02
24 VAC 15-130	Repealed	18:22 VA.R. 2933	6/26/02
24 VAC 15-140	Repealed	18:22 VA.R. 2933	6/26/02
24 VAC 15-150	Repealed	18:22 VA.R. 2933	6/26/02
24 VAC 15-160	Repealed	18:22 VA.R. 2933	6/26/02
24 VAC 15-170	Repealed	18:22 VA.R. 2933	6/26/02
24 VAC 15-180	Repealed	18:22 VA.R. 2933	6/26/02
24 VAC 15-190	Repealed	18:22 VA.R. 2933	6/26/02
24 VAC 15-200	Repealed	18:22 VA.R. 2933	6/26/02
24 VAC 15-210	Repealed	18:22 VA.R. 2933	6/26/02
24 VAC 30-550-10	Amended	18:23 VA.R. 3100	7/2/02

NOTICES OF INTENDED REGULATORY ACTION

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

TITLE 2. AGRICULTURE

PESTICIDE CONTROL BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Pesticide Control Board intends to consider amending regulations entitled: **2 VAC 20-30. Rules and Regulations Governing the Pesticide Fees Charged By the Department of Agriculture and Consumer Services Under the Virginia Pesticide Control Act.** The purpose of the proposed action is to review the regulation for effectiveness and continued need, including amendments relating to pesticide fees charged. The agency invites comment on whether there should be an advisor.

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

Statutory Authority: §§ 3.1-249.30, 3.1-249.35, 3.1-249.36, 3.1-249.47, and 3.1-249.55 of the Code of Virginia.

Public comments may be submitted until October 14, 2002.

Contact: Marvin A. Lawson, Program Manager, Department of Agriculture and Consumer Services, 1100 Bank St., Room 401, Richmond, VA 23219, telephone (804) 371-6558, FAX (804) 371-8598, or e-mail mlawson@vdacs.state.va.us.

VA.R. Doc. No. R02-298; Filed July 23, 2002, 1:28 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Pesticide Control Board intends to consider amending regulations entitled: **2 VAC 20-40. Rules and Regulations Governing Licensing of Pesticide Businesses Operating Under Authority of the Department of Agriculture and Consumer Services Operating Under the Authority of the Virginia Pesticide Control Act.** The purpose of the proposed action is to review the regulation for effectiveness and continued need, including making the regulation up to date and consistent with statute. The agency invites comment on whether there should be an advisor.

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

Statutory Authority: §§ 3.1-249.30, 3.1-249.46, 3.1-249.49, and 3.1-249.50 of the Code of Virginia.

Public comments may be submitted until October 14, 2002.

Contact: Marvin A. Lawson, Program Manager, Department of Agriculture and Consumer Services, 1100 Bank St., Room 401, Richmond, VA 23219, telephone (804) 371-6558, FAX (804) 371-8598, or e-mail mlawson@vdacs.state.va.us.

VA.R. Doc. No. R02-299; Filed July 23, 2002, 1:28 p.m.

TITLE 6. CRIMINAL JUSTICE AND CORRECTIONS

STATE BOARD OF JUVENILE JUSTICE

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Juvenile Justice intends to consider promulgating regulations entitled: **6 VAC 35-170. Minimum Standards for Research Involving Human Subjects or Records of the Department of Juvenile Justice.** The purpose of the proposed action is to establish minimum standards for research on human subjects under the care of the Department of Juvenile Justice. The goals of the new regulation are to provide a fair and thorough review of proposals to conduct human research, including review by a specifically established human research review committee, so as to protect the safety, rights and confidentiality of human subjects.

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

Statutory Authority: §§ 66-10 and 66-10.1 of the Code of Virginia.

Public comments may be submitted until November 6, 2002.

Contact: Donald R. Carignan, Regulatory Coordinator, Department of Juvenile Justice, P.O. Box 1110, Richmond, VA 23218-1110, telephone (804) 371-0743 or FAX (804) 371-0773.

VA.R. Doc. No. R03-27; Filed September 18, 2002, 11:24 a.m.

TITLE 9. ENVIRONMENT

STATE WATER CONTROL BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Water Control Board intends to consider amending regulations entitled: **9 VAC 25-91. Facility and Aboveground Storage Tank (AST) Regulations.** The purpose of this regulation is to: (i) establish requirements for registration of facilities and individual petroleum aboveground storage tanks (AST) located within the Commonwealth; (ii) develop standards and procedures to prevent pollution from new and existing ASTs; and (iii) provide requirements for the development of facility oil discharge contingency plans for facilities with an aggregate capacity of 25,000 gallons or

greater of oil. (See 18:25 VA.R. 3393-3394 August 26, 2002, for more detailed information.)

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

Statutory Authority: §§ 62.1-44.15, 62.1-44.34:15, 62.1-44.35:15.1, 62.1-44.34:19.1 of the Code of Virginia.

Public comments may be submitted until 5 p.m., October 9, 2002.

Contact: Sam Lillard, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4276, FAX (804) 698-4266, or e-mail lslillard@deq.state.va.us.

VA.R. Doc. No. R02-307; Filed July 30, 2002, 8:29 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Water Control Board intends to consider amending regulations entitled: **9 VAC 25-580. Underground Storage Tanks: Technical Standards and Corrective Action Requirements.** The purpose of the proposed action is to amend the regulation in response to a periodic review. At a minimum the amendments will incorporate changes in the law and clarify that UST systems that missed the deadline for upgrade must be closed in accordance with the requirements of the regulation. (See 18:25 VA.R. 3394-3395 August 26, 2002, for more detailed information.)

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

Statutory Authority: §§ 62-1.44.15 and 62.1-44.34:8-9 of the Code of Virginia and 40 CFR Parts 280 and 281.

Public comments may be submitted until 5 p.m., October 9, 2002.

Contact: Fred Cunningham, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4285, FAX (804) 698-4266 or e-mail fkcunningh@deq.state.va.us.

VA.R. Doc. No. R02-308; Filed July 30, 2002, 8:28 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Water Control Board intends to consider amending regulations entitled: **9 VAC 25-590. Petroleum Underground Storage Tank Financial Responsibility Requirements.** The purpose of the proposed action is to propose administrative changes, to incorporate ways to reduce the cost of compliance with the existing requirements and such other amendments necessary in response to public comment. (See 18:25 VA.R. 3395-3396 August 26, 2002, for more detailed information.)

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

Statutory Authority: § 62.1-44.15 and 62.1-44.34:12 of the Code of Virginia and 40 CFR Part 280.

Public comments may be submitted until 5 p.m., October 9, 2002.

Contact: Cara L. Kail, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4053, FAX (804) 698-4327 or e-mail: clkail@deq.state.va.us.

VA.R. Doc. No. R02-309; Filed July 30, 2002, 8:27 a.m.

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TITLE 12. HEALTH

STATE BOARD OF HEALTH

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Health intends to consider amending regulations entitled: **12 VAC 5-90. Regulations for Disease Reporting and Control.** The purpose of the proposed action is to amend the regulations by adding a section in response to the General Assembly's amending §§ 32.1-35 and 32.1-36 of the Code of Virginia, requiring laboratories to report their inventories and changes in inventories of dangerous microbes and pathogens to the Department of Health. Changes will also be made to the existing regulations to comply with current disease control policies, facilitating efforts to capture, measure and contain emerging diseases and protecting the health of the citizens of the Commonwealth.

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

Statutory Authority: §§ 32.1-12 and 32.1-35 of the Code of Virginia.

Public comments may be submitted until November 7, 2002.

Contact: Diane Wollard, Ph.D., MPH, Director, Division of Surveillance and Investigation, P.O. Box 2448, Room 113, Richmond, VA 23218-2448, telephone (804) 786-6261, FAX (804) 371-4050 or e-mail dwoolard@vdh.state.va.us.

VA.R. Doc. No. R03-25; Filed September 17, 2002, 9:52 a.m.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Medical Assistance Services intends to consider amending regulations entitled: **12 VAC 30-70. Methods and Standards for Establishing Payment Rates; Inpatient Hospital Care.** The purpose of the proposed action is to comply with the 2002 legislative mandate to reduce reimbursements to inpatient hospitals across the Commonwealth.

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

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

Public comments may be submitted until October 9, 2002.

Contact: N. Stanley Fields, Director, Division of Cost Settlement and Reimbursement, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-5590, FAX (804) 786-1680 or e-mail sfields@dmas.state.va.us.

VA.R. Doc. No. R02-332; Filed August 8, 2002, 10:40 a.m.

TITLE 16. LABOR AND EMPLOYMENT

VIRGINIA WORKERS' COMPENSATION COMMISSION

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Virginia Workers' Compensation Commission intends to consider amending regulations entitled: **16 VAC 30-50. Rules of the Virginia Workers' Compensation Commission.** The purpose of the proposed action is to comply with the General Assembly's mandate (Chapter 538 of the 2002 Acts of Assembly), directing that the commission promulgate rules and regulations by July 1, 2003, "instituting an expedited calendar for the administration of claims under the Virginia Workers' Compensation Act in which the employer's denial of benefits satisfies criteria establishing that delays will cause an injured employee to incur severe economic hardship."

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

Statutory Authority: § 65.2-201 (A) of the Code of Virginia; Chapter 538 of the 2002 Acts of Assembly.

Public comments may be submitted until 5 p.m. on October 9, 2002.

Contact: Mary Ann Link, Chief Deputy Commissioner, Virginia Workers' Compensation Commission, 1000 DMV Drive, Richmond, VA 23220, telephone (804) 367-8664, FAX (804) 367-9740, or e-mail maryann.link@vwc.state.va.us.

VA.R. Doc. No. R02-333; Filed August 19, 2002, 3:19 p.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF ACCOUNTANCY

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Accountancy intends to consider repealing regulations entitled: **18 VAC 5-30. Continuing Professional Education Sponsor Registration Rules and Regulations.** The purpose of the proposed action is to repeal the existing regulations because the board deemed them no longer necessary to fulfill their statutory mandate as well as being repetitious and unduly burdensome on CPE sponsors in the Commonwealth in light of regulations and programs on the national level.

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

Statutory Authority: §§ 2.2-4016, 54.1-4403 and 54.1-4410 of the Code of Virginia.

Public comments may be submitted until November 7, 2002.

Contact: Nancy Taylor Feldman, Executive Director, Board of Accountancy, 3600 W. Broad St., Suite 696, Richmond, VA 23230-4916, telephone (804) 367-8505, FAX (804) 367-2174 or e-mail boa@boa.state.va.us.

VA.R. Doc. No. R03-28; Filed September 18, 2002, 11:57 a.m.

BOARD OF PHARMACY

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Pharmacy intends to consider amending regulations entitled: **18 VAC 110-20. Regulations Governing the Practice of Pharmacy.** The purpose of the proposed action is to address the numerous questions and recommendations that arose from the periodic review conducted by board members and advisors from all aspects of pharmacy practice. In some cases, there is a need for clarification of a rule; in others there is a need to amend the regulation to allow the practice of pharmacy to be more responsive to patient needs and changing times. The board intends to amend regulations that restrict practice or inhibit modernization and utilization of newer technology, provided the change is within the parameters of law and federal rules and provided it is good policy that protects the health, safety and welfare of the public.

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

Statutory Authority: § 54.1-2400 and Chapters 33 and 34 of Title 54.1 of the Code of Virginia.

Public comments may be submitted until November 6, 2002.

Contact: Elizabeth Scott Russell, Executive Director, Board of Pharmacy, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9911, FAX (804) 662-9943 or e-mail scotti.russell@dhp.state.va.us.

VA.R. Doc. No. R03-26; Filed September 17, 2002, 10:02 a.m.

TITLE 9. ENVIRONMENT

VIRGINIA WASTE MANAGEMENT BOARD

Title of Regulation: **9 VAC 20-80. Solid Waste Management Regulations (amending 9 VAC 20-80-10, 9 VAC 20-80-60, 9 VAC 20-80-80, 9 VAC 20-80-90, 9 VAC 20-80-100, 9 VAC 20-80-110, 9 VAC 20-80-113, 9 VAC 20-80-115, 9 VAC 20-80-120, 9 VAC 20-80-140, 9 VAC 20-80-150, 9 VAC 20-80-160, 9 VAC 20-80-170, 9 VAC 20-80-180, 9 VAC 20-80-190, 9 VAC 20-80-210, 9 VAC 20-80-250, 9 VAC 20-80-260, 9 VAC 20-80-270, 9 VAC 20-80-280, 9 VAC 20-80-300, 9 VAC 20-80-310, 9 VAC 20-80-330, 9 VAC 20-80-340, 9 VAC 20-80-370, 9 VAC 20-80-460, 9 VAC 20-80-485, 9 VAC 20-80-500, 9 VAC 20-80-510, 9 VAC 20-80-530, 9 VAC 20-80-570, 9 VAC 20-80-580, 9 VAC 20-80-620, 9 VAC 20-80-650, 9 VAC 20-80-670, 9 VAC 20-80-760, 9 VAC 20-80-770, and 9 VAC 20-80-780; adding 9 VAC 20-80-105 and 9 VAC 20-80-205).**

Statutory Authority: § 10.1-1402 of the Code of Virginia, 42 USC § 6941 et seq., and 40 CFR Part 258.

Public Hearing Date: November 12, 2002 - 2:30 p.m.
Public comments may be submitted until December 6, 2002.
(See Calendar of Events section for additional information)

Agency Contact: Michael J. Dieter, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4146 or e-mail mjdieter@deq.state.va.us.

Basis: 40 CFR Part 258 provides the federal authority for the criteria for municipal solid waste landfills.

Amendment 3 deals with the portions of the regulations that are not affected by the federal requirements and that are not subject to the federal program approval. Amendment 3 does not propose changes that would cause the regulations to be more restrictive than federal statutes unless changes are necessary to comply with Virginia statutes.

The Virginia Waste Management Act authorizes the Waste Management Board to supervise and control waste management activities in the Commonwealth and to promulgate regulations necessary to carry out its powers and duties. Article 2 of the Act prohibits the ownership or operation of an open dump, which is defined in § 10.1-1400 to be any "...site on which solid waste is placed, discharged, deposited, injected, dumped, or spilled so as to create a nuisance or present a threat of a release of harmful substances into the environment or present a hazard to human health."

The Act further prohibits any person from operating a facility for the disposal, treatment, or storage of nonhazardous solid waste without a permit from the Director of the Department of Environmental Quality (§ 10.1-1408.1 A). The Act requires the permit to contain such conditions or requirements that would prevent a substantial present or potential danger to human health and the environment (§ 10.1-1408.1 E). Section 10.1-1402 of the Code of Virginia empowers the board to "supervise and control waste management activities in the Commonwealth" and to "promulgate and enforce regulations, and provide for reasonable variances and exemptions necessary to carry out its powers and duties and the intent of this chapter and the federal acts, except that a description of provisions of any proposed regulation which are more restrictive than applicable federal requirements, together with the reason why the more restrictive provisions are needed, shall be provided to the standing committee of each house of the General Assembly to which matters relating to the content of the regulation are most properly referable."

Purpose: The disposal capacity guarantee and the permit condition for the disposal capacity guarantee will ensure that localities can contract for disposal space at new or expanding municipal solid waste landfills in order to comply with the local solid waste management plan.

Host community agreements ensure that municipalities (including public service authorities) hosting new or expanding municipal solid waste landfills have agreements, that contain detailed provisions for the operation of the landfill. For locally owned facilities, the new provisions will ensure that certain operational details will be addressed in the agreement.

The director's determination provides for the evaluation and determination of a number of safety-related provisions. The proposal must protect human health, safety and the environment; there must be a need for any additional capacity; there must be sufficient infrastructure to handle the waste flow safely; any increase must be consistent with any state or local disposal limits; and the public interest must be served. The director must determine that health and safety issues have been adequately addressed.

The above items will provide for the proper operation of landfills and for the safe disposal of waste. The modifications of the regulations further protect the health and safety of the residents of Virginia by ensuring that the public interest is served and health and safety issues have been addressed.

Substance:

Part II - General Information

Provisions have been added for increased inspections for facilities that receive wastes from states that have a less stringent regulatory structure than Virginia.

Part V - Solid Waste Disposal Facility Standards

A. Provides for the inspection of waste at a minimum frequency of 1% of the loads entering the sanitary landfill and an inspection frequency of 10% for those facilities receiving

waste from states with a less stringent regulatory structure than Virginia.

B. Consolidates all ground water provisions into a new ground water section 9 VAC 20-80-300. The new ground water section clarifies the administrative process for reporting data and providing demonstrations to the department. The section provides additional opportunities for the owner or operator to demonstrate that a source other than the landfill unit caused the contamination. The information to be included in the ground water annual report has been restructured to provide additional detail.

Part VI - Other Solid Waste Management Facility Standards

Provides for the inspection of waste at a minimum frequency of 1% of the loads entering an incinerator and an inspection frequency of 10% for those facilities receiving waste from states with a less stringent regulatory structure than Virginia.

Part VII - Permitting of Solid Waste Management Facilities

A. Requires the submission of a certification demonstrating that the facility has provided localities the opportunity to contract for and reserve sufficient disposal capacity so that they can comply with their solid waste management plans consistent with § 10.1-1408.1 B 6 of the Code of Virginia.

B. Requires certification that a host community agreement has been reached as required by § 10.1-1408.1 B 7 of the Code of Virginia. The agreement is required to address several provisions as specified in the Code of Virginia.

C. Requires a director's determination that there is a need for the facility as required under § 10.1-1408.1 D 1 of the Code of Virginia.

D. Requires the director's determination that the site is suitable for the construction and operation of a landfill under the provisions of § 10.1-1408.4 of the Code of Virginia. The regulation requires the submission of a VDOT adequacy report and a landfill impact statement, information necessary for the director to make the required determination.

In addition, the section requires the submission of information indicating that the facility is consistent with the local solid waste management plan, and information demonstrating that the facility is in the public interest as specified in § 10.1-1408.1 D of the Code of Virginia.

E. Requires permits to incorporate conditions required for the disposal capacity guarantee in § 10.1-1408.1 P of the Code of Virginia.

Issues: The proposed regulation provides the administrative procedures for the submission of information to support various determinations to be made by the director that are required by the Code of Virginia. The advantage to the public and DEQ is that the director has sufficient mechanisms to obtain the data necessary to make determinations required under the provisions of the Code of Virginia.

The proposed regulation provides a procedure for the director to determine the need for the facility. The needs determination could be made by local governments. However, the needs determination is required by statute to be performed by the director of DEQ; therefore, a needs determination is required at the state level. Under the provisions of the Code of Virginia, the director must also make a determination that the facility is consistent with the local solid waste management plan, which includes a local determination of the need for the facility. Some may feel that the 20-year permitting timeframe for sanitary landfills to demonstrate need is not sufficient and may be a disadvantage to the regulated community since capacity cannot be permitted beyond 20 years and would have to periodically update their permit to add new capacity. The determination of a statewide or regional need could be a disadvantage since the construction of a facility could be prevented if there is capacity in another area of the state or in an adjacent planning region. The timeframes provided for the determination of the need of the facility are necessary in order to provide a means to calculate the need.

The proposed regulation consolidates the provisions for ground water monitoring into one section of the regulations. In addition, the ground water provisions have been updated to clarify the administrative requirements for submission of reports and data to the department. The advantages to the public and DEQ are that both the regulated community and the regulators can clearly understand the requirements of the regulations.

Public Participation: In addition to any other comments, the Waste Management Board is seeking comments on the costs and benefits of the proposal and the impacts of the regulation on farm or forest lands.

The board is requesting that comments be provided on the implementation of the needs determination incorporated into 9 VAC 20-80-500 C 3 of the regulation.

The Commonwealth believes it has more stringent regulatory requirements regarding what types of wastes can be disposed of at a municipal solid waste facility than those found in New York Maryland and some other states. These differences may result in higher health and safety risks. The board is requesting that comments be provided on the adequacy of the criteria and additional controls in 9 VAC 20-80-113 D of the regulation.

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

Fiscal Impact: Requirements have been added into the regulation based on legislative changes. Many of these changes will require additional work by both department staff and the consulting community. Consultants will be required to prepare additional documentation and department staff will need additional time to review these submissions.

Host Community Agreement. 9 VAC 20-80-500 B 7 (§ 10.1-1408.1 B 7).

A certification is required to be submitted to the department indicating that a host community agreement has been reached

that addresses financial compensation, daily travel routes, traffic volumes, daily disposal limits and the anticipated service area of the facility. Since these elements are typically provided in host agreements no additional expense is anticipated from this portion of the legislation. However, the legislation also requires new private facilities to pay the full cost of one employee and costs associated with splitting air and water samples sampling. The full cost for an employee could exceed $100,000 per year. Depending on the number of gas and ground water wells on site and the monitoring requirements associated with wetlands, the additional analysis costs associated with splitting samples could vary between $50,000 and $140,000 per year.

The number of facilities that would be subject to these requirements is difficult to estimate. Additional facilities subject to this requirement should be minimal averaging well less than one facility per year.

New Requirements for Locally Owned and Operated Facilities. 9 VAC 20-80-500 B 8 (§ 10.1-1408.1 B 8).

Locally owned and operated facilities are required to discuss daily travel routes, traffic volumes, the daily disposal limit and the facility service are of the facility. Preparation of a traffic study addressing volumes and additional documentation in the permit will be required. Cost for the documentation will be $1000 to $2000. Preparation of a traffic study package will be $20,000 to $50,000. This expense is encountered for a facility every time an expansion takes place. Review by the department will average five hours at 51.00/hr totaling $250 per review.

There are an average of eight new or expanded public sanitary landfills per year.

Estimated consulting cost for eight public facilities yearly will be $168,000 to $416,000.

Estimated department review for eight public facilities yearly will be $2000

Director's Determination. 9 VAC 20-80-500 C3, 510 J, and 510 K (§ 10.1-1408.1 D 1 and 2).

In addition to materials that are already provided with a permit application, this legislation will require some additional submissions by applicants and analysis by the department. Additional materials include a demonstration of need, demonstration of consistency with the local solid waste plan, demonstration of public interest. We anticipate costs for a consultant to prepare this documentation to be 20 hrs x $70 = $1,500 per site. The department's review costs will be 5 hrs x $50 = $250 per site. 11 permits are issued each year that would be subject to these requirements.

Estimated consulting cost for eleven facilities yearly will be $16,500.

Estimated department review for eight facilities yearly will be $2750

Director's Certification of Site Suitability. 9 VAC 20-80-500 C4, -510 E, -510 G and -510 H (§ 10.1-1408.4)

In addition to the materials already provided in a permit application, this legislation requires the director to certify that the site is suitable for the construction of a municipal solid waste landfill. The certification requires the submission and evaluation of a traffic study, discussion of the impact on parks recreational areas etc. We anticipate the cost for a consultant to prepare this documentation for each site to be 140 hrs x $70 = $9800. The cost for department review will be 40 hrs x $51 = $2040. Nine landfills yearly would be subject to this requirement.

These estimates do not include the preparation and review of the traffic study which has previously been addressed.

Estimated consulting cost for nine landfills yearly will be $88,000.

Estimated department review for nine landfills yearly will be $22,400

Department of Planning and Budget's Economic Impact Analysis: The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007 G of the Administrative Process Act and Executive Order Number 25 (98). Section 2.2-4007 G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the proposed regulation. The proposed changes will 1) require the director of Department of Environmental Quality (the department) to make a needs determination for additional solid waste disposal capacity, 2) require additional documentation from landfill operators for permit applications, 3) require operators to guarantee disposal capacity to localities, 4) require a host community agreement between the locality and the operator, 5) require solicitation of comments from geographically contiguous jurisdictions, 6) establish minimum numerical inspection frequencies, 7) modify the way the department responds to citizen complaints, 8) require implementation of a remedy within a specific period if a methane gas release is discovered, and 9) add a schedule for evaluation of presumptive remedy for violation of ground water protection standards.

Estimated economic impact. These regulations apply to solid waste management facilities, which comprise landfills, transfer stations, incinerators, recycling and composting facilities. Due to activities such as waste disposal, treatment, and storage, solid waste management facilities have the potential to pose risks to human health and the environment and consequently are subject to regulations. The proposed amendments include several changes to meet the statutory requirements enacted by General Assembly and several other non-statutory changes. These changes are discussed below.

Statutory Changes. The Waste Management Board proposes a number of changes to meet the statutory requirements enacted since these regulations were last amended on May 23, 2001. One of the requirements in § 10.1-1408.1 D 1 of the

Code of Virginia requires the director of Department of Environmental Quality (the director) to determine whether *there is need for additional capacity* prior to issuing a permit for a new solid waste management facility or an amendment allowing a facility expansion or an increase in capacity. The director is also required to determine whether the additional capacity is consistent with local solid waste management plans. Currently, localities make determinations regarding the need for a landfill and submit plans to the department for a technical review. With the proposed changes, a state level needs determination will also be performed. For the director to make a state level needs determination, additional information or documentation will be required from operators of new or expanding waste management facilities. In addition, to satisfy other statutory requirements,[1] landfill operators will be required to submit additional documentation for permit approval, to provide reserved disposal capacity to localities, to make an agreement with the host locality, and to solicit comments from other jurisdictions.

Needs determination. The proposed regulations will provide two options for solid waste management facility operators to submit information for the director to consider when determining if there is a need for the additional capacity. Under the first option, facility operators will be required to gather and submit a significant amount of readily available information for director to make needs determination. Required information covers the anticipated area to be served by the facility, other facilities in the area and their capacity and service lives, the quantity of waste generated in the service area, waste disposal needs specified in the local plan, projected waste generation in the service area, alternate waste management activities in the service area such as recycling or composting, disposal capacity that will be added by the proposed facility, capacity needs of other related localities, and any other factors that may justify additional capacity.

The second option relates more clearly to landfills although it applies to all solid waste management facilities and also includes capacity requirements. Under the second option, existing facilities must have less than 10 years of remaining capacity, which will be estimated from current or projected disposal rates. If the applicant is eligible for a permit under this option, either local or state level available permitted disposal capacity must be less than 20 years for approval to construct and operate a landfill. Local disposal capacity will be determined based on the capacity available within the planning region immediately contiguous to the host community or the capacity available within a 75 miles radius of the proposed facility. Once the capacity information is received, the director will consider the information and make a determination. Regardless of the capacity information submitted, the director will reserve the right to issue or deny a permit.

It is expected that most of the need determinations will be done under the second option for two reasons. First, the needs determination through the second option is expected to be less costly than seeking approval under the first option. The information on remaining capacity at the facility and on the available capacity at the local or state level will be readily available and is not expected to introduce significant costs. Also, the information operators are required to gather and submit is less than the information required under the first option. Second, the eligibility requirement for application and the requirements for approval seem to be sufficient to accommodate most landfill operators. For example, the operator will be able to apply if there is less than 10 years of remaining capacity at the facility. The department indicates that on average it takes about five years to obtain a permit and to bring a landfill online. Similarly, industry representatives indicate ten years of remaining capacity should be sufficient to allow normal business operations during the permit application process and to build additional capacity. Thus, the ten-year available capacity will likely be sufficient to allow enough time for the operators to obtain additional capacity without significantly disrupting normal business operations. Furthermore, the requirement that there must be less than 20-year available capacity at the state or local level is not expected to be a limiting factor to seek approval under the second option because according to a 1999 study conducted by the department, less than 20 years of statewide landfill capacity was then available and as more capacity is exhausted new permits for used capacity can be issued. Preliminary information from the department's 2001 waste assessment also indicates that currently less than 20 years of capacity is available in the Commonwealth.

If the approval from the director cannot be obtained under the second option, solid waste facility operators will likely seek approval under the first option which requires submission of significant amount of relevant information to make needs determination. According to the department, it may cost from $5,000 to $10,000 to collect the required information and submit the application for needs determination. Although about 8 to 11 applications are expected for needs determination annually, it is not known how many will seek approval under the first option and will incur the estimated costs.

The proposed needs determination may introduce a new uncertainty component for operators of solid waste management facilities. The director will evaluate the submitted documentation to make needs determination at his discretion and may not approve the applications for additional capacity in some cases. Thus, how the director will use his discretion will be an important factor for the facility operators. If the uncertainty is significant, the operator's ability to conduct normal business operations may be undermined and the costs may increase. Available capacity is a significant element for being able to make new contractual agreements, to meet existing obligations, and to finance a new facility. However, since the proposed regulations are designed to prevent excess capacity and the operators are unlikely to construct new facilities or expand existing facilities if there is no need, in most cases the uncertainty is expected to be minimal to cause any significant disruption of normal business operations. The main benefits of the proposed changes appear to be making sure that excess solid waste disposal capacity is not built in the Commonwealth and establishing a needs determination method with significant flexibility for the director to satisfy the

[1] Other related sections of the Code of Virginia are §§ 10.1-1408.1 B 6, 10.1-1408.1 B 7, 10.1-1408.1 B 8, and 10.1-1408.1 P.

statutory mandate. However, there is no data available to determine the size of these expected benefits.

Additional documentation. The proposed regulations will require some additional documentation to be used in permit approval determination. The director makes a determination of site suitability for the construction and operation of a proposed sanitary landfill. In addition to the currently required documentation, the proposed changes will require the applicant to submit a Virginia Department of Transportation (VDOT) adequacy report, a landfill impact statement, demonstration of consistency with the local solid waste management plan, and demonstration of public interest. The required VDOT report is the same as the one required under host community agreement and associated costs are discussed under that section.

The required landfill impact statement must address potential impact of the facility on parks, recreational areas, wildlife management areas, critical habitat areas of endangered species, public water supplies, marine resources, wetlands, historic sites, fish and wildlife, water quality, and tourism. Expected costs to prepare a landfill impact statement are about $9,800 for the landfill operators and about $2,040 for the department in terms of the staff time to review the application.[2] The department expects about nine landfills to be subject to this requirement annually. Thus, the total costs of the proposed additional documentation requirement are expected to be $88,000 for the landfill operators and $22,400 for the department annually.

In exchange for these costs, the department will be able to determine potential impact on natural resources in proximity of the proposed landfill and consequently require a solution to potential problems beforehand or require an alternate construction site.

The other documentation that will be required includes a demonstration that the proposed facility is consistent with the local solid waste management plan. This information will address the role of the facility in local solid waste management plan, additional solid waste disposal capacity that will be provided, and the specific references to related parts of the local solid waste management plan. Another set of the documentation will provide information demonstrating that the public interest will be served by the proposed new or expanding facility. This information will address cost comparisons among waste transfer or other disposal options, if the protection of human health, safety, and the environment will be increased, if alternative disposal practices including reuse and reclamation will be provided, if increased recycling opportunities will be allowed, if the quantity of solid waste will be reduced by energy recovery and/or subsequent use of solid waste, if the facility is capable of supporting the needs of the host community, and any other factors that may be pertinent to public interest.

The cost of preparing this documentation is expected to be about $1,500 per site for the applicant.[3] The department's review costs are expected to be about $250 per application, which is based on five hours of staff time at $50 per hour. According to the department, about 11 permits are issued annually that will be subject to these requirements. Thus, the total costs of the proposed documentation requirements are expected to be $16,500 for the waste facility operators and $2,750 for the department annually.

The benefit is that the department will use this documentation to determine if the facility is consistent with safe long-term solid waste disposal practices.

Disposal capacity guarantee. The operators of new or expanding sanitary landfills will be required to guarantee that sufficient disposal capacity will be available in the facility for the localities to comply with their waste management plans. This requirement will ensure that localities can contract for disposal space at new or expanding municipal solid waste landfills. Thus, localities will be given a valuable priority in using the disposal capacity available.

The reserved capacity to fulfill this commitment may divert landfill operators from using the available capacity for its best use and create economic inefficiencies. The landfill operators are likely to absorb the cost of these inefficiencies because they are the ones who may have to forgo more profitable use of the reserved disposal capacity. In this sense, this requirement is likely to transfer some economic value from landfill operators to the localities.

Host Community Agreement. The proposed changes will also require submission to the department of an agreement between the private sanitary landfill applicant and the host government or authority. The contents of the host community agreement must include the amount of financial compensation to the host community, daily travel routes and traffic volumes, daily disposal limit, and the anticipated service area of the facility. The purpose of these requirements is to make sure that the locality is aware of certain considerations and takes them into account in their decisions. The department indicates that in most cases private sanitary landfill operators already have agreements with the local governments. Since these elements are typically provided in host agreements, no significant additional costs to private landfill operators are expected.

However, the host community agreement must contain a provision indicating that new private facilities pay the full cost of at least one employee of the host locality who will monitor and inspect waste disposal practices in the locality. Additionally, the sanitary landfill applicant will be required to split air and water samples and to provide them to the locality upon request for independent testing purposes and to pay all associated testing costs.

These requirements are likely to introduce new costs to the private sanitary landfill operators expanding or coming online. According to the department, annual compensation to an employee who will be in charge of monitoring and inspecting waste disposal practices is about $100,000.[4] The costs associated with independent testing of air and water samples will depend on the number of gas and ground water wells on

[2] Source: The Department of Environmental Quality.

[3] Ibid.

[4] Ibid.

site, the monitoring requirements associated with wetlands, and the number of times the splitting of samples is requested. The department expects additional analysis costs associated with splitting samples to vary between $50,000 and $140,000 per year for a sanitary landfill operator. The total additional costs associated with these requirements will depend on the number of private sanitary landfills coming online. On average, less than one new or expanding private facility is expected to seek approval from the department annually. Thus, the total additional costs to private sanitary landfill operators are likely to be less than the $150,000 to $240,000 range per year.

On the other hand, these requirements are likely to increase compliance with applicable waste disposal rules and air and water quality standards by increasing monitoring and inspection through the operator funded employee position and by independent testing through splitting samples.

Similar to the private facilities, publicly owned and operated sanitary landfills will be required to provide the information on daily travel routes and traffic volumes, daily disposal limit, and the anticipated service area of the new or expanding facility. Currently, publicly owned facilities do not produce this information. The costs associated with a traffic study to determine volume of traffic is estimated to be between $20,000 and $50,000.[5] The costs of providing documentation on travel volume, travel routes, daily disposal limit, and the anticipated service area are expected to be about $1,000 to $2,000. Additionally, expected cost to the department is about $250 to review an application which is estimated based on five hours of staff time at $51 per hour. The department expects to receive about eight new or expanded public sanitary landfill applications per year. Thus, the total costs of these requirements are expected to be about $168,000 to $416,000 to the publicly owned and operated sanitary landfills and about $2,000 for the department review.

The required documentation may provide a means to identify potential problems such as traffic congestion before the construction is executed and potentially help find a more suitable location for the facility. Such required studies may improve the flow of traffic and provide cost savings in terms of time, fuel, and vehicle depreciation due to running idle or having to take longer alternate routes.

Solicitation of comments from other jurisdictions. All landfill operators, privately or publicly operated, will be required to solicit comments from geographically contiguous localities. They will be required to notify other jurisdictions about the nature and location of the facility and date and location of the public hearing.

This requirement is likely to introduce additional costs to landfill operators associated with the method of notification, arranging public hearings, and postponing the construction to seek comments. On the other hand, solicitation of comments will provide adjacent localities a chance to communicate their concerns, which may not be apparent to the operator and potentially solve these problems before construction takes place.

[5] Ibid.

Non-statutory Requirements. The proposed regulations contain several non-statutory requirements. These proposed changes are discussed below.

Inspection frequency. The proposed regulations will establish minimum inspection requirements for detection of unauthorized waste received by landfills, incinerators, and energy recovery facilities. [6] The minimum inspection requirement for all facilities will be 1% of the solid waste received. Facilities receiving waste from other states with less stringent requirements than Virginia will be subject to more frequent inspection requirements. These facilities will be required to inspect at least 10% of the waste they receive from other states. In order to make a determination if the regulatory structure of a state is more or less stringent, the facilities will be required to submit information on the regulation of waste for each state from which they receive waste.

Currently, there are only general inspection requirements to control disposal of unauthorized waste incoming to the landfills and incinerators. These requirements do not specify a minimum inspection level. The department does not know if the current inspections are conducted at a higher or lower inspection level than what is proposed. Some facilities believed to have higher inspection rates while some others believed to have lower inspection rates. Facilities that do not do inspections at the proposed level will likely incur additional costs. They are likely to devote additional labor to conduct the inspections, or experience a slowdown in solid waste processing at the facility if they allocate their current staff for inspections. The likely effect on the facilities that currently have higher inspection rates is not known. On one hand, they may choose to continue to conduct inspections at their current rate; on the other hand, they may reduce their inspection rate. Facilities that reduce their inspection rates will likely incur savings in labor costs or improve their waste processing speed.

The department believes that the regulatory requirements regarding what types of wastes can be disposed of at a municipal solid waste facility are more stringent in Virginia than those found in District of Columbia, New York, Maryland and some other states. These differences may result in higher health and safety risks in Virginia originating from out-of-state waste. The proposed minimum inspection rate has the potential to reduce unauthorized waste processed at landfills and incinerators. In states with less stringent rules, operators may be disposing of types of wastes that are not allowed in waste disposal facilities in Virginia. These wastes may be present with other types of waste and may be arriving to Virginia waste disposal facilities. Increased inspections may help reduce potential health and environmental risks that may originate from medical wastes, PCB wastes, and wastes from conditionally exempt small quantity generators. In addition, establishment of a quantitative standard may increase the enforceability of the inspection requirements. However, the size of these benefits cannot be determined at this time.

[6] Unauthorized waste includes regulated medical waste, hazardous waste from conditionally exempt small quantity generators, and chemical waste known as polychlorinated biphenyl (PCB).

Other changes. The proposed rules will change the way the department responds to citizen complaints it receives about solid waste matters within the board's purview. Currently, the department provides written responses to all complaints. According to the department, compliance with this requirement is burdensome because of the complaints expressed by the phone and other types of communications. The proposed changes will require the department to respond in writing to citizen complaints only if the complaint is written and signed. However, the proposed language will continue to require investigation of all citizen complaints regardless of the format, as it is currently done. Since citizens can secure a response by a written and signed letter, there does not seem to be a decrease in the ability of citizens to access information. The department, on the other hand, will likely to experience costs savings in staff time and postal expenses to respond to comments that are not written and signed.

Also, the proposed changes will require implementation of a methane gas remediation plan within 60 days of detection. Currently, development of such a plan is required within 60 days following discovery of methane gas release and the department approves the plan for its implementation after that. The department indicates that 60 days implementation requirement is consistent with the federal regulations. This requirement will likely remedy a methane problem more quickly in the event high gas levels are detected at a facility. This may reduce costs from potential explosion or may reduce potential injury to workers from breathing gas. The quicker the problem is remedied, lower the chances of potential harm to workers or property. There may be also a reduction in likelihood of harm to neighboring property and residents and businesses. However, in some cases, the landfill operator may have difficulty implementing the remedy within the proposed time frame and may have to incur some additional costs to speed up the plan.

Finally, the proposed regulations will add a schedule for evaluating the impact of a presumptive remedy when taking a corrective action to address the ground water protection standard violations. The presumptive remedies are methods that are known to be effective in helping to prevent additional ground water contamination. A presumptive remedy can be implemented by notifying the department as opposed obtaining a prior approval. Other types of remedies require approval by the department and take time to evaluate and implement. Currently, there is a requirement for a schedule for implementing the presumptive remedy, but no requirement for a schedule for determining if the remedy is working. The proposed rule will require the landfill operators to evaluate the remedy every three years following its implementation. There has been no corrective action required by the department to date. Thus, this change is not likely to have any immediate impact on the landfill operators. However, it has the potential to introduce analysis costs on the landfill operators to evaluate the remedy, but also has the potential to determine if the remedy is working and if the remediation has been effective, or additional remedial actions are necessary.

Businesses and entities affected. Based on the current permit application rates, about 8 to 11 waste management facilities may be affected annually. Of these, up to nine may be landfills and up to three may be other types of waste facilities.

Localities particularly affected. The proposed regulations apply throughout the Commonwealth.

Projected impact on employment. The proposed regulation will require additional documentation from landfill operators, which is expected to increase business volume of consultants in this industry. Consultants' demand for labor may increase. Also, changes related to the inspection frequency may increase or decrease the labor demand depending on the current inspection rates. Finally, need for additional staff at the department to execute proposed responsibilities will likely increase. In fact, 19 positions were added to the department during the 1999 legislative session partly because to implement the legislative changes, increase inspection, and to enforce the regulations. Thus, additional responsibilities are likely to be absorbed by the staff at the department.

Effects on the use and value of private property. The proposed requirements for documentation and analysis from landfill operators are likely to create additional business for consultants in this industry and may increase their profitability. Thus, the value of consulting business in solid waste disposal industry may increase. On the other hand, the profitability of waste management facilities may decrease by a small margin and this may lead to a decrease in their value.

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

Summary:

The proposed amendments address statutory changes enacted by the General Assembly. The proposed amendments (i) require the Director of Department of Environmental Quality to make a needs determination for additional solid waste disposal capacity; (ii) require additional documentation from landfill operators for permit applications; (iii) require operators to guarantee disposal capacity to localities; (iv) require a host community agreement between the locality and the operator; (v) require solicitation of comments from geographically contiguous jurisdictions; (vi) establish minimum numerical inspection frequencies; (vii) address how the department responds to citizen complaints; (viii) require implementation of a remedy within a specific period if a methane gas release is discovered; and (ix) add a schedule for evaluation of presumptive remedy for violation of ground water protection standards.

9 VAC 20-80-10. Definitions.

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

"Abandoned facility" means any inactive solid waste management facility that has not met closure and post-closure requirements.

"Active life" means the period of operation beginning with the initial receipt of solid waste and ending at completion of closure activities required by this chapter.

"Active portion" means that part of a facility or unit that has received or is receiving wastes and that has not been closed in accordance with this chapter.

"Agricultural waste" means all solid waste produced from farming operations, or related commercial preparation of farm products for marketing.

"Airport" means, for the purpose of this chapter, public-use airport open to the public without prior permission and without restrictions within the physical capacities of available facilities.

"Anaerobic digestion" means the decomposition of organic materials in the absence of oxygen or under low oxygen concentration. Anaerobic conditions occur when gaseous oxygen is depleted during respiration. Anaerobic decomposition is not considered composting.

"Applicant" means any and all persons seeking or holding a permit under this chapter.

"Aquifer" means a geologic formation, group of formations, or a portion of a formation capable of yielding significant quantities of ground water to wells or springs.

"Areas susceptible to mass movement" means those areas of influence (i.e., areas characterized as having an active or substantial possibility of mass movement) where the movement of earth material at, beneath, or adjacent to the solid waste management unit, because of natural or man-induced events, results in the downslope transport of soil and rock material by means of gravitational influence. Areas of mass movement include, but are not limited to, landslides, avalanches, debris slides and flows, soil fluction, block sliding, and rock fall.

"Ash" means the fly ash or bottom ash residual waste material produced from incineration or burning of solid waste or from any fuel combustion.

"Base flood" see *"Hundred-year flood."*

"Bedrock" means the rock that underlies soil or other unconsolidated, superficial material at a site.

"Benchmark" means a permanent monument constructed of concrete and set in the ground surface with identifying information clearly affixed to it. Identifying information will include the designation of the benchmark as well as the elevation and coordinates on the local or Virginia state grid system.

"Beneficial use" means a use which is of benefit as a substitute for natural or commercial products and does not contribute to adverse effects on health or environment.

"Bioremediation" means remediation of contaminated media by the manipulation of biological organisms to enhance the degradation of contaminants.

"Bird hazard" means an increase in the likelihood of bird/aircraft collisions that may cause damage to the aircraft or injury to its occupants.

"Board" means the Virginia Waste Management Board.

"Bottom ash" means ash or slag that has been discharged from the bottom of the combustion unit after combustion.

"By-product material" means a material that is not one of the primary products of a production process and is not solely or separately produced by the production process. By-product does not include a co-product that is produced for the general public's use and is ordinarily used in the form that is produced by the process.

"Captive industrial landfill" means an industrial landfill that is located on property owned or controlled by the generator of the waste disposed of in that landfill.

"Clean wood" means uncontaminated natural or untreated wood. Clean wood includes but is not limited to by-products of harvesting activities conducted for forest management or commercial logging, or mill residues consisting of bark, chips, edgings, sawdust, shavings or slabs. It does not include wood that has been treated, adulterated, or chemically changed in some way; treated with glues, binders, or resins; or painted, stained or coated.

"Closed facility" means a solid waste management facility which has been properly secured in accordance with the requirements of this chapter.

"Closure" means the act of securing a solid waste management facility pursuant to the requirements of this chapter.

"Coal combustion by-products" means residuals, including fly ash, bottom ash, boiler slag, and flue gas ~~desulfurization residue~~ *emission control waste* produced by coal-fired electrical or steam generating units.

"Combustion unit" means an incinerator, waste heat recovery unit or boiler.

"Commercial chemical product" means a chemical substance which is manufactured or formulated for commercial, agricultural or manufacturing use. This term includes a manufacturing chemical intermediate, off-specification chemical product, which, if it met specification, would have been a chemical product or intermediate. It includes any residues remaining in the container or the inner liner removed from the container that has been used to hold any of the above which have not been removed using the practices commonly employed to remove materials from that type of container and has more than one inch of residue remaining.

"Commercial waste" means all solid waste generated by establishments engaged in business operations other than manufacturing or construction. This category includes, but is not limited to, solid waste resulting from the operation of stores, markets, office buildings, restaurants and shopping centers.

"Community activity" means the normal activities taking place within a local community to include residential, site preparation and construction, government, commercial, institutional, and industrial activities.

"Compliance schedule" means a time schedule for measures to be employed on a solid waste management facility which will ultimately upgrade it to conform to this chapter.

"Composite liner system" means a system designed and constructed to meet the requirements of 9 VAC 20-80-250 B 9.

"Compost" means a stabilized organic product produced by a controlled aerobic decomposition process in such a manner that the product can be handled, stored, and/or applied to the land without adversely affecting public health or the environment. Composted sludge shall be as ~~defined by the Virginia Sewerage Regulations (12 VAC 5-580-10 et seq.)~~ *specified in 12 VAC 5-581-630*.

"Composting" means the manipulation of the natural aerobic process of decomposition of organic materials to increase the rate of decomposition.

"Conditionally exempt small quantity generator" means a generator of hazardous waste who has been so defined in 9 VAC 20-60-120. That section applies to the persons who generate in that calendar month no more than 100 kilograms of hazardous waste or 1 kilogram of acutely hazardous waste.

"Confined composting system" means a composting process that takes place inside an enclosed container.

"Construction/Demolition/Debris landfill" or *"CDD landfill"* means a land burial facility engineered, constructed and operated to contain and isolate construction waste, demolition waste, debris waste, or combinations of the above solid wastes.

"Construction waste" means solid waste which is produced or generated during construction, remodeling, or repair of pavements, houses, commercial buildings, and other structures. Construction wastes include, but are not limited to lumber, wire, sheetrock, broken brick, shingles, glass, pipes, concrete, paving materials, and metal and plastics if the metal or plastics are a part of the materials of construction or empty containers for such materials. Paints, coatings, solvents, asbestos, any liquid, compressed gases or semi-liquids and garbage are not construction wastes.

"Contaminated soil" means, for the purposes of this chapter, a soil that, as a result of a release or human usage, has absorbed or adsorbed physical, chemical, or radiological substances at concentrations above those consistent with nearby undisturbed soil or natural earth materials.

"Container" means any portable device in which a material is stored, transported, treated, or otherwise handled and includes transport vehicles that are containers themselves (e.g., tank trucks) and containers placed on or in a transport vehicle.

"Containment structure" means a closed vessel such as a tank or cylinder.

"Convenience center" means a collection point for the temporary storage of solid waste provided for individual solid waste generators who choose to transport solid waste generated on their own premises to an established centralized point, rather than directly to a disposal facility. To be classified as a convenience center, the collection point may not receive waste from collection vehicles that have collected waste from more than one real property owner. A convenience center shall be on a system of regularly scheduled collections.

"Cover material" means compactable soil or other approved material which is used to blanket solid waste in a landfill.

"Debris waste" means wastes resulting from land clearing operations. Debris wastes include, but are not limited to stumps, wood, brush, leaves, soil, and road spoils.

"Demolition waste" means that solid waste which is produced by the destruction of structures and their foundations and includes the same materials as construction wastes.

"Department" means the Virginia Department of Environmental Quality.

"Director" means the Director of the Department of Environmental Quality.

"Discard" means to abandon, dispose of, burn, incinerate, accumulate, store or treat before or instead of being abandoned, disposed of, burned or incinerated.

"Discarded material" means a material which is:

A. Abandoned by being:

1. Disposed of;

2. Burned or incinerated; or

3. Accumulated, stored or treated (but not used, reused, or reclaimed) before or in lieu of being abandoned by being disposed of, burned or incinerated;

B. Recycled used, reused, or reclaimed material as defined in this part; or

C. Considered inherently waste-like as described in 9 VAC 20-80-140 C.

"Discharge of dredged material" means any release of material that is excavated or dredged from the waters of the U.S. or state waters and returned to the waters of the U.S. or state waters.

"Disclosure statement" means a sworn statement or affirmation, in such form as may be required by the director (see ~~Appendix 7.1~~ *DEQ Form DISC-01 and 02 (Disclosure Statement*), which includes:

1. The full name, business address, and social security number of all key personnel;

2. The full name and business address of any entity, other than natural person, that collects, transports, treats, stores, or disposes of solid waste or hazardous waste in which any key personnel holds an equity interest of five percent or more;

3. A description of the business experience of all key personnel listed in the disclosure statement;

4. A listing of all permits or licenses required for the collection, transportation, treatment, storage, or disposal of solid waste or hazardous waste issued to or held by any key personnel within the past 10 years;

5. A listing and explanation of any notices of violation, prosecution, administrative orders (whether by consent or otherwise), license or permit suspensions or revocations, or enforcement actions of any sort by any state, federal or

local authority, within the past ten years, which are pending or have concluded with a finding of violation or entry of a consent agreement, regarding an allegation of civil or criminal violation of any law, regulation or requirement relating to the collection, transportation, treatment, storage or disposal of solid waste or hazardous waste by any key personnel, and an itemized list of all convictions within ten years of key personnel of any of the following crimes punishable as felonies under the laws of the Commonwealth or the equivalent thereof under the laws of any other jurisdiction: murder; kidnapping; gambling; robbery; bribery; extortion; criminal usury; arson; burglary; theft and related crimes; forgery and fraudulent practices; fraud in the offering, sale, or purchase of securities; alteration of motor vehicle identification numbers; unlawful manufacture, purchase, use or transfer of firearms; unlawful possession or use of destructive devices or explosives; violation of the Drug Control Act, Chapter 34 (§ 54.1-3400 et seq.) of Title 54.1 of the Code of Virginia; racketeering; or violation of antitrust laws;

6. A listing of all agencies outside the Commonwealth which have regulatory responsibility over the applicant or have issued any environmental permit or license to the applicant within the past ten years, in connection with the applicant's collection, transportation, treatment, storage or disposal of solid waste or hazardous waste;

7. Any other information about the applicant and the key personnel that the director may require that reasonably relates to the qualifications and ability of the key personnel or the applicant to lawfully and competently operate a solid waste management facility in Virginia; and

8. The full name and business address of any member of the local governing body or planning commission in which the solid waste management facility is located or proposed to be located, who holds an equity interest in the facility.

"Displacement" means the relative movement of any two sides of a fault measured in any direction.

"Disposal" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste into or on any land or water so that such solid waste or any constituent of it may enter the environment or be emitted into the air or discharged into any waters.

"EPA" means the United States Environmental Protection Agency.

"Existing unit" means any permitted solid waste management unit that is receiving or has received solid waste and has not been closed in accordance with the regulations in effect at the time of closure. Waste placement in existing units shall be consistent with past operating practices, the permit, or modified practices to ensure good management.

"Facility" means solid waste management facility unless the context clearly indicates otherwise.

"Facility boundary" means the boundary of the solid waste management facility approved to manage solid waste as defined in Part A of the permit application. *For unpermitted solid waste management facilities as defined in 9 VAC 20-80-200, the facility boundary is the boundary of the property where the solid waste is located. For facilities with a permit-by-rule (PBR) the facility boundary is the boundary of the property where the permit-by-rule activity occurs.*

"Facility structure" means any building, shed, or utility or drainage line on the facility.

"Fault" means a fracture or a zone of fractures in any material along which strata on one side have been displaced with respect to that on the other side.

"Floodplain" means the lowland and relatively flat areas adjoining inland and coastal waters, including lowlying areas of offshore islands where flooding occurs.

"Fly ash" means ash particulate collected from air pollution attenuation devices on combustion units.

"Food chain crops" means crops grown for human consumption, tobacco, and crops grown for pasture and forage or feed for animals whose products are consumed by humans.

"Free liquids" means liquids which readily separate from the solid portion of a waste under ambient temperature and pressure as determined by the Paint Filter Liquids Test, Method 9095, U.S. Environmental Protection Agency, Publication SW-846.

"Garbage" means readily putrescible discarded materials composed of animal, vegetable or other organic matter.

"Gas condensate" means the liquid generated as a result of gas control or recovery processes at the solid waste management unit.

"Ground water" means water below the land surface in a zone of saturation.

"Hazardous constituent" means a constituent of solid waste listed in Part V, ~~Appendix~~ *Table* 5.1.

"Hazardous waste" means a "hazardous waste" as described by the Virginia Hazardous Waste Management Regulations (9 VAC 20-60~~-10 et seq.~~).

"Holocene" means the most recent epoch of the Quaternary period, extending from the end of the Pleistocene Epoch to the present.

"Home use" means the use of compost for growing plants which is produced and used on a privately owned residential site.

"Host agreement" means any lease, contract, agreement or land use permit entered into or issued by the locality in which the landfill is situated that includes terms or conditions governing the operation of the landfill.

"Household hazardous waste" means any waste material derived from households (including single and multiple residences, hotels, motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds and day-use recreation areas) which, except for the fact that it is derived from a household, would otherwise be classified as a hazardous waste in accordance with 9 VAC 20-60~~-10 et seq~~.

"Household waste" means any waste material, including garbage, trash and refuse, derived from households. Households include single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds and day-use recreation areas. Household wastes do not include sanitary waste in septic tanks (septage) which is regulated by other state agencies.

"Hundred-year flood" means a flood that has a 1.0% or greater chance of recurring in any given year or a flood of magnitude equaled or exceeded on the average only once in a hundred years on the average over a significantly long period.

"Ignitable waste" means: ~~(a)~~ *(i)* Liquids having a flash point of less than 140°F (60°C) as determined by the methods specified in the Virginia Hazardous Waste Management Regulations (9 VAC 20-60~~-10 et seq.~~); ~~(b)~~ *(ii)* nonliquids liable to cause fires through friction, absorption of moisture, spontaneous chemical change or retained heat from manufacturing or liable, when ignited, to burn so vigorously and persistently as to create a hazard; ~~(c)~~ *(iii)* ignitable compressed gases~~;~~*,* oxidizers, or both.

"Incineration" means the controlled combustion of solid waste for disposal.

"Incinerator" means a facility or device designed for the treatment of solid waste by combustion.

"Industrial waste" means any solid waste generated by manufacturing or industrial process that is not a regulated hazardous waste. Such waste may include, but is not limited to, waste resulting from the following manufacturing processes: Electric power generation; fertilizer/agricultural chemicals; food and related products/by-products; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay, and concrete products; textile manufacturing; transportation equipment; and water treatment. This term does not include mining waste or oil and gas waste.

"Industrial waste landfill" means a solid waste landfill used primarily for the disposal of a specific industrial waste or a waste which is a by-product of a production process.

"Inert waste" means solid waste which is physically, chemically and biologically stable from further degradation and considered to be nonreactive. Inert wastes include rubble, concrete, broken bricks, bricks, and blocks.

"Injection well" means, for the purposes of this chapter, a well or bore hole into which fluids are injected into selected geological horizons.

"Institutional waste" means all solid waste emanating from institutions such as, but not limited to, hospitals, nursing homes, orphanages, and public or private schools. It can include regulated medical waste from health care facilities and research facilities that must be managed as a regulated medical waste.

"Karst terranes" means areas where karst topography, with its characteristic surface and subterranean features, is developed as the result of dissolution of limestone, dolomite, or other soluble rock. Characteristic physiographic features present in karst terranes include, but are not limited to, sinkholes, sinking streams, caves, large springs, and blind valleys.

"Key personnel" means the applicant itself and any person employed by the applicant in a managerial capacity, or empowered to make discretionary decisions, with respect to the solid waste or hazardous waste operations of the applicant in Virginia, but shall not include employees exclusively engaged in the physical or mechanical collection, transportation, treatment, storage, or disposal of solid or hazardous waste and such other employees as the director may designate by regulation. If the applicant has not previously conducted solid waste or hazardous waste operations in Virginia, the term also includes any officer, director, partner of the applicant, or any holder of five percent or more of the equity or debt of the applicant. If any holder of five percent or more of the equity or debt of the applicant or of any key personnel is not a natural person, the term includes all key personnel of that entity, provided that where such entity is a chartered lending institution or a reporting company under the Federal Security and Exchange Act of 1934, the term does not include key personnel of such entity. Provided further that the term means the chief executive officer of any agency of the United States or of any agency or political subdivision of the Commonwealth, and all key personnel of any person, other than a natural person, that operates a landfill or other facility for the disposal, treatment, or storage of nonhazardous solid waste under contract with or for one of those governmental entities.

"Lagoon" means a body of water or surface impoundment designed to manage or treat waste water.

"Land application unit" means an area where solid or liquid wastes are applied onto or incorporated into the soil surface (excluding manure spreading operations) for agricultural purposes or for treatment or disposal.

"Landfill" means a sanitary landfill, an industrial waste landfill, or a construction/demolition/debris landfill.

"Landfill disposal area" means the area within the facility boundary of a landfill in which solid waste is buried or permitted for actual burial.

"Landfill gas" means gas generated as a byproduct of the decomposition of organic materials in a landfill. Landfill gas consists primarily of methane and carbon dioxide.

"Lateral expansion" means a horizontal expansion of the waste management unit boundary.

"Leachate" means a liquid that has passed through or emerged from solid waste and contains soluble, suspended or miscible materials from such waste. Leachate and any material with which it is mixed is solid waste; except that leachate that is pumped from a collection tank for transportation to disposal in an off-site facility is regulated as septage, and leachate discharged into a waste water collection system is regulated as industrial waste water.

"Lead acid battery" means, for the purposes of this chapter, any wet cell battery.

"Lift" means the daily landfill layer of compacted solid waste plus the cover material.

"Liquid waste" means any waste material that is determined to contain "free liquids" as defined by this chapter.

"Lithified earth material" means all rock, including all naturally occurring and naturally formed aggregates or masses of minerals or small particles of older rock that formed by crystallization of magma or by induration of loose sediments. This term does not include man-made materials, such as fill, concrete, and asphalt, or unconsolidated earth materials, soil, or regolith lying at or near the earth's surface.

"Litter" means, for purposes of this chapter, any solid waste that is discarded or scattered about a solid waste management facility outside the immediate working area.

"Lower explosive limit" means the lowest concentration by volume of a mixture of explosive gases in air that will propagate a flame at 25°C and at atmospheric pressure.

~~*"Materials recovery facility"* means a solid waste management facility for the collection, processing and recovery of material such as metals from solid waste or for the production of a fuel from solid waste. This does not include the production of a waste derived fuel product.~~

"Manufacturing or mining by-product" means a material that is not one of the primary products of a particular manufacturing or mining operation, but is a secondary and incidental product of the particular operation and would not be solely and separately manufactured or mined by the particular manufacturing or mining operation. The term does not include an intermediate manufacturing or mining product which results from one of the steps in a manufacturing or mining process and is typically processed through the next process step within a short time.

"Materials recovery facility" means a solid waste management facility for the collection, processing and recovery of material such as metals from solid waste or for the production of a fuel from solid waste. This does not include the production of a waste-derived fuel product.

"Maximum horizontal acceleration in lithified earth material" means the maximum expected horizontal acceleration depicted on a seismic hazard map, with a 90% or greater probability that the acceleration will not be exceeded in 250 years, or the maximum expected horizontal acceleration based on a site-specific seismic risk assessment.

"Monitoring" means all methods, procedures and techniques used to systematically analyze, inspect and collect data on operational parameters of the facility or on the quality of air, ground water, surface water, and soils.

"Monitoring wells" means a well point below the ground surface for the purpose of obtaining periodic water samples from ground water for quantitative and qualitative analysis.

"Mulch" means woody waste consisting of stumps, trees, limbs, branches, bark, leaves and other clean wood waste which has undergone size reduction by grinding, shredding, or chipping, and is distributed to the general public for landscaping purposes or other horticultural uses except composting as defined and regulated under this chapter or the Vegetative Waste Management and Yard Waste Composting Regulations (9 VAC 20-101~~-10 et seq.~~).

"Municipal solid waste" means that waste which is normally composed of residential, commercial, and institutional solid waste and residues derived from combustion of these wastes.

"New solid waste management facility" means a facility or a portion of a facility that was not included in a previous determination of site suitability (Part A approval).

"Nonsudden events" mean those events continuing for an extended time period or for long term releases of contaminants into the environment which take place over time such as leachate contamination of ground water.

"Nuisance" means an activity which unreasonably interferes with an individual's or the public's comfort, convenience or enjoyment such that it interferes with the rights of others by causing damage, annoyance, or inconvenience.

"Off-site" means any site that does not meet the definition of on-site as defined in this part.

"On-site" means the same or geographically contiguous property, which may be divided by public or private right-of-way, provided the entrance and exit to the facility are controlled by the owner or the operator of the facility. Noncontiguous properties owned by the same person, but connected by a right-of-way which he controls and to which the public does not have access, are also considered on-site property.

"Open burning" means the combustion of solid waste without:

A. Control of combustion air to maintain adequate temperature for efficient combustion;

B. Containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion; and

C. Control of the combustion products' emission.

"Open dump" means a site on which any solid waste is placed, discharged, deposited, injected, dumped or spilled so as to present a threat of a release of harmful substances into the environment or present a hazard to human health. Such a site is subject to the Open Dump Criteria in 9 VAC 20-80-180.

"Operating Record" means records required to be maintained in accordance with the facility permit or this part.

"Operator" means the person responsible for the overall operation and site management of a solid waste management facility.

"Owner" means the person who owns a solid waste management facility or part of a solid waste management facility.

"Permit" means the written permission of the director to own, operate or construct a solid waste management facility.

"PCB" means any chemical substance that is limited to the biphenyl molecule that has been chlorinated to varying

degrees or any combination of substances which contain such substance (see 40 CFR 761.3).

"Person" means an individual, corporation, partnership, association, a governmental body, a municipal corporation or any other legal entity.

"Point source" means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, vessel or other floating craft, from which pollutants are or may be discharged. Return flows from irrigated agriculture are not included.

"Pollutant" means any substance which causes or contributes to, or may cause or contribute to, environmental degradation when discharged into the environment.

"Poor foundation conditions" means those areas where features exist which indicate that a natural or man-induced event may result in inadequate foundation support for the structural components of a solid waste management unit.

"Post-closure" means the requirements placed upon solid waste disposal facilities after closure to ensure environmental and public health safety for a specified number of years after closure.

"Private solid waste disposal facility" means any solid waste disposal facility including, without limitations, all solid waste disposal facilities other than facilities owned or operated by a local government, combination of local governments or public service authority.

"Processing" means preparation, treatment, or conversion of waste by a series of actions, changes, or functions that bring about a desired end result.

"Progressive cover" means cover material placed over the working face of a solid waste disposal facility advancing over the deposited waste as new wastes are added keeping the exposed area to a minimum.

"Public land" means any land, used for any purpose, that is leased or owned by a governmental entity.

"Putrescible waste" means solid waste which contains organic material capable of being decomposed by micro-organisms and cause odors.

"Qualified ground water scientist" means a scientist or engineer who has received a baccalaureate or post-graduate degree in the natural sciences or engineering and has sufficient training and experience in ground water hydrology and related fields as may be demonstrated by state registration, professional certifications, or completion of accredited university programs that enable that individual to make sound professional judgements regarding ground water monitoring, contaminant fate and transport, and corrective action.

"RCRA" means the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (42 USC § 6901 et seq.), the Hazardous and Solid Waste Amendments of 1984, and any other applicable amendments to these laws.

"RDF (Refuse Derived Fuel)" means solid waste ~~which~~ *that* is processed to be used as fuel to produce energy.

"Reclaimed material" means a material ~~which~~ *that* is processed or reprocessed to recover a usable product or is regenerated to a usable form.

"Refuse" means all solid waste products having the character of solids rather than liquids and which are composed wholly or partially of materials such as garbage, trash, rubbish, litter, residues from clean up of spills or contamination, or other discarded materials.

"Registered professional engineer" means an engineer licensed to practice engineering in the Commonwealth as defined by the rules and regulations set forth by the Board of Architects, Professional Engineers, Land Surveyors, and Landscape Architects (18 VAC 10-20~~-10 et seq.~~).

"Regulated hazardous waste" means a solid waste that is a hazardous waste, as defined in the Virginia Hazardous Waste Management Regulations (9 VAC 20-60~~-10 et seq.~~), that is not excluded from those regulations as a hazardous waste.

"Regulated medical waste" means solid wastes so defined by the Regulated Medical Waste Management Regulations (9 VAC 20-120~~-10 et seq.~~) as promulgated by the Virginia Waste Management Board.

"Release" means, for the purpose of this chapter, any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injection, escaping, leaching, dumping, or disposing into the environment solid wastes or hazardous constituents of solid wastes (including the abandonment or discarding of barrels, containers, and other closed receptacles containing solid waste). This definition does not include: any release which results in exposure to persons solely within a workplace; release of source, by-product or special nuclear material from a nuclear incident, as those terms are defined in the Atomic Energy Act of 1954 (68 Stat. 923); and the normal application of fertilizer. For the purpose of this chapter, release also means substantial threat of release.

"Remediation waste" means all solid waste, including all media (ground water, surface water, soils and sediments) and debris, that are managed for the purpose of remediating a site under Part IV (9 VAC 20-80-170 et seq.) or V (9 VAC 20-80-240 et seq.) of this chapter or under the Voluntary Remediation Regulations (9 VAC 20-160~~-10 et seq.~~). For a given facility, remediation wastes may originate only from within the boundary of that facility, and may include wastes managed as a result of remediation beyond the boundary of the facility. Hazardous wastes as defined in 9 VAC 20-60~~-10 et seq.~~, as well as "new" or "as generated" wastes, are excluded from this definition.

"Remediation waste management unit" or RWMU means an area within a facility that is designated by the director for the purpose of implementing remedial activities required under Part IV or V of this chapter or under the Voluntary Remediation Regulations (9 VAC 20-160~~-10 et seq.~~). An RWMU shall only be used for the management of remediation wastes pursuant to implementing such remedial activities at the facility.

"Residential waste" means household waste.

"Resource recovery system" means a solid waste management system which provides for collection, separation, use, reuse, or reclamation of solid wastes, recovery of energy and disposal of non-recoverable waste residues.

"Rubbish" means combustible or slowly putrescible discarded materials which include but are not limited to trees, wood, leaves, trimmings from shrubs or trees, printed matter, plastic and paper products, grass, rags and other combustible or slowly putrescible materials not included under the term "garbage."

"Runoff" means any rainwater, leachate, or other liquid that drains over land from any part of a solid waste management facility.

"Runon" means any rainwater, wastewater, leachate, or other liquid that drains over land onto any part of the solid waste management facility.

"Salvage" means the authorized, controlled removal of waste materials from a solid waste management facility.

"Sanitary landfill" means an engineered land burial facility for the disposal of household waste which is so located, designed, constructed and operated to contain and isolate the waste so that it does not pose a substantial present or potential hazard to human health or the environment. A sanitary landfill also may receive other types of solid wastes, such as commercial solid waste, nonhazardous sludge, hazardous waste from conditionally exempt small quantity generators, construction demolition debris, and nonhazardous industrial solid waste.

"Saturated zone" means that part of the earth's crust in which all voids are filled with water.

"Scavenging" means the unauthorized or uncontrolled removal of waste materials from a solid waste management facility.

"Scrap metal" means bits and pieces of metal parts such as bars, rods, wire, empty containers, or metal pieces that may be combined together with bolts or soldering which are discarded material and can be used, reused, or reclaimed.

"Secondary containment" means an enclosure into which a container or tank is placed for the purpose of preventing discharge of wastes to the environment.

"Seismic impact zone" means an area with a 10% or greater probability that the maximum horizontal acceleration in lithified earth material, expressed as a percentage of the earth's gravitational pull (g), will exceed 0.10g in 250 years.

"Site" means all land and structures, other appurtenances, and improvements on them used for treating, storing, and disposing of solid waste. This term includes adjacent land within the facility boundary used for the utility systems such as repair, storage, shipping or processing areas, or other areas incident to the management of solid waste.

(Note: This term includes all sites whether they are planned and managed facilities or are open dumps.)

"Sludge" means any solid, semi-solid or liquid waste generated from a municipal, commercial or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility exclusive of treated effluent from a wastewater treatment plant.

"Small landfill" means a landfill that disposed of 100 tons/day or less of solid waste during a representative period prior to October 9, 1993, and did not dispose of more than an average of 100 tons/day of solid waste each month between October 9, 1993, and April 9, 1994.

"Solid waste" means any of those materials defined as 'solid waste' in Part III (9 VAC 20-80-140 et seq.) of this chapter.

"Solid waste boundary" means the outermost perimeter of the solid waste (vertical projection on a horizontal plane) as it would exist at completion of the disposal activity within the facility boundary.

"Solid waste disposal area" means the area within the facility boundary of a landfill facility in which solid waste is buried ~~or permitted for actual burial~~.

"Solid waste disposal facility" means a solid waste management facility at which solid waste will remain after closure.

"Solid waste management facility ("SWMF")" means a site used for planned treating, storing, or disposing of solid waste. A facility may consist of several treatment, storage, or disposal units.

"Source separation" means separation of recyclable materials by the waste generator of materials that are collected for use, reuse or reclamation.

"Special wastes" mean solid wastes that are difficult to handle, require special precautions because of hazardous properties or the nature of the waste creates waste management problems in normal operations. (See Part VIII (9 VAC 20-80-630 et seq.) of this chapter.)

"Speculatively accumulated material" means any material that is accumulated before being used, reused, or reclaimed or in anticipation of potential use, reuse, or reclamation. A solid waste is not being accumulated speculatively when it can be used, reused or reclaimed, has a feasible means of use, reuse, or reclamation available and 75% of the solid waste accumulated is being removed from the facility annually.

"Stabilized compost" means a compost that has passed the stability criteria outlined in 9 VAC 20-80-330 D 2 a.

"State solid waste management plan ("State Plan" or "Plan")" means the plan of the Virginia Waste Management Board that sets forth solid waste management goals and objectives and describes planning and regulatory concepts to be employed by the Commonwealth.

"State waters" means all water, on the surface and under the ground, wholly or partially within, or bordering the Commonwealth, or within its jurisdiction.

"Storage" means the holding of waste, at the end of which the waste is treated, disposed, or stored elsewhere.

"Structural components of a solid waste disposal unit" means liners, leachate collection systems, final covers, run-on/run-off systems, and any other component used in the construction and operation of the solid waste disposal facility that is

necessary for protection of human health and the environment.

"Structural fill" means an engineered fill with a projected beneficial end use, constructed using soil or coal combustion by-products spread and compacted with proper equipment and covered with a vegetated soil cap.

"Sudden event" means a one time, single event such as a sudden collapse or a sudden, quick release of contaminants to the environment. An example would be the sudden loss of leachate from an impoundment into a surface stream caused by failure of a containment structure.

"Surface impoundment or impoundment" means a facility or part of a facility that is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials), that is designed to hold an accumulation of liquid wastes or wastes containing free liquids and that is not an injection well.

"SW-846" means Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, EPA Publication SW-846, Second Edition, 1982 as amended by Update I (April, 1984), and Update II (April, 1985) and the third edition, November, 1986, as amended.

"Tank" means a stationary device, designed to contain an accumulation of liquid or semi-liquid components of solid waste ~~which~~ *that* is constructed primarily of non-earthen materials ~~which~~ *that* provide structural support.

"TEF" or *"Toxicity Equivalency Factor"* means a factor developed to account for different toxicities of structural isomers of polychlorinated dibenzodioxins and dibenzofurans and to relate them to the toxicity of 2,3,7,8-tetrachloro dibenzo-p-dioxin.

"Terminal" means the location of transportation facilities such as classification yards, docks, airports, management offices, storage sheds, and freight or passenger stations, where solid waste that is being transported may be loaded, unloaded, transferred, or temporarily stored.

"Thermal treatment" means the treatment of solid waste in a device which uses elevated temperature as the primary means to change the chemical, physical, or biological character, or composition of the solid waste.

"Tire chip" means a material processed from waste tires that is a nominal two square inches in size, and ranges from 1/4 inches to 4 inches in any dimension. Tire chips contain no wire protruding more than 1/4 inch.

"Tire shred" means a material processed from waste tires that is a nominal 40 square inches in size, and ranges from 4 inches to 10 inches in any dimension.

"Transfer station" means any solid waste storage or collection facility at which solid waste is transferred from collection vehicles to haulage vehicles for transportation to a central solid waste management facility for disposal, incineration or resource recovery.

"Trash" means combustible and noncombustible discarded materials and is used interchangeably with the term rubbish.

"Treatment" means, for the purpose of this chapter, any method, technique or process, including but not limited to incineration, designed to change the physical, chemical or biological character or composition of any waste to render it more stable, safer for transport, or more amenable to use, reuse, reclamation or recovery.

"Unadulterated wood" means wood that is not painted, nor treated with chemicals such as preservatives nor mixed with other wastes.

"Underground source of drinking water" means an aquifer or its portion:

A. Which contains water suitable for human consumption; or

B. In which the ground water contains less than 10,000 mg/liter total dissolved solids.

"Unit" means a discrete area of land used for the management of solid waste.

"Unstable area" means a location that is susceptible to natural or human-induced events or forces capable of impairing the integrity of some or all of the landfill structural components responsible for preventing releases from a landfill. Unstable areas can include poor foundation conditions, areas susceptible to mass movements, and Karst terranes.

"Uppermost aquifer" means the geologic formation nearest the natural ground surface that is an aquifer, as well as, lower aquifers that are hydraulically interconnected with this aquifer within the facility boundary.

"Used or reused material" means a material which is either:

A. Employed as an ingredient (including use as an intermediate) in a process to make a product, excepting those materials possessing distinct components that are recovered as separate end products; or

B. Employed in a particular function or application as an effective substitute for a commercial product or natural resources.

"Vector" means a living animal, insect or other arthropod which transmits an infectious disease from one organism to another.

"Vegetative waste" means decomposable materials generated by yard and lawn care or land clearing activities and includes, but is not limited to, leaves, grass trimmings, woody wastes such as shrub and tree prunings, bark, limbs, roots, and stumps. For more detail see 9 VAC 20-101~~-10 et seq~~.

"Vertical design capacity" means the maximum design elevation specified in the facility's permit or if none is specified in the permit, the maximum elevation based on a 3:1 slope from the waste management unit boundary.

"VPDES ("Virginia Pollutant Discharge Elimination System")" means the Virginia system for the issuance of permits pursuant to the Permit Regulation (9 VAC 25-31~~-10 et seq.~~), the State Water Control Law, and § 402 of the Clean Water Act (33 U.S.C. § 1251 et seq.).

"Washout" means carrying away of solid waste by waters of the base flood.

"Waste derived fuel product" means a solid waste or combination of solid wastes that have been treated (altered physically, chemically, or biologically) to produce a fuel product with a minimum heating value of 5,000 BTU/lb. Solid wastes used to produce a waste derived fuel product must have a heating value, or act as binders, and may not be added to the fuel for the purpose of disposal. Waste ingredients may not be listed or characteristic hazardous wastes. The fuel product must be stable at ambient temperature, and not degraded by exposure to the elements. This material may not be "Refuse Derived Fuel (RDF)" as defined in 9 VAC 5-40-890.

"Waste management unit boundary" means the vertical surface located at the boundary line of the unit. This vertical surface extends down into the uppermost aquifer.

"Waste needing special handling (special waste)" means any solid waste which requires extra or unusual management when introduced into a solid waste management facility to insure protection of human health or the environment.

"Waste pile" means any non-containerized accumulation of nonflowing, solid waste that is used for treatment or storage.

"Waste tire" means a tire that has been discarded because it is no longer suitable for its original intended purpose because of wear, damage or defect. (See 9 VAC 20-150~~-10 et seq.~~ for other definitions dealing with the waste tire program.)

"Wastewaters" are, for the purpose of this chapter, wastes that contain less than 1.0% by weight total organic carbon (TOC) and less than 1.0% by weight total suspended solids (TSS).

"Water pollution" means such alteration of the physical, chemical, or biological properties of any state water as will or is likely to create a nuisance or render such waters:

A. Harmful or detrimental or injurious to the public health, safety, or welfare, or to the health of animals, fish, or aquatic life or plants;

B. Unsuitable, with reasonable treatment, for use as present or possible future sources of public water supply; or

C. Unsuitable for recreational, commercial, industrial, agricultural, or other reasonable uses, provided that:

1. An alteration of the physical, chemical, or biological properties of state waters or a discharge or deposit of sewage, industrial wastes, or other wastes to state waters by any owner which by itself is not sufficient to cause pollution but which in combination with such alteration or discharge or deposit to state waters by other persons is sufficient to cause pollution;

2. The discharge of untreated sewage by any person into state waters; and

3. The contribution to the degradation of water quality standards duly established by the State Water Control Board;

are "pollution" for the terms and purposes of this chapter.

"Water table" means the upper surface of the zone of saturation in ground waters in which the hydrostatic pressure is equal to the atmospheric pressure.

"Waters of the United States or waters of the U.S." means:

A. All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;

B. All interstate waters, including interstate "wetlands";

C. All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mud flats, sand flats, "wetlands," sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including:

1. Any such waters which are or could be used by interstate or foreign travelers for recreational or other purposes;

2. Any such waters from which fish or shellfish are or could be taken and sold in interstate or foreign commerce;

3. Any such waters which are used or could be used for industrial purposes by industries in interstate commerce;

4. All impoundments of waters otherwise defined as waters of the United States under this definition;

5. Tributaries of waters identified in subdivisions 1 through 4 of this definition;

6. The territorial sea; and

7. Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in subdivisions 1 through 6 of this definition.

"Wetlands" mean those areas that are defined by the federal regulations under 33 CFR Part 328.

"White goods" means any stoves, washers, hot water heaters, and other large appliances.

"Working face" means that area within a landfill which is actively receiving solid waste for compaction and cover.

"Yard waste" means ~~that fraction of municipal solid waste that consists of grass clippings, leaves, brush and tree prunings arising from general landscape maintenance~~ *decomposable waste materials generated by yard and lawn care and includes leaves, grass trimmings, brush, wood chips, and shrub and tree trimmings. Yard waste shall not include roots or stumps that exceed six inches in diameter*.

9 VAC 20-80-60. Applicability of chapter.

A. This chapter applies to all persons who manage or dispose of solid wastes as defined in Part III (9 VAC 20-80-140 et seq.) of this chapter.

~~B. Owners and operators of all new disposal facilities and units regulated under Part V (9 VAC 20-80-240 et seq.) of this chapter and all existing storage and treatment facilities and units regulated under Part VI (9 VAC 20-80-320 et seq.) of this chapter shall comply with all provisions of this chapter. Owners and operators of existing disposal facilities and units~~

~~may be partially exempt from certain specific requirements as shown in subdivisions 1 through 4 of this subsection.~~

~~1. Existing sanitary landfills.~~

~~Note: Facilities described in this subsection are subject to prioritization and a schedule for closure pursuant to § 10.1-1413.2 of the Code of Virginia.~~

~~a. Except as provided for in subdivision 1 b of this subsection, all existing sanitary landfill facilities and units shall comply with all provisions of this chapter.~~

~~b. Those facilities which were permitted prior to March 15, 1993, and upon which solid waste has been disposed of prior to October 9, 1993, may continue to receive solid waste until they have reached their vertical design capacity, provided that the facility is in compliance with the requirements for liners and leachate control in effect at the time of permit issuance, and further provided that on or before October 9, 1993, the owner or operator of the solid waste management facility has submitted to the director:~~

~~(1) An acknowledgment that the owner or operator is familiar with state and federal law and regulations pertaining to solid waste management facilities operating after October 9, 1993, including post-closure care, corrective action and financial responsibility requirements;~~

~~(2) A statement signed by a registered professional engineer that he has reviewed the regulations established by the department for solid waste management facilities, including the open dump criteria contained therein, that he has inspected the facility and examined the monitoring data compiled for the facility in accordance with applicable regulations and that, on the basis of his inspection and review, he has concluded:~~

~~(a) That the facility is not an open dump;~~

~~(b) That the facility does not pose a substantial present or potential hazard to human health and the environment; and~~

~~(c) That the leachate or residues from the facility do not pose a threat of contamination or pollution of the air, surface water or ground water in a manner constituting an open dump or resulting in a substantial present or potential hazard to human health or the environment; and~~

~~(3) A statement signed by the owner or operator:~~

~~(a) That the facility complies with applicable financial assurance regulations; and~~

~~(b) Estimating when the facility will reach its vertical design capacity.~~

~~c. The facility may not be enlarged prematurely to avoid compliance with this chapter when such enlargement is not consistent with past operating practices, the permit or modified operating practices to ensure good management.~~

~~d. The provisions of subdivision 1 b of this subsection are not applicable to any sanitary landfill facility or unit undergoing lateral expansion after October 9, 1993.~~

B. All facilities that were permitted prior to March 15, 1993, and upon which solid waste has been disposed of prior to October 9, 1993, may continue to receive solid waste until they have reached their vertical design capacity or until the closure date established pursuant to § 10.1-1413.1 of the Code of Virginia, provided:

Note: Municipal solid waste landfills (sanitary landfills) are subject to prioritization and a schedule for closure pursuant to § 10.1-1413.2 of the Code of Virginia.

1. The facility is in compliance with the requirements for liners and leachate control in effect at the time of permit issuance.

2. On or before October 9, 1993, the owner or operator of the solid waste management facility has submitted to the director:

a. An acknowledgment that the owner or operator is familiar with state and federal law and regulations pertaining to solid waste management facilities operating after October 9, 1993, including post-closure care, corrective action and financial responsibility requirements;

b. A statement signed by a registered professional engineer that he has reviewed the regulations established by the department for solid waste management facilities, including the open dump criteria contained therein, that he has inspected the facility and examined the monitoring data compiled for the facility in accordance with applicable regulations and that, on the basis of his inspection and review, he has concluded:

(1) That the facility is not an open dump;

(2) That the facility does not pose a substantial present or potential hazard to human health and the environment; and

(3) That the leachate or residues from the facility do not pose a threat of contamination or pollution of the air, surface water or ground water in a manner constituting an open dump or resulting in a substantial present or potential hazard to human health or the environment; and

c. A statement signed by the owner or operator:

(1) That the facility complies with applicable financial assurance regulations; and

(2) Estimating when the facility will reach its vertical design capacity.

3. The facility may not be enlarged prematurely to avoid compliance with this chapter when such enlargement is not consistent with past operating practices, the permit or modified operating practices to ensure good management.

4. The provisions of subdivision 1 b of this subsection are not applicable to any municipal solid waste landfill unit undergoing lateral expansion after October 9, 1993.

"Municipal solid waste landfill unit" is defined in 9 VAC 20-80-180 A.

C. Facilities are authorized to expand laterally beyond the waste boundaries existing on October 9, 1993, as follows:

~~2.~~ *1.* Existing captive industrial landfills.

a. Existing nonhazardous industrial waste facilities that are located on property owned or controlled by the generator of the waste disposed of in the facility shall comply with all the provisions of this chapter except as shown in subdivision ~~2 b~~ *1* of this subsection.

~~b. Facilities which were permitted prior to March 15, 1993, and upon which solid waste has been disposed of prior to October 9, 1993, may continue to receive nonhazardous industrial waste, provided that the facility is in compliance with the requirements for liners and leachate control in effect at the time of permit issuance until they have reached their vertical design capacity or the limits of the disposal area specified in the permit.~~

b. Facility owners or operators shall not be required to amend their facility permit in order to expand a captive industrial landfill beyond the waste boundaries existing on October 9, 1993. Liners and leachate collection systems constructed beyond the waste boundaries existing on October 9, 1993 shall be constructed in accordance with the requirements in effect at the time of permit issuance.

c. Owners or operators of facilities which are authorized under subdivision ~~2 b~~ *1* of this subsection to accept waste for disposal beyond the waste boundaries existing on October 9, 1993, shall ensure that such expanded disposal areas maintain setback distances applicable to such facilities in 9 VAC 20-80-270 A.

~~d. Facilities, or portions thereof, which have reached their vertical design capacity shall be closed in compliance with 9 VAC 20-80-270 E.~~

d. Facilities authorized for expansion in accordance with subdivision 1 of this subsection are limited to expansion to the limits of the permitted disposal area existing on October 9, 1993, or the facility boundary existing on October 9, 1993, if no discrete disposal area is defined in the facility permit.

~~3.~~ *2.* Other existing industrial waste landfills.

a. Existing nonhazardous industrial waste facilities that are not located on property owned or controlled by the generator of the waste disposed of in the facility shall comply with all the provisions of this chapter except as shown in subdivision ~~3 b~~ *2* of this subsection.

~~b. Facilities which were permitted prior to March 15, 1993, and upon which solid waste has been disposed of prior to October 9, 1993, may continue to receive nonhazardous industrial waste, until they have reached their vertical design capacity or the limits of the disposal area specified in the permit, provided that:~~

~~(1) The facility accepts only industrial waste streams which the facility has lawfully accepted prior to July 1, 1995, or other nonhazardous industrial waste as approved by the department on a case-by-case basis; and~~

b. Facility owners or operators shall not be required to amend their facility permit in order to expand an industrial landfill beyond the waste boundaries existing on October 9, 1993. Liners and leachate collection systems constructed beyond the waste boundaries existing on October 9, 1993, shall be constructed in accordance with the requirements of 9 VAC 20-80-270 B.

~~(2)~~ *c.* Prior to the expansion of any such facility, the owner or operator submits to the director a written notice of the proposed expansion at least 60 days prior to commencement of construction. The notice shall include recent ground water monitoring data sufficient to determine that the facility does not pose a threat of contamination of ground water in a manner constituting an open dump or creating a substantial present or potential hazard to human health or the environment (see 9 VAC 20-80-180 B 4). The director shall evaluate the data included with the notification and may advise the owner or operator of any additional requirements that may be necessary to ensure compliance with applicable laws and prevent a substantial present or potential hazard to health or the environment.

~~c.~~ *d.* Owners or operators of facilities which are authorized under subdivision ~~3 b~~ *2* of this subsection to accept waste for disposal beyond the waste boundaries existing on October 9, 1993, shall ensure that such expanded disposal areas maintain setback distances applicable to such facilities in 9 VAC 20-80-270 A.

~~d. Facilities, or portions thereof, which have reached their vertical design capacity shall be closed in compliance with 9 VAC 20-80-270 E.~~

e. Facilities authorized for expansion in accordance with this subsection are limited to expansion to the limits of the permitted disposal area existing on October 9, 1993, or the facility boundary existing on October 9, 1993, if no discrete disposal area is defined in the facility permit.

~~4.~~ *3.* Existing construction/demolition/debris landfills.

a. Existing facilities that accept only construction/demolition/debris waste shall comply with all the provisions of this chapter except as shown in subdivision ~~4 b~~ *3* of this subsection.

~~b. Facilities which were permitted prior to March 15, 1993, and upon which solid waste has been disposed of prior to October 9, 1993, may:~~

~~(1) Continue to receive solid waste until they have reached their vertical design capacity, provided that the facility is in compliance with the requirements for liners and leachate control in effect at the time of permit issuance, and further provided that on or before October 9, 1993, the owner or operator of the solid waste management facility have submitted to the director:~~

~~(a) An acknowledgment that the owner or operator is familiar with state and federal law and regulations pertaining to solid waste management facilities~~

~~operating after October 9, 1993, including post-closure care, corrective action and financial responsibility requirements;~~

~~(b) A statement signed by a registered professional engineer that he has reviewed the regulations established by the department for solid waste management facilities, including the open dump criteria contained therein, that he has inspected the facility and examined the monitoring data compiled for the facility in accordance with applicable regulations and that, on the basis of his inspection and review, has concluded that the () facility is not an open dump; () facility does not pose a substantial present or potential hazard to human health and the environment; and () leachate or residues from the facility do not pose a threat of contamination or pollution of the air, surface water or ground water in a manner constituting an open dump or resulting in a substantial present or potential hazard to human health or the environment; and~~

~~(c) A statement signed by the owner or operator () that the facility complies with applicable financial assurance regulations and () estimating when the facility will reach its vertical design capacity.~~

~~(d) The facility may not be enlarged prematurely to avoid compliance with this chapter when such enlargement is not consistent with past operating practices, the permit or modified operating practices to ensure good management; or~~

~~(2) Expand laterally beyond the waste disposal boundaries existing on October 9, 1993, provided that:~~

~~(a) There is first installed, in such expanded areas, liners and leachate control systems meeting the applicable requirements of 9 VAC 20-80-260 B; and~~

b. Facility owners or operators shall not be required to amend their facility permit in order to expand a construction/demolition/debris landfill beyond the waste boundaries existing on October 9, 1993. Liners and leachate collection systems constructed beyond the waste boundaries existing on October 9, 1993, shall be constructed in accordance with the requirements of 9 VAC 20-80-260 B.

~~(b)~~ *c.* Prior to the expansion of any such facility, the owner or operator submits to the director a written notice of the proposed expansion at least sixty days prior to commencement of construction. The notice shall include recent ground water monitoring data sufficient to determine that the facility does not pose a threat of contamination of ground water in a manner constituting an open dump or creating a substantial present or potential hazard to human health or the environment (see 9 VAC 20-80-180 B 4). The director shall evaluate the data included with the notification and may advise the owner or operator of any additional requirements that may be necessary to ensure compliance with applicable laws and prevent a substantial present or potential hazard to health or the environment.

~~c.~~ *d.* Owners or operators of facilities which are authorized under *this* subdivision ~~4 b (2) of this subsection~~ *3* to accept waste for disposal beyond the ~~waste boundaries~~ *active portion of the landfill* existing on October 9, 1993, shall ensure that such expanded disposal areas maintain setback distances applicable to such facilities in 9 VAC 20-80-260 A and B.

~~d.~~ *e.* Facilities, or portions thereof, which have reached their vertical design capacity shall be closed in compliance with 9 VAC 20-80-260 E.

f. Facilities authorized for expansion in accordance with subdivision 2 c of this subsection are limited to expansion to the permitted disposal area existing on October 9, 1993, or the facility boundary existing on October 9, 1993, if no discrete disposal area is defined in the facility permit.

~~5.~~ *4.* Facilities or units undergoing expansion in accordance with the partial exemptions created by subdivision 1 b, 2 b, *or* 3 b~~, or 4 b~~ of this subsection may not receive hazardous wastes generated by the exempt small quantity generators as defined by the Virginia Hazardous Waste Management Regulations (9 VAC 20-60-~~10 et seq.~~), wastes containing free liquids for disposal on the expanded portions of the facility. Other wastes that require special handling in accordance with the requirements of Part VIII (9 VAC 20-80-630 et seq.) of this chapter or which contain hazardous constituents which would pose a risk to health or environment, may only be accepted with specific approval by the director.

~~6.~~ *5.* Nothing in subdivisions 1 b, 2 b, *and* 3 b~~, and 4 b~~ of this subsection shall alter any requirement for ground water monitoring, financial responsibility, operator certification, closure, post-closure care, operation, maintenance or corrective action imposed under this chapter, or impair the powers of the director to revoke or amend a permit pursuant to § 10.1-1409 of the Virginia Waste Management Act or Part VII (9 VAC 20-80-480 et seq.) of this chapter.

~~C.~~ *D.* An owner or operator of a previously unpermitted facility that managed materials previously exempt from this chapter shall submit a complete application for a solid waste management facility permit or a permit amendment in accordance with Part VII of this chapter within six months after these materials have been defined or identified as solid wastes. If the director finds that the application is complete, the owner or operator may continue to manage the newly defined or identified waste until a permit or permit amendment decision has been rendered or until a date two years after the change in definition whichever occurs sooner, provided however, that in so doing he shall not operate or maintain an open dump, a hazard, or a nuisance.

The owner or operator of an existing solid waste management facility shall comply with this regulation beginning ~~May 23, 2001~~ *[effective date of regulation]*. Where necessary conflicts exist between the existing facility permit and the new requirements of the regulations, the regulations shall supercede the permit except where the standards in the permit are more stringent than the regulation. Language in an existing permit shall not act as a shield to compliance with the regulation, unless a variance to the regulations has been approved by the director in accordance with the provisions of

Part IX (9 VAC 20-80-730 et seq.) of this chapter. Existing facility permits will not be required to be updated to eliminate requirements conflicting with the regulation, except at the request of the director or if a permit is amended for another reason. However, all ~~facilities will be required to implement a control program for unauthorized waste in accordance with the provisions of 9 VAC 20-80-113 by November 19, 2001. A written description of the program required by 9 VAC 20-80-113 will be placed in the operating record within that timeframe. In the case of sanitary landfills the written description will also incorporate the unauthorized waste inspection program~~ *sanitary landfills and incinerators that accept waste from states other than Virginia must submit the materials* required under ~~9 VAC 20-80-250 C 1~~ *9 VAC 20-80-113 D by [180 days from the effective date of the regulation]*.

~~D.~~ *E.* Conditional exemptions. The following solid waste management practices are exempt from this chapter provided no open dump, hazard, or public nuisance is created:

1. Composting of sewage sludge at the sewage treatment plant of generation without addition of other types of solid wastes.

2. Composting of household waste generated ~~by owners of~~ *at a* single-family ~~residences~~ *residence* at the site of generation.

3. Composting activities performed for educational purposes as long as no more than five tons of materials are on site at any time. Greater quantities will be allowed with suitable justification presented to the department. For quantities greater than five tons approval from the director will be required prior to composting.

4. ~~Land application by surface spreading or incorporation into soil~~ *Management* of wastes regulated by the State Board of Health, the State Water Control Board, or any other state agency with such authority.

5. On-site management of soil contaminated with petroleum products ~~to include diesel fuels, heating oil, kerosene, gasoline, hydraulic fluids, jet engine fuel, and motor oil,~~ required as *part of an ongoing* corrective action by the department under Article 9 (§ 62.1-44.34:8 et seq.) or Article 11 (§ 62.1-44.34:14 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia. Management of the contaminated soils away from the site of generation is subject to this chapter unless specifically provided for in the approved corrective action plan. ~~Off-site treatment of contaminated soil is regulated under Part VI of this chapter.~~

6. Management of solid waste in appropriate containers at the site of its generation, provided that:

a. Putrescible waste is not stored more than seven days between time of collection and time of removal for disposal; and

b. All nonputrescible wastes that are on a system of regularly scheduled collection for disposal with collections occurring at intervals of less than 90 days.

7. Landfilling of solid waste which includes only rocks, brick, block, dirt, broken concrete and road pavement and which contains no paper, yard, or wood wastes.

8. On-site management of solid wastes generated by the wastewater treatment facilities provided such management is subject to a regulation promulgated by the State Water Control Board.

9. Placing of stumps and other land clearing debris from agricultural or forestal activities on site of the clearing where no debris is accepted from off-site. *This does not include the burial of these materials.*

10. Placing of solid wastes including large tires from mining equipment from mineral mining activities on a mineral mining site in compliance with a permit issued by the Department of Mines, Minerals and Energy where no such waste is accepted from off-site and does not contain any municipal solid wastes or other special wastes. Placement of such solid wastes shall be accomplished in an environmentally sound manner.

11. Storage of less than 100 waste tires at the site of generation provided that no waste tires are accepted from off-site and that the storage will not present a hazard or a nuisance.

~~E.~~ *F.* This chapter is not applicable to units or facilities closed in accordance with regulations or permits in effect prior to December 21, 1988, unless releases, as defined in Part I (9 VAC 20-80-10 et seq.) of this chapter, from such closed facilities cause the site to be classified as an open dump, a hazard or a nuisance under § 10.1-1402(21) of the Code of Virginia, or a site where improper waste management has occurred under § 10.1-1402(19) of the Code of Virginia.

9 VAC 20-80-80. Open dumps.

A. Prohibition.

1. No person shall own, operate, or allow to be operated on his property any sanitary landfill or other facility for the disposal, treatment or storage of solid waste in a manner that constitutes open dumping as provided for in Part IV (9 VAC 20-80-170 et seq.) of this chapter.

2. No person shall dispose of solid waste in open dumps as defined in Part IV of this chapter.

B. Any person who violates subsection A of this section shall immediately cease accepting additional wastes and shall initiate such *removal,* cleanup*, closure in place,* or ~~corrective~~ *alternative remedial* actions as are required by Part IV of this chapter to alleviate the conditions that cause the facility to be classified as an open dump or to take other appropriate measures to abate improper management of waste.

9 VAC 20-80-90. Unpermitted facilities.

A. Prohibitions and duties.

1. No person shall operate any sanitary landfill or other facility for the disposal, treatment or storage of solid waste without a permit from the director.

2. No person shall allow waste to be disposed of or otherwise managed on his property without a permit from the director.

3. It shall be the duty of all persons to dispose of or otherwise manage their solid waste in a legal manner.

B. Any person who violates 9 VAC 20-80-90 A shall immediately cease treatment~~.~~, storage, or disposal of any additional wastes and shall initiate such removal, cleanup, *closure in place,* or ~~corrective~~ *alternative remedial* actions as are required by Part IV of this chapter.

9 VAC 20-80-100. Enforcement and appeal.

A. All administrative enforcement and appeals taken from actions of the director relative to the provisions of this chapter shall be governed by the Virginia Administrative Process Act.

B. The Virginia Waste Management Board or the director may enforce the provisions of this chapter utilizing all applicable procedures under the law. The powers of the board and the director include, but are not limited to, those established under Chapter 11.1 (§ 10.1-1182 et seq. (especially in § 10.1-1186)) and in Article 8 (§ 10.1-1455 et seq.) of Chapter 14 of Title 10.1 of the Code of Virginia. ~~In~~ These sections ~~are described~~ *describe* the right of entry for inspections, the issuance of orders, penalties, injunctions, and other provisions and procedures for enforcement of these regulations.

9 VAC 20-80-105. Ten-year permit review.

~~C.~~ The director shall review and issue written findings on the environmental compliance history of each permittee, material changes, if any, in key personnel, and technical limitations, standards, or regulations on which the original permit was based. The time period for review of each permit shall be once every 10 years. If, upon such review, the director finds that repeated material or substantial violations of the permittee or material changes in the permittee's key personnel would make continued operation of the facility not in the best interests of human health or the environment, the director shall amend or revoke the permit, in accordance with provisions of Part VII (9 VAC 20-80-480 et seq.) of this chapter. Whenever such review is undertaken, the director may amend the permit to include additional limitations, standards, or conditions when the technical limitations, standards, or regulations on which the original permit was based have been changed by statute or amended by regulation or when any of the conditions in § 10.1-1409 B of the Virginia Waste Management Act exist. The director may deny, revoke, or suspend any permit for any of the grounds listed under § 10.1-1409 A of the Code of Virginia.

1. For facilities in existence prior to July 1, 1991, the first review will be completed by July 1, 2001.

2. For facilities permitted on or after July 1, 1991, the first review must be completed within 10 years of the anniversary date of permit issuance.

3. For facilities that have previously undergone review, each subsequent review will be at least once every 10 years.

9 VAC 20-80-110. Public participation.

A. All permits for solid waste management facilities will be subject to public participation, as specified in Part VII (9 VAC 20-80-480 et seq.) of this chapter.

B. Amendments or modifications to solid waste management facility permits shall be subject to public participation in accordance with Part VII of this chapter.

C. Dockets of all permitting actions, enforcement actions, and administrative actions relative to this chapter shall be available to the public for review, consistent with the Commonwealth of Virginia Administrative Process Act, Virginia Freedom of Information Act, and the provisions of this chapter.

D. All reports and related materials received from the regulated entity, as required by this chapter, shall be open to the public for review in accordance with the Virginia Freedom of Information Act (§ ~~2.1-340~~ *2.2-3700* et seq. of the Code of Virginia) and Uniform Trade Secrets Act (§ 59.1-336 et seq. of the Code of Virginia).

E. Public participation in the compliance evaluation and enforcement programs is encouraged. The department will:

1. Investigate *all citizen complaints* and provide written responses to all ~~citizen complaints addressed to the department~~ *signed, written complaints from citizens, concerning matters within the board's purview*;

2. Not oppose intervention by any citizen in a suit brought before a court by the department as a result of the enforcement action; and

3. Publish a notice in major daily or weekly newspaper of general circulation in the area and on the department's Internet web site; and provide at least 30 days of public comment on proposed settlements of civil enforcement actions except where the settlement requires some immediate action. *Where a public comment period is not held prior to the settlement of an enforcement action, public notice will still be provided following the settlement.*

9 VAC 20-80-113. Control program for unauthorized waste.

A. *All facilities are required to implement a control program for unauthorized waste in accordance with the provisions of this section by November 19, 2001. A written description of the program required by this section will be placed in the operating record. In the case of sanitary landfills the written description will also incorporate the unauthorized waste inspection program required under 9 VAC 20-80-250 C 1.* The facility owner or operator shall institute a control program (including measures such as signs at all maintained access points indicating hours of operation and the types of solid waste accepted and not accepted, monitoring, alternate collection programs, passage of local laws, etc.) to assure that only solid waste authorized by the department to be treated, disposed of or transferred at the facility is being treated, disposed of or transferred at that facility. The facility owner or operator must develop and implement a program to teach the facility's staff to recognize, remove and report receipt of solid waste not authorized by the department to be treated, disposed of or transferred at the facility.

B. If solid waste not authorized by the department to be treated, disposed of or transferred at the facility is observed in the solid waste at the facility or delivered to the facility, the facility owner or operator may refuse to accept the waste. If the owner or operator has accepted the waste, the owner or operator shall remove it, segregate it, and provide to the department a record identifying that waste and its final disposition. Records of each incident shall be available for

department review. Any unauthorized waste accepted by the facility owner or operator shall be managed in accordance with applicable federal or state laws and regulations.

C. Solid waste not authorized by the department to be treated, disposed of or transferred at the facility that is segregated shall be adequately secured and contained to prevent leakage or contamination of the environment. The facility owner or operator shall cause it to be removed as soon as practicable, but not to exceed 90 days after discovery, by a person authorized to transport such waste to a facility approved to receive it for treatment, disposal or transfer.

D. Facilities receiving waste generated outside of Virginia. All sanitary landfills and incinerators receiving waste generated outside of Virginia shall submit to the department information on the regulation of waste for each state from which they receive waste. The materials submitted shall include regulatory and statutory language and citations sufficient for the department to determine if the state's laws or regulations allow for the disposal or incineration of wastes at municipal solid waste facilities that Virginia's laws and regulations prohibit or restrict. Sanitary landfills and incinerators receiving waste from states with less stringent regulatory schemes shall comply with the increased random inspection provisions in 9 VAC 20-80-250 C 1 b. This information shall be submitted to the department by [180 days from the effective date of the regulation].

1. Facilities receiving waste from outside of Virginia must notify the department and submit information indicating how each state regulates the following wastes:

a. Regulated medical waste. Provide information indicating the treatment requirements for waste regulated under the OSHA bloodborne pathogen standard. Indicate which types of potentially infectious wastes are banned from municipal solid waste facilities and how blood, body fluids and other potentially contaminated items generated at hospitals and doctor's offices must be treated prior to disposal at a municipal solid waste landfill or incinerator.

b. Conditionally exempt small quantity generator waste (CESQG). Provide information indicating the disposal requirements for waste regulated as CESQG waste. Indicate if CESQG wastes can be discarded by a generator in the municipal solid waste stream in the generating state or can be accepted at a municipal solid waste management facility.

c. PCB waste. Provide information indicating the disposal requirements for PCB bulk product waste, PCB remediation waste, PCB contaminated electrical equipment and other PCB wastes.

If the department has reviewed the regulatory structure and made a determination related to the subject generating state pursuant to the provisions of subdivision 2 of this subsection, then this information need not be submitted with the notification.

2. On or before July 1 of each year, the department will review the regulatory requirements for the generating states identified in the Solid Waste Information and Assessment Program and publish a listing of those states with less stringent regulatory standards with reference to the wastes listed in subdivision 1 of this subsection.

3. Based on the ability of the department or the facility to adequately inspect the wastes received, any requirement for increased monitoring shall include a condition indicating that the department reserves the right to impose a limit on the number and volume of the loads received from states with less stringent regulatory schemes .

9 VAC 20-80-115. Solid Waste Information and Assessment Program.

A. The owners or operators of all permitted *solid waste management* facilities that treat, store, or dispose of solid waste shall report by March 31 of each year the amount of solid waste, by weight or volume, received and managed by the facility during the preceding calendar year. The report shall identify solid waste by the following categories: (i) municipal solid waste; (ii) construction and demolition debris; (iii) industrial waste; (iv) regulated medical waste; (v) vegetative and yard waste; (vi) incinerator ash; (vii) sludge other than sludge that is land applied in accordance with § 32.1-164.5 *of the Code of Virginia*; (viii) tires; (ix) white goods; (x) friable asbestos; (xi) petroleum contaminated soil; and (xii) other special waste. For each such category the report shall include an estimate of the amount that was generated outside of the Commonwealth and the *state or local* jurisdictions where such waste originated. The report shall also estimate the amount of solid waste managed or disposed of by each of the following methods: (a) recycling; (b) composting; (c) landfilling; (d) incineration (e) sending off-site for further management; and (f) stored on site on December 31 of the reporting year.

B. At the option of the facility owner, the data collected may include an accounting of the facility's economic benefits to the locality where the facility is located including the value of disposal and recycling facilities provided to the locality at no cost or reduced cost, direct employment associated with the facility, and other economic benefits resulting from the facility during the preceding calendar year.

C. No facility shall be required pursuant to this section to provide information that is a trade secret as defined in § 59.1-336 *of the Code of Virginia*.

D. The reporting form to be used to fulfill the reporting requirement of this part is DEQ Form 50-25 *(Solid Waste Information and Assessment Program - Reporting Table)*, which is *also* available in the Regulations for the Development of Solid Waste Management Plans (9 VAC 20-130~~-10 et seq.~~).

E. This section shall not apply to captive waste management facilities including captive industrial landfills.

9 VAC 20-80-120. Relationship with other regulations promulgated by the Virginia Waste Management Board.

A. Virginia Hazardous Waste Management Regulations (9 VAC 20-60~~-10 et seq.~~).

1. Solid wastes that have been declared hazardous by the generator in accordance with ~~9 VAC 20-60-340 E~~ *40 CFR 262.11* or that are regulated as hazardous wastes by the Commonwealth or another state, and will be treated, stored,

or disposed in Virginia shall be managed in accordance with the requirements of 9 VAC 20-60~~-10 et seq.~~ and not this chapter.

2. Wastes generated by generators who are conditionally exempt pursuant to ~~9 VAC 20-60-120~~ *40 CFR 262.5* of the Virginia Hazardous Waste Management Regulations may be managed in solid waste management facilities provided that:

a. (1) A specific approval is obtained from the director for acceptance of the material at a facility with an approved liner and leachate collection system; or

(2) It is included in the facility permit; and

b. Records are kept of the actual amount, type and source of these wastes.

NOTE: "Generators who are conditionally exempt pursuant to ~~9 VAC 20-60-120~~ *40 CFR 262.5* of the Virginia Hazardous Waste Management Regulations" in a calendar month are persons who generate less than 100 kilograms of hazardous waste in that month. For more detail see Virginia Hazardous Waste Management Regulations.

B. Regulated Medical Waste Management Regulations (9 VAC 20-120~~-10 et seq.~~). Solid wastes which are defined as regulated medical wastes by the Regulated Medical Waste *Management* Regulations shall be managed in accordance with those regulations. Regulated medical wastes which are excluded or exempt by 9 VAC 20-120~~-10 et seq.~~ shall be regulated by this chapter.

C. Vegetative Waste Management and Yard Waste Composting Regulations (9 VAC 20-101~~-10 et seq.~~). Solid wastes which are defined as vegetative or yard waste may be managed in accordance with the Vegetative Waste Management and Yard Waste Composting Regulations.

D. Regulation Governing Management of Coal Combustion By-Products (9 VAC 20-85~~-10 et seq.~~). Coal combustion by-products that are used, reused or reclaimed by applying them or placing them on land in a manner other than addressed in 9 VAC 20-80-150 or 9 VAC 20-80-160, may be managed in accordance with Regulation Governing Management of Coal Combustion By-Products.

E. Financial Assurance Regulations of Solid Waste Facilities (9 VAC 20-70~~-10 et seq.~~). This chapter specifies the requirements for financial assurance and allowable financial assurance mechanisms.

F. Solid Waste Management Facility Permit Application Fees (9 VAC 20-90~~-10 et seq.~~). All applicants for solid waste management facility permits are required to pay a fee in accordance with the schedule shown in this chapter.

G. Regulations for the Development of Solid Waste Management Plans (9 VAC 20-130). This chapter provides procedures and standards for establishing the boundaries of planning regions, provides a schedule of objectives for development of plans and planning goals, establishes required contents of plans and provides reporting requirements for the Solid Waste Information Assessment Program.

9 VAC 20-80-140. Definition of solid waste.

A. A solid waste is any discarded material.

B. Materials are solid wastes if they are used, reused, or reclaimed, or accumulated, stored or treated before such use, reuse, or reclamation, when they are:

1. Regulated as hazardous wastes under the Virginia Hazardous Waste Management Regulations (9 VAC 20-60~~-10 et seq.~~); ~~or~~

2. Used in a manner constituting disposal by being:

a. Applied to or placed on the land; or

b. Used to produce products that are applied to or placed on the land or are otherwise contained in products that are applied to or placed on the land. In the latter case, the product so containing remains a solid waste; or

3. Burned to recover energy, used to produce fuel, or are contained in fuels. In this case, the fuel so containing remains a solid waste; ~~or~~

4. Reclaimed; or

5. Accumulated speculatively (see "speculatively accumulated material" in 9 VAC 20-80-10).

C. The materials listed in Table 3-1-1, Appendix 3.1, of the Virginia Hazardous Waste Management Regulations (9 VAC 20-60~~-10 et seq.~~) under Waste Numbers F020, F021, F022, F023, F026, F028 as inherently waste-like are solid wastes.

D. Respondents in actions to enforce these regulations who raise a claim that a certain material is not a solid waste, or is conditionally exempt from regulation, shall demonstrate that there is a known market or disposition for the material, and that they meet the terms of the exclusion or exemption. In doing so, they shall provide appropriate documentation (such as contracts showing that a second person uses the material as an ingredient in a production process) to demonstrate that the material is not a waste, or is exempt from regulation. In addition, owners or operators of facilities claiming that they actually are recycling materials shall show that they have the necessary equipment to do so.

9 VAC 20-80-150. Exclusions.

The materials described in this section are not solid wastes for the purposes of this chapter.

A. Waste waters that are:

1. Domestic sewage;

2. Any mixture of domestic sewage and other wastes that pass through a sewer system to a treatment plant when the ~~department~~ *State Water Control Board* determines that regulations based upon the State Water Control Law, Chapter 3.1 (§ 62.1-44.2 et seq.) of Title 62.1 of the Code of Virginia, have been met; or

3. Industrial waste water discharges subject to regulation under the State Water Control Law.

B. Irrigation flow returns.

C. Source, special nuclear or nuclear by-product materials as defined by the Atomic Energy Act of 1954, 42 USC § 2011 et seq.

D. Materials subjected to in-situ mining techniques which are not removed from the ground as part of the extraction process.

E. Materials that are:

1. a. Used or reused, or prepared for use or reuse, as an ingredient in an industrial process to make a product, or as effective substitutes for commercial products or natural resources provided the materials are not being reclaimed or accumulated speculatively; or

b. Returned to the original process from which they are generated;

2. Beneficially used as determined by the department.

a. The following materials ~~that were solid waste prior to their use, reuse, or reclamation are determined by the department to be exempt from this chapter because such use, reuse or reclamation is considered to be beneficial~~ *and uses listed in this part are exempt from this chapter as long as they are managed so they do not create an open dump, hazard, or public nuisance. These materials and the designated use are considered a beneficial use of waste materials*:

(1) Unadulterated wood, wood chips, or bark from land clearing, logging operations, utility line clearing and maintenance operations, pulp and paper production, and wood products manufacturing, when these materials are placed in commerce for service as mulch, landscaping, animal bedding, erosion control, *habitat mitigation, wetlands restoration,* or bulking agent at a compost facility operated in compliance with 9 VAC 20-80-330;

(2) Unadulterated wood combustion residues when used as a soil amendment or fertilizer, provided the application rate of the wood ash is limited to the nutrient need of the crop grown on the land on which the wood combustion residues will be applied and provided that such application meets the requirements of the Virginia Department of Agriculture and Consumer Services (2 VAC 5-400~~-10 et seq.~~ and 2 VAC 5-410~~-10 et seq.~~);

(3) Compost that satisfies the applicable requirements of the Virginia Department of Agriculture and Consumer Services (2 VAC 5-400~~-10 et seq.~~ and 2 VAC 5-410~~-10 et seq.~~);

(4) Nonhazardous, contaminated soil which has been excavated as part of a construction project and which is used as backfill for the same excavation or excavations containing similar contaminants at the same site, at concentrations at the same level or higher. Excess materials from these projects are subject to the requirements of this chapter;

(5) Nonhazardous petroleum contaminated soil which has been treated to the satisfaction of the department in accordance with 9 VAC 20-80-700;

(6) Nonhazardous petroleum contaminated soil when incorporated into asphalt pavement products;

(7) Solid wastes which are approved in advance of the placement, in writing, by the department or which are specifically mentioned in the facility permit for use as daily cover material or other protective materials for landfill liner or final cover system components;

(8) Coal combustion by-products when used as a material in the manufacturing of another product (e.g., concrete, concrete products, lightweight aggregate, roofing materials, plastics, paint, flowable fill) or as a substitute for a product or material resource (e.g., blasting grit, roofing granules, filter cloth precoat for sludge dewatering, pipe bedding);

(9) Waste tire chips when used as a subbase fill for road base materials or asphalt pavements when approved by the Virginia Department of Transportation or by a local governing body;

(10) Waste ~~tire chips~~ *tires* used in the production of commercial products such as mats, pavement sealers, playground surfaces, brake pads, blasting mats, and other rubberized commercial products;

(11) Waste tire chips when used as backfill in landfill gas or leachate collection pipes, recirculation lines, and drainage material in landfill liner and cover systems, and gas interception or remediation applications;

(12) Waste *tires,* tire chips *or tire shred* when burned for energy recovery or pyrolyzed to produce fuel;

(13) "Waste derived fuel product," as defined in 9 VAC 20-80-10, derived from nonhazardous solid waste; and

(14) Recognizable, uncontaminated concrete and concrete products, asphalt pavement, brick, glass, soil and rock placed in commerce for service as a substitute for conventional aggregate.

b. In addition to items specified in subdivision 2 a of this subsection, the department may consider other ~~use, reuse or reclamation~~ *waste materials and uses* to be beneficial. The generator or proposed user of such materials may request that the department make a case-specific determination that the solid waste may be beneficially used in a manufacturing process to make a product or as an effective substitute for a commercial product. *In all such cases, the materials will be managed so they do not create an open dump, hazard, or public nuisance.*

(1) The requestor shall provide the following information:

(a) A description of the solid waste under review and its proposed use;

(b) Chemical and physical characteristics of the solid waste under review and of each type of proposed product;

(c) A demonstration that there is a known or reasonably probable market for the intended use of the solid waste under review and of all proposed products by providing one or more of the following:

(i) A description of how the proposed product will be used;

(ii) A demonstration that the proposed product complies with industry standards and specifications for that product if any; or

(iii) Other documentation that a market for the proposed product or use exists; and

(d) A demonstration that the management of the solid waste under review will not adversely affect human health and safety, the environment, and natural resources by providing:

(i) A solid waste control plan that describes the following:

(A) The source of the solid waste under review;

(B) Procedures for periodic testing of the solid waste under review and the proposed product to ensure that the proposed product's composition has not changed significantly;

(C) The disposition of any solid waste which may result from the manufacture of the product into which the solid waste under review is intended to be incorporated;

(D) A description of the type of storage (e.g., container, tank or pile) and the maximum anticipated inventory of the solid waste under review (not to exceed 90 days) before being used;

(E) Procedures for run-on and run-off control of the storage areas for the solid waste under review; and

(F) A program and implementation schedule of best management practices designed to minimize uncontrolled dispersion of the solid waste under review before and during all aspects of its storage as inventory and/or during beneficial use; and

(ii) A contingency plan that contains the following information:

(A) A description of arrangements between the applicant and local police departments, fire departments, hospitals, and emergency response teams to coordinate emergency services and familiarize them with the layout of the facility, properties of the solid waste handled and associated hazards, as appropriate;

(B) A list of names, addresses and telephone numbers of all individuals qualified to act as an emergency coordinator for the facility;

(C) A list of all relevant emergency equipment and the location of each item; and

(D) An evacuation plan for facility personnel.

(2) Upon receipt of complete information required under subdivision 2 b (1) of this subsection, the department will determine in writing within 90 days, on a case-by-case basis, whether the proposal constitutes a beneficial use based on a showing that all of the following criteria have been met:

(a) The proposed use of the material constitutes a reuse rather than disposal;

(b) For a material which is proposed for incorporation into a manufacturing process, the material is not required to be decontaminated or otherwise specially handled or processed before such incorporation, in order to minimize loss of material or to provide adequate protection, as needed, of public health, safety or welfare, the environment or natural resources; and

(c) Other criteria as the department shall determine in its discretion to be appropriate. Conversely, the department may determine that owing to the nature of the use, reuse, or reclamation process, some of the informational materials required under subdivision 2 b (1) of this subsection may not be required to make the determination.

(3) The department will either approve the request, disapprove it, or allow the proposed use of the solid waste under review subject to such conditions as the department may impose. When granting a beneficial use determination, the department shall determine, on a case-by-case basis, the precise point at which the solid waste under review ceases to be solid waste. Unless otherwise determined for the particular solid waste under review, that point occurs when it is used in a manufacturing process to make a product or used as an effective substitute for a commercial product or a fuel. As part of its request, the generator or the proposed user may request that such point occur elsewhere. In such a request, the proponent shall include a demonstration that there is little potential for improper disposal of the material or little potential for the handling, transportation, or storage of the solid waste under review to have an adverse impact upon the public health, safety or welfare, the environment or natural resources.

(4) The department may revoke any determination made if it finds that one or more of the items of information submitted serving as the basis for the department's determination was incorrect or is no longer valid, the department finds that there has been a violation of any condition that the department attached to such determination, or that the use, reuse or reclamation process has become a public nuisance.

c. Beneficial use determinations granted by the department before May 23, 2001, shall remain in effect, subject to all conditions contained therein, unless specifically addressed by subsequent department action.

F. Materials generated by any of the following, which are returned to the soil as fertilizers:

1. The growing and harvesting of agricultural crops.

2. The raising and husbanding of animals, including animal manures and used animal bedding;

G. Mining overburden returned to the mine site.

H. Scrap metal stored or being reclaimed for use, reuse or further reclamation.

I. Used, reused, or reclaimed commercial chemical products if they are applied to the land in their ordinary manner of use or if they are fuels.

J. Products produced for the general public's use that are used in the manner that constitutes disposal if they are applied to the land in their ordinary manner of use and that contain used, reused or reclaimed materials.

K. Wood wastes burned for energy recovery.

9 VAC 20-80-160. Conditional exemptions.

A. The following solid wastes are exempt from this chapter provided that they are managed in accordance with the requirements promulgated by other applicable state agencies:

1. Drilling fluids, produced waters, and other wastes associated with the exploration, development or production of crude oil, natural gas or geothermal energy;

2. Solid waste from the extraction, beneficiation and processing of ores and minerals, including coal;

3. Coal combustion by-products used for mine reclamation, mine subsidence, or mine refuse disposal on a mine site permitted by the Virginia Department of Mines, Minerals and Energy when used in accordance with the standards developed by the Department of Environmental Quality;

4. Waste or by-product derived from an industrial process that meets the definition of fertilizer, soil amendment, soil conditioner or horticultural growing medium as defined in § 3.1-106.2 of the Code of Virginia, or whose intended purpose is to neutralize soil acidity (see § 3.1-126.2:1 of the Code of Virginia), and that is regulated under the authority of the Virginia Department of Agriculture and Consumer Services;

5. Coal combustion bottom ash or boiler slag used as a traction control material or road surface material if the use is consistent with Virginia Department of Transportation practices;

6. Waste tires generated by and stored at salvage yards licensed by the Department of Motor Vehicles provided that they do not pose a hazard or a nuisance; and

~~Note: Waste tires managed at the licensed salvage yards are not subject to the storage limitations.~~

7. Chipped waste tires used as the drainage material in construction of septage drainfields regulated under the authority of the Virginia Department of Health.

B. Coal combustion by-products are exempt from this chapter provided they are used in one or more of the following applications or when handled, processed, transported, or stockpiled for such use:

1. Used as a base, sub-base or fill material under a paved road, the footprint of a structure, a paved parking lot, sidewalk, walkway or similar structure, or in the embankment of a road. In the case of roadway embankments, materials will be placed in accordance with VDOT specifications, and exposed slopes not directly under the surface of the pavement must have a minimum of 18" of soil cover over the coal combustion by-products, the top 6" of which must be capable of sustaining the growth of indigenous plant species or plant species adapted to the area;

2. Processed with a cementitious binder to produce a stabilized structural fill product which is spread and compacted with proper equipment for the construction of a project with a specified end use;

3. Used for the extraction or recovery of materials and compounds contained within the coal combustion by-products.

NOTE 1: Residuals from the processing operations remain solid wastes.

NOTE 2: The use of coal combustion by-products outlined in this regulation has been evaluated only with regard to the protection of human health and the environment. A qualified professional engineer should evaluate any structural application of coal ash.

C. The following solid wastes are exempt from this chapter provided that they are reclaimed or temporarily stored incidentally to reclamation, are not accumulated speculatively, and are managed without creating an open dump, hazard or a public nuisance:

1. Paper and paper products;

2. Unadulterated wood waste which is to undergo size reduction in order to produce mulch;

3. Cloth;

4. Glass;

5. Plastics;

6. Waste tire chips; and

7. Mixtures of above materials only. Such mixtures may include scrap metals ~~exempt under~~ *excluded from regulation in accordance with the provisions of* 9 VAC 20-80-150 H.

9 VAC 20-80-170. Purpose and scope.

A. This part sets forth the criteria and standards that will be used to:

1. Determine whether a site on which solid waste has been placed, discharged, deposited, injected, dumped, or spilled creates a substantial present or potential hazard to human health or the environment including the pollution of air, land, surface water or ground water; and

2. Prescribe the requirements for cleanup and corrective action for remediation of releases, as defined in Part I (9 VAC 20-80-10 et seq.) of this chapter, that may occur as the result of improper management of solid wastes.

B. The requirements in this part apply to all sites and practices used in management of solid waste with the following exceptions:

1. The requirements do not apply to sites that solely manage wastes that are excluded under 9 VAC 20-80-150.

2. The requirements do not apply to the land application of domestic sewage, septage, or waste treatment sludges from publicly owned waste treatment works regulated by the State Water Control Board and the Department of Health.

3. The criteria requirements do not apply to hazardous waste management facilities regulated under Virginia Hazardous Waste Management Regulations (9 VAC 20-60~~-10 et seq.~~).

C. The requirements of this part do not apply to the persons ~~allowed voluntarily to remediate releases of hazardous substances, hazardous wastes, solid wastes or petroleum where remediation is not clearly mandated by the United States Environmental Protection Agency, the department or a court pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act ("Superfund," 42 USC § 9601 et seq.), the Resource Conservation and Recovery Act (42 USC § 6901 et seq.), the Virginia Waste Management Act (§ 10.1-1400 et seq.), the State Water Control Law (§ 62.1-44.2 et seq.), or other applicable statutory or common law or where jurisdiction of those statutes has been waived except as may be allowed under the provisions~~ ~~of~~ *actively enrolled in* the Voluntary Remediation Program (9 VAC 20-160~~-30 E~~).

9 VAC 20-80-180. Open dump criteria.

A. Municipal solid waste landfill units failing to satisfy the federal Solid Waste Disposal Facility Criteria contained in 40 CFR Part 258 constitute open dumps, which are prohibited under § 4005 of the federal Resource Conservation and Recovery Act. For the purposes of this part, the municipal solid waste landfill unit (MSWLF) means a discrete area of land or an excavation that receives or has received after October 9, 1991, household waste, and that is not a land application unit, surface impoundment, injection well, or waste pile, as those terms are defined in Part I (9 VAC 20-80-10 et seq.) of this chapter. A MSWLF unit also may receive other types of nonhazardous solid wastes, such as commercial solid waste, nonhazardous sludge, nonhazardous industrial solid waste, and hazardous waste from conditionally exempt small quantity generators as provided for in 9 VAC 20-60-261 B 5.

B. Any site, other than a municipal solid waste landfill as defined in subsection A of this section, that meets any of the following criteria shall be classified as an open dump:

1. Floodplains. Sites or practices in floodplains that restrict the flow of the base flood, reduce the temporary water storage capacity of the floodplain, or result in washout of solid waste, so as to pose a potential hazard to human life and wildlife or to cause a potential for contamination of land or water resources.

2. Endangered species.

a. Sites or practices that cause or contribute to the taking of any endangered or threatened species of plants, fish or wildlife.

b. The site or practice that results in the destruction or adverse modification of the critical habitat of endangered or threatened species as identified in 50 CFR Part 17.

c. As used in this section:

(1) "Endangered or threatened species" means any species listed as such pursuant to section 4 of the Endangered Species Act.

(2) "Destruction or adverse modification" means a direct or indirect alteration of critical habitat which appreciably diminishes the likelihood of the survival and recovery of threatened or endangered species using that habitat.

(3) "Taking" means harassing, harming, pursuing, hunting, wounding, killing, trapping, capturing, or collecting or attempting to engage in such conduct.

3. Surface water.

a. A site that causes a discharge of pollutants into state waters that is in violation of the requirements of the Virginia Pollutant Discharge Elimination System.

b. A site that causes a discharge of dredged material or fill material to state waters or to the waters of the United States that is in violation of the requirements under § 404 of the Clean Water Act as amended.

c. A site or practice that causes non-point source pollution of state waters that violates applicable legal requirements implementing a basin wide water quality management plan that has been developed and approved under § 303 e of the Clean Water Act.

d. A site or practice that violates Virginia Pollution Abatement Permit issued by the State Water Control Board.

4. Ground water.

a. A site or practice that contaminates an underground drinking water source beyond the solid waste boundary or beyond an alternative boundary specified.

b. For the purposes of this part, a party in violation with these provisions may demonstrate that compliance should be determined at an alternative boundary instead of the solid waste boundary. The director may establish an alternative boundary if he finds that such a change would not result in contamination of ground water which may be needed or used for human consumption. This

finding shall be based on analysis and consideration of all the following relevant factors:

(1) The hydrological characteristics of the site and surrounding land, including any natural attenuation and dilution characteristics of the aquifer;

(2) The volume and physical and chemical composition of the leachate;

(3) The quantity, quality, and direction of flow of ground water underlying the site;

(4) The proximity and withdrawal rates of ground water users;

(5) The availability of alternative drinking water supplies;

(6) The existing quality of ground water, including other sources of contamination and their cumulative impacts on the ground water;

(7) Public health, safety, and welfare effects;

(8) Other factors as allowed by the director.

c. As used in this section, "contaminate" means to introduce a substance that would cause:

(1) The concentration of that substance in the ground water to exceed the maximum contaminant level as specified by the federal Safe Drinking Water Act (42 USC 300f et seq.), as amended; or

(2) An increase in the concentration of that substance in the ground water where the existing concentration of that substance exceeds the maximum contaminant level.

5. Application to land. Land application of solid wastes such as sewage sludge in violation of Virginia Sewerage Regulations or other regulations of the State Water Control Board.

6. Disease.

a. Vectors. A site where operation or practices exist that cause or contribute to the on-site population of disease vectors such that a potential threat to public health or environment is created.

b. Septage. Disposal of septage removed from residential septic tanks in sites not regulated by the Virginia Department of Health or the State Water Control Board.

7. Open burning.

a. The site or practice that engages in open burning of residential, commercial, institutional or industrial solid waste.

b. The following practices are conditionally exempt from this requirement:

(1) Infrequent burning of land clearing debris provided that the requirements of Article 40 (9 VAC 5-40-5600 et seq.) of Part II of 9 VAC 5 Chapter 40 have been met and any permits by applicable local authorities have been obtained;

(2) Burning of debris from emergency clean-up operations provided that emergency permits have been obtained from the department;

(3) Infrequent burning of agricultural wastes in the field or silvicultural wastes for forest management purposes as specified in 9 VAC 5-40-5631;

(4) Burning rubber tires, asphaltic materials, crankcase oil, impregnated wood or other rubber- or petroleum-based wastes when conducting bona fide fire fighting instruction at fire fighting training schools having permanent facilities;

(5) Burning for training and instruction of government and public fire fighters under supervision of the designated official and industrial in-house fire fighting personnel with clearance from the local fire fighting authority, provided the designated official in charge notifies and obtains approval of the regional director of the department prior to conducting the training exercise;

(6) Burning of leaves and tree, yard and garden trimmings on the site of generation, provided that in urban areas no scheduled public or private collection service for such trimmings is available at the adjacent street or public road (see also 9 VAC 5-40-5630);

(7) Burning for the destruction of classified military documents;

(8) Burning or other thermal treatment of ordnance, explosives, or other unstable materials provided appropriate permits have been obtained from the department pursuant to 9 VAC 20-60-10 et seq. or Part VII (9 VAC 20-80-480 et seq.) of this chapter; and

(9) Burning or other treatment of hazardous waste regulated under the Virginia Hazardous Waste Management Regulations.

(10) Burning household refuse by homeowners or tenants provided that no regularly scheduled public or private collection service for such refuse is available at the adjacent street or public road.

Note: State Air Pollution Control Board's Emission Standards for Open Burning (Rule 4-40) provide for certain exemptions from open burning prohibitions. As indicated in 9 VAC 4-40-5620 E and F, exemptions under air regulation do not relieve an individual from complying with other applicable laws and ordinances, including the Solid Waste Management Regulations.

8. Safety.

a. Explosive gases. The concentration of explosive gases generated by the site or practice exceeds:

(1) 25% of the lower explosive limit for the gases in structures (excluding gas control or recovery system components) or, in the absence of structures located on the site, in the nearest occupied structure in the vicinity of the site; and

(2) The lower explosive limit for the gases at the facility boundary.

b. Fires. A site or practice that poses a hazard to the safety of persons and property from fires.

c. Hazards to aircraft. A site or practice of disposing of putrescible waste that attracts birds and occurs within 10,000 feet of any airport runway used by turbojet aircraft or within 5,000 feet of any airport runway used by only piston-type aircraft and poses a bird hazard to aircraft.

d. Access. A site or practice that does not control public access or operates so as to expose the public to potential health and safety hazards at the site.

9 VAC 20-80-190. Open dumps.

A. Except as provided for in 9 VAC 20-80-170 B *and 9 VAC 20-80-180 A*, sites or practices which violate criteria specified in 9 VAC 20-80-180, whether currently active or inactive, shall be classified as open dumps. Practices which violate the criteria shall be classified as open-dumping.

NOTE: Both permitted and unpermitted sites or facilities may be classified as open dumps.

B. The owner or operator of an active open dump shall immediately cease treatment, storage or disposal of any additional waste.

C. The owner or operator or both or other responsible party shall initiate removal, cleanup, or alternate remedial action in accordance with 9 VAC 20-80-210.

9 VAC 20-80-205. Initial site evaluation.

A. An initial site evaluation will be conducted in order to determine if further action is required under this part. The initial site evaluation will include any information that can be obtained from the owner, operator, or other responsible party as well as all documented observations by department personnel regarding the following:

1. The location of the site;

2. The amount, type and source of the waste at the site;

3. The permit status for the activities taking place at the site; and

4. A preliminary evaluation of the site with respect to the criteria outlined in 9 VAC 20-80-180.

B. Based on the information gathered under the provisions of subsection A of this section, the department will make a preliminary recommendation for remedial action as follows:

1. Remedial action is required under the provisions of 9 VAC 20-80-210;

2. Remedial action is not required and no further action is necessary at the site; or

3. The wastes can simply be removed from the site and disposed of at a permitted facility. The department may require submission of evidence of proper management of the removed waste and may require evidence, including confirmatory sampling, of the removal of solid waste and any hazardous constituents. A site inspection will be performed by the department.

C. The action conducted under this section may be performed pursuant to an administrative or judicial order or other appropriate mechanism as determined by the department.

9 VAC 20-80-210. Remedial action.

Pursuant to the recommendation made under the provisions of 9 VAC 20-80-205 B or C, remedial action shall be conducted pursuant to one or more, or a combination of, the provisions of this section.

A. Removal, cleanup, and proper management. *In accordance with the requirements set forth in this section,* the owner, operator, or other responsible party shall remove the solid waste and any hazardous constituents and manage them in accordance with any other applicable requirements. The director may require submission of evidence of proper management of the removed waste, and may require evidence of removal of solid waste and any hazardous constituents in accordance with a sampling and analysis plan approved by the department.

1. The following factors at a minimum shall be considered in determining the appropriateness of a removal pursuant to this section:

a. Actual or potential exposure to nearby human populations, animals, or the food chain from solid waste or hazardous constituents of solid waste;

b. Actual or potential contamination of drinking water supplies or sensitive ecosystems;

c. Solid waste or hazardous constituents of solid waste in drums, barrels, tanks, or other bulk storage containers, that may pose a threat of release;

d. Hazardous constituents of solid waste in soils largely at or near the surface, that may migrate;

e. Threat of fire or explosion;

f. Other situations or factors which may pose threats to public health or welfare or the environment; and

g. Costs of removal compared to the costs of closure in place or the costs of alternate remedial action.

~~2. In order for the owner/operator to satisfy the requirements of this subsection to provide evidence of removal of solid wastes, and any hazardous constituents, the following information can be provided:~~

~~a. The results of an engineering evaluation and a cost analysis of removal alternatives for the site.~~

2. In order to fully evaluate the appropriateness of and alternatives for a removal action, the department may require the owner or operator to provide any or all of the required information.

~~b.~~ *a.* Environmental samples ~~may~~ *shall* be collected, in accordance with a sampling and analysis plan that shall provide a process for obtaining *quality* data ~~of sufficient quality and quantity to satisfy data needs~~. Sampling and

analysis plans shall be reviewed and approved by the department. The sampling and analysis plans shall consist of two parts:

(1) The field sampling plan, which describes the number, type, and location of samples and the type of analyses; and

(2) The quality assurance project plan, which describes policy, organization, and functional activities and the data quality objectives and measures necessary to achieve adequate data for use in planning and documenting the removal action.

b. An engineering evaluation and a cost analysis report of removal alternatives for the site including a recommended removal action. This report will identify the primary removal alternatives, the cost of each alternative and a brief evaluation of the relative merits of each alternative pursuant to the criteria set forth at 9 VAC 20-80-210 C 5 b.

3. Upon receipt and review of any information required pursuant to subdivision 2 of this subsection, the department will review and approve, disapprove or require modifications to the plan, report and/or recommended removal action. Upon approval of a removal action by the department, the owner, operator, or other responsible party shall implement the approved removal action and manage the wastes in accordance with any other applicable requirements. The department may require submission of evidence of proper management of the removed waste and may require evidence, including confirmatory sampling, of the removal of solid waste and any hazardous constituents.

~~3.~~ *4.* If the removal will not fully address the threat posed by the release, closure under Part V (9 VAC 20-80-240 et seq.) of this chapter, or an alternate remedial action ~~may~~ *will* be considered. ~~An orderly~~ *A work plan will be provided that outlines the* transition from removal to closure in place or alternate remedial action ~~will be provided~~.

~~4.~~ *5.* Removal shall meet applicable or relevant and appropriate requirements under *federal or state* environmental laws *considering the exigencies of the situation*.

~~5. The following removal actions are, as a general rule, appropriate in the types of situations shown; however, this list is not exhaustive and is not intended to prevent the responsible party or the director from taking any other actions deemed necessary by the director, and the list does not create a duty to take action at any particular time:~~

~~a. Excavation and removal of uncovered solid wastes or hazardous constituents of solid waste from waste piles, surface impoundments, or other units where such actions will reduce the spread of, or direct contact with, the waste or waste constituents;~~

~~b. Excavation, or removal of contaminated soils from drainage or other areas where such actions will reduce the spread of, or direct contact with, the contamination;~~

~~c. Removal of drums, barrels, tanks, or other bulk containers that contain or may contain solid wastes or hazardous constituents of solid wastes where it will reduce the likelihood of spillage; leakage; exposure to humans, animals, or food chain; or fire or explosion;~~

B. Closure in place. If the owner, operator, or other party responsible for an open dump or unpermitted facility demonstrates that the facility will not pose a threat to human health or the environment when closed in place, the facility may be closed with the waste left in place under an administrative or judicial order, in accordance with the provisions of Part V. While pursuing a closure under the provisions of Part V, an owner, operator, or other responsible party shall undertake any removal or other interim measures (subdivision C 8 of this section) necessary to abate any immediate threat to human health or the environment.

1. The demonstration shall contain, as a minimum, the following information:

a. Type of waste.

(1) The amount, type, source, and generating process of all of the waste managed at the unpermitted facility.

(2) Information required under Part VIII (9 VAC 20-80-630 et seq.) of this chapter for any waste that would require a letter of clarification from the director.

(3) A statement that the waste contains no hazardous waste under the Virginia Hazardous Waste Management Regulations.

(4) The director may require the submission of verified statements from owner, operator, other responsible party, generators, or other sources of the waste to support the above information.

b. Siting. The owner, operator, or other party responsible for the unpermitted facility shall submit documentation from a registered professional engineer that closure of the facility in place will comply with the applicable siting requirements of Part V of this chapter, as follows:

(1) Airport safety;

(2) Floodplains;

(3) Unstable areas;

(4) Wetlands;

(5) Fault areas;

(6) Seismic impact zones;

(7) Setbacks from surface waters or rivers, facility boundaries, wells, springs or other ground water sources of drinking water, public road right-of-ways, residences, schools, hospitals, nursing homes, or recreational park areas;

(8) Ability to conduct ground water monitoring; and

(9) Engineering controls to address site specific characteristics that might prevent approval or require limitations on the site.

c. Certification by the registered professional engineer or qualified ground water scientist that in his professional

judgment the facility can be closed with the waste left in place without posing a threat to human health or the environment. If the director makes a determination under this subsection, he will enter into an order to that effect.

2. Any such order issued pursuant to this subsection will require the owner, operator, or other responsible party:

a. To submit a closure and a post-closure plan for the approval of the director in accordance with Part V of these regulations;

b. To perform the closure and post-closure care in accordance with the approved plan;

c. To perform any corrective action required under Part V of this chapter should the results of the ground water monitoring performed during the post-closure care period warrant such an action;

d. To maintain financial assurance whenever required by the Financial Assurance Regulations for Solid Waste Facilities (9 VAC 20-70-10 et seq.); and

e. To perform any other actions deemed necessary to protect human health and the environment.

C. Alternate remedial action. Unless the procedures under subsection A or B of this section have been implemented, the owner, operator, or other responsible party for an open dump or unpermitted facility will submit a letter of intent to pursue an alternate remedial action and an evaluation in accordance with the provisions of subdivision 1 of this subsection. If waste or hazardous constituents are proposed to be left in place, a demonstration in accordance with subdivision B 1 of this section shall be submitted. In order to pursue an alternate remedial action, the owner, operator, or other responsible party will also demonstrate to the director that the facility will not pose a threat to human health or the environment upon completion of an alternate remedial action in compliance with this part. While pursuing an alternate remedial action, an owner, operator, or other responsible party shall undertake any removal or other interim measures (subdivision 8 of this subsection) necessary to abate any immediate threat to human health or the environment.

1. Site evaluation. The owner, operator or other responsible party will perform a site evaluation to determine the scope of releases or potential releases.

a. The site evaluation may include collection or review of data such as site management practices, information from waste generators, photographs, analysis of historical photographs, literature searches, and personal interviews conducted, as appropriate. A site inspection may be performed if more information is needed. Such inspection may include a perimeter (i.e., off-site) or on-site inspection, taking into consideration whether such inspection can be performed safely.

b. The evaluation may include, but is not limited to:

(1) Identification of the source and nature of the release or threat of release;

(2) Evaluation by other sources, for example, state public health agencies, of the threat to human health;

(3) Evaluation of the magnitude of the threat to human health and the environment;

(4) Evaluation of factors necessary to make the determination of whether a removal is necessary;

(5) Evaluation of the demonstration required under subdivision B 1 of this section;

(6) Identification of the owners and operators and a determination of whether the owner or operator, another governmental agency or a third party is undertaking proper response; and

(7) Identification of interim measures necessary to stabilize the site.

2. The director will evaluate the demonstration and the site evaluation based on the information submitted and determine:

a. If additional information is required; or

b. That no action is required; or

c. That the facility may close under the provisions of subsection A or B of this section only; or

d. That an alternate remedial action will be considered, and the owner or operator may proceed with the remedial investigation and the corrective measures survey in accordance with subdivisions 3 and 4 of this subsection.

e. If a combination of Remedial Action under this section may be pursued; or

f. If an owner, operator, or other responsible party is not making timely progress toward alternate closure, the director may require closure under the provisions of this subsection or subsection A of this section.

3. Remedial investigations.

a. Remedial investigations. If it is found that solid waste (including hazardous constituents) have been, are likely to have been, or based on site-specific circumstances, are likely to be released into the environment from a solid waste management unit at the site, the owner, operator, or other responsible party will investigate and characterize solid waste management units and releases from solid waste management units at the site.

b. Scope of remedial investigations.

(1) Investigations required under this subdivision shall characterize the nature, extent, direction, rate, movement and concentration of releases, as required by the director. In addition, such investigations may include, but are not limited to, the following:

(a) Characterizations of the environmental setting at the facility, including:

(i) Hydrogeological conditions;

(ii) Climatological conditions;

(iii) Soil characteristics;

(iv) Surface water and sediment quality and other characteristics; or

(v) Air quality and meteorological conditions.

(b) Characterization of solid waste management units from which releases have been or may be occurring, including unit and waste characteristics.

(c) Descriptions of humans and environmental systems which are, may have been, or, based on site-specific circumstances, may be exposed to release.

(d) Information that will assist in assessing risks to human health and the environment from releases from solid waste management units. Such information shall be accompanied by:

(i) Proposed action levels as defined in 9 VAC 20-80-220 for relevant hazardous constituents; and

(ii) Proposed points of applicability for the action levels.

(e) Extrapolations of future movement, degradation and fate of contaminants.

(f) Laboratory, bench-scale or pilot-scale tests or studies to determine the feasibility or effectiveness of treatment technologies or other technologies that may be appropriate in implementing remedies at the facility.

(g) Statistical analyses to aid in the interpretation of data required under this subdivision, in accordance with statistical methods contained in ~~Appendix 5.4~~ *9 VAC 20-80-300 D* or otherwise approved by the director.

(2) Samples of ground water, surface water, soils, or air which are collected as part of remedial investigations required under this subdivision shall be analyzed for those constituents and parameters determined to be necessary by the director to accurately and adequately characterize the presence of hazardous waste (including hazardous constituents) in the samples.

c. Plans for remedial investigations. Such plans may include, but are not limited to, the following:

(a) Overall approach, including objectives, schedules, and qualifications of personnel conducting investigations.

(b) Technical and analytical approach and methods of investigations.

(c) Quality assurance procedures, including:

(i) Data collection strategy;

(ii) Sampling, chain of custody procedures; and

(iii) Methods of sample analysis.

(d) Data management procedures, including formats for documenting analytical results and tracking sample custody, and other results of investigations.

d. Reports of remedial investigations.

(1) The director may require periodic reports to be submitted by the owner or operator during remedial investigations required under this subdivision, and may, based on information from the investigations, or other information, require new or modified investigations.

(2) Upon conclusion of the remedial investigations, the owner or operator shall submit to the ~~director: (a)~~ *department* a final report*, including an executive summary,* describing the procedures, methods, and results of the remedial investigations; and

~~(b) A summary of the report.~~

(3) If, upon receipt of the final report and summary, the final report and summary do not provide a full and accurate summary and description of the remedial investigations, the director may require the owner or operator to submit a revised report.

(4) All ~~raw~~ data, such as laboratory reports, drilling logs*, QA/QC documentation* and other supporting information generated from the investigations required under this subdivision shall be maintained at the site (or other location approved by the director) for the period of three years after completion of corrective action.

4. Corrective measure study.

a. Requirements to perform corrective measure study.

(1) If concentrations of hazardous constituents in ground water in an aquifer, surface water, soils, or air exceed an action level (as defined under 9 VAC 20-80-220), and there is reason to believe that such hazardous constituents have been released from a solid waste management unit at the site, the owner or operator will perform a corrective measure study, according to the requirements of this subdivision, except as provided otherwise under subdivision 4 a (3) of this subsection.

(2) If a constituent present in a concentration below an action level (as defined under 9 VAC 20-80-220) may pose a threat to human health or the environment, given site-specific exposure conditions, and there is reason to believe that the constituent has been released from a solid waste management unit at the site, a corrective measure study may be required according to the requirements of subdivision 4 of this subsection.

(3) If an action level has been exceeded (as provided under subdivision 4 a (1) of this subsection), but the release may nevertheless not pose a threat to human health and the environment, the owner or operator may apply for a determination of no further action.

b. Scope of corrective measure studies.

(1) Corrective measure studies required under subdivision 4 a of this subsection a may include, but are not limited to, the following:

(a) Evaluation of performance, reliability, ease of implementation, and potential impacts of the remedy, including safety impacts, cross media impacts, and control of exposure to any residual contamination.

(b) Assessment of the effectiveness of potential remedies in achieving adequate control of sources and cleanup of the solid waste (including hazardous constituents) released from solid waste management units.

(c) Assessment of the time required to begin and complete the remedy.

(d) Estimation of the costs of remedy implementation.

(e) Assessment of institutional requirements, such as state or local permit requirements, or other environmental or public health requirements which may substantially affect implementation of the remedy.

(2) The owner, operator, or other responsible party must evaluate as part of the corrective measure study one or more specific potential remedies. These remedies may include a specific technology or combination of technologies that achieves or may achieve the standards for remedies specified in subdivision 4 a of this subsection given appropriate consideration of the factors specified in subdivision 5 b of this subsection.

c. Plans for corrective measure studies.

(1) The owner, operator, or other responsible party will develop and submit a plan for conducting a corrective measure study required under subdivision 4 a of this subsection. The plan shall be subject to review and approval or modification by the director. Such plans may include, but are not limited to, the following:

(a) Description of the general approach to investigating and evaluating potential remedies;

(b) Definition of the overall objectives of the study;

(c) Description of the specific remedy which will be studied;

(d) Plans for evaluating remedies to ensure compliance with the standards for remedies specified in subdivision 5 a of this subsection;

(e) Schedules for conducting the study; and

(f) Proposed format for information presentation.

(2) Upon approval or modification of the corrective measure study plan, the owner or operator shall conduct the studies and investigations in accordance with the plan.

d. Reports of corrective measure studies.

(1) The director may require periodic reports during the conduct of the corrective measure study, and may, based on the information from these reports or other information, require the owner or operator to modify the corrective measure study. Such modifications will, if necessary, be specified by modifying the schedule ~~of compliance specified in the order~~ *for remedy required in subdivision C 6 of this subsection*.

(2) Upon completion of the corrective measure study, the owner or operator shall submit a report summarizing the results of the study. This report shall include a detailed description of the remedies assessed pursuant to subdivision 4 b or d (1) of this subsection. The report shall describe how any proposed remedy meets the standards for remedies specified in subdivision 5 a of this subsection.

(3) Upon review of the corrective measure study report, the director may require the owner or operator to evaluate further, and report upon, one or more additional remedies, or develop particular elements of one or more proposed remedies.

5. Selection of remedy. Based on the results of the corrective measure study, and any further evaluations conducted under subdivision 4 d (3) of this subsection, the director shall, except as otherwise provided under subdivision 5 f of this subsection, approve a remedy that, at a minimum, meets the standards listed in subdivision 5 a of this subsection.

a. Standards for remedies. Remedies must:

(1) Be protective of human health and the environment;

(2) Attain media cleanup standards pursuant to subdivision 5 d of this subsection;

(3) Control the source of releases so as to reduce or eliminate, to the extent practicable, further releases of solid wastes (including hazardous constituents) that may pose a threat to human health and the environment; and

(4) Comply with standards for management of wastes as specified in subdivision 9 of this subsection.

b. Remedy selection factors. In selecting a remedy which meets the standards of subdivision 5 a of this subsection, the director will consider the following evaluation factors as appropriate:

(1) Long-term reliability and effectiveness. Any potential remedy may be assessed for the long-term reliability and effectiveness it affords, along with the degree of certainty that the remedy will prove successful. Factors that shall be considered in this evaluation include:

(a) Magnitude of residual risks in terms of amounts and concentrations of waste remaining following implementation of a remedy, considering the persistence, toxicity, mobility and propensity to bioaccumulate of such solid wastes (including hazardous constituents);

(b) The type and degree of long-term management required, including monitoring and operation and maintenance;

(c) Potential for exposure of humans and environmental receptors to remaining wastes;

(d) Long-term reliability of the engineering and institutional controls, including uncertainties associated with land disposal of untreated wastes and residuals; and

(e) Potential need for replacement of the remedy.

(2) Reduction of toxicity, mobility or volume. A potential remedy may be assessed as to the degree to which it employs treatment that reduces toxicity, mobility or volume of solid wastes (including hazardous constituents). Factors that shall be considered in such assessments include:

(a) The treatment processes the remedy employs and materials it would treat;

(b) The amount of solid wastes (including hazardous constituents) that would be destroyed or treated;

(c) The degree to which the treatment is irreversible;

(d) The residuals that will remain following treatment, considering the persistence, toxicity, mobility, and propensity to bioaccumulate of such solid wastes (including hazardous constituents).

(3) The short-term effectiveness of a potential remedy may be assessed considering the following:

(a) Magnitude of reduction of existing risks;

(b) Short-term risks that might be posed to the community, workers, or the environment during implementation of such a remedy, including potential threats to human health and the environment associated with excavation, transportation, and redisposal or containment;

(c) Time until full protection is achieved.

(4) Implementability. The ease or difficulty of implementing a potential remedy may be assessed by considering the following types of factors:

(a) Degree of difficulty associated with constructing the technology;

(b) Expected operational reliability of the technologies;

(c) Need to coordinate with and obtain necessary approvals and permits from other agencies;

(d) Availability of necessary equipment and specialists;

(e) Available capacity and location of needed treatment, storage and disposal services.

(5) Cost. The types of costs that may be assessed include the following:

(a) Capital costs;

(b) Operation and maintenance costs;

(c) Net present value of capital and operation and maintenance costs;

(d) Potential future remedial action costs.

c. Schedule for remedy. The director will specify as part of the selected remedy a schedule for initiating and completing remedial activities. The director will consider the following factors in determining the schedule of remedial activities:

(1) Extent and nature of contamination;

(2) Practical capabilities of remedial technologies in achieving compliance with media cleanup standards, and other objectives of the remedy;

(3) Availability of treatment or disposal capacity for wastes managed during implementation of the remedy;

(4) Desirability of utilizing technologies which are not currently available, but which may offer significant advantages over already available technologies in terms of effectiveness, reliability, safety, or ability to achieve remedial objectives;

(5) Potential risks to human health and the environment from exposure to contamination prior to completion of the remedy;

(6) Other relevant factors.

d. Media cleanup standards. The director will specify in the selected remedy requirements for remediation of contaminated media in accordance with the provisions of subdivision 4 a of this subsection.

e. Reserved.

f. Stabilizing remedies.

(1) If the criteria of subdivision 5 f (2) of this subsection are met, the director may select a stabilizing remedy that protects human health and the environment under plausible exposure conditions during the term of the order *required in subdivision 6 of this subsection*.

(2) A stabilizing remedy must:

(a) Protect human health and the environment; and

(b) Achieve all media cleanup standards or levels as specified pursuant to 9 VAC 20-80-230 beyond the site boundary as soon as practicable; and

(c) Prevent further significant environmental degradation by implementing, as soon as practicable:

(i) Treatment or other necessary engineering controls to control any source of releases; and

(ii) Engineered measures as necessary to prevent further significant migration of releases within the site boundary.

(d) Institute effective institutional or other controls to prevent any significant exposure to hazardous wastes at the site; and

(e) Continue the monitoring of releases so as to determine whether further significant environmental degradation occurs; and

(f) Comply with standards for management of wastes as specified in subdivision 9 of this subsection.

(3) If at any time during the term of the order *required under subdivision 6 of this subsection*, any condition of subdivision 5 f (2) of this subsection is violated, the director will modify the order to:

(a) Require the owner or operator to perform additional studies and actions, or implement additional controls to achieve compliance with the requirements of subdivision 5 f (2) of this subsection; or

(b) Require additional studies, actions, or controls as necessary to implement a remedy which meets the standards of subdivision 5 a of this subsection.

(4) The order *required under subdivision 6 of this subsection* shall not be terminated until a remedy which meets the standards of subdivision 5 a of this subsection has been implemented and certified complete according to subdivision 6 e of this subsection.

6. Remedy. *The remedy selected shall be implemented under an administrative or judicial order and will include the plans and other documents specified in this subsection. Periodic progress reports are required that allow the director to review the progress of the remedy and determine when the remedy has been satisfactorily completed.*

a. ~~The remedy selected shall be implemented pursuant to an administrative or judicial order which may include the following elements:~~ *Requirements of the order.*

(1) The order shall include, at a minimum, the following:

(a) Description of the technical features ~~of the remedy~~ that are necessary for achieving the standards for remedies specified in subdivisions 5 a or f, or both, of this subsection.

(b) All media cleanup standards established pursuant to 9 VAC 20-80-230 A.

(c) Requirements for achieving compliance with media cleanup standards, pursuant to 9 VAC 20-80-230 B.

(d) Requirements for complying with the standards for management of wastes, pursuant to subdivision 9 of this subsection.

(e) Requirements for removal, decontamination, closure, or post-closure of units, equipment, devices or structures that will be used to implement the remedy.

(f) A schedule for initiating and completing the major technical features and milestones of the remedy *(compliance schedule)*.

(g) Requirements for submission or reports and other information.

(2) A remedy specified in an order may be separated into phases. A remedy phase may consist of any set of actions performed over time, or any actions that are concurrent but located at different areas, provided that the actions are consistent with the final remedy.

b. Remedy design.

(1) The order may require the owner, operator or other responsible party to prepare detailed construction plans and specifications to implement the approved remedy at the site, unless such plans and specifications have already been provided. Such plans shall be subject to review and approval or modification by the director. Upon approval by the director, the plan shall be incorporated expressly or by reference into the order. The plans and specifications shall include, but are not limited to, the following:

(a) Designs and specifications for units in which solid wastes will be managed, as specified in the approved remedy.

(b) Implementation and long-term maintenance plans.

(c) Project schedule.

(d) Construction quality assurance program.

(2) Upon approval of the plans and specifications for the remedy, the owner or operator shall implement the remedy in accordance with the plans and specifications;

c. Progress reports.

(1) The owner or operator may be required by the director to provide progress reports during the design, construction, operation, and maintenance of the remedy. Frequency ~~and format~~ of *the progress* reports will be ~~determined by the director and~~ specified in the order. Such reports may include, but are not limited to:

(a) Summaries of progress of remedy implementation, including results of monitoring and sampling activities, progress in meeting media cleanup standards, and description of other remediation activities.

(b) Problems encountered during the reporting period, and actions taken to resolve the problems.

(c) Changes in personnel conducting or managing the remedial effort.

(d) Project work for next reporting period.

(e) Copies of laboratory reports *with accompanying QA/QC data* and field sampling reports.

(2) All ~~raw~~ data, such as laboratory reports, drilling logs*, QA/QC documentation* and other supporting information generated from the remedial activities shall be maintained at the site (or other location approved by

the director) for a period of three years after the termination of the order.

d. Review of remedy implementation. ~~The director will periodically~~ *Periodic* review *will be conducted to determine* the progress of the remedy. Based on such review, ~~the director may modify~~ the order *may be modified* to require additional remedial measures to ensure prompt completion, safety, effectiveness, protectiveness, or reliability of the remedy.

e. Completion of remedies.

(1) Remedies specified pursuant to subdivision 6 a of this subsection shall be considered complete when the director determines that:

(a) Compliance with all media cleanup standards (or alternate levels) as specified in the order have been achieved, according to the requirements of 9 VAC 20-80-230 B;

(b) All actions required to control the source of contamination have been satisfied; and

(c) Procedures specified for removal, decontamination, closure, or post-closure care of units, equipment, devices, or structures required to implement the remedy have been complied with.

(2) Upon completion of the remedy, the owner or operator shall submit ~~to the director, by registered mail, a request for termination of the order. The request shall include~~ a certification that the remedy has been completed in accordance with the requirements of subdivision 6 e (1) of this subsection, and that all other terms and conditions specified in the order pursuant to this subsection have been satisfied. The certification shall be signed by the owner or operator and by a registered professional engineer.

(3) When, upon receipt of the certification and any other relevant information, the director determines that the corrective measure remedy has been completed in accordance with the terms and conditions of the order and the requirements for remedy completion under subdivision 6 e (1) of this subsection, the director will terminate the order.

(4) If a remedy includes one or more identified phases, the director may require separate certification that the remedy phase has been completed as specified in the order, to be signed by the owner or operator and a certified or licensed professional skilled in the appropriate technical discipline.

7. Determination of technical impracticability.

a. The director may determine, based on information developed by the owner or operator or other information, that compliance with a requirement for the remedy is not technically practicable. In making such determinations, the director will consider:

(1) The owner or operator's efforts to achieve compliance with the requirements; and

(2) Whether other currently available or new and innovative methods or technologies could practicably achieve compliance with the requirements.

b. If the director determines that compliance with a remedy requirement is not technically practicable, the director will modify the order to specify as necessary and appropriate:

(1) Further measures that may be required of the owner or operator to control exposure of humans or the environment to residual contamination, as necessary to protect human health and the environment; and

(2) Alternate levels or measures for cleaning up contaminated media, controlling the sources of contamination, or for removal or decontamination of equipment, units, devices, or structures required to implement the remedy which:

(a) Are technically practicable; and

(b) Are consistent with the overall objectives of the remedy.

8. Interim measures.

a. If at any time the director determines, based on consideration of the factors specified in subdivision 8 b of this subsection, that a release or, based on site-specific circumstances, a threatened release from a solid waste management unit at the site poses a threat to human health or the environment, the owner, operator, or other responsible party may ~~specify~~ *propose* interim measures required to abate, stabilize, mitigate, or eliminate the releases or threat of releases.

b. The following factors may be considered by the director in determining whether an interim measure is required:

(1) Time required to develop and implement a final remedy;

(2) Actual or potential exposure of nearby populations or environmental receptors to solid wastes (including hazardous constituents);

(3) Actual or potential contamination of drinking water supplies or sensitive ecosystems;

(4) Further degradation of the medium which may occur if remedial action is not initiated expeditiously;

(5) Presence of uncovered solid wastes (including hazardous constituents) or such wastes in drums, barrels, tanks, or other bulk storage containers, that may pose a threat of release;

(6) Presence of high levels of solid wastes (including hazardous constituents) in soils largely at or near the surface, that might migrate;

(7) Weather conditions that may cause solid wastes (including hazardous constituents) to migrate or be released;

(8) Risks of fire or explosion, or potential for exposure to solid wastes (including hazardous constituents) as a

result of an accident or failure of a container or handling system;

(9) Other situations that may pose threats to human health and the environment.

c. If the director determines that an interim measure is necessary pursuant to subdivision 8 a of this subsection, the director will notify the owner or operator of the necessary actions required. Such actions shall be implemented as soon as practicable, in accordance with a schedule as specified by the director.

d. Interim measures should, to the extent practicable, be consistent with the objectives of, and contribute to the performance of any remedy which may be required pursuant to subdivision 5 of this subsection.

9. Management of wastes.

a. General.

(1) All solid wastes which are managed pursuant to a remedy required under subdivision 5 of this subsection, or an interim measure required under subdivision 8 of this subsection, shall be managed in a manner:

(a) That is protective of human health and the environment; and

(b) That complies with applicable federal, state and local requirements.

(2) The ~~director~~ *order* will specify ~~in~~ the ~~order~~ requirements for units in which wastes will be managed, and other waste management activities, as determined by the director to be necessary for protection of human health and the environment.

b. Management of hazardous wastes. Any treatment, storage or disposal of listed or ~~identified~~ *characteristic* hazardous waste necessary to implement a remedy or an interim measure shall be in accordance with the applicable requirements of Virginia Hazardous Waste Management Regulations (9 VAC 20-60~~-10 et seq.~~).

c. Management of nonhazardous solid wastes.

(1) Except as provided in subdivision 9 c (3) of this subsection, treatment, storage and disposal of solid wastes pursuant to a remedy or interim measure required under this subsection shall be in accordance with applicable technical standards for solid waste management as specified in Parts II (9 VAC 20-80-40 et seq.), V (9 VAC 20-80-240 et seq.), VI (9 VAC 20-80-320 et seq.), and VIII (9 VAC 20-80-630 et seq.) of this chapter.

(2) For any unit in which solid wastes will be managed pursuant to a remedy or interim measure, ~~the director may specify additional~~ design and operating standards for the unit *may be specified*, as necessary to protect human health and the environment. In determining appropriate design and operating requirements for such units, the director will consider the factors specified under subdivision 9 c (3) ~~(b)~~ *(d)* of this subsection.

(3) (a) For ~~temporary~~ *remediation waste management* units *(RWMU)* in which solid wastes will be stored or treated, the director may determine that a design, operating, or closure standard applicable to such units solely by regulation may be replaced by alternative requirements which are protective of human health and the environment.

(b) Any ~~temporary unit~~ *RWMU* to which alternative requirements are applied according to subdivision 9 c ~~(2)~~ *(3)* of this subsection, shall be:

(i) Operated for a period not exceeding 180 calendar days, unless the period is extended under subdivision 9 c (3) (c) of this subsection;

(ii) Located at the site; and

(iii) Used only for treatment or storage of solid wastes (including hazardous constituents) that have originated within the boundary of the site.

(c) The director may grant an extension to the 180-day period ~~of a temporary unit~~ *from subdivision 9 c (3) (b) (i) of this subsection* if solid wastes shall remain in the unit due to unforeseen, temporary, and uncontrollable circumstances.

(d) In establishing standards to be applied to ~~temporary units~~ *the RWMU*, the director will consider the following factors:

(i) The length of time such units will be in operation.

(ii) Type of unit, and volume of wastes to be managed.

(iii) Potential for releases from the units.

(iv) Physical and chemical characteristics of the wastes to be managed in the units.

(v) Hydrogeological and other relevant environmental conditions at the site which may influence the migration of any potential releases.

(vi) Potential for exposure of humans and environmental receptors if releases were to occur from the units.

(e) The ~~director~~ *order* will specify ~~in the order~~ the length of time that ~~such units~~ *the RWMU* will be allowed to operate, and specific design, operating, and closure requirements for the units.

9 VAC 20-80-250. Sanitary landfill.

The provisions of this section shall apply to the siting, design, construction, operation, monitoring, and closure of a sanitary landfill.

A. Siting.

1. Airport safety.

a. Owners or operators of all sanitary landfills that are located within 10,000 feet ~~(3,048 meters)~~ of any airport runway end used by turbojet aircraft or within 5,000 feet

~~(1,524 meters)~~ of any airport runway end used by only piston-type aircraft shall demonstrate that the units are designed and operated so that the facility does not pose a bird hazard to aircraft.

b. Owners or operators proposing to site new sanitary landfill and lateral expansions of an existing facility within a five mile radius of any airport runway end used by turbojet or piston-type aircraft shall notify the affected airport and the Federal Aviation Administration (FAA). *Owners and operators should also be aware that effective April 5, 2000, 49 USC § 44718 (d), restricts the establishment of landfills within six miles of public airports under certain conditions. Provisions for exemptions from this law also exist.*

c. The owner or operator of an existing facility shall submit the demonstration in subdivision 1 a of this subsection to the director by October 9, 1993.

2. Floodplains. Owners or operators of all sanitary landfills located in 100-year floodplains shall demonstrate that the facility will not restrict the flow of the 100-year flood, reduce the temporary water storage capacity of the floodplain, or result in washout of solid waste so as to pose a hazard to human health and the environment. The owner or operator of an existing facility shall submit the demonstration to the director by October 9, 1993. No new sanitary landfill after July 1, 1999 shall be constructed in a 100-year flood plain.

3. Unstable areas.

a. Owners or operators of all sanitary landfills located in an unstable area shall demonstrate that engineering measures have been incorporated into the facility's design to ensure that the integrity of the structural components of the facility will not be disrupted. He shall consider the following factors, at a minimum, when determining whether an area is unstable:

(1) On-site or local soil conditions that may result in differential settling and subsequent failure of structural components;

(2) On-site or local geologic or geomorphologic features that may result in sudden or non-sudden events and subsequent failure of structural components; and

(3) On-site or local man-made features or events (both surface and subsurface) that may result in sudden or non-sudden events and subsequent failure of structural components.

b. The owner or operator of an existing facility shall submit the demonstration to the director by October 9, 1993.

4. Wetlands.

a. After July 1, 1999, new sanitary landfills and lateral expansions of existing facilities, except those ~~lateral expansions~~ allowed under § 10.1-1408.5 of the Code of Virginia, shall not be constructed in any tidal wetland or nontidal wetland contiguous to any surface water body.

b. Construction allowed under the provisions of § 10.1-1408.5 will be allowed only with appropriate approvals under the provisions of 9 VAC 25-210. In addition, the following additional demonstrations must be made to the director:

(1) Where applicable under § 404 of the Clean Water Act or § 62.1-44.15:5 of the Virginia wetlands laws, the presumption that a practicable alternative to the proposed landfill is available that does not involve wetlands is clearly rebutted;

(2) The construction and operation of the facility will not:

(a) Cause or contribute to violations of any applicable water quality standard,

(b) Violate any applicable toxic effluent standard or prohibition under § 307 of the Clean Water Act,

(c) Jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of a critical habitat, protected under the Endangered Species Act of 1973, and

(d) Violate any requirement under the Marine Protection, Research, and Sanctuaries Act of 1972 for the protection of a marine sanctuary;

(3) The facility will not cause or contribute to significant degradation of wetlands. The owner or operator shall demonstrate the integrity of the facility and its ability to protect ecological resources by addressing the following factors:

(a) Erosion, stability, and migration potential of native wetland soils, muds and deposits used to support the facility;

(b) Erosion, stability, and migration potential of dredged and fill materials used to support the facility;

(c) The volume and chemical nature of the waste managed in the facility;

(d) Impacts on fish, wildlife, and other aquatic resources and their habitat from release of the solid waste;

(e) The potential effects of catastrophic release of waste to the wetland and the resulting impacts on the environment; and

(f) Any additional factors, as necessary, to demonstrate that ecological resources in the wetland are sufficiently protected.

(4) To the extent required under § 404 of the Clean Water Act or applicable Virginia wetlands laws, steps have been taken to attempt to achieve no net loss of wetlands (as defined by acreage and function) by first avoiding impacts to wetlands to the maximum extent practicable as required by subdivision 4 b (1) of this subsection, then minimizing unavoidable impacts to the maximum extent practicable, and finally offsetting remaining unavoidable wetland impacts through all appropriate and practicable

compensatory mitigation actions (e.g., restoration of existing degraded wetlands or creation of man-made wetlands); and

(5) Sufficient other information is available to enable the department to make a reasonable determination with respect to these demonstrations.

5. Fault areas. New sanitary landfills and lateral expansions of existing facilities shall not be located within 200 feet ~~(60 meters)~~ of a fault that has had displacement in Holocene time unless the owner or operator demonstrates to the director that an alternative setback distance of less than 200 feet ~~(60 meters)~~ will prevent damage to the structural integrity of the facility and will be protective of human health and the environment.

6. Seismic impact zones. New sanitary landfills and lateral expansions of existing facilities shall not be located in seismic impact zones, unless the owner or operator demonstrates to the director that all containment structures, including liners, leachate collection systems, and surface water control systems, are designed to resist the maximum horizontal acceleration in lithified earth material for the site.

7. No sanitary landfill disposal unit or leachate storage unit shall extend closer than:

a. 100 feet of any regularly flowing surface water body or river;

b. 50 feet from the facility boundary;

c. 500 feet of any well, spring or other ground water source of drinking water in existence at the time of application;

d. One thousand feet from the nearest edge of the right-of-way of any interstate or primary highway or 500 feet from the nearest edge of the right-of-way of any other highway or city street except the following:

(1) Units which are screened by natural objects, plantings, fences, or other appropriate means so as to minimize the visibility from the main-traveled way of the highway or city street, or otherwise removed from sight;

(2) Units which are located in areas which are zoned for industrial use under authority of state law or in unzoned industrial areas as determined by the Commonwealth Transportation Board;

(3) Units which are not visible from the main-traveled way of the highway or city street.

NOTE: This requirement is based on § 33.1-348 of the Code of Virginia. The regulatory responsibility for this standard rests with the Virginia Department of Transportation.

e. 200 feet from the active filling areas to any residence, school, hospital, nursing home or recreational park area in existence at the time of application.

NOTE: All distances are to be measured in the horizontal plane.

8. No new facility shall be located in areas where ground water monitoring cannot be conducted in accordance with subsection D of this section unless this requirement is suspended by the director pursuant to subdivision 1 c of this subsection.

9. No new sanitary landfill shall be constructed:

a. Within five miles upgradient of any existing surface or ground water public water supply intake or reservoir *except as allowed under the provisions of § 10.1-1408.4 B 3 of the Code of Virginia*;

b. In any area vulnerable to flooding resulting from dam failures;

c. Over a sinkhole or less than 100 feet over a solution cavern associated with karst topography;

d. In any park or recreational area, wildlife management area or area designated by the federal or state agency as the critical habitat of any endangered species; or

e. Over an active fault.

10. ~~The following~~ *Certain* site characteristics may also prevent approval or require substantial limitations on the site use or require incorporation of sound engineering controls*. Examples include but are not limited to*:

a. Excessive slopes (greater than 33%);

b. Lack of ~~readily available~~ *daily* cover materials ~~on-site or lack of a firm commitment for adequate cover material from a borrow site~~;

c. Springs, seeps, or other ground water intrusion into the site;

d. The presence of gas, water, sewage, or electrical or other transmission lines under the site; or

e. The prior existence on the site of an open dump, unpermitted landfill, lagoon, or similar ~~facility~~ *unit*, even if such ~~facility~~ *a unit* is closed, will be considered a defect in the site unless the proposed ~~landfill~~ *unit* can be isolated from the defect by ~~facility construction~~ *the nature of the unit design* and the ground water for the ~~facility~~ *proposed unit* can be effectively monitored.

11. Specific site conditions may be considered in approving an exemption of a site from the siting restrictions of subdivision 10 of this subsection.

12. Facilities unable to furnish the demonstration required under subdivision 1 c, 2, or 3 b of this subsection shall close in accordance with the requirements of subsection E of this section and initiate post-closure care as required by subsection F of this section by October 9, 1996.

13. The deadline for closure required by subdivision 12 of this subsection may be extended by the director up to two years if the owner or operator demonstrates that:

a. There is no alternate disposal capacity; and

b. There is no immediate threat to human health and the environment.

B. Design/construction. The following design and construction requirements apply to all sanitary landfills:

1. All facilities shall be surrounded ~~on all sides~~ by ~~natural barriers, fencing, or an equivalent~~ *a* means of controlling vehicular access and preventing illegal disposal. All access will be limited by gates, and such gates shall be securable and equipped with locks.

2. Access roads extending from the public road to the entrance of a facility or site and any public access area shall be all-weather, and shall be provided with a base capable of withstanding anticipated heavy vehicle loads.

3. Each solid waste disposal facility should be provided with an adequately lighted and heated shelter where operating personnel can exercise site control and have access to essential sanitation facilities. Lighting, heat and sanitation facilities may be provided by portable equipment as necessary.

4. Aesthetics shall be considered in the design of a facility or site. Use of artificial or natural screens shall be incorporated into the design for site screening and noise attenuation to less than 80 dBA at the facility boundary. The design should reflect those requirements, if any, that are determined from the long-range plan for the future use of the site.

5. All sanitary landfills shall be equipped with permanent or mobile telephone or radio communications.

6. All facilities shall be designed to provide and maintain:

a. A run-on control system to prevent flow onto the active portion of the landfill during the peak discharge from a 25-year storm;

b. A run-off control system from the active portion of the landfill to collect and control at least the water volume resulting from a 24-hour, 25-year storm. Run-off from the active portion of the landfill unit shall be handled in a manner that will not cause the discharge of:

(1) Pollutants into waters of the United States, including wetlands, that violates any requirements of the Clean Water Act, including, but-not limited to, the Virginia Pollutant Discharge Elimination system (VPDES) requirements; and

(2) Cause the discharge of a nonpoint source of pollution to waters of the United States, including wetlands, that violates any requirement of an area-wide or state-wide water quality management plan that has been approved under section 208 or 319 of the Clean Water Act, as amended.

c. Drainage structures to prevent ponding and erosion, and to minimize infiltration of water into solid waste cells.

7. A ground water monitoring system shall be installed at all sanitary landfills in accordance with ~~subdivision 3 of this subsection~~ *9 VAC 20-80-300*.

8. Each site design shall include a gas management ~~plan~~ *system* to control decomposition gases generated within a sanitary landfill in accordance with 9 VAC 20-80-280.

9. All sanitary landfills shall be underlain by a composite liner system as follows:

a. Base preparation to protect the liner by preventing liner failure through subsidence or structural failure of the liner system.

b. A lower liner consisting of at least a two-foot layer of compacted soil with a hydraulic conductivity of no more than $1X10^{-7}$ cm/sec.

c. An upper component consisting of a minimum 30-mil flexible membrane liner (FML). If high density polyethylene (HDPE) is used as an FML, it shall be at least 60-mil thick. The FML component shall be:

(1) Installed in direct and uniform contact with the compacted soil liner;

(2) Placed in accordance with an approved construction quality control/quality assurance program submitted with the design plans; and

(3) Placed with a minimum of two percent slope for leachate drainage.

10. The applicant may submit a petition in accordance with 9 VAC 20-80-780 to allow for an alternate design of the liner system.

11. The design shall provide for leachate management which shall include its collection, treatment, storage, and disposal. Leachate control and monitoring systems are subject to the requirements in 9 VAC 20-80-290.

12. Landfill site designs shall provide sufficient area to allow for management of leachate. Leachate from a solid waste disposal facility shall not be permitted to drain or discharge into surface waters except when authorized under a VPDES permit issued by the State Water Control Board or otherwise approved by that agency.

13. Compacted lifts of deposited waste shall be designed for a height compatible with daily waste volumes keeping work face areas to a minimum and allowing for a daily compacted cover. Lift height is not recommended to exceed 10 feet for maximum compaction.

14. Final contours of the finished landfill shall be specified. Design of final contours shall consider subsequent site uses, existing natural contours, surface water management requirements, and the nature of the surrounding area. The final elevation of the landfill shall be limited by the structural capacity of the liner and leachate collection and removal system and by stability of foundation and slopes. The final contour shall not cause structural damage or collapse of the leachate collection system.

15. Finished side slopes shall be stable and be configured to adequately control erosion and runoff. Slopes of 33% will be allowed provided that adequate runoff controls are established. Steeper slopes may be considered if supported by necessary stability calculations and appropriate erosion and runoff control features. All finished slopes and runoff management facilities shall be supported by necessary calculations and included in the design manual. The top

slope shall be at least two percent after allowance for settlement to prevent ponding of water.

16. Two survey bench marks shall be established and maintained on the landfill site, and their location identified or recorded on drawings and maps of the facility.

17. Each sanitary landfill shall be constructed in accordance with approved plans, which shall not be subsequently modified without approval by the department.

18. Construction quality assurance program.

a. General.

(1) A construction quality assurance (CQA) program is required for all landfill units. The program shall ensure that the constructed unit meets or exceeds all design criteria and specifications in the permit. The program shall be developed and implemented under the direction of a CQA officer who is a registered professional engineer.

(2) The CQA program shall address the following physical components, where applicable:

(a) Foundations;

(b) Low-hydraulic conductivity soil liners;

(c) Synthetic membrane liners;

(d) Leachate collection and removal systems; ~~and~~

(e) Gas management components; and

~~(e)~~ *(f)* Final cover systems.

b. Written CQA plan. The owner or operator shall develop and implement a written CQA plan. The plan shall identify steps that will be used to monitor and document the quality of materials and the condition and manner of their installation. The CQA plan shall include:

(1) Identification of applicable units, and a description of how they will be constructed.

(2) Identification of key personnel in the development and implementation of the CQA plan, and CQA officer qualifications.

(3) A description of inspection and sampling activities for all unit components identified in subdivision 18 a (2) of this subsection including observations and tests that will be used before, during, and after construction to ensure that the construction materials and the installed unit components meet the design specifications. The description shall cover: sampling size and locations; frequency of testing; data evaluation procedures; acceptance and rejection criteria for construction materials; plans for implementing corrective measures; and data or other information to be recorded.

c. Contents of program. The CQA program shall include observations, inspections, tests, and measurements sufficient to ensure:

(1) Structural stability and integrity of all components of the unit identified in subdivision 18 a (2) of this subsection;

(2) Proper construction of all components of the liners, leachate collection and removal system, gas management system, and final cover system, according to permit specifications and good engineering practices, and proper installation of all components (e.g., pipes) according to design specifications;

(3) Conformity of all materials used with design and other material specifications.

(4) The permeability of the liner soil. Soil liner construction will be demonstrated on a test pad where permeability will be confirmed using an in situ testing method.

d. Certification. Waste shall not be received in a landfill unit until the owner or operator has submitted to the director by certified mail or hand delivery a certification signed by the CQA officer that the approved CQA plan has been successfully carried out and that the unit meets the requirements of this section. Documentation supporting the CQA officer's certification shall be submitted to the director upon request. *An additional engineer's certification is required under the provisions of 9 VAC 20-80-550 A 1.*

C. Operation.

1. No hazardous wastes as defined by the Virginia Hazardous Waste Management Regulations (9 VAC 20-60~~-10 et seq.~~) ~~or materials offering an undue hazard to landfill personnel or the landfill operations~~ *other wastes listed in 9 VAC 20-80-250 C 17, PCB waste or regulated medical waste* shall be accepted at the landfill except as specifically authorized by the facility permit or by the director. The owner or operator shall implement an inspection program *to be conducted by landfill personnel* to detect and prevent disposal of ~~hazardous waste, polychlorinated biphenyls (PCB) waste, regulated medical waste, and other unauthorized solid waste~~ *such wastes*. ~~This~~ *In addition to implementing the requirements of the control program for unauthorized waste in 9 VAC 20-80-113, the* program shall include, at a minimum:

a. *The procedures for the* routine *monitoring and* observation of incoming waste ~~by~~ *at the working face of the* landfill ~~personnel~~;

b. *The procedures for* random inspections of incoming loads ~~unless the owner or operator takes other approved means to ensure that~~ *to detect whether* incoming loads ~~do not~~ contain regulated hazardous wastes, PCB wastes, regulated medical waste, or other unauthorized solid waste *and ensure that such wastes are not accepted at the facility. The owner or operator shall inspect a minimum of 1.0% of the incoming loads of waste. In addition, if the facility receives waste generated outside of Virginia and the regulatory structure in that state allows for the disposal or incineration of wastes as municipal solid waste that Virginia's laws and regulations prohibit or restrict, the*

facility shall inspect a minimum of 10% of the incoming loads of waste from that state. All facilities receiving waste generated outside of Virginia shall submit an evaluation consistent with 9 VAC 20-80-113 D;

c. Records of ~~any~~ *all* inspections, to include at a minimum time and date of the inspection, the personnel involved, the hauler*, the type of waste observed, the identity of the generator of the waste if it can be determined, the location of the facility where the waste was handled prior to being sent to the landfill* and the results of the inspection*. All records associated with unauthorized waste monitoring and incidents shall be retained on-site for a minimum of three years and shall be available for inspection by the department*;

d. Training of facility personnel to recognize *and manage* regulated hazardous waste, PCB wastes, regulated medical waste, and other unauthorized solid wastes;

e. Notification of the director if a regulated hazardous waste, PCB waste, regulated medical waste or other unauthorized waste is discovered at the facility. This notification will be made orally ~~within~~ *as soon as possible, but no later than* 24 hours ~~of~~ *after* the occurrence and shall be followed within 10 days by a written report that includes a description of the event, the cause of the event, the time and date of the event and the actions taken to respond to the event; and

f. All regulated medical waste, PCB waste or other unauthorized solid waste that are detected at a facility shall be isolated from the incoming waste and properly contained until arrangements can be made for proper transportation for treatment or disposal at an approved facility.

2. Compaction and cover requirements.

a. Unless provided otherwise in the permit, solid waste shall be spread into two-foot layers or less and compacted at the working face, which shall be confined to the smallest area practicable.

b. Lift heights shall be sized in accordance with daily waste volumes. Lift height is not recommended to exceed 10 feet.

c. Daily cover consisting of six inches of compacted soil or other approved material shall be placed upon all exposed solid waste prior to the end of each operating day, or at more frequent intervals if necessary, to control disease vectors, fires, odors, blowing litter, and scavenging. Alternate materials of an alternate thickness may be approved by the director if the owner or operator demonstrates that the alternate material and thickness control disease vectors, fires, odors, blowing litter, and scavenging without presenting a threat to human health and the environment. At least three days of acceptable cover soil or approved material at the average usage rate should be maintained at the landfill or readily available at all times.

d. Intermediate cover of at least six inches of additional compacted soil shall be applied whenever an additional lift of refuse is not to be applied within 30 days. Further, all areas with intermediate cover exposed shall be inspected as needed, but not less than weekly. Additional cover material shall be placed on all cracked, eroded, and uneven areas as required to maintain the integrity of the intermediate cover system.

e. Final cover construction will be initiated in accordance with the requirements of subdivision E 1 b of this section when the following pertain:

(1) An additional lift of solid waste is not to be applied within one year.

(2) Any area of a landfill attains final elevation and within 90 days after such elevation is reached. The director may approve alternate timeframes if they are specified in the facility's closure plan.

(3) An entire landfill's permit is terminated for any reason, and within 90 days of such denial or termination.

f. Vegetative cover with proper support layers shall be established and maintained on all exposed final cover material within four months after placement, or as ~~otherwise~~ specified by the department when seasonal conditions do not ~~otherwise~~ permit. *Mowing will be conducted a minimum of twice a year or at a frequency suitable for the species of vegetative cover as specified in the facility permit.*

g. Areas that have not received waste within 30 days will not have slopes exceeding the final cover slopes specified in the permit or 33%, whichever is least.

3. Access to a solid waste disposal facility shall be permitted only when an attendant is on duty and only during daylight hours, unless otherwise specified in the facility permit.

4. Disease vectors shall be controlled using techniques appropriate for the protection of human health and the environment.

5. Safety hazards to operating personnel shall be controlled through an active safety program *consistent with the requirements of 29 CFR Part 1910*.

6. Adequate numbers and types of properly maintained equipment shall be available to a facility for operation. Provision shall be made for substitute equipment to be available within 24 hours should the former become inoperable or unavailable. Operators with training appropriate to the tasks they are expected to perform and in sufficient numbers for the complexity of the site shall be on the site whenever it is in operation. Equipment and operators provided will not be satisfactory unless they ensure that the site is managed with a high degree of safety and effectiveness.

7. Owners or operators shall implement a gas management plan in accordance with 9 VAC 20-80-280 that will ensure that:

a. The concentration of methane gas generated by the facility does not exceed 25 percent of the lower explosive

limit for methane in facility structures (excluding gas control or recovery system components); and

b. The concentration of methane gas does not exceed the lower explosive limit for methane at the facility boundary.

8. Burning waste.

a. Owners or operators shall ensure that the units do not violate any applicable requirements developed by the State Air Pollution Control Board or promulgated by the EPA administrator pursuant to § 110 of the Clean Air Act, as amended (42 USC §§ 1857-1857l).

b. Open burning of solid waste, except for infrequent burning of agricultural wastes, silvicultural wastes, landclearing debris, diseased trees, or debris from emergency cleanup operations is prohibited. There shall be no open burning permitted on areas where solid waste has been disposed or is being used for active disposal.

9. The owner or operator shall be responsible for ~~prompt~~ extinguishing ~~of~~ *any* fires that may ~~result~~ occur~~.~~ at the facility ~~there shall be~~. A fire control plan ~~to~~ *will be developed which outlines the response of facility personnel to fires. The fire control plan will be provided as an attachment to the emergency contingency plan required under the provisions of 9 VAC 20-80-520 C 2 k. The fire control plan will* be available for review upon request by the public.

10. Solid waste shall not be deposited in, nor shall it be permitted to enter any surface waters or ground waters.

11. Owners or operators shall maintain the run-on/runoff control systems designed and constructed in accordance with subdivision B 6 of this section.

12. Sanitary landfills shall not:

a. Cause a discharge of pollutants into waters of the United States, including wetlands, that violates any requirements of the Clean Water Act (33 USC § 1251 et seq.), including, but not limited to, the Virginia Pollutant Discharge Elimination System (VPDES) requirements and Virginia Water Quality Standards (9 VAC 25-260~~-10 et seq.~~).

b. Cause the discharge of a nonpoint source of pollution to waters of the United States, including wetlands, that violates any requirement of an area-wide or state-wide water quality management plan that has been approved under§ 208 or 319 of the Clean Water Act (33 USC § 1251 et seq.), as amended or violates any requirement of the Virginia Water Quality Standards (9 VAC 25-260~~-10 et seq.~~).

13. Housekeeping.

a. Litter and blowing paper shall be confined to refuse holding and operating areas by fencing or other suitable control means.

b. Dust and odors shall be controlled so they do not constitute nuisances or hazards.

c. Salvaging may be permitted by a solid waste disposal facility operator, but shall be controlled within a designated salvage area to preclude interference with operation of the facility and to avoid the creation of hazards or nuisances.

d. Fugitive dust and mud deposits on main off-site roads and access roads shall be minimized at all times to limit nuisances.

e. Internal roads in the landfill shall be maintained to be passable in all weather by ordinary vehicles. All operation areas and units shall be accessible; gravel or other finish materials are usually required to accomplish this. Provisions shall be made to prevent tracking of mud onto public roads by vehicles leaving the site.

f. The open working face of a landfill shall be kept as small as practicable, determined by the tipping demand for unloading.

g. A sanitary landfill which is located within 10,000 feet of any airport runway used for turbojet aircraft or 5,000 feet of any airport runway used by only piston type aircraft, shall operate in such a manner that the facility does not increase or pose additional bird hazards to aircraft.

h. All items designed in accordance with the requirements of subsection B of this section shall be properly maintained.

14. Ground water monitoring program meeting the requirements of subsection D of this section shall be implemented.

15. A corrective action program meeting the requirements of 9 VAC 20-80-310 is required whenever the ground water protection standard is exceeded.

16. Sanitary landfills may receive the following types of solid wastes subject to specific limitations in the permit:

a. Agricultural waste.

b. Ashes and air pollution control residues that are not classified as hazardous waste. Incinerator and air pollution control residues should be incorporated into the working face and covered at such intervals as necessary to prevent them from becoming airborne.

c. Commercial waste.

d. Compost.

e. Construction waste.

f. Debris *waste*.

g. Demolition waste.

h. Discarded material.

i. Garbage.

j. Household waste.

k. Industrial waste meeting all criteria contained herein.

l. Inert waste.

m. Institutional waste except ~~anatomical waste from health care facilities or~~ regulated medical waste as specified in ~~Waste Management Board's~~ *the* Regulated

Medical Waste *Management* Regulations (9 VAC 20-120~~-10 et seq.~~).

n. Municipal solid waste.

o. Putrescible waste. Occasional animal carcasses may be disposed of within a sanitary landfill. Large ~~number~~ *numbers* of animal carcasses *may be received with prior notification of the department. When large numbers of carcasses are received, they* shall be placed in a separate area within the disposal unit and provided with a cover of compacted soil or other suitable material.

p. Refuse.

q. Residential waste.

r. Rubbish.

s. Scrap metal.

t. Sludges. Water treatment plant sludges containing no free liquid and stabilized, digested or heat treated wastewater treatment plant sludges containing no free liquid may be placed on the working face along with municipal solid wastes and covered with soil or municipal solid wastes. The quantities accepted should be determined by operational conditions encountered at the working face. For existing facilities without an adequate leachate collection system, only a limited quantity of sludge may be accepted. A maximum ratio of one ton of sludge per five tons of solid waste per day will be considered. Generation of leachate will be a basis for restriction of sludge disposal at such existing facilities.

u. Trash.

v. White goods. Provided that all white goods are free of chlorofluorocarbons and PCBs prior to placement on the working face.

w. Nonregulated hazardous wastes and treated wastes rendered nonhazardous by specific approval only.

x. Special wastes as approved by the director.

y. Waste oil that has been adequately adsorbed in the course of a site cleanup.

z. Vegetative waste.

aa. Yard waste.

17. Sanitary landfills may not receive the following wastes:

a. Free liquids.

(1) Bulk or noncontainerized liquid waste, unless:

(a) The waste is household waste; or

(b) The waste is leachate or gas condensate derived from that landfill and the facility is designed with a composite liner and leachate collection system as described in subdivision B 9 of this section and 9 VAC 20-80-290 B; or

(2) Containers holding liquid waste, unless:

(a) The container is a small container similar in size to that normally found in household waste;

(b) The container is designed to hold liquids for use other than storage; or

(c) The waste is household waste.

b. Regulated hazardous wastes.

c. Solid wastes, residues, or soils containing more than 1.0 ppb (parts per billion) TEF (dioxins).

d. Solid wastes, residues, or soils containing 50.0 ppm (parts per million) or more of PCB's except as allowed under the provisions of 9 VAC 20-80-650.

e. Unstabilized sewage sludge as defined by the Department of Health or sludges that have not been dewatered.

f. Pesticide containers that have not been triple rinsed and crushed.

g. Drums that are not empty, properly cleaned and opened.

h. Contaminated soil unless approved by the director in accordance with the requirements of *9 VAC 20-80-630 or* 9 VAC 20-80-700.

18. Reasonable records to include date, quantity by weight or volume, and origin shall be maintained on solid waste received and processed *to fulfill the requirements of the Solid Waste Information and Assessment Program, the Control Program for Unauthorized Waste*. Such information shall be made available to the department for examination or use when requested.

D. Ground water monitoring. *Ground water monitoring program shall be instituted at all sanitary landfills in accordance with the requirements contained in 9 VAC 20-80-300.*

~~1. Applicability.~~

~~a. Owners or operators of existing sanitary landfills shall be in compliance with the ground water monitoring requirements specified in this section, except as provided for in subdivision 1 c of this subsection.~~

~~b. Owners or operators of new facilities shall be in compliance with the ground water monitoring requirements specified in this section before waste can be placed in the landfill except as provided for in subdivision 1 c of this subsection.~~

~~c. Ground water monitoring requirements under this subsection may be suspended by the director for a sanitary landfill unit or facility if the owner or operator can demonstrate that there is no potential for migration of constituents of solid wastes listed in Appendix 5.1 to the uppermost aquifer during the active life of the unit and the post-closure care period. This demonstration shall be certified by a qualified ground water scientist and shall be based upon:~~

~~(1) Site-specific field collected measurements, sampling and analysis of physical, chemical, and biological processes affecting contaminant fate and transport; and~~

(2) Contaminant fate and transport predictions that maximize contaminant migration and consider impacts on human health and environment.

2. General requirements.

a. Owners or operators of sanitary landfills shall implement a ground water monitoring program capable of determining the facility's impact on the quality of ground water in the uppermost aquifer underlying the facility.

b. Owners or operators shall install, operate, and maintain a ground water monitoring system which meets the requirements of subdivision 3 of this subsection and shall comply with all other applicable requirements of this section. This ground water monitoring shall be carried out during the active life of the facility and during the post-closure care period.

c. The ground water monitoring and reporting requirements set forth here are minimum requirements. The director may require, by amending the permit, any owner or operator to install, operate and maintain a ground water monitoring system and program that contains the requirements more stringent than this chapter imposes, whenever he determines that such requirements are necessary to prevent significant adverse effects on public health and the environment.

3. Ground water monitoring system.

a. A ground water monitoring system shall be installed consisting of a sufficient number of wells at appropriate locations and depths and capable of yielding ground water samples from the uppermost aquifer that:

(1) Represent the quality of background ground water that has not been affected by leakage from the unit; and

(2) Represent the quality of ground water at the waste management unit boundary. The downgradient monitoring system shall be installed at the waste management unit boundary that ensures detection of ground water contamination in the uppermost aquifer unless a variance has been granted by the director under 9 VAC 20-80-770. When physical obstacles preclude installation of ground water monitoring wells at the waste management unit boundary, the down-gradient monitoring system may be installed at the closest practicable distance hydraulically down-gradient from the boundary that ensures detection of ground water contamination in the uppermost aquifer.

b. The director may approve a multiunit ground water monitoring system instead of separate ground water monitoring systems for each disposal unit when the facility has several units, provided the multi-unit ground water monitoring system meets the requirement of subdivision 3 a of this subsection and will be as protective of human health and the environment as individual monitoring systems for each disposal unit, based on the following factors:

(1) Number, spacing, and orientation of the disposal units;

(2) Hydrogeologic setting;

(3) Site history;

(4) Engineering design of the disposal units; and

(5) Type of waste accepted at the disposal units.

c. All monitoring wells of a size adequate for sampling shall be cased and grouted in a manner that maintains the integrity of the monitoring well bore hole. This casing shall be screened or perforated, and packed with gravel or sand where necessary, to enable sample collection at depths where appropriate aquifer flow zones exist. The annular space above the sampling depth shall be sealed with a suitable material to prevent contamination of samples and the ground water.

d. A log shall be made of each newly installed monitoring well describing the soils or rock encountered, and the hydraulic conductivity of formations. A copy of the final logs with appropriate maps including at a minimum a site plan showing the location of all monitoring wells shall be sent to the department with the certification required under subdivision 3 f (3) of this subsection.

e. The monitoring wells, piezometers, and other measurement, sampling, and analytical devices shall be operated and maintained so that they perform to design specifications throughout the life of the monitoring program.

f. The number, spacing, and depths of monitoring systems shall be:

(1) Determined based upon site-specific technical information that shall include thorough characterization of:

(a) Aquifer thickness, ground water flow rate, ground water flow direction including seasonal and temporal fluctuations in ground water flow; and

(b) Saturated and unsaturated geologic units and fill materials overlying the uppermost aquifer, materials comprising the uppermost aquifer, and materials comprising the confining unit defining the lower boundary of the uppermost aquifer; including, but not limited to: thicknesses, stratigraphy, lithology, hydraulic conductivities, porosities and effective porosities.

(2) At the minimum, at least one up-gradient and three down-gradient monitoring wells shall be installed.

(3) Certified by a qualified ground water scientist within 30 days of well installation that the wells have been installed in accordance with the submitted plans. Within 14 days of this certification, the owner or operator shall transmit the certification to the director.

4. Sampling and analysis. The ground water sampling and analysis requirements for the ground water monitoring system are as follows:

a. The ground water monitoring program shall include consistent sampling and analysis procedures that are designed to ensure monitoring results that provide an accurate representation of the ground water quality at the background and downgradient wells. At a minimum the program shall include procedures and techniques for:

(1) Sample collection;

(2) Sample preservation and shipment;

(3) Analytical procedures;

(4) Chain of custody control; and

(5) Quality assurance and quality control.

b. The ground water monitoring program shall include sampling and analytical methods that are appropriate for ground water sampling and that accurately measure solid waste constituents in ground water samples. The sampling, analysis and quality control/quality assurance methods set forth in EPA document SW-846 shall be used. The department may require resampling if it believes the samples were not properly sampled or analyzed.

c. Ground water elevations at each monitoring well shall be determined immediately prior to purging each time a sample is obtained. The owner or operator shall determine the rate and direction of ground water flow each time ground water is sampled. Ground water elevations in wells which monitor the same waste management area shall be measured within a period of time short enough to avoid temporal variations in ground water flow which could preclude accurate determination of ground water flow rate and direction.

d. The owner or operator shall establish background ground water quality in a hydraulically upgradient or background well, or wells, for each of the monitoring parameters or constituents required in the particular ground water monitoring program that applies to the disposal unit, as determined under subdivision 5 or 6 of this subsection. Background ground water quality may be established at wells that are not located hydraulically upgradient from the disposal unit if it meets the requirements of subdivision 4 e of this subsection.

e. A determination of background quality may be based on sampling of wells that are not upgradient from the waste management area where:

(1) Hydrogeologic conditions do not allow the owner or operator to determine what wells are upgradient; and

(2) Sampling at other wells will provide an indication of background ground water quality that is as representative or more representative than that provided by the upgradient wells.

f. The number of samples collected to establish ground water quality data shall be consistent with the appropriate statistical procedures determined pursuant to subdivision 4 g of this subsection.

g. The owner or operator shall specify in the operation plan one of the statistical methods listed in Appendix 5.4 to be used in evaluating ground water monitoring data for each monitoring parameter or constituent. The statistical test chosen shall be conducted separately for each parameter or constituent in each well.

NOTE: It may be necessary to substitute a statistical method if the original does not meet the performance standard.

h. The owner or operator shall determine whether or not there is a statistically significant increase over background values for each parameter or constituent required in the particular ground water monitoring program that applies to the disposal unit, as determined under subdivision 5 or 6 of this subsection.

(1) In determining whether a statistically significant increase has occurred, the owner or operator shall compare the ground water quality of each parameter or constituent at each monitoring well designated pursuant to subdivision 3 a (1) of this subsection to the background value of that constituent, according to the statistical procedures and performance standards specified in Appendix 5.4 except as provided for in subdivision 5 b (5) (a) of this subsection.

(2) Within 30 days after completing sampling and analysis, the owner or operator shall determine whether there has been a statistically significant increase over background at each monitoring well.

5. Detection monitoring. Detection monitoring is required at all sanitary landfills except as otherwise provided in subdivision 6 of this subsection.

a. Applicability. Unless exempt under subdivision 5 b of this subsection, owners and operators of sanitary landfills shall comply with the detection monitoring requirements according to the following schedule:

(1) All existing facilities and closed facilities that have accepted waste after October 9, 1993, and in the case of a "small landfill" after April 9, 1994, shall be in compliance with the final detection monitoring requirements specified in subdivision 5 c of this subsection by May 23, 2001;

(2) New facilities placed in operation after October 9, 1993, shall be in compliance with the detection monitoring requirements specified in subdivision 5 c of this subsection before waste can be placed in the unit.

b. Unless an extension to the deadline above has been granted by the director, closed facilities that have ceased to accept any waste on or before October 9, 1993, and in the case of a "small landfill" after April 9, 1994, may comply with the monitoring requirements specified in Appendix 5.6.

c. Detection monitoring program.

(1) Detection monitoring program shall be instituted at all facilities as specified in subdivision 5 a of this subsection at all ground water monitoring wells

specified in subdivisions 3 a and 2 b of this subsection. At a minimum, a detection monitoring program shall include the monitoring for the constituents listed in Appendix 5.5.

(2) The monitoring frequency for all constituents listed in Appendix 5.5 shall be at least semiannual during the active life of the facility (including closure) and the post-closure period. A minimum of four independent samples from each well (background and downgradient) shall be collected and analyzed for the Appendix 5.5 constituents during the first semiannual sampling period. The sampling period shall not exceed 180 days. At least one sample from each well (background and downgradient) shall be collected and analyzed during subsequent semiannual sampling events. The director may specify an appropriate alternate frequency for repeated sampling and analysis during the active life (including closure) and the post-closure care period. The alternate frequency during the active life (including closure) shall be no less than annual. The alternate frequency shall be based on consideration of the following factors:

(a) Lithology of the aquifer and unsaturated zone;

(b) Hydraulic conductivity of the aquifer and unsaturated zone;

(c) Ground water flow rates;

(d) Minimum distance between upgradient edge of the disposal unit and downgradient monitoring well screen (minimum distance of travel); and

(e) Resource value of the aquifer.

(3) If the owner or operator determines that there is a statistically significant increase over background as determined by a method meeting the requirements of Appendix 5.4, for one or more of the constituents listed in Appendix 5.5 at any monitoring well at the boundary specified under subdivision 3 a (2) of this subsection, the owner or operator shall:

(a) Within 14 days of this finding, notify the director of this fact indicating which constituents have shown statistically significant changes from background levels; and

(b) Establish an assessment monitoring program meeting the requirements of subdivision 6 of this subsection within 90 days except as provided for in subdivision 5 c (4) of this subsection.

(4) The owner or operator may demonstrate that a source other than the unit caused the contamination or that the statistically significant increase resulted from error in sampling, analysis, statistical evaluation, or natural variation in ground water quality. A report documenting this demonstration shall be certified by a qualified ground water scientist and approved by the director. If a successful demonstration is made and approved, the owner or operator may continue detection monitoring as specified in this section. If, after 90 days, a successful demonstration is not made, the owner or operator shall initiate an assessment monitoring program as required in subdivision 6 of this subsection. The 90 day period may be extended by the director for good cause.

6. Assessment monitoring program.

a. Unless exempt under subdivision 5 b of this subsection the owner or operator shall implement the assessment monitoring program whenever a statistically significant increase over background has been detected for one or more of the constituents listed in Appendix 5.5.

b. Within 90 days of triggering an assessment monitoring program, and annually thereafter, the owner or operator shall sample and analyze the ground water for all constituents identified in Appendix 5.1. A minimum of one sample from each well specified in subdivisions 3 a (1) and 3 a (2) of this subsection shall be collected and analyzed during each sampling event. For any constituent detected in the downgradient wells as a result of the complete Appendix 5.1 analysis, a minimum of four independent samples from each well (background and downgradient) shall be collected and analyzed to establish background for the detected constituents. The director may approve an appropriate subset of monitoring wells to be sampled and analyzed for Appendix 5.1 constituents during assessment monitoring. The director may delete any of the Appendix 5.1 monitoring parameters for a landfill unit if the owner or operator demonstrates that the deleted constituents are not reasonably expected to be in or derived from the waste contained in the unit.

c. The director may specify an appropriate alternate frequency for repeated sampling and analysis for the full set of Appendix 5.1 constituents required by subdivision 6 b of this subsection during the active life (including closure) and post-closure care of the unit considering the following factors:

(1) Lithology of the aquifer and unsaturated zone;

(2) Hydraulic conductivity of the aquifer and unsaturated zone;

(3) Ground water flow rates;

(4) Minimum distance between upgradient edge of the disposal unit and downgradient monitoring well screen (minimum distance of travel);

(5) Resource value of the aquifer; and

(6) Nature (fate and transport) of any constituents detected in response to subdivision 6 of this section.

d. After obtaining the results from the initial or subsequent sampling events required in subdivision 6 b of this subsection, the owner or operator shall:

(1) Within 14 days, notify the director identifying the Appendix 5.1 constituents that have been detected;

(2) Within 90 days, and on at least a semiannual basis thereafter, resample all wells, conduct analyses for all constituents in Appendix 5.5, and for those constituents

in Appendix 5.1 that are detected in response to subdivision 6 b of this subsection, and record their concentrations in the facility operating record. At least one sample from each well (background and downgradient) shall be collected and analyzed during these sampling events;

(3) Within 90 days, establish background concentrations for any constituents detected pursuant to subdivision 6 b or d (2) of this subsection; and

(4) Within 90 days, establish ground water protection standards for all constituents detected pursuant to paragraph subdivision 6 b or d of this subsection. The ground water protection standards shall be established in accordance with subdivision 6 h or i of this subsection and placed in the facility's operating record. A copy will also be forwarded to the director.

e. If the concentrations of all Appendix 5.1 constituents are shown to be at or below background values, using the statistical procedures in Appendix 5.4, for two consecutive sampling events, the owner or operator shall notify the director of this finding and may return to detection monitoring.

f. If the concentrations of any Appendix 5.1 constituents are above background values, but all concentrations are below the ground water protection standard established under subdivision 6 h or i of this subsection, using the statistical procedures in Appendix 5.4, the owner or operator shall continue assessment monitoring in accordance with this section.

g. If one or more Appendix 5.1 constituents are detected at statistically significant levels above the ground water protection standard established under subdivision 6 h or i of this subsection in any sampling event, the owner or operator shall, within 14 days of this finding, notify the director identifying the Appendix 5.1 constituents that have exceeded the ground water protection standard. The owner or operator also shall:

(1) (a) Characterize the nature and extent of the release by installing additional monitoring wells as necessary;

(b) Install at least one additional monitoring well at the facility boundary in the direction of contaminant migration and sample this well in accordance with subdivision 6 d (2) of this subsection;

(c) Notify all persons who own the land or reside on the land that directly overlies any part of the plume of contamination if contaminants have migrated off site if indicated by sampling of wells in accordance with subdivision 6 g (1) of this subsection; and

(d) Initiate an assessment of corrective measures as required by 9 VAC 20-80-310 A within 90 days; or

(2) May demonstrate that a source other than the unit caused the contamination, or that the statistically significant increase resulted from error in sampling, analysis, statistical evaluation, or natural variation in ground water quality. A report documenting this demonstration shall be certified by a qualified ground water scientist or approved by the director. If a successful demonstration is made, the owner or operator shall continue monitoring in accordance with the assessment monitoring program pursuant to subdivision 6 of this subsection, and may return to detection monitoring if the Appendix 5.1 constituents are at or below background as specified in subdivision 6 e of this subsection. Until a successful demonstration is made, the owner or operator shall comply with subdivision 6 g of this subsection including initiating an assessment of corrective measures.

h. The owner or operator shall determine a ground water protection standard for each Appendix 5.1 constituent detected in the ground water. The ground water protection standard shall be:

(1) For constituents for which a maximum contaminant level (MCL) has been promulgated under Section 1412 of the Safe Drinking Water Act (40 CFR Part 141), the MCL for that constituent;

(2) For constituents for which MCLs have not been promulgated, the background concentration, as approved by the director, for the constituent established from wells in accordance with subdivision 3 a (1) of this subsection; or

(3) For constituents for which the background level is higher than the MCL identified under subdivision 6 h (1) of this subsection or health based levels identified under subdivision 6 i of this subsection, the background concentration as approved by the director.

i. The director may establish an alternative ground water protection standard for constituents for which MCLs have not been established by granting a variance based on the petition submitted by the owner or operator in accordance with 9 VAC 20-80-760.

7. Reserved.

8. Recordkeeping and reporting.

a. If the ground water is monitored to satisfy the requirements of subdivision 5 of this subsection, the owner or operator shall:

(1) Keep records of the analyses, the associated static water level surface elevations, and the evaluations required in subdivision 5 b or 6 of this subsection throughout the active life of the facility and the post-closure care period; and

(2) Report the following ground water monitoring information to the director:

(a) During the first year when initial background concentrations are being established for the facility: concentrations or values of the parameters for each ground water monitoring well within 15 days after completing each analysis.

(b) Annually for concentrations or values of the parameters listed in for each ground water monitoring well, along with the required evaluations

~~for these parameters. During the active life of the facility, this information shall be submitted no later than March 1 following each calendar year.~~

~~(c) No later than March 1 following each calendar year as part of the annual report: results of the evaluations of ground water surface elevations plotted on a potentiometric map using recent ground water data from the previous calendar year, and a description of the response to that evaluation, where applicable.~~

~~b. If the ground water is monitored to satisfy the requirements of subdivision 6 of this subsection, the owner or operator shall:~~

~~(1) Keep records of the analyses and evaluations throughout the active life of the facility, and throughout the post-closure care period as well; and~~

~~(2) Annually, until final closure of the facility, submit to the executive director a report containing the results of his ground water quality assessment program which includes, but is not limited to, the calculated or measured rate of migration of solid waste constituents in the ground water during the reporting period. This information shall be submitted no later than March 1 following each calendar year.~~

E. Closure.

1. Closure criteria. All sanitary landfills shall be closed in accordance with the procedures set forth as follows:

a. The owner or operator shall close his facility in a manner that minimizes the need for further maintenance, and controls, minimizes or eliminates, to the extent necessary to protect human health and the environment, the post-closure escape of uncontrolled leachate, surface runoff, or waste decomposition products to the ground water, surface water, decomposition gas migration, or to the atmosphere.

b. Final cover system. Owner or operator of all sanitary landfills shall install a final cover system that is designed to achieve the performance requirements of subdivision 1 a of this subsection.

(1) The final cover system shall be designed and constructed to:

(a) Have a hydraulic conductivity less than or equal to the hydraulic conductivity of any bottom liner system or natural subsoils present, or a hydraulic conductivity no greater than 1×10^{-5} cm/sec, whichever is less; and

(b) Minimize infiltration through the closed disposal unit by the use of an infiltration layer that contains a minimum 18 inches of earthen material; and

(c) Minimize erosion of the final cover by the use of an erosion layer that contains a minimum of 6 inches of earthen material that is capable of sustaining native plant growth, and provide for protection of the infiltration layer from the effects of erosion, frost, and wind.

(2) Finished side slopes shall be stable and be configured to adequately control erosion and runoff. Slopes of 33% will be allowed provided that adequate runoff controls are established. Steeper slopes may be considered if supported by necessary stability calculations and appropriate erosion and runoff control features. All finished slopes and runoff management facilities shall be supported by necessary calculations and included in the design manual. To prevent ponding of water, the top slope shall be at least two percent after allowance for settlement.

2. The director may approve an alternate final cover design that includes:

a. An infiltration layer that achieves an equivalent reduction in infiltration as the infiltration layer specified in subdivision 1 b (1) (a) of this subsection; and

b. An erosion layer that provides equivalent protection from wind and water erosion as the erosion layer specified in subdivision 1 b (1) (c) of this subsection.

3. Closure plan and amendment of plan.

a. The owner or operator of a solid waste disposal facility shall have a written closure plan. This plan shall identify the steps necessary to completely close the facility at the point of the permit period when the operation will be the most extensive and at the end of its intended life. The closure plan shall include, at least:

(1) A description of those measures to be taken and procedures to be employed to comply with this subsection.

(2) An estimate of the largest area ever requiring a final cover as required at any time during the active life;

(3) An estimate of the maximum inventory of wastes ever on-site over the active life of the landfill facility; and

(4) A schedule for final closure which shall include, at a minimum, the anticipated date when wastes will no longer be received, the date when completion of final closure is anticipated, and intervening milestone dates which will allow tracking of the progress of closure.

b. The owner or operator may amend his closure plan at any time during the active life of the facility. The owner or operator shall so amend his plan any time changes in operating plans or facility design affects the closure plan. The amended closure plan shall be placed in the operating record.

c. The owner or operator shall notify the director whenever an amended closure plan has been prepared and placed in the operating record.

d. *180 days* prior to beginning closure of each solid waste disposal unit, the owner or operator shall notify the director of the intent to close.

e. If the owner or operator intends to use an alternate final cover design, he shall submit a proposed design meeting the requirements of subdivision 2 of this

subsection to the director at least 180 days before the date he expects to begin closure. The director will approve or disapprove the plan within 90 days of receipt.

f. Closure plans, and amended closure plans not previously approved by the director shall be submitted to the department at least 180 days before the date the owner or operator expects to begin construction activities related to closure. The director will approve or disapprove the plan within 90 days of receipt.

4. Time allowed for closure.

a. The owner or operator shall begin closure activities of each unit no later than 30 days after the date on which the unit receives the known final receipt of wastes or, if the unit has remaining capacity and there is a reasonable likelihood that the unit will receive additional wastes, no later than one year after the most recent receipt of wastes. Extensions beyond the one-year deadline for beginning closure may be granted by the director if the owner or operator demonstrates that the unit has the capacity to receive additional wastes and the owner or operator has taken and will continue to take all steps necessary to prevent threats to human health and the environment from the unclosed unit.

b. The owner or operator shall complete closure activities of each unit within six months following the beginning of closure. The director may approve a longer closure period if the owner or operator can demonstrate that the required or planned closure activities will, of necessity, take longer than six months to complete; and that the owner or operator has taken all steps to eliminate any significant threat to human health and the environment from the unclosed but inactive unit.

5. Closure implementation.

a. The owner or operator shall close each unit with a final cover as specified in subdivision 1 b of this subsection, grade the fill area to prevent ponding, and provide a suitable vegetative cover. Vegetation shall be deemed properly established when ~~it has survived the first mowing and~~ there are no large areas void of vegetation *and it is sufficient to control erosion*.

b. Following ~~closure~~ *construction* of *the final cover system for* each unit, the owner or operator shall submit to the director a certification, signed by a registered professional engineer verifying that closure has been completed in accordance with the requirements of this part. This certification shall include the results of the CQA/QC requirements under subdivision B 18 a (2) (e) of this section.

c. The owner or operator shall properly bait the site for rodent and vector control before final closure is initiated.

d. Following the closure of all units the owner or operator shall:

(1) Post one sign notifying all persons of the closing, and providing a notice prohibiting further receipt of waste materials. Further, suitable barriers shall be installed at former accesses to prevent new waste from being deposited.

(2) Within 90 days, submit to the local land recording authority a survey plat prepared by a professional land surveyor registered by the Commonwealth or a person qualified in accordance with Title 54.1 of the Code of Virginia indicating the location and dimensions of landfill disposal areas. Monitoring well locations should be included and identified by the number on the survey plat. The plat filed with the local land recording authority shall contain a note, prominently displayed, which states the owner's or operator's future obligation to restrict disturbance of the site as specified.

(3) Record a notation on the deed to the facility property, or on some other instrument which is normally examined during title searches, notifying any potential purchaser of the property that the land has been used to manage solid waste and its use is restricted under subdivision F 4 c of this section. A copy of the deed notation as recorded shall be filed with the department.

(4) Submit to the director a certification, signed by a registered professional engineer, verifying that closure has been completed in accordance with the requirements of subdivision 5 d (1) through 5 d (3) of this section and the facility closure plan.

6. Inspection. The department shall inspect all solid waste management units at the time of closure to confirm that the closing is complete and adequate. It shall notify the owner of a closed facility, in writing, if the closure is satisfactory, and shall require any ~~necessary~~ construction or such other steps ~~as may be~~ necessary to bring unsatisfactory sites into compliance with these regulations. Notification by the department that the closure is satisfactory does not relieve the operator of responsibility for corrective action to prevent or abate problems caused by the facility.

7. Post-closure period. The post-closure care period begins on the date of the certification signed by a registered professional engineer as required in subdivision 5 ~~b~~ *d (4)* of this subsection. Unless a facility completes all provisions of subdivision 5 of this subsection, the department will not consider the facility closed, and the beginning of the post-closure care period will be postponed until all provisions have been completed. If the department's inspection required by subdivision 6 of this subsection reveals that the facility has not been properly closed in accordance with this part, post closure will begin on the date that the department acknowledges proper closure has been completed.

F. Post-closure care requirements.

1. Following closure of ~~each~~ *all* disposal ~~unit~~ *units*, the owner or operator shall conduct post-closure care *of the facility*. Post-closure care shall consist of at least the following:

a. Maintaining the integrity and effectiveness of any final cover, including making repairs to the cover as necessary to correct the effects of settlement, subsidence, erosion,

or other events, and preventing run-on and run-off from eroding or otherwise damaging the final cover;

b. Maintaining and operating the leachate collection system in accordance with the requirements in 9 VAC 20-80-290 and 9 VAC 20-80-300. The director may allow the owner or operator to stop managing leachate if the owner or operator demonstrates that leachate no longer poses a threat to human health and the environment;

c. Monitoring the ground water in accordance with the requirements of subsection D of this section and maintaining the ground water monitoring system, if applicable; and

d. Maintaining and operating the gas monitoring system in accordance with the requirements of 9 VAC 20-80-280.

2. The post-closure care shall be conducted:

a. For 10 years in case of facilities that ceased to accept wastes before October 9, 1993; or

b. For 30 years in case of facilities that received wastes after October 9, 1993; or

c. As provided in subdivision 3 of this subsection.

3. The length of the post-closure care period may be:

a. Decreased by the director if the owner or operator demonstrates that the reduced period is sufficient to protect human health and the environment and this demonstration is approved by the director; or

b. Increased by the director if the director determines that the lengthened period is necessary to complete the corrective measures or to protect human health and the environment. If the post-closure period is increased, the owner or operator shall submit a revised post-closure plan for review and approval, and continue post-closure monitoring and maintenance in accordance with the approved plan.

4. The owner or operator shall prepare a written post-closure plan that includes, at a minimum, the following information:

a. A description of the monitoring and maintenance activities required in subdivision 1 of this subsection for each disposal unit, and the frequency at which these activities will be performed;

b. Name, address, and telephone number of the person or office to contact about the facility during the post-closure period; and

c. A description of the planned uses of the property during the post-closure period. Post-closure use of the property shall not disturb the integrity of the final cover, liners, or any other components of the containment system, or the function of the monitoring systems unless necessary to comply with the requirements of this chapter. The director may approve any other disturbance if the owner or operator demonstrates that disturbance of the final cover, liner or other component of the containment system, including any removal of waste, will not increase the potential threat to human health or the environment.

5. The owner or operator shall submit a post-closure care plan for review and approval by the director whenever a post-closure care plan has been prepared or amended. Those post-closure care plans that have been placed in a facility's operating record must be reviewed and approved by the director prior to implementation.

6. Following completion of the post-closure care period for each disposal unit, the owner or operator shall submit to the director a certificate, signed by a registered professional engineer, verifying that post-closure care has been completed in accordance with the post-closure plan. The certificate shall be accompanied by an evaluation, prepared by a professional engineer licensed in the Commonwealth and signed by the owner or operator, assessing and evaluating the landfill's potential for harm to human health and the environment in the event that post-closure monitoring and maintenance are discontinued.

9 VAC 20-80-260. Construction/demolition/debris (CDD) landfills.

Construction/demolition/debris landfills may only receive demolition waste, construction waste, debris waste, land clearing debris, ~~discarded~~ *split* tires, and white goods. No other wastes are authorized for the CDD landfill. Chloroflourocarbons and PCBs must be removed from white goods prior to placement on the working face.

A. Siting. The following criteria apply to all CDD landfills:

1. CDD landfills shall not be sited or constructed in areas subject to base floods unless it can be shown that the facility can be protected from inundation or washout and that the flow of water is not restricted.

2. CDD landfills shall not be sited in geologically unstable areas where inadequate foundation support for the structural components of the landfill exists. Factors to be considered when determining unstable areas shall include:

a. Soil conditions that may result in differential settling and subsequent failure of containment structures;

b. Geologic or geomorphologic features that may result in sudden or non-sudden events and subsequent failure of containment structures;

c. Man-made features or events (both surface and subsurface) that may result in sudden or non-sudden events and subsequent failure of containment structures;

d. Presence of sink holes within the disposal area.

3. Acceptable CDD landfill sites shall allow for adequate area and terrain for management of leachate if generated.

4. CDD landfill disposal area shall not be closer than 200 feet to any residence, school, hospital, nursing home or recreational park area.

5. CDD disposal or leachate storage unit may not be located closer than:

a. 100 feet of any regularly flowing surface water body or river;

b. 200 feet of any well, spring or other ground water source of drinking water; or

c. One thousand feet from the nearest edge of the right-of-way of any interstate or primary highway or 500 feet from the nearest edge of the right-of-way of any other highway or city street, except the following:

(1) Units which are screened by natural objects, plantings, fences, or other appropriate means so as to minimize the visibility from the main-traveled way of the highway or city street, or otherwise removed from sight;

(2) Units which are located in areas which are zoned for industrial use under authority of state law or in unzoned industrial areas as determined by the Commonwealth Transportation Board; or

(3) Units which are not visible from the main-traveled way of the highway or city street.

NOTE: This requirement is based on § 33.1-348 of the Code of Virginia, which should be consulted for detail. The regulatory responsibility for this standard rests with the Virginia Department of Transportation.

6. Wetlands. New CDD landfills and lateral expansions of existing facilities shall not be located in wetlands, unless the owner or operator can make the following demonstrations to the director:

a. Where applicable under § 404 of the Clean Water Act or applicable Virginia wetlands laws, the presumption is clearly rebutted that a practicable alternative to the proposed landfill exists that does not involve wetlands;

b. The construction and operation of the facility will not:

(1) Cause or contribute to violations of any applicable water quality standard;

(2) Violate any applicable toxic effluent standard or prohibition under § 307 of the Clean Water Act;

(3) Jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of a critical habitat, protected under the Endangered Species Act of 1973 (87 Stat. 884); and

(4) Violate any requirement under the Marine Protection, Research, and Sanctuaries Act of 1972 (86 Stat. 1052) for the protection of a marine sanctuary;

c. The facility will not cause or contribute to significant degradation of wetlands. The owner or operator shall demonstrate the integrity of the facility and its ability to protect ecological resources by addressing the following factors:

(1) Erosion, stability, and migration potential of native wetland soils, muds and deposits used to support the facility;

(2) Erosion, stability, and migration potential of dredged and fill materials used to support the facility;

(3) The volume and chemical nature of the waste managed in the facility;

(4) Impacts on fish, wildlife, and other aquatic resources and their habitat from release of the solid waste;

(5) The potential effects of catastrophic release of waste to the wetland and the resulting impacts on the environment; and

(6) Any additional factors, as necessary, to demonstrate that ecological resources in the wetland are sufficiently protected;

d. To the extent required under § 404 of the Clean Water Act or applicable Virginia wetlands laws, steps have been taken to attempt to achieve no net loss of wetlands (as defined by acreage and function) by first avoiding impacts to wetlands to the maximum extent practicable as required by subdivision 6 a of this subsection, then minimizing unavoidable impacts to the maximum extent practicable, and finally offsetting remaining unavoidable wetland impacts through all appropriate and practicable compensatory mitigation actions (e.g., restoration of existing degraded wetlands or creation of man-made wetlands);

e. Furnish a copy of final determinations on subdivision 6 a through d of this subsection, obtained from the U.S. Army Corps of Engineers pertaining to federal *jurisdictional* wetlands; and

f. Sufficient other information to enable the department to make a reasonable determination with respect to these demonstrations.

7. No new facility shall be located in areas where ground water monitoring cannot be conducted in accordance with subsection D of this section. Factors to be considered in determining whether or not a site can be monitored shall include:

a. Ability to characterize the direction of ground water flow within the uppermost aquifer;

b. Ability to characterize and define any releases from the landfill so as to determine what corrective actions are necessary;

c. Ability to perform corrective action as necessary; and

d. Ability to install a double liner system with a leachate collection system above the top liner and a monitoring collection system between the two liners.

8. The following site characteristics may also prevent approval or require substantial limitations on the site use or require incorporation of sound engineering controls:

a. Excessive slopes (greater than 33%);

b. Lack of readily available cover materials on site, or lack of a firm commitment for adequate cover material from a borrow site;

c. Springs, seeps, or other ground water intrusion into the site;

d. The presence of gas, water, sewage, or electrical or other transmission lines under the site; or

e. The prior existence on the site of an open dump, unpermitted landfill, lagoon, or similar facility, even if such facility is closed, will be considered a defect in the site unless the proposed landfill can be isolated from the defect by facility construction and the ground water under the site can be effectively monitored.

9. In strip mine pits, all coal seams and coal outcrops shall be isolated from solid waste materials by a minimum of five feet of natural or compacted soils with a hydraulic conductivity equal to or less than $1X10^{-7}$ cm/sec.

10. Specific site conditions may be considered in approving an exemption of a site from the siting restrictions of subdivisions 7 and 8 of this subsection.

B. Design/construction.

1. All CDD landfill facilities shall be surrounded on all sides by natural barriers, fencing, or an equivalent means of controlling vehicular access. All access will be limited to gates, and such gates shall be securable and equipped with locks.

2. Access roads extending from the public road to the entrance of a facility or site shall be all weather, and shall be provided with a base capable of withstanding anticipated heavy vehicle loads.

3. CDD landfill facilities should be provided with an adequately lighted and heated shelter where operating personnel have access to essential sanitation facilities. Lighting, sanitation facilities and heat may be provided by portable equipment as necessary.

4. Aesthetics shall be considered in the design of a facility or site. Use of artificial or natural screens shall be incorporated into the design for site screening and noise attenuation. The design should reflect those requirements, if any, that are determined from the long-range plan for the future use of the site.

5. All CDD landfill facilities shall be equipped with permanent or mobile telephone or radio communications.

6. All CDD landfills shall be designed to divert surface water runoff from a 25-year, 24-hour storm away from disposal areas. The design shall provide that any surface water runoff is managed so that erosion is well controlled and environmental damage is prevented.

7. Each CDD landfill facility shall be constructed in accordance with approved plans, which shall not be subsequently modified without approval by the department.

8. A leachate collection system and removal system and leachate monitoring program shall be required as detailed in 9 VAC 20-80-290. Surface impoundments or other leachate storage structures shall be so constructed that discharge to ground water will not occur. Leachate derived from the CDD landfill may be recirculated provided the CDD disposal unit is designed with a composite liner as required by 9 VAC 20-80-250 B 9 and a leachate collection system as required by 9 VAC 20-80-290.

9. A decomposition gas venting system or gas monitoring program is required unless the owner or operator can demonstrate to the department that gas formation is not a problem at the permitted landfill. A venting system will be essential at any time the concentration of methane generated exceeds 25% of the lower explosive limit within any structure or at the facility boundary. When required, the control of the decomposition gases shall be carried out in accordance with 9 VAC 20-80-280. ~~Gas migration to the facility boundary requires the immediate installation of barriers to prevent migration off site.~~

10. Final contours of the finished landfill shall be specified. Design of final contours shall consider subsequent site uses, existing natural contours, surface water management requirements, and the nature of the surrounding area. The final elevation of the landfill shall be limited by the structural capacity of the liner and leachate collection and removal system. The final contour shall not cause structural damage or collapse of the leachate collection system. Two survey bench marks shall be established and maintained on the landfill site, and their locations identified or recorded on drawings and maps of the facility.

11. A ground water monitoring system shall be installed at all new and existing CDD landfills in accordance with the requirements of ~~subdivision D 3 of this subsection~~ *9 VAC 20-80-300*.

12. Finished side slopes shall be stable and be configured to adequately control erosion and runoff. Slopes of 33% will be allowed provided that adequate runoff controls are established. Steeper slopes may be considered if supported by necessary stability calculations and appropriate erosion and runoff control features. All finished slopes and runoff management facilities shall be supported by necessary calculations and included in the design manual.

13. Solid waste disposal shall be at least 50 feet from the facility boundary.

14. All CDD landfills shall be underlain by a liner system as follows:

a. Compacted clay:

(1) A liner consisting of at least one-foot layer of compacted soil with a hydraulic conductivity of no more than $1X10^{-7}$ cm/sec.

(2) The liner shall be placed with a minimum of 2.0% slope for leachate drainage.

(3) The liner shall be covered with a minimum one-foot thick drainage layer composed of material having a hydraulic conductivity of no less than $1X10^{-3}$ cm/sec when placed.

b. Synthetic liners:

(1) Synthetic liner consisting of a minimum 30-mil thick flexible membrane. If high density polyethylene is used, it shall be at least 60-mil thick. Synthetic liners shall be proven to be compatible with the solid waste and its leachate.

(2) The liner shall be placed in accordance with an approved construction quality control/quality assurance program submitted with the design plans.

(3) The base under the liner shall be a smooth rock-free base or otherwise prepared to prevent causing liner failure.

(4) The liner shall be placed with a minimum of 2.0% slope for leachate drainage.

(5) ~~The liner shall be protected with~~ A 12-inch drainage layer *for leachate removal* and ~~six inches of~~ a *6-inch* protective layer *with a hydraulic conductivity of 1X10 $^{-3}$ cm/sec or greater (lab tested) placed above the drainage layer*.

c. Other liners:

(1) Other augmented compacted clays or soils may be used as a liner provided the thickness is equivalent and the hydraulic conductivity will be equal to or less than that for compacted clay alone.

(2) The effectiveness of the proposed augmented soil liner shall be documented by using appropriate laboratory tests.

(3) Shall be placed with a minimum of 2.0% slope for leachate drainage.

d. In-place soil:

(1) Where the landfill will be separated from the ground water by low hydraulic conductivity soil as indicated by appropriate laboratory tests, which is natural and undisturbed, and provides equal or better performance in protecting ground water from leachate contamination, a liner can be developed by manipulation of the soil to form a liner with equivalent thickness and hydraulic conductivity equal to or less than that of the clay liner.

(2) Shall be prepared with a minimum of 2.0% slope for leachate drainage.

e. Double liners required or used in lieu of ground water monitoring shall include:

(1) Base preparation to protect the liner.

(2) A bottom or secondary liner which is soil, synthetic or augmented soil as indicated in subdivisions 14 a, b, and c of this subsection.

(3) A drainage layer consisting of 12 inches of 1X10^{-3} cm/sec permeable material with a network of perforated pipe above the bottom or secondary liner to function as a witness zone or monitoring zone*, or an equivalent design*.

(4) The primary liner as indicated in subdivision 14 *a,* b*, and c* of this subsection.

(5) A *12-inch* drainage layer for leachate removal and *a 6-inch* protective layer ~~of 12 inches of granular material~~ with a hydraulic conductivity of 1X10^{-3} cm/sec or greater (lab tested) placed above the drainage layer.

15. If five-foot separation from seasonal high ground water can be demonstrated, a separate~~, unlined~~ area may be established to receive only stumps, brush, leaves and land clearing debris. Such an ~~unlined~~ area may *be constructed without a liner or a leachate collection system, but may* not receive any other solid waste.

16. A fire break of 50 feet shall be designed around the disposal area and all tree lines.

17. Construction quality assurance program.

a. General.

(1) A construction quality assurance (CQA) program is required for all landfill units. The program shall ensure that the constructed unit meets or exceeds all design criteria and specifications in the permit. The program shall be developed and implemented under the direction of a CQA officer who is a registered professional engineer.

(2) The CQA program shall address the following physical components, where applicable:

(a) Foundations;

(b) Low-hydraulic conductivity soil liners;

(c) Synthetic membrane liners;

(d) Leachate collection and removal systems; and

(e) Final cover systems.

b. Written CQA plan. The owner or operator shall develop and implement a written CQA plan. The plan shall identify steps that will be used to monitor and document the quality of materials and the condition and manner of their installation. The CQA plan shall include:

(1) Identification of applicable units, and a description of how they will be constructed.

(2) Identification of key personnel in the development and implementation of the CQA plan, and CQA officer qualifications.

(3) A description of inspection and sampling activities for all unit components identified in subdivision 17 a (2) of this subsection including observations and tests that will be used before, during, and after construction to ensure that the construction materials and the installed unit components meet the design specifications. The description shall cover: sampling size and locations; frequency of testing; data evaluation procedures; acceptance and rejection criteria for construction materials; plans for implementing corrective measures; and data or other information to be recorded.

c. Contents of program. The CQA program shall include observations, inspections, tests, and measurements sufficient to ensure:

(1) Structural stability and integrity of all components of the unit identified in subdivision 17 a (2) of this subsection;

(2) Proper construction of all components of the liners, leachate collection and removal system, and final cover system, according to permit specifications and good engineering practices, and proper installation of all components (e.g. pipes) according to design specifications;

(3) Conformity of all materials used with design and other material specifications; and

(4) The permeability of the liner soil. Soil liner construction will be demonstrated on a test pad where permeability will be confirmed using an in situ testing method.

d. Certification. Waste shall not be received in a landfill unit until the owner or operator has submitted to the director by certified mail or hand delivery a certification signed by the CQA officer that the approved CQA plan has been successfully carried out and that the unit meets the requirements of this section. Documentation supporting the CQA officer's certification shall be submitted to the director upon request.

C. Operation.

1. Access to a facility shall be permitted only when an attendant is on duty and only during daylight hours, unless otherwise specified in the permit for the facility.

2. Litter shall be confined to refuse holding and operating areas by fencing or other suitable means.

3. Dust, odors, and vectors shall be effectively controlled so they do not constitute nuisances or hazards.

4. Safety hazards to operating personnel shall be prevented through an active safety program.

5. Adequate numbers and types of properly maintained equipment shall be available to a facility for the performance of operation. Provision shall be made for substitute equipment to be available within 24 hours should the former become inoperable or unavailable.

6. Open burning shall be prohibited.

7. Solid waste shall not be deposited in, nor shall it be permitted to enter any surface waters or ground waters.

8. Salvaging may be permitted by a solid waste disposal facility operator, but shall be controlled within a designated salvage area to preclude interference with operation of the facility and to avoid the creation of hazards or nuisances.

9. Reasonable records shall be maintained on the amount of solid waste received and processed to include date, quantity by weight or volume, and origin. Such information shall be made available to the department for examination or use when requested.

10. Fire breaks shall be installed in layers periodically as established in the facility permit. Such fire breaks shall consist of borrow materials deemed suitable as intermediate cover, and shall be placed on the top, side slopes, and working faces of the fill to a depth of at least one foot. The requirements for fire breaks may be waived, however, if the waste materials are non-combustible. *The owner or operator shall be responsible for extinguishing any fires that may occur at the facility. A fire control plan will be developed that outlines the response of facility personnel to fires. The fire control plan will be provided as an attachment to the emergency contingency plan required under the provisions of 9 VAC 20-80-520 C 2 k. The fire control plan will be available for review upon request by the public.*

11. Compaction and cover requirements.

a. Waste materials shall be compacted in shallow layers during the placement of disposal lifts to minimize differential settlement.

b. Compacted soil cover shall be applied as needed for safety and aesthetic purposes. A minimum one-foot thick progressive cover shall be maintained weekly such that the top of the lift is fully covered at the end of the work week. A fire break *as specified in subdivision 10 of this subsection* will be installed on *the top, side slopes, and on* the work face as *weekly progressive cover or as* required in the facility permit. The open working face of a landfill shall be kept as small as practicable, determined by the tipping demand for unloading.

c. When waste deposits have reached final elevations, or disposal activities are interrupted for 15 days or more, waste deposits shall receive a one-foot thick intermediate cover *unless soil has already been applied in accordance with subdivision 11 b of this subsection* and be graded to prevent ponding and to accelerate surface run-off.

d. ~~Upon completion of disposal operations, or when operations are to be suspended for six months or more,~~ Final cover construction will be initiated in accordance with the requirements of ~~subsection~~ *subdivision* E *1 b* of this section~~.~~ *upon the completion of disposal operations or when the following pertain:*

(1) When operations are suspended for six months or more.

(2) Within 90 days of any area of the landfill reaching final elevation final cover construction will be initiated in that area. The director may approve alternate timeframes if they are specified in the facility's closure plan.

(3) If, for any reason, the permit is terminated, cover construction will be initiated within 90 days of termination.

e. Vegetative cover with proper support layers shall be established and maintained on all exposed final cover material within four months after placement, or as otherwise specified by the department when seasonal conditions do not otherwise permit.

12. A ground water monitoring program meeting the requirements of subsection D of this section shall be implemented.

13. Corrective Action Program. A corrective action program meeting the requirements of 9 VAC 20-80-310 is required whenever the ground water protection standard is exceeded.

14. Leachate from a solid waste disposal facility shall not be permitted to drain or discharge into surface waters except when authorized under a VPDES permit issued pursuant to the State Water Control Board Regulation (9 VAC 25-31-~~10 et seq.~~).

15. All items designed in accordance with the requirements of subsection B of this section shall be properly maintained.

~~D. Ground water monitoring.~~

~~1. Applicability.~~

~~a. Owners or operators of existing CDD landfills shall be in compliance with the ground water monitoring requirements specified in this section, except as provided for in subdivision 1 c of this subsection.~~

~~b. Owners or operators of new facilities shall be in compliance with the ground water monitoring requirements specified in this section before waste can be placed in the landfill except as provided for in subdivision 1 c of this subsection.~~

~~c. Ground water monitoring requirements under this subsection may be suspended by the director for a CDD landfill unit or facility if the owner or operator can demonstrate that there is no potential for migration of constituents of solid wastes listed in Appendix 5.1 to the uppermost aquifer during the active life of the unit and the post-closure care period. This demonstration shall be certified by a qualified ground water scientist and shall be based upon:~~

~~(1) Site-specific field collected measurements, sampling and analysis of physical, chemical, and biological processes affecting contaminant fate and transport; and~~

~~(2) Contaminant fate and transport predictions that maximize contaminant migration and consider impacts on human health and environment.~~

~~2. General requirements.~~

~~a. Owners or operators of CDD landfills shall implement a ground water monitoring program capable of determining the facility's impact on the quality of ground water in the uppermost aquifer underlying the facility.~~

~~b. Owners or operators shall install, operate, and maintain a ground water monitoring system which meets the requirements of subdivision 3 of this subsection and shall comply with subdivisions 4 and 5 of this subsection. This ground water monitoring shall be carried out during the active life of the facility and during the post-closure care period.~~

~~c. The ground water monitoring and reporting requirements set forth here are minimum requirements. The director may require, by amending the permit, any owner or operator to install, operate and maintain a ground water monitoring system and program that contains the requirements more stringent than this chapter imposes, whenever he determines that such requirements are necessary to prevent significant adverse effects on public health and environment.~~

~~3. Ground water monitoring system.~~

~~a. A ground water monitoring system shall be capable of yielding ground water samples for analysis and shall consist of:~~

~~(1) At least one monitoring well installed hydraulically upgradient from the waste management unit boundary. Their number, locations, and depths shall be sufficient to yield ground water samples that are:~~

~~(a) Representative of background ground water quality in the uppermost aquifer near the facility; and~~

~~(b) Not affected by the facility.~~

~~(2) At least three monitoring wells installed hydraulically downgradient at the waste management unit boundary or closest practicable distance from such boundary. Their number, locations, and depths shall insure that they immediately detect any statistically significant amounts of solid waste constituents that migrate from the waste management area to the uppermost aquifer.~~

~~b. All monitoring wells, sized adequately for proper sampling, shall be cased and grouted in a manner that maintains the integrity of the monitoring well bore hole. This casing shall be screened or perforated, and packed with gravel or sand where necessary, to enable sample collection at depths where appropriate aquifer flow zones exist. The annular space above the sampling depth shall be sealed with a suitable material to prevent contamination of samples and the ground water.~~

~~c. A log shall be made of each newly installed monitoring well describing the soils or rock encountered and the hydraulic conductivity of formations. A copy of the logs with appropriate maps shall be sent to the department.~~

~~4. Sampling and analysis. The ground water sampling and analysis requirements for the ground water monitoring system are as follows:~~

~~a. The ground water monitoring program shall include consistent sampling and analysis procedures that are designed to ensure monitoring results that provide an accurate representation of the ground water quality at the background and downgradient wells. At a minimum the program shall include procedures and techniques for:~~

~~(1) Sample collection;~~

~~(2) Sample preservation and shipment;~~

~~(3) Analytical procedures;~~

~~(4) Chain of custody control; and~~

~~(5) Quality assurance and quality control.~~

~~b. The ground water monitoring program shall include sampling and analytical methods that are appropriate for ground water sampling and that accurately measure solid waste constituents in ground water samples. The sampling and analysis methods set forth in EPA document SW-846 shall be used, and the department may require resampling if it believes the samples were not properly sampled or analyzed.~~

~~c. The owner or operator shall determine the ground water flow rate and direction of ground water in the uppermost aquifer at least annually.~~

~~d. Elevation of the static water level at each monitoring well shall be determined each time a sample is obtained.~~

~~e. Background quality at existing units may be based on sampling of wells that are not upgradient from the waste management area where:~~

~~(1) Hydrogeologic conditions do not allow the owner or operator to determine what wells are upgradient; and~~

~~(2) Sampling at other wells will provide an indication of background ground water quality that is as representative or more representative than that provided by the upgradient wells.~~

~~5.~~ *D.* Ground water monitoring program. A ground water monitoring program shall be instituted at all CDD landfills in accordance with the requirements contained in ~~Appendix 5.6~~ *9 VAC 20-80-300*.

E. Closure.

1. Closure criteria. All CDD landfills shall be closed in accordance with the procedures set forth in this subdivision.

a. The owner or operator shall close his facility in a manner that minimizes the need for further maintenance, and controls, minimizes or eliminates the post-closure escape of uncontrolled leachate, surface runoff, decomposition gas migration, or waste decomposition products to the ground water, surface water, or to the atmosphere.

b. Final cover system. Except as specified in subdivision 1 c of this subsection, owner or operator of CDD landfills shall install a final cover system that is designed to achieve the performance requirements of subdivision 1 a of this subsection.

(1) The final cover system shall be designed and constructed to:

(a) Have a hydraulic conductivity less than or equal to the hydraulic conductivity of any bottom liner system or natural subsoils present, or a hydraulic conductivity no greater than 1×10^{-5} cm/sec, whichever is less; and

(b) Minimize infiltration through the closed disposal unit by the use of an infiltration layer that contains a minimum 18 inches of earthen material; and

(c) Minimize erosion of the final cover by the use of an erosion layer that contains a minimum of six inches of earthen material that is capable of sustaining native plant growth, and provide for protection of the infiltration layer from the effects of erosion, frost, and wind.

(2) Finished side slopes shall be stable and be configured to adequately control erosion and runoff. Slopes of 33% will be allowed provided that adequate runoff controls are established. Steeper slopes may be considered if supported by necessary stability calculations and appropriate erosion and runoff control features. All finished slopes and runoff management facilities shall be supported by necessary calculations and included in the design manual. To prevent ponding of water, the top slope shall be at least two percent after allowance for settlement.

(3) The director may approve an alternate final cover design that includes:

(a) An infiltration layer that achieves an equivalent reduction in infiltration as the infiltration layer specified in subdivisions b (1) (a) and b (1) (b) of this subsection; and

(b) An erosion layer that provides equivalent protection from wind and water erosion as the erosion layer specified in subdivision 1 b (1) (c) of this subsection.

c. Owners or operators of units used for the disposal of wastes consisting only of stumps, wood, brush, and leaves from landclearing operations may apply two feet of compacted soil as final cover material in lieu of the final cover system specified in subdivision 1 (b) (1) of this subsection. The provisions of this section shall not be applicable to any facility with respect to which the director has made a finding that continued operation of the facility constitutes a threat to the public health or the environment.

2. Closure plan and amendment of plan.

a. The owner or operator of a solid waste disposal facility shall have a written closure plan. This plan shall identify the steps necessary to completely close the facility at the time when the operation will be the most extensive and at the end of its intended life. The closure plan shall include, at least:

(1) A description of those measures to be taken and procedures to be employed to comply with this subsection;

(2) An estimate of the largest area ever requiring a final cover as required at any time during the active life;

(3) An estimate of the maximum inventory of wastes ever on-site over the active life of the landfill facility; and

(4) A schedule for final closure shall also be provided which shall include, as a minimum, the anticipated date when wastes will no longer be received, the date when completion of final closure is anticipated, and intervening milestone dates which will allow tracking of the progress of closure.

b. The owner or operator may amend his closure plan at any time during the active life of the facility. The owner or operator shall so amend his plan any time changes in operating plans or facility design affects the closure plan.

c. The owner or operator shall notify the director whenever an amended closure plan has been prepared and placed in the operating record.

d. Prior to beginning closure of each solid waste disposal unit, the owner or operator shall notify the director of the intent to close.

e. If the owner or operator intends to use an alternate final cover design, he shall submit a proposed design meeting the requirements of subdivision 1 b (3) of this subsection to the director at least 180 days before the date he expects to begin closure. The director will approve or disapprove the plan within 90 days of receipt.

f. Closure plans, and amended closure plans not previously approved by the director shall be submitted to the department at least 180 days before the date the owner or operator expects to begin closure. The director will approve or disapprove the plan within 90 days of receipt.

3. Time allowed for closure.

a. The owner or operator shall begin closure activities of each unit no later than 30 days after the date on which the unit receives the known final receipt of wastes or, if the unit has remaining capacity and there is a reasonable likelihood that the unit will receive additional wastes, no later than one year after the most recent receipt of wastes. Extensions beyond the one-year deadline for beginning closure may be granted by the director if the owner or operator demonstrates that the unit has the capacity to receive additional wastes and the owner or operator has taken and will continue to take all steps necessary to prevent threats to human health and the environment from the unclosed unit.

b. The owner or operator shall complete closure activities in accordance with the closure plan within six months after receiving the final volume of wastes. The director may approve a longer closure period if the owner or operator can demonstrate that the required or planned closure activities will, of necessity, take longer than six months to complete; and that the owner or operator has taken all steps to eliminate any significant threat to human health and the environment from the unclosed but inactive facility.

4. Closure implementation.

a. The owner or operator shall close each unit with a final cover as specified in subdivision 1 b of this subsection, grade the fill area to prevent ponding, and provide a suitable vegetative cover. Vegetation shall be deemed properly established when it has survived the first mowing and there are no large areas void of vegetation.

b. Following closure of each unit, the owner or operator shall submit to the director a certification, signed by a registered professional engineer verifying that closure has been completed in accordance with the closure plan requirements of this part. This certification shall include the results of the CQA/QC requirements under subdivision B 17 a (2) (e) of this section.

c. Following the closure of all units the owner or operator shall:

(1) Post one sign notifying all persons of the closing, and the prohibition against further receipt of waste materials. Further, suitable barriers shall be installed at former accesses to prevent new waste from being deposited.

(2) Within 90 days after closure is completed, the owner or operator of a landfill shall submit to the local land recording authority a survey plat prepared by a professional land surveyor registered by the Commonwealth indicating the location and dimensions of landfill disposal areas. Monitoring well locations should be included and identified by the number on the survey plat. The plat filed with the local land recording authority shall contain a note which states the owner's or operator's future obligation to restrict disturbance of the site as specified.

(3) The owner of the property on which a disposal facility is located shall record a notation on the deed to the facility property, or on some other instrument which is normally examined during title search, notifying any potential purchaser of the property that the land has been used to manage solid waste. A copy of the deed notation as recorded shall be filed with the department.

5. Inspection. The department shall inspect all solid waste management units at the time of closure to confirm that the closing is complete and adequate. It shall notify the owner of a closed facility, in writing, if the closure is satisfactory, and shall require any necessary construction or such other steps as may be necessary to bring unsatisfactory sites into compliance with this chapter. Notification by the department that the closure is satisfactory does not relieve the operator of responsibility for corrective action to prevent or abate problems caused by the facility.

6. Post-closure period. The post-closure care period begins on the date of the certification signed by a registered professional engineer as required in subdivision 4 b of this subsection. Unless a facility completes all provisions of subdivision 4 of this subsection the department will not consider the facility closed, and the beginning of the post-closure care period will be postponed until all provisions have been completed. If the department's inspection required by subdivision 5 of this subsection reveals that the facility has not been properly closed in accordance with this part, post closure will begin on the date that the department acknowledges proper closure has been completed.

F. Post-closure care requirements

1. Following closure of each disposal unit, the owner or operator shall conduct post-closure care. Except as provided under subdivision 2 of this subsection, post-closure care shall be conducted for 10 years after the date of completing closure or for as long as leachate is generated, whichever is later, and shall consist of at least the following:

a. Maintaining the integrity and effectiveness of any final cover, including making repairs to the cover as necessary to correct the effects of settlement, subsidence, erosion,

or other events, and preventing run-on and run-off from eroding or otherwise damaging the final cover;

b. Maintaining and operating the leachate collection system in accordance with the requirements in 9 VAC 20-80-290 and 9 VAC 20-80-300, if applicable. The director may allow the owner or operator to stop managing leachate if the owner or operator demonstrates that leachate no longer poses a threat to human health and the environment;

c. Monitoring the ground water in accordance with the requirements of subsection D of this section and maintaining the ground water monitoring system, if applicable; and

d. If applicable, maintaining and operating the gas monitoring system in accordance with the requirements of 9 VAC 20-80-280.

2. The length of the post-closure care period may be:

a. Decreased by the director if the owner or operator demonstrates that the reduced period is sufficient to protect human health and the environment and this demonstration is approved by the director; or

b. Increased by the director if the director determines that the lengthened period is necessary to complete the corrective measures or to protect human health and the environment. If the post-closure period is increased, the owner or operator shall submit a revised post-closure plan for review and approval, and continue post-closure monitoring and maintenance in accordance with the approved plan.

3. The owner or operator shall prepare a written post-closure plan that includes, at a minimum, the following information:

a. A description of the monitoring and maintenance activities required in subdivision 1 of this subsection for each disposal unit, and the frequency at which these activities will be performed;

b. Name, address, and telephone number of the person or office to contact about the facility during the post-closure period; and

c. A description of the planned uses of the property during the post-closure period. Post-closure use of the property shall not disturb the integrity of the final cover, liners, or any other components of the containment system, or the function of the monitoring systems unless necessary to comply with the requirements of this chapter. The director may approve any other disturbance if the owner or operator demonstrates that disturbance of the final cover, liner or other component of the containment system, including any removal of waste, will not increase the potential threat to human health or the environment.

4. The owner or operator shall submit a post-closure care plan for review and approval by the director whenever a post-closure care plan has been prepared or amended. Those post-closure care plans that have been placed in a facility's operating record must be reviewed and approved by the director prior to implementation.

5. Following completion of the post-closure care period for each disposal unit, the owner or operator shall submit to the director a certificate, signed by a registered professional engineer, verifying that post-closure care has been completed in accordance with the post-closure plan. The certificate shall be accompanied by an evaluation, prepared by a professional engineer licensed in the Commonwealth and signed by the owner or operator, assessing and evaluating the landfill's potential for harm to human health and the environment in the event that post-closure monitoring and maintenance are discontinued.

9 VAC 20-80-270. Industrial waste disposal facilities.

Facilities intended primarily for the disposal of nonhazardous industrial waste shall be subject to design and operational requirements dependent on the volume and the physical, chemical, and biological nature of the waste. Household wastes may not be disposed of in industrial waste disposal facilities. Additional requirements, to include added ground water and decomposition gas monitoring, may be imposed by the director depending on the volume and the nature of the waste involved as necessary to protect health or the environment.

A. Siting.

1. Landfills shall not be sited or constructed in areas subject to base floods unless it can be shown that the facility can be protected from inundation or washout and that flow of water is not restricted.

2. Landfills shall not be sited in geologically unstable areas where inadequate foundation support for the structural components of the landfill exists. Factors to be considered when determining unstable areas shall include:

a. Soil conditions that may result in differential settling and subsequent failure of containment structures;

b. Geologic or geomorphologic features that may result in sudden or nonsudden events and subsequent failure of containment structures;

c. Man-made features or events (both surface and subsurface) that may result in sudden or nonsudden events and subsequent failure of containment structures;

3. Acceptable landfill sites shall have sufficient area and terrain to allow for management of leachate.

4. No new industrial waste landfill disposal or leachate storage unit or expansion of existing units shall extend closer than:

a. 100 feet of any regularly flowing surface water body or river;

b. 500 feet of any well, spring or other ground water source of drinking water;

c. One thousand feet from the nearest edge of the right-of-way of any interstate or primary highway or 500 feet from the nearest edge of the right-of-way of any other highway or city street, except the following:

(1) Units which are screened by natural objects, plantings, fences, or other appropriate means so as to minimize the visibility from the main-traveled way of the highway or city street, or otherwise removed from sight;

(2) Units which are located in areas which are zoned for industrial use under authority of state law or in unzoned industrial areas as determined by the Commonwealth Transportation Board;

(3) Units which are not visible from the main-traveled way of the highway or city street;

NOTE: This requirement is based on § 33.1-348 of the Code of Virginia, which should be consulted for detail. The regulatory responsibility for this standard rests with the Virginia Department of Transportation.

d. 200 feet from the active filling areas to any residence, school or recreational park area; or

e. 50 feet from the active filling areas to the facility boundary.

5. Wetlands. New industrial landfills and lateral expansions of existing facilities shall not be located in wetlands, unless the owner or operator can make the following demonstrations to the director:

a. Where applicable under § 404 of the Clean Water Act or applicable Virginia wetlands laws, the presumption is clearly rebutted that a practicable alternative to the proposed landfill exists that does not involve wetlands;

b. The construction and operation of the facility will not:

(1) Cause or contribute to violations of any applicable water quality standard;

(2) Violate any applicable toxic effluent standard or prohibition under § 307 of the Clean Water Act;

(3) Jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of a critical habitat, protected under the Endangered Species Act of 1973; and

(4) Violate any requirement under the Marine Protection, Research, and Sanctuaries Act of 1972 for the protection of a marine sanctuary;

c. The facility will not cause or contribute to significant degradation of wetlands. The owner or operator shall demonstrate the integrity of the facility and its ability to protect ecological resources by addressing the following factors:

(1) Erosion, stability, and migration potential of native wetland soils, muds and deposits used to support the facility;

(2) Erosion, stability, and migration potential of dredged and fill materials used to support the facility;

(3) The volume and chemical nature of the waste managed in the facility;

(4) Impacts on fish, wildlife, and other aquatic resources and their habitat from release of the solid waste;

(5) The potential effects of catastrophic release of waste to the wetland and the resulting impacts on the environment; and

(6) Any additional factors, as necessary, to demonstrate that ecological resources in the wetland are sufficiently protected;

d. To the extent required under § 404 of the Clean Water Act or applicable Virginia wetlands laws, steps have been taken to attempt to achieve no net loss of wetlands (as defined by acreage and function) by first avoiding impacts to wetlands to the maximum extent practicable as required by 9 VAC 20-80-250 A 4, then minimizing unavoidable impacts to the maximum extent practicable, and finally offsetting remaining unavoidable wetland impacts through all appropriate and practicable compensatory mitigation actions (e.g., restoration of existing degraded wetlands or creation of man-made wetlands); and

e. Sufficient information is available to make a reasonable determination with respect to these demonstrations.

6. No new facility shall be located in areas where ground water monitoring cannot be conducted in accordance with subsection D of this section. Factors to be considered in determining whether or not a site can be monitored shall include:

a. Ability to characterize the direction of ground water flow within the uppermost aquifer;

b. Ability to characterize and define any releases from the landfill so as to determine what corrective actions are necessary;

c. Ability to perform corrective action as necessary; and

d. Ability to install a double liner system with a leachate collection system above the top liner and a monitoring collection system between the two liners.

7. The following site characteristics may also prevent approval or require substantial limitations on the site use or require incorporation of sound engineering controls:

a. Excessive slopes (greater than 33%) over more than half the site area;

b. Lack of readily available cover materials or lack of a firm commitment for adequate cover material from a borrow site;

c. Springs, seeps, or other ground water intrusion into the site;

d. The presence of gas, water, sewage, or electrical or other transmission lines under the site; or

e. The prior existence on the site of a dump, unpermitted landfill, lagoon, or similar facility, even if such facility is closed, will be considered a defect in the site unless the proposed landfill can be isolated from the defect by facility

construction and the ground water under the site can be effectively monitored.

8. Specific site conditions may be considered in approving an exemption of a site from the siting restrictions of subdivision 5 and 6 of this subsection.

B. Design/construction. The following design and construction requirements apply to all industrial waste landfills:

1. All facilities shall be surrounded on all sides by natural barriers, fencing, or an equivalent means of controlling public access and preventing illegal disposal. Except where the solid waste disposal facility is on site of the industrial facility where access is limited, all access will be limited to gates, and such gates shall be securable and equipped with locks.

2. Access roads to the entrance of a solid waste disposal facility or site and to the disposal area shall be passable in all weather conditions, and shall be provided with a base capable of withstanding anticipated heavy vehicle loads.

3. Each off-site solid waste disposal facility should be provided with an adequately lighted and heated shelter where operating personnel can exercise site control and have access to essential sanitation facilities. Lighting, heat and sanitation facilities may be provided by portable equipment as necessary.

4. Aesthetics shall be considered in the design of a solid waste disposal facility. Use of artificial or natural screens shall be incorporated into the design for site screening and noise attenuation. The design should reflect those requirements, if any, that are determined from the long-range plan for the future use of the site.

5. All landfills should be equipped with permanent or mobile telephone or radio communications except where other on-site resources are available.

6. All facilities shall be designed to divert surface water runoff from a 25-year, 24-hour storm away from disposal areas. The design shall provide that any surface water runoff is managed so that erosion is well controlled and environmental damage is prevented.

7. The design shall provide for leachate management which shall include its collection, treatment, storage, and disposal and a leachate monitoring program in accordance with 9 VAC 20-80-290.

8. Each landfill shall be constructed in accordance with approved plans, which shall not be subsequently modified without approval by the department.

9. Two survey bench marks shall be established and maintained on the landfill site, and its location identified or recorded on drawings and maps of the facility.

10. Compacted lifts of deposited waste shall be of a height that is compatible with the amount received daily and the specific industrial waste being managed keeping work face to a minimum.

11. Acceptable landfill sites shall have sufficient area and terrain to allow for management of leachate.

12. A ground water monitoring system shall be installed at all new and existing industrial landfills in accordance with the requirements of ~~subdivision D 3 of this subsection~~ *9 VAC 20-80-300*.

13. Drainage structures shall be installed and continuously maintained to prevent ponding and erosion, and to minimize infiltration of water into solid waste cells.

14. All landfills shall be underlain by a liner system as follows:

a. Compacted soil:

(1) A liner consisting of at least one-foot layer of compacted soil with a hydraulic conductivity of no more than $1X10^{-7}$ cm/sec.

(2) The liner shall be placed with a minimum of 2.0% slope for leachate drainage.

(3) The liner shall be covered with a minimum one-foot thick drainage layer composed of material having a hydraulic conductivity of no less than $1X10^{-3}$ cm/sec when placed.

b. Synthetic liners:

(1) Synthetic liner consisting of a minimum 30-mil thick flexible membrane. If high density polyethylene is used, it shall be at least 60-mil thick. Synthetic liners shall be proven to be compatible with the solid waste and its leachate.

(2) The liner shall be placed in accordance with an approved construction quality control/quality assurance program submitted with the design plans.

(3) The base under the liner shall be a smooth rock-free base or otherwise prepared to prevent causing liner failure.

(4) The liner shall be placed with a minimum of 2.0% slope for leachate drainage.

(5) ~~The liner shall be protected with~~ A 12-inch drainage layer *for leachate removal* and ~~six inches of~~ a *6-inch* protective layer *with a hydraulic conductivity of $1X10^{-3}$ cm/sec or greater (lab tested) placed above the drainage layer*.

c. Other liners:

(1) Other augmented compacted clays or soils may be used as a liner provided the thickness is equivalent and the hydraulic conductivity will be equal to or less than that for compacted clay alone.

(2) The effectiveness of the proposed augmented soil liner shall be documented by using appropriate laboratory tests.

(3) The liner shall be placed with a minimum of 2.0% slope for leachate drainage.

d. In-place soil:

(1) Where the landfill will be separated from the ground water by low hydraulic conductivity soil as indicated by

appropriate laboratory tests, which is natural and undisturbed, and provides equal or better performance in protecting ground water from leachate contamination, a liner can be developed by manipulation of the soil to form a liner with equivalent thickness and hydraulic conductivity equal to or less than that of the clay liner.

(2) The liner shall be prepared with a minimum of 2.0% slope for leachate drainage.

e. Double liners required or used in lieu of ground water monitoring shall include:

(1) Base preparation to protect the liner.

(2) A bottom or secondary liner which is soil, synthetic or augmented soil as indicated in subdivision 14 a, b, c, or d of this subsection.

(3) A drainage layer *consisting* of 12 inches of $1X10^{-3}$ cm/sec permeable material with a network of ~~four inch diameter schedule 80 PVC~~ perforated pipe ~~leachate drain~~ above the bottom or secondary liner to function as a witness zone or monitoring zone, or an equivalent design.

(4) The primary liner as indicated in subdivision 14 a, b, or c of this subsection.

(5) A 12-inch drainage layer for leachate removal and a 6-inch protective layer with a hydraulic conductivity of $1X10^{-3}$ cm/sec or greater (lab tested) placed above the drainage layer.

15. The leachate collection system shall be placed above the top liner in accordance with the requirements of 9 VAC 20-80-290. Surface impoundments or other leachate storage structures shall be so constructed that discharge to ground water will not occur. Leachate derived from the industrial waste landfill may be recirculated provided the disposal unit is designed with a composite liner as required by 9 VAC 20-80-250 B 9 and a leachate collection system as required by 9 VAC 20-80-290.

16. Final contours of the finished landfill shall be specified. Design of final contours shall consider subsequent site uses, existing natural contours, surface water management requirements, and the nature of the surrounding area.

17. Finished side slopes shall be stable and be configured to adequately control erosion and runoff. Slopes of 33% will be allowed provided that adequate runoff controls are established. Steeper slopes may be considered if supported by necessary stability calculations and appropriate erosion and runoff control features. All finished slopes and runoff management facilities shall be supported by necessary calculations and included in the design manual. The top slope shall be at least 2.0% to prevent ponding of water.

18. Each design shall include a gas management plan developed to control decomposition gases, unless the owner or operator can demonstrate that the chemical composition of wastes disposed clearly shows that no gases will be generated. The plan shall address the requirements of 9 VAC 20-80-280.

19. Construction quality assurance program.

a. General.

(1) A construction quality assurance (CQA) program is required for all landfill units. The program shall ensure that the constructed unit meets or exceeds all design criteria and specifications in the permit. The program shall be developed and implemented under the direction of a CQA officer who is a registered professional engineer.

(2) The CQA program shall address the following physical components, where applicable:

(a) Foundations;

(b) Low-hydraulic conductivity soil liners;

(c) Synthetic membrane liners;

(d) Leachate collection and removal systems; and

(e) Final cover systems.

b. Written CQA plan. The owner or operator shall develop and implement a written CQA plan. The plan shall identify steps that will be used to monitor and document the quality of materials and the condition and manner of their installation. The CQA plan shall include:

(1) Identification of applicable units, and a description of how they will be constructed.

(2) Identification of key personnel in the development and implementation of the CQA plan, and CQA officer qualifications.

(3) A description of inspection and sampling activities for all unit components identified in subdivision 19 a (2) of this subsection including observations and tests that will be used before, during, and after construction to ensure that the construction materials and the installed unit components meet the design specifications. The description shall cover: sampling size and locations; frequency of testing; data evaluation procedures; acceptance and rejection criteria for construction materials; plans for implementing corrective measures; and data or other information to be recorded.

c. Contents of program. The CQA program shall include observations, inspections, tests, and measurements sufficient to ensure:

(1) Structural stability and integrity of all components of the unit identified in subdivision 19 a (2) of this subsection;

(2) Proper construction of all components of the liners, leachate collection and removal system, and final cover system, according to permit specifications and good engineering practices, and proper installation of all components (e.g., pipes) according to design specifications;

(3) Conformity of all materials used with design and other material specifications;

(4) The permeability of the soil liner. Soil liner construction will be demonstrated on a test pad where permeability will be confirmed using an in situ testing method.

d. Certification. Waste shall not be received in a landfill unit until the owner or operator has submitted to the director by certified mail or hand delivery a certification signed by the CQA officer that the approved CQA plan has been successfully carried out and that the unit meets the requirements of this section. Documentation supporting the CQA officer's certification shall be submitted to the director upon request.

C. Operation.

1. Access to an off-site solid waste disposal facility shall be permitted only when an attendant is on duty and during times specified in the permit for the facility. An on-site solid waste disposal facility may operate during the normal hours of the industrial facility it directly supports.

2. Dust, odors, and vectors shall be effectively controlled so they do not constitute nuisances or hazards.

3. Safety hazards to operating personnel shall be prevented through an active safety program.

4. Adequate numbers and types of properly maintained equipment shall be available to a facility for the performance of operation. Provision shall be made for substitute equipment to be available within 24 hours should the former become inoperable or unavailable.

5. Open burning shall be prohibited except pursuant to the appropriate conditional exemptions among those listed in 9 VAC 20-80-180 B 7 b. The means shall be provided on a facility to promptly extinguish any non-permitted open burning and to provide adequate fire protection for the solid waste disposal facility as a whole. There shall be no open burning permitted on areas where solid waste has been disposed or is being used for active disposal.

6. Solid waste shall not be deposited in, nor shall it be permitted to enter any surface waters or ground waters.

7. Records of waste received from off-site sources shall be maintained on the amount of solid waste received and processed, type of waste, and source of waste. Such information shall be made available to the department on request.

8. The ground water monitoring program shall be implemented in accordance with subsection D of this section.

9. Corrective action program. A corrective action program in accordance with 9 VAC 20-80-310 is required whenever the ground water protection levels are exceeded.

10. Fugitive dust and mud deposits on main site and access roads shall be controlled at all times to minimize nuisances.

11. Incinerator and air pollution control residues containing no free liquids should be incorporated into the working face and covered at such intervals as necessary to minimize them from becoming airborne.

12. Compaction and cover requirements.

a. Unless provided otherwise in the permit, solid waste shall be spread and compacted at the working face, which shall be confined to the smallest area practicable.

b. Lift heights shall be sized according to the volume of waste received daily and the nature of the industrial waste. A lift height is not required for materials such as fly ash that are not compactable.

c. Where it is appropriate for the specific waste, daily cover consisting of six inches of compacted earth or other suitable material shall be placed upon all exposed solid waste prior to the end of each operating day. For wastes such as fly ash and bottom ash from burning of fossil fuels, periodic cover to minimize exposure to precipitation and control dust or dust control measures such as surface wetting or crusting agents shall be applied.

d. Intermediate cover of at least one foot of compacted soil shall be applied whenever an additional lift of refuse is not to be applied within 30 days unless the owner or operator demonstrates to the satisfaction of the director that an alternate cover material or an alternate schedule will be protective of public health and the environment. In the case of facilities where coal combustion by-products are removed for beneficial use, intermediate cover must be applied in any area where ash has not been placed or removed for 30 days or more. Further, all areas with intermediate cover exposed shall be inspected as needed but not less than weekly and additional cover material shall be placed on all cracked, eroded, and uneven areas as required to maintain the integrity of the intermediate cover system.

e. Final cover construction will be initiated in accordance with the requirements of subsection E of this section shall be applied when the following pertain:

(1) When an additional lift of solid waste is not to be applied within two years.

(2) When any area of a landfill attains final elevation and within 90 days after such elevation is reached. The director may approve a longer period in case of inclement weather. The director may approve alternate timeframes if they are specified in the facility's closure plan.

(3) When a landfill's permit is terminated within 90 days of such denial or termination.

13. Vegetative cover with proper support layers shall be established and maintained on all exposed final cover material within four months after placement, or as otherwise specified by the department when seasonal conditions do not otherwise permit.

14. No hazardous wastes as defined by the Virginia Hazardous Waste Management Regulations shall be accepted at the landfill.

15. The open working face of a landfill shall be kept as small as possible.

16. At least three days of acceptable cover soil or approved material at the average usage rate shall be maintained at the fill at all times at facilities where daily cover is required unless an off-site supply is readily available on a daily basis.

17. Equipment of appropriate size and numbers shall be on site at all times. Operators with training appropriate to the tasks they are expected to perform and in sufficient numbers for the complexity of the site shall be on the site whenever it is in operation. Equipment and operators provided will not be satisfactory unless they ensure that the site is managed with a high degree of safety and effectiveness.

18. Internal roads in the landfill shall be maintained to be passable in all weather by ordinary vehicles. All operation areas and units shall be accessible; gravel or other finish materials are usually required to accomplish this. Provisions shall be made to prevent tracking of mud onto public roads by vehicles leaving the site.

19. Leachate from a solid waste disposal facility shall not be permitted to drain or discharge into surface waters except when authorized under a VPDES Permit issued pursuant to the State Water Control Board Regulation (9 VAC 25-31-10 et seq.).

~~D. Ground water monitoring.~~

~~1. Applicability.~~

~~a. Owners or operators of existing industrial landfills shall be in compliance with the ground water monitoring requirements specified in this section, except as provided for in subdivision 1 c of this subsection.~~

~~b. Owners or operators of new facilities shall be in compliance with the ground water monitoring requirements specified in this section before waste can be placed in the landfill except as provided for in subdivision 1 c of this subsection.~~

~~c. Ground water monitoring requirements under this subsection may be suspended by the director for an industrial landfill unit or facility if the owner or operator can demonstrate that there is no potential for migration of constituents of solid wastes listed in Appendix 5.1 to the uppermost aquifer during the active life of the unit and the post-closure care period. This demonstration shall be certified by a qualified ground water scientist and shall be based upon:~~

~~(1) Site-specific field collected measurements, sampling and analysis of physical, chemical, and biological processes affecting contaminant fate and transport; and~~

~~(2) Contaminant fate and transport predictions that maximize contaminant migration and consider impacts on human health and environment.~~

~~2. General requirements.~~

~~a. Owners or operators of industrial waste disposal facilities shall implement a ground water monitoring program capable of determining the facility's impact on the quality of ground water in the uppermost aquifer underlying the facility.~~

~~b. Owners or operators shall install, operate, and maintain a ground water monitoring system which meets the requirements of subdivision 3 of this subsection and shall comply with subdivisions 4 and 5 of this subsection. This ground water monitoring shall be carried out during the active life of the facility and during the post-closure care period.~~

~~c. The ground water monitoring and reporting requirements set forth herein are minimum requirements. The director may require, by amending the permit, any owner or operator to install, operate and maintain a ground water monitoring system and program that contains the requirements more stringent than this chapter imposes, whenever he determines that such requirements are necessary to prevent significant adverse effects on public health and environment.~~

~~3. Ground water monitoring system.~~

~~a. A ground water monitoring system shall be capable of yielding ground water samples for analysis and shall consist of:~~

~~(1) At least one monitoring well installed hydraulically upgradient from the waste management unit boundary. Their number, locations, and depths shall be sufficient to yield ground water samples that are:~~

~~(a) Representative of background ground water quality in the uppermost aquifer near the facility; and~~

~~(b) Not affected by the facility.~~

~~(2) At least three monitoring wells installed hydraulically downgradient at the waste management unit boundary or closest practicable distance from such boundary. Their number, locations, and depths shall insure the early detection of any statistically significant amounts of solid waste constituents that migrate from the waste management area to the uppermost aquifer.~~

~~b. All monitoring wells shall be cased and grouted in a manner that maintains the integrity of the monitoring well bore hole. This casing shall be screened or perforated, and packed with gravel or sand where necessary, to enable sample collection at depths where appropriate aquifer flow zones exist. The annular space above the sampling depth shall be sealed with a suitable material to prevent contamination of samples and the ground water.~~

~~c. A log shall be made of each newly installed monitoring well describing the soils or rock encountered, the hydraulic conductivity of formations, and the cation exchange capacity of soils encountered. A copy of the final logs with appropriate maps shall be sent to the department.~~

~~4. Sampling and analysis. The ground water sampling and analysis requirements for the ground water monitoring system are as follows:~~

~~a. The ground water monitoring program shall include consistent sampling and analysis procedures that are~~

~~designed to ensure monitoring results that provide an accurate representation of the ground water quality at the background and downgradient wells. At a minimum the program shall include procedures and techniques for:~~

~~(1) Sample collection;~~

~~(2) Sample preservation and shipment;~~

~~(3) Analytical procedures;~~

~~(4) Chain of custody control; and~~

~~(5) Quality assurance and quality control.~~

~~b. The ground water monitoring program shall include sampling and analytical methods that are appropriate for ground water sampling and that accurately measure hazardous constituents in ground water samples. The sampling and analysis methods set forth in EPA document SW-846 shall be used, and the department may require resampling if it believes the samples were not properly sampled or analyzed.~~

~~c. The owner or operator shall determine the ground water flow rate and direction of ground water in the uppermost aquifer at least annually.~~

~~d. Elevation of the static water level at each monitoring well shall be determined each time a sample is obtained.~~

~~e. Background quality at existing units may be based on sampling of wells that are not upgradient from the waste management area where:~~

~~(1) Hydrogeologic conditions do not allow the owner or operator to determine what wells are upgradient; and~~

~~(2) Sampling at other wells will provide an indication of background ground water quality that is as representative or more representative than that provided by the upgradient wells.~~

~~5.~~ *D.* Ground water monitoring program. Ground water monitoring program shall be instituted at all industrial waste landfills in accordance with the requirements contained in ~~Appendix 5.6~~ *9 VAC 20-80-300*.

E. Closure.

1. Closure criteria. All industrial waste landfills shall be closed in accordance with the procedures set forth as follows:

a. The owner or operator shall close his facility in a manner that minimizes the need for further maintenance, and controls the post-closure escape of uncontrolled leachate, surface runoff, or waste decomposition products to the ground water, surface water, or to the atmosphere.

b. Owner or operator of all industrial landfills shall install a final cover system that is designed to achieve the performance requirements of subdivision 1 a of this subsection.

(1) The final cover system shall be designed and constructed to:

(a) Have a hydraulic conductivity less than or equal to the hydraulic conductivity of any bottom liner system or natural subsoils present, or a hydraulic conductivity no greater than 1×10^{-5} cm/sec, whichever is less; and

(b) Minimize infiltration through the closed disposal unit by the use of an infiltration layer that contains a minimum 18 inches of earthen material; and

(c) Minimize erosion of the final cover by the use of an erosion layer that contains a minimum of six inches of earthen material that is capable of sustaining native plant growth, and provide for protection of the infiltration layer from the effects of erosion, frost, and wind.

(2) Finished side slopes shall be stable and be configured to adequately control erosion and runoff. Slopes of 33% will be allowed provided that adequate runoff controls are established. Steeper slopes may be considered if supported by necessary stability calculations and appropriate erosion and runoff control features. All finished slopes and runoff management facilities shall be supported by necessary calculations and included in the design manual.

(3) The director may approve an alternate final cover design that includes:

(a) An infiltration layer that achieves an equivalent reduction in infiltration as the infiltration layer specified in subdivisions 1 b (1) (a) and (b) of this subsection; and

(b) An erosion layer that provides equivalent protection from wind and water erosion as the erosion layer specified in subdivision 1 b (1) (c) of this subsection.

2. Closure plan and amendment of plan.

a. The owner or operator of a solid waste disposal facility shall have a written closure plan. This plan shall identify the steps necessary to completely close the facility at the time when the operation will be the most extensive and at the end of its intended life. The closure plan shall include, at least:

(1) A description of those measures and procedures to be employed to comply with this subsection;

(2) An estimate of the largest area ever requiring a final cover as required at any time during the active life;

(3) An estimate of the maximum inventory of wastes ever on-site over the active life of the landfill facility; and

(4) A schedule for final closure shall also be provided which shall include, as a minimum, the anticipated date when wastes will no longer be received, the date when completion of final closure is anticipated, and intervening milestone dates which will allow tracking of the progress of closure.

b. The owner or operator may amend his closure plan at any time during the active life of the facility. The owner or operator shall so amend his plan any time changes in operating plans or facility design affect the closure plan. The amended closure plan shall be placed in the operating record.

c. The owner or operator shall notify the director whenever an amended closure plan has been prepared and placed in the operating record.

d. Prior to beginning closure of each solid waste disposal unit, the owner or operator shall notify the director of the intent to close.

e. If the owner or operator intends to use an alternate final cover design, he shall submit a proposed design meeting the requirements of subdivision 1 b (3) of this subsection to the director at least 180 days before the date he expects to begin closure. The director will approve or disapprove the plan within 90 days of receipt.

f. Closure plans, and amended closure plans not previously approved by the director shall be submitted to the department at least 180 days before the date the owner or operator expects to begin closure. The director will approve or disapprove the plan within 90 days of receipt.

3. Time allowed for closure.

a. The owner or operator shall begin closure activities of each unit no later than 30 days after the date on which the unit receives the known final receipt of wastes or, if the unit has remaining capacity and there is a reasonable likelihood that the unit will receive additional wastes, no later than one year after the most recent receipt of wastes. Extensions beyond the one-year deadline for beginning closure may be granted by the director if the owner or operator demonstrates that the unit has the capacity to receive additional wastes and the owner or operator has taken and will continue to take all steps necessary to prevent threats to human health and the environment from the unclosed unit.

b. The owner or operator shall complete closure activities in accordance with the closure plan and within six months after receiving the final volume of wastes. The director may approve a longer closure period if the owner or operator can demonstrate that the required or planned closure activities will, of necessity, take longer than six months to complete; and that he has taken all steps to eliminate any significant threat to human health and the environment from the unclosed but inactive facility.

4. Closure implementation.

a. The owner or operator shall close each unit with a final cover as specified in subdivision 1 b of this subsection, grade the fill area to prevent ponding, and provide a suitable vegetative cover. Vegetation shall be deemed properly established when it has survived the first mowing and there are no large areas void of vegetation.

b. Following closure of each unit, the owner or operator shall submit to the director a certification, signed by a registered professional engineer verifying that closure has been completed in accordance with the closure plan requirements of this part. This certification shall include the results of the CQA/QC requirements under subdivision B 19 a (2) (e) of this section.

c. Following the closure of all units the owner or operator shall:

(1) Post one sign notifying all persons of the closing, and providing a notice prohibiting further receipt of waste materials. Further, suitable barriers shall be installed at former accesses to prevent new waste from being deposited.

(2) Provide a suitable vegetative cover. Vegetation shall be deemed properly established when it has survived the first mowing and there are no large areas void of vegetation.

(3) Within 90 days after closure is completed, submit to the local land recording authority a survey plat indicating the location and dimensions of landfill disposal areas prepared by a professional land surveyor registered by the Commonwealth. Monitoring well locations should be included and identified by the number on the survey plat. The plat filed with the local land recording authority shall contain a note, prominently displayed, which states the owner's or operator's future obligation to restrict disturbance of the site as specified.

(4) The owner of the property on which a solid waste disposal facility is located shall record a notation on the deed to the facility property, or on some other instrument which is normally examined during title search, notifying any potential purchaser of the property that the land has been used to manage solid waste. A copy of the deed notation as recorded shall be filed with the department.

5. Inspection. The department shall inspect all solid waste management units at the time of closure to confirm that the closing is complete and adequate. It shall notify the owner of a closed facility, in writing, if the closure is satisfactory, and shall require any necessary construction or such other steps as may be necessary to bring unsatisfactory sites into compliance with these regulations. Notification by the department that the closure is satisfactory does not relieve the operator of responsibility for corrective action to prevent or abate problems caused by the facility.

6. Post-closure period. The post-closure care period begins on the date of the certification signed by a registered professional engineer as required in subdivision 4 b of this subsection. Unless a facility completes all provisions of subdivision 4 of this subsection, the department will not consider the facility closed, and the beginning of the post-closure care period will be postponed until all provisions have been completed. If the department's inspection required by subdivision 5 of this subsection reveals that the facility has not been properly closed in accordance with this part, post-closure will begin on the date that the department acknowledges proper closure has been completed.

F. Post-closure care requirements.

1. Following closure of each disposal unit, the owner or operator shall conduct post-closure care. Except as provided under subdivision 2 of this subsection, post-closure care shall be conducted for 10 years after the date of closure or for as long as leachate is generated, whichever is later, and shall consist of at least the following:

a. Maintaining the integrity and effectiveness of any final cover, including making repairs to the cover as necessary to correct the effects of settlement, subsidence, erosion, or other events, and preventing run-on and run-off from eroding or otherwise damaging the final cover;

b. Maintaining and operating the leachate collection system in accordance with the requirements in 9 VAC 20-80-290 and 9 VAC 20-80-300. The director may allow the owner or operator to stop managing leachate if the owner or operator demonstrates that leachate no longer poses a threat to human health and the environment;

c. Monitoring the ground water in accordance with the requirements of subsection D of this section and maintaining the ground water monitoring system; and

d. If applicable, maintaining and operating the gas monitoring system in accordance with the requirements of 9 VAC 20-80-280.

2. The length of the post-closure care period may be:

a. Decreased by the director if the owner or operator demonstrates that the reduced period is sufficient to protect human health and the environment and this demonstration is approved by the director; or

b. Increased by the director if the director determines that the lengthened period is necessary to complete the corrective measures or to protect human health and the environment. If the post-closure period is increased, the owner or operator shall submit a revised post-closure plan for review and approval, and continue post-closure monitoring and maintenance in accordance with the approved plan.

3. The owner or operator shall prepare a written post-closure plan that includes, at a minimum, the following information:

a. A description of the monitoring and maintenance activities required in subdivision 1 of this subsection for each disposal unit, and the frequency at which these activities will be performed;

b. Name, address, and telephone number of the person or office to contact about the facility during the post-closure period; and

c. A description of the planned uses of the property during the post-closure period. Post-closure use of the property shall not disturb the integrity of the final cover, liners, or any other components of the containment system, or the function of the monitoring systems unless necessary to comply with the requirements of this chapter. The director may approve any other disturbance if the owner or operator demonstrates that disturbance of the final cover, liner or other component of the containment system, including any removal of waste, will not increase the potential threat to human health or the environment.

4. The owner or operator shall submit a post-closure care plan for review and approval by the director whenever a post-closure care plan has been prepared or amended. Those post-closure care plans that have been placed in a facility's operating record must be reviewed and approved by the director prior to implementation.

5. Following completion of the post-closure care period for each disposal unit, the owner or operator shall submit to the director a certificate, signed by a registered professional engineer, verifying that post-closure care has been completed in accordance with the post-closure plan. The certificate shall be accompanied by an evaluation, prepared by a professional engineer licensed in the Commonwealth and signed by the owner or operator, assessing and evaluating the landfill's potential for harm to human health and the environment in the event that post-closure monitoring and maintenance are discontinued.

9 VAC 20-80-280. Control of decomposition gases.

Owners or operators of solid waste disposal facilities shall develop a gas management plan in accordance with this section. Venting and control of decomposition gases shall be implemented where required under 9 VAC 20-80-250 B 8, 9 VAC 20-80-260 B 9, or 9 VAC 20-80-270 B 18 to protect the facility cap, and to prevent migration into structures or beyond the facility boundary. The contents of the plan shall also reflect the requirements contained in 40 CFR 60.33 and 40 CFR Part 750 (Standards of performance for new and guidelines for control of existing municipal solid waste landfills) and 9 VAC 5-40-5800, as appropriate.

A. General requirements.

1. To provide for the protection of public health and safety, and the environment, the operator shall ensure that decomposition gases generated at a facility are controlled during the periods of operation, closure and post-closure care, in accordance with the following requirements:

a. The concentration of methane gas generated by the facility shall not exceed 25% of the lower explosive limit (LEL) for methane in facility structures (excluding gas control or recovery system components); and

b. The concentration of methane gas migrating from the landfill shall not exceed the lower explosive limit for methane at the facility boundary.

2. The program implemented pursuant to subsections B through E of this section shall continue throughout the active life of the facility and the closure and post-closure care periods or until the operator receives written authorization to discontinue by the department. Authorization to cease gas monitoring and control shall be based on a demonstration by the operator that there is no potential for gas migration beyond the facility boundary or into facility structures.

3. Gas monitoring and control systems shall be modified, during the closure and post-closure maintenance period, to

reflect changing on-site and adjacent land uses. Post closure land use at the site shall not interfere with the function of gas monitoring and control systems.

4. The operator may request a reduction of monitoring or control activities based upon the results of monitoring data collected. The request for reduction of monitoring or control activities shall be submitted in writing to the director.

B. Monitoring. To ensure that the conditions of this section are met, the operator shall implement a gas monitoring program at the facility in accordance with the following requirements:

1. The gas monitoring network shall be designed to ensure detection of the presence of decomposition gas migrating beyond the landfill facility boundary and into facility structures.

2. The monitoring network shall be designed to account for the following specific site characteristics, and potential migration pathways or barriers, including, but not limited to:

a. Local soil and rock conditions;

b. Hydrogeological and hydraulic conditions surrounding the facility;

c. Locations of buildings and structures relative to the waste deposit area;

d. Adjacent land use, and inhabitable structures within 1000 feet of the landfill facility boundary;

e. Man-made pathways, such as underground construction; and

f. The nature and age of waste and its potential to generate decomposition gas.

3. Owners or operators of certain large sanitary landfills and landfills located in non-attainment areas may be required to perform additional monitoring as provided in 40 CFR 60.33, 40 CFR Part 750, and 9 VAC 5-40-5800.

C. Monitoring frequency.

1. As a minimum, quarterly monitoring is required.

2. More frequent monitoring may be required by the department at those locations where results of monitoring indicate that decomposition gas migration is occurring or is accumulating in structures to detect migrating gas and ensure compliance with subsection A of this section.

D. Recordkeeping. The owner or operator shall keep the records of the results of gas monitoring throughout the active life of the facility and the post-closure care period. The monitoring records shall include:

1. The concentrations of the methane as measured at each probe and within each on-site structure;

2. The documentation of date, time, barometric pressure, atmospheric temperatures, general weather conditions, and probe pressures;

3. The names of sampling personnel, apparatus utilized, and a brief description of the methods used;

4. A numbering system to correlate monitoring results to a corresponding probe location.

E. Control.

1. When the results of gas monitoring indicate concentrations of methane in excess of the compliance levels required by subdivision A 1 of this subsection, the operator shall:

a. Take all immediate steps necessary to protect public health and safety as required by the contingency plan.

b. Notify the department in writing within five working days of learning that compliance levels have been exceeded, and indicate what has been done or is planned to be done to resolve the problem.

c. Within 60 days of detection, ~~develop~~ *implement* a remediation plan for the methane gas releases and submit it to the director for approval and amendment of the facility permit. The plan shall describe the nature and extent of the problem and the proposed remedy.

d. As soon as technically practicable, design and construct a gas control system, within a period of time specified in the approved plan. Installation of the system shall be in accordance with a design and in a manner approved for construction by the department.

2. A gas control system shall be designed to:

a. Prevent methane accumulation in on-site structures.

b. Reduce methane concentrations at monitored property boundaries to below compliance levels in the timeframes specified in the gas remediation plan.

c. Provide for the collection and treatment and/or disposal of decomposition gas condensate produced at the surface. Condensate generated from gas control systems may be recirculated into the landfill provided the facility complies with the liner and leachate control systems requirements of this part. Condensate collected in condensate traps and drained by gravity into the waste mass will not be considered recirculation.

3. Extensive systems to control emissions of non-methane organic compounds may be required under the Clean Air Act (40 CFR 60.33 and 40 CFR Part 750) and 9 VAC 5-40-5800. Facilities that are required to construct and operate systems designed to comply with those regulations will be considered to be in compliance with the requirements of subdivisions 2 a and b of this subsection. Gas control systems also may be subject to the Virginia Operating Permit Program 9 VAC 5-80-40 or other state air pollution control regulations.

9 VAC 20-80-300. ~~[Reserved]~~ *Ground water monitoring program.*

A. General ground water requirements.

1. Applicability.

a. Owners or operators of all existing landfills shall be in compliance with the ground water monitoring

requirements specified in this section, except as provided for in subdivision 1 c of this subsection.

b. Owners or operators of new facilities shall be in compliance with the ground water monitoring requirements specified in this section before waste can be placed in the landfill except as provided for in subdivision 1 c of this subsection.

c. Ground water monitoring requirements under this subsection may be suspended by the director for a landfill unit or facility if the owner or operator can demonstrate that there is no potential for migration of constituents of solid wastes listed in Table 5.1 to the uppermost aquifer during the active life of the unit and the post-closure care period. This demonstration shall be certified by a qualified ground water scientist and shall be based upon:

(1) Site-specific field collected measurements, sampling and analysis of physical, chemical, and biological processes affecting contaminant fate and transport; and

(2) Contaminant fate and transport predictions that maximize contaminant migration and consider impacts on human health and the environment.

2. General requirements.

a. Owners or operators of all landfills shall implement a ground water monitoring program capable of determining the facility's impact on the quality of ground water in the uppermost aquifer underlying the facility.

b. Owners or operators shall install, operate, and maintain a ground water monitoring system that meets the requirements of subdivision 3 of this subsection and shall comply with all other applicable requirements of this section. This ground water monitoring shall be carried out during the active life of the facility and during the post-closure care period.

c. The ground water monitoring and reporting requirements set forth here are minimum requirements. The director may require, by amending the permit, any owner or operator to install, operate and maintain a ground water monitoring system and conduct a monitoring program that contains requirements more stringent than this chapter imposes, whenever he determines that such requirements are necessary to prevent significant adverse effects on public health and the environment.

3. Ground water monitoring system.

a. A ground water monitoring system shall be installed consisting of a sufficient number of wells, at appropriate locations and depths, capable of yielding ground water samples from the uppermost aquifer that:

(1) Represent the quality of background ground water that has not been affected by a release from the waste management unit; and

(2) Represent the quality of ground water at the waste management unit boundary. The downgradient monitoring system shall be installed at the waste management unit boundary that ensures detection of ground water contamination in the uppermost aquifer unless a variance has been granted by the director under 9 VAC 20-80-770. When physical obstacles preclude installation of ground water monitoring wells at the waste management unit boundary, the downgradient monitoring system may be installed at the closest practicable distance hydraulically downgradient from the boundary that ensures detection of ground water contamination in the uppermost aquifer.

b. The director may approve a multi-unit ground water monitoring system instead of separate ground water monitoring systems for each waste management unit when the facility has several units, provided the multi-unit ground water monitoring system meets the requirement of subdivision 3 a of this subsection and will be as protective of human health and the environment as individual monitoring systems for each waste disposal unit, based on the following factors:

(1) Number, spacing, and orientation of the waste management units;

(2) Hydrogeologic setting;

(3) Site history;

(4) Engineering design of the waste management units; and

(5) Type of waste accepted at the waste management units.

c. All monitoring wells of a size adequate for sampling shall be cased and grouted in a manner that maintains the integrity of the monitoring well bore hole. This casing shall be screened or perforated, and packed with gravel or sand where necessary, to enable sample collection at depths where appropriate aquifer flow zones exist. The annular space above the sampling depth shall be sealed with a suitable material to prevent contamination of samples and the ground water.

d. A log shall be made of each newly installed monitoring well describing the soils or rock encountered, and the hydraulic conductivity of formations. A copy of the final logs with appropriate maps, including at a minimum a site plan showing the location of all monitoring wells, shall be sent to the department with the certification required under subdivision 3 f (3) of this subsection.

e. The monitoring wells, piezometers, and other measurement, sampling, and analytical devices shall be operated and maintained so that they perform to design specifications throughout the life of the ground water monitoring program.

f. The number, spacing, and depths of monitoring wells shall be:

(1) Determined based upon site-specific technical information that shall include thorough characterization of:

(a) Aquifer thickness, ground water flow rate, ground water flow direction including seasonal and temporal fluctuations in ground water flow; and

(b) Saturated and unsaturated geologic units and fill materials overlying the uppermost aquifer, materials comprising the uppermost aquifer, and materials comprising the confining unit defining the lower boundary of the uppermost aquifer, including, but not limited to, thicknesses, stratigraphy, lithology, hydraulic conductivities, porosities and effective porosities.

(2) At least one upgradient and three downgradient monitoring wells shall be required within a compliance network.

(3) Within 30 days of well installation, certified by a qualified ground water scientist noting that the wells have been installed in accordance with the plans submitted under the provisions of subdivision 3 d of this subsection.

(4) Within 14 days of this certification, the owner or operator shall transmit the certification to the director.

4. Sampling and analysis. The ground water sampling and analysis requirements for the ground water monitoring system are as follows:

a. The ground water monitoring program shall include consistent field sampling and laboratory analysis procedures that are designed to ensure monitoring results that provide an accurate representation of the ground water quality at the background and downgradient wells. At a minimum the program shall include procedures and techniques for:

(1) Sample collection;

(2) Sample preservation and shipment;

(3) Analytical procedures;

(4) Chain of custody control; and

(5) Quality assurance and quality control.

b. The ground water monitoring program shall include sampling and analytical methods that are appropriate for ground water sampling and that accurately measure solid waste constituents in ground water samples. The sampling, analysis and quality control/quality assurance methods set forth in EPA document SW-846 shall be used. The department may require resampling if it believes the samples were not properly sampled or analyzed.

c. Ground water elevations at each monitoring well shall be determined immediately prior to purging each time a sample is obtained. The owner or operator shall determine the rate and direction of ground water flow each time ground water is sampled. Ground water elevations in wells that monitor the same waste management area shall be measured within a period of time short enough to avoid temporal variations in ground water flow, which could preclude accurate determination of ground water flow rate and direction.

d. The owner or operator shall establish background ground water quality in a hydraulically upgradient or background well, or wells, for each of the monitoring parameters or constituents required in the particular ground water monitoring program that applies to the waste disposal unit, as determined under subsections B and C of this section. Background ground water quality may be established at wells that are not located hydraulically upgradient from the disposal unit if they meet the requirements of subdivision 4 e of this subsection.

e. A determination of background quality may be based on sampling of wells that are not upgradient from the waste management area where:

(1) Hydrogeologic conditions do not allow the owner or operator to determine what wells are upgradient; and

(2) Sampling at other wells will provide an indication of background ground water quality that is as representative or more representative than that provided by the upgradient wells.

f. The number of samples collected to establish ground water quality data shall be consistent with the appropriate statistical procedures determined pursuant to subdivision 4 g of this subsection.

g. The owner or operator shall specify in the ground water monitoring plan one of the statistical methods listed in subsection D to be used in evaluating ground water monitoring data for each monitoring parameter or constituent. The statistical test chosen shall be conducted separately for each parameter or constituent in each well.

NOTE: It may be necessary to substitute a statistical method if the original does not meet the performance standard.

h. The owner or operator shall determine whether or not there is a statistically significant increase (or decrease for pH) over background values for each parameter or constituent required in the particular ground water monitoring program that applies to the waste disposal unit, as determined under subsection B or C of this section.

(1) In determining whether a statistically significant increase (or decrease for pH) has occurred, the owner or operator shall compare the ground water quality of each parameter or constituent at each monitoring well, designated pursuant to subdivision 3 a (2) of this subsection, to the background value of that constituent. Comparisons will be made according to the statistical procedures and performance standards specified in subsection D of this section.

(2) Within 30 days after completing sampling and analysis, the owner or operator shall determine whether there has been a statistically significant increase over background at each monitoring well.

B. Monitoring for sanitary landfills.

1. Applicability.

a. All existing sanitary landfills facilities and closed facilities that have accepted waste after October 9, 1993, and in the case of a "small landfill" after April 9, 1994, shall be in compliance with the detection monitoring requirements specified in subdivision 2 c of this subsection by May 23, 2001;

b. Facilities placed in operation after October 9, 1993, shall be in compliance with the detection monitoring requirements specified in subdivision 2 c of this subsection before waste can be placed in the unit.

c. Unless an extension to the deadline above has been granted by the director, closed facilities that have ceased to accept any waste on or before October 9, 1993, and in the case of a "small landfill" April 9, 1994, may comply with the monitoring requirements specified in section C.

d. Owners or operators of disposal facilities not subject to the federal ground water monitoring requirements prescribed under 40 CFR Parts 257 and 258 will perform the ground water monitoring described in section C.

e. Owners or operators of sanitary landfills that accepted waste after June 30, 1999 must perform quarterly ground water monitoring unless the director determines that less frequent monitoring is necessary consistent with the requirements of the special provisions regarding wetlands in § 10.1-1408.5 of the Code of Virginia. This requirement will not limit the authority of the Waste Management Board or the director to require more frequent monitoring.

2. Detection monitoring. Detection monitoring is required at all sanitary landfills except as otherwise provided in subdivisions 1 and 3 of this subsection.

a. The monitoring frequency for all constituents listed in Table 5.5 shall be as follows:

(1) Initial sampling event. A minimum of four independent samples from each well (background and downgradient) shall be collected and analyzed for the Table 5.5 constituents during the first quarterly or semiannual sampling period. The initial sampling period shall not exceed 180 days.

(2) Subsequent sampling events. At least one sample from each well (background and downgradient) shall be collected and analyzed during subsequent quarterly or semiannual sampling events, as required under the provisions of subdivision B 1 e of this subsection, during the active life of the facility and during the post-closure period.

(3) Alternate sampling events. The director may specify an appropriate alternate frequency for repeated sampling and analysis during the active life (including closure) and the post-closure care period. The alternate frequency during the active life (including closure) shall be no less than annual. The alternate frequency shall be based on consideration of the following factors:

(a) Lithology of the aquifer and unsaturated zone;

(b) Hydraulic conductivity of the aquifer and unsaturated zone;

(c) Ground water flow rates;

(d) Minimum distance between upgradient edge of the disposal unit and downgradient monitoring well screen (minimum distance of travel); and

(e) Resource value of the aquifer.

b. If the owner or operator determines that there is a statistically significant increase over background as determined by a method meeting the requirements of subsection D for one or more of the constituents listed in Table 5.5 at any monitoring well at the waste management unit boundary specified under subdivision A 3 a (2) of this subsection, the owner or operator shall:

(1) Within 14 days of this finding, notify the director of this fact, indicating which constituents have shown statistically significant changes from background levels; and

(2) Within 90 days, establish an assessment monitoring program meeting the requirements of subdivision 3 of this subsection except as provided for in subdivision 2 c of this subsection.

c. The owner or operator may demonstrate that a source other than the unit caused the contamination or that the statistically significant increase resulted from error in sampling, analysis, statistical evaluation, or natural variation in ground water quality. A report documenting this demonstration shall be certified by a qualified ground water scientist and submitted within 90 days for approval by the director. If a successful demonstration is made and approved, the owner or operator may continue detection monitoring as specified in this section.

d. If, after 90 days, a successful demonstration is not made, the owner or operator shall initiate an assessment monitoring program as required in subdivision 3 of this subsection. The 90-day period may be extended by the director for good cause.

3. Assessment monitoring program.

a. Unless exempt under subdivision 1 c of this subsection, the owner or operator shall implement the assessment monitoring program whenever a statistically significant increase over background has been detected for one or more of the constituents listed in Table 5.5.

b. Within 90 days of triggering an assessment monitoring program, and annually thereafter, the owner or operator shall sample and analyze the ground water for all constituents identified in Table 5.1. A minimum of one sample from each well specified in subdivisions A 3 a (1) and (2) of this subsection shall be collected and analyzed during each sampling event. The director may approve an appropriate subset of monitoring wells to be sampled and analyzed for Table 5.1 constituents during assessment monitoring. The director may delete any of the Table 5.1 monitoring parameters for a landfill unit if the owner or operator demonstrates that the deleted constituents are

not reasonably expected to be in or derived from the waste contained in the unit.

c. The director may specify an appropriate alternate frequency for repeated sampling and analysis for the full set of Table 5.1 constituents required by subdivision 3 b of this subsection during the active life (including closure) and post-closure care of the unit considering the following factors:

(1) Lithology of the aquifer and unsaturated zone;

(2) Hydraulic conductivity of the aquifer and unsaturated zone;

(3) Ground water flow rates;

(4) Minimum distance between upgradient edge of the disposal unit and downgradient monitoring well screen (minimum distance of travel);

(5) Resource value of the aquifer; and

(6) Nature (fate and transport) of any constituents detected in response to subdivision 3 of this section.

d. After obtaining the results from the initial or subsequent sampling events required in subdivision 3 b of this subsection, the owner or operator shall:

(1) Within 14 days, notify the director identifying the Table 5.1 constituents that have been detected;

(2) Within 90 days, and on at least a semiannual basis thereafter, resample all wells, conduct analyses for all constituents in Table 5.5, and for those constituents in Table 5.1 that are detected in response to subdivision 3 b of this subsection, and record their concentrations in the facility operating record. At least one sample from each well (background and downgradient) shall be collected and analyzed during these sampling events;

(3) Within 90 days, establish background concentrations for any constituents detected pursuant to subdivision 3 b or d (2) of this subsection. A minimum of four independent samples from each well (background and downgradient) shall be collected and analyzed to establish background for the detected constituents; and

(4) Within 90 days, submit proposed ground water protection standards for all constituents detected to subdivision 3 b or d of this subsection. The ground water protection standards shall be established in accordance with subdivision 3 h or i of this subsection and placed in the facility's operating record.

(a) No later than 60 days after approval of ground water protection standards, the owner or operator shall submit an updated Ground Water Monitoring Plan that details the site monitoring well network and sampling and analysis procedures undertaken during ground water monitoring events.

(b) No later than 30 days after the approval of the Ground Water Monitoring Plan, the owner or operator shall request a permit amendment to incorporate the plan and related ground water monitoring modules into the facility's permit in accordance with 9 VAC 20-80-620.

(c) If the 30-day timeframe specified in subdivision 3 d (4) (b) of this subsection is exceeded, the director will modify the permit.

(d) For subdivisions (a) and (b) of this subdivision, the director may waive the requirement for a permit amendment if the Ground Water Monitoring Plan has recently been amended or is otherwise up-to-date.

e. If the concentrations of all Table 5.1 constituents are shown to be at or below background values, using the statistical procedures in subsection D, for two consecutive Table 5.1 sampling events, the owner or operator shall notify the director of this finding and may return to detection monitoring.

f. If the concentrations of any Table 5.1 constituents are above background values, but all concentrations are below the ground water protection standard established under subdivision 3 h or i of this subsection, using the statistical procedures in subsection D, the owner or operator shall continue assessment monitoring in accordance with this section.

g. If one or more Table 5.1 constituents are detected at statistically significant levels above the ground water protection standard established under subdivision 3 h or i of this subsection in any sampling event, the owner or operator shall, within 14 days of this finding, notify the director identifying the Table 5.1 constituents that have exceeded the ground water protection standard. The notification will include a statement that within 90 days the owner or operator will either:

(1) (a) Characterize the nature and extent of the release by installing additional monitoring wells as necessary;

(b) Install at least one additional monitoring well at the facility boundary in the direction of contaminant migration and sample this well in accordance with subdivision 3 d (2) of this subsection;

(c) Notify all persons who own the land or reside on the land that directly overlies any part of the plume of contamination if contaminants have migrated off-site if indicated by sampling of wells in accordance with subdivision 3 g (1) of this subsection; and

(d) Initiate an assessment of corrective measures as required by 9 VAC 20-80-310 A within 90 days; or

(2) Demonstrate that a source other than the unit caused the contamination, or that the statistically significant increase resulted from error in sampling, analysis, statistical evaluation, or natural variation in ground water quality. A report documenting this demonstration shall be certified by a qualified ground water scientist and approved by the director. If a successful demonstration is made, the owner or operator shall continue monitoring in accordance with the assessment monitoring program pursuant to subdivision 3 of this subsection, and may return to

detection monitoring only if the Table 5.1 constituents are at or below background as specified in subdivision 3 e of this subsection. Until a successful demonstration is made, the owner or operator shall comply with subdivision 3 g of this subsection including initiating an assessment of corrective measures.

h. The owner or operator shall determine a ground water protection standard for all Table 5.1 constituents. The ground water protection standard shall be:

(1) For constituents for which a maximum contaminant level (MCL) has been promulgated under § 1412 of the Safe Drinking Water Act (40 CFR Part 141), the MCL for that constituent;

(2) For constituents for which MCLs have not been promulgated, the background concentration, as approved by the director, for the constituent established from wells in accordance with subdivision A 3 a (1) of this subsection; or

(3) For constituents for which the background level is higher than the MCL identified under subdivision 3 h (1) of this subsection or health-based levels identified under subdivision 3 i of this subsection, the background concentration as approved by the director.

i. The director may establish an alternative ground water protection standard for constituents for which MCLs have not been established by granting a variance based on the petition submitted by the owner or operator in accordance with 9 VAC 20-80-760.

C. Monitoring for CDD, industrial, and nonsubtitle D landfills.

1. Applicability.

a. Owners or operators of sanitary disposal facilities that have ceased to accept solid waste prior to the federally imposed deadlines shown in subdivision 2 of this subsection are eligible, with the director's approval, to conduct the state ground water monitoring program described in this section in lieu of the ground water monitoring program required under 9 VAC 20-80-300 B.

b. Owners or operators of CDD and industrial landfills not subject to the federal ground water monitoring requirements prescribed under 40 CFR Parts 257 and 258 will perform the ground water monitoring described in this section.

2. Deadlines for eligibility.

a. Sanitary landfills that stopped accepting waste before October 9, 1993, and in the case of a "small landfill" before April 9, 1994.

b. All other landfills other than sanitary landfills, including those that accepted hazardous waste from conditionally exempt small quantity generators after July 1, 1998.

3. Phase I monitoring program.

a. At a minimum, the owner or operator shall determine the concentration or value in ground water samples of the following parameters used as indicators of ground water contamination:

(1) Specific conductance;

(2) pH;

(3) Total Organic Carbon (TOC); and

(4) Total Organic Halogens (TOX).

b. During the first year of ground water monitoring, for each of the indicator parameters specified in subdivision 3 a of this subsection, obtain from each well an appropriate number of samples for the statistical test method selected for use from subsection D and establish the background level.

c. After the first year of monitoring, on at least a semiannual basis, sample all monitoring wells, analyze the samples and evaluate ground water quality.

d. Phase I evaluation and response.

(1) After the first year information has been collected for each well as specified in subdivision 3 a of this subsection, the owner or operator shall perform a statistical evaluation of the analytical results comparing each well to its own background and to the upgradient wells using any one of the statistical methods listed in subsection D, provided the test chosen meets the required performance standards. The permittee shall submit this information to the department in the Ground water Annual Report described under subdivision E 1 b of this section.

(a) If the evaluation for the upgradient (background) well, or wells, shows a statistically significant increase (or pH decrease), the owner or operator shall submit this information to the department in the Ground Water Annual Report described under subdivision E 1 b of this section.

(b) If the evaluation of the downgradient wells does not show a statistically significant increase (or pH decrease), the owner or operator shall submit this information in the Ground Water Annual Report described under subdivision E 1 b of this section and shall continue semiannual monitoring for indicator parameters in accordance with the procedures in subsection 3.

(c) If the evaluation of the downgradient wells indicates a statistically significant increase (or pH decrease) over facility background or each well's background, the owner or operator shall provide written notice to the director within 14 days of the date of the determination. The notice will indicate that the facility may be affecting ground water quality and that a Phase II monitoring program will be implemented. The notice should also indicate if the facility will pursue an Alternate Source Demonstration under the provisions of subdivision 3 d (2) of this subsection.

(2) If the evaluation of the downgradient wells indicates a statistically significant increase (or pH decrease) over facility background, or each well's background, the owner or operator may demonstrate that a source other

than the solid waste management unit caused the contamination or that the statistically significant increase resulted from error in sampling, analysis, statistical evaluation, or natural variation in ground water quality. An Alternate Source Demonstration report documenting this finding shall be certified by a qualified ground water scientist and approved by the director. If a successful demonstration is made and approved, the owner or operator may continue Phase I monitoring. If a successful demonstration is not submitted to the director within 90 days of the determination of a statistically significant increase as required under the provisions of subdivision 3 d (1) of this subsection, the owner or operator shall initiate Phase II monitoring in accordance with the timeframes in subdivision 3 d (3) of this subsection. The director may approve a longer timeframe with appropriate justification.

(3) Within 90 days of determining any statistically significant increase (or pH decrease) required under the provisions of subdivision 3 d (1) of this subsection, the permittee shall establish a Phase II monitoring program meeting the requirements of subdivision 4 of this subsection.

4. Phase II monitoring program.

a. A Phase II monitoring program shall include the semiannual analysis for the monitoring parameters shown in Table 5.5 and if required under the provisions of subdivision 4 e 2 of this subsection, any detected Table 5.1 constituents.

b. Phase II First Determination.

(1) The owner or operator shall make a First Determination under subdivision 4 a of this subsection as soon as technically feasible but no later than 21 months after determining a statistically significant increase (or pH decrease) under the provisions of subdivision 3 d (1) of this subsection. The number and frequency of ground water sampling events shall be determined in accordance with the requirements of the statistical method selected, but will not exceed the 21-month timeframe outlined in this subsection. The First Determination will establish the facility background and obtain sufficient information from downgradient wells to perform a statistical evaluation using the procedures in subsection D of this section.

(2) A written First Determination report containing an assessment of the ground water quality will be submitted to the department within the 21-month timeframe provided in subdivision 4 b (1) of this subsection.

(3) Based on the results of the First Determination:

(a) If no Table 5.5 constituents from the facility have entered the ground water at statistically significant levels, the owner or operator shall reinstate the Phase I monitoring program with the director's approval and notify the department in the First Determination report.

(b) If a statistically significant increase in any Table 5.5 constituent is noted in the First Determination report, the owner or operator shall continue Phase II monitoring as described under subdivision 4 c of this subsection.

(c) Based on the results of the First Determination, the owner or operator may choose to submit, in addition to the First Determination Report, a demonstration that a source other than the unit caused the statistical exceedance, or that the statistically significant increase resulted from error in sampling, analysis, statistical evaluation, or natural variation in ground water quality. An Alternate Source Demonstration report documenting this finding shall be certified by a qualified ground water scientist and approved by the director. If a successful demonstration is made and approved, the owner or operator may return to Phase I monitoring. If a successful demonstration is not made and approved within 90 days of submitting the First Determination Report under the provisions of subdivision 4 b (3) (b) of this subsection, the owner or operator shall initiate Phase II monitoring in accordance with the timeframes in subdivision 4 c of this subsection. The director may approve a longer timeframe with appropriate justification.

(4) If the owner or operator reinstates the Phase I monitoring and continues to find that one or more ground water indicator parameters show statistically significant increases (or decrease in case of pH) during any semiannual monitoring event, he shall proceed with the actions required under subdivision 6 of this section.

c. Phase II Development of Background.

(1) The owner or operator shall continue to sample and analyze ground water on a semiannual basis within the Phase II monitoring program until the Phase III monitoring program is implemented (at the request of the applicant, the director may approve an appropriate set of monitoring wells applicable to this phase of monitoring).

(2) Within 90 days of submitting the First Determination report under the provisions of subdivision 4 b (2) of this subsection, sample the ground water in all monitoring wells and report the concentration of all detected constituents identified in Table 5.1.

(3) If no additional Table 5.1 constituents are detected, proceed with the procedure in subdivision 4 c (5) of this subsection.

(4) No later than 18 months after submitting the First Determination Report, establish a background value for each Table 5.1 constituent that has been detected at the waste management unit boundary.

(5) Within 19 months of submitting the First Determination report, submit to the department, a written report (Phase II Background Report) containing a summary of the background concentration data for

each constituent detected in the ground water during the Table 5.1 background sampling events.

d. Ground Water Protection Standards/Ground Water Monitoring Plan.

(1) No later than 60 days after submitting the Phase II background report required under the provisions of subdivision 4 c (5) of this subsection, the owner or operator shall propose a ground water protection standard for all Table 5.1 constituents. The proposed standards shall be submitted to the department in letter form and will be accompanied by all historical concentration data to justify the proposed concentration levels. The ground water protection standard shall be:

(a) For constituents for which a maximum contaminant level (MCL) has been promulgated under § 1412 of the Safe Drinking Water Act (40 CFR Part 141), the MCL for that constituent;

(b) For constituents for which MCLs have not been promulgated, the background concentration, as approved by the director, and established from the upgradient wells in accordance with subdivision A 3 a (1) of this section; or

(c) For constituents for which the background level is higher than the MCL identified under subdivision 4 d (1)(a) of this subsection or health-based levels identified under subdivision 4 d (1)(d) of this subsection, the background concentration, as approved by the director under the provisions of a variance under 9 VAC 20-80-760.

(d) The director may establish an alternate concentration level as a ground water protection standard for any constituents for which MCLs have not been established or for which site specific background data is unavailable by granting a variance based on the petition submitted by the owner or operator. The owner or operator may request the use of an alternative concentration level as a ground water protection standard by petitioning for a variance in accordance with 9 VAC 20-80-760 and 9 VAC 20-80-790.

(2) No later than 60 days after approval of ground water protection standards, the owner or operator shall submit an updated Ground water Monitoring Plan which details the site monitoring well network and sampling and analysis procedures undertaken during ground water monitoring events. The director may waive the requirement for an updated plan if the Ground water Monitoring Plan has recently been amended or is otherwise up-to-date.

(3) No later than 30 days after the approval of the Ground water Monitoring Plan, the owner or operator shall request a permit amendment to incorporate the updated plan and related ground water monitoring modules into the facility's permit in accordance with 9 VAC 20-80-620.

(4) If the 30-day timeframe specified in subdivision 4 d (3) of this subsection is exceeded, the director will modify the permit.

e. Phase II Evaluation and Response. After each subsequent monitoring event following establishment of ground water protection standards, the concentration of Table 5.1 constituents found in the ground water at each monitoring well at the waste management unit boundary will be evaluated. The evaluation will be presented to the department in a semiannual Phase II report. The evaluation of the concentration of Table 5.1 constituents and subsequent monitoring and reporting requirements will be as follows:

(1) If all Table 5.1 constituents are shown to be at or below background values, using the statistical procedures in subsection D of this section, for two consecutive Table 5.1 sampling events, the owner or operator shall notify the director of this finding and may return to Phase I monitoring;

(2) If any Table 5.1 constituents are above background values, but all concentrations are below the established ground water protection standard, using the statistical procedures in subsection D of this section, the owner or operator shall continue semiannual Phase II monitoring of all Table 5.5 constituents and any detected Table 5.1 constituents;

(3) If one or more Table 5.1 constituents are above the established ground water protection standard using the statistical procedures in subsection D of this section, the owner or operator shall notify the department within 14 days of this finding. The notification will include a statement that within 90 days the owner or operator will either:

(a) Submit a demonstration as allowed under the provision of subdivision 4 f of this subsection that a source other than the unit caused the statistical exceedance of the ground water protection standards, or that an error in sampling, analysis, or evaluation was committed; or

(b) Complete the Nature and Extent Study as required under subdivision 4 g (1) of this subsection.

(4) If any detected Table 5.1 constituent is subsequently not detected for a period of two years, the owner or operator may petition the director to delete the constituent from the list of detected Table 5.1 constituents.

f. Alternate Source Demonstration.

(1) Within 90 days of the notification submitted under subdivision 4 e (3), the owner or operator shall, submit an Alternate Source Demonstration report to the department that demonstrates that a source other than the landfill unit caused the statistical exceedance, or that the exceedance resulted from error in sampling, analysis, or evaluation. The director may approve a longer timeframe for submittal of the Alternate Source Demonstration with appropriate justification.

(2) Until a decision has been rendered by the department in accordance with subdivision 4 f (3) of this subsection, the owner or operator will continue to monitor ground water in accordance with the Phase II monitoring program.

(3) Based on the information submitted in accordance with subdivision 4 f (1) of this subsection, the director will:

(a) In case of the demonstrated error in sampling, analysis or evaluation, allow the owner or operator to resume Phase II monitoring program;

(b) In the case of a demonstrated alternate source for the release (i.e., off-site source or natural variability in the aquifer matrix) require changes in the ground water monitoring system that will correctly reflect the ground water conditions and allow the owner or operator to remain in Phase II monitoring program. Any required changes to the monitoring system shall be completed prior to the next regularly scheduled Phase II ground water monitoring event. Any modifications to the monitoring system must be submitted to the department as an application for a permit amendment under 9 VAC 20-80-620 within 90 days of the approval of the alternate source demonstration;

c) In the case of an unsuccessful Alternate Source Demonstration, require the owner or operator to commence actions under subdivision 4 g of this subsection concerning corrective action.

g. Corrective action.

(1) Within 90 days of the notification submitted under subdivision 4 e (3) of this subsection, or as directed under subdivision 4 f (3)(c), submit a Nature and Extent Study in an effort to delineate the physical extent of the release from the waste management unit.

(2) Within 180 days of the notification submitted under subdivision 4 e (3) of this subsection, or 90 days of submitting the Nature and Extent Study under subdivision 4 g (1) of this subsection, complete the following based on the results of the Nature and Extent Study:

(a) An Assessment of Corrective Measures as defined under 9 VAC 20-80-310 A 3; or

(b) A Proposal for Presumptive Remedies as defined in 9 VAC 20-80-310 A 4.

(3) Within 270 days of the notification submitted under subdivision 4 e (3) of this subsection or 180 days of completing actions under subdivision 4 g (2) of this subsection, submit a proposed Corrective Action Plan in accordance with the procedures of 9 VAC 20-80-310 B.

5. Phase III Monitoring program.

a. The purpose of the Phase III monitoring program is to support the corrective action undertaken in accordance with 9 VAC 20-80-310. A Phase III monitoring program shall be initiated at the same time the Corrective Action Plan is implemented.

b. Phase III monitoring shall continue until it is demonstrated that Table 5.1 constituents have not exceeded the ground water protection standards during any sampling event for a period of three consecutive years using the appropriate statistical procedures in subsection D of this section and performance standards from the facility's permit.

(1) If the post-closure period has not been completed following the three-year period, Phase II monitoring will be implemented.

(2) If the owner or operator is engaged in a corrective action program or a presumptive remedy at the end of the minimum post-closure period, the post-closure period is extended until the owner or operator provides the demonstration required under subdivision 5 b of this subsection.

c. Phase III monitoring parameters and constituents shall include those constituents listed in Table 5.1 that are determined to be present at detected concentrations at the waste management unit boundary.

d. The sampling frequency will be determined by the director on a site-specific basis. An appropriate set of monitoring wells will be included in the determination as necessary. The following minimum frequencies apply:

(1) Semiannually for those constituents in Table 5.1 that have been detected in ground water.

(2) Annually for all Table 5.1 constituents unless it is demonstrated that the history of analyses of leachate from the unit indicates that these historically nondetected constituents are not present.

e. Phase III evaluation and response.

(1) If the owner or operator determines that there is a statistically significant exceedance over established ground water protection standards for any Table 5.1 constituent at any monitoring well at the waste management unit boundary, he shall:

(a) Within 14 days of the exceedance, notify the department of this finding in writing. The notification shall indicate what constituents have shown statistically significant increases.

(b) Within 90 days of determining an exceedance, submit to the department the following information:

(i) An evaluation of the concentration of any Table 5.1 constituents found in ground water at each monitoring well or an approved subset of wells at the compliance point;

(ii) Any proposed changes to the ground water monitoring system necessary to meet the requirements of corrective action programs in accordance with 9 VAC 20-80-310; and

(iii) Any proposed changes to the monitoring frequency or sampling procedures used at the

facility necessary to meet the requirements of corrective action programs in accordance with 9 VAC 20-80-310.

(c) Within 180 days of determining an exceedance, submit to the department:

(i) All data necessary to justify any variance sought from the corrective active program; or

(ii) A change to the Corrective Action Plan in accordance with 9 VAC 20-80-310 necessary to meet the requirements of the plan specified in these regulations.

6. Modified sampling program.

a. If the owner or operator reinstates the Phase I monitoring based on the results of the First Determination Report, but continues to find that one or more ground water indicator parameters show statistically significant increases (or decreases in the case of pH) during semiannual monitoring, he shall, within 90 days of noting the increase (or decrease), sample all monitoring wells for the Table 5.1 list of constituents.

b. Based on the results of the Table 5.1 sampling event:

(1) If no Table 5.5 constituents have been detected at statistically significant levels and no additional Table 5.1 constituents that are not in Table 5.5 are detected in the ground water, the owner or operator shall monitor ground water under the modified sampling program of this subsection which entails sampling for and analyzing Phase I parameters on a semiannual basis and Table 5.1 constituents every two years (during the first half of each even numbered calendar year). Full Phase II monitoring shall not be required until such time as one or more Table 5.1 constituents are detected during the biennial sampling event.

(2) If one or more Table 5.1 constituents are detected, the owner or operator shall commence with actions under subdivision 4 c of this subsection regarding Phase II monitoring and determination of background.

D. Statistical methods and constituent lists.

1. Acceptable test methods. The following statistical test methods may be used to evaluate ground water monitoring data:

a. A parametric analysis of variance (ANOVA) followed by multiple comparisons procedures to identify statistically significant evidence of contamination. The method must include estimation and testing of the contrasts between each compliance well's mean and the background mean levels for each constituent.

b. An analysis of variance (ANOVA) based on ranks followed by multiple comparisons procedures to identify statistically significant evidence of contamination. The method must include estimation and testing of the contrasts between each compliance well's median and the background median levels for each constituent.

c. A tolerance or prediction interval procedure in which an interval for each constituent is established from the distribution of the background data, and the level of each constituent in each compliance well is compared to the upper tolerance or prediction limit.

d. A control chart approach that gives control limits for each constituent.

e. Another statistical test method that meets the performance standards specified below. Based on the justification submitted to the department, the director may approve the use of an alternative test. The justification must demonstrate that the alternative method meets the performance standards in subdivision 2 of this subsection.

2. Performance standards. Any statistical method chosen by the owner or operator shall comply with the following performance standards, as appropriate:

a. The statistical method used to evaluate ground water monitoring data shall be appropriate for the distribution of monitoring parameters or constituents. If the distribution is shown by the owner or operator to be inappropriate for a normal theory test, then the data should be transformed or a distribution-free theory test should be used. If the distributions for the constituents differ, more than one statistical method may be needed.

b. If an individual well comparison procedure is used to compare an individual compliance well constituent concentration with background constituent concentrations or a ground water protection standard, the test shall be done at a Type I error level no less than 0.01 for each testing period. If a multiple comparisons procedure is used, the Type I experiment-wise error rate for each testing period shall be no less than 0.05; however, the Type I error of no less than 0.01 for individual well comparisons must be maintained. This performance standard does not apply to tolerance intervals, prediction intervals, or control charts.

c. If a control chart approach is used to evaluate ground water monitoring data, the specific type of control chart and its associated parameter values shall be protective of human health and the environment. The parameters shall be determined after considering the number of samples in the background data base, the data distribution, and the range of the concentration values for each constituent of concern.

d. If a tolerance interval or a predictional interval is used to evaluate ground water monitoring data, the levels of confidence and, for tolerance intervals, the percentage of the population that the interval must contain, shall be protective of human health and the environment. These parameters shall be determined after considering the number of samples in the background data base, the data distribution, and the range of the concentration values for each constituent of concern.

e. The statistical method shall account for data below the limit of detection with one or more statistical procedures that are protective of human health and the environment.

Any practical quantitation limit (PQL) that is used in the statistical method shall be the lowest concentration level that can be reliably achieved within specified limits of precision and accuracy during routine laboratory operating conditions that are available to the facility.

f. If necessary, the statistical method shall include procedures to control or correct for seasonal and spatial variability as well as temporal correlation in the data.

TABLE 5.1.
Ground Water Monitoring List.

Common Name [1]	*CAS RN* [2]	*Chemical Abstracts Service Index Name* [3]
Acenaphthene	*83-32-9*	*Acenaphthylene, 1,2-dihydro*
Acenaphthytene	*208-96-8*	*Acenaphthylene-*
Acetone	*67-64-1*	*2-Propenone*
Acetonitrile; Methyl cyanide	*75-05-8*	*Acetonitrile*
Acetophenone	*98-86-2*	*Ethanone, 1-phenyl-*
2-Acetylaminofluorene; 2-AAF	*53-96-3*	*Acetamide, N-9H-fluoren-2-yl*
Acrolein	*107-02-8*	*2-Propenal*
Acrylonitrile	*107-13-1*	*2-Propenenitrile*
Aldrin	*309-00-2*	*1,4:5,8- Dimethanonaphthalene, 1,2,3,4,10,10-hexachloro-1,4,4a,5,8,aa-hexahydro-(1a,4a,4ab,5a,8a,8ab)-*
Allyl chloride	*107-05-1*	*1-Propene, 3-chloro*
4-Aminobiphenyl	*92-67-1*	*[1,11-Biphenyl-4-amine*
Anthracene	*120-12-7*	*Anthracene*
Antimony	*(Total)*	*Antimony*
Arsenic	*(Total)*	*Arsenic*
Barium	*(Total)*	*Barium*
Benzene	*71-43-2*	*Benzene*
Benzo[a]anthracene; Benzanthracene	*56-55-3*	*Benz[a]anthracene*
Benzo[b]fluoranthene	*205-99-2*	*Benz[e]acephanthrylene*
Benzo[k]fluoranthene	*207-08-9*	*Benzo[k]fluorenthene*
Benzo[ghi]perylene	*191-24-2*	*Benzo[ghi]perylene*
Benzo[a]pyrene	*50-32-8*	*Benzo[a]pyrene*
Benzyl alcohol	*100-51-6*	*Benzenemethanol*
Beryllium	*(Total)*	*Beryllium*
alpha-BHC	*319-84-6*	*Cyclohexane, 1,2,3,4,5,6-hexachloro-, (1a,2a,3b,4a,5b,6b,)-*
beta-BHC	*319-85-7*	*Cyclohexane, 1,2,3,4,5,6-hexachloro-, (1a,2b,3a,4b,5a,6b,)-*
delta-BHC	*319-86-8*	*Cyclohexane, 1,2,3,4,5,6-hexachloro-, (1a,2a,3a,4b,5a,6b,)-*
gamma-BHC; Lindane	*58-89-9*	*Cyclohexane, 1,2,3,4,5,6-hexachloro-, (1a,2a,3b,4a,5a,6b,)-*
Bis(2-chloroethoxy)methane	*111-91-1*	*Ethane,1,1'-[methylenebis(oxy)]bis[2-chloro-*
Bis(2-chloroethyl) ether; Dichloroethyl ether	*111-44-4*	*Ethane, 1,1'-oxybis[2-chloro-*
Bis(2-chloro-1-methylethyl) ether;	*108-60-1*	*Propane, 2,2'-oxybis(1-chloro-*
2, 2'-Dichlorodiisopropyl ether; DCIP	*See note* [4]	
Bis(2-ethylhexyl)phthalate	*117-81-7*	*1,2-Benzenedicarboxylic acid, bis(2-ethylhexyl) ester*
Bromochloromethane;.Chlorobromomethane	*74-97-5*	*Methane, bromochloro*
Bromodichloromethane;.Dibromochloromethane	*75-27-4*	*Methane, bromodichloro*
Bromoform; Tribromomethane	*75-25-2*	*Methane, tribromo*
4-Bromophenyl phenyl ether	*101-55-3*	*Benzene, 1-bromo-4-phenoxy*
Butyl benzyl phthalate; Benzyl butyl phthalate	*85-68-7*	*1,2-Benzenedicarboxylic acid, butyl phenylmethyl ester*
Cadium	*(Total)*	*Cadium*
Carbon disulfide	*75-15-0*	*Carbon disulfide*
Carbon tetrachloride	*56-23-5*	*Methane, tetrachloro*
Chlordane	*Note* [5]	*4,7-Methano-1H-indene, 1,2,4,5,6,7,8,8-*
p-Chloroaniline	*106-47-8*	*Benzenamine, 4-chloro*
Chlorobenzene	*108-90-7*	*Benzene, chloro*
Chlorobenzilate	*510-15-6*	*Benzeneacetic acid, 4-chloro-a-(4-chlorophenyl)-a-hydroxy-, ethyl ester*
p-Chloro-m-cresol; 4-Chloro-3-methylphenol	*59-50-7*	*Phenol, 4-chloro- 3-methyl-*
Chloroethane; Ethyl chloride	*75-00-3*	*Ethane, chloro-*
Chloroform; Trichloromethane	*67-66-3*	*Methane, trichloro-*
2-Chloronaphthalene	*91-58-7*	*Naphthalene, 2-chloro*
2-Chlorophenol	*95-57-8*	*Phenol, 2-chloro*
4-Chlorophenyl phenyl ether	*7005-72-3*	*Benzene, 1-chloro-4-phenoxy*
Chloroprene	*126-99-8*	*1,3-Butadiene, 2-chloro*
Chromium	*(Total)*	*Chromium*
Chrysene	*218-01-9*	*Chrysene*
Cobalt	*(Total)*	*Cobalt*
Copper	*(Total)*	*Copper*
m-Cresol; 3-methyphenol	*108-39-4*	*Phenol, 3-methyl*
o-Cresol; 2-methyphenol	*95-48-7*	*Phenol, 2-methyl*
p-Cresol; 4-methyphenol	*106-44-5*	*Phenol, 4-methyl*
Cyanide	*57-12-5*	*Cyanide*
2,4-D; 2,4-Dichlorophenoxyacetic acid	*94-75-7*	*Acetic acid, (2,4-dichlorophenoxy)-*
4,4'-DDD	*72-54-8*	*Benzene, 1,1'-(2,2-dichloroethylidene)bis[4-chloro-*
4,4'-DDE	*72-55-9*	*Benzene, 1,1'-(dichloroethylidene)bis[4-chloro-*
4,41-DDT	*50-29-3*	*Benzene, 1'1-(2,2,2-trichloroethylidene)bis[4-chloro*
Dibenz[a,h]anthracene	*53-70-3*	*Dibenz[a,h]anthracene*
Dibenzofuran	*132-64-9*	*Dibenzofuran*
Dibromochloromethane; Chlorodibromomethane	*124-48-1*	*Methane, dibromochloro*
1,2-Dibromo-3-chloropropane; DBCP	*96-12-8*	*Propane, 1,2-dibromo-3-chloro*
1,2-Dibrimoethane; Ethylene dibromide; EDB	*106-93-4*	*Ethane, 2,3-dibromo*
Di-n-butyl phthalate	*84-74-2*	*1,2-Benzenedicarboxylic acid, dibutyl ester*
o-Dichlorobenzene; 1,2-Dichlorobenzene	*95-50-1*	*Benzene, 1,2-dichloro-*
m-Dichlorobenzene; 1,3-Dichlorobenzene	*541-73-1*	*Benzene, 1,3-dichloro-*
p-Dichlorobenzene; 1,4-Dichlorobenzene	*106-46-7*	*Benzene, 1,4-dichloro*
3,3'-Dichlorobenzidine	*91-94-2*	*1,1'-Biphenyl-4,4'diamine, 3,3'-dichloro*
trans-1,4-Dichloro-2-butene	*110-57-6*	*2-Butene, 1,4-dichloro-,(E)-*
Dichlorodifluoromethane; CFC 12;	*75-71-8*	*Methane, dichlorodifluoro*
1.1-Dichloroethane; Ethylidene chloride	*75-34-3*	*Ethane,1,1-dichloro*
1,2-Dichloroethane; Ethylene dichloride	*107-06-2*	*Ethane, 1,2-dichloro*
1,1-Dichloroethylene; 1,1-Dichloroethene; Vinylidene chloride	*75-35-4*	*Ethane, 1,1-dichloro-*
cis-1,2-Dichloroethylene; cis-1,2-Dichloroethene	*156-59-2*	*Ethene, 1,2-dichloro-, (Z)*
trans-1,2-Dichloroethylene trans-1,2-Dichroroethene	*156-60-5*	*Ethene, 1,2-dichloro-,(E)*
2,4-Dichlorophenol	*120-83-2*	*Phenol, 2,4-dichloro*
2,6-Dichlorophenol	*87-65-0*	*Phenol, 2,6-dichloro*
1,2-Dichloropropane; Propylene dichloride	*78-87-5*	*Propane, 1,2-dichloro*
1,3-Dichloropropane; Trimethylene dichloride	*142-28-9*	*Propane, 1,3-dichloro*
2, 2-Dichloropropane; isopropylidene chloride	*594-20-7*	*Propane, 2,2-dichloro*
1,1-Dichloropropene	*563-58-6*	*1-Propene, 1,1-dichloro*
cis-1,3-Dichloropropene	*10061-01-5*	*1-Propene, 1,3-dichloro-,(Z)*
trans-1,3-Dichloropropene	*10061-02-6*	*1-Propene, 1,3-dichloro-,(E)*
Dieldrin	*60-57-1*	*2,7:3,6-Dimethanonaphth[2,3-bioxirene, 3,4,5,6,9,9-hexachloro-1a,2,2a,3,6,6a,7,7a-octahydro-(1aa,2b,2aa,3b,6b,6aa,7b,7aa)-*

Diethyl phthalate	*84-66-2*	*1,2- Benzenedicarboxylic acid, diethyl ester*
O,O-Diethyl O-2-pyrazinyl phosphorothioate; Thionazin	*297-97-2*	*Phosphorothioic acid, O,O-diethyl O-pyrazinyl ester*
Dimethoate	*60-51-5*	*Phosphorodithioic acid, O,O-dimethyl-S-[2-(methylamino)-2-oxoethyl] ester*
p-(Dimethylamino)azobenzene	*60-11-7*	*Benzenamine, N,N-dimethyl-4-(phenylazo)-*
7,12-Dimethylbenz[a]anthracene	*57-97-6*	*Benz[a]anthracene, 7,12-dimethyl*
3,3'-Dimethylbenzidine	*119-93-7*	*[1,1'-Biphenyl]-4,4'-diamine, 3,3'-dimethyl*
2,4-Dimethylphenol; m-Xylenol	*105-67-9*	*Phenol, 2,4-dimethyl*
Dimethyl phthalate	*131-11-3*	*1,2-Benzenedicarboxylic acid, dimethyl ester*
m-Dinitrobenzene	*99-65-0*	*Benzene, 1,3-dinitro*
4,6-Dinitro-o-cresol 4,6-Dinitro-2-methylphenol	*534-52-1*	*Phenol, 2-methyl-4,6-dinitro-*
2,4-Dinitrophenol	*51-28-5*	*Phenol, 2,4-dinitro*
2,4-Dinitrotoluene	*121-14-2*	*Benzene, 1-methyl-2,4-dinitro*
2,6-Dinitrotoluene	*606-20-2*	*Benzene, 2-methyl-1,3-dinitro*
Dinoseb; DNBP; 2-sec-Butyl-4,6-dinitrophenol	*86-85-7*	*Phenol, 2-(1-methylpropyl)-4,6-dinitro*
Di-n-octyl phthalate	*117-84-0*	*1,2-Benzenedicarboxylic acid, dioctyl ester*
Diphenylamine	*122-39-4*	*Benzenamine, M-phenyl*
Disulfoton	*298-04-4*	*Phosphorodithioic acid, O,O-diethyl S-[2-(ethylthio)ethyl] ester*
Endosulfan I	*959-96-8*	*6,9-Methano-2,4,3-benzodioxathiepin, 6,7,8,9,10,10-hexachloro-1,5,5a,6,9,9a-hexahydro-, 3-oxide*
Endosulfan II	*33213-65-9*	*6,9-Methano-2,4,3-benzodioxathiepin, 6,7,8,9,10,10-hexachloro-1,5,5s,6,9,9a-hexahydro-, 3-oxide, (3aα,5aα,6β,9β,9aα)-*
Endosulfan sulfate	*1031-07-8*	*6,9-Methano-2,4,3-banzodioxathiepin, 6,7,8,9,10,10-hexachloro-1,5,5a,6,9,9a-hexahydro-,3,3-dioxide*
Endrin	*72-20-8*	*2,7:3,6-Dimethanonaphth[2,3-b]oxirene, 3,4,5,6,9,9-hexachloro-1a,2,2*,3,6,6a,7,7a-octahydro-, (1aα,2β,2aβ,3a,6α,6aβ,7β,7aα)-*
Endrin aldehyde	*7421-93-4*	*1,2,4-Methenocyclopentacdpentalene-5-carboxaldehyde, 2,2a,3,3,4,7-hexachlorodecahydro-, (1α,2β,2aβ,4β,4aβ,5β,6aβ,6bβ,7R*)-*
Ethylbenzene	*100-41-4*	*Benzene,ethyl*
Ethyl methacrylate	*97-63-2*	*2-Propenoic acid, 2-methyl-, ethyl ester*
Ethylmethanesulfonate	*62-50-0*	*Methanesulfonic acid, ethyl ester*
Famphur	*52-85-7*	*Phosphorothioic acid, O-[4-[(dimethylamino)sulfonyl] phenyl] O,O-dimethyl ester*
Fluoranthene	*206-44-0*	*Fluoranthene*
Fluorene	*86-73-7*	*9H-Fluorene*
Heptachlor	*76-44-8*	*4,7-Methano-1H-indene,1,4,5,6,7,8,8-heptachlor-3a,4,7,7a-tetrahydro*
Heptachlor epoxide	*1024-57-3*	*2,5-Methano-2H-indeno[1,2-b]oxirene,2,3,4,5,6,7,7-heptachloro-1a,1b,5,5a,6,6a-hexahydro-, (1aα,1bβ,2α,5α,5aβ,6,6aα)*
Hexachlorobenzene	*118-74-1*	*Benzene, hexachloro*
Hexachlorobutadiene	*87-68-3*	*1,3-Butadiene, 1,1,2,3,4,4-hexachloro*
Hexachlorocyclopentadiene	*77-47-4*	*1,3-Cyclopentadiene, 1,2,3,4,5,5-hexachloro*
Hexachloroethane	*67-72-1*	*Ethane, hexachloro*
Hexachloropropene	*1888-71-7*	*1-Propene,1,1,2,3,3,3-hexachloro-*
2-Hexanone; Methyl butyl ketone	*591-78-6*	*2-Hexanone*
Indeno[1,2,3-cd]pyrene	*193-39-5*	*Indeno[1,2,3-cd]pyrene*
Isobutyl alcohol	*78-83-1*	*1-Propanol, 2-methyl*
Isodrin	*465-73-6*	*1,4,5,8-Dimethanonaphthalene 1,2,3,4,10,10 hexachloro-1,4,4a,5,8,8a hexahydro(1α,4α,4aβ,5b,8b,8aβ)-*
Isophorone	*78-59-1*	*2-Cyclohexen-1-one,3,5,5-trimethyl*
Isosafrole	*120-58-1*	*1,3- Benzodioxole, 5-(1-propenyl)*
Kepone	*143-50-0*	*1,3,4-Metheno-2H-cyclobuta[cd]pentalen-2-one 1,1a,3,3a,4,5,5,5a,5b,6-decachlorooctahydro-*
Lead	*(Total)*	*Lead*
Mercury	*(Total)*	*Mercury*
Methacrylonitrile	*126-98-7*	*2-Propenenitrile, 2-methyl*
Methapyrilene	*91-80-5*	*1,2- Ethanedimine, N,N-dimethyl-N'- 2-pyridinyi-N'2-thianylmethyl*
Methoxychlor	*72-43-5*	*Benzene, 1,1'(2,2,2,trichloroethylidene)bis[4-methoxy-*
Methyl bromide; Bromomethane	*74-83-9*	*Methane, bromo-*
Methyl chloride; Chloromethane	*74-87-3*	*Methane, chloro-*
3-Methylcholanthrene	*56-49-5*	*Benz[j]aceanthrylene, 1,2-dihydro-3-methyl-*
Methyl ethyl ketone; MEK; 2-Butanone	*78-93-3*	*2-Butanone*
Methyl iodide; Iodomethane	*74-88-4*	*Methane, iodo-*
Methyl methacrylate	*80-62-6*	*2-Propenoic acid, 2-methyl-, methyl ester*
Methyl methanesulfonate	*66-27-3*	*Methanesulfonic acid, methyl ester*
2-Methylnaphthalene	*91-57-6*	*Naphthalene, 2-methyl*
Methyl parathion; Parathion methyl methyl	*298-00-0*	*Phosphorothioic acid, O,O-dimethyl O-(4- nitrophenyl) ester*
4-Methyl-2-pentanone; Methyl isobutyl ketone	*108-10-1*	*2-Pentanone, 4-methyl-*
Methylene bromide; Dibromomethane	*74-95-3*	*Methane, dibromo-*
Methylene chloride; Dichloromethane	*75-09-2*	*Methane, dichloro*
Naphthalene	*91-20-3*	*Naphthalene*
1,4-Naphthoquinone	*130-15-4*	*1,4-Naphthalenedione*
1- Naphthylamine	*134-32-7*	*1-Naphthalenamine*
2-Napthylamine	*91-59-8*	*2-Naphthalenamine*
Nickel	*(Total)*	*Nickel*
o-Nitroaniline; 2-Nitroaniline	*88-74-4*	*Benzenamine, 2-nitro-*
m-Nitroaniline; 3-Nitroaniline	*99-09-2*	*Benzenamine, 3-nitro-*
p-Nitroaniline; 4-Nitroaniline	*100-01-6*	*Benzenamine, 4-nitro-*
Nitrobenzene	*98-95-3*	*Benzene, nitro-*
o-Nitrophenol; 2-Nitrophenol	*88-75-5*	*Phenol, 2-nitro-*
p-Nitrophenol; 4-Nitrophenol	*100-02-7*	*Phenol, 4-nitro-*
N-Nitrosodi-n-butylamine	*924-16-3*	*1-Butenamine, N-butyl-N-nitroso*
N-Nitrosodiethylamine	*55-18-5*	*Ethanamine, N-ethyl-N-nitroso*
N-Nitrosodimethylamine	*62-75-9*	*Methanamine, N-methyl-N-nitroso*
N-Nitrosodiphenylamine	*86-30-6*	*Benzenamine, N-nitroso-N-phenyl*
N-Nitrosodipropylamine; N-Nitroso-N-dipropylamine; Di-n-propylnitrosamine	*621-64-7*	*1-Propanamine, N-nitroso-N-propyl*
N-Nitrosamethylethylamine	*10595-95-6*	*Ethanamine, N-methyl-N-nitroso*
N-Nitrosopiperidine	*100-75-4*	*Piperidine, 1-nitroso*
N-Nitrosopyrrolidine	*930-55-2*	*Pyrrolidine, 1-nitroso*
5-Nitro-o-toluidine	*99-55-8*	*Benzenamine, 2- methyl-5-nitro*
Parathion	*56-38-2*	*Phosphorothioic acid, O,O-diethyl O-(4-nitrophenyl) ester*
Pentachlorobenzene	*608-93-5*	*Benzene, pentachloro*
Pentachloronitrobenzene	*82-68-8*	*Benzene, pentachloronitro-*
Pentachlorophenol	*87-86-5*	*Phenol, pentachloro*
Phenacetin	*62-44-2*	*Acetamide, N-4(ethoxyphenyl)*
Phenanthrene	*85-01-8*	*Phenanthrene*
Phenol	*108-95-2*	*Phenol*
p-Phenylenediamine	*106-50-3*	*1,4-Benzenediamine*
Phorate	*298-02-2*	*Phosphorodithioic acid, O,O-diethyl-S-[(ethylthio)methyl] ester*

Polychlorinated biphenyls; PCBS; Aroclors	*Note [6]*	*1,1'-Biphenyl, chloro derivatives*
Pronamide	*23950-58-5*	*Benzamide, 3,5-dichloro-N-(1,1-dimethyl-2-propynyl)-*
Propionitrile; Ethyl cyanide	*107-12-0*	*Propanenitrile*
Pyrene	*129-00-0*	*Pyrene*
Safrole	*94-59-7*	*1,3-Benzodioxole, 5-(2-propenyl)*
Selenium	*(Total)*	*Selenium*
Silver	*(Total)*	*Silver*
Silvex; 2,4,5-TP	*93-72-1*	*Propanoic acid, 2-(2,4,5-trichlorophenoxy)*
Styrene	*100-42-5*	*Benzene, ethenyl*
Sulfide	*18496-25-8*	*Sulfide*
2,4,5-T; 2,4,5-Trichlorophenoxyacetic acid	*93-76-5*	*Acetic acid, (2,4,5-trichlorophenoxy)*
1,2,4,5-Tetrachlorobenzene	*95-94-3*	*Benzene, 1,2,4,5-tetrachloro*
1,1,1,2-Tetrachloroethane	*630-20-6*	*Ethane, 1,1,1,2-tetrachloro*
1,1,2,2-Tetrachloroethane	*79-34-5*	*Ethane, 1,1,2,2-tetrachloro*
Tetrachloroethylene; Tetrachloroethene; Perchloroethylene	*127-18-4*	*Ethene, tetrachloro*
2,3,4,6-Tetrachlorophenol	*58-90-2*	*Phenol, 2,3,4,6-tetrachloro*
Thallium	*(Total)*	*Thallium*
Tin	*(Total)*	*Tin*
Toluene	*108-88-3*	*Benzene, methyl-*
o-Toluidine	*95-53-4*	*Benzenamine, 2-methyl*
Toxaphene	*Note [9]*	*Toxaphene*
1,2,4-Trichlorobenzene	*120-82-1*	*Benzene, 1,2,4-trichloro*
1,1,1-Trichloroethane; Methychloroform	*71-55-6*	*Ethane, 1,1,1-trichloro-*
1,1,2-Trichloroethane	*79-00-5*	*Ethane, 1,1,2-trichloro-*
Trichloroethylene; Trichloroethene ethene	*79-01-6*	*Ethane, trichloro*
Trichlorofluoromethane; CFC-11	*75-69-4*	*Methane, trichlorofluoro*
2,4,5-Trichlorophenol	*95-95-4*	*Phenol, 2,4,5-trichloro*
2,4,6-Trichlorophenol	*88-06-2*	*Phenol, 2,4,6-trichloro*
1,2,3-Trichloropropane	*96-18-4*	*Propane, 1,2,3-trichloro*
O,O,O-Triethyl phosphorothioate	*126-68-1*	*Phosphorothioic acid, O,O,O-triethylester*
sym-Trinitrobenzene	*99-35-4*	*Benzene, 1,3,5-trinitro*
Vanadium	*(Total)*	*Vanadium*
Vinyl acetate	*108-05-4*	*Acetic acid, ethenyl ester*
Vinyl chloride; Chloroethene	*75-01-4*	*Ethene, chloro*
Xylene(total)	*Note [8]*	*Benzene, dimethyl*
Zinc	*(Total)*	*Zinc*

NOTES:

1. Common names are those widely used in government regulations, scientific publications, and commerce; synonyms exist for many chemicals.

2. Chemical Abstracts Service Registry Number. Where "Total" is entered, all species in the ground water that contains this element are included.

3. CAS index names are those used in the 9th Collective Index.

4. This substance is often called Bis(2-chloroisopropyl) ether, the name Chemical Abstracts Service applies to its noncommercial isomer, Propane, 2.2'-oxybis2-chloro (CAS RN 39638-32-9).

5. Chlordane: This entry includes alpha-chlordane (CAS RN 5103-71-9), beta-chlordane (CAS RN 5103-74-2), gamma-chlordane (CAS RN 5566-34-7), and constituents of chlordane (CAS RN 57-74-9 and CAS RN 12739-03-6).

6. Polychlorinated biphenyls (CAS RN 1336-36-3); this category contains congener chemicals, including constituents of Aroclor 1016 (CAS RN 12674-11-2), Aroclor 1221 (CAS RN 11104-28-2), Aroclor 1232 (CAS RN 11141-16-5), Aroclor 1242 (CAS RN 53469-21-9), Aroclor 1248 (CAS RN 12672-29-6), Aroclor 1254 (CAS RN 11097-69-1), and Arclor 1260 (CAS RN 11096-82-5).

7. Toxaphene: This entry includes congener chemicals contained in technical toxaphene (CAS RN 8001-35-2), i.e., chlorinated camphene.

8. Xylene (total): This entry includes o-xylene (CAS RN 96-47-6), m-xylene (CAS RN 108-38-3), p-xylene (CAS RN 106-42-3), and unspecified xylenes (dimethylbenzenes) (CAS RN 1330-20-7).

TABLE 5.5.
Ground Water Monitoring List.

Common Name [1]	*CAS RN [2]*
Inorganic Constituents	
1) Antimony	*(Total)*
2) Arsenic	*(Total)*
3) Barium	*(Total)*
4) Beryllium	*(Total)*
5) Cadmium	*(Total)*
6) Chromium	*(Total)*
7) Cobalt	*(Total)*
8) Copper	*(Total)*
9) Lead	*(Total)*
10) Nickel	*(Total)*
11) Selenium	*(Total)*
12) Silver	*(Total)*
13) Thallium	*(Total)*
14) Vanadium	*(Total)*
15) Zinc	*(Total)*
Organic Constituents	
16) Acetone	*67-64-1*
17) Acrylonitrile	*107-13-1*
18) Benzene	*71-43-2*
19) Bromochloromethane	*74-97-5*
20) Bromodichloromethane	*75-27-4*
21) Bromoform; Tribromomethane	*75-25-2*
22) Carbon disulfide	*75-15-0*
23) Carbon tetrachloride	*56-23-5*
24) Chlorobenzene	*108-90-7*
25) Chloroethane; Ethyl chloride	*75-00-3*
26) Chloroform; Trichloromethane	*67-66-3*
27) Dibromochloromethane; Chlorodibromomethane	*124-48-1*
28) 1,2-Dibromo-3-chloropropane;DBCP	*96-12-8*
29) 1,2-Dibromoethane; Ethylene dibromide; EDB	*106-93-4*
30) o-Dichlorobenzene; 1,2-Dichlorobenzene	*95-50-1*
31) p-Dichlorobenzene; 1,4-Dichlorobenzene	*106-46-7*
32) trans-1,4-Dichloro-2-butene.	*110-57-6*
33) 1,1-Dichloroethane; Ethylidene chloride	*75-34-3*
34) 1,2-Dichloroethane; Ethylene dichloride	*107-06-2*
35) 1,1-Dichloroethylene; 1,1-Dichloroethene; Vinylidene chloride	*75-35-4*
36) cis-1,2-Dichloroethylene; cis-1,2-Dichloroethene	*156-59-2*
37) trans-1,2-Dichloroethylene; trans-1,2-Dichloroethene	*156-60-5*
38) 1,2-Dichloropropane; Propylene dichloride	*78-87-5*
39) cis-1,3-Dichloropropene	*10061-01-5*
40) trans-1,3-Dichloropropene	*10061-02-6*

41) Ethylbenzene	*100-41-4*
42) 2-Hexanone; Methyl butyl ketone	*591-78-6*
43) Methyl bromide; Bromomethane	*74-83-9*
44) Methyl chloride; Chloromethane	*74-87-3*
45) Methylene bromide; Dibromomethane	*74-95-3*
46) Methylene chloride; Dichloromethane	*75-09-2*
47) Methyl ethyl ketone; MEK; 2-Butanone	*78-93-3*
48) Methyl iodide; Iodomethane	*74-88-4*
49) 4-Methyl-2 pentanone; Methyl isobutyl ketone	*108-10-1*
50) Styrene	*100-42-5*
51) 1,1,1,2-Tetrachloroethane	*630-20-6*
52) 1,1,2,2-Tetrachloroethane	*79-34-5*
53) Tetrachloroethylene; Tetrachloroethene; Perchloroethylene	*127-18-4*
54) Toluene	*108-88-3*
55) 1,1,1-Trichloroethane; Methylchloroform	*71-55-6*
56) 1,1,2-Trichloroethane	*79-00-5*
57) Trichloroethylene; Trichloroethene	*79-01-6*
58) Trichlorofluoromethane; CFC-11	*75-69-4*
59) 1,2,3-Trichloropropane	*96-18-4*
60) Vinyl acetate	*108-05-4*
61) Vinyl chloride	*75-01-4*
62) Xylenes	*Note [3]*

NOTES:

1. Common names are those widely used in government regulations, scientific publications, and commerce; synonyms exist for many chemicals.

2. Chemical Abstracts Service registry number. Where "Total" is entered, all species in the ground water that contain this element are included.

3. Xylene (total): This entry includes o-xylene (CAS RN 96-47-6), m-xylene (CAS RN 108-38-3), p-xylene (CAS RN 106-42-3), and unspecified xylenes (dimethylbenzenes) (CAS RN 1330-20-7).

This list contains 47 volatile organics for which possible analytical procedures provided in EPA Report SW-846 "Test Methods for Evaluating Solid Waste," third edition, November 1986, as revised December 1987, include Method 8260; and 15 metals for which SW-846 provides either Method 6010 or a method from the 7000 series of methods.

E. Recordkeeping and reporting.

1. Recordkeeping requirements. Records pertaining to ground water monitoring activities on site shall be retained at a specified location by the owner/operator throughout the active life and post-closure care period of the facility, and shall include at a minimum:

a. All historical ground water surface elevation data measurements;

b. All historical laboratory analytical results for ground water sampling events required under the Detection, Assessment, Phase I, Phase II, Phase III, or modified programs as described in this section;

c. All records of well installation, repair, or abandonment actions;

d. All department correspondence to the facility; and

e. All approved variances, well subsets, wetlands or other such department approvals.

2. Reporting requirements.

a. During the first year when initial background concentrations are being established for the facility: concentrations or values of the parameters for each ground water monitoring well within 15 days after completing each analysis. During background determination under the Phase I monitoring program and during the first determination period of the Phase II monitoring program, the owner/operator shall submit to the department the ground water analytical results from each background event within 15 days of receipt from the laboratory.

b. Annual report requirements.

(1) An Annual Ground water Monitoring Report shall be submitted by the owner/operator and shall, at a minimum, contain the technical items listed below:

(a) Landfill name, location (keyed to a USGS topographic map) and permit number;

(b) Summary of site history;

(c) Physical setting description;

(d) Description of uppermost aquifer and well network;

(e) History of ground water monitoring activity on site;

(f) Review of past variances or other department approvals;

(g) Statement noting that the monitoring well network meets the requirements of 9 VAC 20-80-300 A 3;

(e) Listing of the ground water sampling events undertaken during the previous calendar year; and

(f) Evaluations of and appropriate responses to the:

(i) Ground water elevation data (illustrated on a potentiometric surface map);

(ii) Ground water flow rate;

(iii) Ground water flow direction; and

(iv) Ground water analytical data.

(2) The Annual Report shall be submitted to the director no later than March 1 of each calendar year and shall by accompanied by a signature page and a completed form ARSC-01.

c. During the first year when initial background concentrations are being established for the facility, concentrations or values of the parameters for each ground water monitoring well within 15 days after completing each analysis. During background determination under the Phase I monitoring program and during the first determination period of the Phase II monitoring program, the owner/operator shall submit to

the department the ground water analytical results from each background event within 15 days of receipt from the laboratory.

d. Submission of a First Determination Report, Alternate Source Demonstration, Nature and Extent Study, Assessment of Corrective Measures, Corrective Action Plan, or other such report type as may be required under this section, shall meet the timeframe requirements listed previously in this section.

9 VAC 20-80-310. Corrective action program.

A corrective action program is required whenever the ground water protection standard is exceeded. An owner or operator of a facility may elect to initiate the corrective action program at any time; however, prior to such initiation, he shall determine appropriate ground water protection standards for all ~~Appendix~~ *Table* 5.1 constituents.

A. Assessment of corrective measures /proposal for presumptive remedy.

1. Within 90 days of finding that any of the constituents listed in ~~Appendix~~ *Table* 5.1 have been detected at a statistically significant level exceeding the ground water protection standards, the owner or operator shall initiate an assessment of corrective measures or a proposal for presumptive remedies. The assessment of corrective measures, or the proposal for presumptive remedies shall be completed within 180 days from the date the constituents have been detected. The 180-day period may be extended by the director for good cause.

2. A corrective action monitoring program shall comply with the ground water monitoring requirements of ~~9 VAC 20-80-250 D 6, 9 VAC 20-80-260 D 5, or 9 VAC 20-80-270 D 5~~ *9 VAC 20-80-300*, as applicable. Additional monitoring shall be implemented as necessary to:

a. Determine areal extent of any plume of contamination for each constituent under the ground water protection standard that has been measured at concentrations that exceed background levels; and

b. Demonstrate the effectiveness of the corrective action program.

3. Assessment of corrective measures.

a. The assessment shall include an analysis of the effectiveness of potential corrective measures in meeting all of the requirements and objectives of the remedy as described under this subsection, addressing at least the following:

(1) The performance, reliability, ease of implementation, and potential impacts of appropriate potential remedies, including safety impacts, cross-media impacts, and control of exposure to any residual contamination;

(2) The time required to begin and complete the remedy;

(3) The costs of remedy implementation; and

(4) The institutional requirements such as state or local permit requirements or other environmental or public health requirements that may substantially affect implementation of the remedies.

4. Presumptive remedies.

a. To expedite corrective action, in lieu of an analysis meeting the requirements of subdivision 3 of this subsection, the owner or operator may choose to propose containment of contamination as a presumptive remedy for a disposal unit. Any such proposal shall be accompanied by:

(1) An assessment of risks resulting from the contamination at the solid waste boundary and at the facility boundary; and
(2) Procedures for evaluating the impact of the selected remedy. The remedy will be evaluated every three years following its implementation.

~~(2)~~ *(3)* A schedule for initiating and completing remedial activities.

b. The presumptive remedy for solid waste landfills shall be limited to one or more of the following:

(1) Containment of the landfill mass, including an impermeable cap;

(2) Control of the landfill leachate;

(3) Control of the migration of contaminated ground water;

(4) Collection and treatment of landfill gas; and

(5) Reduction of saturation of the landfill mass.

c. Containment may be selected as a sole or partial remedy until a determination is made under subdivision C 2 of this section that another remedy shall be employed to meet the requirements of this section. An assessment of corrective measures meeting the requirements of subdivision 3 of this subsection shall then be initiated within 90 days of such a determination.

d. The selection of a presumptive remedy may not be made as a sole remedy for facilities exhibiting contamination beyond facility boundaries unless approved by the director. *To consider such a request, the proposed presumptive remedy must address the reduction of contamination beyond the facility boundary.*

e. Upon receiving an approval from the director of the proposed presumptive remedy, the owner or operator may proceed with the implementation of the remedy in accordance with subsection C of this section.

5. The owner or operator shall discuss the results of the corrective measures assessment or the proposal for presumptive remedy, prior to the selection of remedy, in a public meeting.

a. The owner or operator shall publish a notice once a week for two consecutive weeks in a major local newspaper of general circulation informing the public that he intends to discuss the results of the corrective

measures assessment or proposal for presumptive remedy as applicable. The notice shall include:

(1) The name of the facility and location of the facility;

(2) A statement indicating that as a result of exceeding a ground water protection standard a corrective measures assessment or presumptive remedy is proposed;

(3) A statement that the purpose of the public participation is to acquaint the public with the technical aspects of the proposal and how the standards and the requirements of these regulations will be met, to identify issues of concern, to facilitate communication and to establish a dialogue between the permittee and persons who may be affected by the facility;

(4) Announcement of a 30-day comment period, in accordance with subdivision 5 d of this subsection, and the name, telephone, and address of the owner's or operator's representative who can be contacted by the interested persons to answer questions or where comments shall be sent;

(5) Announcement of the date, time, and place for a public meeting held in accordance with subdivision 5 c of this subsection; and

(6) Location where copies of the documentation to be submitted to the department in support of the ~~permit-by-rule notification~~ *corrective measures assessment or proposal of presumptive remedy* and any supporting documents can be viewed and copied.

b. The owner or operator shall place a copy of the documentation and support documents in a location accessible to the public in the vicinity of the proposed facility.

c. The owner or operator shall hold a public meeting not earlier than 15 days after the publication of the notice required in subdivision 5 a of this subsection and no later than seven days before the close of the 30-day comment period. The meeting shall be held to the extent practicable in the vicinity of the proposed facility.

d. The public shall be provided 30 days to comment on the technical and the regulatory aspects of the proposal. The comment period will begin on the date the owner or operator publishes the notice in the local newspaper.

B. Selection of remedy.

1. Based on the results of the corrective measures assessment~~, or the proposal of presumptive remedy~~ conducted under subsection A of this section, the owner or operator shall select a remedy that, at a minimum, meets the standards listed in subdivision 2 of this subsection. The owner or operator shall prepare a written corrective action plan containing the proposed selected remedy.

2. The selected remedies to be included in the corrective action plan shall:

a. Be protective of human health and the environment;

b. Attain the ground water protection standard as specified pursuant to ~~9 VAC 20-80-250 D, 9 VAC 20-80-260 D, or 9 VAC 20-80-270 D~~ *9 VAC 20-80-300*;

c. Control the sources of releases so as to reduce or eliminate, to the maximum extent practicable, further releases of solid waste constituents into the environment that may pose a threat to human health or the environment; and

d. Comply with standards for management of wastes as specified in subdivision C 4 of this section.

3. In preparing a proposed corrective action plan, the owner or operator will consider the following evaluation factors:

a. The long-term and short-term effectiveness and protectiveness of the potential remedies, along with the degree of certainty that the remedy will prove successful based on consideration of the following:

(1) Magnitude of reduction of existing risks;

(2) Magnitude of residual risks in terms of likelihood of further releases due to waste remaining following implementation of a remedy;

(3) The type and degree of long-term management required, including monitoring, operation, and maintenance;

(4) Short-term risks that might be posed to the community, workers, or the environment during implementation of such a remedy, including potential threats to human health and the environment associated with excavation, transportation, and redisposal or containment;

(5) Time until full protection is achieved;

(6) Potential for exposure of humans and environmental receptors to remaining wastes, considering the potential threat to human health and the environment associated with excavation, transportation, redisposal, or containment;

(7) Long-term reliability of the engineering and institutional controls; and

(8) Potential need for replacement of the remedy.

b. The effectiveness of the remedy in controlling the source to reduce further releases based on consideration of the following factors:

(1) The extent to which containment practices will reduce further releases; *and*

(2) The extent to which treatment technologies may be used.

c. The ease or difficulty of implementing a potential remedy based on consideration of the following types of factors:

(1) Degree of difficulty associated with constructing the technology;

(2) Expected operational reliability of the technologies;

(3) Need to coordinate with and obtain necessary approvals and permits from other agencies;

(4) Availability of necessary equipment and specialists; and

(5) Available capacity and location of needed treatment, storage, and disposal services.

d. Practicable capability of the owner or operator, including a consideration of the technical and economic capability.

e. The degree to which community concerns raised as the result of the public meeting required by subdivision A 4 of this section are addressed by a potential remedy.

4. The owner or operator shall specify as part of the selected remedy a schedule for initiating and completing remedial activities. Such a schedule shall require the initiation of remedial activities within a reasonable period of time taking into consideration the factors set forth in this section. The owner or operator shall consider the following factors in determining the schedule of remedial activities:

a. Extent and nature of contamination;

b. Practical capabilities of remedial technologies in achieving compliance with ground water protection standards established under ~~9 VAC 20-80-250 D, 9 VAC 20-80-260 D, or 9 VAC 20-80-270 D~~ *9 VAC 20-80-300* and other objectives of the remedy;

c. Availability of treatment or disposal capacity for wastes managed during implementation of the remedy;

d. Desirability of utilizing technologies that are not currently available, but which may offer significant advantages over already available technologies in terms of effectiveness, reliability, safety, or ability to achieve remedial objectives;

e. Potential risks to human health and the environment from exposure to contamination prior to completion of the remedy;

f. Resource value of the aquifer including:

(1) Current and future uses;

(2) Proximity and withdrawal rates of users;

(3) Ground water quantity and quality;

(4) The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to the waste constituents;

(5) The hydrological characteristics of the facility and surrounding land;

(6) Ground water removal and treatment costs; and

(7) The cost and availability of alternate water supplies;

g. Practical capability of the owner or operator.

h. Other relevant factors.

5. The proposed corrective action plan shall be submitted to the director for approval. Prior to rendering his approval, the director may:

a. Request a technical modification of the program;

b. Request a change in the time schedule; or

c. Determine that the remediation of the release of an ~~Appendix~~ *Table* 5.1 constituent from the disposal unit is not necessary, if the owner or operator demonstrates to the satisfaction of the director that:

(1) The ground water is additionally contaminated by substances that have originated from a source other than the facility and those substances are present in concentrations such that cleanup of the release from the facility would provide no significant reduction in risk to actual or potential receptors; or

(2) The constituent is present in ground water that is (i) not currently or reasonably expected to be a source of drinking water and (ii) not hydraulically connected with waters to which the constituents are migrating or are likely to migrate in a concentration that would exceed the ground water protection standards established; or

(3) Remediation of the release is technically impracticable; or

(4) Remediation results in unacceptable cross-media impacts.

6. A determination by the director pursuant to subdivisions A 5 e (3) of this section or 5 c of this subsection shall not affect the authority of the state to require the owner or operator to undertake source control measures or other measures that may be necessary to eliminate or minimize further releases to the ground water, to prevent exposure to the ground water, or to remediate the ground water to concentrations that are technically practicable and significantly reduce threats to human health or the environment.

7. After an evaluation of the proposed plan, the director will:

a. Approve the proposed corrective action plan as written or modified by the owner or operator; or

b. Disapprove the proposed corrective action plan and undertake appropriate containment or clean up actions in accordance with § 10.1-1402 (18) of the Virginia Waste Management Act.

C. Implementation of the ~~corrective action plan~~ *remedy*.

1. Based on the schedule established under subdivision A 5 or B 4 of this section for initiation and completion of remedial activities, the owner or operator shall:

a. Establish and implement a corrective action ground water monitoring program that:

(1) At a minimum, meets the requirements of a ground water monitoring program under ~~9 VAC 20-80-250 D 6, 9 VAC 20-80-260 D 5, or 9 VAC 20-80-270 D 5~~ *9 VAC 20-80-300*;

(2) Indicates the effectiveness of the corrective action remedy; and

(3) Demonstrates compliance with the ground water protection standard pursuant to subdivision 5 of this subsection.

b. Implement the corrective action remedy selected under subdivision A 5 or subsection B of this section; and

c. Take any interim measures necessary to ensure the protection of human health and the environment. Interim measures should, to the greatest extent practicable, be consistent with the objectives of and contribute to the performance of any remedy that may be required pursuant to subsection B of this section. The following factors shall be considered by an owner or operator in determining whether interim measures are necessary:

(1) Time required to develop and implement a final remedy;

(2) Actual or potential exposure of nearby populations or environmental receptors to hazardous constituents;

(3) Actual or potential contamination of drinking water supplies or sensitive ecosystems;

(4) Further degradation of the ground water that may occur if remedial action is not initiated expeditiously;

(5) Weather conditions that may cause the constituents to migrate or be released;

(6) Risks of fire or explosion, or potential for exposure to constituents as a result of an accident or failure of a container or handling system; and

(7) Other situations that may pose threats to human health and the environment.

2. An owner or operator or the director may determine, based on information developed after implementation of the remedy has begun or other information, that compliance with requirements of subdivision B 2 of this section are not being achieved through the remedy selected. In such cases, the owner or operator shall implement other methods or techniques that could practicably achieve compliance with the requirements, unless the owner or operator makes the determination under subdivision 3 of this subsection.

3. If the owner or operator determines that compliance with requirements under subdivision 2 of this subsection cannot be practically achieved with any currently available methods, the owner or operator shall:

a. Based on a certification of a qualified ground water scientist, obtain an approval of the director that compliance with requirements under subdivision 2 of this subsection cannot be practically achieved with any currently available methods;

b. Implement alternate measures to control exposure of humans or the environment to residual contamination, as necessary to protect human health and the environment; and

c. Implement alternate measures for control of the sources of contamination, or for removal or decontamination of equipment, units, devices, or structures that are:

(1) Technically practicable; and

(2) Consistent with the overall objective of the remedy.

d. Submit a report to the director justifying the alternate measures at least 14 days prior to implementing the alternate measures.

4. All solid wastes that are managed pursuant to a remedy required under subdivision A 5 or subsection B of this section, or an interim measure required under subdivision 1 c of this subsection, shall be managed in a manner:

a. That is protective of human health and the environment; and

b. That complies with all applicable federal and Virginia requirements.

5. Remedies selected pursuant to subdivision A 5 or subsection B of this section shall be considered complete when:

a. The owner or operator complies with the ground water protection standards at all points within the plume of contamination that lie beyond the ground water monitoring well system.

b. Compliance with the ground water protection standards has been achieved by demonstrating that concentrations of ~~Appendix~~ *Table* 5.1 constituents have not exceeded the ground water protection standards for a period of three consecutive years using the appropriate statistical procedures and performance standards.

c. All actions required to complete the remedy have been satisfied.

6. Upon completion of the remedy, the owner or operator shall notify the director within 14 days by submitting a certification that the remedy has been completed in compliance with the requirements of subdivision 5 of this subsection. The certification shall be signed by the owner or operator and by a qualified ground water scientist.

7. When, upon completion of the certification, the director determines that the corrective action remedy has been completed in accordance with the requirements under subdivision 5 of this subsection, he will release the owner or operator from the requirements for financial assurance for corrective action under 9 VAC 20-70~~-10 et seq~~.

APPENDIX 5.1. *(Repealed.)*
~~LIST OF HAZARDOUS CONSTITUENTS~~

~~Common Name[1]~~	~~CAS RN[2]~~	~~Chemical Abstracts Service Index Name[3]~~
~~Acenaphthene~~	~~83-32-9~~	~~Acenaphthylene, 1,2-dihydro~~
~~Acenaphthytene~~	~~208-96-8~~	~~Acenaphthylene~~
~~Acetone~~	~~67-64-1~~	~~2-Propenone~~
~~Acetonitrile; Methyl cyanide~~	~~75-05-8~~	~~Acetonitrile~~
~~Acetophenone~~	~~98-86-2~~	~~Ethanone, 1-phenyl-~~
~~2-Acetylaminofluorene; 2-AA~~	~~53-96-3~~	~~Acetamide, N-9H-flu~~

F		oren-2-yl
Acrolein	107-02-8	2-Propenal
Acrylonitrile	107-13-1	2-Propenenitrile
Aldrin	309-00-2	1,4:5,8- Dimethanonaphthalene, 1,2,3,4,10,10-hexachloro-1,4,4a,5,8,aa-hexahydro-(1α,4α, 4αβ, 5α, 8α,8αβ)-
Allyl chloride	107-05-1	1-Propene, 3-chloro
4-Aminobiphenyl	92-67-1	[1,11-Biphenyl-4-amine
Anthracene	120-12-7	Anthracene
Antimony	(Total)	Antimony
Arsenic	(Total)	Arsenic
Barium	(Total)	Barium
Benzene	71-43-2	Benzene
Benzo[a]anthracene;	56-55-3	Benz[a]anthracene Benzanthracene
Benzo[b]fluoranthene	205-99-2	Benz[e]acephanthrylene
Benzo[k]fluoranthene	207-08-9	Benzo[k]fluorenthene
Benzo[ghi]perylene	191-24-2	Benzo[ghi]perylene
Benzo[a]pyrene	50-32-8	Benzo[a]pyrene
Benzyl alcohol	100-51-6	Benzenemethanol
Beryllium	(Total)	Beryllium
alpha-BHC	319-84-6	Cyclohexane, 1,2,3,4,5,6- hexachloro-, (1α,2α,3β,4α,5β,6β,)-
beta-BHC	319-85-7	Cyclohexane, 1,2,3,4,5,6- hexachloro-, (1α,2β,3α,4β,5α,6β,)-
delta-BHC	319-86-8	Cyclohexane, 1,2,3,4,5,6- hexachloro-, (1α,2α,3α,4β,5α,6β,)-
gamma-BHC; Lindane	58-89-9	Cyclohexane, 1,2,3,4,5,6- hexachloro-, (1α,2α,3β,4α,5α,6β,)-
Bis(2-chloroethoxy)methane	111-91-1	Ethane,1,1'-[methylenebis(oxy)]bis[2-chloro-
Bis(2-chloroethyl) ether; Dichloroethyl ether	111-44-4	Ethane, 1,1'-oxybis[2-chloro-
Bis(2-chloro-1-methylethyl) ether;	108-60-1	Propane, 2,2'-oxybis(1-chloro-
2, 2'-Dichlorodiisopropyl ether; DCIP	See note[4]	
Bis(2-ethylhexyl)phthalate	117-81-7	1,2-Benzenedicarboxylic acid, bis(2-ethylhexyl) ester
Bromochloromethane;.Chlorobromomethane	74-97-5	Methane, bromochloro
Bromodichloromethane;.Dibromochloromethane	75-27-4	Methane, bromodichloro
Bromoform; Tribromomethane	75-25-2	Methane, tribromo
4-Bromophenyl phenyl ether	101-55-3	Benzene, 1-bromo-4-phenoxy
Butyl benzyl phthalate; Benzyl	85-68-7	1,2-Benzenedicarboxylic acid, butyl phenylmethyl ester
Cadium	(Total)	Cadium
Carbon disulfide	75-15-0	Carbon disulfide
Carbon tetrachloride	56-23-5	Methane, tetrachloro
Chlordane	Note[5]	4,7-Methano-1H-indene, 1,2,4,5,6,7,8,8-
p-Chloroaniline	106-47-8	Benzenamine, 4-chloro
Chlorobenzene	108-90-7	Benzene, chloro
Chlorobenzilate	510-15-6	Benzeneacetic acid, 4-chloro-α-(4-chlorophenyl)- α-hydroxy-, ethyl ester
p-Chloro-m-cresol; 4-Chloro-3-methylphenol	59-50-7	Phenol, 4-chloro- 3-methyl-
Chloroethane; Ethyl chloride	75-00-3	Ethane, chloro-
Chloroform; Trichloromethane	67-66-3	Methane, trichloro-
2-Chloronaphthalene	91-58-7	Naphthalene, 2-chloro
2-Chlorophenol	95-57-8	Phenol, 2-chloro
4-Chlorophenyl phenyl ether	7005-72-3	Benzene, 1-chloro-4-phenoxy
Chloroprene	126-99-8	1,3-Butadiene, 2-chloro
Chromium	(Total)	Chromium
Chrysene	218-01-9	Chrysene
Colbalt	(Total)	Colbalt
Copper	(Total)	Copper
m-Cresol; 3-methyphenol	108-39-4	Phenol, 3-methyl
o-Cresol; 2-methyphenol	95-48-7	Phenol, 2-methyl
p-Cresol; 4-methyphenol	106-44-5	Phenol, 4-methyl
Cyanide	57-12-5	Cyanide
2,4-D; 2,4-Dichlorophenoxyacetic acid	94-75-7	Acetic acid, (2,4-dichlorophenoxy)-
4,4'- DDD	72-54-8	Benzene, 1,1'-(2,2- dichloroethylidene)bis[4-chloro-
4,4'-DDE	72-55-9	Benzene, 1,1'-(dichloroethylidene)bis[4-chloro-
4,41-DDT	50-29-3	Benzene, 1'1-(2,2,2-trichloroethylidene)bis[4-chloro
Dibenz[a,h]anthracene	53-70-3	Dibenz[a,h]anthracene
Dibenzofuran	132-64-9	Dibenzofuran
Dibromochloromethane; Chlorodibromomethane	124-48-1	Methane, dibromochloro
1,2-Dibromo-3-chloropropane; DBCP	96-12-8	Propane, 1,2-dibromo-3-chloro
1,2-Dibrimoethane; Ethylene EDB	106-93-4	Ethane, 2,3-dibromo dibromide;
Di-n-butyl phthalate	84-74-2	1,2-Benzenedicarboxylic acid, dibutyl ester
o-Dichlorobenzene; 1,2-Dichlorobenzene	95-50-1	Benzene, 1,2-dichloro-
m-Dichlorobenzene; 1,3-Dichlorobenzene	541-73-1	Benzene, 1,3-dichloro-
p-Dichlorobenzene; 1,4-Dichlorobenzene	106-46-7	Benzene, 1,4-dichloro
3,3'-Dichlorobenzidine	91-94-2	1,1'-Biphenyl-4,4'diamine, 3,3'-dichloro
trans-1,4-Dichloro-2-butene	110-57-6	2-Butene, 1,4-dichloro-,(E)-
Dichlorodifluoromethane; CFC 12;	75-71-8	Methane, dichlorodifluoro
1.1-Dichloroethane; Ethylidene chloride	75-34-3	Ethane,1,1-dichloro
1,2-Dichloroethane; Ethylene dichloride	107-06-2	Ethane, 1,2-dichloro

1,1-Dichloroethylene; 1,1-Dichloroethene; Vinylidene chloride	75-35-4	Ethane, 1,1-dichloro-
cis-1,2-Dichloroethylene; cis-1,2-Dichloroethene	156-59-2	Ethene, 1,2-dichloro-, (Z)
trans-1,2-Dichloroethylene trans-1,2-Dichroroethene	156-60-5	Ethene, 1,2-dichloro-,(E)
2,4-Dichlorophenol	120-83-2	Phenol, 2,4-dichloro
2,6-Dichlorophenol	87-65-0	Phenol, 2,6-dichloro
1,2-Dichloropropane; Propylene dichloride	78-87-5	Propane, 1,2-dichloro
1,3-Dichloropropane; Trimethylene dichloride	142-28-9	Propane, 1,3-dichloro
2, 2-Dichloropropane; isopropylidene chloride	594-20-7	Propane, 2,2-dichloro
1,1-Dichloropropene	563-58-6	1-Propene, 1,1-dichloro
cis-1,3-Dichloropropene	10061-01-5	1-Propene, 1,3-dichloro-,(Z)
trans-1,3-Dichloropropene	10061-02-6	1-Propene, 1,3-dichloro-,(E)
Dieldrin	60-57-1	2,7:3,6-Dimethanonaphth[2,3-bioxirene, 3,4,5,6,9,9-hexachloro-1a,2,2a,3,6,6a,7,7a-octahydro-(1aα,2β,2aα,3β,6β,6aα,7β,7aα)-
Diethyl phthalate	84-66-2	1,2-Benzenedicarboxylic acid, diethyl ester
O,O-Diethyl O-2-pyrazinyl phosphorothioate; Thionazin	297-97-2	Phosphorothioic acid, O,O-diethyl -pyrazinyl ester
Dimethoate	60-51-5	Phosphorodithioic acid, O,O-dimethyl S-[2-(methylamino)-2- oxoethyl] ester
p-(Dimethylamino)azobenzene	60-11-7	Benzenamine, N,N-dimethyl-4-(phenylazo)-
7,12-Dimethylbenz[a]anthracene	57-97-6	Benz[a]anthracene, 7,12-dimethyl
3,3' Dimethylbenzidine	119-93-7	[1,1' Biphenyl]-4,4'-diamine, 3,3'-dimethyl
2,4-Dimethylphenol; m-Xylenol	105-67-9	Phenol, 2,4-dimethyl
Dimethyl phthalate	131-11-3	1,2-Benzenedicarboxylic acid, dimethyl ester
m-Dinitrobenzene	99-65-0	Benzene, 1,3-dinitro
4,6-Dinitro-o-cresol 4,6-Dinitro-2-methylphenol	534-52-1	Phenol, 2-methyl-4,6-dinitro-
2,4 Dinitrophenol	51-28-5	Phenol, 2,4-dinitro
2,4-Dinitrotoluene	121-14-2	Benzene, 1-methyl-2,4-dinitro
2,6-Dinitrotoluene	606-20-2	Benzene, 2-methyl-1,3-dinitro
Dinoseb; DNBP; 2-sec-Butyl-4,6-dinitrophenol	86-85-7	Phenol, 2-(1-methylpropyl)-4,6-dinitro
Di-n-octyl phthalate	117-84-0	1,2-Benzenedicarboxylic acid, dioctyl ester
Diphenylamine	122-39-4	Benzenamine, M-phenyl
Disulfoton	298-04-4	Phosphorodithioic acid, O,O-diethyl S-[2-(ethylthio)ethyl] ester
Endosulfan I	959-96-8	6,9-Methano-2,4,3-benzodioxa- thiepin, 6,7,8,9,10,10-hexachloro-1,5,5a,6,9,9a-hexahydr- o , 3-oxide
Endosulfan II	33213-65-9	6,9-Methano-2,4,3-benzodioxathiepin, 6,7,8,9,10,10-hexachloro-1,5,5s,6,9,9a-hexahydro-, 3-oxide, (3a,5aα,6β,9β, 9aα)-
Endosulfan sulfate	1031-07-8	6,9-Methano-2,4,3-banzodioxathiepin, 6,7,8,9,10,10-hexachloro-1,5,5a,6,9,9a-hexahydro-,3,3-dioxide
Endrin	72-20-8	2,7:3,6-Dimethanonaphth[2,3-b]oxirene, 3,4,5,6,9,9-hexachloro-1a,2,2*,3,6,6a,7,7a- octahydro-, (1aα, 2β,2aβ,3a,6α,6aβ,7β, 7aα)-
Endrin aldehyde	7421-93-4	1,2,4-Methenocyclopentacdpentalene-5-carboxaldehyde,2,2a,3,3,4,7-hexachlorodecahydro-,(1α,2β,2aβ,4β,4aβ,5β,6aβ,6bβ, 7R*)-
Ethylbenzene	100-41-4	Benzene,ethyl
Ethyl methacrylate	97-63-2	2-Propenoic acid, 2-methyl-, ethyl ester
Ethylmethanesulfonate	62-50-0	Methanesulfonic acid, ethyl ester
Famphur	52-85-7	Phosphorothioic acid, O-[4-[(dimethylamino)sulfonyl] phenyl] O,O-dimethyl ester
Fluoranthene	206-44-0	Fluoranthene
Fluorene	86-73-7	9H-Fluorene
Heptachlor	76-44-8	4,7-Methano-1H-indene,1,4,5,6,7,8,8-heptachlor-3a,4,7,7a-tetrahydro
Heptachlor epoxide	1024-57-3	2,5-Methano-2H-indeno[1,2-b]oxirene,2,3,4,5,6,7,7-heptachloro-1a,1b,5,5a,6,6a-hexa-hydro-, (1aα,1bβ,2α,5α,5aβ, 6,6aα)
Hexachlorobenzene	118-74-1	Benzene, hexachloro
Hexachlorobutadiene	87-68-3	1,3-Butadiene, 1,1,2,3,4,4-hexachloro
Hexachlorocyclopentadiene	77-47-4	1,3-Cyclopentadiene, 1,2,3,4,5,5-hexachloro
Hexachloroethane	67-72-1	Ethane, hexachloro

Hexachloropropene	1888-71-7	1-Propene,1,1,2,3,3,3- hexachloro-
2-Hexanone; Methyl butyl ketone	591-78-6	2-Hexanone
Indeno[1,2,3-cd]pyrene	193-39-5	Indeno[1,2,3-cd]pyrene
Isobutyl alcohol	78-83-1	1-Propanol, 2-methyl
Isodrin	465-73-6	1,4,5,8-Dimethanonaphthalene 1,2,3,4,10,10 hexachloro-1,4,4a,5,8,8a hexahydro (1α,4α,4aβ,5β,8β,8aβ)-
Isophorone	78-59-1	2-Cyclohexen-1-one, 3,5,5-trimethyl
Isosafrole	120-58-1	1,3- Benzodioxole, 5-(1-propenyl)
Kepone	143-50-0	1,3,4-Metheno-2H-cyclobuta[cd]pentalen-2-one 1,1a,3,3a, 4,5,5,5a,5b,6-decachlorooctahydro-
Lead	(Total)	Lead
Mercury	(Total)	Mercury
Methacrylonitrile	126-98-7	2-Propenenitrile, 2-methyl
Methapyrilene	91-80-5	1,2- Ethanedimine, N,N-dimethyl-N'-2-pyridinyl-N'2-thianylmethyl
Methoxychlor	72-43-5	Benzene, 1,1'(2,2,2,trichloroethylidene)bis[4-methoxy-
Methyl bromide; Bromomethane	74-83-9	Methane, bromo-
Methyl chloride; Chloromethane	74-87-3	Methane, chloro-
3-Methylcholanthrene	56-49-5	1,2-dihydro-3-methyl-
Methyl ethyl ketone; MEK; 2-Butanone	78-93-3	2-Butanone
Methyl iodide; Iodomethane	74-88-4	Methane, iodo-
Methyl methacrylate	80-62-6	2-Propenoic acid, 2-methyl-, methyl ester
Methyl methanesulfonate	66-27-3	Methanesulfonic acid, methyl ester
2-Methylnaphthalene	91-57-6	Naphthalene, 2-methyl
Methyl parathion; Parathion methyl methyl	298-00-0	Phosphorothioic acid, O,O-dimethyl O-(4-nitrophenyl) ester
4-Methyl-2-pentanone; Methyl isobutyl ketone	108-10-1	2-Pentanone, 4-methyl-
Methylene bromide; Dibromomethane	74-95-3	Methane, dibromo-
Methylene chloride; Dichloromethane	75-09-2	Methane, dichloro
Naphthalene	91-20-3	Naphthalene
1,4-Naphthoquinone	130-15-4	1,4-Naphthalenedione
1- Naphthylamine	134-32-7	1-Naphthalenamine
2-Napthylamine	91-59-8	2-Naphthalenamine
Nickel	(Total)	Nickel
o-Nitroaniline; 2-Nitroaniline	88-74-4	Benzenamine, 2-nitro-
m-Nitroaniline; 3-Nitroaniline	99-09-2	Benzenamine, 3-nitro-
p-Nitroaniline; 4-Nitroaniline	100-01-6	Benzenamine, 4-nitro-
Nitrobenzene	98-95-3	Benzene, nitro-
o-Nitrophenol; 2-Nitrophenol	88-75-5	Phenol, 2-nitro-
p-Nitrophenol; 4-Nitrophenol	100-02-7	Phenol, 4-nitro-
N-Nitrosodi-n-butylamine	924-16-3	1-Butenamine, N-butyl-N-nitroso
N-Nitrosodiethylamine	55-18-5	Ethanamine, N-ethyl-N-nitroso
N-Nitrosodimethylamine	62-75-9	Methanamine, N-methyl-N-nitroso
N-Nitrosodiphenylamine	86-30-6	Benzenamine, N-nitroso-N-phenyl
N-Nitrosodipropylamine; N-Nitroso-N-dipropylamine; Di-n-propylnitrosamine	621-64-7	1-Propanamine, N-nitroso-N-propyl
N-Nitrosamethylethylamine	10595-95-6	Ethanamine, N-methyl-N-nitroso
N-Nitrosopiperidine	100-75-4	Piperidine,1-nitroso
N-Nitrosopyrrolidine	930-55-2	Pyrrolidine, 1-nitroso
5-Nitro-o-toluidine	99-55-8	Benzenamine, 2-methyl-5-nitro
Parathion	56-38-2	Phosphorothioic acid, O,O-diethyl O-(4-nitrophenyl) ester
Pentachlorobenzene	608-93-5	Benzene, pentachloro
Pentachloronitrobenzene	82-68-8	Benzene, pentachloronitro-
Pentachlorophenol	87-86-5	Phenol, pentachloro
Phenacetin	62-44-2	Acetamide, N-4(ethoxyphenyl)
Phenanthrene	85-01-8	Phenanthrene
Phenol	108-95-2	Phenol
p-Phenylenediamine	106-50-3	1,4-Benzenediamine
Phorate	298-02-2	Phosphorodithioic acid, O,O-diethyl S-[(ethylthio)methyl] ester
Polychlorinated biphenyls; PCBS; Aroclors	Note[6]	1,1'-Biphenyl, chloro derivatives
Pronamide	23950-58-5	Benzamide, 3,5-dichloro-N-(1,1-dimethyl-2-propynyl)
Propionitrile; Ethyl cyanide	107-12-0	Propanenitrile
Pyrene	129-00-0	Pyrene
Safrole	94-59-7	1,3-Benzodioxole, 5-(2-propenyl)
Selenium	(Total)	Selenium
Silver	(Total)	Silver
Silvex; 2,4,5-TP	93-72-1	Propanoic acid, 2-(2,4,5-trichlorophenoxy)
Styrene	100-42-5	Benzene, ethenyl
Sulfide	18496-25-8	Sulfide
2,4,5-T; 2,4,5-Trichlorophenoxyacetic acid	93-76-5	Acetic acid, (2,4,5-trichlorophenoxy)
1,2,4,5-Tetrachlorobenzene	95-94-3	Benzene, 1,2,4,5-tetrachloro
1,1,1,2-Tetrachloroethane	630-20-6	Ethane,

1,1,1,2-tetrachloro Ethane,	79-34-5	1,1,2,2-Tetrachloroethane
1,1,2,2-tetrachloro Ethene, tetrachloro	127-18-4	Tetrachloroethylene; Tetrachloroethene; Perchloroethylene
Phenol, 2,3,4,6-tetra chloro	58-90-2	2,3,4,6-Tetrachlorophenol
Thallium	(Total)	Thallium
Tin	(Total)	Tin
Benzene, methyl-	108-88-3	Toluene
Benzenamine, 2-methyl	95-53-4	o-Toluidine
Toxaphene	Note[7]	Toxaphene
Benzene, 1,2,4-trichl oro	120-82-1	1,2,4-Trichlorobenzene
Ethane, 1,1,1-trichlor o-	71-55-6	1,1,1-Trichloroethane; Methychloroform
Ethane, 1,1,2-trichlor o-	79-00-5	1,1,2-Trichloroethane
Ethane, trichloro	79-01-6	Trichloroethylene; Trichloroethene ethene
Methane, trichlorofluoro	75-69-4	Trichlorofluoromethane; CFC-11
Phenol, 2,4,5-trichloro	95-95-4	2,4,5-Trichlorophenol
Phenol, 2,4,6-trichloro	88-06-2	2,4,6-Trichlorophenol
Propane, 1,2,3-trichloro	96-18-4	1,2,3-Trichloropropane
Phosphorothioic acid, O,O,O-triethylester	126-68-1	O,O,O-Triethyl phosphorothioate
Benzene, 1,3,5-trinitro	99-35-4	sym-Trinitrobenzene
Vanadium	(Total)	Vanadium
Acetic acid, ethenyl ester	108-05-4	Vinyl acetate
Ethene, chloro	75-01-4	Vinyl chloride; Chloroethene
Benzene, dimethyl	Note[8]	Xylene(total)
Zinc	(Total)	Zinc

NOTES:

[1]Common names are those widely used in government regulations, scientific publications, and commerce; synonyms exist for many chemicals.

[2]Chemical Abstracts Service Registry Number. Where "Total" is entered, all species in the ground water that contains this element are included.

[3]CAS index names are those used in the 9th Collective Index.

[4]This substance is often called Bis(2-chloroisopropyl) ether, the name Chemical Abstracts Service applies to its noncommercial isomer, Propane, 2.2'-oxybis2-chloro (CAS RN 39638-32-9).

[5]Chlordane: This entry includes alpha-chlordane (CAS RN 5103-71-9), beta-chlordane (CAS RN 5103-74-2), gamma-chlordane (CAS RN 5566-34-7), and constituents of chlordane (CAS RN 57-74-9 and CAS RN 12739-03-6).

[6]Polychlorinated biphenyls (CAS RN 1336-36-3); this category contains congener chemicals, including constituents of Aroclor 1016 (CAS RN 12674-11-2), Aroclor 1221 (CAS RN 11104-28-2), Aroclor 1232 (CAS RN 11141-16-5), Aroclor 1242 (CAS RN 53469-21-9), Aroclor 1248 (CAS RN 12672-29-6), Aroclor 1254 (CAS RN 11097-69-1), and Arclor 1260 (CAS RN 11096-82-5).

[7]Toxaphene: This entry includes congener chemicals contained in technical toxaphene (CAS RN 8001-35-2), i.e., chlorinated camphene.

[8]Xylene (total): This entry includes o-xylene (CAS RN 96-47-6), m-xylene (CAS RN 108-38-3), p-xylene (CAS RN 106-42-3), and unspecified xylenes (dimethylbenzenes) (CAS RN 1330-20-7).

APPENDIX 5.4. *(Repealed.)*
STATISTICAL TESTS METHODS

A. Acceptable test methods. The following statistical test methods may be used to evaluate ground water monitoring data:

1. A parametric analysis of variance (ANOVA) followed by multiple comparisons procedures to identify statistically significant evidence of contamination. The method must include estimation and testing of the contrasts between each compliance well's mean and the background mean levels for each constituent.

2. An analysis of variance (ANOVA) based on ranks followed by multiple comparisons procedures to identify statistically significant evidence of contamination. The method must include estimation and testing of the contrasts between each compliance well's median and the background median levels for each constituent.

3. A tolerance or prediction interval procedure in which an interval for each constituent is established from the distribution of the background data, and the level of each constituent in each compliance well is compared to the upper tolerance or prediction limit.

4. A control chart approach that gives control limits for each constituent.

5. Another statistical test method that meets the performance standards specified below. Based on the justification submitted to the department, the director may approve the use of an alternative test. The justification must demonstrate that the alternative method meets the performance standards shown below.

B. Performance standards. Any statistical method chosen by the owner or operator shall comply with the following performance standards, as appropriate:

1. The statistical method used to evaluate ground water monitoring data shall be appropriate for the distribution of monitoring parameters or constituents. If the distribution is shown by the owner or operator to be inappropriate for a normal theory test, then the data should be transformed or a distribution-free theory test should be used. If the distributions for the constituents differ, more than one statistical method may be needed.

2. If an individual well comparison procedure is used to compare an individual compliance well constituent concentration with background constituent concentrations or a ground water protection standard, the test shall be done at a Type I error level no less than 0.01 for each testing period. If a multiple comparisons procedure is used, the Type I experiment-wise error rate for each testing period shall be no less than 0.05; however, the Type I error of no less than 0.01 for individual well comparisons must be maintained. This performance standard does not apply to tolerance intervals, prediction intervals, or control charts.

3. If a control chart approach is used to evaluate ground water monitoring data, the specific type of control chart and its associated parameter values shall be protective of human health and the environment. The parameters shall be determined after considering the number of samples in the background data base, the data distribution, and the range of the concentration values for each constituent of concern.

4. If a tolerance interval or a predictional interval is used to evaluate ground water monitoring data, the levels of confidence and, for tolerance intervals, the percentage of the population that the interval must contain, shall be protective of human health and the environment. These parameters shall be determined after considering the number of samples in the background data base, the data distribution, and the range of the concentration values for each constituent of concern.

5. The statistical method shall account for data below the limit of detection with one or more statistical procedures that are protective of human health and the environment. Any practical quantitation limit (PQL) that is used in the statistical method shall be the lowest concentration level that can be reliably achieved within specified limits of precision and accuracy during routine laboratory operating conditions that are available to the facility.

6. If necessary, the statistical method shall include procedures to control or correct for seasonal and spatial variability as well as temporal correlation in the data.

APPENDIX 5.5. *(Repealed.)*

CONSTITUENTS FOR DETECTION MONITORING

Common Name[1]	CAS RN[2]
Inorganic Constituents	
1) Antimony	(Total)
2) Arsenic	(Total)
3) Barium	(Total)
4) Beryllium	(Total)
5) Cadmium	(Total)
6) Chromium	(Total)
7) Cobalt	(Total)
8) Copper	(Total)
9) Lead	(Total)
10) Nickel	(Total)
11) Selenium	(Total)
12) Silver	(Total)
13) Thallium	(Total)
14) Vanadium	(Total)
15) Zinc	(Total)
Organic Constituents	
16) Acetone	67-64-1
17) Acrylonitrile	107-13-1
18) Benzene	71-43-2
19) Bromochloromethane	74-97-5
20) Bromodichloromethane	75-27-4
21) Bromoform; Tribromomethane	75-25-2
22) Carbon disulfide	75-15-0
23) Carbon tetrachloride	56-23-5
24) Chlorobenzene	108-90-7
25) Chloroethane; Ethyl chloride	75-00-3
26) Chloroform; Trichloromethane	67-66-3
27) Dibromochloromethane; Chlorodibromomethane	124-48-1
28) 1,2-Dibromo-3-chloropropane;DBCP	96-12-8
29) 1,2-Dibromoethane; Ethylene dibromide; EDB	106-93-4
30) o-Dichlorobenzene; 1,2-Dichlorobenzene	95-50-1
31) p-Dichlorobenzene; 1,4-Dichlorobenzene	106-46-7
32) trans-1,4-Dichloro-2-butene	110-57-6
33) 1,1-Dichloroethane; Ethylidene chloride	75-34-3
34) 1,2-Dichloroethane; Ethylene dichloride	107-06-2
35) 1,1-Dichloroethylene; 1,1-Dichloroethene; Vinyl chloride	75-35-4
36) cis-1,2-Dichloroethylene; cis-1,2-Dichloroethene	156-59-2
37) trans-1,2-Dichloroethylene; trans-1,2-Dichloroethene	156-60-5
38) 1,2-Dichloropropane; Propylene dichloride	78-87-5
39) cis-1,3-Dichloropropene	10061-01-5
40) trans-1,3-Dichloropropene	10061-02-6
41) Ethylbenzene	100-41-4
42) 2-Hexanone; Methyl butyl ketone	591-78-6
43) Methyl bromide; Bromomethane	74-83-9
44) Methyl chloride; Chloromethane	74-87-3
45) Methylene bromide; Dibromomethane	74-95-3
46) Methylene chloride; Dichloromethane	75-09-2
47) Methyl ethyl ketone; MEK; 2-Butanone	78-93-3
48) Methyl iodide; Iodomethane	74-88-4
49) 4-Methyl-2 pentanone; Methyl isobutyl ketone	108-10-1
50) Styrene	100-42-5
51) 1,1,1,2-Tetrachloroethane	630-20-6
52) 1,1,2,2-Tetrachloroethane	79-34-5
53) Tetrachloroethylene; Tetrachloroethene; Perchloroethylene	127-18-4
54) Toluene	108-88-3
55) 1,1,1-Trichloroethane; Methylchloroform	71-55-6
56) 1,1,2-Trichloroethane	79-00-5
57) Trichloroethylene; Trichloroethene	79-01-6
58) Trichlorofluoromethane; CFC-11	75-69-4
59) 1,2,3-Trichloropropane	96-18-4
60) Vinyl acetate	108-05-4
61) Vinyl chloride	75-01-4
62) Xylenes	1330-20-7

NOTES:

[1]Common names are those widely used in government regulations, scientific publications, and commerce; synonyms exist for many chemicals.

[2]Chemical Abstracts Service registry number. Where "Total" is entered, all species in the ground water that contain this element are included.

This list contains 47 volatile organics for which possible analytical procedures provided in EPA Report SW-846 "Test Methods for Evaluating Solid Waste," third edition, November 1986, as revised December 1987, include Method 8260; and 15 metals for which SW-846 provides either Method 6010 or a method from the 7000 series of methods.

APPENDIX 5.6. *(Repealed.)*
STATE MONITORING PROGRAM

A. Applicability.

1. Owners or operators of sanitary disposal facilities that have ceased to accept solid waste prior to the federally imposed deadlines shown in subsection B in this appendix are eligible, with the director's approval, to continue to conduct the state ground water monitoring program described in this appendix in lieu of the ground water monitoring program required under 9 VAC 20-80-250 D 5 and 6.

2. Owners or operators of disposal facilities not subject to the federal ground water monitoring requirements prescribed under 40 CFR Parts 257 and 258 will perform the ground water monitoring described in this appendix.

B. Deadlines for eligibility.

1. Sanitary landfills that stopped accepting waste before October 9, 1993, and in the case of a "small landfill" before April 9, 1994.

2. All other landfills other than sanitary landfills, including those that accepted hazardous waste from conditionally exempt small quantity generators after July 1, 1998.

C. Phase I monitoring program.

1. At a minimum, the owner or operator shall determine the concentration or value in ground water samples of the following parameters used as indicators of ground water contamination:

a. Specific conductance

b. pH

c. Total Organic Carbon (TOC)

d. Total Organic Halogens (TOX)

2. At least during the first year of ground water monitoring, for each of the indicator parameters specified in subdivision 1 of this subsection, obtain an appropriate number of samples applicable to the statistical test method selected from Appendix 5.4 from each well and establish the background level.

3. After the first year, at least semiannually, sample all monitoring wells and analyze the samples collected to evaluate potential ground water contamination (subdivision 1 of this subsection).

4. At least annually the owner or operator shall evaluate the data on static ground water surface elevations by preparing a potentiometric surface map to determine whether the requirements for locating the monitoring wells continue to be satisfied. If the evaluation shows that requirements are no longer satisfied, the owner or operator shall modify the number, location, or depth of the monitoring wells to bring the ground water monitoring system into compliance with that requirement prior to the next required monitoring event.

5. Evaluation and response.

a. After the first year information has been collected for each well and for each indicator parameter specified in subdivision 1 of this subsection, the owner or operator shall perform a statistical evaluation of the analytical results comparing each well to its own background and to the upgradient wells. The owner or operator may choose to apply any one of the statistical methods listed in Appendix 5.4, provided the test chosen meets the required performance standards.

(1) If the comparisons for the upgradient wells show a statistically significant increase (or pH decrease), the owner or operator shall submit this information to the department as required by subdivision F 1 b of this appendix.

(2) If the comparisons for downgradient wells show a statistically significant increase (or pH decrease) over facility background or each well's background the owner or operator may obtain within 30 days additional ground water samples from those affected wells, split the samples in two, and obtain analyses of all additional samples to determine whether the significant difference was a result of laboratory error provided that this verification sampling is conducted within the compliance monitoring period.

b. If the preceding analysis confirms the statistically significant increase (or pH decrease), the owner or operator shall provide written notice to the director, within 14 days of the date of such confirmation, that the facility may be affecting ground water quality and that a Phase II monitoring program will be implemented.

c. The owner or operator may demonstrate that a source other than the unit caused the contamination or that the statistically significant increase resulted from error in sampling, analysis, statistical evaluation, or natural variation in ground water quality. A report documenting this demonstration shall be certified by a qualified ground water scientist and approved by the director. If a successful demonstration is made and approved the owner or operator may continue Phase I monitoring. If after 90 days, or longer as approved by the director, a successful demonstration is not made and approved, the owner or operator shall initiate Phase II monitoring.

d. Within 90 days of confirming the statistically significant increase required under the provisions of subdivision 5 b of this subsection, establish a Phase II monitoring program meeting the requirements of subsection D of this appendix.

e. If the comparison required by subdivision 5 a of this subsection does not show a statistically significant increase (or pH decrease), the owner or operator shall submit this information in accordance with subdivision F 1 b of this appendix.

D. Phase II monitoring program.

1. The owner or operator shall implement the Phase II monitoring program and at a minimum determine:

a. The rate and extent of migration of the solid waste constituents in the ground water; and

b. The concentrations of the solid waste constituents in the ground water.

2. A Phase II monitoring program shall include the monitoring parameters shown in Appendix 5.5.

3. The owner or operator shall:

a. Make his first determination under subdivision 1 of this subsection as soon as technically feasible but no later than 18 months after implementing a Phase II monitoring program. The number and frequency of sampling shall be determined in accordance with the requirements of the statistical method selected.

b. Within 15 days after that determination, submit to the director, a written report containing an assessment of the ground water quality.

4. If the owner or operator finds, based on the results of the first determination, that no Appendix 5.5 constituents from the facility have entered the ground water, he may then reinstate the Phase I monitoring program. If the owner or operator reinstates the Phase I monitoring program, he shall so notify the director in the report submitted under subdivision C 5 b of this appendix.

5. If the owner or operator reinstates the Phase I monitoring and continues to find that one or more indicator parameters show statistically significant increases (or decrease in case of pH), he shall proceed with the actions required under subdivision 6 b of this subsection. However, if no Appendix 5.1 constituents are detected in the ground water, he shall continue sampling and analyzing Appendix 5.1 constituents every two years and not proceed to subdivision 6 c of this subsection until an Appendix 5.1 constituent is detected.

Should the results of continuing Phase II monitoring indicate a statistically significant increase in any Appendix 5.5 constituent, the owner or operator shall proceed with the actions required under subdivision 6 of this subsection.

6. If the owner or operator finds a statistically significant increase in any Appendix 5.5 constituent, then he shall:

a. Continue to make the required determinations on a semiannual basis until the Phase III monitoring program is implemented (at the request of the applicant, the director may approve an appropriate set of monitoring wells applicable to this phase of monitoring);

b. Within 90 days, sample the ground water in all monitoring wells and determine the concentration of all constituents identified in Appendix 5.1 that are present in the ground water;

c. No later than 18 months after a statistically significant increase for Appendix 5.5 constituents, establish a background value for each Appendix 5.1 constituent that has been found at the waste management unit boundary.

7. Within 60 days, The owner or operator shall propose a ground water protection standard for each Appendix 5.1 constituent detected in the ground water. The ground water protection standard shall be:

a. For constituents for which a maximum contaminant level (MCL) has been promulgated under § 1412 of the Safe Drinking Water Act (40 CFR Part 141), the MCL for that constituent;

b. For constituents for which MCLs have not been promulgated, the background concentration, as approved by the director, for the constituent established from wells in accordance with 9 VAC 20-80-250 D 3 a (1), 9 VAC 20-80-260 D 3 a (1) (a), or 9 VAC 20-80-270 D 3 a (1) (a), as applicable; or

c. For constituents for which the background level is higher than the MCL identified under subdivision 7 a of this subsection or health-based levels identified under subdivision 8 of this subsection, the background concentration, as approved by the director.

8. The director may establish an alternate ground water protection standard for constituents for which MCLs have not been established by granting a variance based on the petition submitted by the owner or operator in accordance with 9 VAC 20-80-760.

9. Within 90 days of the completion of actions required under subdivision 6 c of this subsection submit to the department an evaluation of the concentration of any Appendix 5.1 constituents found in the ground water at each monitoring well at the waste management unit boundary. If the concentration of:

a. All Appendix 5.1 constituents are shown to be at or below background values, using the statistical procedures in Appendix 5.4, for two consecutive sampling events, the owner or operator shall notify the director of this finding and may return to Phase I monitoring;

b. Any Appendix 5.1 constituents are above background values, but all concentrations are below the ground water protection standard established under subdivision 7 or 8 of this subsection, using the statistical procedures in Appendix 5.4, the owner or operator shall continue Phase II monitoring;

c. Any Appendix 5.1 constituents show that there is a statistically significant increase above the ground water protection standard established under subdivision 7 or 8 of this subsection specified at any monitoring well at the waste management unit boundary, he may demonstrate that a source other than the unit caused increase or that an error in sampling, analysis, or evaluation was committed. While the owner or operator may make a demonstration under this subdivision in addition to or in lieu of submitting the information under subdivision 11 of this subsection, he is not relieved of the requirement to submit this information within the time specified in subdivision 11 of this subsection unless the demonstration made under this paragraph successfully shows that a source other than a landfill unit caused the increase or that the increase resulted from error in

sampling, analysis, or evaluation. In making a demonstration under this subdivision, the owner or operator shall:

(1) Notify the director in writing within fourteen days of determining a statistically significant increase at the waste management unit boundary that he intends to make a demonstration under subdivision 9 c of this subsection.

(2) Within 90 days, submit a report to the department which demonstrates that a source other than a landfill unit caused the increase, or that the increase resulted from error in sampling, analysis, or evaluation.

(3) Continue to monitor in accordance with the Phase II monitoring program until a decision has been rendered by the department in accordance with subdivision 10 of this subsection.

10. Based on the information submitted in accordance with subdivision 9 c (2) of this subsection, the director will:

a. In case of the demonstrated error in sampling, analysis or evaluation, allow the owner or operator to resume Phase II monitoring program; or

b. Require changes in the ground water monitoring system which will correctly reflect the ground water contamination from the solid waste disposal unit and allow the owner or operator to resume Phase II monitoring program; or

c. Require the owner or operator to commence actions under subdivisions 6 through 9 of this subsection.

11. Within 180 days of the completion of actions under subdivision 9 of this subsection, submit to the department:

a. All data necessary to justify any variance sought for ground water protection levels (see 9 VAC 20-80-760) established in the facility permit; or

b. A plan for corrective action program in accordance with this section necessary to meet the requirements for corrective action.

12. Implement a Phase III monitoring program and initiate corrective action in accordance with the procedures of 9 VAC 20-80-310.

E. Phase III monitoring program. The purpose of the Phase III monitoring program is to support the corrective action undertaken in accordance with 9 VAC 20-80-310.

1. Phase III monitoring is required whenever the corrective action program has been initiated, and shall continue until it is demonstrated that Appendix 5.1 constituents have not exceeded the ground water protection standards for a period of three consecutive years using the appropriate statistical procedures and performance standards. If the post-closure period has not been completed following the three year period, Phase II monitoring will be implemented.

2 If the owner or operator is engaged in a corrective action program at the end of the minimum post-closure period, the post-closure period is extended until the owner or operator provides the demonstration required under subdivision 1 of this subsection.

3. Phase III monitoring parameters and constituents shall include all constituents in Appendix 5.1 that are determined to be present at the waste management unit boundary.

4. The department shall determine an appropriate monitoring frequency and an appropriate set of monitoring wells on a site-specific basis. The following minimum frequencies apply:

a. Semiannually for those constituents in Appendix 5.1 that were detected in ground water.

b. Annually for all other Appendix 5.1 parameters (not detected in ground water) unless it is demonstrated that the history of analyses of leachate from the unit indicates that other parameters are not present.

c. Every two years for those Appendix 5.1 parameters that were not present in the analysis presented in accordance with subdivision 4 b of this subsection.

5. If the owner or operator determines that there is a statistically significant increase over background for any constituent in subdivision 3 of this subsection at any monitoring well at the waste management unit boundary, he shall:

a. Notify the department of this finding in writing within 14 days. The notification shall indicate what parameters or constituents have shown statistically significant increases.

b. Within 90 days, submit to the director the following information:

(1) An evaluation of the concentration of any Appendix 5.1 constituents found in ground water at each monitoring well or an approved subset of wells at the compliance point.

(2) Any proposed changes to the ground water monitoring system necessary to meet the requirements of corrective action programs in accordance with 9 VAC 20-80-310.

(3) Any proposed changes to the monitoring frequency or sampling procedures used at the facility necessary to meet the requirements of corrective action programs in accordance with 9 VAC 20-80-310.

c. Within 180 days, submit to the department:

(1) All data necessary to justify any variance sought from the corrective active program; or

(2) A change to the plan for corrective action program in accordance with 9 VAC 20-80-310 necessary to meet the requirements of the corrective action program specified in these regulations.

F. Recordkeeping and reporting.

1. If the ground water is monitored to satisfy the requirements for Phase I monitoring, the owner or operator shall:

~~a. Keep records of the analyses required in subdivisions C 2 and C 3 of this appendix, the associated static water level surface elevations required in subdivision C 4 of this appendix, and the evaluations required in subdivision C 5 a of this appendix throughout the active life of the facility and the post-closure care period; and~~

~~b. Report the following ground water monitoring information to the director:~~

~~(1) During the first year when initial background concentrations are being established for the facility: concentrations or values of the parameters for each ground water monitoring well within 15 days after completing each quarterly analysis.~~

~~(2) Annually: concentrations or values of the indicator parameters listed in subdivision C 1 of this appendix for each ground water monitoring well. The owner or operator shall separately identify any statistically significant differences from the background found in the upgradient wells in accordance with subdivision C 5 a (1) of this appendix. During the active life of the facility, this information shall be submitted no later than March 1 following each calendar year.~~

~~(3) No later than March 1 following each calendar year as part of the annual report: results of the evaluations of ground water surface evaluations provided on a potentiometric surface map under subdivision C 4 of this appendix, and a description of the response to that evaluation, where applicable.~~

~~2. If the ground water is monitored to satisfy the requirements of Phase II or Phase III monitoring, the owner or operator shall:~~

~~a. Keep records of the analyses and evaluations throughout the active life of the facility, and throughout the post-closure care period as well; and~~

~~b. Annually, until final closure of the facility, submit to the director a report containing the results of his ground water quality assessment program which includes, but is not limited to, the calculated or measured rate of migration of solid waste constituents in the ground water during the reporting period, and a potentiometric surface map of one of the reported monitoring events. This information shall be submitted no later than March 1 following each calendar year.~~

9 VAC 20-80-330. Compost facilities.

A. General.

1. The standards in this section shall apply to the siting, design and construction, and operation of facilities producing compost from refuse or combinations of refuse and sludges or animal manures.

a. Composting facilities may be classified in accordance with the general process used. Facilities that employ the enclosed vessel method are called Type A ("confined") compost facilities. Type B facilities are those that employ the windrow or aerated static pile method. If the process requires materials to be stabilized or cured in piles such facilities are also classified as Type B facilities even if the composting is performed in an enclosed vessel. The only composting processes that may be employed are those with prior operational performance in the United States. Any other proposed composting process shall conform to the standards contained in 9 VAC 20-80-470 and will require an experimental solid waste management facility permit.

NOTE: Finished compost that meets the requirements of this part is not regulated as a solid waste.

b. Use of solid waste containing hazardous waste, regulated medical waste, or nonbiodegradable waste is prohibited.

2. The standards contained in this section are not applicable to facilities that operate under a permit-by-rule issued under Vegetative Waste Management and Yard Waste Composting Regulations (9 VAC 20-101~~-10 et seq.~~) and are in full compliance with that chapter.

3. The standards contained in this section are not applicable to composting units exempt under 9 VAC 20-80-60 D 2 or D 3.

4. The feedstocks for composting are classified on the basis of the type of waste used in the composting process. The categories of feedstocks are as follows:

a. Category I -- Pre-consumer, plant or plant-derived materials such as:

(1) Agriculture crop residues including but not limited to harvesting residuals, straw, and cornstalks;

(2) Livestock feed including but not limited to hay, grain, silage, cottonseed meal, soybean meal;

(3) Nonfood agricultural processing waste including but not limited to cotton gin trash, wool carding residue, field corn cobs;

(4) Source-separated pre-consumer food wastes including but not limited to wholesale and retail market residuals (e.g., overripe, damaged, or otherwise rejected fruit or vegetables) and institutional kitchen culls;

(5) Food processing wastes including culls, peelings, hulls, stems, pits, seed, pulp, shucks, nut shells, apple pomace, corn cobs, cranberry filter cake, olive husks, potato tops, cocoa shells, fruit and vegetable processing waste, rejected products, and bakery wastes; and

(6) Source-separated clean waste paper.

b. Category II -- Animal-derived waste material such as:

(1) Dairy and fish processing wastes including but not limited to eggs, spoiled milk, cheese, curd, and yogurt, fish gurry and racks, clam bellies, fish shells, fish processing sludge, fish breading crumbs, mussel, crab, lobster, and shrimp wastes; and

(2) Rendered animals.

c. Category III -- Animal and post-consumer food wastes with pathogen potential such as:

(1) Source-separated wastes including but not limited to restaurant waste, institutional kitchen wastes, food preparation wastes, prepared but unserved foods, plate scrapings; and

(2) Animal manures including but not limited to spoiled stable straw bedding, livestock feedlot, holding pen and cage scrapings, dairy manure semi-solids, poultry litter and manure.

d. Category IV -- Other wastes such as:

(1) Non-rendered animal meat waste including but not limited to animal carcasses, slaughterhouse waste, paunch manure;

(2) Mixed non-source separated organic wastes including but not limited to municipal solid waste; and

(3) Sewage sludge.

B. Siting.

1. Solid waste composting facilities shall not be sited or constructed in areas subject to base floods.

2. No facility shall be closer than 50 feet to any regularly flowing stream.

3. Composting facilities shall be adjacent to or have direct access to roads which are paved or surfaced and capable of withstanding anticipated load limits.

4. A facility shall not be located within 200 feet of any residential area, a health care facility, school, recreational park area, or similar type public institution.

5. Sites shall allow for sufficient room to minimize traffic congestion and allow for safe operation.

6. No composting unit shall extend closer than 50 feet to any property line.

7. Acceptable sites must have sufficient area and terrain to allow for proper management of leachate.

8. Type B facilities shall not be located in areas which are geologically unstable or where the site topography is heavily dissected.

9. A Type B facility shall not be located in any area where the seasonal high water table lies within two feet of the ground surface.

C. Design/construction.

1. Facilities for the composting of municipal solid waste shall be provided with covered areas for receiving, segregation, and grading of municipal solid waste.

2. Where Category IV material is processed, or where more than 700 tons/quarter of Category I, II, or III material is processed, by a compost facility, all receiving, mixing, composting, curing, screening, and storing operations shall be provided with either:

a. An asphalt or concrete area that drains directly to a wastewater storage, treatment, or disposal facility; or

b. An asphalt, or concrete, and diked or bermed area to prevent entry of run-on or escape of run-off, leachate, or other liquids, and a sump with either a gravity discharge or an adequately sized pump located at the low point of the hard-surfaced area to convey liquids to a wastewater treatment, disposal or holding facility, discharged under a VPDES permit issued pursuant to the State Water Control Board regulation 9 VAC 25-31-10 et seq. or recirculated within the composting process.

3. Area and appropriate equipment shall be provided to segregate nonbiodegradable or otherwise undesirable components from the municipal solid waste to be processed.

4. For Type B facilities, sound engineering controls shall be incorporated into design of facilities located on sites with:

a. Springs, seeps, and other ground water intrusions;

b. Gas, water, or sewage lines under the active areas; or

c. Electrical transmission lines above or below the active areas.

5. Roads serving the unloading, composting, and storage areas shall be of all-weather construction.

6. Auxiliary power, standby equipment, or contingency arrangements shall be required to ensure continuity of composting operations.

7. For uncovered sites, calculations for sizing of surface water control features will be based on a rainfall intensity of one-hour duration and a 10-year return period.

D. Operations.

1. Noncompostable or other undesirable solid waste shall be segregated from the material to be composted. Solid waste which is not composted, salvaged, reused, or sold must be disposed of at an appropriately permitted solid waste management facility.

2. Product testing and standards. Products will continue to be considered as solid wastes until the testing indicates that they attain appropriate standards. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity and shall be conducted in a manner consistent with SW-846 and other applicable standards. ~~A~~ *The* minimum number of samples that shall be collected and analyzed is shown in the table below. Samples to be analyzed for metals shall be composited prior to the analysis.

Minimum Frequency for Metals Analysis

Average compost produced (dry tons per day)	Frequency of Analyses	Number of Samples
Less than 1	Annually	12 (1 sample/month composited for metals)
1 to 10	Quarterly	3 (1 sample/month composited for metals)
over 10	Monthly	4 (1 sample/week composited for metals)

a. Compost stability. All finished products will be tested for compost stability using one of the methods listed below.

(1) Temperature decline to near ambient conditions when not the result of improper management of the composting process. Composting records shall indicate appropriate schedules for turning, monitoring of moisture within the required range, and an appropriate mix of composting feedstocks. This method may only be used for Type A facilities receiving Category I materials or Type B facilities that receive less than 700 tons per calendar quarter of Category I materials.

(2) Reheat potential using the Dewar Compost Self-Heating Flask. The results must indicate a stable product.

(3) Specific oxygen uptake. To be classified as stable the product must have a specific oxygen uptake rate of less than 0.1 milligrams per gram of dry solids per hour.

(4) Solvita™ Compost Maturity Test. To be classified as stable the product must exhibit color equal or greater than six.

(5) Carbon dioxide evolution. To be classified as stable the product must not evolve more than 1,000 milligrams of carbon dioxide per liter per day.

b. Pathogens. In addition to testing required by subdivision 2 a of this subsection, finished products produced from Category III and IV materials will be tested for the presence of the following organisms using the methods indicated below.

(1) Viruses. No infective viruses shall be detected by an acceptable laboratory method with a minimum detection limit of 0.1 to 0.25 PFU (plaque forming unit) per gram of dry solids or less.

(2) Parasites. No viable Ascaris ova shall be detected by an acceptable laboratory method with a minimum detection limit of 0.5 viable ova per gram of dry solids or less. Ascaris will be considered to be representative of all parasites, i.e., helminth ova and protozoan cysts.

(3) Bacterial pathogens. Salmonella will be considered representative of all bacterial pathogens capable of regrowth. Median of all samples shall be less than 1 MPN (most probable number) per gram of dry solids. No more than 10% of samples shall exceed 10 MPN per gram of dry solids. No single sample shall exceed 100 MPN per gram of dry solids.

(4) Fecal coliform. Although the coliform group is not generally considered to be pathogenic, their destruction is indicative of good composting practice. Median of all samples shall be less than 10 MPN fecal coliform per gram of dry solids. Specifically, less than 1,000 MPN fecal coliform per gram of dry solids shall be found in any sample when incubated for 0.5 hr at 70°C, three days at 55°C, or five days at 53°C.

(5) Other test methods, or facility operating standards as approved by the director.

c. Metals. In addition to the requirements contained in subdivisions 2 a and 2 b of this subsection, all finished products produced from Category IV materials shall be analyzed for the metals shown below. The concentration of contaminants shall not exceed the following levels:

Metal	Concentration, mg/kg dry solids
Arsenic	41
Cadmium	21
Copper	1500
Lead	300
Mercury	17
Molybdenum	54
Nickel	420
Selenium	28
Zinc	2,800

3. Designed buffer zones shall be maintained.

4. The owner or operator shall prepare an operation plan which shall include as a minimum:

a. The description of types of wastes that will be managed at the facility. This description will be sufficient to properly categorize the compost feedstocks in accordance with subdivision A 4 of this section. If the specific materials are not listed in that section, a discussion will be prepared which compares the materials that the facility will receive with the materials listed in the appropriate feedstock category and justifies the categorization of the proposed feedstock. For each type of material an approximate C:N ratio will be provided. The expected quantity of any bulking agent or amendment will be provided (if applicable); and any expected recycle of bulking agent or compost. The plan shall include the annual solid waste input, the service area population (both present and projected if applicable), and any seasonal variations in the solid waste type and quantity;

b. A discussion of the composting process including:

(1) For Type A compost facilities the following will be provided:

(a) A copy of the manufacturer's operating manual, and drawings and specifications of the composting unit will be provided.

(b) A discussion of the unit's requirements for power, water supply, and wastewater removal, and the steps taken to accommodate these requirements.

(2) For Type B compost facilities the following will be provided:

(a) A description of the configuration of the composting process including compost pile sizing, and orientation, provisions for water supply, provisions for wastewater disposal, and an equipment list.

(b) A discussion of procedures and frequency for moisture, and temperature monitoring, and aeration.

(c) A discussion of pile formation, and feedstock proportioning and feedstock preparation.

c. A discussion of the method and frequency of final product testing in accordance with subdivision 2 of this subsection will be provided;

d. A schedule of operation, including the days and hours that the facility will be open, preparations before opening, and procedures followed after closing for the day;

e. Anticipated daily traffic flow to and from the facility, including the number of trips by private or public collection vehicles;

f. The procedure for unloading trucks (including frequency, rate, and method);

g. A contingency plan detailing corrective or remedial action to be taken in the event of equipment breakdown; air pollution (odors); unacceptable waste delivered to the facility; spills; and undesirable conditions such as fires, dust, noise, vectors, and unusual traffic conditions;

h. Special precautions or procedures for operation during wind, heavy rain, snow, and freezing conditions;

i. A description of the ultimate use for the finished compost, method for removal from the site, and a plan for use or disposal of finished compost that cannot be used in the expected manner due to poor quality or change in market conditions;

j. A discussion of inspections in accordance with subdivision 5 c of this subsection; and

k. A discussion of records to be maintained in accordance with subdivision 6 of this subsection.

5. Maintenance.

a. Facility components shall be maintained and operated in accordance with the permit and intended use of the facility.

b. Adequate numbers, types and sizes of properly maintained equipment shall be available at the facility during all hours of operation to prevent curtailment of operations because of equipment failure except under extraordinary conditions beyond the control of the facility's owner or operator.

c. Self inspection. The facility owner or operator shall monitor and inspect the facility for malfunctions, deteriorations, operator errors, and discharges that may cause a release to the environment or a threat to human health. The facility owner or operator shall promptly remedy any deterioration or malfunction of equipment or structures or any other problems revealed by the inspections to ensure that no environmental or human health hazard develops. Where a hazard is imminent or has already occurred, remedial action shall be taken immediately.

6. Recordkeeping.

a. Operational records shall be maintained at the facility; these records shall include, at the minimum, temperature data and quantity of materials processed.

b. The facility owner or operator shall retain records of all unauthorized solid waste accepted identifying the waste and its final disposition. Such records shall include the date solid waste was received, the type of solid waste received, the date of disposal, the disposal method and location.

c. The facility owner or operator shall record self-inspections in an inspection log. These records shall be retained for at least three years from the date of inspection. They must include the date and time of the inspection, the name of the inspector, a description of the inspection including the identity of specific equipment and structures inspected, the observations recorded, and the date and nature of any remedial actions implemented or repairs made as a result of the inspection.

d. The facility owner or operator shall retain records of all monitoring information (including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation; and copies of all reports required by, or by a permit issued under, this part) for a period of at least three years from the date of the sample analysis, measurement, report or application. Records for monitoring information shall include: the date, exact place, and time of sampling or measurements; the name of the individual who performed the sampling and measurement; the date analyses were performed; the name of the individual who performed the analyses; the analytical techniques or methods used; and the result of such analyses. Additional information relating to the analysis, including records of internal laboratory quality assurance and control, shall be made available to the department at its request.

E. Closure.

1. Closure standards. The owner or operator shall close his facility in a manner that minimizes the need for further maintenance, and controls, minimizes or eliminates, to the extent necessary to protect human health and the environment, the post-closure escape of uncontrolled leachate, surface runoff, or waste decomposition products to the ground water, surface water, or to the atmosphere.

a. At closure, the owner or operator shall remove or decontaminate all waste residues, contaminated containment system components (liners, etc.), contaminated subsoils, and structures and equipment contaminated with waste and leachate.

b. If, after removing or decontaminating all residues and making all reasonable efforts to effect removal or decontamination of contaminated components, subsoils, structures, and equipment as required in subdivision 1 a of this subsection, the owner or operator finds that not all contaminated subsoils can be practicably removed or decontaminated, he shall install a ground water monitoring system, close the facility and perform post-closure care in accordance with the ground water monitoring, closure and post-closure care requirements of Part V (9 VAC 20-80-240 et seq.) of this chapter.

2. Closure plan and amendment of plan.

a. The owner or operator of a compost facility shall have a written closure plan. This plan shall identify the steps necessary to completely close the facility at its full operation under the permit conditions. The closure plan shall include, at least a schedule for final closure including, as a minimum, the anticipated date when wastes will no longer be received, the date when completion of final closure is anticipated, and intervening milestone dates which will allow tracking of the progress of closure.

b. The owner or operator may amend his closure plan at any time during the active life of the facility. The owner or operator shall so amend his plan any time changes in operating plans or facility design affects the closure plan. The amended closure plan shall be placed in the operating record.

c. The owner or operator shall notify the director whenever an amended closure plan has been prepared and placed in the operating record.

d. Prior to beginning closure of each solid waste management unit, the owner or operator shall notify the director of the intent to close.

3. Time allowed for closure. The owner or operator shall complete closure activities in accordance with the closure plan and within six months after receiving the final volume of wastes. The director may approve a longer closure period if the owner or operator can demonstrate that the required or planned closure activities will, of necessity, take longer than six months to complete; and that he has taken all steps to eliminate any significant threat to human health and the environment from the unclosed but inactive facility.

4. The owner or operator shall post one sign notifying all persons of the closing, and providing a notice prohibiting further receipt of waste materials. Further, suitable barriers shall be installed at former accesses to prevent new waste from being delivered.

5. Inspection. The department shall inspect all solid waste management facilities that have been closed to determine if the closing is complete and adequate. It shall notify the owner of a closed facility, in writing, if the closure is satisfactory, and shall order necessary construction or such other steps as may be necessary to bring unsatisfactory sites into compliance with this chapter.

9 VAC 20-80-340. Solid waste transfer stations.

A. Applicability.

1. The siting, design, construction, and operation of a solid waste transfer station shall be governed by the standards as set forth in this section.

2. Storage of nonhazardous solid wastes and hazardous wastes*, or hazardous wastes* from conditionally exempt small quantity generators as defined in Virginia Hazardous Waste Management Regulations (9 VAC 20-60~~-10 et seq.~~) at a transportation terminal *or transfer station* in closed containers meeting the U.S. Department of Transportation specifications is exempt from this section and Part VII (9 VAC 20-80-480 et seq.) of this chapter provided such wastes are removed to a permitted storage or disposal facility within ten days from the initial receipt from the waste generator. To be eligible for this exemption, each shipment must be properly documented to show the name of the generator, the date of receipt by the transporter and the date and location of the final destination of the shipment. The documentation shall be kept at the terminal for at least three years after the shipment has been completed and shall be made available to the department upon request. *All such activities shall comply with any local ordinances.*

3. Any material from a state other than Virginia that is classified as a hazardous waste in that state shall be managed in accordance with 9 VAC 20-60~~-10 et seq~~. Such wastes are not acceptable for treatment or storage in a solid waste management facility in the Commonwealth.

B. Siting.

1. Solid waste transfer stations shall be adjacent to or have direct access to roads which are paved or surfaced and capable of withstanding anticipated load limits.

2. Solid waste transfer stations shall not be sited or constructed in areas subject to base floods.

3. No solid waste transfer station shall be closer than:

a. Fifty feet to any surface stream;

b. Fifty feet to any property line; or

c. Two hundred feet to any residential area, health care facility, school or recreational park area, or similar type public institution.

4. Sites shall allow for sufficient room to minimize traffic congestion and allow for safe operation.

C. Design/construction.

1. An all-weather road suitable for loaded collection vehicles shall be provided from the entrance gate to the unloading, receiving or tipping area.

2. The floors in the unloading, receiving, or tipping areas shall be constructed of easily cleanable materials, provided with a water supply for transfer area cleaning purposes, and equipped with drains or pumps, or equivalent means to facilitate the removal of wastewater to proper storage or disposal.

3. Truck wheel curbs or other safety facilities shall be provided to prevent backing or falling into a pit if one is used for tipping.

4. The transfer unloading, receiving, tipping, and storage structures, buildings, and ramps shall be of a material that can be easily cleaned.

5. Sufficient on-site queuing capacity shall be provided for the expected traffic so that the waiting collection vehicles do not back up onto the public road.

6. Portions of the transfer station used solely for storage of household hazardous waste shall have a containment system designed in accordance with 9 VAC 20-60-820 F of the Virginia Hazardous Waste Management Regulations. The requirements of this section do not apply to household hazardous waste packaged in U.S. Department of Transportation approved shipping containers and removed from the site within 10 days from the date of collection.

7. If the transfer station is used to store waste materials, storage units shall be designed to reduce the potential for fires and migration of vectors, and to prevent escape of wastes, washwaters, odors, dust, and litter from the facility.

D. Operation.

1. No uncontainerized solid waste shall remain at the transfer station at the end of the working day.

2. A written operating plan shall be prepared covering at the minimum:

a. Facility housekeeping, procedures for detection of regulated hazardous and medical wastes, on-site traffic control, schedules for waste delivery vehicle flow, wastewater collection, storm water collection, vector control, odor control, noise control, and methods of enforcement of traffic flow plans for the waste delivery vehicles;

b. The rated capacity of the facility, the capacities of any waste storage areas, and the ultimate disposal location for all facility generated waste residue.

3. A written contingency plan shall be prepared for a transfer station covering operating procedures to be employed during periods of non-operation. This plan shall set forth procedures to be employed in the event of equipment breakdown which will require standby equipment, extension of operating hours, or diversion of solid waste to other facilities.

4. Leachate and washwater from a transfer station shall not be permitted to drain or discharge into surface waters except when authorized under a VPDES permit issued pursuant to 9 VAC 25-31~~-10 et seq~~.

5. No regulated hazardous wastes shall be accepted for processing unless they are *received under the provisions of a hazardous waste permit or they are* specifically exempted by the provisions of the Virginia Hazardous Waste Management Regulations (9 VAC 20-60~~-10 et seq.~~). Storage of household hazardous waste at facilities designed in accordance with subdivision C 6 of this section shall be accomplished in accordance with requirements of 9 VAC 20-60-820 B through E, G, and H. Storage in such facilities may not exceed one year.

E. Closure.

1. Closure standards. The owner or operator shall close his facility in a manner that minimizes the need for further maintenance, and controls, minimizes or eliminates, to the extent necessary to protect human health and the environment, the post-closure escape of uncontrolled leachate, surface runoff, or waste decomposition products to the ground water, surface water, or to the atmosphere.

a. At closure, the owner or operator shall remove or decontaminate all waste residues, contaminated containment system components (liners, etc.), contaminated subsoils, and structures and equipment contaminated with waste and leachate.

b. If, after removing or decontaminating all residues and making all reasonable efforts to effect removal or decontamination of contaminated components, subsoils, structures, and equipment as required in subdivision 1 a of this subsection, the owner or operator finds that not all contaminated subsoils can be practicably removed or decontaminated, he shall install a ground water monitoring system, close the facility and perform post-closure care in accordance with the ground water monitoring, closure and post-closure care requirements of Part V (9 VAC 20-80-240 et seq.) of this chapter.

2. Closure plan and amendment of plan.

a. The owner or operator of a transfer station shall have a written closure plan. This plan shall identify the steps necessary to completely close the facility at its full operation under the permit conditions. The closure plan shall include, at least a schedule for final closure including, as a minimum, the anticipated date when wastes will no longer be received, the date when completion of final closure is anticipated, and intervening milestone dates which will allow tracking of the progress of closure.

b. The owner or operator with the approval of the department may amend his closure plan at any time during the active life of the facility. The owner or operator shall so amend his plan any time changes in operating plans or facility design affects the closure plan. The amended closure plan shall be placed in the operating record.

c. The owner or operator shall notify the director whenever an amended closure plan has been prepared and placed in the operating record.

d. Prior to beginning closure of each solid waste management unit, the owner or operator shall notify the director of the intent to close.

e. The owner or operator shall provide to the department a certification from a registered professional engineer that the facility has been closed in accordance with the closure plan.

3. Time allowed for closure. The owner or operator shall complete closure activities in accordance with the closure plan and within six months after receiving the final volume of wastes. The director may approve a longer closure period if the owner or operator can demonstrate that the required or planned closure activities will, of necessity, take longer than six months to complete; and that he has taken all steps to eliminate any significant threat to human health and the environment from the unclosed but inactive facility.

4. The owner or operator shall post one sign notifying all persons of the closing, and providing a notice prohibiting further receipt of waste materials. Further, suitable barriers shall be installed at former accesses to prevent new waste from being delivered.

5. Inspection. The department shall inspect all solid waste management facilities at the time of closure to confirm that the closing is complete and adequate. It shall notify the owner of a closed facility, in writing, if the closure is satisfactory, and shall require any necessary construction or such other steps as may be necessary to bring unsatisfactory sites into compliance with this chapter.

9 VAC 20-80-370. Energy recovery and incineration facilities.

A. Applicability.

1. The siting, design, construction, and operation of the solid waste and process residue storage and handling facilities associated with the energy recovery from or incineration of solid wastes shall be governed by the standards as set forth in this section.

2. The regulations of this section do not apply to:

a. Design and operation of the combustor units regulated by the State Air Pollution Control Board; or

b. The disposal of residues from the energy recovery or incineration facilities which is regulated under Part V (9 VAC 20-80-240 et seq.) of this chapter.

B. Siting.

1. Energy recovery and incineration facilities shall be adjacent to or have direct access to roads which are paved or surfaced and capable of withstanding anticipated load limits.

2. Energy recovery and incineration facilities shall not be sited or constructed in areas subject to base floods.

3. No facilities for storage or handling of unconverted solid waste or combustion residues shall extend closer than:

a. Fifty feet to any surface stream;

b. Fifty feet to any property line; or

c. Two hundred feet to any residential area, health care facility, school or recreational park area, or similar type public institution.

4. Sites shall allow for sufficient room to minimize traffic congestion and allow for safe operation.

C. Design/construction.

1. The solid waste and combustion residue storage and handling facilities associated with an energy recovery or incineration system shall be designed to reduce the potential of elements which may degrade health or the environment from crossing the facility boundaries. Such elements include fire, vectors, wash water, odor, and litter.

2. An all-weather road suitable for loaded delivery vehicles shall be provided from the entrance gate to the unloading, receiving, or tipping area.

3. All tipping floors, sorting pads, waste storage areas, bunkers and pits shall be constructed of concrete or other similar quality material that will withstand heavy vehicle usage. Floor drains shall be provided in all such area and surfaces shall be appropriately graded to facilitate washdown operations. Floor drains shall be designed to discharge wastewater into a collection system for proper disposal. In those cases where waste or residue storage pits are to be utilized, the base and sidewalls shall be designed to prevent ground water intrusion.

4. Truck wheel curbs or other safety facilities shall be provided to prevent backing or falling into a pit if one is used for tipping.

5. The unloading, receiving, and tipping structures, buildings, and ramps shall be of material that can be easily cleaned.

6. Facilities shall be designed with sufficient internal storage area for unprocessed incoming solid waste, facility process waste residues and effluents, and recovered materials, if applicable. The design shall allow for, at a minimum, three days of storage at maximum anticipated loading rates.

7. The facility shall be designed in a manner which will prevent the migration of odors and dust off-site.

8. Sufficient on-site queuing capacity shall be provided for the expected traffic so that the waiting delivery vehicles do not back up onto the public road.

9. Fire alarm and protection systems capable of detecting, controlling and extinguishing any and all fires shall be provided.

10. Facilities shall be designed with perimeter security fencing and gate controls to prevent unauthorized access to the site and to control the off-site escape of litter.

11. A design description manual will be prepared and submitted to the department describing or showing:

a. The rated capacity of the facility;

b. The designation of normal loading, unloading and storage areas and their capacities;

c. The designation of emergency loading, unloading, storage or other disposal capabilities to be used when the facility system down-time exceeds 24 hours;

d. The designation of alternate disposal areas or plans for transfer of solid wastes in the event facility down-time exceeds 72 hours;

e. The expected daily quantity of waste residue generation;

f. The proposed ultimate disposal location for all facility-generated waste residues including, but not limited to, ash residues and by-pass material, by-products resulting from air pollution control devices, and the proposed alternate disposal locations for any unauthorized waste types, which may have been unknowingly accepted. The schedule for securing contracts for the disposal of these waste types at the designated locations shall be provided;

g. A descriptive statement of any materials use, reuse or reclamation activities to be operated in conjunction with the facility, either on the incoming solid waste or the ongoing residue;

h. Plan views showing building dimensions, building setbacks, side and rear distances between the proposed structure and other existing or proposed structures, roadways, parking areas and site boundaries;

i. Interior floor plans showing the layout, profile view and dimensions of the processing lines, interior unloading, sorting, storage and loading areas as well as other functional areas.

~~12. A waste supply analysis program characterizing the quantity and composition of the solid waste in the service area shall be submitted. The waste characterization shall be performed by utilizing a statistically relevant plan which justifies the population sample. The sampling program shall provide for seasonal fluctuations in the quantity and composition of the waste types to be handled at the facility. Anticipated changes in solid waste quantity and composition for each of the waste types to be serviced by the proposed facility shall be projected for that term reflecting anticipated facility life. Within this framework, the effect of existing or future source separation programs on the supply of solid waste within the service area shall be described and quantified. Quantity and compositions analyses shall be carried out simultaneously where possible and shall provide information relating to anticipated maximum, minimum and average daily loading in accordance with the following:~~

~~a. The composition data for the non-combustible solid waste, indicating percent by weight and percent by volume, generated within the service area shall be defined within the following framework:~~

~~(1) Aluminum;~~

~~(2) Ferrous metals;~~

~~(3) Other non-ferrous metals;~~

~~(4) Glass;~~

~~(5) Ceramics and fines; and~~

~~(6) Oversize bulky items.~~

~~b. The composition data for combustible solid waste, indicating percent by weight by volume, generated within the service area shall be defined for the following:~~

~~(1) Paper products;~~

~~(2) Plastics;~~

~~(3) Wood;~~

~~(4) Yard wastes;~~

~~(5) Food wastes; and~~

~~(6) Textiles, rubber, leather and other combustibles.~~

~~c. The composition data for the proximate analysis of the solid waste, indicating percent by weight, generated within the service area shall be defined for the following:~~

~~(1) Total moisture;~~

~~(2) Ash (including percent by volume);~~

~~(3) Volatiles;~~

~~(4) Fixed carbon; and~~

~~(5) Heating value in BTU/pound on an as-received and moisture-free basis.~~

~~d. The composition data for the ultimate analysis of the solid waste, indicating percent by weight, generated within the service area shall be defined for the following:~~

~~(1) Ash;~~

~~(2) Carbon;~~

~~(3) Chlorine;~~

~~(4) Hydrogen;~~

~~(5) Nitrogen;~~

~~(6) Oxygen; and~~

~~(7) Sulfur;~~

~~e. The quantity data for the solid waste generated within the service area shall be defined by weight, volume and corresponding load density characteristics expressed in terms of daily, average, peak and minimum flow to the facility.~~

D. Operation.

1. Unprocessed incoming waste, facility process waste residues and effluents, and recovered materials, if applicable, shall be stored in bunkers, pits, bins, or similar containment vessels and shall be kept at all times at levels that prevent spillage or overflow. Any waste materials temporarily stored on the facility's tipping floor shall be stored as stated above by the end of the working day, or other time frame approved by the director.

2. A written operating plan shall be prepared covering at the minimum facility housekeeping, on-site traffic control, schedules for waste delivery vehicle flow, wastewater collection, storm water collection, vector control, odor control, noise control, and methods of enforcement of traffic flow plans for the waste delivery vehicles.

3. The owner or operator shall implement waste receiving area control procedures that provide for the inspection of the incoming waste stream for the purpose of removing unprocessible or potentially explosive materials prior to the

initiation of processing. In addition, the inspection shall effectively prevent the acceptance of unauthorized waste types. *A minimum of 1.0% of the incoming loads of waste shall be inspected. In addition, if the facility receives waste generated outside of Virginia and the regulatory structure in that state allows for the disposal of wastes at landfills or the incineration of wastes that Virginia's laws and regulations prohibit or restrict, a minimum of 10% of the incoming loads of waste from those states shall be inspected. All facilities receiving waste generated outside of Virginia shall submit an evaluation consistent with 9 VAC 20-80-113 D.* These procedures and necessary contingency plans shall be incorporated into the approved operating plan.

4. A written contingency plan shall be prepared for an energy recovery facility covering operating procedures to be employed during periods of non-operation. This plan shall set forth procedures to be employed in the event of equipment breakdown which will require standby equipment, extension of operating hours, or diversion of solid waste to other facilities.

5. Leachate and washwater from an energy recovery facility shall not be permitted to drain or discharge into surface waters except when authorized under a Virginia-NPDES Permit issued pursuant to the State Water Control Board Regulation (9 VAC 25-31~~-10 et seq.~~) NPDES program or otherwise approved by that agency.

6. No hazardous wastes shall be accepted for processing unless they are specifically exempted by the provisions of the Virginia Hazardous Waste Management Regulations (9 VAC 20-60~~-10 et seq.~~).

7. Arrangements for disposal of facility-generated waste shall be established and maintained throughout the life of the energy recovery or incineration facility.

8. Chemical analyses of residues.

a. The owner or operator shall perform a chemical analyses of all residual ash, in accordance with the conditions of the solid waste management facility permit and current solid waste management regulations.

b. Samples and measurements taken for this purpose shall be representative of the process or operation and shall be performed in accordance with the procedures outlined in the most recent edition of "Test Methods for Evaluating Solid Waste -- Physical/Chemical Methods," EPA publication SW-846. At a minimum the sampling shall include analyses for toxicity and shall be performed at the frequency specified in the facility's permit.

c. The department may require the operator to perform additional analyses on ash removed from exhaust gases and collected by emission control equipment, at a frequency established by the department in the facility's permit.

d. A report containing the following information shall be submitted to the department within 90 days of sample collection:

(1) The date and place of sampling and analysis;

(2) The names of the individuals who performed the sampling and analysis;

(3) The sampling and analytical methods utilized;

(4) The results of such sampling and analyses; and

(5) The signature and certification of the report by an appropriate authorized agent for the facility.

E. Closure.

1. Closure standards. The owner or operator shall close his facility in a manner that minimizes the need for further maintenance, and controls, minimizes or eliminates, to the extent necessary to protect human health and the environment, the post-closure escape of uncontrolled leachate, surface runoff, or waste decomposition products to the ground water, surface water, or to the atmosphere.

a. At closure, the owner or operator shall remove or decontaminate all waste residues, contaminated containment system components, and structures and equipment contaminated with waste and leachate.

b. If, after removing or decontaminating all residues and making all reasonable efforts to effect removal or decontamination of contaminated components, structures, and equipment as required in subdivision 1 a of this subsection, the owner or operator finds that not all contaminated subsoils can be practicably removed or decontaminated, he shall close the facility and perform post-closure care in accordance with the closure and post-closure care requirements of Part V of this chapter.

2. Closure plan and amendment of plan.

a. The owner or operator of an energy recovery facility shall have a written closure plan. This plan shall identify the steps necessary to completely close the facility at its full operation under the permit conditions. The closure plan shall include at least a schedule for final closure including, as a minimum, the anticipated date when wastes will no longer be received, the date when completion of final closure is anticipated, and intervening milestone dates which will allow tracking of the progress of closure.

b. The owner or operator may amend his closure plan at any time during the active life of the facility. The owner or operator shall so amend his plan any time changes in operating plans or facility design affects the closure plan.

c. Unless the director has previously approved the closure plan, the owner or operator shall notify the director that a closure plan or an amended closure plan has been prepared and placed in the operating record no later than October 9, 1993, or by the date of closure plan amendment, whichever is later.

d. Prior to beginning closure of each solid waste management unit, the owner or operator shall notify the director of the intent to close.

3. Time allowed for closure. The owner or operator shall complete closure activities in accordance with the closure plan and within six months after receiving the final volume

of wastes. The director may approve a longer closure period if the owner or operator can demonstrate that the required or planned closure activities will, of necessity, take longer than six months to complete, and that he has taken all steps to eliminate any significant threat to human health and the environment from the unclosed but inactive facility.

4. The owner or operator shall post one sign notifying all persons of the closing, and providing a notice prohibiting further receipt of waste materials. Further, suitable barriers shall be installed at former accesses to prevent new waste from being deposited.

9 VAC 20-80-460. Landfill mining.

A. Because of the varied and experimental nature of the landfill mining processes currently employed, 9 VAC 20-80-470 offers the most appropriate management standards. For this reason, appropriate portions of that section shall be made applicable to the mining process.

B. In addition to fulfilling appropriate requirements of 9 VAC 20-80-470, the owner or operator of a landfill mining facility shall prepare an operational plan which will describe in detail the procedures that will be employed in opening the closed landfill areas, the phased description of opened areas, the procedures that will be employed in excavation of opened areas, the management of excavated materials, and disposition of recovered materials and unusable residues. The operational plan shall also contain an estimate of the duration of the mining process and the final use of the recovered air space.

C. In cases where residues will be disposed *of* on site, the disposal units shall be regulated under Part V (9 VAC 20-80-240 et seq.) of this chapter.

9 VAC 20-80-485. Permits-by-rule and other special permits.

A. Permits by rule. Unless the owner or operator of the following facilities chooses to apply for and receive a full permit, he shall be deemed to have a solid waste management facility permit notwithstanding any other provisions of Part VII (9 VAC 20-80-480 et seq.) of this chapter, except 9 VAC 20-80-500 B 2 and B 3, if the conditions listed are met:

1. Transfer stations. The owner or operator of a transfer station, if he:

a. Notifies the director of his intent to operate such a facility and provides to the department documentation required under 9 VAC 20-80-500 B;

b. Provides the director with a certification that the facility meets the siting standards of 9 VAC 20-80-340 B;

c. Furnishes to the director a certificate signed by a registered professional engineer that the facility has been designed and constructed in accordance with the standards of 9 VAC 20-80-340 C;

d. Submits to the director an operational plan describing how the standards of 9 VAC 20-80-340 D will be met;

e. Submits to the director a closure plan describing how the standards of 9 VAC 20-80-340 E will be met; and

f. Submits to the director the proof of financial responsibility if required by the Financial Assurance Regulations for Solid Waste Facilities (9 VAC 20-70~~-10 et seq.~~); and

g. Submits to the director the results of the public participation effort conducted in accordance with the requirements contained in subdivision 5 of this subsection.

2. Materials recovery facilities. The owner or operator of a materials recovery facility, if the owner or operator:

a. Notifies the director of his intent to operate such a facility and provides the department with documentation required under 9 VAC 20-80-500 B;

b. Provides the director with a certification that the facility meets the siting standards of 9 VAC 20-80-360 B, as applicable;

c. Furnishes to the director a certificate signed by a registered professional engineer that the facility has been designed and constructed in accordance with the standards of 9 VAC 20-80-360 C, as applicable;

d. Submits to the director an operational plan describing how the standards of 9 VAC 20-80-360 D, as applicable, will be met;

e. Submits to the director a closure plan describing how the standards of 9 VAC 20-80-360 E, as applicable, will be met;

f. Submits to the director the proof of financial responsibility if required by the Financial Assurance Regulations for Solid Waste Facilities (9 VAC 20-70~~-10 et seq.~~);

g. Submits to the director the results of the public participation effort conducted in accordance with the requirements contained in subdivision 5 of this subsection; and

h. In addition to the above, in the case of facilities engaged in reclamation of petroleum-contaminated materials, submits to the director:

(1) A copy of the facility permit issued in accordance with the regulations promulgated by the of Air Pollution Control Board when applicable; and

(2) A description how the requirements of 9 VAC 20-80-700 will be met.

i. Existing soil reclamation facilities which became operational prior to March 15, 1993, on the basis of written approval from the director, are considered to be operating under a permit-by-rule.

3. Energy recovery, thermal treatment, or incineration facility. The owner or operator of an energy recovery, thermal treatment, or incineration facility, if he:

a. Notifies the director of his intent to operate such a facility and provides to the department documentation required under 9 VAC 20-80-500 B;

b. Provides the director with a certification that the facility meets the siting standards of 9 VAC 20-80-370 B, as applicable;

c. Furnishes to the director a certificate signed by a registered professional engineer that the facility has been designed and constructed in accordance with the standards of 9 VAC 20-80-370 C, as applicable; and

d. Submits to the director an operational plan describing how the standards of 9 VAC 20-80-370 D, as applicable, will be met.

e. Submits to the director a closure plan describing how the standards of 9 VAC 20-80-370 E, as applicable, will be met;

f. Submits to the director the proof of financial responsibility if required by the Financial Assurance Regulations for Solid Waste Facilities (9 VAC 20-70~~-10 et seq.~~); and

g. Furnishes to the director a copy of the facility permit issued in accordance with the regulations promulgated by the Air Pollution Control Board.

h. In addition to the above, in the case of thermal treatment facilities engaged in reclamation of petroleum-contaminated materials, submits to the director a description of how the requirements of 9 VAC 20-80-700 will be met.

4. Composting facilities. The owner or operator of all Type A or Type B facilities that receive no more than 700 tons per quarter of compostable materials, if he:

a. Notifies the director of his intent to operate such a facility and provides to the department documentation required under 9 VAC 20-80-500 B;

b. Provides the director with the description of the type of facility and the classification of materials that will be composted as classified under 9 VAC 20-80-330 A 4;

c. Provides the director with a certification that the facility meets the siting standards of 9 VAC 20-80-330 B;

d. Furnishes to the director a certificate signed by a registered professional engineer that the facility has been designed and constructed in accordance with the standards of 9 VAC 20-80-330 C;

e. Submits to the director an operational plan describing how the standards of 9 VAC 20-80-330 D will be met;

f. Submits to the director a closure plan describing how the standards of 9 VAC 20-80-330 E will be met;

g. Submits to the director the proof of financial responsibility if required by the Financial Assurance Regulations for Solid Waste Facilities (9 VAC 20-70~~-10 et seq.~~); and

h. Submits to the director the results of the public participation effort conducted in accordance with the requirements contained in subdivision 5 of this subsection.

5. Public participation.

a. Before the initiation of any construction at the facility under subdivision 1, 2, 3, or 4 of this subsection, the owner or operator shall publish a notice once a week for two consecutive weeks in a major local newspaper of general circulation informing the public that he intends to construct and operate a facility eligible for a permit-by-rule. The notice shall include:

(1) A brief description of the proposed facility and its location;

(2) A statement that the purpose of the public participation is to acquaint the public with the technical aspects of the facility and how the standards and the requirements of this chapter will be met, to identify issues of concern, to facilitate communication and to establish a dialogue between the permittee and persons who may be affected by the facility;

(3) Announcement of a 30-day comment period, in accordance with subdivision 5 d of this subsection, and the name, telephone number, and address of the owner's or operator's representative who can be contacted by the interested persons to answer questions or where comments shall be sent;

(4) Announcement of the date, time, and place for a public meeting held in accordance with subdivision 5 c of this subsection; and

(5) Location where copies of the documentation to be submitted to the department in support of the permit-by-rule notification and any supporting documents can be viewed and copied.

b. The owner or operator shall place a copy of the documentation and support documents in a location accessible to the public in the vicinity of the proposed facility.

c. The owner or operator shall hold a public meeting not earlier than 15 days after the publication of the notice required in subdivision 5 a of this subsection and no later than seven days before the close of the 30-day comment period. The meeting shall be held to the extent practicable in the vicinity of the proposed facility.

d. The public shall be provided 30 days to comment on the technical and the regulatory aspects of the proposal. The comment period will begin on the date the owner or operator publishes the notice in the local newspaper.

e. The requirements of this section do not apply to the owners or operators of a material or energy recovery facility, an incinerator or a thermal treatment unit that has received a permit from the department based on the regulations promulgated by the State Air Pollution Control Board or State Water Control Board that required facility-specific public participation procedures.

6. Upon receiving the certifications and other required documents, including the results of the public meeting and the applicant's response to the comments received, the director will acknowledge their receipt within 10 working days. If the applicant's submission is administratively incomplete, the letter will state that the facility will not be considered to have a permit-by-rule until the missing certifications or other required documentation is submitted. At the time of the initial receipt or at a later date, the director may require changes in the documents designed to assure compliance with the standards of Part VI (9 VAC 20-80-320 et seq.) and Part VIII (9 VAC 20-80-630 et seq.), if applicable. Should such changes not be accomplished by the facility owner or operator, the director may require the operator to submit the full permit application and to obtain a regular solid waste management facility permit.

7. Change of ownership. A permit by rule may not be transferred by the permittee to a new owner or operator. However, when the property transfer takes place without proper closure, the new owner shall notify the department of the sale and fulfill all the requirements contained in subdivisions 1 through 4 of this subsection with the exception of those dealing with the financial assurance. Upon presentation of the financial assurance proof required by 9 VAC 20-70~~-10 et seq.~~ by the new owner, the department will release the old owner from his closure and financial responsibilities and acknowledge existence of the new permit by rule in the name of the new owner.

8. Facility modifications. The owner or operator of a facility operating under a permit by rule may modify its design and operation by furnishing the department a new certificate prepared by the professional engineer and new documentation required under subdivision 1, 2, 3, or 4, as applicable, and 5 of this subsection. Whenever modifications in the design or operation of the facility affect the provisions of the approved closure plan, the owner or operator shall also submit an amended closure plan. Should there be an increase in the closure costs, the owner or operator shall submit a new proof of financial responsibility as required by the Financial Assurance Regulations for Solid Waste Facilities (9 VAC 20-70~~-10 et seq.~~).

9. Loss of permit by rule status. In the event that a facility operating under a permit by rule violates any applicable siting, design and construction, or closure provisions of Part VI of this chapter, the owner or operator of the facility will be considered to be operating an unpermitted facility as provided for in 9 VAC 20-80-80 and shall be required to either obtain a new permit as required by Part VII or close under Part V or VI of this chapter, as applicable.

10. Termination. The director shall terminate permit by rule and shall require closure of the facility whenever he finds that:

a. As a result of changes in key personnel, the requirements necessary for a permit by rule are no longer satisfied;

b. The applicant has knowingly or willfully misrepresented or failed to disclose a material fact in his disclosure statement, or any other report or certification required under this chapter, or has knowingly or willfully failed to notify the director of any material change to the information in the disclosure statement; ~~or~~

c. Any key personnel have been convicted of any of the crimes listed in § 10.1-1409 of the Code of Virginia, punishable as felonies under the laws of the Commonwealth, or the equivalent of them under the laws of any other jurisdiction; or has been adjudged by an administrative agency or a court of competent jurisdiction to have violated the environmental protection laws of the United States, the Commonwealth or any other state and the director determines that such conviction or adjudication is sufficiently probative of the permittee's inability or unwillingness to operate the facility in a lawful manner~~.~~*; or*

d. The operation of the facility is inconsistent with the facility's operations manual and the operational requirements of the regulations.

B. Emergency permits. Notwithstanding any other provision of Part VII of this chapter, in the event the director finds an imminent and substantial endangerment to human health or the environment, the director may issue a temporary emergency permit to a facility to allow treatment, storage, or disposal of solid waste for a nonpermitted facility or solid waste not covered by the permit for a facility with an effective permit. Such permits:

1. May be oral or written. If oral, it shall be followed within five days by a written emergency permit;

2. Shall not exceed 90 days in duration;

3. Shall clearly specify the solid wastes to be received, and the manner and location of their treatment, storage, or disposal;

4. Shall be accompanied by a public notice including:

a. Name and address of the office granting the emergency authorization;

b. Name and location of the facility so permitted;

c. A brief description of the wastes involved;

d. A brief description of the action authorized and reasons for authorizing it;

e. Duration of the emergency permit; and

5. Shall incorporate, to the extent possible and not inconsistent with the emergency situation, all applicable requirements of this chapter.

C. Experimental facility permits.

1. The director may issue an experimental facility permit for any solid waste treatment facility which proposes to utilize an innovative and experimental solid waste treatment technology or process for which permit standards for such experimental activity have not been promulgated under Part VI of this chapter. Any such permit shall include such terms and conditions as will assure protection of human health and the environment. Such permits:

a. Shall provide for the construction of such facilities based on the standards shown in 9 VAC 20-80-470, as necessary;

b. Shall provide for operation of the facility for no longer than one calendar year unless renewed as provided in subdivision 3 of this subsection;

c. Shall provide for the receipt and treatment by the facility of only those types and quantities of solid waste which the director deems necessary for purposes of determining the efficiency and performance capabilities of the technology or process and the effects of such technology or process on human health and the environment; and

d. Shall include such requirements as the director deems necessary to protect human health and the environment (including, but not limited to, requirements regarding monitoring, operation, closure and remedial action), and such requirements as the director deems necessary regarding testing and providing of information to the director with respect to the operation of the facility.

2. For the purpose of expediting review and issuance of permits under this subsection, the director may, consistent with the protection of human health and the environment, modify or waive permit application and permit issuance requirements in Part VII of this chapter except that there may be no modification or waiver of regulations regarding local certification, disclosure statement requirements, financial responsibility (including insurance) or of procedures regarding public participation.

3. Any permit issued under this subsection may be renewed not more than three times. Each such renewal shall be for a period of not more than one calendar year.

9 VAC 20-80-500. Permit application procedures.

A. Any person who proposes to establish a new solid waste management facility ("SWMF"), or modify an existing SWMF, shall submit a permit application to the department, using the procedures set forth in this section and other pertinent sections of this part.

B. Notice of intent.

1. To initiate the permit application process, any person who proposes to establish a new solid waste management facility ("SWMF"), or modify an existing SWMF, or to amend an existing permit shall file a notice of intent with the director stating the desired permit or permit amendment, the precise location of the proposed facility, and the intended use of the facility. The notice shall be in letter form and be accompanied by area and site location maps.

2. No application for a new solid waste management facility permit or application for an amendment for a non-captive industrial landfill to expand or increase capacity shall be deemed complete unless it is accompanied by ~~a current disclosure statement as shown in Appendix 7.1~~ *DEQ Form DISC-01 and 02 (Disclosure Statement)* for all key personnel.

3. No application for a new solid waste management facility permit or application for an amendment for a non-captive industrial landfill to expand or increase capacity shall be considered complete unless the notice of intent is accompanied by a current certification from the governing body of the county, city, or town in which the facility is to be located stating that the location and operation of the facility are consistent with all applicable ordinances. No certification shall be required for the application for an amendment or modification of an existing permit other than for a non-captive industrial landfill as outlined above. *DEQ Form SW-11-1 (Request for Local Government Certification) is provided* for the ~~convenience~~ *use* of the regulated community~~, a certification form in shown in Appendix 7.2~~.

4. If the location and operation of the facility is stated by the local governing body to be consistent with all its ordinances, without qualifications, conditions, or reservations, the applicant will be notified that he may submit his application for a permit. This application shall be submitted in two parts, identified as Part A and Part B.

5. If the applicant proposes to operate a new sanitary landfill or transfer station, the notice of intent shall include a statement describing the steps taken by the applicant to seek the comments of the residents of the area where the sanitary landfill or transfer station is proposed to be located regarding the siting and operation of the proposed sanitary landfill or transfer station. The public comment steps shall be taken prior to filing with the department the notice of intent.

a. The public comment steps shall include publication of a public notice once a week for two consecutive weeks in a newspaper of general circulation serving the locality where the sanitary landfill or transfer station is proposed to be located and holding at least one public meeting within the locality to identify issues of concern, to facilitate communication and to establish a dialogue between the applicant and persons who may be affected by the issuance of a permit for the sanitary landfill or transfer station.

b. At a minimum, the public notice shall include:

(1) A statement of the applicant's intent to apply for a permit to operate the proposed sanitary landfill or transfer station;

(2) The proposed sanitary landfill or transfer station site location;

(3) The date, time and location of the public meeting the applicant will hold; and

(4) The name, address and telephone number of a person employed by an applicant who can be contacted by interested persons to answer questions or receive comments on siting and operation of the proposed sanitary landfill or transfer station.

c. The first publication of the public notice shall be at least 14 days prior to the public meeting date.

6. Disposal capacity guarantee. If the applicant proposes to construct a new sanitary landfill or expand an existing sanitary landfill, a signed statement must be submitted by the applicant guaranteeing that sufficient disposal capacity will be available in the facility to enable localities within the Commonwealth to comply with their solid waste management plans developed pursuant to 9 VAC 20-130 and certifying that such localities will be allowed to contract for and reserve disposal capacity in the facility.

7. Host agreement. If the applicant proposes to construct a new sanitary landfill or expand an existing sanitary landfill, a certification from the local governing body must be provided indicating that a host agreement has been reached between the applicant and the host government or authority.

a. The host agreement shall include the following provisions at a minimum:

(1) The amount of financial compensation the applicant will provide the host locality;

(2) The daily travel routes and traffic volumes;

(3) The daily disposal limit; and

(4) The anticipated service area of the facility.

b. The host agreement shall contain a provision that the applicant will pay the full cost of a least one full-time employee of the host locality. The employee's responsibilities will include monitoring and inspecting waste disposal practices in the locality.

c. The host agreement shall provide that the applicant shall, when requested by the host locality, split air and water samples so that the host locality may independently test the samples, with all associated costs paid for by the applicant. All such sampling results shall be provided to the department.

d. No certification from the local governing body will be required if the owner and operator of the landfill is a locality or a service authority of which the local governing body is a member.

8. If the application is for a locality owned and operated sanitary landfill, or the expansion of such a landfill, the applicant shall provide information on:

a. The daily travel routes and traffic volumes;

b. The daily disposal limit; and

c. The service area of the facility.

9. If the application is for a new solid waste management facility or an amendment allowing a facility expansion or an increase in capacity, the director shall evaluate whether there is a need for the additional capacity in accordance with § 10.1-1408.1 D 1 of the Code of Virginia. The information in either subdivision 9 a or 9 b must be provided with the notice of intent to assist the director with the required investigation and analysis. Based on the information submitted, the owner or operator will demonstrate how the additional capacity will be utilized over the life of the facility.

a. Information demonstrating that there is a need for the additional capacity, which considers the following:

(1) The anticipated area to be served by the facility;

(2) Similar or related solid waste management facilities that are in the same service area and could impact the proposed facility, and the capacity and service life of those facilities;

(3) The present quantity of waste generated within the proposed service area;

(4) The waste disposal needs specified in the local solid waste plan;

(5) The projected future waste generation rates for the anticipated area to be served during the proposed life of the facility;

(6) The recycling, composting or other waste management activities within the proposed service area;

(7) The additional solid waste disposal capacity that the facility would provide to the proposed area of service; and

(8) Information demonstrating that the capacity is needed to enable localities to comply with solid waste plans developed pursuant to § 10.1-1411 of the Code of Virginia.

(9) Any additional factors that provide justification for the additional capacity provided by the facility.

b. For sanitary landfills, based on current or projected disposal rates, information demonstrating there is less than 10 years of capacity remaining in the facility and information demonstrating either of the following:

(1) The available permitted disposal capacity for the state is less than 20 years based on the most current reports submitted pursuant to the Waste Information and Assessment Program in 9 VAC 20-130-165; or

(2) The available permitted disposal capacity is less than 20 years in either:

(a) The planning region, or regions, immediately contiguous to the planning region of the host community.

(b) The facilities within a 75 mile radius of the proposed facility.

10. All facilities, in order to solicit comments from local governments outside of the host community, will submit a notification to all geographically contiguous jurisdictions and jurisdictions included in the local solid waste management plan. The notification will contain the nature and location of the facility, the date and location of the public hearing if applicable under the provisions of subdivision B 5 of this subsection, and will request comments on the impacts of the facility. The notification will be submitted to the chief administrative officer of the host community. Documentation of these activities and any comments received during public participation will be submitted to the department.

C. Part A application. Part A application provides the information essential for assessment of the site suitability for the proposed facility. It contains information on the proposed facility to be able to determine site suitability for intended uses. It provides information on all siting criteria applicable to the proposed facility.

1. The applicant shall complete, sign and submit three copies of the Part A application containing required information and attachments as specified in 9 VAC 20-80-510 to the director.

2. The Part A application will be reviewed for completeness. The applicant will be notified within fifteen days whether the application is administratively complete or incomplete. If complete information is not provided within thirty days after the applicant is notified, the application will be returned to the applicant without further review.

3. Upon receipt of a complete Part A application, the department shall conduct a technical review of the submittal. Additional information may be required or the site may be visited before the review is completed. The director shall notify the applicant in writing of approval or disapproval of the Part A application or provide conditions to be made a part of the approval.

4. For sanitary landfills, the director's notification must indicate that the site on which the landfill will be located is suitable for the construction and operation of a landfill. In making this determination, the director will consider the information presented in the site hydrogeologic and geotechnical report (9 VAC 20-80-510 F), the landfill impact statement (9 VAC 20-80-510 H 1) and the adequacy of transportation facilities (9 VAC 20-80-510 G). The director may also consider other factors at his discretion.

~~4.~~ *5.* In case of the approval or conditional approval, the applicant may submit the Part B application provided the required conditions are addressed in the submission.

D. Part B application. The Part B application involves the submission of the detailed engineering design and operating plans for the proposed facility.

1. The applicant, after receiving Part A approval, may submit to the ~~director~~ *department* a Part B application to include the required documentation for the specific solid waste management facility as provided for in 9 VAC 20-80-520, 9 VAC 20-80-530, or 9 VAC 20-80-540. The Part B application and supporting documentation shall be submitted in three copies and must include the financial assurance documentation as required by 9 VAC 20-70~~-10 et seq.~~ Until the closure plans are approved and a draft permit is being prepared, the applicant must provide evidence of commitment to provide the required financial assurance from a financial institution or insurance company. If financial assurance is not provided within 30 days of notice by the director, the permit shall be denied.

2. The Part B application shall be reviewed for administrative completeness before technical evaluation is initiated. The applicant shall be advised in writing within thirty days whether the application is complete or what additional documentation is required. The Part B application will not be evaluated until an administratively complete application is received.

3. The administratively complete application will be coordinated with other state agencies according to the nature of the facility. The comments received shall be considered in the permit review by the department. The application will be evaluated for technical adequacy and regulatory compliance. In the course of this evaluation, the department may require the applicant to provide additional information. At the end of the evaluation, the department will notify the applicant that the application is technically and regulatorily adequate or that the department intends to deny the application.

4. The procedures addressing the denial are contained in 9 VAC 20-80-580.

E. Permit issuance.

1. If the application is found to be technically adequate and in full compliance with this chapter, a draft permit shall be developed by the department.

2. A notice of the availability of the proposed draft permit shall be made in a newspaper with general circulation in the area where the facility is to be located. A public hearing will be scheduled and the notice shall be published at least 30 days in advance of the public hearing on the draft permit. Copies of the proposed draft permit will be available for viewing at the applicant's place of business or at the regional office of the department, or both, upon request in advance of the public hearing.

3. The department shall hold the announced public hearing 30 days or more after the notice is published in the local newspaper. The public hearing shall be conducted by the department within the local government jurisdiction where the facility is to be located. A comment period shall extend for a 15-day period after the conclusion of the public hearing.

4. A final decision to permit, to deny a permit or to amend the draft permit shall be rendered by the director within 30 days of the close of the hearing comment period.

5. The permit applicant and the persons who commented during the public participation period shall be notified in writing of the decision on the draft permit. That decision may include denial of the permit (see also 9 VAC 20-80-580), issuance of the permit as drafted, or amendment of the draft permit and issuance.

6. *No permit for a new solid waste management facility or an amendment allowing a facility expansion or an increase in capacity shall be approved by the director unless the facility meets the provisions of § 10.1-1408.1 D of the Code of Virginia.* Before issuing a permit the director shall make a determination in writing in accordance with the provisions of § 10.1-1408.1 D of the Code of Virginia. *The director may request updated information during the review of the permit application if the information on which the director's determination is based is no longer current. If, based on the analysis of the materials presented in the permit application, the determination required in § 10.2-1408.1 D cannot be*

made, the application will be denied in accordance with 9 VAC 20-80 580 A 6.

7. Any permit for a new sanitary landfill and any permit amendment authorizing expansion of an existing sanitary landfill shall incorporate the conditions required for a disposal capacity guarantee in § 10.1-1408.1 P of the Code of Virginia. This provision does not apply to permit applications from one or more political subdivisions that will only accept waste from within those political subdivisions' jurisdiction or municipal solid waste generated within other political subdivisions pursuant to an interjurisdictional agreement.

9 VAC 20-80-510. Part A permit application.

The following information shall be included in the Part A of the permit application for all solid waste management facilities unless otherwise specified in this section.

A. The Part A permit application consists of a letter stating the type of the facility for which the permit application is made and the certification required in subsection ~~G~~ *I* of this section~~, the Part A application form shown in Appendix 7.3 with~~. All pertinent information and attachments required by this section *are provided on DEQ Form SW 7-3 (Part A Permit Application)*.

B. A key map of the Part A permit application, delineating the general location of the proposed facility, shall be prepared and attached as part of the application. The key map shall be plotted on a seven and one-half minute United States Geological Survey topographical quadrangle. The quadrangle shall be the most recent revision available, shall include the name of the quadrangle and shall delineate a minimum of one mile from the perimeter of the proposed facility boundaries. One or more maps may be utilized where necessary to insure clarity of the information submitted.

C. A near-vicinity map shall be prepared and attached as part of the application. The vicinity map shall have a minimum scale of one inch equals 200 feet (1" = 200'). The vicinity map shall delineate an area of 500 feet from the perimeter of the property line of the proposed facility. The vicinity maps may be an enlargement of a United States Geological Survey topographical quadrangle or a recent aerial photograph. The vicinity map shall depict the following:

1. All homes, buildings or structures including the layout of the buildings which will comprise the proposed facility;

2. The facility boundary;

3. The limits of the actual disposal operations within the boundaries of the proposed facility, if applicable;

4. Lots and blocks taken from the tax map for the site of the proposed facility and all contiguous properties;

5. The base floodplain, where it passes through the map area; or, otherwise, a note indicating the expected flood occurrence period for the area;

6. Existing land uses and zoning classification;

7. All water supply wells, springs or intakes, both public and private;

8. All utility lines, pipelines or land based facilities (including mines and wells); and

9. All parks, recreation areas, surface water bodies, dams, historic areas, wetlands areas, monument areas, cemeteries, wildlife refuges, unique natural areas or similar features.

D. Except in the case of a local governing body or a public service authority possessing a power of eminent domain, copy of lease or deed (showing page and book location) or certification of ownership of the site, the department will not consider an application for a permit from any person who does not demonstrate legal control over the site for a period of the permit life. A documentation of an option to purchase will be considered as a temporary substitute for a deed; however, the true deed must be provided to the department before construction at the site begins.

E. For solid waste disposal facilities regulated under Part V (9 VAC 20-80-240 et seq.) of this chapter, site hydrogeologic and geotechnical report by geologist or engineer registered for practice in the Commonwealth.

1. The site investigation for a proposed landfill facility shall provide sufficient information regarding the geotechnical and hydrogeologic conditions at the site to allow a reasonable determination of the usefulness of the site for development as a landfill. The geotechnical exploration efforts shall be designed to provide information regarding the availability and suitability of onsite soils for use in the various construction phases of the landfill including liner, cover, drainage material, and cap. The hydrogeologic information shall be sufficient to determine the characteristics of the uppermost aquifer underlying the facility. Subsurface investigation programs conducted shall meet the minimum specifications here.

a. Borings shall be located to identify the uppermost aquifer within the proposed facility boundary, determine the ability to perform ground water monitoring at the site, and provide data for the evaluation of the physical properties of soils and soil availability. Borings completed for the proposed facility shall be sufficient in number and depth to identify the thickness of the uppermost aquifer and the presence of any significant underlying impermeable zone. Impermeable zone shall not be fully penetrated within the anticipated fill areas, whenever possible. The number of borings shall be at a minimum in accordance with Table 7-1 as follows:

Table 7-1

Acreage	Total Number of Borings
Less than 10	4
10 - 49	8
50 - 99	14
100 - 200	20
More than 200	24 + 1 boring for each additional 10 acres

b. The department reserves the right to require additional borings in areas in which the number of borings required

by Table 7-1 is not sufficient to describe the geologic formations and ground water flow patterns below the proposed solid waste disposal facility.

c. In highly uniform geological formations, the number of borings may be reduced, as approved by the department.

d. The borings should employ a grid pattern, wherever possible, such that there is, at a minimum, one boring in each major geomorphic feature. The borings pattern shall enable the development of detailed cross sections through the proposed landfill site.

e. Subsurface data obtained by borings shall be collected by standard soil sampling techniques. Diamond bit coring, air rotary drilling or other appropriate methods, or a combination of methods shall be used as appropriate to characterize competent bedrock. The borings shall be logged from the surface to the lowest elevation (base grade) or to bedrock, whichever is shallower, according to standard practices and procedures. In addition, the borings required by Table 7-1 shall be performed on a continuous basis for the first 20 feet below the lowest elevation of the solid waste disposal facility or to the bed rock. Additional samples as determined by the registered geologist or engineer shall be collected at five-foot intervals thereafter.

f. Excavations, test pits and geophysical methods may be employed to supplement the soil boring investigation.

g. At a minimum, four of the borings shall be converted to water level observations wells, well nests, piezometers or piezometer nests to allow determination of the rate and direction of ground water flow across the site. All ground water monitoring points or water level measurement points shall be designed to allow proper abandonment by backfilling with an impermeable material. The total number of wells or well nests shall be based on the complexity of the geology of the site.

h. Field analyses shall be performed in representative borings to determine the in situ hydraulic conductivity of the uppermost aquifer.

i. All borings not to be utilized as permanent monitoring wells, and wells within the active disposal area, shall be sealed and excavations and test pits shall be backfilled and properly compacted to prevent possible paths of leachate migration. Boring sealing procedures shall be documented in the hydrogeologic report.

2. The geotechnical and hydrogeologic reports shall at least include the following principal sections:

a. Field procedures. Boring records and analyses from properly spaced borings in the facility portion of the site. Final boring logs shall be submitted for each boring, recording soils or rock conditions encountered. Each log shall include the type of drilling and sampling equipment, date the boring was started, date the boring was finished, a soil or rock description in accordance with the United Soil Classification System or the Rock Quality Designation, the method of sampling, the depth of sample collection, the water levels encountered, and the Standard Penetration Test blow counts, if applicable. Boring locations and elevations shall be surveyed with a precision of 0.01 foot. At least one surveyed point shall be indelibly marked by the surveyor on each well. All depths of soil and rock as described within the boring log shall be corrected to National Geodetic Vertical Datum, if available.

b. Geotechnical interpretations and report including complete engineering description of the soil units underlying the site.

(1) Soil unit descriptions shall include estimates of soil unit thickness, continuity across the site, and genesis. Laboratory determination of the soil unit's physical properties shall be discussed.

(2) Soil units that are proposed for use as a drainage layer, impermeable cap or impermeable liner material shall be supported by laboratory determinations of the remolded permeability. Remolded hydraulic conductivity tests require a Proctor compaction test (ASTM D698) soil classification liquid limit, plastic limit, particle size distribution, specific gravity, percent compaction of the test sample, remolded density and remolded moisture content, and the percent saturation of the test sample. Proctor compaction test data and hydraulic conductivity test sample data should be plotted on standard moisture-density test graphs.

(3) The geotechnical report shall provide an estimate of the available volume of materials suitable for use as liner, cap, and drainage layer. It should also discuss the anticipated uses of the on-site materials, if known.

c. Hydrogeologic report.

(1) The report shall include water table elevations, direction and calculated rate of ground water flow and similar information on the hydrogeology of the site. All raw data shall be submitted with calculations.

(2) The report shall contain a discussion of field test procedures and results, laboratory determinations made on undisturbed samples, recharge areas, discharge areas, adjacent or areal usage, and typical radii of influence of pumping wells.

(3) The report shall also contain a discussion of the regional geologic setting, the site geology and a cataloging and description of the uppermost aquifer from the site investigation and from referenced literature. The geologic description shall include a discussion of the prevalence and orientation of fractures, faults, and other structural discontinuities, and presence of any other significant geologic features. The aquifer description should address homogeneity, horizontal and vertical extent, isotropy, the potential for ground water remediation, if required, and the factors influencing the proper placement of a ground water monitoring network.

(4) The report shall include a geologic map of the site prepared from one of the following sources as available, in order of preference:

(a) Site specific mapping prepared from data collected during the site investigation;

(b) Published geologic mapping at a scale of 1:24,000 or larger;

(c) Published regional geologic mapping at a scale of 1:250,000 or larger; or

(d) Other published mapping.

(5) At least two generally orthogonal, detailed site specific cross sections, which shall sufficiently describe the geologic formations identified by the geologic maps prepared in accordance with subdivision 2 c (4) of this subsection at a scale which clearly illustrates the geologic formations, shall be included in the hydrogeologic report. Cross sections shall show the geologic units, approximate construction of existing landfill cells base grades, water table, and surficial features along the line of the cross section. Cross section locations shall be shown on an overall facility map.

(6) Potentiometric surface maps for the uppermost aquifer which sufficiently define the ground water conditions encountered below the proposed solid waste disposal facility area based upon stabilized ground water elevations. Potentiometric surface maps shall be prepared for each set of ground water elevation data available. The applicant shall include a discussion of the effects of site modifications, seasonal variations in precipitation, and existing and future land uses of the site on the potentiometric surface.

(7) If a geological map or report from either the Department of Mines, Minerals, and Energy or the U.S. Geological Survey is published, it shall be included.

F. For solid waste management facilities regulated under Part VI (9 VAC 20-80-320 et seq.) of this chapter:

1. A cataloging and description of aquifers, geological features or any similar characteristic of the site that might affect the operation of the facility or be affected by that operation.

2. If a geological map or report from either the Department of Mines, Minerals, and Energy or the U.S. Geological Survey is published, it shall be included.

G. For sanitary landfills, a VDOT adequacy report prepared by the Virginia Department of Transportation. As required under § 10.1-1408.4 A 1 of the Code of Virginia, the report will address the adequacy of transportation facilities that will be available to serve the landfill, including the impact of the landfill on the local traffic volume, road congestion, and highway safety.

H. For sanitary landfills, a Landfill Impact Statement (LIS).

1. A report must be provided to the department that addresses the potential impact of the landfill on parks, recreational areas, wildlife management areas, critical habitat areas of endangered species as designated by applicable local, state, or federal agencies, public water supplies, marine resources, wetlands, historic sites, fish and wildlife, water quality, and tourism.

2. The report will include a discussion of the landfill configuration and how the facility design addresses any impacts identified in the report required under subdivision 1 of this subsection.

3. The report will identify all of the areas identified under subdivision 1 of this subsection that are within five miles of the facility.

~~G.~~ *I.* A signed statement by the applicant that he has sent written notice to all adjacent property owners or occupants that he intends to develop a SWMF on the site, a copy of the notice and the names and addresses of those to whom the notices were sent.

J. Information demonstrating that the facility is consistent with the local solid waste management plan including:

1. A discussion of the role of the facility in solid waste management within the solid waste planning region;

2. A description of the additional solid waste disposal capacity that the facility would provide to the proposed area of service;

3. Specific references to local solid waste management plan where discussions of the facility are provided.

K. One or more of the following indicating that the public interest would be served by a new facility or a facility expansion, which includes:

1. Cost effective waste management for the public within the service area comparing the costs of a new facility or facility expansion to waste transfer, or other disposal options;

2. The facility provides protection of human health and safety and the environment;

3. The facility provides alternatives to disposal including reuse or reclamation;

4. The facility allows for the increased recycling opportunities for solid waste;

5. The facility provides for energy recovery or the subsequent use of solid waste, or both, thereby reducing the quantity of solid waste disposed;

6. The facility will support the waste management needs expressed by the host community; or

7. Any additional factors that indicate that the public interest would be served by the facility.

9 VAC 20-80-530. Part B permit application requirements for energy recovery and incineration facilities.

Owners or operators of energy recovery, thermal treatment, and incineration facilities regulated under 9 VAC 20-80-370 who do not dispose of solid wastes on-site and who will remove all solid wastes or solid waste residues at closing, will use the application procedures of this section. The following information is required in a Part B permit application:

A. Design plans. Design plans shall be prepared by a person or firm registered to practice professional engineering in the Commonwealth. The plans shall demonstrate compliance with 9 VAC 20-80-370, as applicable, and include at least the following:

1. Existing site conditions plans sheet indicating site conditions prior to development.

2. Engineering modification plan sheet indicating the appearance of the site after installation of engineering modifications. More than one plan sheet may be required for complicated sites.

3. Phasing plan sheets showing the progression of site development through time. At a minimum, a separate plan shall be provided for initial site preparations and for each subsequent major phase or new area where substantial site preparation must be performed. Each such plan shall include a list of construction items and quantities necessary to prepare the phase indicated.

4. Design drawings of the solid waste management facility to include:

a. Profile and plan views of all structures and enclosures showing dimensions. Plan views showing building setbacks, side and rear distances between the proposed structure and other existing or proposed structures, roadways, parking areas and site boundaries;

b. Interior floor plans showing the layout, profile view and dimensions of the processing lines, interior unloading, sorting, storage and loading areas as well as other functional areas;

c. A plan identifying, locating and describing utilities which will service the facility including, but not limited to, the storm water drainage system, sanitary sewer system, water supply system and energy system; interface of the proposed facility with the existing utility systems;

5. When applicable, the following information shall be presented on plan sheets:

a. All information on existing site conditions map unless including this information leads to confusion with the data intended for display.

b. A survey grid with base lines and monuments to be used for field control.

c. All drainage patterns and surface water drainage control structures both within the area and at the site perimeter to include berms, ditches, sedimentation basins, pumps, sumps, culverts, pipes, inlets, velocity breaks, sodding, erosion matting, or other methods of erosion control.

d. Access roads and traffic flow patterns to and within the storage and transfer areas.

e. All temporary and permanent fencing.

f. The methods of screening such as berms, vegetation or special fencing.

g. Wastewater collection, control and treatment systems which may include pipes, manholes, trenches, berms, collection sumps or basins, pumps, and risers.

h. Special waste handling areas.

i. Construction notes and references to details.

j. Other appropriate site features.

6. Detailed drawings and typical sections for, as appropriate, drainage control structures, access roads, fencing, buildings, signs, and other construction details.

B. Design report. A design report for the facility is required and will provide the technical details and specifications necessary to support the design plans consisting of, at least, the following information:

1. The introduction to the design report shall identify the project title; engineering consultants; site owner, licensee and operator; site life and capacity; municipalities, industries and collection and transportation agencies served; and waste types to be disposed. It shall also identify any exemptions desired by the applicant.

2. The design capacity specifications shall include, at a minimum, the following information:

a. The rated capacity of the facility, in both tons per day and tons per hour;

b. The expected short term and projected future long term daily loadings;

c. The designation of normal loading, unloading and storage areas, including capacities in cubic yards and tons. Description of the time such areas can be practically used, based on expected short term daily loadings;

d. The designation of emergency loading, unloading, storage or other disposal capabilities to be used when facility system down time exceeds 24 hours;

e. The designation of alternate management facilities or plans for transfer of stored waste in the event facility system down time exceeds 72 hours;

3. The design specifications for process residues to include the following:

a. The expected daily quantity of waste residue generations;

b. The proposed ultimate disposal location for all facility-generated waste residues including, but not limited to, ash residues and by-pass material, residues resulting from air pollution control devices, and the proposed alternate disposal locations for any unauthorized waste types, which may have been unknowingly accepted. The schedule for securing contracts for the disposal of these waste types at the designated locations shall be provided;

c. A descriptive statement of any materials use, reuse, or reclamation activities to be operated in conjunction with the facility, either on the incoming solid waste or the ongoing residue;

4. A descriptive statement and detailed specification of the proposed onsite and offsite transportation system intended to service vehicles hauling waste to the facility for processing, and vehicles removing reclaimed materials and or process residues from the facility. Onsite parking, access and exit points, and the mechanisms or features which will be employed to provide for an even flow of traffic into, out of, and within the site, shall be identified.

5. A detailed analysis shall be made of the financial responsibility for the time of site closing.

6. An appendix to the design plan shall be submitted which shall include any additional data not previously presented, calculations, material specifications, operating agreements, wastewater treatment agreements, documents related to long-term care funding and other appropriate information.

~~C. The results of a waste supply analysis program characterizing the quantity and composition of the solid waste in the service area shall be submitted. The waste characterization shall be performed by utilizing a statistically relevant plan which justifies the population sample. The sampling program shall provide for seasonal fluctuations in the quantity and composition of the waste types to be handled at the facility. Anticipated changes in solid waste quantity and composition for each of the waste types to be serviced by the proposed facility shall be projected for that term reflecting anticipated facility life. Within this framework, the effect of existing or future source separation programs on the supply of solid waste within the service area shall be described and quantified. Quantity and compositions analyses shall be carried out simultaneously where possible and shall provide information relating to anticipated maximum, minimum and average daily loading.~~

~~D.~~ *C.* Operations manual. The operations manual shall provide the detailed procedures by which the operator will implement the design plans and specifications. At a minimum, the operations manual shall include:

1. Daily operations including a discussion of the timetable for development, waste types accepted or excluded, typical waste handling techniques, hours of operation, traffic routing, drainage and erosion control, windy, wet and cold weather operations, fire protection equipment, manpower, methods for handling of any unusual waste types, methods for vector, dust and odor control, daily cleanup, salvaging, record keeping, parking for visitors and employees, monitoring, backup equipment with names and telephone numbers where equipment may be obtained, and other special design features. This may be developed as a removable section to improve accessibility for the site operator.

2. Site closing information consisting of a discussion of the anticipated sequence of events for site closing and discussion of those actions necessary to prepare the site for long-term care and final use.

3. Long-term care information including a discussion of the procedures to be utilized for the inspection and maintenance of run-off control structures, erosion damage, wastewater control, and other long-term care needs as required by the specific facility design.

~~E.~~ *D.* An emergency contingency plan which delineates procedures for responding to fire, explosions or any unplanned sudden or non-sudden releases of harmful constituents to the air, soil, or surface or ground water shall be submitted to the department as part of the Part B application. Before submission to the department it will be coordinated with the local police and fire departments, and the appropriate health care facility. The contingency plan shall contain;

1. A description of the actions facility personnel shall take in the event of various emergency situations;

2. A description of arrangements made with the local police and fire department which allow for immediate entry into the facility by their authorized representatives should the need arise, such as in the case of response personnel responding to an emergency situation; and

3. A list of names, addresses and phone numbers (office and home) of all persons qualified to act as an emergency coordinator for the facility. Where more than one person is listed, one shall be named as primary emergency coordinator and the other shall be listed in the order in which they will assume responsibility as alternates.

~~F.~~ *E.* Closure plan. The applicant shall prepare and submit a detailed plan for closing any SWMF. Such a plan shall be prepared to reflect the actions required at any point in the life of the facility and at the time of closing the facility. The plan should reflect all steps necessary to isolate the facility from the environment or to remove and dispose of all solid waste and residue in the facility. The closure plan should reflect all actions necessary for facility abandonment or uses other than for solid waste management.

~~G.~~ *F.* When required by the director, the applicant shall survey, record and submit background sound level data in the vicinity of the proposed facility at the time of application for a permit.

9 VAC 20-80-570. Recording and reporting required of a permittee.

A. A permit may specify:

1. Required monitoring, including type, intervals and frequency, sufficient to yield data which are representative of the monitored activity;

2. Requirements concerning the proper use, maintenance, and installation of monitoring equipment or methods, including biological monitoring methods when appropriate; and

3. Applicable reporting requirements based upon the impact of the regulated activity and as specified in this chapter.

B. A permittee shall be subject to the following whenever monitoring is required by the permit:

1. The permittee shall retain records *at the permitted facility or another location approved by the director. Records shall include all records required by the facility permit, these regulations or other applicable regulations. Records* of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation *will be maintained*

for at least three years from the sample or measurement date. The director may request that this period be extended. *For landfill operations, records of the most recent gas and ground water monitoring event will be maintained at the facility.*

2. Records of monitoring information shall include:

a. The date, exact place and time of sampling or measurements;

b. The individuals who performed the sampling or measurements;

c. The dates analyses were performed;

d. The individuals who performed the analyses;

e. The analytical techniques or methods used; and

f. The results of such analyses.

3. Monitoring results shall be maintained on file for inspection by the department.

C. A permittee shall be subject to the following reporting requirements:

1. Written notice of any planned physical alterations to the permitted facility, unless such items were included in the plans and specifications or operating plan approved by the department, shall be given to the director and approved before such alterations are to occur.

2. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of the permit, shall be submitted no later than 14 days following each schedule date.

3. The permittee shall report to the department any noncompliance or unusual condition which may endanger health or environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within five days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and, if the noncompliance has not been corrected, the anticipated time it is expected to continue. It shall also contain steps taken or planned to reduce, eliminate and prevent reoccurrence of the noncompliance.

4. The permittee shall submit ground water monitoring reports if required by Part V of this chapter.

D. Copies of all reports required by the permit, and records of all data used to complete the permit application must be retained by the permittee for at least three years from the date of the report or application. The director may request that this period be extended.

E. When the permittee becomes aware that he failed to submit any relevant facts or submitted incorrect information in a permit application or in any report to the director, he shall promptly submit such omitted facts or the correct information with an explanation.

9 VAC 20-80-580. Permit denial.

A. A permit shall be denied if:

1. The applicant fails to provide complete information required for an application;

2. The facility does not conform with the siting standards set forth for the facility in Part V or Part VI of this chapter unless an exemption or variance from the specific siting criteria has been granted;

3. The facility design and construction plans or operating plans, or both, fail to comply with requirements specified for the proposed type of facility unless an exemption or variance from the specific requirement has been granted;

4. The department finds that there is an adverse impact on the public health or the environment by the design, construction or operation will result; ~~or~~

5. The applicant is not able to fulfill the financial responsibility requirements specified in the Virginia Waste Management Board financial assurance regulations~~.~~*; or*

6. Current information sufficient to make the determination required in § 10.1-1408.1 D of the Code of Virginia has not been provided.

B. Reasons for the denial of any permit shall be provided to the applicant in writing by the executive director within 30 days of the decision to deny the permit.

9 VAC 20-80-620. Amendment of permits.

A. Permits may be amended at the request of any interested person or upon the director's initiative. However, permits may only be amended for the reasons specified in subsections E and F of this section. All requests shall be in writing and shall contain facts or reasons supporting the request. *Any permit amendment authorizing expansion of an existing sanitary landfill shall incorporate the conditions required for a disposal capacity guarantee in § 10.1-1408.1 P of the Code of Virginia. This provision does not apply to permit applications from one or more political subdivisions that will only accept waste from within those political subdivisions' jurisdiction or municipal solid waste generated within other political subdivisions pursuant to an interjurisdictional agreement.*

B. If the director decides the request is not justified, he shall send the requester a ~~brief~~ response ~~giving a reason~~ *providing justification* for the decision.

C. If the director tentatively decides to amend he shall prepare a draft permit incorporating the proposed changes. The director may request additional information and may require the submission of an updated permit application. In a permit amendment under subsection E of this section, only those conditions to be amended shall be reopened when a new draft permit is prepared. All other aspects of the existing permit shall remain in effect. During any amendment proceeding the permittee shall comply with all conditions of the existing permit until the amended permit is issued.

D. When the director receives any information, he may determine whether or not one or more of the causes listed for amendment exist. If cause exists, the director may amend the

permit on his own initiative subject to the limitations of subsection E of this section and may request an updated application if necessary. If a permit amendment satisfies the criteria in subsection F of this section for minor amendments, the permit may be amended without a draft permit or public review. Otherwise, a draft permit shall be prepared and other appropriate procedures followed.

E. Causes for amendment. The director may amend a permit upon his own initiative or at the request of a third party:

1. When there are material and substantial alterations or additions to the permitted facility or activity which occurred after permit issuance which justify the application of permit conditions that are different or absent in the existing permit;

2. When there is found to be a possibility of pollution causing significant adverse effects on the air, land, surface water or ground water;

3. When an investigation has shown the need for additional equipment, construction, procedures and testing to ensure the protection of the public health and the environment from adverse effects;

4. If the director has received information pertaining to circumstances or conditions existing at the time the permit was issued that was not included in the administrative record and would have justified the application of different permit conditions, the permit may be amended accordingly if in the judgment of the director such amendment is necessary to prevent significant adverse effects on public health or the environment;

5. When the standards or regulations on which the permit was based have been changed by promulgation of amended standards or regulations or by judicial decision after the permit was issued;

6. When the director determines good cause exists for amendment of a compliance schedule, such as an act of God, strike, flood, or material shortage or other events over which the permittee has little or no control and for which there is no reasonably available remedy;

7. When an amendment of a closure plan is required under Part V (9 VAC 20-80-240 et seq.) or Part VI (9 VAC 20-80-320 et seq.) of this chapter and the permittee has failed to submit a permit amendment request within the specified period;

8. When the corrective action program specified in the permit under 9 VAC 20-80-310 has not brought the facility into compliance with the ground water protection standard within a reasonable period of time; or

9. When cause exists for revocation under 9 VAC 20-80-600 and the director determines that an amendment is more appropriate.

F. Permit modification or amendment at the request of the permittee.

1. Minor modifications and permit amendments.

a. Except as provided in subdivisions b and c of this subsection, the permittee may put into effect minor modifications listed in ~~Appendix 7.4~~ *Table 7.1* under the following conditions:

(1) The permittee shall notify the director concerning the modification by certified mail or other means that establish proof of delivery at least 14 calendar days before the change is put into effect. This notice shall specify the changes being made to permit conditions or supporting documents referenced by the permit and shall explain why they are necessary. Along with the notice, the permittee shall provide the applicable information required by 9 VAC 20-80-510 and 9 VAC 20-80-520, 9 VAC 20-80-530, or 9 VAC 20-80-540.

(2) The permittee shall send a notice of the modification to the governing body of the county, city or town in which the facility is located. This notification shall be made within 90 calendar days after the change is put into effect. For the minor modifications that require prior director approval, the notification shall be made within 90 calendar days after the director approves the request.

b. Minor permit modifications identified in ~~Appendix 7.4~~ *Table 7.1* by an asterisk may be made only with the prior written approval of the director.

c. The permittee may request the director to approve a modification that will result in a facility that is more protective of the health and environment than this chapter requires. The request for such a minor permit modification will be accompanied by a description of the desired change and an explanation of the manner in which the health and environment will be protected in a greater degree than the chapter provides for.

2. (Reserved.)

3. Major amendments.

a. For major modifications listed in ~~Appendix 7.4~~ *Table 7.1*, the permittee shall submit a amendment request to the director that:

(1) Describes the exact change to be made to the permit conditions and supporting documents referenced by the permit;

(2) Identifies that the modification is a major amendment;

(3) Explains why the amendment is needed;

(4) Provides the applicable information required by 9 VAC 20-80-510 and 9 VAC 20-80-520, 9 VAC 20-80-530, or 9 VAC 20-80-540.

b. No later than 90 days after receipt of the notification request, the director will determine whether the information submitted under subdivision 3 a (4) of this subsection is adequate to formulate a decision. If found to be inadequate, the permittee will be requested to furnish additional information within 30 days of the request by the director to complete the amendment request record. The 30-day period may be extended at the request of the applicant. After the completion of the record, the director will either:

(1) Approve the amendment request, with or without changes, and draft a permit amendment accordingly; or

(2) Deny the request; or

(3) Approve the request, with or without changes, as a temporary authorization having a term of up to 180 days in accordance with subdivision 5 of this subsection.

c. If the director proposes to approve the permit amendment, he will proceed with the permit issuance in accordance with 9 VAC 20-80-500 E.

d. The director may deny or change the terms of a major permit amendment request under subdivision 3 b of this subsection for the following reasons:

(1) The amendment request is incomplete;

(2) The requested amendment does not comply with the appropriate requirements of Part V or Part VI of this chapter or other applicable requirements; or

(3) The conditions of the amendment fail to protect human health and the environment.

4. Other amendments.

a. In the case of modifications not explicitly listed in ~~Appendix 7.4~~ *Table 7.1*, the permittee may submit a major amendment request, or he may request a determination by the director that the modification should be reviewed and approved as a minor amendment. If the permittee requests that the modification be classified as a minor amendment, he shall provide the department with the necessary information to support the requested classification.

b. The director will make the determination described in subdivision 4 a of this subsection as promptly as practicable. In determining the appropriate classification for a specific modification, the director will consider the similarity of the modification to other modifications in ~~Appendix 7.4~~ *Table 7.1* and the following criteria:

(1) Minor modifications apply to minor changes that keep the permit current with routine changes to the facility or its operation. These changes do not substantially alter the permit conditions or reduce the capacity of the facility to protect human health or the environment. In the case of minor modifications, the director may require prior approval.

(2) (Reserved.)

(3) Major amendments substantially alter the facility or its operation.

5. Temporary authorizations.

a. Upon request of the permittee, the director may, without prior public notice and comment, grant the permittee a temporary authorization in accordance with the requirements of subdivision 5 of this subsection. Temporary authorizations shall have a term of not more than 180 days.

b. (1) The permittee may request a temporary authorization for any major amendment that meets the criteria in subdivision 5 c (2) (a) or (b) of this subsection; or that meets the criteria in subdivisions 5 c (2) (c) and (d) of this subsection and provides improved management or treatment of a solid waste already listed in the facility permit.

(2) The temporary authorization request shall include:

(a) A description of the activities to be conducted under the temporary authorization;

(b) An explanation of why the temporary authorization is necessary; and

(c) Sufficient information to ensure compliance with Part V or Part VI standards.

(3) The permittee shall send a notice about the temporary authorization request to all persons on the facility mailing list. This notification shall be made within seven days of submission of the authorization request.

c. The director shall approve or deny the temporary authorization as quickly as practical. To issue a temporary authorization, the director shall find:

(1) The authorized activities are in compliance with the standards of Part V or Part VI of this chapter.

(2) The temporary authorization is necessary to achieve one of the following objectives before action is likely to be taken on an amendment request:

(a) To facilitate timely implementation of closure or corrective action activities;

(b) To prevent disruption of ongoing waste management activities;

(c) To enable the permittee to respond to sudden changes in the types or quantities of the wastes managed under the facility permit; or

(d) To facilitate other changes to protect human health and the environment.

d. A temporary authorization may be reissued for one additional term of up to 180 days provided that the permittee has requested a major permit amendment for the activity covered in the temporary authorization, and the director determines that the reissued temporary authorization involving a major permit amendment request is warranted to allow the authorized activities to continue while the amendment procedures of subdivision 3 of this subsection are conducted.

6. Appeals of permit amendment decisions. The director's decision to grant or deny a permit amendment request under subsection F of this section may be appealed under the case decision provisions of the Virginia Administrative Process Act (§ ~~9-6.14:1~~ *2.2-4000* et seq. of the Code of Virginia).

7. Newly defined or identified wastes. The permittee is authorized to continue to manage wastes defined or

identified as solid waste under Part III (9 VAC 20-80-140 et seq.) of this chapter if:

a. He was in existence as a solid waste management facility with respect to the newly defined or identified solid waste on the effective date of the final rule defining or identifying the waste; and

b. He is in compliance with the standards of Part V or VI of this chapter, as applicable, with respect to the new waste, submits a minor modification request on or before the date on which the waste becomes subject to the new requirements; or

c. He is not in compliance with the standards of Part V or VI of this chapter, as applicable, with respect to the new waste, also submits a complete permit amendment request within 180 days after the effective date of the definition or identifying the waste.

G. Facility siting. The suitability of the facility location will not be considered at the time of permit amendment unless new information or standards indicate that an endangerment to human health or the environment exists which was unknown at the time of permit issuance.

H. Classification of permit amendments. The following section provides a table outlining the classification of a permit amendment based on the type of modification being made to the permit. If a modification is not specifically provided in Table 7.1, the applicant may request the classification of a permit amendment in accordance with the procedures in subdivision F 4 of this subsection.

APPENDIX 7.1 *(Repealed.)*
~~DISCLOSURE FORM~~

~~Notice~~

~~Under § 7(b) of the Privacy Act of 1974, 5 USC § 552a (note), any government agency which requests an individual to disclose his Social Security Account Number (SSAN) must inform that individual whether the disclosure is mandatory or voluntary, by what statutory or other authority such number is solicited, and what uses will be made of it.~~

~~The department is directed to request SSANs by § 10.1-1400 of the Code of Virginia, as specified in the paragraph defining the disclosure statement. The SSAN is used as a secondary identifier by the director when he determines that a criminal records check of the key personnel will be obtained pursuant to § 10.1-1405 D of the Code of Virginia. The SSAN will then be used to ensure correct identification when information is solicited from outside sources to determine whether the individual named in the records and the individual under consideration are the same or different persons.~~

~~The listing of SSANs on the disclosure forms is voluntary. Under Section 7(a) of the Privacy Act, the department cannot deny or revoke a permit or impose any penalty because of an individual's refusal to disclose SSAN. However, the absence of such number as a secondary identifier may delay processing of permit applications because of the additional investigative time that may be necessary to confirm identifications. In addition, there is the possibility that the absence of a SSAN may result in the initial identification of an individual as having a criminal record which actually is that of another person. That, again, may result in delay in the processing of the permit application.~~

APPENDIX 7.2. *(Repealed.)*
~~REQUEST FOR LOCAL GOVERNMENT CERTIFICATION~~

~~NOTE: The Request for Local Government Certification form was developed for the convenience of the permit applicant and the local governmental body. Its use is voluntary and the information required by the regulations may be presented by the permit applicant in any format of his choice.~~

APPENDIX 7.3. *(Repealed.)*
~~PART A PERMIT APPLICATION~~

~~NOTE: The Part A Permit Application was developed for the convenience of the permit applicant. Its use is voluntary and the information required by the regulations may be presented by the permit applicant in any format of his choice.~~

APPENDIX 7.4. *(Repealed.)*

TABLE 7.1.
CLASSIFICATION OF PERMIT AMENDMENTS.

Modifications	Classification
A. General permit provision	
1. Administrative and informational changes	Minor
2. Correction of typographical errors	Minor
3. Equipment replacement or upgrading with functionally equivalent components	Minor
4. Changes in the frequency of or procedures for monitoring, reporting, or sampling by the permittee, with prior approval by the director	*Minor
5. Schedule of compliance:	
a. Changes in interim compliance dates, with prior approval of the director	*Minor
b. Extension of the final compliance date	*Minor
6. Changes in ownership or operational control of a facility, with prior approval by the director	*Minor
B. General facility standards	
1. Changes in procedures in the operating plan	
a. That do not affect environmental protection afforded	Minor
b. Other changes	Major
2. Changes in frequency or content of inspection schedules, with prior approval by the director	*Minor
3. Changes in the training plan, with prior approval by the director	*Minor
4. Contingency plan:	
a. Changes in emergency procedures (i.e., spill or release response procedures), with	*Minor

prior approval by the director	
b. Replacement with functionally equivalent equipment, upgrade, or relocate emergency equipment listed	Minor
c. Removal of equipment from emergency equipment list, with prior approval by the director	*Minor
d. Changes in name, address, or phone number of coordinators or other persons or agencies identified in the plan	Minor
C. Ground water protection	
1. Changes to wells:	
a. Changes in the number, location, depth, or design of upgradient or downgradient wells of permitted ground water monitoring system	Minor
b. Replacement of an existing well that has been damaged or rendered nonoperable, without change to location, design, or depth of the well	Minor
2. Changes in ground water sampling or analysis procedures or monitoring schedule, with prior approval of the director	*Minor
3. Changes in the point of compliance	Major
4. Changes in analytical parameters, constituents, or alternate concentration limits:	
a. As specified in the detection monitoring program	*Minor
b. Changes in established alternate concentration limits	*Minor
5. Changes to detection or assessment monitoring programs, unless otherwise specified in this appendix	*Minor
6. Corrective action program	
a. Implementation of a corrective action program as required by 9 VAC 20-80-310	Major
b. Changes to a corrective action program	Major
7. Ground water monitoring plan for an existing facility where no written plan has previously been provided	*Major*
D. Closure	
1. Changes to the design of cover	Major
2. Creation of a new landfill unit as part of closure	Major
3. Addition of the new storage or treatment units to be used temporarily for closure activities	Major
E. Changes during the post-closure period	
1. Changes in name, address, or phone number of contact in post-closure plan	Minor
2. Extension of post-closure care period	*Minor
3. Reduction in the post-closure care period	Major
4. Changes to the expected year of final closure, where other permit conditions are not changed	Minor
5. Changes in post-closure use of the property:	
a. Without disturbance of the cover	Minor
b. With disturbance of the cover	Major
F. Leachate collection systems	
1. Addition of new tank units	*Minor
2. Modification of an existing tank unit	*Minor
3. Replacement of an existing tank with a tank that meets the same design standards and has a capacity within +/-10% of the replaced tank	Minor
4. Modification of a tank management practice	Minor
5. Addition of surface impoundment units	Major
6. Replacement of a surface impoundment unit	Major
7. Modification of a surface impoundment unit without modifying the unit's liner, leak detection system, or leachate collection system	Major
8. Modification of a tank that does not affect the structural or containment characteristics	*Minor
9. All other modifications of a tank or a surface impoundment	Major
G. Gas collection and control systems	*Minor
H. Waste disposal facilities (landfills)	
1. Addition of new landfill units	Major
2. Lateral expansion or increase in the capacity of existing units	Major
3. Addition or modification of a liner, leachate collection system, leachate detection system, run-off control, or final cover system	Major
4. Modification of a landfill unit without changing a liner, leachate collection system, leachate detection system, run-off control, or final cover system	*Minor
5. Modification of a landfill management practice	*Minor
6. Landfill additional or different wastes	
a. That require additional or different waste handling practices, different design of the liner, leachate collection system, or leachate detection system	Major
b. That do not require additional or	*Minor

different waste handling practices, different design of the liner, leachate collection system, or leachate detection system	
Note: See 9 VAC 20-80-620 F 7 for amendment procedures to be used for the management of newly defined or identified wastes.	
I. All other facilities	
1. Changes to increase the waste handling capacity authorized in the permit	*Minor
2. Modification of the facility in a manner that would not likely affect the capability of the unit to meet the regulatory performance standards but which would change the operating conditions or monitoring requirements specified in the permit	*Minor
3. Modification of any inspection or recordkeeping requirement specified in the permit	*Minor
4. Management of different wastes:	
a. If the waste contains special wastes subject to requirements of Part VIII (9 VAC 20-80-630 et seq.) of this chapter not authorized by the permit and if the management of the waste requires compliance with different regulatory performance standards than specified in the permit.	Major
b. If the waste does not contain special wastes subject to requirements of Part VIII of this chapter or if the management of the waste does not require compliance with different regulatory performance standards than specified in the permit.	*Minor

Note: See 9 VAC 20-80-620 F 7 for amendment procedures to be used for the management of newly identified wastes.

*Minor permit modifications identified in this appendix by an asterisk may be made only with the prior written approval of the director (see 9 VAC 20-80-620 F 1 b).

9 VAC 20-80-650. Wastes containing polychlorinated biphenyls (PCBs).

A. Definitions. The definitions provided in this subsection are derived from definitions in 40 CFR 761.3 and are provided here for the convenience of the regulated community. The definitions here have been altered from those appearing in the federal regulation in order to simplify the definitions to indicate the specific types of items that can or cannot be considered for disposal in a sanitary landfill. These definitions are not identical to the federal definitions. All terms that are used in this section and that are not defined in this subsection shall have the same meaning as in Part I (9 VAC 20-80-10 et seq.) of this chapter or 40 CFR 761.3 as applicable. Nothing in this section shall be deemed to allow management other than as required by federal law and regulation.

"PCB bulk product waste" means:

1. Nonliquid bulk wastes or debris from the demolition of buildings and other man-made structures manufactured, coated, or serviced with PCBs. PCB bulk product waste does not include debris from the demolition of buildings or other man-made structures that is contaminated by spills from regulated PCBs which have not been disposed of, decontaminated, or otherwise cleaned in accordance with 40 CFR Part 761 Subpart D.

2. PCB containing wastes from the shredding of automobiles, household appliances, or industrial appliances where PCB small capacitors have been removed (shredder fluff).

3. Plastics (such as plastic insulation from wire or cable; radio, television and computer casings; vehicle parts; or furniture laminates); preformed or molded rubber parts and components; applied dried paints, varnishes waxes or similar coatings or sealants; Galbestos.

"PCB cleanup waste" means nonliquid cleaning materials and personal protective equipment at any concentration including nonporous surfaces and other nonliquid materials such as rags, gloves, booties, other disposable personal protective equipment, and similar materials.

"PCB-contaminated electrical equipment" means any electrical equipment including, but not limited to, transformers (including those used in railway locomotives and self-propelled cars), capacitors, circuit breakers, reclosers, voltage regulators, switches (including sectionalizers and motor starters), electromagnets, and cable, that contains PCBs at concentrations of >=50 ppm and <500 ppm in the contaminating fluid. In the absence of liquids, electrical equipment is PCB-Contaminated if it has PCBs at >10 ig/100 cm^2 and <100 ig/100 cm^2 as measured by a standard wipe test (as defined in 40 CFR 761.123) of a non-porous surface.

"PCB remediation waste" means soil, rags, and other debris generated as a result of any PCB spill cleanup, including, but not limited to:

1. Environmental media containing PCBs, such as soil and gravel; dredged materials, such as sediments, settled sediment fines, and aqueous decantate from sediment.

2. Sewage sludge containing <50 ppm PCBs; PCB sewage sludge; commercial or industrial sludge contaminated as the result of a spill of PCBs including sludges located in or removed from any pollution control device; aqueous decantate from an industrial sludge.

3. Buildings and other man-made structures, such as concrete or wood floors or walls contaminated from a leaking PCB or PCB-Contaminated transformer, porous surfaces and nonporous surfaces.

B. Solid wastes containing PCB concentrations between 1.0 ppm and 50 ppm are restricted to disposal in sanitary landfills or industrial waste landfills with leachate collection, liners, and appropriate ground water monitoring as required in Part V (9 VAC 20-80-240 et seq.) of this chapter, except as allowed in subsection C of this section.

C. Other PCB wastes.

1. PCB bulk product wastes with concentrations above 50 ppm may be approved for disposal by the director on a case-by-case basis. Submissions prepared for the director's decision will include a description of the PCB waste indicating the material proposed for disposal and how the federal regulations under 40 CFR 761.62 apply to the material. Consistent with the procedures in 40 CFR Part 761, PCB bulk product wastes that are shredder fluff or plastics as defined above need not be tested for PCBs prior to disposal. However, other PCB bulk product waste that has been sampled in accordance with the protocols set out in 40 CFR Part 761 Subpart R and may be considered for disposal if the waste leaches PCBs at less than 10 µg/L of water measured using a procedure used to simulate leachate generation. Requests for a director's determination must come from a permitted landfill. Alternatively, a landfill may modify its permit to incorporate a special waste acceptance plan which addresses PCB wastes. Facilities requesting to receive PCB bulk product waste must also meet the following provisions:

a. The unit to receive the waste must have a liner system meeting the requirements of 9 VAC 20-80-250 B 9 or an alternate liner approved under the provisions of 9 VAC 20-80-780.

b. The unit to receive the waste must have a leachate collection system consistent with 9 VAC 20-80-290.

c. Ground water monitoring may not have detected ~~Appendix~~ *Table* 5.1 constituents above the maximum contaminant levels (MCLs) promulgated under § 141.2 of the Safe Drinking Water Act (40 CFR Part 141 Subpart B) during the active life of the facility.

2. Consistent with 40 CFR Part 761, PCB articles such as PCB-contaminated electrical equipment, PCB hydraulic machines, or pipe that have previously contained PCB, which have been drained, may be disposed of in a sanitary landfill with leachate collection, liners, and appropriate ground water monitoring as required in Part V of this chapter. PCB testing, draining and other preparation for disposal of the equipment, if required, will be consistent with 40 CFR Part 761.

D. Consistent with 40 CFR Part 761, PCB remediation waste with PCB concentrations =50 ppm may not be disposed of in a sanitary landfill. PCB remediation waste includes but is not limited to items such as soil, sediments, dredged materials, muds, and sludge. PCB cleanup waste as defined above may be disposed of in a sanitary landfill with liners and a leachate collection system.

9 VAC 20-80-670. Tires.

A. Unless exempt under 9 VAC 20-80-60 D 11 or 9 VAC 20-80-160 A 6, owners or operators of a waste tire storage unit or facility, to include sites engaged in speculative accumulation, shall obtain a permit in accordance with standards contained in 9 VAC 20-80-340 or 9 VAC 20-80-400, as appropriate.

B. Owners or operators of units or facilities that store waste tires in containers such as trailers shall, in addition to requirements contained in 9 VAC 20-80-340:

1. Establish and maintain a contractual agreement for prompt removal of the waste tires from the facility;

2. Obtain approval for the storage area from the local fire ~~marshall~~ *marshal if required*;

3. Include in the contingency plan required under 9 VAC 20-80-340 D 3 a section that describes actions that will be taken in response to a fire or release of product of combustion which would threaten human health or the environment. The plan shall also provide for the worst case contingency such as a fire at the facility when its inventory is at its maximum capacity. Consideration must be provided regarding on-site water supply, access routes to the site, security, alarms, training, drills and on-site protection equipment; and

4. Not store waste tires in excess of the quantity specified in the permit.

C. Owners or operators of facilities that store or treat waste tires in piles shall, in addition to the requirements contained in 9 VAC 20-80-400:

1. Place the waste tires in piles that:

a. Do not exceed five feet in height;

b. Do not exceed 5,000 square feet in base surface area; and

c. Do not exceed 50 feet in width.

2. Provide a minimum separation distance of 50 feet between waste tire piles and between waste pile and any structure. These separation areas shall be maintained free of obstructions and maintained in such a manner that emergency vehicles will have adequate access to all waste tire management areas.

3. Unless the waste tire pile is located at a disposal facility regulated under 9 VAC 20-80-250 or 9 VAC 20-80-260:

a. Provide a berm of soil between all waste tire piles in the storage area. The berm shall extend as high as the height of the waste tire pile;

b. In addition to any material in the berm, for each waste tire pile, provide and maintain a stockpile of 20 cubic yards of soil within 200 feet of each pile; and

c. Provide a fence around the entire storage and treatment area to control access to the storage facility.

4. Include in the contingency plan required under 9 VAC 20-80-400 D 3 a section which describes actions that will be taken in response to a fire or release of product of combustion which would threaten human health or the environment. The plan shall also provide for the worst case contingency such as a fire at the facility when its inventory is at its maximum capacity. Consideration must be provided regarding on-site water supply, access routes to the site, security, alarms, training, drills and on-site protection equipment.

5. Not store waste tires in excess of the quantity specified in the permit.

D. More than 1,000 discarded tires shall not be stored at a solid waste disposal facility unless the permit for the facility expressly allows such storage. Tires disposed of in a sanitary or construction/demolition/debris landfill shall be split, cut, or shredded before disposal and should be dispersed in the workface with other solid wastes. Alternate burial not incorporating cutting or splitting at a specific facility may be approved if the method will assure that tires will not emerge from the burial facility.

9 VAC 20-80-760. Variance to ground water protection ~~levels~~ *standards*.

A. Application and conditions. The director may grant a variance to ground water protection ~~levels~~ *standards* contained in Part V (9 VAC 20-80-240 et seq.) of this chapter to an owner or operator of a solid waste disposal facility by establishing an alternate concentration limit for a solid waste constituent if the owner or operator shows to the satisfaction of the director that the constituent will not pose a substantial present or potential hazard to human health or the environment as long as the alternate concentration limit is not exceeded.

B. Basis for the decision. In establishing alternate concentration limits, the director will consider the following factors:

1. Potential adverse effects on ground water quality, considering:

a. The physical and chemical characteristics of the waste in the regulated unit, including its potential for migration;

b. The hydrogeological characteristics of the facility and surrounding land;

c. The quantity of ground water and the direction of ground water flow;

d. The proximity and withdrawal rates of ground water users;

e. The current and future uses of ground water in the area;

f. The existing quality of ground water, including other sources of contamination and their cumulative impact on the ground water quality;

g. The potential for health risks caused by human exposure to waste constituents using:

(1) Federal guidelines for assessing the health risks of environmental pollutants;

(2) Scientifically valid studies conducted in accordance with the Toxic Substances Control Act Good Laboratory Practice Standards (40 CFR Part 792) or equivalent;

(3) For carcinogens, concentrations associated with an excess lifetime cancer risk level (due to continuous lifetime exposure) with the 1×10^{-4} to 1×10^{-6} range; and

(4) For systemic toxicants, concentrations to which the human population (including sensitive subgroups) could be exposed to on a daily basis that is likely to be without appreciable risk of deleterious effects during a lifetime;

h. The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents;

i. The persistence and permanence of the potential adverse effects; and

2. Potential adverse effects on hydraulically connected surface water quality, considering:

a. The volume and physical and chemical characteristics of the waste in the regulated unit;

b. The hydrogeological characteristics of the facility and surrounding land;

c. The quantity and quality of ground water, and the direction of ground water flow;

d. The patterns of rainfall in the region;

e. The proximity of the regulated unit to surface waters;

f. The current and future uses of surface waters in the area and any water quality standards established for those surface waters;

g. The existing quality of surface water, including other sources of contamination and the cumulative impact on surface water quality;

h. The potential for health risks caused by human exposure to waste constituents using factors shown in subdivision 1 g of this subsection;

i. The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents; and

j. The persistence and permanence of the potential adverse effects.

3. In making any determination under this section, the director will consider any identification of underground sources of drinking water as identified by EPA under 40 CFR 144.8.

C. Effects of the decisions.

1. When the director renders a decision under this section in accordance with the procedures contained in 9 VAC 20-80-790, he may:

a. Deny the petition; or

b. Grant the alternate concentration limit as requested; or

c. Grant a modified alternate concentration limit.

2. When a variance is granted, the director may:

a. Specify additional or modified monitoring requirements; or

b. Include a schedule for:

(1) Periodic review of the alternate concentration limit; or

(2) Implementation by the facility of such control measures as the director finds necessary in order that the variance may be granted.

9 VAC 20-80-770. Variance to location of the ground water monitoring system.

A. The applicant may petition the director to approve a location for the ground water monitoring system other than at the waste management unit boundary as required by ~~9 VAC 20-80-250 D 3 a, 9 VAC 20-80-260 D 3 a, or 9 VAC 20-80-270 D 3 a,~~ *9 VAC 20-80-300 A 3 a* if he can demonstrate that the response time is sufficiently long to identify and remediate or otherwise contain ground water that may become impacted before it reaches the facility boundary. This alternate point of compliance with the ground water monitoring requirements shall be located within the facility boundary and shall not be located farther downgradient than 500 feet from the waste management unit boundary.

B. To be considered, the petition shall provide information on:

1. The hydrogeologic characteristics of the facility and surrounding land. The information shall include an estimate of the width and depth of a plume that may migrate from the disposal unit.

2. The volume and physical and chemical characteristics of the leachate.

3. The quality, quantity, and direction of ground water flow. This information shall include a determination whether contaminants from the unit will be detectable at the proposed point of compliance.

4. The proximity and withdrawal rate of the ground water users. This information shall include the estimate of time of travel to private or public supply wells.

5. The availability of alternate drinking water supplies in the event of a ground water contamination problem.

6. The existing quality of the ground water, including other sources of contamination and their cumulative impacts on the ground water and whether ground water is currently used or reasonably expected to be used for drinking water.

7. Practicable capability of the owner or operator. The information shall include an indication of financial capability of the owner or operator to maintain a longer and more costly corrective action program owing to the longer detection time frame associated with the proposed point of compliance.

C. Based on the information received the director will consider the potential overall effect on public health, welfare, and safety of the proposed point of compliance. Consideration will include:

1. Distance to the facility boundary and to the nearest ground water user or potentially affected surface water;

2. The response time required to remediate or otherwise contain ground water that may become impacted and potentially affect downgradient water supplies; and

3. Risk that detection may not be representative of worst case condition of the ground water.

9 VAC 20-80-780. Variance to the liner system design.

A. The director may grant a variance to the composite liner system design required by 9 VAC 20-80-250 B 9 if the owner or operator of the facility demonstrates to the satisfaction of the director that the proposed alternate liner system design will ensure that the concentration values listed in ~~Appendix~~ *Table* 9.1 will not be exceeded in the uppermost aquifer at the waste management unit boundary.

B. The demonstration shall be based on the consideration of the following factors:

1. The hydrogeologic characteristics of the facility and surrounding land;

2. The climatic factors of the area;

3. The volume and physical and chemical characteristics of the leachate;

4. The quantity, quality, and direction, of flow of ground water;

5. The proximity and withdrawal rate of the ground water users;

6. The availability of alternative drinking water supplies;

7. The existing quality of the ground water, including other sources of contamination and their cumulative impacts on the ground water, and whether the ground water is currently used or reasonably expected to be used for drinking water;

8. Public health, safety, and welfare effects; and

9. Practicable capability of the owner or operator.

C. The demonstration shall be supported by the results of a mathematical modeling study based on the EPA MULTIMED model.[1] Other models may be used if accompanied by justification describing the reasons for inapplicability of the MULTIMED model.[2]

[1] Sharp-Hansen, S., C. Travers, P. Hummel, and T. Allison, A Subtitle D Landfill Application Manual for the Multimedia Exposure Assessment Model (MULTIMED), United States Environmental Protection Agency, Environmental Research Laboratory, Athens, Georgia (1990).

[2] For a listing and review of models see Travers, C.L., and S. Sharp-Hansen, Leachate Generation and Migration at Subtitle D Facilities: A Summary and Review of Processes and Mathematical Models, United States Environmental Protection Agency, Environmental Research Laboratory, Athens, Georgia (1991).

APPENDIX 9.1. *(Repealed.)*

TABLE 9.1.
CONCENTRATION LEVELS FOR ALTERNATE LINER DESIGN.

Chemical[1]	Concentration (mg/liter)
Arsenic	0.05
Barium	1.0
Benzene	0.005
Cadmium	0.01
Carbon tetrachloride	0.005
Chromium (hexavalent)	0.05
2,4-Dichlorophenoxy acetic acid	0.1
1,4-Dichlorobenzene	0.075
1,2-Dichloroethane	0.005
1,1-Dichloroethylene	0.007
Endrin	0.0002
Fluoride	4
Lindane	0.004
Lead	0.05
Mercury	0.002
Methoxychlor	0.1
Nitrate	10
Selenium	0.01
Silver	0.05
Toxaphene[2]	0.005
1,1,1-Trichloromethane	0.2
Trichloroethylene	0.005
2,4,5-Trichlorophenoxy acetic acid	0.01
Vinyl Chloride	0.002

[1]Common names are those widely used in government regulations, scientific publications, and commerce; synonyms exist for many chemicals.

[2]Toxaphene: This entry includes congener chemicals contained in technical toxaphene (CAS RN 8001-35-2), i.e., chlorinated camphene.

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TITLE 13. HOUSING

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

REGISTRAR'S NOTICE: The Virginia Housing Development Authority is exempt from the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) pursuant to § 2.2-4002 A 4; however, under the provisions of § 2.2-4031 A, it is required to publish all proposed and final regulations.

Title of Regulation: **13 VAC 10-180. Rules and Regulations for Allocation of Low-Income Housing Tax Credits (amending 13 VAC 10-180-10, 13 VAC 10-180-50, and 13 VAC 10-180-60).**

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

Public Hearing Date: November 1, 2002 - 10 a.m.

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

Summary:

The proposed amendments (i) include a definition of "principal"; (ii) revise the definition of "revitalization area"; (iii) require market studies for developments intended for persons age 55 and older to be submitted prior to the application date; (iv) reject any application from an applicant with a principal that has or had an ownership or participation interest in a development at the time the authority reported such development to the IRS as no longer in compliance and no longer participating in the federal low-income housing tax credit program; (v) reduce readiness points; (vi) provide points for proposed developments competing in a new community development pool; (vii) prohibit applicants receiving points for granting preference to Section 8 tenants from requiring annual minimum income that exceeds the greater of $3,600 or 2.5 times the portion of rent to be paid by a tenant; (viii) change the points awarded to developments subject to an existing Rural Development 515 loan; (ix) award points to any development receiving a real estate tax abatement for 10 or more years or receiving a new project-based subsidy from HUD or Rural Development for the greater of 5 or 10% of the units of the proposed development; (x) award points to projects serving populations with mobility impairments; (xi) change points awarded to developer experience; (xii) increase the credit cap for related principals to 15% of Virginia's per capita dollar amount of credits for such credit year; (xiii) allow for the establishment of a LHA set-aside; (xiv) change description of "durable siding" to "durable fiber cement siding"; (xv) reduce the threshold score to receive credits to 375 points; and (xvi) make other miscellaneous administrative clarification changes.

13 VAC 10-180-10. Definitions.

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

"Applicant" means an applicant for credits under this chapter and also means the owner of the development to whom the credits are allocated.

"Credits" means the low-income housing tax credits as described in § 42 of the IRC.

"IRC" means the Internal Revenue Code of 1986, as amended, and the rules, regulations, notices and other official pronouncements promulgated thereunder.

"IRS" means the Internal Revenue Service.

"Low-income housing units" means those units which are defined as "low income units" under § 42 of the IRC.

"Low-income jurisdiction" means any city or county in the Commonwealth with an area median income at or below the ~~statewide~~ *Virginia nonmetro* area median income established by the U.S. Department of Housing and Urban Development *("HUD")*.

"Principal" means any person (including any individual, joint venture, partnership, limited liability company, corporation, nonprofit organization, trust, or any other public or private entity) that (i) with respect to the proposed development will

own or participate in the ownership of the proposed development or (ii) with respect to an existing multi-family rental project has owned or participated in the ownership of such project, all as more fully described hereinbelow.

The person who is the owner of the proposed development or multi-family rental project is considered a principal. In determining whether any other person is a principal, the following guidelines shall govern: (i) in the case of a partnership that is a principal (whether as the owner or otherwise), all general partners are also considered principals, regardless of the percentage interest of the general partner; (ii) in the case of a public or private corporation or organization or governmental entity that is a principal (whether as the owner or otherwise), principals also include the president, vice president, secretary, and treasurer and other officers who are directly responsible to the board of directors or any equivalent governing body, as well as all directors or other members of the governing body and any stockholder having a 25% or more interest; (iii) in the case of a limited liability company that is a principal (whether as the owner or otherwise), all members are also considered principals, regardless of the percentage interest of the member; (iv) in the case of a trust that is a principal (whether as the owner or otherwise), all persons having a 25% or more beneficial ownership interest in the assets of such trust; (v) in the case of any other person that is a principal (whether as the owner or otherwise), all persons having a 25% or more ownership interest in such other person are also considered principals; and (vi) any person that directly or indirectly controls, or has the power to control, a principal shall also be considered a principal.

"Qualified application" means a written request for tax credits which is submitted on a form or forms prescribed or approved by the executive director together with all documents required by the authority for submission and meets all minimum scoring requirements.

"Qualified low-income buildings" or *"qualified low-income development"* means the buildings or development which meets the applicable requirements in § 42 of the IRC to qualify for an allocation of credits thereunder.

"Revitalization area" means ~~(i)~~ any area *(i)* designated by a municipality for implementation of either a "redevelopment plan" meeting the requirements of § 36-51 of the Code of Virginia or a "conservation plan" meeting the requirements of § 36-51.1 of the Code of Virginia*;* ~~or~~ (ii) ~~any area~~ documented by local government officials as a revitalization area *that (a) has established boundaries at least a year old at the time applications are submitted and (b) has local or state funds that have been spent in furtherance of the revitalization objectives; or (iii) that is subject to a plan using Hope VI funds from HUD. The revitalization area described in clause (ii) of this definition must be part of a plan adopted by the local government that should include discussions of the type of developments that will be encouraged, the potential sources of funding, and services to be offered in the area. A comprehensive plan does not qualify as documentation of a revitalization area*.

13 VAC 10-180-50. Application.

Prior to submitting an application for reservation, applicants shall submit on such form as required by the executive director, the letter for authority signature by which the authority shall notify the chief executive officers (or the equivalent) of the local jurisdictions in which the developments are to be located to provide such officers a reasonable opportunity to comment on the developments. When scoring the applications, the executive director will award points to those applications that submit the form within the deadlines established by the executive director and subtract points from those applications that fail to submit the form by such deadlines.

Prior to submitting an application for reservation, any applicant proposing a development intended to serve 55 or over housing, as defined by the United States Fair Housing Act, shall submit a market study, in form and substance satisfactory to the authority, that shows adequate demand for the housing units to be produced by the applicant's proposed development.

Application for a reservation of credits shall be commenced by filing with the authority an application, on such form or forms as the executive director may from time to time prescribe or approve, together with such documents and additional information as may be requested by the authority in order to comply with the IRC and this chapter and to make the reservation and allocation of the credits in accordance with this chapter. The executive director may reject any application from consideration for a reservation or allocation of credits if in such application the applicant does not provide the proper documentation or information on the forms prescribed by the executive director.

The application should include a breakdown of sources and uses of funds sufficiently detailed to enable the authority to ascertain what costs will be incurred and what will comprise the total financing package, including the various subsidies and the anticipated syndication or placement proceeds that will be raised. The following cost information, if applicable, needs to be included in the application to determine the feasible credit amount: site acquisition costs, site preparation costs, construction costs, construction contingency, general contractor's overhead and profit, architect and engineer's fees, permit and survey fees, insurance premiums, real estate taxes during construction, title and recording fees, construction period interest, financing fees, organizational costs, rent-up and marketing costs, accounting and auditing costs, working capital and operating deficit reserves, syndication and legal fees, development fees, and other costs and fees. All applications seeking credits for rehabilitation of existing units must provide for contractor construction costs of at least $7,500 per unit.

Each application shall include evidence of (i) sole fee simple ownership of the site of the proposed development by the applicant, (ii) lease of such site by the applicant for a term exceeding the compliance period (as defined in the IRC) or for such longer period as the applicant represents in the application that the development will be held for occupancy by low-income persons or families or (iii) right to acquire or lease such site pursuant to a valid and binding written option or

contract between the applicant and the fee simple owner of such site for a period extending at least four months beyond any application deadline established by the executive director, provided that such option or contract shall have no conditions within the discretion or control of such owner of such site. A contract that permits the owner to continue to market the property, even if the applicant has a right of first refusal, does not constitute the requisite site control required in clause (iii) above. No application shall be considered for a reservation or allocation of credits unless such evidence is submitted with the application and the authority determines that the applicant owns, leases or has the right to acquire or lease the site of the proposed development as described in the preceding sentence. In the case of acquisition and rehabilitation of developments funded by Rural Development of the U.S. Department of Agriculture, the site control document does not need to be approved by all partners of the seller if the general partner of the seller executing the site control document provides (i) an attorney's opinion that such general partner has the authority to enter into the site control document and such document is binding on the seller or (ii) a letter from the existing syndicator indicating a willingness to secure the necessary partner approvals upon the reservation of credits.

Each application shall include, in a form or forms required by the executive director, a certification of previous participation listing all ~~residential real estate~~ developments *receiving an allocation of tax credits under § 42 of the IRC* in which the ~~general partner(s)~~ *principal* or ~~their affiliates has~~ *principals have* or had an ownership or participation interest, the location of such developments, the number of residential units and low-income housing units in such developments and such other information as more fully specified by the executive director. Furthermore, *for any such development,* the applicant must indicate~~, for developments receiving an allocation of tax credits under § 42 of the IRC,~~ whether ~~any such development~~ *the appropriate state housing credit agency* has ever ~~been determined to be out of compliance~~ *filed a Form 8823 with the IRS reporting noncompliance* with the requirements of the IRC ~~by the appropriate state housing credit agency,~~ and ~~if so, an explanation of~~ *that* such noncompliance ~~and whether it has~~ *had not* been corrected *at the time of the filing of such Form 8823*. The executive director may reject any application from consideration for a reservation or allocation of credits unless the above information is submitted with the application. If, after reviewing the above information or any other information available to the authority, the executive director determines that the ~~general partner(s)~~ *principal or principals* do not have the experience, financial capacity and predisposition to regulatory compliance necessary to carry out the responsibilities for the acquisition, construction, ownership, operation, marketing, maintenance and management of the proposed development or the ability to fully perform all the duties and obligations relating to the proposed development under law, regulation and the reservation and allocation documents of the authority or if an applicant is in substantial noncompliance with the requirements of the IRC, the executive director may reject applications by the applicant. *No application will be accepted from any applicant with a principal that has or had an ownership or participation interest in a development at the time the authority reported such development to the IRS as no longer in compliance and no longer participating in the federal low-income housing tax credit program.*

The application should include pro forma financial statements setting forth the anticipated cash flows during the credit period as defined in the IRC. The application shall include a certification by the applicant as to the full extent of all federal, state and local subsidies which apply (or which the applicant expects to apply) with respect to each building or development. The executive director may also require the submission of a legal opinion or other assurances satisfactory to the executive director as to, among other things, compliance of the proposed development with the IRC and a certification, together with an opinion of an independent certified public accountant or other assurances satisfactory to the executive director, setting forth the calculation of the amount of credits requested by the application and certifying, among other things, that under the existing facts and circumstances the applicant will be eligible for the amount of credits requested.

Each applicant shall commit in the application to provide relocation assistance to displaced households, if any, at such level required by the director.

If an applicant submits an application for reservation or allocation of credits that contains a material misrepresentation or fails to include information regarding developments involving the applicant that have been determined to be out of compliance with the requirements of the IRC, the executive director may reject the application or stop processing such application upon discovery of such misrepresentation or noncompliance and may prohibit such applicant from submitting applications for credits to the authority in the future.

In any situation in which the executive director deems it appropriate, he may treat two or more applications as a single application.

The executive director may establish criteria and assumptions to be used by the applicant in the calculation of amounts in the application, and any such criteria and assumptions may be indicated on the application form, instructions or other communication available to the public.

The executive director may prescribe such deadlines for submission of applications for reservation and allocation of credits for any calendar year as he shall deem necessary or desirable to allow sufficient processing time for the authority to make such reservations and allocations. If the executive director determines that an applicant for a reservation of credits has failed to submit one or more mandatory attachments to the application by the reservation application deadline, he may allow such applicant an opportunity to submit such attachments within a certain time established by the executive director with a ten-point scoring penalty per item.

After receipt of the applications, if necessary, the authority shall notify the chief executive officers (or the equivalent) of the local jurisdictions in which the developments are to be located and shall provide such officers a reasonable opportunity to comment on the developments.

The development for which an application is submitted may be, but shall not be required to be, financed by the authority. If any such development is to be financed by the authority, the application for such financing shall be submitted to and received by the authority in accordance with its applicable rules and regulations.

The authority may consider and approve, in accordance herewith, both the reservation and the allocation of credits to buildings or developments which the authority may own or may intend to acquire, construct and/or rehabilitate.

13 VAC 10-180-60. Review and selection of applications; reservation of credits.

The executive director may divide the amount of credits into separate pools *and each separate pool may be further divided into separate tiers*. The division of such pools *and tiers* may be based upon one or more of the following factors: geographical areas of the state; types or characteristics of housing, construction, financing, owners, occupants, or source of credits; or any other factors deemed appropriate by him to best meet the housing needs of the Commonwealth.

An amount, as determined by the executive director, not less than 10% of the Commonwealth's annual state housing credit ceiling for credits, shall be available for reservation and allocation to buildings or developments with respect to which the following requirements are met:

1. A "qualified nonprofit organization" (as described in § 42(h)(5)(C) of the IRC) which is authorized to do business in Virginia and is determined by the executive director, on the basis of such relevant factors as he shall consider appropriate, to be substantially based or active in the community of the development and is to materially participate (regular, continuous and substantial involvement as determined by the executive director) in the development and operation of the development throughout the "compliance period" (as defined in § 42(i)(1) of the IRC); and

2. (i) The "qualified nonprofit organization" described in the preceding subdivision 1 is to own (directly or through a partnership), prior to the reservation of credits to the buildings or development, all of the general partnership interests of the ownership entity thereof; (ii) the executive director of the authority shall have determined that such qualified nonprofit organization is not affiliated with or controlled by a for-profit organization; (iii) the executive director of the authority shall have determined that the qualified nonprofit organization was not formed by one or more individuals or for-profit entities for the principal purpose of being included in any nonprofit pools (as defined below) established by the executive director, and (iv) the executive director of the authority shall have determined that no staff member, officer or member of the board of directors of such qualified nonprofit organization will materially participate, directly or indirectly, in the proposed development as a for-profit entity.

In making the determinations required by the preceding subdivision 1 and clauses (ii), (iii) and (iv) of subdivision 2 of this section, the executive director may apply such factors as he deems relevant, including, without limitation, the past experience and anticipated future activities of the qualified nonprofit organization, the sources and manner of funding of the qualified nonprofit organization, the date of formation and expected life of the qualified nonprofit organization, the number of paid staff members and volunteers of the qualified nonprofit organization, the nature and extent of the qualified nonprofit organization's proposed involvement in the construction or rehabilitation and the operation of the proposed development, the relationship of the staff, directors or other principals involved in the formation or operation of the qualified nonprofit organization with any persons or entities to be involved in the proposed development on a for-profit basis, and the proposed involvement in the construction or rehabilitation and operation of the proposed development by any persons or entities involved in the proposed development on a for-profit basis. The executive director may include in the application of the foregoing factors any other nonprofit organizations which, in his determination, are related (by shared directors, staff or otherwise) to the qualified nonprofit organization for which such determination is to be made.

For purposes of the foregoing requirements, a qualified nonprofit organization shall be treated as satisfying such requirements if any qualified corporation (as defined in § 42(h)(5)(D)(ii) of the IRC) in which such organization (by itself or in combination with one or more qualified nonprofit organizations) holds 100% of the stock satisfies such requirements.

The applications shall include such representations and warranties and such information as the executive director may require in order to determine that the foregoing requirements have been satisfied. In no event shall more than 90% of the Commonwealth's annual state housing credit ceiling for credits be available for developments other than those satisfying the preceding requirements. The executive director may establish ~~such pools ("nonprofit pools")~~ *a set-aside* of credits as he may deem appropriate to satisfy the foregoing requirement *("nonprofit set-aside")*. If any such nonprofit ~~pools are~~ *set-aside is* so established, the executive director may rank the applications ~~therein~~ and reserve credits to ~~such~~ applications *meeting the requirements of the nonprofit set-aside* before ~~ranking applications and~~ reserving credits ~~in~~ *to any* other ~~pools, and any such applications in such nonprofit pools not receiving any reservations of credits or receiving such reservations in amounts less than the full amount permissible hereunder (because there are not enough credits then available in such nonprofit pools to make such reservations) shall be assigned to such other pool as shall be appropriate hereunder; provided, however, that if credits are later made available (pursuant to the IRC or as a result of either a termination or reduction of a reservation of credits made from any nonprofit pools or a rescission in whole or in part of an allocation of credits made from such nonprofit pools or otherwise) for reservation and allocation by the authority during the same calendar year as that in which applications in the nonprofit pools have been so assigned to other pools as described above, the executive director may, in such situations, designate all or any portion of such additional credits for the nonprofit pools (or for any other pools as he shall determine) and may, if additional credits have been so designated for the nonprofit pools, reassign such applications to such nonprofit pools, rank the applications therein and~~

~~reserve credits to such applications in accordance with the IRC and this chapter~~ *application*. In the event that during any round (as authorized hereinbelow) of application review and ranking the amount of credits reserved within such nonprofit ~~pools~~ *set-aside* is less than the total amount of credits made available therein, the executive director may either (i) leave such unreserved credits in such nonprofit ~~pools~~ *set-aside* for reservation and allocation in any subsequent round or rounds or (ii) redistribute, to the extent permissible under the IRC, such unreserved credits to such other ~~pool or pools~~ *applications* as the executive director shall designate reservations therefor in the full amount permissible hereunder ~~(which applications shall hereinafter be referred to as "excess qualified applications")~~ or (iii) carry over such unreserved credits to the next succeeding calendar year for inclusion in the state housing credit ceiling (as defined in § 42(h)(3)(C) of the IRC) for such year. Notwithstanding anything to the contrary herein, no reservation of credits shall be made from any nonprofit ~~pools~~ *set-aside* to any application with respect to which the qualified nonprofit organization has not yet been legally formed in accordance with the requirements of the IRC. ~~In addition, no application for credits from any nonprofit pools or any combination of pools may receive a reservation or allocation of annual credits in an amount greater than $500,000 unless credits remain available in such nonprofit pools after all eligible applications for credits from such nonprofit pools receive a reservation of credits.~~

The executive director may establish a set-aside of credits as he may deem appropriate to applicants either relying on the experience of a local housing authority for developer experience points described hereinbelow or using Hope VI funds from HUD in connection with the proposed development ("LHA set-aside"), or both. If any such LHA set-aside is so established, the executive director may rank the applications and reserve credits to applications meeting the requirements of the LHA set-aside before reserving credits to any other application (except any applications needed to meet the nonprofit set-aside). In the event that during any round (as authorized hereinbelow) of application review and ranking the amount of credits reserved within such LHA set-aside is less than the total amount of credits made available therein, the executive director may either (i) leave such unreserved credits in such LHA set-aside for reservation and allocation in any subsequent round or rounds; (ii) redistribute such unreserved credits to such other applications as the executive director shall designate reservations therefor in the full amount permissible hereunder; or (iii) carry over such unreserved credits to the next succeeding calendar year for inclusion in the state housing credit ceiling (as defined in § 42(h)(3)(C) of the IRC) for such year. Notwithstanding anything to the contrary herein, applicants relying on the experience of a local housing authority for developer experience points described hereinbelow and/or using Hope VI funds from ~~the U.S. Department of Housing and Urban Development (~~HUD~~)~~ in connection with the proposed development shall not be eligible to receive a reservation of credits from any nonprofit ~~pools~~ *set-aside*.

The authority shall review each application, and, based on the application and other information available to the authority, shall assign points to each application as follows:

1. Readiness.

a. Written evidence satisfactory to the authority of ~~(i) conditional approval by local authorities of the plan of development or site plan for the proposed development (30 points) or (ii)~~ approval by local authorities of the plan of development or site plan for the proposed development or that such approval is not required. (40 points; *applicants receiving points under this subdivision (1a) are not eligible for points under subdivision 5a below*)

b. Written evidence satisfactory to the authority (i) of approval by local authorities of proper zoning or special use permit for such site or (ii) that no zoning requirements or special use permits are applicable. (40 points)

~~c. Valid building permit(s) or letter dated within three months prior to the application deadline stating that all approvals are in place and building permits will be issued upon receipt of all fees. (20 points)~~

~~d.~~ *c.* Submission of plans and specifications or, in the case of rehabilitation for which plans will not be used, a unit-by-unit work write-up for such rehabilitation with certification in such form and from such person satisfactory to the executive director as to the completion of such plans or specifications or work write-up. (20 points multiplied by the quotient calculated by dividing the percentage of completion of such plans and specifications or such work write-up by 75% not to exceed 20 points.)

2. Housing needs characteristics.

a. Submission of the ~~letter in the~~ form prescribed by the authority with ~~the necessary~~ *any required* attachments, *providing such information necessary for the authority to send a letter* addressed to the current chief executive officer (or the equivalent) of the locality in which the proposed development is located, soliciting input on the proposed development from the locality within the deadlines established by the executive director. (10 points; failure to make timely submission, minus 50 points ~~for any proposed development other than a rehabilitation of existing apartments~~)

b. (1) A letter dated within three months prior to the application deadline addressed to the authority and signed by the chief executive officer of the locality in which the proposed development is to be located stating, without qualification or limitation, the following:

"The construction or rehabilitation of (name of development) and the allocation of federal housing tax credits available under IRC Section 42 for that development will help meet the housing needs and priorities of (name of locality). Accordingly, (name of locality) supports the allocation of federal housing tax credits requested by (name of applicant) for that development." (50 points~~; or 60 points if the proposed development is a rehabilitation of existing apartments that did not receive points in subdivision 2(a) above~~)

(2) No letter from the chief executive officer of the locality in which the proposed development is to be located, or a letter addressed to the authority and

signed by such chief executive officer stating neither support (as described in subdivision b (1) above) nor opposition (as described in subdivision b (3) below) as to the allocation of credits to the applicant for the development. (25 points)

(3) A letter in response to its notification to the chief executive officer of the locality in which the proposed development is to be located opposing the allocation of credits to the applicant for the development. In any such letter, the chief executive officer must certify that the proposed development is not consistent with current zoning or other applicable land use regulations. (0 points)

c. Proposed developments competing in any pool established specifically for community revitalization plans may receive points from one of the following categories while competing in such pool:

~~c. Documentation~~ *(1) Applications with documentation in a form approved by the authority* from the local ~~authorities~~ *government officials* that the proposed development is located in a revitalization area~~, or determination by the authority that~~ *and the proposed development is an integral part of the planned revitalization. (50 points)*

(2) Applications with documentation in a form approved by the authority from local government officials that (i) the proposed development is located in a revitalization area with established boundaries (beyond the boundaries of the proposed development), (ii) local or state funds have been spent or budgeted in furtherance of the revitalization objectives, and (iii) the proposed development will further the goals of the planned revitalization. (25 points)

(3) The proposed development involves either (i) substantial rehabilitation (contractor's cost of at least $50,000 per unit) or adaptive reuse of vacant or derelict structures (15 points) or (ii) the rehabilitation of properties deemed troubled by a local government based on the physical condition of the property, documented crime/drug problems or similar factors. (10 points)

If the proposed development *(i) includes the rehabilitation of existing housing (add 5 points) or (ii)* is located in a Difficult Development Area as defined by HUD or ~~in an Enterprise Zone or Housing Revitalization Zone designated by the state (20 points) if the proposed development~~ is in a qualified census tract within either a Revitalization Area, Enterprise Zone or Housing Revitalization Zone. (~~25~~ *add 5* points)

d. Commitment by the applicant to give leasing preference to individuals and families (i) on public housing waiting lists maintained by the local housing authority operating in the locality in which the proposed development is to be located and notification of the availability of such units to the local housing authority by the applicant or (ii) on section 8 (as defined in 13 VAC 10-180-90) waiting lists maintained by the local or nearest section 8 administrator for the locality in which the proposed development is to be located and notification of the availability of such units to the local section 8 administrator by the applicant. (10 points ~~for either (i) or (ii) above~~; *Applicants receiving points under this subdivision may not require an annual minimum income requirement for prospective tenants that exceeds the greater of $3,600 or 2.5 times the portion of rent to be paid by such tenants.*).

e. Any of the following: (i) firm financing commitment(s) from the local government, local housing authority, Federal Home Loan Bank affordable housing funds, or the Rural Development of the U.S. Department of Agriculture, *for a below-market rate loan or grant or* (ii) a resolution passed by the locality in which the proposed development is to be located committing *such* financial support to the development in a form approved by the authority ~~or (iii) evidence from Rural Development that the development will remain subject to existing financing from Rural Development. In the case of (iii) above, if the applicant is, or has any common interests with, the current owner, directly or indirectly, the application will only qualify for these points if the applicant waives all rights to any developer's fee and any other fees associated with the acquisition and rehabilitation (or rehabilitation only) of the development unless permitted by the executive director for good cause~~. (The amount of such financing ~~or value of local support~~ will be divided by the total development sources of funds and the proposed development receives two points for each percentage point up to a maximum of 40 points.)

f. Any development subject to *(i)* HUD's Section 8 or Section 236 programs *or (ii) Rural Development's 515 program,* at the time of application. (20 points)

g. Any development receiving (i) a real estate tax abatement for 10 or more years or (ii) new project-based subsidy from HUD or Rural Development for the greater of 5 or 10% of the units of the proposed development. (10 points)

3. Development characteristics.

a. The average unit size. (100 points multiplied by the sum of the products calculated by multiplying, for each unit type as defined by the number of bedrooms per unit, (i) the quotient of the number of units of a given unit type divided by the total number of units in the proposed development, times (ii) the quotient of the average actual gross square footage per unit for a given unit type minus the lowest gross square footage per unit for a given unit type established by the executive director divided by the highest gross square footage per unit for a given unit type established by the executive director minus the lowest gross square footage per unit for a given unit type established by the executive director. If the average actual gross square footage per unit for a given unit type is less than the lowest gross square footage per unit for a given unit type established by the executive director or greater than the highest gross square footage per unit for a given unit type established by the executive director, the lowest or highest, as the case may be, gross square footage per unit for a given unit type established by the

executive director shall be used in the above calculation rather than the actual gross square footage per unit for a given unit type.)

b. Lower amount of credit request. (50 points multiplied by the percentage by which the total amount of the annual tax credits requested is less than $1,000,000, including negative points using the percentage in which the total amount of annual credits requested is greater than $1,000,000. Developments financed with tax-exempt bonds will receive an automatic 25 points under this scoring category.)

c. Evidence satisfactory to the authority documenting the quality of the proposed development's amenities as determined by the following:

(1) The following points are available for any application:

(a) If 2-bedroom units have 1.5 bathrooms and 3-bedroom units have 2 bathrooms. (15 points multiplied by the percentage of units meeting these requirements)

(b) If all units have a washer and dryer. (7 points)

(c) If all units have a balcony or patio. (5 points)

(d) If all units have a washer and dryer hook-up only. (3 points, no points if points awarded in subdivision 1 (b) above)

(e) If all units have a dishwasher. (2 points)

(f) If all units have a garbage disposal. (1 point)

(g) If the development has a laundry room. (1 point, no points if points awarded in subdivision 1 (b) above)

(h) If a community/meeting room with a minimum of 800 square feet is provided. (5 points)

(i) If all units have a range hood above the stove. (1 point)

(j) If all metal windows have thermal breaks, and if insulating glass for metal or vinyl windows and sliding glass doors have a 10-year warranty against breakage of the seal from date of delivery. (1 point)

(k) If all insulation complies with Virginia Power Energy Efficient Home Requirements, with a minimum R=30 insulation for roofs. (2 points)

(l) If all refrigerators are frost free, a minimum size of 14 cubic feet, and provide separate doors for freezer and refrigerator compartments. (1 point)

(m) If all exterior doors exposed to weather are metal. (1 point)

(n) Brick exterior walls. (15 points times the percentage of exterior walls covered by brick)

(o) Durable *fiber-cement lap* siding other than brick that complies with ASTM 1186 standard specifications and is warranted to last for 50 or more years. (5 points)

(p) If the development has a minimum STC (sound transmission class) rating of 52 for the floor construction between units. (3 points)

(q) All kitchen cabinets comply with authority minimum guidelines. (1 point)

(r) All closet doors are side hinged (no bi-fold or sliding doors). (1 point)

(s) All exterior wood, including trim, fascia and rake boards are clad in aluminum. (1 point)

(2) The following points are available to applications electing to serve elderly and/or physically disabled tenants as elected in subdivision 4 a of this section:

(a) If all cooking ranges have front controls. (1 point)

(b) If all units are adaptable for the handicapped in buildings with elevators. (2 points)

(c) If all units have an emergency call system. (3 points)

(d) If all bathrooms have grab bars and slip-resistant bottoms for bathtubs. (1 point)

(e) If all bathrooms have an independent or supplemental heat source. (1 point)

(f) If all corridors have a handrail on one side. (1 point)

(g) If all entrance doors to each unit have two eye viewers, one at 48 inches and the other at standard height. (1 point)

(3) The following points are available to proposed developments which rehabilitate or adaptively reuse an existing structure:

(a) If all bathrooms, including ones with windows, have exhaust fans ducted out. (1 point)

(b) If all existing, single-glazed windows in good condition have storm windows, and all windows in poor condition are replaced with new windows with integral storm sash or insulating glass. The insulating glass metal windows must have a thermal break. The insulated glass must have a 10-year warranty against breakage of the seal. (3 points)

(c) If all apartments have a minimum of one electric smoke detector with battery backup. (1 point)

(d) If all bathrooms have ground fault interrupter electrical receptacles. (1 point)

(e) If the structure is historic, by virtue of being listed individually in the National Register of Historic Places, or due to its location in a registered historic district and certified by the Secretary of the Interior as being of historical significance to the district, and the rehabilitation will be completed in such a manner as

to be eligible for historic rehabilitation tax credits. (5 points)

(f) All buildings have a minimum insulation of R=30 for attics and R=19 for crawl spaces. (3 points)

(g) All public areas, such as community rooms, laundry rooms, and rental office are accessible to persons in wheelchairs. (1 point)

(h) If replacing the roof, removing the old roof and felt. (1 point)

The maximum number of points that may be awarded under any combination of the scoring categories under subdivision 3 c of this section is 50 points.

d. Any proposed 50 unit or less development that meets at least three of the following criteria: (i) sets maximum rents on all units at or below 25% of the gross income of households at or below 50% of the area median income (without vouchers or rental assistance); (ii) restricts at least 20% of the units for occupancy by households with incomes at or below 40% of the area median income; (iii) requires at least 60% of the developer's fee to pay development costs; and (iv) has below market rate financial assistance from local, state or federal government. (20 points)

e. Any nonelderly development in which the greater of 5 or 10% of the units (not to exceed 14) (i) provide federal project-based rent subsidies or equivalent assistance in order to ensure occupancy by extremely low-income persons; (ii) conform to Americans with Disabilities Act Architectural Guidelines (ADAAG) requirements as set forth in the Virginia building code as BOCA Chapter 11 (13 VAC 5-61); and (iii) are actively marketed to people with special needs in accordance with a plan submitted as part of the application for credits (if special needs includes mobility impairments, the units described above must include roll-in showers and roll-under sinks and ranges). (50 points)

f. Any nonelderly development in which the greater of 5 or 10% of the units (not to exceed 14) (i) have rents within HUD's Housing Choice Voucher (HCV) payment standard; (ii) conform to ADAAG requirements as set forth in the Virginia building code as BOCA Chapter 11 (13 VAC 5-61); and (iii) are actively marketed to people with mobility impairments including HCV holders in accordance with a plan submitted as part of the application for credits. (30 points)

g. Any nonelderly development in which 4.0% of the units (i) conform to ADAAG requirements as set forth in the Virginia building code as BOCA Chapter 11 (13 VAC 5-61); and (ii) are actively marketed to people with mobility impairments in accordance with a plan submitted as part of the application for credits. (15 points)

4. Tenant population characteristics.

~~a. Commitment by the applicant to lease low-income housing units in the proposed development to either: (i) 55 or over housing as defined by the United States Fair Housing Act or (ii) physically or mentally disabled persons. Applicants committing to serve physically disabled persons must meet the requirements of the federal Americans with Disabilities Act (42 USC § 12101 et seq.). Applicants receiving points under this subdivision a may not receive points under subdivision b below. (30 points)~~

~~b.~~ *a.* Commitment by the applicant to give a leasing preference to individuals and families with children in developments that will have no more than 20% of its units with one bedroom or less. ~~Applicants receiving points under this subdivision b may not receive points under subdivision a above.~~ (15 points; plus 0.75 points for each percent of the low-income units in the development with three or more bedrooms up to an additional 15 points for a total of no more than 30 points under this subdivision ~~b~~ *a*)

~~c.~~ *b.* Commitment by the applicant to provide relocation assistance to displaced households at such level required by the authority. (30 points times the number of certified occupied units divided by the greater of (i) the number of certified occupied units or (ii) the number of units of the proposed development)

5. Sponsor characteristics.

a. Evidence that the ~~development team~~ *principal or principals* for the proposed development ~~has~~ *have developed at least three tax credit developments that contain at least three times* the ~~demonstrated experience, qualifications and ability to perform~~ *number of housing units in the proposed development*. *(50 points; applicants receiving points under this subdivision 5(a) are not eligible for points under subdivision 1a above)*

b. Evidence that the principal or principals for the proposed development have developed at least one tax credit development that contains at least the number of housing units in the proposed development. (10 points)

c. Any applicant that includes a principal that was a principal in a development at the time the authority reported such development to the IRS for an uncorrected major violation of health, safety and building codes. (minus 50 points for a period of three years after the violation has been corrected)

d. Any applicant that includes a principal that was a principal in a development at the time the authority reported such development to the IRS for noncompliance that has not been corrected by the time a Form 8823 is filed by the authority. (minus 15 points for a period of three years after the time the authority filed Form 8823)

e. Beginning January 1, 2003, any applicant that includes a principal that is or was a principal in a development that (i) did not build a development as represented in the application for credit (minus 20 points for a period of three years after the development is placed in service, in addition to any other penalties the authority may seek under its agreements with the applicant), or (ii) has a reservation of credits terminated by the authority (minus 10 points a period of three years after the credits are returned to the authority).

6. Efficient use of resources.

a. The percentage by which the total of the amount of credits per low-income housing unit (the "per unit credit amount") of the proposed development is less than the standard per unit credit amounts established by the executive director for a given unit type, based upon the number of such unit types in the proposed development. (180 points multiplied by the percentage by which the total amount of the per unit credit amount of the proposed development is less than the applicable standard per unit credit amount established by the executive director, negative points will be assessed using the percentage by which the total amount of the per unit credit amount of the proposed development exceeds the applicable standard per unit credit amount established by the executive director.)

b. The percentage by which the cost per low-income housing unit (the "per unit cost"), adjusted by the authority for location, of the proposed development is less than the standard per unit cost amounts established by the executive director for a given unit type, based upon the number of such unit types in the proposed development. (75 points multiplied by the percentage by which the total amount of the per unit cost of the proposed development is less than the applicable standard per unit cost amount established by the executive director ~~director~~.)

The executive director may use a standard per square foot credit amount and a standard per square foot cost amount in establishing the per unit credit amount and the per unit cost amount in subdivision 6 above. For the purpose of calculating the points to be assigned pursuant to such subdivisions 3c and 6 above, all credit amounts shall include any credits previously allocated to the development, and the per unit credit amount for any building documented by the applicant to be located in a qualified census tract or difficult development area (such tract or area being as defined in the IRC) shall be determined based upon 100% of the eligible basis of such building, in the case of new construction, or 100% of the rehabilitation expenditures, in the case of rehabilitation of an existing building, notwithstanding any use by the applicant of 130% of such eligible basis or rehabilitation expenditures in determining the amount of credits as provided in the IRC.

7. Bonus points.

a. Commitment by the applicant to impose income limits on the low-income housing units throughout the extended use period (as defined in the IRC) below those required by the IRC in order for the development to be a qualified low-income development. Applicants receiving points under this subdivision a may not receive points under subdivision b below. (The product of (i) 50 points multiplied by (ii) the percentage of housing units in the proposed development both rent restricted to and occupied by households at or below 50% of the area median gross income; plus 1 point for each percentage point of such housing units in the proposed development which are further restricted to rents at or below 30% of 40% of the area median gross income up to an additional 10 points.)

b. Commitment by the applicant to impose rent limits on the low-income housing units throughout the extended use period (as defined in the IRC) below those required by the IRC in order for the development to be a qualified low-income development. Applicants receiving points under this subdivision b may not receive points under subdivision a above. (The product of (i) 25 points (50 points for proposed developments in low-income jurisdictions) multiplied by (ii) the percentage of housing units in the proposed development rent restricted to households at or below 50% of the area median gross income; plus 1 point for each percentage point of such housing units in the proposed development which are further restricted to rents at or below 30% of 40% of the area median gross income up to an additional 10 points.)

c. Commitment by the applicant to maintain the low-income housing units in the development as a qualified low-income housing development beyond the 30-year extended use period (as defined in the IRC). Applicants receiving points under this subdivision c may not receive bonus points under subdivision d below. (40 points for a 10-year commitment beyond the 30-year extended use period or 50 points for a 20-year commitment beyond the 30-year extended use period.)

d. Participation by a local housing authority or qualified nonprofit organization (substantially based or active in the community with at least a 10% ownership interest in the general partnership interest of the partnership) and a commitment by the applicant to sell the proposed development pursuant to an executed, recordable option or right of first refusal to such local housing authority or qualified nonprofit organization or to a wholly owned subsidiary of such organization or authority, at the end of the 15-year compliance period, as defined by IRC, for a price not to exceed the outstanding debt and exit taxes of the for-profit entity. The applicant must record such option or right of first refusal immediately after the low-income housing commitment described in 13 VAC 10-180-70 and give the qualified nonprofit veto power over any ~~refinancings~~ *refinancing* of the development. Applicants receiving points under this subdivision d may not receive bonus points under subdivision c above. (60 points; plus 5 points if the local housing authority or qualified nonprofit organization submits a homeownership plan satisfactory to the authority in which the local housing authority or qualified nonprofit organization commits to sell the units in the development to tenants ~~whose incomes shall not exceed the applicable income limit at the time of their initial occupancy of such units~~.)

In calculating the points for subdivisions 7(a) and (b) above, any units in the proposed development required by the locality to exceed 60% of the area median gross income will not be considered when calculating the percentage of low-income units of the proposed development with incomes below those required by the IRC in order for the development to be a qualified low-income development, provided that the locality

submits evidence satisfactory to the authority of such requirement.

After points have been assigned to each application in the manner described above, the executive director shall compute the total number of points assigned to each such application. Notwithstanding any other provisions herein, any application that is assigned a total number of points less than a threshold amount of ~~450 (~~375 ~~points for developments financed with tax-exempt bonds)~~ points shall be rejected from further consideration hereunder and shall not be eligible for any reservation or allocation of credits.

The executive director may exclude and disregard any application which he determines is not submitted in good faith or which he determines would not be financially feasible.

Upon assignment of points to all of the applications, the executive director shall rank the applications based on the number of points so assigned. If any pools shall have been established, each application shall be assigned to a pool and*, if any, to the appropriate tier within such pool and* shall be ranked within such pool *or tier, if any. The amount of credits made available to each pool will be determined by the executive director. Available credits will include unreserved per capita dollar amount credits from the current calendar year under § 42(h)(3)(C)(i) of the IRC, any unreserved per capita credits from previous calendar years, and credits returned to the authority prior to the final ranking of the applications and may include up to 15% of next calendar year's per capita credits as shall be determined by the executive director*. Those applications assigned more points shall be ranked higher than those applications assigned fewer points. *However, if any set-asides established by the executive director cannot be satisfied after ranking the applications based on the number of points, the executive director may rank as many applications as necessary to meet the requirements of such set-aside (selecting the highest ranked application, or applications, meeting the requirements of the set-aside) over applications with more points.*

In the event of a tie in the number of points assigned to two or more applications within the same pool, or, if none, within the ~~state~~ *Commonwealth*, and in the event that the amount of credits available for reservation to such applications is determined by the executive director to be insufficient for the financial feasibility of all of the developments described therein, the authority shall, to the extent necessary to fully utilize the amount of credits available for reservation within such pool or, if none, within the Commonwealth, select one or more of the applications with the highest combination of points from subdivision ~~2(c)(ii) and subdivision~~ 7 above, and each application so selected shall receive (in order based upon the number of such points, beginning with the application with the highest number of such points) a reservation of credits ~~in the lesser of the full amount determined by the executive director to be permissible hereunder or the amount of credits remaining therefor in such pool or, if none, in the Commonwealth~~. If two or more of the tied applications receive the same number of points from subdivision ~~2(c)(ii) and subdivision~~ 7 above and if the amount of credits available for reservation to such tied applications is determined by the executive director to be insufficient for the financial feasibility of all the developments described therein, the executive director shall select one or more of such applications by lot, and each application so selected by lot shall receive (in order of such selection by lot) ~~the lesser of the full amount determined by the executive director to be permissible hereunder or the amount~~ *a reservation* of credits ~~remaining therefor in such pool or, if none, in the Commonwealth~~.

For each application which may receive a reservation of credits, the executive director shall determine the amount, as of the date of the deadline for submission of applications for reservation of credits, to be necessary for the financial feasibility of the development and its viability as a qualified low-income development throughout the credit period under the IRC. In making this determination, the executive director shall consider the sources and uses of the funds, the available federal, state and local subsidies committed to the development, the total financing planned for the development as well as the investment proceeds or receipts expected by the authority to be generated with respect to the development, and the percentage of the credit dollar amount used for development costs other than the costs of intermediaries. He shall also examine the development's costs, including developer's fees and other amounts in the application, for reasonableness and, if he determines that such costs or other amounts are unreasonably high, he shall reduce them to amounts that he determines to be reasonable. The executive director shall review the applicant's projected rental income, operating expenses and debt service for the credit period. The executive director may establish such criteria and assumptions as he shall deem reasonable for the purpose of making such determination, including, without limitation, criteria as to the reasonableness of fees and profits and assumptions as to the amount of net syndication proceeds to be received (based upon such percentage of the credit dollar amount used for development costs, other than the costs of intermediaries, as the executive director shall determine to be reasonable for the proposed development), increases in the market value of the development, and increases in operating expenses, rental income and, in the case of applications without firm financing commitments (as defined hereinabove) at fixed interest rates, debt service on the proposed mortgage loan. The executive director may, if he deems it appropriate, consider the development to be a part of a larger development. In such a case, the executive director may consider, examine, review and establish any or all of the foregoing items as to the larger development in making such determination for the development.

At such time or times during each calendar year as the executive director shall designate, the executive director shall reserve credits to applications in descending order of ranking within each pool *and tier*, if applicable, until either substantially all credits therein are reserved or all qualified applications therein have received reservations. (For the purpose of the preceding sentence, if there is not more than a de minimis amount, as determined by the executive director, of credits remaining in a pool after reservations have been made, "substantially all" of the credits in such pool shall be deemed to have been reserved.) The executive director may rank the applications within pools at different times for different pools and may reserve credits, based on such rankings, one or more times with respect to each pool. The executive director

may also establish more than one round of review and ranking of applications and reservation of credits based on such rankings, and he shall designate the amount of credits to be made available for reservation within each pool during each such round. The amount reserved to each such application shall be equal to the lesser of (i) the amount requested in the application or (ii) an amount determined by the executive director, as of the date of application, to be necessary for the financial feasibility of the development and its viability as a qualified low-income development throughout the credit period under the IRC; provided, however, that in no event shall the amount of credits so reserved exceed the maximum amount permissible under the IRC.

If the amount of credits available in any pool is determined by the executive director to be insufficient for the financial feasibility of the proposed development to which such available credits are to be reserved, the executive director may ~~(i) permit the applicant to modify such proposed development and his application so as to achieve financial feasibility based upon the amount of such available credits, provided that the available credits represent at least 70% of the feasible credit amount established by the executive director and the applicant's development, as modified, will produce at least 75% of the units and bedrooms described in the application for the proposed development, or (ii)~~ move the proposed development and the credits available to another pool. ~~Any modifications shall be subject to the approval of the executive director; however, in no event shall such modifications result in a material reduction in the number of points assigned to the application pursuant to this section.~~ If any credits remain in any pool after ~~accepting any modifications to an applicant's proposed development or~~ moving proposed developments and credits to another pool, the executive director may *for developments that meet the requirements of § 42(h)(1)(E) of the IRC only,* reserve the remaining credits to any proposed development(s) scoring at or above the minimum point threshold established by this chapter without regard to the ranking of such application ~~and any development modified pursuant to the provisions of this paragraph. If necessary, the executive director may, for developments which meet the requirements of § 42(h)(1)(E) of the IRC only, reserve~~ *with* additional credits from the Commonwealth's annual state housing credit ceiling for the following year in such an amount necessary for the financial feasibility of the proposed development*, or developments*. However, the reservation of credits from the Commonwealth's annual state housing credit ceiling for the following year shall be in the reasonable discretion of the executive director if he determines it to be in the best interest of the plan. In the event a reservation or an allocation of credits from the current year or a prior year is reduced, terminated or cancelled, the executive director may substitute such credits for any credits reserved from the following year's annual state housing credit ceiling.

In the event that during any round of application review and ranking the amount of credits reserved within any pools is less than the total amount of credits made available therein during such round, the executive director may either (i) leave such unreserved credits in such pools for reservation and allocation in any subsequent round or rounds or (ii) redistribute such unreserved credits to such other pool or pools as the executive director may designate or (iii) carry over such unreserved credits to the next succeeding calendar year for inclusion in the state housing credit ceiling (as defined in § 42(h)(3)(C) of the IRC) for such year.

Notwithstanding anything contained herein, the total amount of credits that may be awarded in any credit year after credit year 2001 to any applicant or to any related applicants for one or more developments shall not exceed ~~10~~ *15*% of Virginia's per capita dollar amount of credits for such credit year (the "credit cap"). However, if the amount of credits to be reserved in any such credit year to all applications assigned a total number of points at or above the threshold amount set forth above shall be less than Virginia's dollar amount of credits available for such credit year, then the authority's board of commissioners may waive the credit cap to the extent it deems necessary to reserve credits in an amount at least equal to such dollar amount of credits. Applicants shall be deemed to be related if any principal in ~~an applicant~~ *a proposed development* or any person or entity related to the applicant or principal ~~is~~ *will be* a principal in any other ~~applicant~~ *proposed development* or ~~applicants~~ *developments*. ~~A principal is~~ *For purposes of this paragraph,* a ~~general partner or other~~ *principal shall also include any* person or entity who, in the determination of the executive director, *has exercised or* will exercise, directly or indirectly, substantial control over the applicant or *has performed or* will perform *(or has assisted or will assist the applicant in the performance of), directly or indirectly, substantial* responsibilities or functions customarily performed by ~~an applicant~~ *applicants* with respect to ~~an application~~ *applications* or ~~a development~~ *developments*. For the purpose of determining whether any person or entity is related to the applicant or principal, persons or entities shall be deemed to be related if the executive director determines that any substantial relationship existed, either directly between them or indirectly through a series of one or more substantial relationships (e.g., if party A has a substantial relationship with party B and if party B has a substantial relationship with party C, then A has a substantial relationship with both party B and party C), at any time within three years of the filing of the application for the credits. In determining in any credit year whether an applicant has a substantial relationship with another applicant with respect to any application for which credits were awarded in any prior credit year, the executive director shall determine whether the applicants were related as of the date of the filing of such prior credit year's application or within three years prior thereto and shall not consider any relationships or any changes in relationships subsequent to such date. Substantial relationships shall include, but not be limited to, the following relationships (in each of the following relationships, the persons or entities involved in the relationship are deemed to be related to each other):

(i) the persons are in the same immediate family (including, without limitation, a spouse, children, parents, grandparents, grandchildren, brothers, sisters, uncles, aunts, nieces, and nephews) and are living in the same household; (ii) the entities have one or more common general partners or members (including related persons and entities), or the entities have one or more common owners that (by themselves or together with any other related persons and entities) have, in the aggregate, 5.0% or more

ownership interest in each entity; (iii) the entities are under the common control (e.g., the same person or persons and any related persons serve as a majority of the voting members of the boards of such entities or as chief executive officers of such entities) of one or more persons or entities (including related persons and entities); (iv) the person is a general partner, member or employee in the entity or is an owner (by himself or together with any other related persons and entities) of 5.0% or more ownership interest in the entity; (v) the entity is a general partner or member in the other entity or is an owner (by itself or together with any other related persons and entities) of 5.0% or more ownership interest in the other entity; or (vi) the person or entity is otherwise controlled, in whole or in part, by the other person or entity. In determining compliance with the credit cap with respect to any application, the executive director may exclude any person or entity related to the applicant or to any principal in such applicant if the executive director determines that (i) such person or entity will not participate, directly or indirectly, in matters relating to the applicant or the ownership of the development to be assisted by the credits for which the application is submitted, (ii) such person or entity has no agreement or understanding relating to such application or the tax credits requested therein, and (iii) such person or entity will not receive a financial benefit from the tax credits requested in the application. A limited partner or other similar investor shall not be determined to be a principal and shall be excluded from the determination of related persons or entities unless the executive director shall determine that such limited partner or investor will, directly or indirectly, exercise control over the applicant or participate in matters relating to the ownership of the development substantially beyond the degree of control or participation that is usual and customary for limited partners or other similar investors with respect to developments assisted by the credits. If the award of multiple applications of any applicant or related applicants in any credit year shall cause the credit cap to be exceeded, such applicant or applicants shall, upon notice from the authority, jointly designate those applications for which credits are not to be reserved ~~or are to be reserved in an amount less than the amount requested in the application (if the amount of credits to be reserved for any application is to be so reduced, the applicant may modify the proposed development and the application to achieve financial feasibility based upon the amount of the credits as so reduced; provided, however, that the credits may not be reduced to less than 70% of the amount of credits requested in the application and may not be reduced so as to produce fewer than 75% of the number of units or bedrooms proposed in the application)~~ so that such limitation shall not be exceeded. Such notice shall specify the date by which such designation shall be made. In the absence of any such designation by the date specified in such notice, the executive director shall make such designation as he shall determine to best serve the interests of the program. Each applicant and each principal therein shall make such certifications, shall disclose such facts and shall submit such documents to the authority as the executive director may require to determine compliance with credit cap. If an applicant or any principal therein makes any misrepresentation to the authority concerning such applicant's or principal's relationship with any other person or entity, the executive director may reject any or all of such applicant's pending applications for reservation or allocation of credits, may terminate any or all reservations of credits to the applicant, and may prohibit such applicant, the principals therein and any persons and entities then or thereafter having a substantial relationship (in the determination of the executive director as described above) with the applicant or any principal therein from submitting applications for credits for such period of time as the executive director shall determine.

Notwithstanding anything above, the authority will treat local housing authorities or qualified nonprofit organizations as the only principal in an application in which such local housing authority or qualified nonprofit organization owns, directly or indirectly, at least 50% of the general partnership interest in the ownership entity of the proposed development and such local housing authority or qualified nonprofit organization, or wholly-owned subsidiary thereof, will purchase the proposed development at the end of the compliance period.

Within a reasonable time after credits are reserved to any applicants' applications, the executive director shall notify each applicant for such reservations of credits either of the amount of credits reserved to such applicant's application (by issuing to such applicant a written binding commitment to allocate such reserved credits subject to such terms and conditions as may be imposed by the executive director therein, by the IRC and by this chapter) or, as applicable, that the applicant's application has been rejected or excluded or has otherwise not been reserved credits in accordance herewith. The written binding commitment shall prohibit any transfer, direct or indirect, of partnership interests (except those involving the admission of limited partners) prior to the placed-in-service date of the proposed development unless the transfer is consented to by the executive director. The written binding commitment shall further limit the developers' fees to the amounts established during the review of the applications for reservation of credits and such amounts shall not be increased unless consented to by the executive director. The executive director shall, as a condition to the binding commitment, require each applicant to obtain a market study, in form and substance satisfactory to the authority, that shows adequate demand for the housing units to be produced by each applicant's proposed development.

If credits are reserved to any applicants for developments which have also received an allocation of credits from prior years, the executive director may reserve additional credits from the current year equal to the amount of credits allocated to such developments from prior years, provided such previously allocated credits are returned to the authority. Any previously allocated credits returned to the authority under such circumstances shall be placed into the credit pools from which the current year's credits are reserved to such applicants.

The executive director shall make a written explanation available to the general public for any allocation of housing credit dollar amount which is not made in accordance with established priorities and selection criteria of the authority.

The authority's board shall review and consider the analysis and recommendation of the executive director for the reservation of credits to an applicant, and, if it concurs with such recommendation, it shall by resolution ratify the reservation by the executive director of the credits to the applicant, subject to such terms and conditions as it shall deem necessary or appropriate to assure compliance with the aforementioned binding commitment issued or to be issued to the applicant, the IRC and this chapter. If the board determines not to ratify a reservation of credits or to establish any such terms and conditions, the executive director shall so notify the applicant.

Subsequent to such ratification of the reservation of credits, the executive director may, in his discretion and without ratification or approval by the board, increase the amount of such reservation by an amount not to exceed 10% of the initial reservation amount. The executive director may require the applicant to make a good faith deposit or to execute such contractual agreements providing for monetary or other remedies as it may require, or both, to assure that the applicant will comply with all requirements under the IRC, this chapter and the binding commitment (including, without limitation, any requirement to conform to all of the representations, commitments and information contained in the application for which points were assigned pursuant to this section). Upon satisfaction of all such aforementioned requirements (including any post-allocation requirements), such deposit shall be refunded to the applicant or such contractual agreements shall terminate, or both, as applicable.

If, as of the date the application is approved by the executive director, the applicant is entitled to an allocation of the credits under the IRC, this chapter and the terms of any binding commitment that the authority would have otherwise issued to such applicant, the executive director may at that time allocate the credits to such qualified low-income buildings or development without first providing a reservation of such credits. This provision in no way limits the authority of the executive director to require a good faith deposit or contractual agreement, or both, as described in the preceding paragraph, nor to relieve the applicant from any other requirements hereunder for eligibility for an allocation of credits. Any such allocation shall be subject to ratification by the board in the same manner as provided above with respect to reservations.

The executive director may require that applicants to whom credits have been reserved shall submit from time to time or at such specified times as he shall require, written confirmation and documentation as to the status of the proposed development and its compliance with the application, the binding commitment and any contractual agreements between the applicant and the authority. If on the basis of such written confirmation and documentation as the executive director shall have received in response to such a request, or on the basis of such other available information, or both, the executive director determines any or all of the buildings in the development which were to become qualified low-income buildings will not do so within the time period required by the IRC or will not otherwise qualify for such credits under the IRC, this chapter or the binding commitment, then the executive director may terminate the reservation of such credits and draw on any good faith deposit. If, in lieu of or in addition to the foregoing determination, the executive director determines that any contractual agreements between the applicant and the authority have been breached by the applicant, whether before or after allocation of the credits, he may seek to enforce any and all remedies to which the authority may then be entitled under such contractual agreements.

The executive director may establish such deadlines for determining the ability of the applicant to qualify for an allocation of credits as he shall deem necessary or desirable to allow the authority sufficient time, in the event of a reduction or termination of the applicant's reservation, to reserve such credits to other eligible applications and to allocate such credits pursuant thereto.

Any material changes to the development, as proposed in the application, occurring subsequent to the submission of the application for the credits therefor shall be subject to the prior written approval of the executive director. As a condition to any such approval, the executive director may, as necessary to comply with this chapter, the IRC, the binding commitment and any other contractual agreement between the authority and the applicant, reduce the amount of credits applied for or reserved or impose additional terms and conditions with respect thereto. If such changes are made without the prior written approval of the executive director, he may terminate or reduce the reservation of such credits, impose additional terms and conditions with respect thereto, seek to enforce any contractual remedies to which the authority may then be entitled, draw on any good faith deposit, or any combination of the foregoing.

In the event that any reservation of credits is terminated or reduced by the executive director under this section, he may reserve, allocate or carry over, as applicable, such credits in such manner as he shall determine consistent with the requirements of the IRC and this chapter.

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TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF MEDICINE

Title of Regulation: **18 VAC 85-40. Regulations Governing the Practice of Respiratory Care Practitioners (amending 18 VAC 85-40-10, 18 VAC 85-40-40, 18 VAC 85-40-45, 18 VAC 85-40-50, 18 VAC 85-40-60, 18 VAC 85-40-61, 18 VAC 85-40-65; adding 18 VAC 85-40-35, 18 VAC 85-40-66; repealing 18 VAC 85-40-80.**

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

Public Hearing Date: October 10, 2002 - 11 a.m.
Public comments may be submitted until December 6, 2002.
(See Calendar of Events section for additional information)

Agency Contact: Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6606 West Broad Street, Richmond, VA 23230-1717, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.state.va.us.

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, levy fees, administer a licensure and renewal program, and discipline regulated professionals.

Section 54.1-2912.1 of the Code of Virginia mandates the Board of Medicine to promulgate regulations to ensure practitioner competence with requirements such as continuing education.

Purpose: Through a periodic review of regulations, the Advisory Board on Respiratory Care identified several rules that needed to be clarified or updated. It particularly noted the need for a specific requirement for continuing education as an indication that the practitioner has updated his knowledge base and ability to practice. While regulations currently require 160 hours of practice in a biennium to renew an active license, comments during regulatory review strongly favored some requirement for continuing education to ensure that respiratory care practitioners have maintained their skills and competencies in order to protect the public health, safety and welfare. As with other fields in medicine, respiratory care is continuously changing with new technology and treatments; continuing education is essential if the board is going to ensure minimal competency of its licensees. Documentation of continuing competency activities will ensure that the person resuming active practice or licensure in Virginia has maintained current knowledge and skills to appropriately manage and treat patients.

Substance: Amended regulations will require 20 hours of continuing education each biennium as approved and documented by a sponsor or provider recognized by the national professional body, the American Association for Respiratory Care. Licensees are granted an exemption from the requirement in the first renewal following initial licensure and are also allowed to petition the board for an extension of time if unable to fulfill their hours. Documentation from the AARC must be retained for four years following renewal and provided to the board within 30 days in the event the licensee is audited. In addition, the amendments establish a continuing education requirement for reactivation or reinstatement of an inactive license.

Other amendments are “housekeeping” to clarify certain sections or to allow the board flexibility in approval of examination or the receipt of examination results.

Issues:

Advantages or disadvantages to the public. There are definite advantages of the proposed amended regulations to the public, which will have greater assurance that the licensees for the board are engaged in activities to maintain and improve their knowledge and skills in providing care to their patients. The public is also better served by a continuing competency requirement for licensees who have allowed their license to lapse or have been inactive.

Advantages to the licensees. The continuing competency requirements are intended to provide some assurance to the public that licensees of the board are maintaining current knowledge and skills, while providing the some flexibility to licensees. The board believes that the majority of respiratory care practitioners already obtain sufficient hours of continuing competency activities or courses in a biennium. Licensees who work for organizations are often required to take in-service training or continuing education for employment. The resources for earning the hours and engaging in the required learning are numerous and readily available in all parts of Virginia.

Disadvantages to the licensees. For a small minority of practitioners who do not currently engage in any continuing learning in their profession these requirements will represent an additional burden. However, it was determined by enactment of the statute and by the board’s concurrence that those practitioners and their patients would greatly benefit from continuing learning requirements, and that the public is better protected if there is some assurance of that effort.

Advantages or disadvantages to governmental agencies. Government agencies that employ respiratory care practitioners may incur some additional costs if they elect to hire individuals to present workshops or seminars to their staff or to pay for continuing education. The board will incur additional costs to monitor compliance of licensees, and to hold additional disciplinary hearings for individuals who do not comply with the requirement.

Fiscal Impact:

Projected cost to the state to implement and enforce. Fund source: As a special fund agency, the board must generate sufficient revenue to cover its expenditures from nongeneral funds, specifically, the renewal and application fees it charges to practitioners for necessary functions of regulation.

Budget activity by program or subprogram: There is no change required in the budget of the Commonwealth as a result of this program.

One-time versus ongoing expenditures: The agency will incur some one-time costs (less than $2,000) for mailings to the Public Participation Guidelines mailing lists, conducting a public hearing, and sending copies of final regulations to regulated entities. Every effort will be made to incorporate those into anticipated mailings and board meetings already scheduled, so there is no additional cost for board member per diem or travel.

There may also be some ongoing expenditures related to compliance enforcement. The board expects to conduct an audit of approximately 2.0% of its licensees at the conclusion of each biennium. For respiratory care practitioners, that would involve auditing CE for approximately 60 licensees. Each practitioner selected for the audit will be required to submit the required documentation of continuing education activities. There will be some staff time involved in review of the documentation and in communicating with licensee about their deficiencies.

It is also expected that a small percentage of licensees selected for audit will result in a disciplinary case being

opened. From the experience of boards within the agency that currently have continuing competency requirements for renewal, the majority of those cases (estimated to be 5 or 6 per biennium) will probably be settled with a prehearing consent order. In those cases, the only costs would be for charges back to the board from the Administrative Proceedings Division (APD) of the department. Costs for cases that do result in an informal conference committee proceeding (estimated to be one or two per biennium) would include travel expenses and per diem for board members as well as costs for the services of APD. Informal conference committees typically hear several cases in a day, so the costs per case for board member and APD time would be minimized.

Biennial cost estimates for disciplinary cases related to the failure to comply with continuing competency regulations range from $100 for cases resulting in prehearing consent orders (total of $500 to $600) to $500 per case for those that result in an informal conference committee ($500 to $1,000). All expenses relating to enforcement of these regulations can be absorbed in the existing budget of the Board of Medicine.

Projected cost on localities: There are no projected costs to localities.

Description of entities that are likely to be affected by regulation: The entities that are likely to be affected by these regulations would be licensed respiratory care practitioners.

Estimate of number of entities to be affected: Currently, there are approximately 3,000 persons licensed to practice respiratory care.

Projected costs to the affected entities: Regulations adopted by the board require a licensee to have 20 hours of approved continuing education each biennium. The cost for compliance will vary depending on the practitioner and the method chosen for acquiring the required hours.

Many organizations, hospitals and large practices offer in-service training for their therapy staff at no cost to the practitioners. For example, a manager of a small community hospital in Virginia commented that she was confident that it would not be an issue nor would it be cost prohibitive for respiratory therapists to obtain the required continuing education. Another commented that maintaining 20 hours would not be difficult due to the numerous routes for obtaining hours, both live lecture and nontraditional routes. According to respiratory care practitioners, there are numerous opportunities to obtain CE credits through conferences, journals, district meetings, and in-service with hospitals and home health care agencies. The advisory board has estimated that the cost would be $0 to $20 per hour. Courses offered by sponsors recognized by the AARC are always open to members and nonmembers; sometimes but not always, the cost per course is slightly higher for nonmembers. Membership in the AARC costs $90 a year. It would appear from licensee comments and discussions by the advisory board that there is a sufficient amount of continuing education offered in all regions of the state at a minimal cost.

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

Summary of the Proposed Regulation.

Section 54.1-2912.1 of the *Code of Virginia* mandates that the Board of Medicine (board) establish continuing education requirements for practitioners whom it licenses, which include respiratory care practitioners. The proposed regulations establish requirements for 20 hours of continuing education per biennium from an approved sponsor or organization. Additional provisions address exemptions or extensions of time for compliance, documentation requirements, and evidence of continuing education for reinstatement or reactivation of an inactive license. The regulations also revise sections pertaining to approval of examination or the receipt of examination results to make the regulations more adaptable to computerized testing and allow the Board to accept equivalent education to that required for credentialing by the National Board on Respiratory Care (NBRC) if another equivalent, national credential became available. Several editorial changes are also proposed.

Estimated Economic Impact. The most significant change proposed to the current regulations is the addition of continuing education (CE) requirements for the renewal of an active license. The existing rules require 160 hours of professional practice per biennium to renew an active license. The monetary costs of this provision are the costs of any courses offered for the purposes of meeting the requirements of this regulation (whether paid for by the practitioner, his employer, or professional association). The board believes that the majority of respiratory care practitioners already obtain sufficient hours of continuing competency activities or courses in a biennium. Licensees who work for organizations are often required to take in-service training or continuing education for employment or for professional credentialing. For these individuals, the proposed requirements will not result in any additional costs aside from those associated with the documentation and maintenance of records. For other practitioners, however, the proposed CE requirements can be expected to represent a new cost. Based on information provided by the agency, the monetary costs for earning the required CE hours could range from $0 to several hundred dollars per biennium for each of the 3,000 licensees. Additionally, practitioners would incur the cost of the time spent on pursuing such activities, whether in lost income or lost leisure time, and any costs associated with the documentation and maintenance of the records. These costs can be estimated the practitioner's wage rate by the number of additional hours, in this case 20 hours. Depending on the number of people affected and the cost per person, the total costs could be significant.

Reinstatement of Inactive and Lapsed Licenses. Requirements are set forth that the reactivation of an inactive license or reinstatement of a lapsed license include documentation of having completed continued competency hours equal to the requirement for the length of time, not to exceed three years, that the license has been inactive.

Conclusion. The proposed CE requirements and license reactivation criteria can be expected to provide some beneficial results. The proposed rules would provide some assurance to the public that respiratory care practitioners licensed by the Board of Medicine are maintaining their knowledge, skills, and competencies. There is no empirical evidence currently available with which to make credible estimates of the potential costs and benefits associated with the proposed requirements.

The Board of Medicine will also incur costs related to enforcement of the proposed CE requirements. Based on experience with other professions, the board estimates that the biennial audits of licensees will result in approximately five or six cases settled with a pre-hearing consent order ($100 per case) and one or two cases requiring informal conference committee proceedings ($500 per case). Enforcement of the proposed requirements will increase compliance, and if the requirements themselves result in a net economic benefit, then the enforcement costs are also justified.

Businesses and Entities Affected. There are 3,000 respiratory care practitioners currently licensed in Virginia who would be affected by the proposed changes to this regulation.

Localities Particularly Affected. The proposed changes to this regulation are not expected to uniquely affect any particular localities.

Projected Impact on Employment. The proposed changes to this regulation are not expected to have any significant effect on employment in Virginia.

Effects on the Use and Value of Private Property. The proposed changes to this regulation are not expected to have any significant effect on the use and value of private property.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Board of Medicine concurs with the analysis of the Department of Planning and Budget for amendments to 18 VAC 85-40 for changes recommended by a periodic review of regulations, including a requirement for continuing education.

Summary:

The proposed amendments establish requirements for 20 hours of continuing education per biennium from an approved sponsor or organization. Additional provisions address exemptions or extensions of time for compliance, documentation requirements, and evidence of continuing education for reinstatement or reactivation of an inactive license. The regulations also revise sections pertaining to approval of examination or the receipt of examination results to make the regulations more adaptable to computerized testing and allow the board to accept equivalent education to that required for credentialing by the National Board on Respiratory Care if another equivalent, national credential becomes available. Fees have been moved to Part I, General Provisions, without change.

18 VAC 85-40-10. Definitions.

A. The following words and terms when used in this chapter shall have the meanings ascribed to them in § 54.1-2900 of the Code of Virginia:

Board

Qualified medical direction

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

"AARC" means the American Associate for Respiratory Care.

"Accredited educational program" means a program accredited by the Committee on Accreditation for Respiratory Care or any other agency approved by the NBRC for its entry level certification examination.

"Active practice" means a minimum of 160 hours of professional practice as a respiratory care practitioner within the 24-month period immediately preceding renewal or application for licensure if previously licensed or certified in another jurisdiction. The active practice of respiratory care may include supervisory, administrative, educational or consultative activities or responsibilities for the delivery of such services.

"Advisory board" means the Advisory Board on Respiratory Care to the Board of Medicine as specified in § 54.1-2956 of the Code of Virginia.

"NBRC" means the National Board for Respiratory Care, Inc.

"Respiratory care practitioner" means a person as specified in § 54.1-2954 of the Code of Virginia.

18 VAC 85-40-35. Fees.

The following fees are required:

1. The application fee, payable at the time the application is filed, shall be $130.

2. The biennial fee for renewal of active licensure shall be $135 and for renewal of inactive licensure shall be $70, payable in each odd-numbered year in the license holder's birth month.

3. The additional fee for late renewal of licensure within one renewal cycle shall be $50.

4. The fee for reinstatement of a license issued by the Board of Medicine pursuant to § 54.1-2904 of the Code of Virginia, which has lapsed for a period of two years or more, shall be $180 and must be submitted with an application for licensure reinstatement.

5. The fee for reinstatement of a license pursuant to § 54.1-2921 of the Code of Virginia shall be $2,000.

6. The fee for a duplicate license shall be $5, and the fee for a duplicate wall certificate shall be $15.

7. The fee for a returned check shall be $25.

8. The fee for a letter of good standing/verification to another jurisdiction shall be $10; the fee for certification of grades to another jurisdiction shall be $25.

PART II.
REQUIREMENTS FOR LICENSURE AS A RESPIRATORY CARE PRACTITIONER.

18 VAC 85-40-40. Application requirements.

An applicant for licensure shall submit the following on forms provided by the board:

1. A completed application and a fee as prescribed in ~~18 VAC 85-40-80~~ *18 VAC 85-40-35*.

2. Verification of professional education in respiratory care as required in 18 VAC 85-40-45.

3. Verification of practice as required on the application form.

4. ~~Documentation~~ *Evidence* of passage of the national examination as required in 18 VAC 85-40-50.

5. If licensed or certified in any other jurisdiction, documentation of active practice as a respiratory care practitioner and verification that there has been no disciplinary action taken or pending in that jurisdiction.

18 VAC 85-40-45. Educational requirements.

An applicant for licensure shall:

1. Be a graduate of an accredited educational program for respiratory care practitioners; or

2. Hold current credentialing as a Certified Respiratory Therapist (CRT) or a Registered Respiratory Therapist (RRT) from the NBRC *or any other credentialing body determined by the board to be equivalent*.

18 VAC 85-40-50. Examination requirements.

An applicant for a license to practice as a licensed respiratory care practitioner shall submit to the board ~~written~~ evidence~~, verified by affidavit,~~ that the applicant has passed the NBRC entry level examination for respiratory care, or its equivalent as approved by the board.

PART III.
RENEWAL AND REINSTATEMENT.

18 VAC 85-40-60. Renewal of license.

A. Every licensed respiratory care practitioner intending to continue his licensure shall biennially in each odd-numbered year in his birth month:

1. Register with the board for renewal of his license;

2. Pay the prescribed renewal fee at the time he files for renewal; ~~and~~

3. ~~Engage~~ *Attest that he has engaged* in active practice as defined in 18 VAC 85-40-10~~.~~ *; and*

4. Attest to having met the continuing education requirements of 18 VAC 85-40-66.

B. A respiratory care practitioner whose licensure has not been renewed by the first day of the month following the month in which renewal is required shall pay a late fee as prescribed in ~~18 VAC 85-40-80~~ *18 VAC 85-40-35*.

18 VAC 85-40-61. Inactive license.

A. A licensed respiratory therapist who holds a current, unrestricted license in Virginia shall, upon a request on the renewal application and submission of the required fee, be issued an inactive license. The holder of an inactive license shall not be entitled to perform any act requiring a license to practice respiratory care in Virginia.

B. To reactivate an inactive license, a licensee shall:

1. Submit the required application;

2. Pay a fee equal to the difference between the current renewal fee for inactive licensure and the renewal fee for active licensure; and

3. Submit information on continued practice in another jurisdiction or other evidence of competency to return to active practice *to include 10 hours of continuing education for each year in which the license has been inactive, not to exceed three years*.

C. The board reserves the right to deny a request for reactivation to any licensee who has been determined to have committed an act in violation of § 54.1-2914 of the Code of Virginia or any provisions of this chapter.

18 VAC 85-40-65. Reinstatement.

A. In order to reinstate a license which has been lapsed for more than two years, a respiratory care practitioner shall file an application for reinstatement, pay the fee for reinstatement of his licensure as prescribed in ~~18 VAC 85-40-80~~ *18 VAC 85-40-35*, and submit to the board evidence of competency to practice *to include 10 hours of continuing education for each year in which the license has been lapsed, not to exceed three years*. The board may specify additional requirements for reinstatement of a license so lapsed to include education, experience or reexamination.

B. A respiratory care practitioner whose licensure has been revoked by the board and who wishes to be reinstated shall make a new application to the board*, fulfill additional requirements as specified in the order from the board* and *make* payment of the fee for reinstatement of his licensure as prescribed in ~~18 VAC 85-40-80~~ *18 VAC 85-40-35* pursuant to § 54.1-2921 of the Code of Virginia.

18 VAC 85-40-66. Continuing education requirements.

A. On and after January 1, 2005, in order to renew an active license as a respiratory care practitioner, a licensee shall attest to having completed 20 hours of continuing respiratory care education as approved and documented by a sponsor recognized by the AARC within the last biennium.

B. A practitioner shall be exempt from the continuing education requirements for the first biennial renewal following the date of initial licensure in Virginia.

C. The practitioner shall retain in his records the completed form with all supporting documentation for a period of four years following the renewal of an active license.

D. The board shall periodically conduct a random audit of its active licensees to determine compliance. The practitioners selected for the audit shall provide all supporting documentation within 30 days of receiving notification of the audit.

E. Failure to comply with these requirements may subject the licensee to disciplinary action by the board.

F. The board may grant an extension of the deadline for continuing competency requirements, for up to one year, for good cause shown upon a written request from the licensee prior to the renewal date.

G. The board may grant an exemption for all or part of the requirements for circumstances beyond the control of the licensee, such as temporary disability, mandatory military service, or officially declared disasters.

~~PART V.~~
~~FEES.~~

18 VAC 85-40-80. ~~Fees.~~ *(Repealed.)*

~~The following fees are required:~~

~~1. The application fee, payable at the time the application is filed, shall be $130.~~

~~2. The biennial fee for renewal of active licensure shall be $135 and for renewal of inactive licensure shall be $70, payable in each odd-numbered year in the license holder's birth month.~~

~~3. The additional fee for late renewal of licensure within one renewal cycle shall be $50.~~

~~4. The fee for reinstatement of a license issued by the Board of Medicine pursuant to § 54.1-2904 of the Code of Virginia, which has lapsed for a period of two years or more, shall be $180 and must be submitted with an application for licensure reinstatement.~~

~~5. The fee for reinstatement of a license pursuant to § 54.1-2921 of the Code of Virginia shall be $2,000.~~

~~6. The fee for a duplicate license shall be $5, and the fee for a duplicate wall certificate shall be $15.~~

~~7. The fee for a returned check shall be $25.~~

~~8. The fee for a letter of good standing/verification to another jurisdiction shall be $10; the fee for certification of grades to another jurisdiction shall be $25.~~

NOTICE: The forms used in administering 18 VAC 85-40, Regulations Governing The Practice of Respiratory Care Practitioners, are listed below. Any amended or added forms are reflected in the listing and are published following the listing.

FORMS

Instructions for Completing a Respiratory Care Practitioner Application (rev. 8/99).

Application for a License to Practice as a Respiratory Care Practitioner (rev. 2/99).

Instructions for Completing Reinstatement of Respiratory Therapy License (eff. 8/99).

Application for Reinstatement as a Respiratory Care Practitioner (eff. 7/98).

Form #A, Claims History Sheet (rev. 7/98).

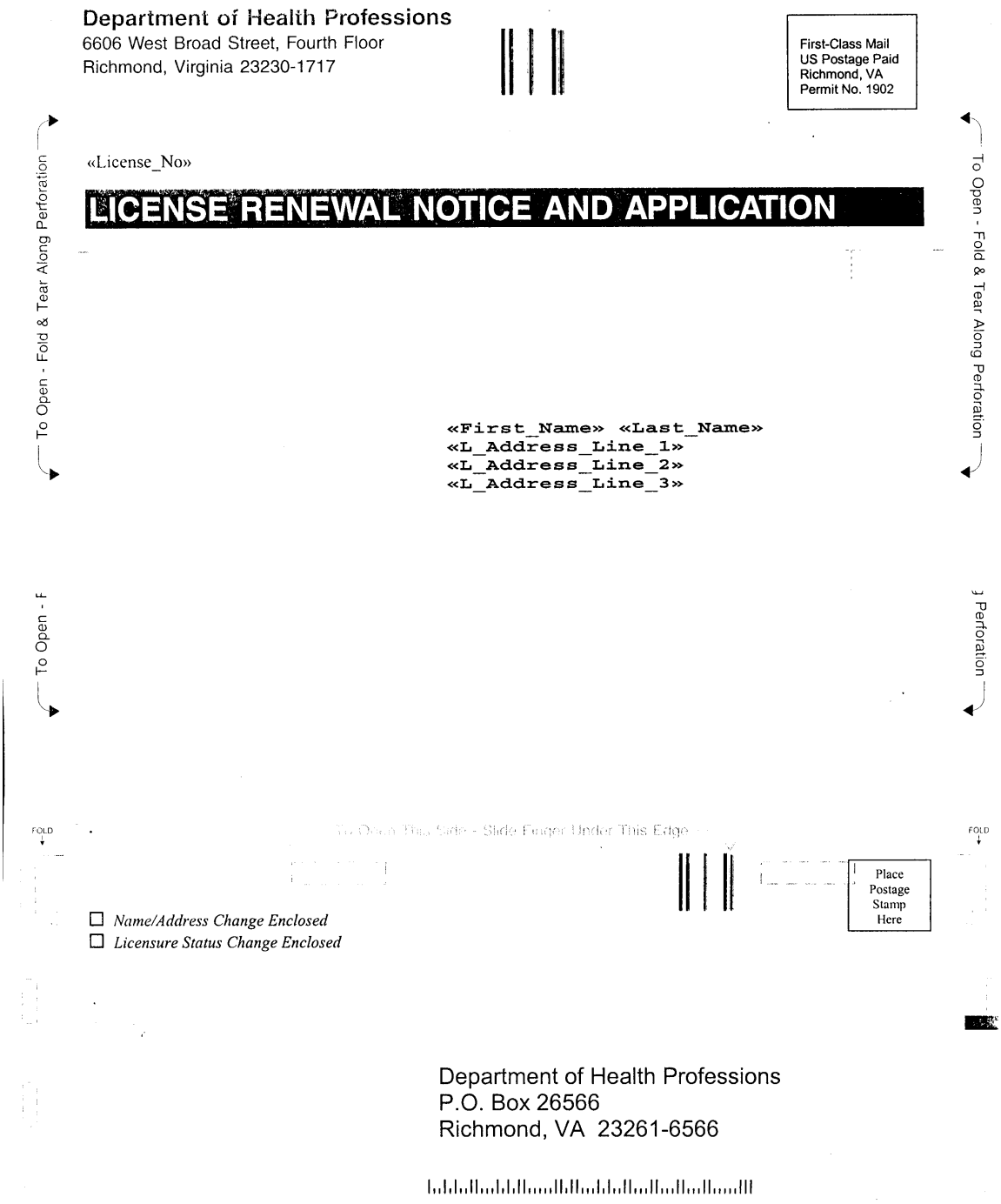
Form #B, Activity Questionnaire (rev. 7/98).

Form #C, Clearance from Other State Boards (rev. 7/98).

Form #L, Certificate of Professional Education (rev. 2/99).

Verification of Certification Request Form (NBRTC) (rev. 7/98).

Renewal Notice and Application (rev. ~~9/00~~ *9/02*).



Department of Health Professions
6606 West Broad Street, Fourth Floor
Richmond, Virginia 23230-1717

First-Class Mail
US Postage Paid
Richmond, VA
Permit No. 1902

To Open - Fold & Tear Along Perforation

«License_No»

LICENSE RENEWAL NOTICE AND APPLICATION

«First_Name» «Last_Name»
«L_Address_Line_1»
«L_Address_Line_2»
«L_Address_Line_3»

To Open - F

Perforation

FOLD

To Open This Side - Slide Finger Under This Edge

FOLD

Place
Postage
Stamp
Here

☐ *Name/Address Change Enclosed*
☐ *Licensure Status Change Enclosed*

Department of Health Professions
P.O. Box 26566
Richmond, VA 23261-6566

RECEIPT—KEEP THIS PORTION FOR YOUR RECORDS—DO NOT RETURN

«First_Name» «Last_Name»	Renewal Fee--Amount **$135.00**
«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»	**$135.00**

«First_Name» «Middle_Name» «Last_Name»

«L_Address_Line_1», «L_Address_Line_2», «L_Address_Line_3»

☐ I wish to renew in an active status and enclose fee of $135.00, and attest to completion of at least 20 hours of continuing education activities within the two years immediately preceding this renewal cycle.
☐ I wish to renew in an active status, and have not met the 20 hours of CE requirement and request a 6 month extension.
☐ I wish to renew in an inactive status and enclose fee of $70.00 ***(No practice authorized)***
☐ **Check here if you** do not **wish to renew, and sign.**

Signature _____

If Payment for active licensure is received by Board After «L_Expiration_Date», Amount Due $185.00
If Payment for inactive licensure is received by Board After «L_Expiration_Date», Amount Due $115.00

Do not staple check to renewal form or fold renewal form.

«Scan_Line»

Disclosure of Addresses

Some licensees have expressed concern that their residence address is accessible. Consistent with Virginia law and the mission of the Department of Health Professions addresses of licensees are made available to the public. This has been the policy and the practice of the Commonwealth for many years. However, the application of new technology makes such information more accessible.

In most cases it is permissible for an individual to provide an address of record other than a residence, such as a Post Office Box or a practice location. Changes of address may be made at the time of renewal or at anytime by written notification to the appropriate health regulatory board. Please be advised that all notices from the board, to include renewal notices, licenses, and other legal documents, will be mailed to the address provided.

VA.R. Doc. No. R02-30; Filed September 17, 2002, 10:02 a.m.

◆

FINAL REGULATIONS

For information concerning Final Regulations, see Information Page.

Symbol Key

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

TITLE 13. HOUSING

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

REGISTRAR'S NOTICE: The Virginia Housing Development Authority is exempt from the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) pursuant to § 2.2-4002 A 4; however, under the provisions of § 2.2-4031, it is required to publish all proposed and final regulations.

Title of Regulation: **13 VAC 10-20. Rules and Regulations for Multi-Family Housing Developments (amending 13 VAC 10-20-20, 13 VAC 10-20-40 and 13 VAC 10-20-90).**

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

Effective Date: September 20, 2002.

Summary:

The amendments (i) authorize the authority's Board of Commissioners by resolution to adopt procedures that provide for its review and consideration of the recommendations of the executive director and that, upon compliance with such procedures, authorize the executive director to approve, and to authorize the issuance of commitments for, mortgage loans without further approval or authorization by resolution of the board; (ii) authorize the authority's executive director, in the commitment for mortgage loans to finance multi-family rental housing developments, to impose lower income limits than are provided in such rules and regulations and to prescribe any maximum annual rate of distributions by the housing sponsors with respect to the multi-family rental housing developments; (iii) permit the board by resolution to authorize the executive director to approve mortgage loan increases for multi-family rental housing; and (iv) make other related changes.

Agency Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, VA 23220, telephone (804) 343-5540, FAX (804) 783-6701, toll free 1-800-968-7837, or e-mail judson.mckellar@vdha.com.

REGISTRAR'S NOTICE: The proposed regulation was adopted as published in 18:25 VA.R. 3486-3488 August 26, 2002, without change. Therefore, pursuant to § 2.2-4031 A of the Code of Virginia, the text of the final regulation is not set out.

VA.R. Doc. No. R02-328; Filed September 18, 2002, 8:52 a.m.

* * * * * * * *

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

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

Effective Date: September 20, 2002.

Summary:

The amendments delete the provisions that require the authority's board to approve or ratify commitments for mortgage loans financed under this chapter.

Agency Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, VA 23220, telephone (804) 343-5540, FAX (804) 783-6701, toll free 1-800-968-7837, or e-mail judson.mckellar@vdha.com.

REGISTRAR'S NOTICE: The proposed regulation was adopted as published in 18:25 VA.R. 3488-3491 August 26, 2002, without change. Therefore, pursuant to § 2.2-4031 A of the Code of Virginia, the text of the final regulation is not set out.

VA.R. Doc. No. R02-329; Filed September 18, 2002, 8:52 a.m.

* * * * * * * *

Title of Regulation: **13 VAC 10-50. Rules and Regulations for Home Rehabilitation Loans (amending 13 VAC 10-50-90).**

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

Effective Date: September 20, 2002.

Summary:

The amendments delete the provisions that require the authority's board to approve or ratify commitments for mortgage loans financed under this chapter.

Agency Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, VA 23220, telephone (804) 343-5540, FAX (804) 783-6701, toll free 1-800-968-7837, or e-mail judson.mckellar@vdha.com.

REGISTRAR'S NOTICE: The proposed regulation was adopted as published in 18:25 VA.R. 3491 August 26, 2002, without change. Therefore, pursuant to § 2.2-4031 A of the Code of Virginia, the text of the final regulation is not set out.

VA.R. Doc. No. R02-330; Filed September 18, 2002, 8:52 a.m.

TITLE 14. INSURANCE

STATE CORPORATION COMMISSION

Bureau of Insurance

REGISTRAR'S NOTICE: The State Corporation Commission is exempt from the Administrative Process Act in accordance with § 2.2-4002 A 2 of the Code of Virginia, which exempts courts, any agency of the Supreme Court, and any agency which by the Constitution is expressly granted any of the powers of a court of record.

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

Title of Regulation: **14 VAC 5-385. Rules Governing Aboveground Storage Tank and Pipeline Operators Group Self-Insurance Pools (INS-2002-00120) (adding 14 VAC 5-385-10 through 14 VAC 5-385-150).**

Statutory Authority: §§ 12.1-13, 38.2-223, and 62.1-44.34:12 of the Code of Virginia.

Effective Date: October 1, 2002.

Summary:

The regulations set forth the requirements for the approval and monitoring of aboveground storage tank and pipeline operators group self-insurance pools pursuant to §§ 62.1-44.34:12 and 62.1-44.34:16 of the Code of Virginia. This statute falls under the State Water Control Law, which is administered by the Virginia Department of Environmental Quality.

Agency Contact: Raquel Pino-Moreno, Senior Research Analyst, Bureau of Insurance, State Corporation Commission, P.O. Box 1157, Richmond VA 23218, telephone (804) 371-9499, FAX (804) 371-9511, toll-free 1-800-552-7945 or e-mail rpinomoreno@scc.state.va.us.

AT RICHMOND, SEPTEMBER 10, 2002

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. INS-2002-00120

Ex Parte: In the matter of
Adopting Rules Governing
Aboveground Storage Tank and
Pipeline Operators Group
Self-Insurance Pools

ORDER ADOPTING RULES

By order entered herein June 7, 2002, all interested persons were ordered to take notice that the Commission would consider the entry of an order subsequent to September 3, 2002, adopting rules proposed by the Bureau of Insurance (the "Bureau"), designated as Chapter 385 of Title 14 of the Virginia Administrative Code and entitled "Rules Governing Aboveground Storage Tank and Pipeline Operators Group Self-Insurance Pools," and which include the rules at 14 VAC 5-385-10 through 14 VAC 5-385-150, unless on or before September 3, 2002, any person objecting to the adoption of the proposed rules filed a request for a hearing with the Clerk of the Commission.

The June 7, 2002, Order also required all interested persons to file their comments in support of or in opposition to the proposed rules on or before September 3, 2002.

As of the date of this Order, no request for a hearing has been filed with the Clerk of the Commission, and, as of the date of this Order, no comments have been filed with the Clerk of the Commission.

The Bureau has recommended that the proposed rules be adopted; and

THE COMMISSION, having considered the proposed rules and the Bureau's recommendation, is of the opinion that the proposed rules should be adopted.

THEREFORE, IT IS ORDERED THAT:

(1) The rules set forth in Chapter 385 of Title 14 of the Virginia Administrative Code entitled "Rules Governing Aboveground Storage Tank and Pipeline Operators Group Self-Insurance Pools," which include the rules at 14 VAC 5-385-10 through 14 VAC 5-385-150, and which are attached hereto and made a part hereof, should be, and they are hereby, ADOPTED to be effective October 1, 2002.

(2) AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to the Bureau of Insurance in care of Deputy Commissioner Douglas C. Stolte, who forthwith shall give further notice of the adoption of the rules by mailing a copy of this Order, including a copy of the attached rules, to all persons on the attached list.

(3) The Commission's Division of Information Resources forthwith shall cause a copy of this Order, including a copy of the attached rules, to be forwarded to the Virginia Registrar of Regulations for appropriate publication in the Virginia Register of Regulations.

(4) On or before September 16, 2002, the Commission's Division of Information Resources shall make available this Order and the attached rules on the Commission's website, http://www.state.va.us/scc/caseinfo/orders.htm.

(5) The Bureau of Insurance shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements of paragraph (2) above.

REGISTRAR'S NOTICE: The proposed regulation was adopted as published in 18:21 VA.R. 2740-2746 July 1, 2002, with the changes identified below. Pursuant to § 2.2-4031 A of the Code of Virginia, the adopted regulation is not published at length; however, the sections that have changed since publication of the proposed are set out.

CHAPTER 385.
RULES GOVERNING ABOVEGROUND STORAGE TANK AND PIPELINE OPERATORS GROUP SELF-INSURANCE POOLS.

14 VAC 5-385-10. **[No change from proposed.]**

14 VAC 5-385-20. Definitions.

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

"Aboveground storage tank" or "AST" means any one or combination of tanks, including pipes, used to contain an accumulation of oil at atmospheric pressure, and the volume of which, including the volume of the pipes, is more than 90% above the surface of the ground. This term does not include line pipe and breakout tanks of an interstate pipeline regulated under the federal Accountable Pipeline Safety and Partnership Act of 1996 (49 USC § 60101 et seq.).

"Administrator" means the individual, partnership, corporation or other entity authorized to serve as a representative of a pool and its members in carrying out the policies of the board and managing the pool's activities.

"Commission" means the State Corporation Commission.

"Contribution" means the amount of payments required of each member in order to fund the pool's obligations under the pool plan.

"Facility" means any development or installation within the Commonwealth that deals in, stores or handles oil, and includes an aboveground storage tank or pipeline.

"Group self-insurance pool" or "pool" means a pool organized by two or more operators of facilities for the purpose of forming a group self-insurance pool in order to demonstrate financial responsibility as required by § 62.1-44.34:16 of the Code of Virginia.

"Insolvent" means (i) the condition of a pool that has liabilities in excess of assets; or (ii) the inability of a pool to pay its obligations as they become due in the usual course of business.

"Member" means an operator of a facility that has entered into a member agreement and thereby becomes a member of a group self-insurance pool.

"Member agreement" means the written agreement executed between each member and the pool, which sets forth the conditions of membership in the pool, the obligations, if any, of each member to the other members, and the terms, coverages, limits, and deductibles of the pool plan.

"Members' supervisory board" or "board" means the governing authority of the pool selected by the members to be responsible for determining contributions to the pool, maintaining reserves, levying and collecting assessments for deficiencies, disposing of surpluses, and administration of the pool in the event of termination or insolvency.

"Pool plan" means the plan of self-insurance offered by the pool to its members as specifically designated in the member agreement.

"Service agent" means any individual, partnership, corporation or other entity that may provide any or all of the insurance services including, but not limited to, claim adjustment, safety engineering, compilation of statistics, the preparation of contribution payments, loss reports, and other required self-insurance reports, and the administration of a claims fund. A service agent may invest contributions for the benefit of members as directed by the board.

"Service agreement" means the written agreement executed between the pool and a service agent, which sets forth the terms of the insurance services to be provided by a service agent to the pool.

[*B. All terms used in this chapter that are not defined in this section but are defined in 9 VAC 25-640-10 shall be given the definitions contained in 9 VAC 25-640-10.*]

14 VAC 5-385-30 through 14 VAC 5-385-150. **[No change from proposed.]**

VA.R. Doc. No. R02-212; Filed September 12, 2002, 11:17 a.m.

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TITLE 22. SOCIAL SERVICES

CHILD DAY-CARE COUNCIL

REGISTRAR'S NOTICE: The Child Day-Care Council is claiming an exclusion from the Administrative Process Act in accordance with § 2.2-4006 A 4 a of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law where no agency discretion is involved. The Child Day-Care Council will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: **22 VAC 15-60. Standards and Regulations for Licensed Child Day Center Systems (repealing 22 VAC 15-60-10 through 22 VAC 15-60-180).**

Statutory Authority: § 63.1-196.01:1 of the Code of Virginia (repealed effective October 1, 2002).

Effective Date: November 6, 2002.

Summary:

The regulation provides standards for any entity that voluntarily applies to operate, manage, or accredit as members of its system, 50 or more child day center sites. The regulation is repealed because effective October 1, 2002, the Child Day-Care Council will not have joint

responsibility with the State Board of Social Services to promulgate this regulation.

Agency Contact: Arlene Kasper, Program Development Consultant, Department of Social Services, Division of Licensing Programs, 730 East Broad Street, Richmond, VA 23219, telephone (804) 692-1791, FAX (804) 692-2370 or e-mail adk7@dss.state.va.us.

VA.R. Doc. No. R03-22; Filed September 11, 2002, 10:26 a.m.

STATE BOARD OF SOCIAL SERVICES

REGISTRAR'S NOTICE: The State Board of Social Services is claiming an exclusion from the Administrative Process Act in accordance with § 2.2-4006 A 3 of the Code of Virginia, which excludes regulations that consist only of changes in style or form or corrections of technical errors and in accordance with § 2.2-4006 A 4 a of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law where no agency discretion is involved. The State Board of Social Services will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: **22 VAC 40-90. Regulation for Criminal Record Checks for Assisted Living Facilities and Adult Day Care Centers (amending 22 VAC 40-90-10, 22 VAC 40-90-20 and 22 VAC 40-90-60).**

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

Effective Date: November 6, 2002.

Summary:

This regulation specifies crimes that are barriers to employment in assisted living facilities and in adult day care centers, and the processes for obtaining and maintaining criminal record reports and sworn disclosure statements. The amendments include additional barrier crimes, revise the requirement for volunteers, delete the reference to district home for adults, and revise Code of Virginia references. These revisions are needed due to changes in the Code of Virginia resulting from Senate Bill 303 (recodification) enacted by the 2002 General Assembly. Additional changes to the regulation are being made to assure consistency with the Code of Virginia including: (i) change in name from "home for adults" to "assisted living facility"; (ii) deletion of reference to barrier crimes on sworn disclosure statement; (iii) addition of requirement regarding dissemination of information; and, (iv) additions or changes of words for clarification or correction.

Agency Contact: Judy McGreal, Program Development Consultant, Department of Social Services, Division of Licensing Programs, 730 East Broad Street, Richmond, VA 23219, telephone (804) 692-1792, FAX (804) 692-2370 or e-mail jzm@dss.state.va.us.

CHAPTER 90.
REGULATION FOR CRIMINAL RECORD CHECKS FOR ~~HOMES FOR ADULTS~~ *ASSISTED LIVING FACILITIES* AND ADULTS ~~DAY CARE~~ *DAY CARE* CENTERS.

22 VAC 40-90-10. Definitions.

The following words and terms when used in conjunction with this chapter shall have the following meanings:

"Barrier crimes" means certain crimes ~~which~~ *that* automatically bar individuals convicted of same from employment at a licensed ~~home for adults~~ *assisted living facility* or adult day care center. These crimes, as specified by ~~§§63.1-173.2, 63.1-189.1, and 63.1-194.13~~ *§ 63.2-1719* of the Code of Virginia, are murder *or manslaughter as set out in Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2*; *malicious wounding by mob as set out in § 18.2-41; abduction as set out in subsection A of § 18.2-47;* abduction for immoral purposes *as set out in § 18.2-48*; assaults and bodily woundings *as set out in Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title 18.2*; robbery *as set out in § 18.2-58*; *carjacking as set out in § 18.2-58.1; extortion by threat as set out in § 18.2-59; felony stalking as set out in § 18.2-60.3;* sexual assault *as set out in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2*; arson *as set out in Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2*; *drive-by shooting as set out in § 18.2-286.1; use of a machine gun in a crime of violence as set out in § 18.2-289; aggressive use of a machine gun as set out in § 18.2-290; use of a sawed-off shotgun in a crime of violence as set out in subsection A of § 18.2-300;* pandering *as set out in § 18.2-355*; crimes against nature involving children *as set out in § 18.2-361*; *incest as set out in § 18.2-366;* taking indecent liberties with children *as set out in § 18.2-370 or § 18.2-370.1*; abuse and neglect of children *as set out in § 18.2-371.1*; failure to secure medical attention for an injured child *as set out in § 18.2-314*; obscenity offenses *as set out in § 18.2-374.1*; *possession of child pornography as set out in § 18.2-374.1:1; electronic facilitation of pornography as set out in § 18.2-374.3;* ~~or~~ abuse ~~or~~ *and* neglect of ~~an~~ incapacitated ~~adult~~ *adults as set out in § 18.2-369; employing or permitting a minor to assist in an act constituting an offense under Article 5 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2 as set out in 18.2-379; delivery of drugs to prisoners as set out in § 18.2-474.1; escape from jail as set out in § 18.2-477; felonies by prisoners as set out in § 53.1-203; or an equivalent offense in another state*. Applicants convicted of one misdemeanor *barrier* crime not involving abuse or neglect or moral turpitude may be hired provided five years has elapsed since the conviction.

"Central ~~criminal records exchange~~ *Criminal Records Exchange*" means the information system containing conviction data of those crimes committed in Virginia, maintained by the Department of State Police, through which the criminal history record request form is processed.

"Criminal history record request" means the Department of State Police form used to authorize the State Police to generate a criminal record report on an individual.

"Criminal record report" means either the criminal record clearance or the criminal history record issued by the Central Criminal Records Exchange, Department of State Police. The

criminal record clearance provides conviction data only related to barrier crimes; the criminal history record discloses all known conviction data.

"Employee" means compensated personnel working at a facility regardless of role, service, age, function or duration of employment at the facility. Employee also includes those individuals hired through a contract to provide services for the facility.

"Facility" means ~~a home for adults, district home for adults~~ *an assisted living facility* or adult ~~day care~~ *day care* center subject to licensure by the Department of Social Services.

"Sworn disclosure statement" means a document to be completed, signed, and submitted for employment. The document discloses the employment applicant's criminal convictions and *pending criminal* charges that occurred within or outside the Commonwealth of Virginia ~~of those crimes which act as barriers to employment at the indicated facilities~~. This is required as specified in ~~§§63.1-173.2, 63.1-189.1 and 63.1-194.13~~ *§ 63.2-1720* of the Code of Virginia.

22 VAC 40-90-20. Legal base and applicability.

A. ~~Sections 63.1-173.2, 63.1-189.1, and 63.1-194.13~~ *Section 63.2-1720* of the Code of Virginia ~~require~~ *requires* all employees of ~~homes for adults, district homes for adults,~~ *assisted living facilities* and adult day care centers, as defined by ~~§§63.1-172 and 63.1-194.1~~ *§ 63.2-100* of the Code of Virginia, to obtain a criminal record report from the Department of State Police.

~~EXCEPTION: (As set forth in §§63.1-173.2, 63.1-189.1, and 63.1-194.13 of the Code of Virginia) The provisions of this section shall not apply to volunteers who work with the permission or under the supervision of a person who has received a criminal record report.~~

B. ~~Sections 63.1-173.2, 63.1-189.1, and 63.1-194.13~~ *Section 63.2-1720* of the Code of Virginia ~~require~~ *requires* all applicants of ~~homes for adults, district homes,~~ *assisted living facilities* and adult ~~day care~~ *day care* centers to provide the hiring facility with a sworn disclosure statement.

C. No volunteer shall be permitted to serve in a licensed assisted living facility or licensed adult day care center without the permission or under the supervision of a person who has received a clearance pursuant to § 63.2-1720 of the Code of Virginia.

22 VAC 40-90-60. Maintenance of criminal record reports.

A. The original report shall be maintained at the facility where the person is employed.

B. Criminal record reports conforming to the requirements for all employed staff shall be maintained in the files of the facility during the time the individual is employed and for one year after termination of work.

EXCEPTION: See 22 VAC 40-90-50 D 1.

C. Criminal record reports shall be made available by the facility to the licensing representative.

D. When an employee is rotated among several facilities owned or operated by the same entity, the original criminal record report shall be maintained at the primary place of work or designated facility location. A copy of the criminal record report shall be on file at the facility where the employee is actively working which has a notation of where the original report is filed.

E. Criminal record reports shall be maintained in locked files accessible only to the licensee, administrator, board president, or their designee.

F. Further dissemination of the criminal record report and sworn disclosure statement information is prohibited other than to the commissioner's representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination.

VA.R. Doc. No. R03-5; Filed September 11, 2002, 10:26 a.m.

EXECUTIVE ORDER NUMBER 33 (2002)

DECLARATION OF A STATE OF EMERGENCY DUE TO EXTREME DROUGHT CONDITIONS THROUGHOUT THE COMMONWEALTH

The health and general welfare of the citizens of the Commonwealth require that state action be taken to help prepare for and alleviate the drought-related conditions that currently exist throughout the Commonwealth. I find that the potential effects of this drought constitute a natural disaster wherein human life, public and private property, and the environment are imperiled, as described in § 44-75.1.A.4 of the Code of Virginia.

Therefore, by virtue of the authority vested in me by § 44-146.17 of the Code of Virginia, as Governor and as Director of Emergency Management, and by virtue of the authority vested in me by Article V, Section 7 of the Constitution of Virginia and by § 44-75.1 of the Code of Virginia, as Governor and Commander-in-Chief of the armed forces of the Commonwealth, and subject always to my continuing and ultimate authority and responsibility to act in such matters, I hereby proclaim that a state of emergency exists throughout the Commonwealth and direct that appropriate assistance be rendered by agencies of both state and local governments to prevent and alleviate any conditions resulting from drought, forest fires or extreme heat, and to implement prevention, response, and recovery operations and activities so as to alleviate impacted areas from the effects of these conditions insofar as possible.

In accordance with my authority contained in § 44-146.17 of the Emergency Services and Disaster Laws, I hereby:

A. Appoint the Honorable David K. Paylor, Deputy Secretary of Natural Resources, as drought coordinator for the executive branch. All executive branch agencies and institutions shall cooperate fully with the drought coordinator and shall provide any requested assistance or information to the drought coordinator.

B. Order all executive branch agencies and institutions to refrain from any nonessential water use, including but not limited to watering lawns, washing vehicles, and other unnecessary water use. Each cabinet secretary shall be responsible for ensuring that agencies and institutions within their secretariat reduce water usage by at least 15 percent.

C. Prohibit any person or household who utilizes surface waters or ground water in localities located in the Shenandoah, James, Rappahannock, Chowan, York and Roanoke River basins from watering lawns, washing vehicles, filling swimming pools, and irrigating golf courses with the following exceptions: commercial car washes, pools used by health care facilities for patient care and rehabilitation, and watering of golf course tees and greens between the hours of 8:00 p.m. and 8:00 a.m. In order to enforce these restrictions, local governments may establish, collect, and retain fines for violations of these restrictions. The drought coordinator may grant exceptions to these restrictions for good cause after consultation with appropriate state agencies. For purposes of this executive order, the Shenandoah, James, Rappahannock, Chowan, York and Roanoke River basins shall be defined to include the cities of Bedford, Buena Vista, Charlottesville, Chesapeake, Colonial Heights, Covington, Danville, Emporia, Franklin, Fredericksburg, Hampton, Harrisonburg, Hopewell, Lynchburg, Lexington, Martinsville, Newport News, Norfolk, Petersburg, Poquoson, Portsmouth, Radford, Richmond, Roanoke, Salem, Staunton, Suffolk, Virginia Beach, Waynesboro, Williamsburg, and Winchester and the counties of Albemarle, Alleghany, Amelia, Amherst, Appomattox, Augusta, Bath, Bedford, Botetourt, Brunswick, Buckingham, Campbell, Caroline, Charles City, Charlotte, Chesterfield, Clarke, Craig, Culpeper, Cumberland, Dinwiddie, Essex, Fauquier, Fluvanna, Franklin, Frederick, Gloucester, Goochland, Greene, Greensville, Halifax, Hanover, Henrico, Henry, Highland, Isle of Wight, James City, King and Queen, King George, King William, Lancaster, Louisa, Lunenburg, Madison, Mathews, Mecklenburg, Middlesex, Montgomery, Nelson, New Kent, Northumberland, Nottoway, Orange, Page, Patrick, Pittsylvania, Powhatan, Prince Edward, Prince George, Rappahannock, Richmond, Roanoke, Rockbridge, Rockingham, Shenandoah, Southampton, Spotsylvania, Stafford, Surry, Sussex, Warren, Westmoreland, and York. I hereby delegate to the drought coordinator authority to modify this list of localities as necessary.

D. Direct the Superintendent of Public Instruction to work with local school divisions to encourage water conservation and educate school children about the importance of water conservation. The Department of Environmental Quality shall make appropriate materials available for use by educators on its web site.

E. Authorize the Director of the Department of Environmental Quality to allocate ground water and surface water resources and to restrict any withdrawals based upon the adequacy of the resource to meet the necessary beneficial uses as set forth in § 62.1-44.36 of the Code of Virginia. Such allocations may apply to any withdrawer and shall over-ride any existing authorizations to use or withdraw surface water or ground water.

F. Urge all citizens of the Commonwealth and visitors to the Commonwealth to refrain from any open burning in the forests, parks, natural areas, and other wildfire susceptible areas of the Commonwealth, in order to minimize the risk of wild fires.

G. Delegate to the State Forester authority to declare an open burning ban in wild fire susceptible areas of the Commonwealth.

H. Direct the State Forester to initiate crew and helicopter training of the Virginia National Guard for fighting wildfires.

I. Authorize the Departments of State Police, Transportation and Motor Vehicles to grant temporary overweight/overwidth/registration/license exemptions to carriers transporting essential emergency relief supplies into and through the Commonwealth in order to support the disaster response and recovery.

The axle and gross weights shown below are the maximum allowed, unless otherwise posted.

Any One Axle	24,000 Pounds
Tandem Axles (more than 40 inches but not more than 96 inches spacing between axle centers)	44,000 Pounds
Single Unit (2 Axles)	44,000 Pounds
Single Unit (3 Axles)	54,500 Pounds
Tractor-Semitrailer (4 Axles)	64,500 Pounds
Tractor-Semitrailer (5 or more Axles)	90,000 Pounds
Tractor-Twin Trailers (5 or more Axles)	90,000 Pounds
Other Combinations (5 or more Axles)	90,000 Pounds
Per Inch of Tire Width in Contact with Road Surface	850 Pounds

In addition to described overweight transportation privileges, carriers are also exempt from registration with the Department of Motor Vehicles. This includes the vehicles enroute and returning to their home base. The above cited agencies shall communicate this information to all staff responsible for permit issuance and truck legalization enforcement.

This authorization shall apply to hours worked by any carrier when transporting passengers, property, equipment, food, fuel, construction materials and other critical supplies to or from any portion of the Commonwealth for purpose of providing relief or assistance as a result of this disaster, pursuant to § 52-8.4 of the Code of Virginia.

The foregoing overweight transportation privileges and the regulatory exemption provided by § 52.8.4.A of the Code of Virginia, and implemented in 19 VAC 30-20-40 B of the "Motor Carrier Safety Regulations," shall remain in effect for sixty (60) days from the onset of the disaster declaration, or until emergency relief is no longer necessary, as determined by the Secretary of Public Safety in consultation with the Secretary of Transportation, whichever is earlier.

J. Delegate to the Secretary of Public Safety, after consultation with other affected Secretaries, authority to order the lifting of provisions authorized in paragraph I via publication of administrative notice to all affected and interested parties.

K. Order full implementation by agencies of the state and local governments of Volume I, Virginia Emergency Operations Plan (COVEOP) Basic Plan, July 1997 as amended, along with other appropriate state agency plans.

L. Direct appropriate activation of the Virginia Emergency Operations Center (VEOC) and State Emergency Response Team (SERT). Furthermore, I am directing that the VEOC and SERT coordinate state operations in support of affected localities and the Commonwealth, to include issuing mission assignments to agencies designated in the COVEOP and others that may be identified by the State Coordinator of Emergency Management, in consultation with the Secretary of Public Safety, which are needed to provide for the preservation of life, protection of property and implementation of recovery activities.

M. Direct the implementation by public agencies under my supervision and control of their emergency assignments as directed in the COVEOP without regard to normal procedures pertaining to performance of public work, entering into contracts, incurring of obligations, or other logistical and support measures of the Emergency Services and Disaster Laws, as provided in § 44-146.28 (b) of the Code of Virginia. Section 44-146.24 of the Code of Virginia also applies to the disaster activities of state agencies.

Upon my approval, the costs incurred by state agencies and other agents in performing mission assignments through the VEOC of the Commonwealth as defined herein and in § 44-146.28 of the Code of Virginia, may be paid out of the sum sufficient appropriation for Disaster Planning and Operations contained in Item 47 of Chapter 899, 2002 Virginia Acts of Assembly.

This Executive Order shall be effective August 30, 2002, and shall remain in full force and effect until June 30, 2003, unless sooner amended or rescinded by further executive order. This Executive Order supersedes and rescinds Executive Order 31, issued on July 31, 2002.

Given under my hand and under the Seal of the Commonwealth of Virginia, this 30th day of August 2002.

/s/ Mark R. Warner
Governor

VA.R. Doc. No. R03-21; Filed September 5, 2002, 1:43 p.m.

STATE CORPORATION COMMISSION

AT RICHMOND, SEPTEMBER 6, 2002

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. BFI-2002-00014

Ex Parte: In re: proposed regulation relating to bank acquisitions of real estate brokerage subsidiaries

ORDER GRANTING EXTENSION OF TIME TO FILE COMMENTS

On September 3, 2002, the Virginia Association of Realtors ("VAR"), by counsel, filed a Petition for Extension of Time to File Comments ("Petition") pursuant to 5 VAC 5-20-230 of the State Corporation Commission's ("Commission") Rules of Practice and Procedure.

NOW THE COMMISSION, upon consideration of the foregoing, is of the opinion that the Petition should be granted.

Accordingly, IT IS ORDERED THAT:

(1) The comment period is extended until October 25, 2002.

(2) This case is continued generally on the Commission's docket.

(3) An attested copy hereof shall be sent to the Registrar of Regulations for publication in the Virginia Register.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: John G. "Chip" Dicks, Esquire, FutureLaw, L.L.C., 1015 East Main Street, Third Floor, Richmond, Virginia 23219; Raphael C. La Mura, Director of Legislative Affairs, Virginia Bankers Association, P.O. Box 462, Richmond, Virginia 23218; and to the Commissioner of Financial Institutions, who forthwith shall mail a copy of this Order to all state-chartered banks.

AGENCY CONTACT: John Crockett, Deputy Commissioner, Bureau of Financial Institutions, State Corporation Commission, Tyler Building, 1300 E. Main St., Richmond, VA 23219, telephone (804) 371-9704 or e-mail JCrockett@scc.state.va.us.

DEPARTMENT OF ENVIRONMENTAL QUALITY

Total Maximum Daily Load Development on the Guest River and Tributaries

The first public meeting on the development of a fecal coliform bacteria TMDL and a benthic TMDL for the Guest River watershed will be held on Thursday, October 17, 2002, at 7 p.m. at Tacoma Community Center. Tacoma Community Center is located in Wise County in the community of Tacoma on Stone Mountain Road approximately 0.2 miles south off of Alt. Route 58 between Coeburn and Norton, Virginia.

The Department of Environmental Quality (DEQ) seeks written and oral comments from interested persons on the development of Total Maximum Daily Loads (TMDL) for fecal coliform bacteria on Crab Orchard Creek, Toms Creek, Little Toms Creek, and Sepulcher Creek in the Guest River watershed. The fecal coliform impairment includes 2.43 miles on Crab Orchard Creek through the community of Crab Orchard, 2.6 miles on Sepulcher Creek in Glamorgan and Stephens along Route 625 and Toms Creek located near Coeburn. Additionally, a TMDL is to be developed for benthics for the mainstem of Guest River. The benthic segment is defined as extending from Guest River headwaters to Bad Branch, from south of Indian Mountain through Norton and Coeburn. It is 27.65 miles in length. Guest River and tributaries were identified in Virginia's 1998 § 303(d) TMDL Priority List and Report due to violations of the state's water quality standard for fecal coliform bacteria and the general standard for benthics.

Section 303(d) of the Clean Water Act and § 62.1-44.19:7 C of the Code of Virginia require DEQ to develop TMDLs for pollutants responsible for each impaired water contained in Virginia's § 303(d) TMDL Priority List and Report. The purpose of a study is to identify sources and determine reductions of fecal coliform bacteria and benthic stressors so that the Guest River watershed can meet the water quality standards.

The public comment period will end on November 8, 2002. Questions or information requests should be addressed to Nancy T. Norton, P.E., Department of Environmental Quality. Written comments should include the name, address, and telephone number of the person submitting the comments and be addressed to Nancy T. Norton, P.E., Department of Environmental Quality, 355 Deadmore Street, P.O. Box 1688, Abingdon, VA 24212, telephone (276) 676-4807, FAX (276) 676-4899 or e-mail ntnorton@deq.state.va.us.

Total Maximum Daily Load (TMDL) for Stroubles Creek

The Department of Environmental Quality (DEQ) and the Department of Conservation and Recreation (DCR) seek written and oral comments from interested persons on the development of a Total Maximum Daily Load (TMDL) for Stroubles Creek. Stroubles Creek is identified in Virginia's 1998 § 303(d) TMDL Priority List and Report as impaired due to violations of the state's water quality standard for the General Standard (Benthic). The Stroubles Creek segment is located in Montgomery County. The impairment is approximately 4.87 miles in length and begins at the headwaters (on the southwest end of the VPI&SU campus) and continues to the first upstream crossing of Route 619.

Section 303(d) of the Clean Water Act and § 62.1-44.19:7 C of the Code of Virginia, require DEQ to develop TMDLs for pollutants responsible for each impaired water contained in Virginia's § 303(d) TMDL Priority List and Report.

The first public meeting on the development of the Stroubles Creek TMDL will be held on Thursday, October 17, 2002, at 4 p.m. at Squires Student Center in Room 154 on the Virginia Tech campus in Blacksburg, Virginia.

The public comment period for this phase of the TMDL development will end on November 18, 2002. A fact sheet on

the development of the TMDL is available upon request. Questions or information requests should be addressed to Jason Hill. Written comments should include the name, address, and telephone number of the person submitting the comments and should be sent to Jason Hill, Department of Environmental Quality, 3019 Peters Creek Road, Roanoke, VA 24019, telephone (540) 562-6724, FAX (540) 562-6860, or e-mail jrhill@deq.state.va.us.

STATE WATER CONTROL BOARD

Proposed Special Order Fairfax County School Board Gunston Elementary School Sewage Treatment Plant

The State Water Control Board (board) proposes to issue a Consent Special Order (order) to the Fairfax County School Board (permittee) regarding the Gunston Elementary School Sewage Treatment Plant (facility) located in Fairfax County, Virginia.

Gunston Elementary School is subject to VPDES Permit No. VA0023299. The order requires that the permittee upgrade the sewage treatment plant to comply with its ammonia limits and provides interim limits for ammonia, BOD, TSS, and DO until the upgrade is complete.

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 6, 2002. Please address comments to: Susan A. Oakes, Northern Virginia Regional Office, Department of Environmental Quality, 13901 Crown Court, Woodbridge, VA 22193. Please address comments sent via e-mail to saoakes@deq.state.va.us. In order to be considered, comments provided by e-mail must include the commenter's name, address, and telephone number. Please write or visit the Woodbridge address, or call (703) 583-3863, in order to examine or to obtain a copy of the order.

Proposed Consent Special Order Henrico County

The State Water Control Board proposes to issue a consent special order to Henrico County to resolve certain alleged violations of environmental laws and regulations occurring at the county's facility in Richmond, Virginia. The proposed order requires corrective action and payment of a $25,500 civil charge.

On behalf of the State Water Control Board, the Department of Environmental Quality will receive for 30 days from the date of publication of this notice written comments related to the proposed consent special order. Comments should be addressed to Frank Lupini, Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, VA 23060-6295; or sent to the e-mail address of felupini@deq.state.va.us. All comments must include the commenter's name, address and phone number. A copy of the order may be obtained in person or by mail from the above office.

VIRGINIA CODE COMMISSION

Notice to State Agencies

Mailing Address: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219, FAX (804) 692-0625.

Forms for Filing Material for Publication in *The Virginia Register of Regulations*

All agencies are required to use the appropriate forms when furnishing material for publication in the Virginia Register of Regulations. The forms may be obtained from: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.

Internet: Forms and other Virginia Register resources may be printed or downloaded from the Virginia Register web page: http://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
PETITION FOR RULEMAKING - RR13

CALENDAR OF EVENTS

Symbol Key
† Indicates entries since last publication of the *Virginia Register*
♿ Location accessible to persons with disabilities
☎ Teletype (TTY)/Voice Designation

NOTICE

Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and the *Virginia Register* deadline may preclude a notice of such cancellation. If you are unable to find a meeting notice for an organization in which you are interested, please check the Commonwealth Calendar at www.vipnet.org or contact the organization directly.

For additional information on open meetings and public hearings held by the standing committees of the legislature during the interim, please call Legislative Information at (804) 698-1500 or Senate Information and Constituent Services at (804) 698-7410 or (804) 698-7419/TTY☎, or visit the General Assembly web site's Legislative Information System (http://leg1.state.va.us/lis.htm) and select "Meetings."

VIRGINIA CODE COMMISSION

EXECUTIVE

BOARD OF ACCOUNTANCY

† **November 6, 2002 - 10 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Suite 696, Richmond Virginia.♿ (Interpreter for the deaf provided upon request)

A meeting of the Enforcement Committee to review cases and discuss dispute resolution mediation and a volunteer network.

Contact: Nancy Taylor Feldman, Executive Director, Board of Accountancy, 3600 W. Broad St., Suite 696, Richmond VA 23230, telephone (804) 367-8505, FAX (804) 367-2174, (804) 367-9753/TTY ☎, e-mail boa@boa.state.va.us.

STATE BOARD OF AGRICULTURE AND CONSUMER SERVICES

October 10, 2002 - 9 a.m. -- Open Meeting
Virginia State University, Randolph Farm, Petersburg, Virginia.♿

A meeting to discuss issues related to Virginia agriculture and consumer services. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact Roy Seward at least five days before the meeting date so that suitable arrangements can be made.

Contact: Roy E. Seward, Board Secretary, Department of Agriculture and Consumer Services, Washington Bldg., 1100 Bank St., Richmond, VA 23219, telephone (804) 786-3538, FAX (804) 371-2945, e-mail jknight@vdacs.state.va.us.

† **November 6, 2002 - 9:30 a.m.** -- Open Meeting
Washington Building, 1100 Bank Street, Second Floor Board Room, Richmond, Virginia.♿ (Interpreter for the deaf provided upon request)

The Consumer Affairs Advisory Committee communicates the views and interests of Virginians on issues related to the Department of Agriculture and Consumer Services' consumer education and fraud prevention programs and their availability to citizens. Members will review the consumer education outreach efforts for the past six months and assist with planning for events in 2003. Members will also nominate or recommend reappointment for citizens to terms that are due to expire December 31, 2002, and will elect a chairperson for 2003. Members will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact the person identified in this notice at least five days before the meeting date so that suitable arrangements can be made.

Contact: Evelyn A. Jez, Consumer Affairs Specialist, Department of Agriculture and Consumer Services, 1100 Bank St., Suite 1101, Richmond, VA 23219, telephone (804) 786-1308, FAX (804) 786-5112, toll-free (800) 552-9963, (800) 828-1120/TTY ☎, e-mail ejez@vdacs.state.va.us.

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March 13, 2003 - 10 a.m. -- Public Hearing
Washington Building, 1100 Bank Street, 2nd Floor Board Room, Richmond, Virginia.

December 9, 2002 -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Agriculture and Consumer Services intends to amend regulations entitled: **2 VAC 5-320. 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, including the following: amending 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.

Statutory Authority: § 3.1-1025 of the Code of Virginia.

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

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March 13, 2003 - 10 a.m. -- Public Hearing
Washington Building, 1100 Bank Street, 2nd Floor Board Room, Richmond, Virginia.

December 9, 2002 -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Agriculture and Consumer Services intends to amend regulations entitled: **2 VAC 5-360. Regulations for the Enforcement of the Virginia Commercial Feed Act.** The purpose of the proposed action is to amend the current regulation to incorporate the changes made to the commercial feed industry standards by the Association of American Feed Control Officials in the last decade and statutory changes made to Virginia's Commercial Feed Law in 1994.

Statutory Authority: § 3.1-828.4 of the Code of Virginia.

Contact: J. Alan Rogers, Program Manager, Department of Agriculture and Consumer Services, 1100 Bank St., Room 402, Richmond, VA 23219, telephone (804) 786-2476, FAX (804) 371-1571 or e-mail jrogers@vdacs.state.va.us.

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March 13, 2003 - 10 a.m. -- Public Hearing
Washington Building, 1100 Bank Street, 2nd Floor Board Room, Richmond, Virginia.

December 9, 2002 -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Agriculture and Consumer Services intends to amend regulations entitled: **2 VAC 5-440. Rules and Regulations for Enforcement of the Virginia Pest Law - Cotton Boll Weevil Quarantine.** The purpose of the proposed regulatory action is to amend the regulation to (i) establish the fixed date of July 1 as the official reporting and payment date for acreage assessment, (ii) reduce penalties assessed on farm operators for the late payment or nonpayment of fees from $10 to $5.00 per acre, and (iii) eliminate the mandate for destruction of the cotton crop for nonpayment of fees and assessments by farm operators.

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

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

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March 13, 2003 - 10 a.m. -- Public Hearing
Washington Building, 1100 Bank Street, 2nd Floor Board Room, Richmond, Virginia.

December 9, 2002 -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Agriculture and Consumer Services intends to **repeal** regulations entitled: **2 VAC 5-500. Rules and Regulations Governing the Cooling, Storing, Sampling, and Transporting of Milk or Milk Samples from the Farm to the Processing Plant or Laboratory** and **adopt** regulations entitled: **2 VAC 5-501. Regulations Governing the Cooling, Storing, Sampling, and Transporting of Milk.** The purpose of the proposed action is to (i) make the regulations applicable to the milk of goats, sheep, water buffalo, and other mammals if the milk or dairy products are intended for human consumption and (ii) require permits for milk pickup trucks, milk transport tanks, laboratories, persons testing milk samples for pay purposes, persons collecting official milk samples in dairy plants, and milk tank truck cleaning facilities.

Statutory Authority: §§ 3.1-530.1, 3.1-530.2, 3.1-535, and 3.1-535.1 of the Code of Virginia.

Contact: John A. Beers, Program Supervisor, Department of Agriculture and Consumer Services, 1100 Bank St., Room 505, Richmond, VA 23219, telephone (804) 786-1453, FAX (804) 371-7792 or e-mail jbeers@vdacs.state.va.us.

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March 13, 2003 - 10 a.m. -- Public Hearing
Washington Building, 1100 Bank Street, 2nd Floor Board Room, Richmond, Virginia.

December 9, 2002 -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Agriculture and Consumer Services intends to **repeal** regulations entitled: **2 VAC 5-530. Rules and Regulations Governing the Production, Handling and Processing of Milk for Manufacturing Purposes and Establishing Minimum Standards for Certain Dairy Products to be Used for Human Food** and **adopt** regulations entitled: **2 VAC 5-531. Regulations Governing Milk for Manufacturing Purposes.** The purpose of the proposed action is to adopt regulations consistent with the most recent USDA recommendations on milk for manufacturing purposes and regulate manufactured milk and milk products from goats, sheep, water buffalo and other noncow sources in the interest of public health and safety.

Statutory Authority: §§ 3.1-530.1 and 3.1-530.2 of the Code of Virginia.

Contact: John A. Beers, Program Supervisor, Department of Agriculture and Consumer Services, 1100 Bank St., Room 505, Richmond, VA 23219, telephone (804) 786-1453, FAX (804) 371-7792 or e-mail jbeers@vdacs.state.va.us.

STATE AIR POLLUTION CONTROL BOARD

† **October 9, 2002 - 7 p.m.** -- Open Meeting
Pepsi Building at The Crossing at the Dan, 629 Craighead Street, Danville, Virginia.

The purpose of the informational briefing (Mirant Danville, L.L.C.) is to describe the proposed facility and the Department of Environmental Quality's (DEQ) rationale for its PSD permitting determination. Following a presentation by DEQ staff, the staff will answer questions related to the air quality issues affecting this project. Information exchanged during the briefing will not be part of the public record.

Contact: Thomas H. Berkeley, Department of Environmental Quality, 7705 Timberlake Rd., Lynchburg, VA 24502, telephone (434) 582-5120, e-mail thberkeley@deq.state.va.us.

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October 10, 2002 - 9 a.m. -- Public Hearing
Department of Environmental Quality, 629 East Main Street, First Floor Conference Room, Richmond, Virginia.

November 8, 2002 -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Air Pollution Control Board intends to amend regulations entitled: **9 VAC 5-40. Existing Stationary Sources (Rev. J00).** The purpose of the proposed action is to establish emission standards that will require the owners of commercial/industrial solid waste incinerators (CISWIs) to limit emissions of organics (such as dioxins/furans), metals (such as particulate matter), and acid gases (such as sulfur dioxide and hydrogen chloride) to a specified level necessary to protect public health and welfare. The regulation is being proposed to meet the requirements of §§ 111(d) and 129 of the federal Clean Air Act and 40 CFR Part 60, Subpart DDDD, of federal regulations.

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

Public comments may be submitted until 4:30 p.m. on November 8, 2002, to Director, Office of Air Regulatory Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240.

Contact: Karen G. Sabasteanski, Policy Analyst, Office of Air Regulatory Development, State Air Pollution Control Board, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4426, FAX (804) 698-4510, toll-free 1-800-592-5482, (804) 698-4021/TTY ☎, or e-mail kgsabastea@deq.state.va.us.

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October 10, 2002 - 9 a.m. -- Public Hearing
Department of Environmental Quality, 629 East Main Street, First Floor Conference Room, Richmond, Virginia.

November 8, 2002 -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Air Pollution Control Board intends to amend regulations entitled: **9 VAC 5-40. Existing Stationary Sources (Rev. K00).** The purpose of the proposed action is to control emissions from small municipal waste combustors as required by §§ 111(d) and 129 of the Clean Air Act.

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

Public comments may be submitted until 4:30 p.m. on November 8, 2002, to Director, Office of Air Regulatory Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240.

Contact: Karen G. Sabasteanski, Policy Analyst, Office of Air Regulatory Development, State Air Pollution Control Board, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4426, FAX (804) 698-4510, toll-free 1-800-592-5482, (804) 698-4021/TTY ☎, or e-mail kgsabastea@deq.state.va.us.

† **November 12, 2002 - 7 p.m.** -- Public Hearing
Pepsi Building at The Crossing at the Dan, 629 Craighead Street, Danville, Virginia.

A public hearing to receive comments on the proposed draft permit for Mirant Danville, LLC to construct and operate a merchant electric generating facility in the Airside Industrial Park approximately one mile east of the Danville Municipal Airport in the City of Danville. The public comment period on the draft permit closes November 27, 2002.

Contact: Thomas H. Berkeley, Department of Environmental Quality, 7705 Timberlake Rd., Lynchburg, VA 24502, telephone (434) 582-5120, e-mail thberkeley@deq.state.va.us.

ALZHEIMER'S DISEASE AND RELATED DISORDERS COMMISSION

† **November 14, 2002 - 10 a.m.** -- Open Meeting
Virginia Department for the Aging, 1600 Forest Avenue, Suite 102, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A special meeting.

Contact: Janet L. Honeycutt, Director of Grant Operations, Alzheimer's Disease and Related Disorders Commission, 1600 Forest Ave., Suite 102, Richmond, VA 23229, telephone (804) 662-9333, FAX (804) 662-9354, toll-free (800) 552-3402, (804) 662-9354/TTY ☎, e-mail jlhoneycutt@vdh.state.va.us.

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

October 11, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board for Architects, Professional

Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects intends to amend regulations entitled: **18 VAC 10-10. Public Participation Guidelines.** The purpose of the proposed action is to allow the board to accept requests to be placed on a notification list, and to notify PPG list members, via electronic means and to make necessary grammatical changes and update references to recodified provisions of the APA

Statutory Authority: §§ 2.2-4007 and 54.1-404 of the Code of Virginia.

Contact: Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail apelsla@dpor.state.va.us.

ART AND ARCHITECTURAL REVIEW BOARD

November 1, 2002 - 10 a.m. -- Open Meeting
December 6, 2002 - 10 a.m. -- Open Meeting
Virginia War Memorial, 601 South Belvidere Street, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A monthly meeting to review projects submitted by state agencies. AARB submittal forms and submittal instructions can be downloaded by visiting the DGS forms center at www.dgs.state.va.us. Request submittal form DGS-30-905 or submittal instructions form DGS-30-906.

Contact: Richard L. Ford, AIA, Chairman, Art and Architectural Review Board, 1011 E. Main St., Room 221, Richmond, VA 23219, telephone (804) 643-1977, FAX (804) 643-1981, (804) 786-6152/TTY ☎

VIRGINIA BOARD FOR ASBESTOS, LEAD, AND HOME INSPECTORS

October 8, 2002 - 10 a.m. -- Public Hearing
Department of Professional and Occupational Regulation, 3600 West Broad Street, 5th Floor, Richmond, Virginia.

October 11, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Virginia Board for Asbestos, Lead, and Home Inspectors intends to adopt regulations entitled: **18 VAC 15-40. Virginia Certified Home Inspectors Regulations.** The purpose of the proposed regulation is to establish entry, renewal, and reinstatement requirements for certification by the board for a voluntary certification program for home inspectors established by House Bill 2174 of the 2001 Session of the General Assembly. The proposed regulations also establish minimum standards for conducting certified home inspections as well as standards for conduct and practice.

Statutory Authority: §§ 54.1-201 and 54.1-501 of the Code of Virginia.

Contact: Tom Perry, Regulatory Boards Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2648, FAX (804) 367-6128 or (804) 367-9753/TTY ☎

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October 8, 2002 - 2 p.m. -- Public Hearing
Department of Professional and Occupational Regulation, 3600 West Broad Street, 5th Floor, Richmond, Virginia.

October 11, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Virginia Board for Asbestos, Lead, and Home Inspectors intends to adopt regulations entitled: **18 VAC 15-30. Virginia Lead-Based Paint Activities Regulations.** The purpose of the proposed amendments is to deregulate lead-based paint activities in public building, commercial buildings, and superstructures, and begin regulating these activities in child-occupied facilities. The deregulation is a direct result of the EPA not finalizing certain portions of its proposed regulations, and Virginia's statutory mandate to be no more stringent than the federal regulations. Extensions of interim licenses have been eliminated. The Supervisor and Project Designer training courses have been redefined as two separate and distinct courses. Individuals applying for a second interim license will be required to retake the initial training instead of an eight-hour refresher. Licensure through "grandfathering" has been eliminated. The Inspector Technician discipline has been replaced with Lead Inspector, and the Inspector/Risk Assessor discipline has been replaced with Lead Risk Assessor. Specific degree fields have been added to the option for Risk Assessors to substitute one year of experience with a bachelor's degree. Interim approval will no longer be granted to lead training courses. An on-site audit must be conducted prior to approval.

Statutory Authority: § 54.1-501 of the Code of Virginia.

Contact: Tom Perry, Regulatory Boards Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2648, FAX (804) 367-6128 or (804) 367-9753/TTY ☎

October 29, 2002 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 5 West, Richmond, Virginia.

A meeting to conduct routine business and review and respond to comments received on the proposed regulations for certified home inspectors during the 60-day public comment period and public hearing, and adopt final regulations. A public comment period will be held at the beginning of the meeting.

Contact: David 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 asbestos@dpor.state.va.us.

OFFICE OF THE ATTORNEY GENERAL

† **October 7, 2002 - Noon** -- Open Meeting
Southwest Virginia Higher Education Center, Abingdon, Virginia.

A meeting of the Identity Theft Task Force.

Contact: Nicole Riley, Legislative Policy Analyst, Office of the Attorney General, 900 E. Main St., Richmond VA 23219, telephone (804) 371-2417 or (804) 371-8946/TTY ☎

AUCTIONEERS BOARD

October 17, 2002 - 10 a.m. -- Public Hearing
Department of Professional and Occupational Regulation, 3600 West Broad Street, 5th Floor, Richmond, Virginia.

October 18, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Auctioneers Board intends to amend regulations entitled: **18 VAC 25-10. Public Participation Guidelines.** The purpose of the proposed action is to allow the board to accept requests to be placed on a notification list, and to notify PPG list members, via electronic means and to update references to recodified provisions of the Administrative Process Act.

Statutory Authority: §§ 2.2-4007 and 54.1-602 of the Code of Virginia.

Contact: Marian H. Brooks, Regulatory Boards Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475 or e-mail Auctioneers@dpor.state.va.us.

BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

November 7, 2002 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia ♿

A general business meeting, including regulatory and disciplinary actions as may be included on the agenda. Public comment will be received at the beginning of the meeting.

Contact: Elizabeth Young, Executive Director, Board of Audiology and Speech-Language Pathology, Southern States Bldg., 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9111, FAX (804) 662-9523, (804) 662-7197/TTY ☎, e-mail elizabeth.young@dhp.state.va.us.

VIRGINIA AVIATION BOARD

† **October 22, 2002 - 3 p.m.** -- Open Meeting
Ivor Massey Building, Richmond International Airport, Richmond, Virginia.♿

† **October 23, 2002 - 9 a.m.** -- Open Meeting
Wyndham Hotel, Richmond Airport, 4700 South Laburnum Ave., Richmond, Virginia ♿

A regular bimonthly meeting. An application for state funding will be presented to the board and other matters of interest to the Virginia 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 ☎, e-mail toth@doav.state.va.us.

BOARD FOR BARBERS AND COSMETOLOGY

† **October 21, 2002 - 8:30 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.♿

A general business meeting that will include adoption of final Board for Barbers and Cosmetology Regulations, final Board for Barbers and Cosmetology Public Participation Guidelines, and proposed Wax Technician Regulations.

Contact: William H. Ferguson, II, Assistant Director, Board for Barbers and Cosmetology, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8575, FAX (804) 367-2474, (804) 367-9753/TTY ☎, e-mail barbercosmo@dpor.state.va.us.

BOARD FOR THE BLIND AND VISION IMPAIRED

October 15, 2002 - 1 p.m. -- Open Meeting
Department for the Blind and Vision Impaired, 397 Azalea Avenue, Richmond, Virginia.♿ (Interpreter for the deaf provided upon request)

A meeting to review information regarding activities and operations, review expenditures from board endowment fund, and discuss other issues raised for the board members.

Contact: Katherine C. Proffitt, Administrative Staff Assistant, Department for the Blind and Vision Impaired, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3145, FAX (804) 371-3157, toll-free (800) 622-2155, (804) 371-3140/TTY ☎, e-mail proffikc@dbvi.state.va.us.

DEPARTMENT FOR THE BLIND AND VISION IMPAIRED

October 7, 2002 - 7 p.m. -- Open Meeting
Lions Sight Foundation, 501 Elm Avenue, SW, Roanoke, Virginia.♿ (Interpreter for the deaf provided upon request)

October 22, 2002 - 6:30 p.m. -- Open Meeting
Virginia Rehabilitation Center for the Blind and Vision Impaired, 401 Azalea Avenue, Richmond, Virginia.♿ (Interpreter for the deaf provided upon request)

† **October 23, 2002 - 1 p.m.** -- Open Meeting
111 Commonwealth Avenue, Bristol, Virginia. (Interpreter for the deaf provided upon request)

† **October 24, 2002 - 4 p.m.** -- Open Meeting
United Methodist Church, 750 Henton Avenue, Charlottesville, Virginia. (Interpreter for the deaf provided upon request)

† **November 1, 2002 - 4:30 p.m.** -- Open Meeting
Ramada Inn-South, 5324 Jefferson Davis Highway, Fredericksburg, Virginia. (Interpreter for the deaf provided upon request)

† **November 7, 2002 - 7 p.m.** -- Open Meeting
Sammy and Nick's Family Restaurant, 2718 West Mercury Boulevard, Hampton, Virginia. (Interpreter for the deaf provided upon request)

A meeting to obtain input from blind and visually impaired consumers, vendors of services, and other interested parties regarding vocational rehabilitation services provided by the Department for the Blind and Vision Impaired.

Contact: James G. Taylor, Vocational Rehabilitation Program Director, Department for the Blind and Vision Impaired, 397 Azalea Ave., Richmond, VA, telephone (804) 371-3111, FAX (804) 371-3190, toll-free (800) 622-2155, (804) 371-3140/TTY ☎, e-mail taylorjg@dbvi.state.va.us.

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

† **October 29, 2002 - 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 Policy Committee of the Chesapeake Bay Local Assistance Board will meet to consider new regulatory guidance, including guidance pertaining to Intensely Developed Area Designations.

Contact: Martha Little, Chief of Environmental Planning, Chesapeake Bay Local Assistance Board, James Monroe Bldg., 101 N. 14th St., 17th Floor, Richmond, VA 23219, telephone (804) 371-7504, FAX (804) 225-3447, toll-free (800) 243-7229, (800) 243-7229/TTY ☎, e-mail mlittle@cblad.state.va.us.

† **October 29, 2002 - 1 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 Regulatory Committee of the Chesapeake Bay Local Assistance Board will meet to consider staff recommendations to the periodic review of the public participation guidelines.

Contact: David J. Kovacs, Regulatory Coordinator, Chesapeake Bay Local Assistance Board, James Monroe Bldg., 101 N. 14th St., 17th Floor, Richmond, VA 23219, telephone (804) 786-1518, FAX (804) 225-3447, toll-free (800) 243-7229, (800) 243-7229/TTY ☎, e-mail dkovacs@cblad.state.va.us.

† **October 29, 2002 - 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 Southern Area Review Committee will conduct general business, including review of local Chesapeake Bay Preservation Area programs for the southern area.

Contact: Carolyn J. Elliott, Administrative Assistant, Chesapeake Bay Local Assistance Board, 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.

CHILD DAY-CARE COUNCIL

† **October 10, 2002 - 8 a.m.** -- Open Meeting
Theater Row Building, 730 East Broad Street, Lower Level 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 be at noon. Please call ahead for possible changes in meeting time.

Contact: Arlene Kasper, Program Development Consultant, Child Day-Care Council, Department of Social Services, Division of Licensing Programs, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1791, FAX (804) 692-2370, (800) 828-1120/TTY ☎

STATE CHILD FATALITY REVIEW TEAM

October 11, 2002 - 10 a.m. -- Open Meeting
November 8, 2002 - 10 a.m. -- Open Meeting
Office of the Chief Medical Examiner, 400 East Jackson Street, Richmond, Virginia.

A business meeting. At 10:30 a.m. the team will go into closed session for confidential case review.

Contact: Virginia Powell, Coordinator, State Child Fatality Review Team, Office of the Chief Medical Examiner, 400 E. Jackson St., Richmond, VA 23219, telephone (804) 786-6047, FAX (804) 371-8595, toll-free (800) 447-1708, e-mail vpowell@vdh.state.va.us.

COMPENSATION BOARD

† **October 29, 2002 - 11 a.m.** -- Open Meeting
Compensation Board, 202 North 9th Street, 10th Floor, Richmond, Virginia.

A monthly board meeting.

Contact: Cindy P. Waddell, Administrative Staff Assistant, Compensation Board, P.O. Box 710, Richmond, VA 23218, telephone (804) 786-0786, FAX (804) 371-0235, e-mail cwaddell@scb.state.va.us.

DEPARTMENT OF CONSERVATION AND RECREATION

October 8, 2002 - 7 p.m. -- Public Hearing
Chesterfield County Administration Building, 9901 Lori Road, Conference Room, Chesterfield, Virginia. (Interpreter for the deaf provided upon request)

October 15, 2002 - 7 p.m. -- Public Hearing
Samuel L. Bland Memorial Building, 6600 Courthouse Road, Prince George, Virginia. (Interpreter for the deaf provided upon request)

The public is invited to comment on the request of Chesterfield County to separate from the James River Soil and Water Conservation District and form a new district named the Chesterfield Soil and Water Conservation District with its boundaries lying solely within Chesterfield County. On July 18, 2002, the Virginia Soil and Water Conservation Board approved a petition from the Chesterfield County Board of Supervisors suggesting the need for establishing a new Soil and Water Conservation District. State law empowers the board to review and decide about the formation of districts and resolve changes with district boundaries. Virginia's 47 Soil and Water Conservation Districts promote natural resource conservation and stewardship, and work directly with landowners, property managers and other citizens. Among the reasons presented by the Chesterfield County Board of Supervisors are the rapidly expanding conservation programs and the desire to better serve county constituents; the need to minimize logistical difficulties currently experienced by members of the district as they serve a two county district; and the need for a local district board with greater accessibility by local people voicing local concerns. Currently, the James River Soil and Water Conservation District consists of Chesterfield and Prince George counties. Verbal and written comments provided to the board will be considered as the board makes its decision. The board reserves the right to limit the comment time period for each speaker. The board will accept written comments received by close of business October 22, 2002, from all interested parties. Forward comments to VSWCB Chair, 203 Governor Street, Suite 206, Richmond, VA 23219.

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.

Chippokes Plantation Farm Foundation Board of Trustees

† **October 7, 2002 - 2 p.m.** -- Open Meeting
† **November 25, 2002 - 2 p.m.** -- Open Meeting
Chippokes Farm and Forestry Museum Workshop Building, Chippokes Plantation State Park Surry, Virginia. (Interpreter for the deaf provided upon request)

A regular business meeting.

Contact: Donna Steward Sharits, Development Manager, Chippokes Plantation Farm Foundation, Department of Conservation and Recreation, Monroe Bldg., 101 N. 14th St., 11th Floor, Richmond, VA 23219, telephone (804) 786-3692, FAX (804) 371-8500, e-mail dsharits@dcr.state.va.us.

Falls of the James Scenic River Advisory Board

November 7, 2002 - Noon -- Open Meeting
December 5, 2002 - Noon -- Open Meeting
Richmond City Hall, 900 East Broad Street, 5th Floor Conference Room, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A discussion of river issues.

Contact: Richard G. Gibbons, Environmental Program 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.

BOARD FOR CONTRACTORS

October 9, 2002 - 9 a.m. -- Open Meeting
December 4, 2002 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regularly scheduled meeting to address policy and procedural issues; review and render decisions on applications for contractors' licenses, and review and render case decisions on matured complaints against licensees. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session.

Contact: Eric L. Olson, Assistant Director, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2785, FAX (804) 367-2474, (804) 367-9753/TTY ☎, e-mail olsone@dpor.state.va.us.

November 13, 2002 - 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 regular meeting of the Tradesman/Education Committee to consider items of interest relating to the tradesmen, backflow workers, education and other appropriate matters relating to tradesmen and the Board for Contractors.

Contact: Karen Feagin, Regulatory Boards Administrator, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2961, FAX (804) 367-2474, (804) 367-9753/TTY ☎, e-mail feagin@dpor.state.va.us.

DEPARTMENT OF CRIMINAL JUSTICE SERVICES

Private Security Services Advisory Board

† **October 8, 2002 - 8:30 a.m.** -- Open Meeting
Ramada Plaza Resort, 5700 Atlantic Avenue, Virginia Beach, Virginia.

A general business meeting.

Contact: Judith Kirkendall, Regulatory Coordinator, Department of Criminal Justice Services, Eighth St. Office Bldg., 805 E. Broad St., 10th Floor, Richmond, VA 23219, telephone (804) 786-8003, FAX (804) 786-0410, e-mail jkirkendall@dcjs.state.va.us.

DEPARTMENT FOR THE DEAF AND HARD-OF-HEARING

† **November 4, 2002 - 10 a.m.** -- Open Meeting
Department for the Deaf and Hard-of-Hearing, 1602 Rolling Hills Drive, 2nd Floor Conference Room, Richmond, Virginia. (Interpreter for the deaf provided upon request)

Board orientation for new and returning members will be held from 10 a.m. until noon with a regular board meeting to follow at 1 p.m., at which time public comment will be received.

Contact: Leslie Hutcheson, Policy and Planning Manager, Department for the Deaf and Hard-of-Hearing, 1602 Rolling Hills Dr., Suite 203, Richmond, VA, telephone (804) 662-9502, FAX (804) 662-9718, toll-free (800) 552-7917, (804) 662-9502/TTY ☎, e-mail hutchelg@ddhh.state.va.us.

DESIGN-BUILD/CONSTRUCTION MANAGEMENT REVIEW BOARD

October 17, 2002 - 11 a.m. -- Open Meeting
November 21, 2002 - 11 a.m. -- Open Meeting
† **December 19, 2002 - 11 a.m.** -- Open Meeting
Virginia War Memorial, 601 South Belvidere Street, Auditorium, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to review requests submitted by localities to use design-build or construction management-type contracts. Contact the Division of Engineering and Buildings to confirm the meeting. Board rules and regulations can be obtained online at www.dgs.state.va.us under the DGS Forms, Form DGS-30-904.

Contact: Freddie M. Adcock, Administrative Assistant, Department of General Services, 805 E. Broad St., Room 101, Richmond, VA 23219, telephone (804) 786-3263, FAX (804) 371-7934, (804) 786-6152/TTY ☎, e-mail fadcock@dgs.state.va.us.

BOARD OF EDUCATION

October 16, 2002 - 9 a.m. -- Open Meeting
NOTE: CHANGE IN MEETING DATE
† **November 20, 2002 - 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 of the board. Persons who wish to speak or who require the services of an interpreter for the deaf should contact the agency in advance. Public comment will be received.

Contact: Dr. Margaret N. Roberts, Office of Policy and Public Affairs, Department of Education, P.O. Box 2120, James Monroe Bldg., 101 N. 14th St., 25th Floor, Richmond, VA 23219, telephone (804) 225-2540, FAX (804) 225-2524, e-mail mroberts@mail.vak12ed.edu.

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October 16, 2002 - 1 p.m. -- Public Hearing
General Assembly Building, 9th and Broad Streets, Senate Room B, Richmond, Virginia.

November 25, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Education intends to amend regulations entitled: **8 VAC 20-70. Regulations Governing Pupil Transportation Including Minimum Standards for School Buses in Virginia.** The current regulations are being amended in order to comport with federal and state laws and regulations.

Statutory Authority: §§ 2.2-16, 2.2-177 and 2.2-178 of the Code of Virginia.

Contact: June Eanes, Director of Pupil Transportation, Department of Education, P.O. Box 2120, Richmond, VA 23219, telephone (804) 225-2924, FAX (804) 225-2524 or e-mail jeanes@mail.vak12ed.edu.

October 17, 2002 - 8:30 a.m. -- Open Meeting
October 18, 2002 - 8:30 a.m. -- Open Meeting
Radisson Hotel Historic Richmond, 301 West Franklin Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A working session of the State Special Education Advisory Committee. Public comment will not be received. Persons requesting the services of an interpreter for the deaf should do so in advance.

Contact: Dr. Margaret N. Roberts, Office of Policy and Public Affairs, Department of Education, P.O. Box 2120, James Monroe Bldg., 101 N. 14th St., 25th Floor, Richmond, VA 23219, telephone (804) 225-2540, FAX (804) 225-2524, e-mail mroberts@mail.vak12ed.edu.

November 6, 2002 - 10 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room C, Richmond, Virginia. (Interpreter for the deaf provided upon request)

December 4, 2002 - 10 a.m. -- Open Meeting
State Capitol, House Room 2, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A working session of the Committee to Implement NCLB. Public comment will not be received. Persons requesting services of an interpreter for the deaf are asked to do so in advance.

Contact: Dr. Margaret N. Roberts, Office of Policy and Public Affairs, Board 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.

DEPARTMENT OF ENVIRONMENTAL QUALITY

October 9, 2002 - 10 a.m. -- Open Meeting
Department of Environmental Quality, 629 East Main Street, Richmond, Virginia.

A meeting of the air impact study group.

Contact: James E. Sydnor, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4424, e-mail jesydnor@deq.state.va.us.

October 10, 2002 - 10 a.m. -- Open Meeting
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia.

A meeting of the water impact study group.

Contact: Allan Brockenbrough, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4147, e-mail abrockenb@deq.state.va.us.

October 10, 2002 - 7 p.m. -- Public Hearing
Stafford County Board of Supervisors Room, 1300 Courthouse Road, Stafford, Virginia.

A public hearing to receive comments on a draft permit amendment for the Rappahannock Regional Solid Waste Management Board sanitary landfill located in Stafford County. The permit amendment would incorporate modifications to the facility's groundwater monitoring plan and incorporate an old closed disposal unit into the current permit. The comment period on the draft permit amendment closes on October 25, 2002.

Contact: Donald H. Brunson, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4239, e-mail dhbrunson@deq.state.va.us.

† **October 17, 2002 - 4 p.m.** -- Open Meeting
VPI&SU, Squires Student Center, Room 154, Blacksburg, Virginia.

The first public meeting on the development of the Stroubles Creek TMDL for the general standard (benthic). The approximately 4.87 mile stream segment is located in Montgomery County. The public comment period closes on November 18, 2002.

Contact: Jason Hill, Department of Environmental Quality, 3019 Peters Creek Rd., Roanoke, VA 24019, telephone (540) 562-6724, FAX (540) 562-6860, e-mail jrhill@deq.state.va.us.

† **October 17, 2002 - 7 p.m.** -- Open Meeting
Tacoma Community Center, Stone Mountain Road, approximately 0.2 miles south off of Alt. Route 58 between Coeburn and Norton.

The first public meeting to receive comments on the development of a fecal coliform bacteria TMDL and a benthic TMDL for the Guest River watershed. The public comment period will end on November 8, 2002.

Contact: Nancy T. Norton, Department of Environmental Quality, P.O. Box 1688, Abingdon, VA 24212, telephone (276) 676-4807, e-mail ntnorton@deq.state.va.us.

October 21, 2002 - 10 a.m. -- Open Meeting
Clarion Hotel and Conference Center, 500 Merrimac Trail, Williamsburg, Virginia.

A meeting of the Virginia Recycling Markets Development Council in conjunction with the first day of the annual Virginia Recycling Association Conference and Tradeshow.

Contact: William K. Norris, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4022, e-mail wknorris@deq.state.va.us.

† **October 22, 2002 - 9 a.m.** -- Open Meeting
Department of Environmental Quality, 629 East Main Street, First Floor Conference Room, Richmond, Virginia.

The department is convening a meeting of stakeholders to discuss the draft Virginia Plan for Nutrient Criteria Development. Department staff will brief invited stakeholders and other interested public on the draft plan and receive stakeholder comment on the plan before submittal to the Environmental Protection Agency.

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

† **November 19, 2002 - 9 a.m.** -- Open Meeting
Department of Environmental Quality, 629 East Main Street, First Floor Conference Room, Richmond, Virginia.

A meeting of the Ground Water Protection Steering Committee, an interagency advisory committee formed to stimulate, strengthen and coordinate ground water protection activities in the Commonwealth. For more information and an agenda contact Mary Ann Massie.

Contact: Mary Ann Massie, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4042, e-mail mamassie@deq.state.va.us.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

October 11, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Funeral Directors and Embalmers intends to amend regulations entitled: **18 VAC 65-30. Regulations for Preneed Funeral Planning.** The purpose of the proposed action is to clarify and eliminate an unnecessary requirement for a contract number.

Statutory Authority: §§ 54.1-2400 and 54.1-2480 of the Code of Virginia.

Public comments may be submitted until October 11, 2002, to Elizabeth Young, Executive Director, Board of Funeral Directors and Embalmers, 6606 West Broad Street, Richmond, VA 23230.

Contact: Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.state.va.us.

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October 11, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Funeral Directors and Embalmers intends to amend regulations entitled: **18 VAC 65-40. Regulations for the Resident Trainee Program in Funeral Service.** The purpose of the proposed action is to ensure that the trainee receives training in preneed funeral arrangements.

Statutory Authority: Chapter 38 of the Code of Virginia.

Public comments may be submitted until October 11, 2002, to Elizabeth Young, Executive Director, Board of Funeral Directors and Embalmers, 6606 West Broad Street, Richmond, VA 23230.

Contact: Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.state.va.us.

November 19, 2002 - 1 p.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia.

The board will hear possible violations of the laws and regulations governing the practice of funeral service.

Contact: Elizabeth Young, Executive Director, Board of Funeral Directors and Embalmers, 6603 W. Broad St., 5th Floor, telephone (804) 662-9907, FAX (804) 662-9523, (804) 662-7197/TTY ☎, e-mail elizabeth.young@dhp.state.va.us.

December 3, 2002 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia.

A general business meeting, including disciplinary and regulatory matters as may be presented on the agenda. Public comment will be received at the beginning of the meeting.

Contact: Elizabeth Young, Executive Director, Board of Funeral Directors and Embalmers, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9907, FAX (804) 662-9523, (804) 662-7197/TTY ☎, e-mail elizabeth.young@dhp.state.va.us.

BOARD OF GAME AND INLAND FISHERIES

October 24, 2002 - 9 a.m. -- Open Meeting
Department of Game and Inland Fisheries, 4000 West Broad Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

The board will meet and intends to consider for final adoption amendments to regulations governing fish and fishing, and wildlife diversity (i.e., wildlife other than in the contexts of hunting, trapping, or fishing). This is the regular biennial review for these regulations, with the resulting amended regulations intended to be in effect 2003 through 2004. The board also intends to adopt final regulations or regulation amendments governing boating. Under board procedures, regulatory actions occur over two sequential board meetings. At the October 24, 2002, meeting, the board will determine whether the regulations and amendments that were proposed at its August 22, 2002, 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 24, at which time any interested citizen present shall be heard. The board reserves the right to adopt final amendments that may be more liberal than, or more stringent than, the regulations currently in effect or the regulation amendments proposed at the August 22, 2002, meeting, as necessary for the proper management of wildlife resources and boating. The board is exempted from the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) in promulgating wildlife management regulations, including the length of seasons, bag limits and methods of take set on the wildlife resources within the Commonwealth of Virginia; it promulgates boating regulations under the authority of § 29.1-701(E) of the Code of Virginia. The board is required by § 2.2-4031 to publish all proposed and final regulations. The board also may discuss general and administrative issues; hold a closed session at some time during the meeting; and elect to hold a dinner Wednesday evening, October 23, 2002, at a location and time to be determined.

Contact: Phil Smith, Department of Game and Inland Fisheries, 4010 W. Broad St., Richmond, VA 23230, telephone (804) 367-1000, FAX (804) 367-0488, e-mail RegComments@dgif.state.va.us.

CHARITABLE GAMING COMMISSION

November 13, 2002 - 10 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room C, Richmond, Virginia.

December 4, 2002 - 10 a.m. -- Open Meeting
James Monroe Building, 101 North 14th Street, First Floor, Conference Room E, Richmond, Virginia.

A meeting to discuss standard agenda items.

Contact: Frances C. Jones, Administrative Staff Assistant, Charitable Gaming Commission, 101 N. 14th St., 17th Floor, Richmond, VA 23219, telephone (804) 786-3014, FAX (804) 786-1079, e-mail jones@cgc.state.va.us.

GEORGE MASON UNIVERSITY

† **November 21, 2002 - 9 a.m.** -- Open Meeting
George Mason University, Mason Hall, Lower Level, Fairfax, Virginia.

A meeting of the Board of Visitors. Agenda to be announced.

Contact: Mary Roper, Secretary Pro Tem, George Mason University, MSN 3A1, 4400 University Dr., Fairfax, VA 22030, telephone (703) 993-8703, FAX (703) 993-8707, e-mail mroper@gmu.edu.

DEPARTMENT OF HEALTH

Radiation Advisory Board

† **October 28, 2002 - 9 a.m.** -- Open Meeting
James Monroe Building, 101 North 14th Street, Conference Room B, Richmond, Virginia.

An annual meeting to review and evaluate policies and programs relating to ionizing radiation, and to discuss specifically regulations, the Conference of Radiation Control program director's peer review, stockpiling and distribution of potassium iodine, emergency preparedness for terrorist attacks, and other matters properly before the advisory board.

Contact: Les Foldesi, Director, Radiological Health, Department of Health, 1500 E. Main St., Suite 240, Richmond VA 23219, telephone (804) 371-4029, FAX (804) 786-6979, toll-free (800) 468-0138, (800) 828-1120/TTY ☎, e-mail lfoldesi@vdh.state.va.us.

DEPARTMENT OF HEALTH PROFESSIONS

† **October 30, 2002 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia.

The department will conduct training for new and returning board members. There will be no opportunity for public comment, but members of the public are welcome to attend.

Contact: Elaine J. Yeatts, Senior Policy Analyst, Department of Health Professions, Southern States Bldg., 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9918, FAX (804) 662-9114, (804) 662-7197/TTY ☎, e-mail elaine.yeatts@dhp.state.va.us.

† **October 17, 2002 - 9 a.m.** -- Open Meeting
October 18, 2002 - 9 a.m. -- Open Meeting
† **December 12, 2002 - 9 a.m.** --Open Meeting
December 13, 2002 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia.

A bimonthly meeting of the Intervention Program Committee for the Health Practitioners' Intervention Program.

Contact: Donna P. Whitney, Intervention Program Manager, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9424, FAX (804) 662-7358, e-mail donna.whitney@dhp.state.va.us.

BOARD FOR HEARING AID SPECIALISTS

October 7, 2002 - 8:30 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

General business meeting.

Contact: William H. Ferguson, II, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St. Richmond, VA 23230, telephone (804) 367-8575, FAX (804) 367-2474, (804) 367-9753/TTY ☎, e-mail hearingaidspec@dpor.state.va.us

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October 7, 2002 - 9 a.m. -- Public Hearing
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

October 25, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board for Hearing Aid Specialists intends to amend regulations entitled: **18 VAC 80-20. Board for Hearing Aid Specialists Regulations.** The purpose of the proposed action is to clarify entry requirements for licensure, modify the procedures and provisions regarding renewal and reinstatement, and ensure that the standards of practice and conduct meet statutory requirements.

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

Contact: William H. Ferguson, II, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8575, FAX (804) 367-2474, or e-mail hearingaidspec@dpor.state.va.us.

DEPARTMENT OF HISTORIC RESOURCES

November 8, 2002 -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Historic Resources intends to adopt regulations entitled: **17 VAC 10-30. Historic Rehabilitation Tax Credits Regulations.** The purpose of the proposed action is to promulgate regulations for state historic rehabilitation tax credits.

Statutory Authority: §§ 10.1-2202 and 58.1-339.2 of the Code of Virginia.

Contact: Virginia E. McConnell, Manager, Office of Preservation Incentives, Department of Historic Resources, 2801 Kensington Ave., Richmond, VA 23221, telephone (804) 367-2323, FAX (804) 367-2391, (804) 367-2386/TTY ☎, e-mail gmcconnell@dhr.state.va.us.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

State Building Code Technical Review Board

October 18, 2002 - 10 a.m. -- Open Meeting
Department of Housing and Community Development, 501 North 2nd Street, Richmond, Virginia.

A general meeting to hear administrative appeals concerning building and fire codes and other regulations of the department.

Contact: Vernon W. Hodge, Secretary, Department of Housing and Community Development, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7150.

INNOVATIVE TECHNOLOGY AUTHORITY

October 9, 2002 - 10 a.m. -- Open Meeting
Virginia Center for Innovative Technology, 2214 Rock Hill Road, CIT Tower, Suite 600, Herndon, Virginia.

A meeting of the Board of Directors to elect officers.

Contact: June Portch, Operations Manager, Innovative Technology Authority, 2214 Rock Hill Rd., Herndon, VA 20170, telephone (804) 689-3049, FAX (804) 464-1708, e-mail jportch@cit.org.

VIRGINIA ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

October 21, 2002 - 1:30 p.m. -- Open Meeting
Waterside Convention Center, Norfolk, Virginia.

November 11, 2002 - 3:30 p.m. -- Open Meeting
The Homestead, Hot Springs (Bath County), Virginia.

A regular meeting. Contact the commission for an agenda.

Contact: Alda Wilkinson, Secretary, Virginia Advisory Commission on Intergovernmental Relations, 900 E. Main St., Suite 103, Richmond, VA 23219-3513, telephone (804) 786-6508, FAX (804) 371-7999, (804) 828-1120/TTY ☎, e-mail awilkinson@clg.state.va.us

JAMESTOWN-YORKTOWN FOUNDATION

October 10, 2002 - Noon -- Open Meeting
McGuire Woods, One James Center, 901 East Cary Street, Room 7A, Richmond, Virginia. (Interpreter for the deaf provided upon request)

November 7, 2002 - Noon -- Open Meeting
McGuire Woods, One James Center, 901 East Cary Street, Room 7B, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting of the Executive Committee of the Jamestown 2007 Steering Committee. Public comment will not be heard.

Contact: Laura W. Bailey, Executive Assistant to the Boards, Jamestown-Yorktown Foundation, P.O. Box 1607, Williamsburg, VA 23187, telephone (757) 253-4840, FAX (757) 253-5299, toll-free (888) 593-4682, (757) 253-7236/TTY ☎, e-mail lwbailey@jyf.state.va.us.

November 18, 2002 - Noon -- Open Meeting
November 19, 2002 - 8 a.m. -- Open Meeting
Radisson Fort Magruder Inn, 6945 Pocahontas Trail, Williamsburg, Virginia. (Interpreter for the deaf provided upon request)

Semiannual board meeting. Agenda to be determined. 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 (804) 253-4840, FAX (804) 253-5299, (804) 253-7236/TTY ☎, e-mail lwbailey@jyf.state.va.us.

December 12, 2002 - Noon -- Open Meeting
The Library of Virginia, 800 East Broad Street, Room A, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A Jamestown 2007 Steering Committee meeting. Public comment will not be heard.

Contact: Laura W. Bailey, Executive Assistant to the Boards, Jamestown-Yorktown Foundation, P.O. Box 1607, Williamsburg, VA 23187, telephone (757) 253-4840, FAX (757) 253-5299, toll-free (888) 593-4682, (757) 253-7236/TTY ☎, e-mail lwbailey@jyf.state.va.us.

DEPARTMENT OF LABOR AND INDUSTRY

October 25, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Labor and Industry intends to amend regulations entitled: **16 VAC 15-10. Public Participation Guidelines.** The purpose of the proposed action is to conform the regulation language to current Administrative Process Act requirements; include references to agency website and Virginia Regulatory Town Hall; and remove redundant language.

Statutory Authority: §§ 2.2-4007 and 40.1-6(3) of the Code of Virginia

Contact: Bonnie R. Hopkins, Regulatory Coordinator, Department of Labor and Industry, Powers-Taylor Building, 13 S. 13th St., Richmond, VA 23219, telephone (804) 371-2631, FAX (804) 371-6524 or e-mail brh@doli.state.va.us.

Apprenticeship Council

October 11, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Labor and Industry intends to amend regulations entitled: **16 VAC 20-10. Public Participation Guidelines.** The purpose of the

proposed action is to conform the regulation language to current Administrative Process Act requirements, include references to agency website and Virginia Regulatory Town Hall, and remove redundant language.

Statutory Authority: §§ 2.2-4007 and 40.1-117 of the Code of Virginia.

Contact: Bonnie R. Hopkins, Regulatory Coordinator, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 371-2631, FAX (804) 371-6524or e-mail brh@doli.state.va.us.

NOTE: DATE AND LOCATION CHANGE.
October 17, 2002 - 10 a.m. -- Open Meeting
December 19, 2002 - 10 a.m. -- Open Meeting
Confederate Hills Recreation Building, 302 Lee Avenue, Highland Springs, Virginia. (Interpreter for the deaf provided upon request)

A quarterly meeting of the council.

Contact: Beverley Donati, Assistant Program Director, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St. Richmond, VA 23219, telephone (804) 786-2382, FAX (804) 786-8418, (804) 786-2376/TTY ☎, e-mail bgd@doli.state.va.us.

Virginia Migrant and Seasonal Farmworkers Board

October 23, 2002 - 10 a.m. -- Open Meeting
State Capitol, House Room 1, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular quarterly meeting.

Contact: Betty B. Jenkins, Board Administrator, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA, telephone (804) 786-2391, FAX (804) 371-6524, (804) 786-2376/TTY ☎, e-mail bbj@doli.state.va.us.

Safety and Health Codes Board

November 8, 2002 -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Safety and Health Codes Board intends to amend regulations entitled: **16 VAC 25-50. Boiler and Pressure Vessel Rules and Regulations.** The purpose of the proposed action is to eliminate possible conflicts with the Code of Virginia, allow fees to be paid by credit card, adopt current Part CW provisions for burner controls and safety devices, and update references in the Documents Incorporated by Reference.

Statutory Authority: §§ 40.1-51.6 through 40.1-51.10 of the Code of Virginia.

Contact: Fred P. Barton, Boiler Safety Compliance Director/Chief Boiler Inspector, Department of Labor and Industry, Powers-Taylor Building, 13 S. Thirteenth St., Richmond, VA 23219, telephone (804) 786-3262, FAX (804) 371-2324, or e-mail fpb@doli.state.va.us.

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October 25, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Safety and Health Codes Board intends to amend regulations entitled: **16 VAC 25-10. Public Participation Guidelines.** The purpose of the proposed action is to conform the regulation language to current Administrative Process Act requirements; include references to agency website and Virginia Regulatory Town Hall; and remove redundant language.

Statutory Authority: §§ 2.2-4007 and 40.1-22(5) of the Code of Virginia.

Contact: Bonnie R. Hopkins, Regulatory Coordinator, Department of Labor and Industry, Powers-Taylor Building, 13 S. 13th St., Richmond, VA 23219, telephone (804) 371-2631, FAX (804) 371-6524 or e-mail brh@doli.state.va.us.

STATE LIBRARY BOARD

November 18, 2002 - 8:15 a.m. -- Open Meeting
The Library of Virginia, 800 East Broad Street, Richmond, Virginia.

Meetings of the board to discuss matters pertaining to the Library of Virginia and the board. Committees of the board will meet as follows:

8:15 a.m. - Public Library Development Committee, Orientation Room;
Publications and Educational Services Committee, Conference Room B;
Records Management Committee, Conference Room C.

9:30 a.m. - Archival and Information Services Committee, Orientation Room;
Collection Management Services Committee, Conference Room B;
Legislative and Finance Committee, Conference Room C.

10:30 a.m. - Library Board, Conference Room 2M.

Contact: Jean H. Taylor, Executive Secretary to the Librarian, The Library of Virginia, 800 E. Broad St., Richmond, VA 23219-2000, telephone (804) 692-3535, FAX (804) 692-3594, (804) 692-3976/TTY ☎, e-mail jtaylor@lva.lib.va.us.

COMMISSION ON LOCAL GOVERNMENT

† **November 18, 2002 - 10 a.m.** -- Open Meeting
Pocahontas Building, 900 East Main Street, Suite 103, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular meeting to consider such matters as may be presented.

Contact: Barbara Bingham, Administrative Assistant, Commission on Local Government, 900 E. Main St., Suite 103, Richmond, VA 23219-3513, telephone (804) 786-6508,

FAX (804) 371-7999, (800) 828-1120/TTY ☎, e-mail bbingham@clg.state.va.us.

MARINE RESOURCES COMMISSION

October 22, 2002 - 9:30 a.m. -- Open Meeting
November 19, 2002 - 9:30 a.m. -- Open Meeting
Marine Resources Commission, 2600 Washington Avenue, 4th Floor, Newport News, Virginia.

A monthly commission meeting.

Contact: Stephanie Montgomery, Commission Secretary, Marine Resources Commission, 2600 Washington Ave., Suite 107, Newport News, VA 23607, telephone (757) 247-8088, FAX (757) 247-2020, toll-free (800) 541-4646, (757) 247-2292/TTY ☎, e-mail smont@mrc.state.va.us.

BOARD OF MEDICAL ASSISTANCE SERVICES

December 10, 2002 - 10 a.m. -- Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Board Room, Richmond, Virginia.

A routine business meeting. An agenda will be posted.

Contact: Nancy Malczewski, Communications Office, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-4626, FAX (804) 371-4981, (800) 343-0634/TTY ☎, e-mail nmalczewski@dmas.state.va.us.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

October 25, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Medical Assistance Services intends to amend regulations entitled: **12 VAC 30-120. Waivered Services.** The current regulations for the Elderly and Disabled Waiver program describe the criteria that must be met in order for providers to be reimbursed for the services rendered. The current services offered in this waiver include personal emergency response systems (PERS) to the waiver. The changes to the regulation include the following: (i) the addition of PERS as a permanent covered service; (ii) the addition of language regarding waiver desk reviews, which the Centers for Medicare and Medicaid Services require DMAS to perform; (iii) the addition of language referencing the Code of Virginia regarding criminal records checks for all compensated employees of personal care, respite care and adult day health care agencies; (iv) the addition of language that states that personal care recipients may continue to work and attend post-secondary school while receiving services under this waiver; (v) a change in the requirement of supervisory visits from every 30 days in general to every 30 days for recipients with a cognitive impairment, and up to every 90 days for recipients who do not have a cognitive impairment; (vi) the addition of "some family members" to the definition of who is qualified to perform personal care services; (vii) the addition of the required qualifications for LPNs for respite care; and (viii) clarifications and corrections to the existing language.

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

Contact: Vivian Horn, Policy Analyst, Division of LTC, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-0527 or vhorn@dmas.state.va.us.

November 7, 2002 - 2 p.m. -- Open Meeting
Department of Medical Assistance Services, 600 East Broad St., Suite 1300, Board Room, Richmond, Virginia.

A meeting to conduct routine business of the Medicaid Drug Utilization Review Board.

Contact: Marianne Rollings, Pharmacist, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 225-4268, FAX (804) 786-1680, (800) 343-0634/TTY ☎, e-mail mrollings@dmas.state.va.us.

BOARD OF MEDICINE

October 10, 2002 - 8 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia.

A general business meeting including the adoption of amendments to regulations and other items as may be presented on the agenda. Public comment will be received at the beginning of the meeting.

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, Southern States Bldg., 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail wharp@dhp.state.va.us.

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October 10, 2002 - 11 a.m. -- Public Hearing
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia.

November 22, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Medicine intends to amend regulations entitled: **18 VAC 85-20. Regulations Governing the Practice of Medicine, Osteopathy, Podiatry, and Chiropractic.** The purpose of the proposed action is to promulgate regulations governing the practice of medicine related to the administration of anesthesia in physicians' offices in accordance with Chapter 324 of the 2002 Acts of Assembly.

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

Public comments may be submitted until November 22, 2002, to William L. Harp, M.D., Executive Director, Board of Medicine, 6606 West Broad Street, Richmond, VA 23230.

Contact: Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.state.va.us.

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† **October 10, 2002 - 11 a.m.** -- Public Hearing
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia.

December 6, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Medicine intends to amend regulations entitled: **18 VAC 85-40. Regulations Governing the Practice of Respiratory Care Practitioners.** The purpose of the proposed action is to establish requirements for 20 hours of continuing education per biennium from an approved sponsor or organization, provide for exemptions or extensions of time for compliance, maintenance and provision of documentation upon request, and evidence of continuing education for reinstatement or reactivation of a license. Other amendments are recommended for greater clarity for the regulated entities or for adaptability to computerized testing.

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

Public comments may be submitted until December 6, 2002, to William L. Harp, M.D., Executive Director, Board of Medicine, 6606 West Broad Street, Richmond, VA 23230.

Contact: Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.state.va.us.

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October 10, 2002 - 11 a.m. -- Public Hearing
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia.

November 22, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Medicine intends to amend regulations entitled: **18 VAC 85-110. Regulations Governing the Practice of Licensed Acupuncturists.** The purpose of the proposed action is to amend regulations in response to a periodic review of regulations to provide consistency in the educational requirements with the national certifying body and to address concerns about the unnecessary burden placed on applicants with a foreign education in acupuncture. Other amendments are recommended to clarify certain provisions of the regulations.

Statutory Authority: §§ 54.1-2400 and 54.1-2956.9 of the Code of Virginia.

Public comments may be submitted until November 22, 2002, to William L. Harp, M.D., Executive Director, Board of Medicine, 6606 West Broad Street, Richmond, VA 23230.

Contact: Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.state.va.us.

† **December 13, 2002 - 8 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room, Richmond, Virginia.

A meeting of the Executive Committee will be held in open and closed session 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.

† **December 13, 2002 - 1 p.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room, 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 to discuss any other items that may come before the committee. The credentials 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.

Informal Conference Committee

† **October 23, 2002 - 9 a.m.** -- Open Meeting
Clarion Hotel, 3315 Ordway Drive, Roanoke, Virginia.

October 24, 2002 - 8:45 a.m. -- Open Meeting
November 14, 2002 - 9 a.m. -- Open Meeting
Holiday Inn Select, 2801 Plank Road, Fredericksburg, Virginia.

October 30, 2002 - 9:30 a.m. -- Open Meeting
Williamsburg Marriott Hotel, 50 Kingsmill Road, Williamsburg, Virginia.

November 13, 2002 - 9 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 the Code of Virginia. Public comment will not be received.

Contact: Peggy Sadler or Renee Dixson, Staff, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-7332, FAX (804) 662-9517, (804) 662-7197/TTY ☎, e-mail Peggy.Sadler@dhp.state.va.us.

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

† **October 18, 2002 - 1 p.m.** -- Open Meeting
Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

The Housing Team of the Olmstead Task Force will hold its second meeting.

Contact: Fran M. Sadler, Administrative Specialist, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218, telephone (804) 786-8019, FAX (804) 786-9248, (804) 371-8977/TTY ☎, e-mail fsadler@dmhmrsas.state.va.us.

† **October 31, 2002 - 9:30 a.m.** -- Open Meeting
Ninth Street Office Building, 202 North 9th Street, 9th Floor, Richmond, Virginia. (Interpreter for the deaf provided upon request)

The Educating the Public, Consumers and Families Team of the Olmstead Task Force will hold its second meeting.

Contact: Fran M. Sadler, Administrative Specialist, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218, telephone (804) 786-8019, FAX (804) 786-9248, (804) 371-8977/TTY ☎, e-mail fsadler@dmhmrsas.state.va.us.

STATE MILK COMMISSION

† **December 11, 2002 - 10:30 a.m.** -- Open Meeting
Department of Forestry, 900 Natural Resources Drive, Room 2063, Charlottesville, Virginia.

A regular meeting to consider industry issues, distributor licensing, base transfers, and reports from staff. The commission offers anyone in attendance an opportunity to speak at the conclusion of the agenda. Anyone requiring special accommodations should notify the agency meeting contact at least five working days prior to the meeting date so that suitable arrangements can be made.

Contact: Edward C. Wilson, Jr., Deputy Administrator, State Milk Commission, Ninth St. Office Bldg., 202 N. Ninth St., Room 915, Richmond, VA 23219, telephone (804) 786-2013, FAX (804) 786-3779, e-mail ewilson@smc.state.va.us.

DEPARTMENT OF MINES, MINERALS AND ENERGY

October 26, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Mines, Minerals and Energy intends to repeal regulations entitled: **4 VAC 25-30. Minerals Other than Coal Surface Mining Regulations,** and adopt regulations entitled: **4 VAC 25-31. Reclamation Regulations for Mineral Mining**. The purpose of the proposed regulation is to provide for the beneficial development of mineral resources and to minimize the effects of mining on the environment. The regulation will replace the present reclamation regulations, 4 VAC 25-30, Minerals Other Than Coal Surface Mining Regulations.

Statutory Authority: §§ 45.1-161.3 and 45.1-180.3 of the Code of Virginia.

Contact: William Lassetter, Environmental Engineer Consultant, Department of Mines, Minerals and Energy, Fontaine Research Park, 900 Natural Resources Dr., P.O. Box 3727, Charlottesville, VA 22903, telephone (804) 951-6310, FAX (804) 951-6325, or e-mail cts@mme.state.va.us.

Virginia Coal Mine Safety Board

† **October 24, 2002 - 10 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)

The CMSB is the department regulatory work committee on all coal mine health and safety regulations not under jurisdiction of the BCME. The CMSB will review the status of proposed regulations as well as the status of the mine safety profile for the past year. The board will also review current issues with regard to mining near underground mine workings and miner continuing education. Comments will be received at the end of the meeting. Special accommodations for the disabled will be made available at the hearing on request. Anyone needing special accommodations for the hearing should contact the Department of Mines, Minerals, and Energy at (276) 523-8224 or by calling the Virginia Relay Center at 1-800-828-1120 or 1140/TTY by October 11, 2002.

Contact: Frank A. Linkous, Mine Chief, Department of Mines, Minerals and Energy, P.O. Drawer 900, Big Stone Gap, VA 24219, telephone (276) 523-8224, FAX (276) 523-8239, (800) 828-1120/TTY ☎, e-mail fal@mme.state.va.us.

Virginia Gas and Oil Board

† **October 15, 2002 - 9 a.m.** -- Open Meeting
Southwest Virginia Higher Education Center on Campus of Virginia Highlands Community College, Abingdon, Virginia. (Interpreter for the deaf provided upon request)

A regular meeting to consider petitions filed by applicants for consideration of orders for disbursement from escrow accounts and pooling applications. The public may address the board on individual items as they are called during the hearing. A transcript of the meeting will be taken. Special

accommodations for the disabled will be made available at the public meeting on request. Anyone needing special accommodations for the public meeting should contact the Department of Mines, Minerals and Energy at (540) 676-5423 or the Virginia Relay Center at 1-800-828-1120 or 1140/TTY by October 11, 2002.

Contact: Bob Wilson, Division Director, Department of Mines, Minerals and Energy, P.O. Box 1416 Abingdon, VA 24212, telephone (276) 676-5423, FAX (276) 676-5459, (800) 828-1120/TTY ☎, e-mail bxw@mme.state.va.us.

Governor's Mined Land Reclamation Advisory Committee

October 17, 2002 - 10 a.m. -- Open Meeting
Department of Mines, Minerals and Energy, Buchanan-Smith Building, 3405 Mountain Empire Road, Route 23 South, Big Stone Gap, Virginia. (Interpreter for the deaf provided upon request)

A meeting to review and discuss recent Interstate Mining Compact Commission (IMCC) issues with the coal industry. Special accommodations for the disabled will be made available on request. Anyone needing special accommodations for the meeting should contact the Department of Mines, Minerals and Energy at 276/523-8156 or the Virginia Relay Center at 1-800-828-1120 or 1140/TTY by October 10, 2002. Public comments will be received as the last item of this meeting.

Contact: Leslie S. Vincent, Customer Services Manager, Department of Mines, Minerals and Energy, P.O. Drawer 900, Big Stone Gap, VA 24219, telephone (276) 523-8156, FAX (276) 523-8163, (800) 828-1120/TTY ☎, e-mail lsv@mme.state.va.us.

DEPARTMENT OF MOTOR VEHICLES

October 10, 2002 - 9 a.m. -- Open Meeting
December 12, 2002 - 9 a.m. -- Open Meeting
Department of Motor Vehicles, 2300 West Broad Street, Room 702, Richmond, Virginia.

A meeting of the Digital Signature Implementation Workgroup. Meetings will be held on the second Thursday of every other month from 9 a.m. until noon at the location noted above unless otherwise noted. The room will be open for coffee and pre-session business at 8:30 a.m.; the business session will begin at 9 a.m.

Contact: Vivian Cheatham, Executive Staff Assistant, Department of Motor Vehicles, 2300 W. Broad St., Richmond, VA 23220, telephone (804) 367-6870, FAX (804) 367-6631 or e-mail dmvvrc@dmv.state.va.us.

† **October 19, 2002 - 2:30 p.m.** -- Open Meeting
T.C. Williams High School, 3330 Kings Street, Alexandria, Virginia. (Interpreter for the deaf provided upon request)

Agenda items include (i) repeal of the regulations governing requirements for proof of residency to obtain a Virginia driver's license or photo identification card; (ii) discussion of House Bill 638/Senate Bill 142, which requires the DMV commissioner, by December 1, 2002, to report to the chairmen of the House and Senate Transportation Committees regarding the need for further modification or enhancement to the identify and residency requirements in the application process for Virginia driver's licenses and other DMV documents, and the advisability of requiring applicants for DMV documents to prove their legal presence in the U.S.; and (iii) discussion of issues surrounding incorporation of biometric identifiers as part of the driver's license/identification card issuance process.

Contact: Maxine Carter, Special Assistant for Outreach, Department of Motor Vehicles, P.O. Box 27412, Richmond, VA 23269-0001, telephone (804) 367-1417, FAX (804) 367-6631 or 1-800-272-9268.

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November 9, 2002 -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Motor Vehicles intends to repeal regulations entitled: **24 VAC 20-70. Requirements for Proof of Residency to Obtain a Virginia Driver's License or Photo Identification Card.** The purpose of the proposed action is to repeal the residency regulations governing requirements for proof of residency to obtain a Virginia driver's license or photo identification card.

The hearing will also address issues surrounding incorporation of biometric identifiers as part of the driver's license/identification card issuance process.

Statutory Authority: §§ 46.2-203, 46.2-323, and 46.2-345 of the Code of Virginia.

Contact: Maxine Carter, Special Assistant for Outreach, Department of Motor Vehicles, P.O. Box 27412, Richmond, VA 23269-0001, telephone (804) 367-1417, FAX (804) 367-6631, toll-free 1-800-435-5137, (800) 272-9268/TTY ☎, e-mail dmvmwc@dmv.state.va.us.

Medical Advisory Board

October 9, 2002 - 8 a.m. -- Open Meeting
Department of Motor Vehicles, 2300 West Broad Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular business meeting.

Contact: J.C. Branche, R.N., Assistant Division Manager, Department of Motor Vehicles, 2300 W. Broad St., Richmond VA 23220, telephone (804) 367-0531, FAX (804) 367-1604, toll-free (800) 435-5137, (800) 272-9268/TTY ☎, e-mail dmvj3b@dmv.state.va.us.

VIRGINIA MUSEUM OF FINE ARTS

NOTE: CHANGE IN MEETING DATE
October 16, 2002 - 10 a.m. -- Open Meeting
Virginia Museum of Fine Arts, CEO Building, 2800 Grove Avenue, Parlor, Richmond, Virginia.

A meeting to update the Museum Expansion Committee on the expansion planning. Most of the meeting will be held in closed session. Public comment will not be received.

Contact: Suzanne Broyles, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221, telephone (804) 340-1503, FAX (804) 340-1502, (804) 340-1401/TTY ☎, e-mail sbroyles@vmfa.state.va.us.

VIRGINIA MUSEUM OF NATURAL HISTORY

† **October 14, 2002 - 10:30 a.m.** -- Open Meeting
Virginia Museum of Natural History, 1001 Douglas Avenue, Martinsville, Virginia.

† **November 4, 2002 - 10 a.m.** -- Open Meeting
† **December 6, 2002 - 10 a.m.** -- Open Meeting
LeClair Ryan Consulting, 1010 First Union Building, 213 South Jefferson Street, Roanoke, Virginia.

A meeting of the Board of Trustees Executive Committee to discuss management and direction of museum.

Contact: Cindy Rorrer, Director's Assistant, Virginia Museum of Natural History, 1001 Douglas Ave., Martinsville, VA 24112, telephone (276) 666-8616, FAX (276) 632-6487, (276) 666-8638/TTY ☎, e-mail crorrer@vmnh.org.

BOARD OF NURSING

November 18, 2002 - 9 a.m. -- Open Meeting
November 21, 2002 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia.

A panel of the board will conduct formal hearings with licensees or certificate holders. Public comment will not be received.

Contact: Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY ☎, e-mail nursebd@dhp.state.va.us.

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October 11, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Nursing intends to amend regulations entitled: **18 VAC 90-20. Regulations Governing the Practice of Nursing.** The purpose of the proposed action is to establish qualifications and renewal requirements for advanced certification for certified nurse aides and the criteria for an approved education and training program.

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

Public comments may be submitted until October 11, 2002, to Nancy K. Durrett, R.N., Executive Director, Board of Nursing, Southern States Bldg., 6606 West Broad Street, 4th Floor, Richmond, VA 23230-1717.

Contact: Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.state.va.us.

Special Conference Committee

October 8, 2002 - 9 a.m. -- Open Meeting
October 10, 2002 - 9 a.m. -- Open Meeting
October 16, 2002 - 9 a.m. -- Open Meeting
October 17, 2002 - 9 a.m. -- Open Meeting
October 21, 2002 - 9 a.m. -- Open Meeting
October 22, 2002 - 9 a.m. -- Open Meeting
October 29, 2002 - 9 a.m. -- Open Meeting
December 4, 2002 - 9 a.m. -- Open Meeting
December 9, 2002 - 9 a.m. -- Open Meeting
December 10, 2002 - 9 a.m. -- Open Meeting
December 16, 2002 - 9 a.m. -- Open Meeting
December 18, 2002 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, 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 St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY ☎, e-mail nursebd@dhp.state.va.us.

BOARDS OF NURSING AND MEDICINE

November 22, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Boards of Nursing and Medicine intend to amend regulations entitled: **18 VAC 90-30. Regulations Governing the Licensure of Nurse Practitioners.** The purpose of the proposed action is to ensure that certifying agencies providing professional certification necessary for licensure as a nurse practitioner are accredited by an accrediting agency recognized by the U.S. Department of Education or are deemed acceptable to the National Council of State Boards of Nursing. An amendment is also proposed to add a specialty category of nurse practitioner.

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

Public comments may be submitted until November 22, 2002, to Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 West Broad Street, Richmond, VA 23230.

Contact: Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.state.va.us.

BOARD OF NURSING HOME ADMINISTRATORS

October 9, 2002 - 10 a.m. -- Public Hearing
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia.

October 11, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Nursing Home Administrators intends to amend regulations entitled: **18 VAC 95-20. Regulations Governing the Practice of Nursing Home Administrators.** The purpose of the proposed action is to increase certain fees charged to nursing home administrators.

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

Public comments may be submitted until October 11, 2002, to Sandra Reen, Executive Director, Board of Nursing Home Administrators, 6606 West Broad Street, Richmond, VA 23230.

Contact: Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.state.va.us.

October 9, 2002 - 10:15 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia.

A general business meeting, including consideration of disciplinary and regulator matters as may be presented on the agenda. Public comment will be received at the beginning of the meeting.

Contact: Sandra Reen, Executive Director, Board of Nursing Home Administrators, Southern States Bldg., 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-7457, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail sandra_reen@dhp.state.va.us.

OLD DOMINION UNIVERSITY

October 21, 2002 - 3 p.m. -- Open Meeting
November 18, 2002 - 3 p.m. -- Open Meeting
December 13, 2002 - 1:15 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, Executive Secretary to the Board of Visitors, Old Dominion University, 204 Koch Hall, Norfolk, VA 23529, telephone (757) 683-3072, FAX (757) 683-5678, e-mail dmeeks@odu.edu.

BOARD FOR OPTICIANS

† **November 8, 2002 - 9:30 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, Assistant Director, Board for Opticians, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8575, FAX (804) 367-2474, (804) 367-9753/TTY ☎, e-mail opticians@dpor.state.va.us.

PESTICIDE CONTROL BOARD

† **October 16, 2002 - 9 a.m.** -- Open Meeting
Florence Elston Inn and Conference Center, 450 Sweet Briar Drive, Patio Room-D, Sweet Briar, Virginia.

The board will conduct its normal quarterly meeting from October 16 to October 17, 2002, and will tour various locations in and about Nelson County to observe pesticide management, beginning at 10 a.m. Portions of the meeting may be held in closed session pursuant to § 2.2-3711 of the Code of Virginia. The board will entertain public comment at the beginning of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact the person identified in this notice at least five days before the meeting date so that suitable arrangements can be made.

Contact: Dr. Marvin Lawson, Program Manager, Office of Pesticide Services, Department of Agriculture and Consumer Services, 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 mlawson@vdacs.state.va.us.

BOARD OF PHARMACY

† **October 30, 2002 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia.

The Special Conference Committee will discuss disciplinary matters. Public comments will not be received.

Contact: Elizabeth Scott Russell, Executive Director, Board of Pharmacy, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9911, FAX (804) 662-9313.

November 4, 2002 - 2 p.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia.

A meeting of the Informal Conference Committee to discuss disciplinary matters.

Contact: Elizabeth Scott Russell, Executive Director, Board of Pharmacy, 6606 W. Broad St., 4th Floor, Richmond, VA

23230, telephone (804) 662-9911, FAX (804) 662-9313, e-mail pharmbd@dhp.state.va.us.

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November 8, 2002 -- Public comments may be submitted until 9 a.m. on this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Pharmacy intends to amend regulations entitled: **18 VAC 110-20. Virginia Board of Pharmacy Regulations.** The purpose of the proposed action is to comply with Chapter 317 of the 2001 Acts of Assembly requiring the board to promulgate regulations for the registration of pharmacy technicians. The statute requires regulations to specify criteria for the training program, examination, and evidence of continued competency. It further specifies that current certification from the Pharmacy Technician Certification Board qualifies a person for registration.

Statutory Authority: §§ 54.1-2400, 54.1-3321, and 54.1-3322 of the Code of Virginia.

Public comments may be submitted until 9 a.m. on November 8, 2002, to Elizabeth Scott Russell, Executive Director, Board of Pharmacy, 6606 W. Broad St., Richmond, VA 23230.

Contact: Elaine J. Yeatts, Agency Regulatory Coordinator, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.state.va.us.

BOARD OF PHYSICAL THERAPY

November 1, 2002 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia.♿

A general business meeting including consideration of regulatory and disciplinary issues as may be presented on the agenda. Public comment will be received at the beginning of the meeting.

Contact: Elizabeth Young, Executive Director, Board of Physical Therapy, Southern States Bldg., 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9924, FAX (804) 662-9523, (804) 662-7197/TTY ☎, e-mail elizabeth.young@dhp.state.va.us.

POLYGRAPH EXAMINERS ADVISORY BOARD

October 11, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Polygraph Examiners Board intends to amend regulations entitled: **18 VAC 120-30. Regulations Governing Polygraph Examiners.** The purpose of the proposed action is to clarify current policy in several areas, make grammatical improvements, and expand requirements regarding polygraphy schools and the procedures for renewing or withdrawing department approval.

Statutory Authority: §§ 54.1-201 and 54.1-1802 of the Code of Virginia.

Contact: Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475 or e-mail APELSLA@dpor.state.va.us.

BOARD FOR PROFESSIONAL AND OCCUPATIONAL REGULATION

October 12, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Professional and Occupational Regulations intends to amend regulations entitled: **18 VAC 120-40. Virginia Professional Boxing and Wrestling Events Regulations.** The purpose of the proposed action is to achieve consistency with the federal Muhammad Ali Boxing Reform Act, to ensure consistency with state law and to amend the wrestling event license fee.

Statutory Authority: § 54.1-831 of the Code of Virginia and 15 USC 6301 et seq.

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

BOARD OF PSYCHOLOGY

October 8, 2002 - 9:45 a.m. -- Public Hearing
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia.♿

November 8, 2002 -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Psychology intends to amend regulations entitled: **18 VAC 125-20. Regulations Governing the Practice of Psychology.** The purpose of the proposed action is increase renewal and other fees charged to licensees and change the renewal cycle from biennial to annual.

Statutory Authority: Chapter 36 (§ 54.1-3600 et seq.) of Title 54.1 of the Code of Virginia.

Public comments may be submitted until November 8, 2002, to Evelyn B. Brown, Executive Director, Board of Psychology, 6606 W. Broad St., Richmond, VA 23230.

Contact: Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.state.va.us.

† **October 8, 2002 - 10 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia.♿

A general business meeting including consideration of regulatory and disciplinary matters as may be presented on

the agenda. Public comment will be received at the beginning of the meeting.

Contact: Evelyn B. Brown, Executive Director, Board of Psychology, Southern States Bldg., 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9913, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail ebrown@dhp.state.va.us.

VIRGINIA RACING COMMISSION

† **October 16, 2002 - 9:30 a.m.** -- Open Meeting
Tyler Building, 1300 East Main Street, Richmond, Virginia.♿

A monthly meeting including a segment for public participation. The commission will conduct a public hearing on Colonial Downs' request for 27 days of live Thoroughbred racing commencing on June 14, 2003, and concluding on July 22, 2003.

Contact: William H. Anderson, Director of Policy and Planning, 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 BOARD

† **October 23, 2002 - 1 p.m.** -- Open Meeting
† **December 19, 2002 - 9 a.m.** -- Open Meeting
† **December 20, 2002 - 9 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.♿ (Interpreter for the deaf provided upon request)

A meeting to conduct informal fact finding conferences. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Debbie Amaker, Legal Assistant, Real Estate Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8582, FAX (804) 367-0194, (804) 367-9753/TTY ☎, e-mail amaker@dpor.state.va.us, homepage http://www.state.va.us/dpor.

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October 23, 2002 - 3 p.m. -- Public Hearing
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.♿ (Interpreter for the deaf provided upon request)

November 9, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Real Estate Board intends to amend regulations entitled: **18 VAC 135-60. Common Interest Community Management Information Fund Regulations.** The purpose of the proposed action is to implement the provisions of § 55-529 of the Code of Virginia relating to the Common Interest Community Management Information Fund.

Statutory Authority: § 55-530 of the Code of Virginia.

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

October 24, 2002 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

A general business meeting.

Contact: Christine Martine, Assistant Director, Real Estate Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail reboard@dpor.state.va.us.

November 13, 2002 - 9 a.m. -- Open Meeting
November 14, 2002 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.♿ (Interpreter for the deaf provided upon request)

A meeting to conduct informal fact-finding conferences. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Debbie Amaker, Legal Assistant, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8582, FAX (804) 367-0194, (804) 367-9753/TTY ☎, e-mail amaker@dpor.state.va.us.

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NOTE: PUBLIC COMMENT PERIOD EXTENDED
† **November 20, 2002 -** Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Real Estate Board intends to amend regulations entitled: **18 VAC 135-50. Real Estate Board Fair Housing Regulations.** The purpose of the proposed action is to amend existing fair housing regulations to reflect changes in the Code of Virginia and federal law.

Statutory Authority: §§ 36-96.20 and 54.1-2105 of the Code of Virginia.

Contact: Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail reboard@dpor.state.va.us.

DEPARTMENT OF REHABILITATIVE SERVICES

November 7, 2002 - 4 p.m. -- Open Meeting
Department of Rehabilitative Services, Fairfax Office, 11150 Main Street, Suite 300, Fairfax, Virginia ♿ (Interpreter for the deaf provided upon request)

November 13, 2002 - 4 p.m. -- Open Meeting
Department of Rehabilitative Services, Tidewater Regional Office, 5700 Thurston Avenue, Suite 107, Portsmouth, Virginia. ♿ (Interpreter for the deaf provided upon request)

November 18, 2002 - 4 p.m. -- Open Meeting
Woodrow Wilson Rehabilitation Center, William Cashett Chapel, State Route 250, Fishersville, Virginia. ♿ (Interpreter for the deaf provided upon request)

The Virginia Department of Rehabilitative Services will hold public forums to seek input regarding vocational rehabilitation and supported employment services provided to Virginians with disabilities. The state plan is available for review at www.vadrs.org, the Department of Rehabilitative Services sponsored website, or at www.va-src.org, the website sponsored by the State Rehabilitation Council.

Contact: Elizabeth Smith, Policy and Planning Director, Department of Rehabilitative Services, 8004 Franklin Farms Dr., P.O. Box K-300, Richmond, VA 23288-0300, telephone (804) 662-7071, FAX (804) 662-7696, toll-free (800) 552-5019, (800) 464-9950/TTY ☎, e-mail smithee@drs.state.va.us.

VIRGINIA RESOURCES AUTHORITY

October 15, 2002 - 9 a.m. -- Open Meeting
Virginia Resources Authority, 707 East Main Street, 2nd Floor Conference Room, Richmond, Virginia. ♿

A regular meeting of the Board of Directors to (i) review and, if appropriate, approve the minutes from the most recent monthly meeting; (ii) review the authority's operations for the prior month; (iii) review applications for loans submitted to the authority for approval; (iv) consider loan commitments for approval and ratification under its various programs; (v) approve the issuance of any bonds; (vi) review the results of any bond sales; and (vii) consider such other matters and take such other actions as it may deem appropriate. Various committees of the Board of Directors may also meet immediately before or after the regular meeting and consider matters within their purview. The planned agenda of the meeting and any committee meetings will be available at the offices of the authority one week prior to the date of the meeting. Any person who needs any accommodation in order to participate in the meeting should contact the authority at least 10 days before the meeting so that suitable arrangements can be made.

Contact: Bonnie R.C. McRae, Executive Assistant, Virginia Resources Authority, 707 E. Main St., Suite 1350, Richmond, VA 23219, telephone (804) 644-3100, FAX (804) 644-3109, e-mail bmcrae@vra.state.va.us.

SCIENCE MUSEUM OF VIRGINIA

† **October 23, 2002 - Noon** -- Open Meeting

A quarterly meeting of the Board of Trustees Finance Committee.

Contact: Nina Johnson, Administrative Assistant, Science Museum of Virginia, 2500 W. Broad St., Richmond, VA, telephone (804) 864-1493, FAX (804) 864-1560, toll-free (800) 659-1727, e-mail njohnson@smv.org.

† **October 24, 2002 - 3 p.m.** -- Open Meeting
Science Museum of Virginia, 2500 W. Broad Street, Richmond, Virginia. ♿

A quarterly meeting of the Board of Trustees Finance Committee.

Contact: Karen Raham, Administrative Assistant, Science Museum of Virginia, 2500 W. Broad St., Richmond, VA, telephone (804) 864-1499, FAX (804) 864-1560, toll-free (800) 659-1727, e-mail kraham@smv.org.

SEWAGE HANDLING AND DISPOSAL APPEAL REVIEW BOARD

October 23, 2002 - 10 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, Senate Room B, Richmond, Virginia.

A meeting to hear appeals of Department of Health denials of septic tank permits.

Contact: Susan C. Sherertz, Business Manager, Department of Health, 1500 E. Main St., Room 115, Richmond, VA 23219, telephone (804) 371-4236, FAX (804) 225-4003, e-mail ssherertz@vdh.state.va.us.

VIRGINIA SMALL BUSINESS FINANCING AUTHORITY

† **October 24, 2002 - 10 a.m.** -- Open Meeting
Department of Business Assistance, 707 East Main Street, 3rd Floor, Richmond, Virginia. ♿

A meeting to review applications for loans submitted to the authority for approval and to conduct general business of the board. Meeting time is subject to change depending upon the agenda of the board.

Contact: Scott E. Parsons, Executive Director, Department of Business Assistance, P.O. Box 446, Richmond, VA 23218-0446, telephone (804) 371-8256, FAX (804) 225-3384, e-mail sparsons@dba.state.va.us.

STATE BOARD OF SOCIAL SERVICES

October 11, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Social Services intends to amend regulations entitled: **22 VAC 40-680. Virginia Energy Assistance Program - Low Income**

Home Energy Assistance Program (LIHEAP). The purpose of the proposed action is to provide flexibility to adjust the maximum eligibility income limit in response to federal funding fluctuations, and to assist households with summer energy needs by establishing a cooling assistance component and requiring participation by localities.

Statutory Authority: § 63.1-25 of the Code of Virginia.

Contact: Margaret Friedenberg, Energy Assistance Program Manager, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1728, FAX (804) 692-1469 or e-mail mjf900@dcse.dss.state.va.us.

October 16, 2002 - 9 a.m. -- Open Meeting
October 17, 2002 - 9 a.m. -- Open Meeting
Holiday Inn-Bristol, 3005 Linden Drive, Bristol, Virginia.

December 18, 2002 - 9 a.m. -- Open Meeting
December 19, 2002 - 9 a.m. -- Open Meeting
Ramada Inn 1776, 725 Bypass Road, Williamsburg, Virginia.

A formal business meeting of the board.

Contact: Pat Rengnerth, Board Liaison, State Board of Social Services, 730 E. Broad St., Suite 812, Richmond, VA 23219-1849, telephone (804) 692-1826, FAX (804) 692-1962, (800) 828-1120/TTY ☎, e-mail pvr2@email1.dss.state.va.us.

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November 22, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Social Services intends to adopt regulations entitled: **22 VAC 40-375. Economic and Employment Improvement Program for Disadvantaged Persons.** The purpose of the proposed action is to establish a regulation that implements the Economic and Employment Improvement Program for Disadvantaged Persons.

Statutory Authority: §§ 63.2-217 and 63.2-700 et seq. of the Code of Virginia.

Contact: Faye Palmer, Manager, Job Readiness and Employment, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1065, FAX (804) 225-2202 or e-mail afp900@email1.dss.state.va.us.

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November 22, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Social Services intends to amend regulations entitled: **22 VAC 40-700. Child Protective Services Central Registry Information.** The purpose of the proposed action is to ensure that the regulation is consistent with the regulation entitled Child Protective Services, 22 VAC 40-705, which requires preponderance of the evidence for founded disposition; and to ensure consistency with the Virginia Court of Appeals decision of Jackson v. Marshall, which determined that only categories of "founded" and "unfounded" are allowed under § 63.1-248 of the Code of Virginia. The department officially ceased use of the Reason to Suspect category on March 9, 1995.

Statutory Authority: §§ 63.2-217 and 63.2-1515 of the Code of Virginia.

Contact: Jesslyn Cobb, Program Specialist, Department of Social Services, 730 E. Broad St., Richmond, VA 23219-1849, telephone (804) 692-1255, FAX (804) 692-2215 or e-mail jqc900@email1.dss.state.va.us.

December 6, 2002 - 10 a.m. -- Open Meeting
Department of Social Services, 730 East Broad Street, 8th Floor, Conference Room, Richmond, Virginia.

A regular business meeting of the Family and Children's Trust Fund Board of Trustees.

Contact: Nan McKenney, Executive Director, State Board of Social Services, 730 E. Broad St., Richmond, VA 23219-1849, telephone (804) 692-1823, FAX (804) 692-1869.

DEPARTMENT OF TECHNOLOGY PLANNING

Virginia Research and Technology Advisory Commission

† **October 15, 2002 - 8 a.m.** -- Open Meeting
McLean Hilton Hotel, McLean, Virginia.

† **December 12, 2002 - 1:30 p.m.** -- Open Meeting
Jefferson Labs, Newport News, Virginia.

A quarterly meeting to coincide with the Virginia Biotechnology Summit.

Contact: K.C. Das, Department of Technology Planning, 110 S. 7th Street, Suite 135, Richmond, VA 23219, telephone (804) 371-5599, FAX (804) 371-2795, e-mail kcdas@dit.state.va.us.

Virginia Geographic Information Network Advisory Board

November 7, 2002 - 1:30 p.m. -- Open Meeting
† **January 2, 2002 - 1:30 p.m.** -- Open Meeting
Richmond Plaza Building, 110 South 7th Street, 3rd Floor Training Room, Richmond, Virginia.

A regular meeting.

Contact: Bill Shinar, VGIN Coordinator, Department of Technology Planning, 110 S. 7th St., Suite 135, Richmond, VA 23219, telephone (804) 786-8175, FAX (804) 371-2795, e-mail bshinar@vgin.state.va.us.

Wireless E-911 Services Board

November 13, 2002 - 9 a.m. -- Open Meeting
Department of Information Technology, 110 South 7th Street, 3rd Floor Conference Room, Richmond, Virginia.
(Interpreter for the deaf provided upon request)

The CMRS subcommittee will meet in closed session at 9 a.m. A regular meeting of the board will begin at 10 a.m.

Contact: Steven Marzolf, Public Safety Communications Coordinator, Department of Technology Planning, 110 S. 7th St., Richmond, VA 23219, telephone (804) 371-0015, e-mail smarzolf@dtp.state.va.us.

COMMONWEALTH TRANSPORTATION BOARD

October 16, 2002 - 1 p.m. -- Open Meeting
Virginia Military Institute, Lexington, Virginia.

A work session of the Commonwealth Transportation Board and the Department of Transportation staff.

Contact: Larry D. Jones, Agency Regulatory Coordinator, Department of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-7712, FAX (804) 371-0074, e-mail jones_ld@vdot.state.va.us.

October 16, 2002 - 2 p.m. -- Open Meeting
Virginia Military Institute, 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: Sandra M. Mills, Assistant Legislative Liaison, Department of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 225-4701, FAX (804) 225-4700, e-mail Sandee.Mills@VirginiaDOT.org.

BOARD OF VETERINARY MEDICINE

† **October 9, 2002 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia.

The Special Conference Committee will conduct informal hearings (disciplinary hearings). These are public meetings, but public comment will not be received.

Contact: Terri H. Behr, Administrative Assistant, Board of Veterinary Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9915, FAX (804) 662-7098, (804) 662-7197/TTY ☎, e-mail terri.behr@dhp.state.va.us.

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October 11, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Veterinary Medicine intends to amend regulations entitled: **18 VAC 150-20. Regulations Governing the Practice of Veterinary Medicine.** The purpose of the proposed action is to revise requirements in order to update facility requirements and to clarify certain provisions that have been confusing or problematic to licensees, especially related to the appropriate delegation of veterinary tasks to licensed technicians or unlicensed assistants.

Statutory Authority: Chapter 38 (§ 54.1-3800 et seq.) of Title 54.1 of the Code of Virginia.

Public comments may be submitted until October 11, 2002, to Elizabeth Carter, Executive Director, Board of Veterinary Medicine, 6606 West Broad Street, Richmond, VA 23230.

Contact: Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.state.va.us.

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October 11, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Veterinary Medicine intends to amend regulations entitled: **18 VAC 150-20. Regulations Governing the Practice of Veterinary Medicine.** The purpose of the proposed action is to increase renewal and other fees charged to applicants and licensees.

Statutory Authority: § 54.1-2400 and Chapter 38 (§ 54.1-3800 et seq.) of Title 54.1 of the Code of Virginia.

Public comments may be submitted until October 11, 2002, to Elizabeth Carter, Executive Director, Board of Veterinary Medicine, 6606 West Broad Street, Richmond, VA 23230.

Contact: Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.state.va.us.

† **October 31, 2002 - 10 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia.

The board will conduct a general business meeting including consideration of regulatory and disciplinary issues as may be presented on the agenda. Public comment will be received at the beginning of the meeting.

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.

† **November 7, 2002 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia

A general business meeting, including regulatory and disciplinary matters as may be presented on the agenda.

Public comment will be received at the beginning of the meeting.

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.

VIRGINIA VOLUNTARY FORMULARY

† **October 22, 2002 - 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 Virginia Voluntary Formulary add drugs to the Formulary that became effective April 9, 2001, and the most recent supplement to that revision. Copies of the proposed revisions to the Formulary are available for inspection at the Bureau of Pharmacy Services. Written comments received by the bureau prior to 5 p.m. on October 22, 2002, will be made a part of the hearing record and considered by the board.

Contact: James K. Thomson, Director, Bureau of Pharmacy Services, Department of Health, 101 North 14th St., Room S-45, Richmond, VA 23219, telephone (804) 786-4326.

November 12, 2002 - 10:30 a.m. -- Open Meeting
Washington Building, 1100 Bank Street, 2nd Floor Conference Room, Richmond, Virginia.

A meeting to consider public hearing comments and evaluate data submitted by pharmaceutical manufacturers and distributors for products being considered for inclusion in the Virginia Voluntary Formulary.

Contact: James K. Thomson, Director, Bureau of Pharmacy Services, Department of Health, 101 North 14th St., Room S-45, Richmond, VA 23219, telephone (804) 786-4326.

VIRGINIA WASTE MANAGEMENT BOARD

October 24, 2002 - 2 p.m. -- Public Hearing
Department of Environmental Quality, 629 East Main Street, Richmond, Virginia.

November 8, 2002 -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Virginia Waste Management Board intends to amend regulations entitled: **9 VAC 20-110. Regulations Governing the Transportation of Hazardous Materials.** The purpose of the proposed action is to revise definitions as necessary for consistency with federal regulations, update references to cite current federal regulations, remove obsolete sections and revise, as necessary, requirements for registration of shippers.

Statutory Authority: § 10.1-1450 of the Code of Virginia.

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.

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† **November 12, 2002 - 2:30 p.m.** -- Public Hearing
Department of Environmental Quality, 629 East Main Street, First Floor Conference Room, Richmond, Virginia.

December 6, 2002 -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Virginia Waste Management Board intends to amend regulations entitled: **9 VAC 20-80. Solid Waste Management Regulations.** The purpose of the proposed action is to address the remaining statutory changes passed during recent General Assembly sessions that are not addressed in Amendment 2.

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) 698-4238, e-mail mjdieter@deq.state.va.us.

STATE WATER CONTROL BOARD

October 7, 2002 - 7:30 p.m. -- Public Hearing
City of Chesapeake, City Council Chambers, 306 Cedar Road, Chesapeake, Virginia.

A public hearing to receive comments on a proposed Virginia water protection permit for surface water impacts associated with the development of a master-planned mixed use community on the Centerville Properties located in Chesapeake.

Contact: Sheri Kattan, Department of Environmental Quality, 5636 Southern Blvd., Virginia Beach, VA 23462, telephone (757) 518-2156, e-mail sakattan@deq.state.va.us.

† **October 10, 2002 - 10 a.m.** -- Open Meeting
Department of Environmental Quality, 629 East Main Street, Richmond, Virginia.

A meeting of the technical advisory committee assisting in the development of a draft General VPDES Permit for Ready-Mixed Concrete Plants.

Contact: Lily Choi, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4054, FAX (804) 698-4032, e-mail ychoi@deq.state.va.us.

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October 31, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Water Control Board intends to amend regulations entitled: **9 VAC 25-120. General Pollutant Discharge Elimination System (VPDES) Permit Regulation for Discharges from Petroleum Contaminated Sites and Hydrostatic Tests.** The purpose

of the proposed action is to receive public comment on the draft General VPDES Regulation for Discharges from Petroleum Contaminated Sites and Hydrostatic Tests and the proposed reissuance of the General VPDES Permit (VAG83) to discharge to state waters.

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

Contact: Jon van Soestbergen, P.E., Environmental Manager II, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4117, FAX (804) 698-4032 or e-mail jvansoest@deq.state.va.us.

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October 31, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Water Control Board intends to amend regulations entitled: **9 VAC 25-196. General Pollutant Discharge Elimination System (VPDES) Permit Regulation for Cooling Water Discharges.** The purpose of the proposed action is to receive public comment on the draft General VPDES Regulation for Cooling Water Discharges and the proposed reissuance of the General VPDES Permit (VAG25) to discharge to state waters.

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

Contact: Jon van Soestbergen, P.E., Environmental Manager II, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4117, FAX (804) 698-4032 or e-mail jvansoest@deq.state.va.us.

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November 1, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Water Control Board intends to amend regulations entitled: **9 VAC 25-260. Water Quality Standards** and adopt regulations entitled: **9 VAC 25-280. Groundwater Quality Standards**. The purpose of the proposed action is to include updates and revisions to water quality criteria, use designations, mixing zones and the antidegradation policy. Substantive changes include the addition of secondary contact bacteria criteria, the revision of approximately 30 existing numerical criteria and the addition of approximately 33 new numerical criteria and the placement of several waters in the Class VII "swamp waters" classification along with a new pH criteria for those streams. The changes are based on EPA requirements and recommendations, the Department of Environmental Quality staff requests, and public comments. The amendments also move the groundwater standards into a separate regulation (9 VAC 25-280). This regulation contains the existing groundwater standards, criteria and antidegradation policy as well as pertinent definitions, general requirements, requirements for modification, amendment, and cancellation of standards and designations of authority.

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

Contact: Elleanore Daub, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4111 or e-mail: emdaub@deq.state.va.us.

† **November 7, 2002 - 10 a.m.** -- Open Meeting
Department of Environmental Quality, 629 East Main Street, Richmond, Virginia.

A meeting of the advisory committee assisting the department in the development of a draft General VPDES Permit for Ready-Mixed Concrete Plants.

Contact: Lily Choi, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4054, FAX (804) 698-4032, e-mail ychoi@deq.state.va.us.

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November 12, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Water Control Board intends to repeal regulations entitled: **9 VAC 25-70. Regulation No. 5 - Control of Pollution from Boats** and **9 VAC 25-730. Smith Mountain Lake No-Discharge Zone** and adopt regulations entitled: **9 VAC 25-71. Regulations Governing the Discharge of Sewage and Other Wastes from Boats.** The purpose of the proposed action is to repeal 9 VAC 25-70 and 9 VAC 25-730 and concurrently adopt 9 VAC 25-71 in order to provide a state regulation to address discharges of sewage and other wastes (decayed wood, sawdust, oil, etc.) from boats, especially with regard to implementation of no discharge zones.

Statutory Authority: §§ 62.1-44.15 and 62.1-44.33 of the Code of Virginia.

Contact: Michael B. Gregory, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4065, FAX (804) 698-4032 or e-mail mbgregory @deq.state.va.us.

VIRGINIA BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

December 12, 2002 - 8:30 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 5W, Richmond, Virginia.

The board will conduct routine business. A public comment period will be held at the beginning of the meeting.

Contact: David 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 waterwasteoper@dpor.state.va.us.

INDEPENDENT

STATE LOTTERY BOARD

† **October 30, 2002 - 9:30 a.m.** -- Open Meeting
Pocahontas Building, 900 East Main Street, Richmond, Virginia.

A regular meeting.

Contact: Barbara L. Robertson, Legislative and Regulatory Coordinator, State Lottery Board, 900 E. Main St., Richmond, VA 23219, telephone (804) 692-7105, FAX (804) 692-7775, e-mail brobertson@valottery.state.va.us.

VIRGINIA RETIREMENT SYSTEM

NOTE: CHANGE IN MEETING TIME
October 16, 2002 - 3 p.m. -- Open Meeting
November 19, 2002 - Noon -- Open Meeting
December 18, 2002 - Noon -- Open Meeting
VRS Headquarters, 1200 East Main Street, Richmond, Virginia.

A regular meeting of the Optional Retirement Plan Advisory Committee.

Contact: Darla K. Glazier, Office Manager, Virginia Retirement System, 1200 E. Main St., Richmond, VA 23219, telephone (804) 649-8059, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY ☎, e-mail dglazier@vrs.state.va.us.

October 17, 2002 - 9 a.m. -- Open Meeting
November 21, 2002 - 9 a.m. -- Open Meeting
December 19, 2002 - 9 a.m. -- Open Meeting
VRS Headquarters, 1200 East Main Street, Richmond, Virginia.

A regular meeting of the Board of Trustees. No public comment will be received.

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 20, 2002 - Noon -- Open Meeting
VRS Headquarters, 1200 East Main Street, Richmond, Virginia.

Committees will meet as follows:

Noon - Audit and Compliance Committee
1 p.m. - Benefits and Actuarial Committee
2:30 p.m. - Administrative and Personnel Committee
3 p.m. - Investment Advisory Committee

Contact: Darla K. Glazier, Office Manager, Virginia Retirement System, 1200 E. Main St., Richmond, VA 23219, telephone (804) 649-8059, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY ☎, e-mail dglazier@vrs.state.va.us.

December 18, 2002 - 3 p.m. -- Open Meeting
Bank of America Building, 1111 East Main Street, 4th Floor Conference Room, Richmond, Virginia.

A regular meeting of the Investment Advisory Committee. No public comment will be received at the meeting.

Contact: Phyllis Henderson, Virginia Retirement System, 1111 E. Main St., Richmond, Virginia 23219, telephone (804) 649-8059, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY ☎, e-mail phenderson@vrs.state.va.us.

LEGISLATIVE

VIRGINIA FREEDOM OF INFORMATION ADVISORY COUNCIL

† **October 7, 2002 - 2 p.m.** -- Open Meeting
General Assembly Building, 9th and Broad Streets, 2nd Floor, House Redistricting Room, Richmond, Virginia.

Subcommittee to discuss House Bill 900 addressing the payment of fees for FOIA requests.

Contact: Lisa Wallmeyer, Assistant Director, Virginia Freedom of Information Advisory Council, 910 Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804) 225-3056, FAX (804) 371-0169, toll-free (866) 448-4100, e-mail foiacouncil@leg.state.va.us.

† **October 15, 2002 - 10 a.m.** -- Open Meeting
General Assembly Building, 9th and Broad Streets, 2nd Floor, House Redistricting Room, Richmond, Virginia.

A meeting of the FOIA and Procurement Subcommittee to discuss an exemption for discussions and negotiations leading up to a decision to award a procurement contract.

Contact: Lisa Wallmeyer, Assistant Director, Virginia Freedom of Information Advisory Council, 910 Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804) 225-3056, FAX (804) 371-0169, toll-free (866) 448-4100, e-mail foiacouncil@leg.state.va.us.

DR. MARTIN LUTHER KING JR. MEMORIAL COMMISSION

October 24, 2002 - 10 a.m. -- Open Meeting
November 15, 2002 - 10 a.m. -- Open Meeting
December 17, 2002 - 10 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, Senate Room A, Richmond, Virginia.

A regular meeting. Questions about the agenda should be addressed to Brenda Edwards or Norma Szakal, Division of Legislative Services, (804) 786-3591.

Contact: Anne R. Howard, House Committee Operations, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY ☎

CONSUMER ADVISORY BOARD OF THE VIRGINIA ELECTRICAL UTILITY RESTRUCTURING ACT

October 10, 2002 - 10 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, Senate Room B, Richmond, Virginia.

A general meeting. Individuals requiring interpreter services or other accommodations should contact Senate Committee Operations.

Contact: Thomas C. Gilman, Senate Committee Operations, P.O. Box 396, Richmond, VA 23218, telephone (804) 698-7450 or (804) 698-7419/TTY ☎

COMMISSION ON THE FUTURE OF VIRGINIA'S ENVIRONMENT

October 15, 2002 - 10 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, Senate Room A, Richmond, Virginia.

A general meeting. Individuals requiring interpreter services or other accommodations should contact Senate Committee Operations.

Contact: Patty Lung, Senate Committee Operations, P.O. Box 396, Richmond, VA 23218, telephone (804) 698-7450 or (804) 698-7419/TTY ☎

JOINT COMMISSION ON TECHNOLOGY AND SCIENCE

† **October 24, 2002 - 10 a.m.** -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia.♿

A regular meeting of the Integrated Government Advisory Committee.

Contact: Eric Link, Staff Attorney, Joint Commission on Technology and Science, General Assembly Building, 910 Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591, e-mail elink@leg.state.va.us.

† **October 30, 2002 - 10 a.m.** -- Open Meeting
Old Dominion University, Webb University Center, Board of Visitors Conference Room, Norfolk, Virginia.

A regular meeting of the Intellectual Property and Entrepreneurial Development Advisory Committee.

Contact: Eric Link, Staff Attorney, Joint Commission on Technology and Science, General Assembly Building, 910 Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591, e-mail elink@leg.state.va.us.

CHRONOLOGICAL LIST

OPEN MEETINGS

October 7
† Attorney General, Office of the
- Identity Theft Task Force
Blind and Vision Impaired, Board for the
† Conservation and Recreation, Department of
- Chippokes Plantation Farm Foundation Board of Trustees
† Freedom of Information Advisory Council, Virginia
- House Bill 900 Subcommittee
Hearing Aid Specialists, Board for

October 8
† Criminal Justice Services, Department of
- Private Security Services Advisory Board
Nursing, Board of
- Special Conference Committee
† Psychology, Board of

October 9
† Air Pollution Control Board, State
Contractors, Board for
Environmental Quality, Department of
Innovative Technology Authority
Motor Vehicles, Department of
- Medical Advisory Board
Nursing Home Administrators, Board of
† Veterinary Medicine, Board of
- Special Conference Committee

October 10
Agriculture and Consumer Services, Board of
† Child Day-Care Council
Electrical Utility Restructuring Act, Virginia
- Consumer Advisory Board
Environmental Quality, Department of
Jamestown-Yorktown Foundation
Medicine, Board of
Motor Vehicles, Department of
- Digital Signature Implementation Workgroup
Nursing, Board of
- Special Conference Committee
† Water Control Board, State

October 11
Child Fatality Review Team, State

October 14
† Museum of Natural History, Virginia
- Board of Trustees Executive Committee

October 15
Blind and Vision Impaired, Board for the
† Freedom of Information Advisory Council, Virginia
- FOIA and Procurement Subcommittee
Future of Virginia's Environment, Commission on the
† Mines, Minerals and Energy, Department of
- Virginia Gas and Oil Board
Resources Authority, Virginia
† Technology Planning, Department of
- Virginia Research and Technology Advisory Commission

October 16
Education, Board of

Museum of Fine Arts, Virginia
- Expansion Committee
Nursing, Board of
- Special Conference Committee
† Pesticide Control Board
† Racing Commission, Virginia
Retirement System, Virginia
- Optional Retirement Plan Advisory Committee
Social Services, State Board of
Transportation Board, Commonwealth

October 17
Design-Build/Construction Management Review Board
Education, Board of
- State Special Education Advisory Committee
† Environmental Quality, Department of
† Health Professions, Department of
- Intervention Program Committee
Labor and Industry, Department of
- Virginia Apprenticeship Council
Mines, Minerals and Energy, Department of
- Governor's Mined Land Reclamation Advisory Committee
Nursing, Board of
- Special Conference Committee
Retirement System, Virginia
- Board of Trustees
Social Services, State Board of

October 18
Education, Board of
- State Special Education Advisory Committee
Health Professions, Department of
- Intervention Program Committee
Housing and Community Development, Department of
- State Building Code Technical Review Board
† Mental Health, Mental Retardation and Substance Abuse Services, Department of
- Olmstead Housing Team

October 19
† Motor Vehicles, Department of

October 21
† Barbers and Cosmetology, Board for
Environmental Quality, Department of
Intergovernmental Relations, Virginia Advisory Commission on
Nursing, Board of
- Special Conference Committee
Old Dominion University
- Executive Committee

October 22
† Aviation Board, Virginia
Blind and Vision Impaired, Board for the
† Environmental Quality, Department of
Marine Resources Commission
Nursing, Board of
- Special Conference Committee

October 23
† Aviation Board, Virginia
† Blind and Vision Impaired, Department for the
Labor and Industry, Department of
- Virginia Migrant and Seasonal Farmworkers Board
† Medicine, Board of
- Informal Conference Committee
† Real Estate Board
† Science Museum of Virginia
- Board of Trustees Finance Committee
Sewage Handling and Disposal Appeal Review Board

October 24
† Blind and Vision Impaired, Department for the
Game and Inland Fisheries, Department of
Dr. Martin Luther King, Jr. Memorial Commission
Medicine, Board of
† Mines, Minerals and Energy, Department of
- Virginia Coal Mine Safety Board
Real Estate Board
† Science Museum of Virginia
- Board of Trustees Finance Committee
† Small Business Financing Authority, Virginia
† Technology and Science, Joint Commission on
- Integrated Government Advisory Committee

October 28
† Health, Department of
- Radiation Advisory Board

October 29
Asbestos, Lead, and Home Inspectors, Virginia Board for
† Chesapeake Bay Local Assistance Board
- Policy Committee
- Regulatory Committee
- Southern Area Review Committee
† Compensation Board
Nursing, Board of
- Special Conference Committee

October 30
† Health Professions, Department of
† Lottery Board, State
Medicine, Board of
† Pharmacy, Board of
- Special Conference Committee
† Technology and Science, Joint Commission on
- Intellectual Property and Entrepreneurial Development Advisory Committee

October 31
† Mental Health, Mental Retardation and Substance Abuse Services, Department of
† Veterinary Medicine, Board of

November 1
Art and Architectural Review Board
† Blind and Vision Impaired, Department for the
Physical Therapy, Board of

November 4
† Deaf and Hard-of-Hearing, Department for the
† Museum of Natural History, Virginia
- Board of Trustees Executive Committee
Pharmacy, Board of
- Informal Conference Committee

November 6
† Accountancy, Board of
- Enforcement Committee
† Agriculture and Consumer Services, Department of
- Consumer Affairs Advisory Committee
Education, Board of
- Committee to Implement NCLB

November 7
Audiology and Speech-Language Pathology, Board of
† Blind and Vision Impaired, Department for the

Conservation and Recreation, Department of
- Falls of the James Scenic River Advisory Board

Jamestown-Yorktown Foundation

Medical Assistance Services, Department of
- Medicaid Drug Utilization Review Board

Rehabilitative Services, Department of

Technology Planning, Department of
- VGIN Advisory Board

† Veterinary Medicine, Board of

† Water Control Board, State

November 8

Child Fatality Review Team, State

† Opticians, Board for

November 11

Intergovernmental Relations, Virginia Advisory Commission on

November 12

Voluntary Formulary Board, Virginia

November 13

Contractors, Board for
- Tradesman/Education Committee

Gaming Commission, Charitable

Medicine, Board of

Real Estate Board

Rehabilitative Services, Department of

Technology Planning, Department of
- Wireless E-911 Services Board

November 14

† Alzheimer's Disease and Related Disorders Commission

Medicine, Board of

Real Estate Board

November 15

Dr. Martin Luther King Jr. Memorial Commission

November 18

Jamestown-Yorktown Foundation

Library Board, State
- Archival and Information Systems
- Collection Management Services Committee
- Legislative and Finance Committee
- Publications and Educational Services Committee
- Public Library Development Committee
- Records Management Committee

† Local Government, Commission on

Nursing, Board of

Old Dominion University
- Executive Committee

Rehabilitative Services, Department of

November 19

† Environmental Quality, Department of
- Ground Water Protection Steering Committee

Funeral Directors and Embalmers, Board of

Jamestown-Yorktown Foundation

Marine Resources Commission

Retirement System, Virginia
- Optional Retirement Plan Advisory Committee

November 20

† Education, Board of

Retirement System, Virginia
- Administration and Personnel Committee
- Audit and Compliance Committee
- Benefits and Actuarial Committee
- Investment Advisory Committee

November 21

Design-Build/Construction Management Review Board

† George Mason University
- Board of Visitors

Nursing, Board of

Retirement System, Virginia
- Board of Trustees

November 25

† Conservation and Recreation, Department of
- Chippokes Plantation Farm Foundation Board of Trustees

December 3

Funeral Directors and Embalmers, Board of

December 4

Contractors, Board for

Education, Board of
- Committee to Implement NCLB

Gaming Commission, Charitable

Nursing, Board of
- Special Conference Committee

December 5

Conservation and Recreation, Department of
- Falls of the James Scenic River Advisory Board

December 6

Art and Architectural Review Board

† Museum of Natural History, Virginia
- Board of Trustees Executive Committee

Social Services, State Board of
- Family and Children's Trust Fund Board

December 9

Nursing, Board of
Special Conference Committee

December 10

Medical Assistance Services, Board of

Nursing, Board of
- Special Conference Committee

December 11

† Milk Commission, State

December 12

† Health Professions, Department of
- Intervention Program Committee

Jamestown-Yorktown Foundation
- Jamestown 2007 Steering Committee

Motor Vehicles, Department of
- Digital Signature Implementation Workgroup

† Technology Planning, Department of
- Virginia Research and Technology Advisory Commission

Waterworks and Wastewater Works Operators, Virginia Board for

December 13

Health Professions, Department of
- Intervention Program Committee

† Medicine, Board of
- Credentials Committee
- Executive Committee

Old Dominion University
- Executive Committee

December 16

Nursing, Board of
- Special Conference Committee

December 17
Dr. Martin Luther King, Jr. Memorial Commission
December 18
Nursing, Board of
- Special Conference Committee
Retirement System, Virginia
- Investment Advisory Committee
- Optional Retirement Plan Advisory Committee
Social Services, State Board of
December 19
† Design-Build/Construction Management Review Board
Labor and Industry, Department of
- Virginia Apprenticeship Council
† Real Estate Board
Retirement System, Virginia
- Board of Trustees
Social Services, State Board of
December 20
† Real Estate Board
January 2, 2003
† Technology Planning, Department of
- Virginia Geographical Information Network Advisory Board

PUBLIC HEARINGS

October 7
Hearing Aid Specialists, Board for
Water Control Board, State
October 8
Asbestos, Lead, and Home Inspectors, Virginia Board for
Conservation and Recreation, Department of
Psychology, Board of
October 9
Nursing Home Administrators, Board of
October 10
Air Pollution Control Board, State
Environmental Quality, Department of
Medicine, Board of
October 15
Conservation and Recreation, Department of
October 16
Education, Board of
October 17
Auctioneers Board
October 22
Voluntary Formulary Board, Virginia
October 23
Real Estate Board
October 24
Waste Management Board, Virginia
November 12
† Air Pollution Control Board, State
† Waste Management Board, Virginia
November 13
† Mental Health, Mental Retardation and Substance Abuse Services Board, State
March 13, 2003
Agriculture and Consumer Services, State Board of