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CUMULATIVE TABLE OF VIRGINIA ADMINISTRATIVE CODE SECTIONS ADOPTED, AMENDED, OR REPEALED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printed below lists regulation sections, by Virginia Administrative Code (VAC) title, that have been amended, added or repealed in the *Virginia Register* since the regulations were originally published or last supplemented in VAC (the Fall 2003 VAC Supplement includes final regulations published through *Virginia Register* Volume 19, Issue 24, dated August 11, 2003). Emergency regulations, if any, are listed, followed by the designation "emer," and errata pertaining to final regulations are listed. Proposed regulations are not listed here. The table lists the sections in numerical order and shows action taken, the volume, issue and page number where the section appeared, and the effective date of this section.

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
Title 1. Administration			
1 VAC 55-10-10	Amended	20:5 VA.R. 454	12/17/03
1 VAC 55-10-20	Amended	20:5 VA.R. 454	12/17/03
1 VAC 55-10-30	Amended	20:5 VA.R. 454	12/17/03
1 VAC 55-20-320 emer	Amended	19:25 VA.R. 3829	10/1/03-9/30/04
Title 2. Agriculture			
2 VAC 20-30	Erratum	20:1 VA.R 39	--
Title 4. Conservation and Natural Resources			
4 VAC 15-30-40	Amended	19:25 VA.R. 3780	7/30/03
4 VAC 20-620-30	Amended	20:4 VA.R. 342	10/15/03
4 VAC 20-620-40	Amended	20:4 VA.R. 342	10/15/03
4 VAC 20-720-40 through 4 VAC 20-720-80	Amended	20:4 VA.R. 344-346	10/8/03
4 VAC 20-752-20	Amended	19:25 VA.R. 3780	7/23/03
4 VAC 20-1070-10 through 4 VAC 20-1070-50	Added	19:25 VA.R. 3781	8/1/03
4 VAC 25-31 (Forms)	Amended	20:2 VA.R. 135	--
4 VAC 25-31 (Forms)	Amended	20:5 VA.R. 487	--
4 VAC 25-130 (Forms)	Amended	20:1 VA.R 33	--
Title 6. Criminal Justice and Corrections			
6 VAC 20-171-10	Amended	20:3 VA.R. 214	11/19/03
6 VAC 20-171-20	Amended	20:3 VA.R. 217	11/19/03
6 VAC 20-171-30	Amended	20:3 VA.R. 217	11/19/03
6 VAC 20-171-40	Repealed	20:3 VA.R. 217	11/19/03
6 VAC 20-171-50 through 6 VAC 20-171-130	Amended	20:3 VA.R. 217-221	11/19/03
6 VAC 20-171-140	Repealed	20:3 VA.R. 221	11/19/03
6 VAC 20-171-150	Repealed	20:3 VA.R. 222	11/19/03
6 VAC 20-171-170 through 6 VAC 20-171-200	Amended	20:3 VA.R. 222-223	11/19/03
6 VAC 20-171-220	Amended	20:3 VA.R. 224	11/19/03
6 VAC 20-171-230	Amended	20:3 VA.R. 225	11/19/03
6 VAC 20-171-240	Amended	20:3 VA.R. 226	11/19/03
6 VAC 20-171-250 through 6 VAC 20-171-280	Amended	20:3 VA.R. 227-229	11/19/03
6 VAC 20-171-300	Amended	20:3 VA.R. 230	11/19/03
6 VAC 20-171-310	Amended	20:3 VA.R. 231	11/19/03
6 VAC 20-171-320	Amended	20:3 VA.R. 232	11/19/03
6 VAC 20-171-325	Repealed	20:3 VA.R. 233	11/19/03
6 VAC 20-171-330	Repealed	20:3 VA.R. 233	11/19/03
6 VAC 20-171-340	Repealed	20:3 VA.R. 233	11/19/03
6 VAC 20-171-350 through 6 VAC 20-171-400	Amended	20:3 VA.R. 234-241	11/19/03
6 VAC 20-171-420	Amended	20:3 VA.R. 241	11/19/03
6 VAC 20-171-430	Amended	20:3 VA.R. 241	11/19/03
6 VAC 20-171-440	Amended	20:3 VA.R. 241	11/19/03
6 VAC 20-171-460	Amended	20:3 VA.R. 241	11/19/03
6 VAC 20-171-480	Amended	20:3 VA.R. 241	11/19/03
6 VAC 20-171-500	Amended	20:3 VA.R. 241	11/19/03
6 VAC 20-171-510	Amended	20:3 VA.R. 241	11/19/03

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
6 VAC 20-171-540	Amended	20:3 VA.R. 241	11/19/03
6 VAC 20-171-560	Amended	20:3 VA.R. 241	11/19/03
6 VAC 20-190-10	Amended	20:4 VA.R. 346	12/3/03
6 VAC 20-190-40	Amended	20:4 VA.R. 347	12/3/03
6 VAC 20-190-60	Amended	20:4 VA.R. 347	12/3/03
6 VAC 20-190-90	Amended	20:4 VA.R. 347	12/3/03
6 VAC 20-190-100	Amended	20:4 VA.R. 347	12/3/03
6 VAC 20-190-120	Amended	20:4 VA.R. 347	12/3/03
6 VAC 20-190-150	Amended	20:4 VA.R. 348	12/3/03
6 VAC 20-190-160	Amended	20:4 VA.R. 348	12/3/03
6 VAC 20-190-170	Amended	20:4 VA.R. 348	12/3/03
6 VAC 20-200	Repealed	20:4 VA.R. 348	12/3/03
6 VAC 20-220-10 through 6 VAC 20-220-80	Added	20:4 VA.R. 348-350	12/3/03
Title 9. Environment			
9 VAC 5-40	Erratum	19:25 VA.R. 3844	--
9 VAC 20-60-18	Amended	20:2 VA.R. 128	11/5/03
9 VAC 20-80	Erratum	19:26 VA.R. 3926	--
9 VAC 20-80-10	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-60	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-80	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-90	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-100	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-105	Added	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-110	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-113	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-115	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-120	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-140	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-150	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-160	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-170	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-180	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-190	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-205	Added	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-210	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-240	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-250	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-260	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-270	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-280	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-300	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-310	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-330	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-340	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-360	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-370	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-460	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-485	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-500	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-510	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-520	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-530	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-550	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-570	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-580	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-600	Repealed	19:25 VA.R. 3782	9/24/03

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
9 VAC 20-80-620	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-640	Added	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-650	Added	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-670	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-730	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-740	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-760	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-770	Repealed	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-780	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-790	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-170-70	Added	20:3 VA.R. 242	11/19/03
9 VAC 20-170-195	Added	20:3 VA.R. 243	11/19/03
9 VAC 25-260	Erratum	19:26 VA.R. 3926	--
9 VAC 25-260-5 through 9 VAC 25-260-30	Amended	19:25 VA.R. 3785	†
9 VAC 25-260-50	Amended	19:25 VA.R. 3785	†
9 VAC 25-260-140	Amended	19:25 VA.R. 3785	8/27/03 ¹
9 VAC 25-260-150	Repealed	19:25 VA.R. 3785	8/27/03 ¹
9 VAC 25-260-170	Amended	19:25 VA.R. 3785	8/27/03 ¹
9 VAC 25-260-190 through 9 VAC 25-260-240	Repealed	19:25 VA.R. 3785	8/27/03 ¹
9 VAC 25-260-300	Amended	19:25 VA.R. 3785	8/27/03 ¹
9 VAC 25-260-310	Amended	19:25 VA.R. 3785	8/27/03 ¹
9 VAC 25-260-320	Amended	19:25 VA.R. 3785	8/27/03 ¹
9 VAC 25-260-340	Repealed	19:25 VA.R. 3785	8/27/03 ¹
9 VAC 25-260-380 through 9 VAC 25-260-450	Amended	19:25 VA.R. 3785	8/27/03 ¹
9 VAC 25-260-415	Added	19:25 VA.R. 3785	8/27/03 ¹
9 VAC 25-260-470 through 9 VAC 25-260-540	Amended	19:25 VA.R. 3785	8/27/03 ¹
9 VAC 25-280-10 through 9 VAC 25-280-90	Added	19:25 VA.R. 3785	8/27/03 ¹
Title 10. Finance and Financial Institutions			
10 VAC 5-200-90	Added	20:2 VA.R. 128	9/11/03
Title 11. Gaming			
11 VAC 10-20-410 through 11 VAC 10-20-417 emer	Added	19:26 VA.R. 3913-3919	8/13/03-8/12/04
11 VAC 10-130-77	Amended	20:4 VA.R. 350	10/14/03
11 VAC 10-150-130	Amended	20:4 VA.R. 351	11/17/03
Title 12. Health			
12 VAC 5-218-10 through 12 VAC 5-218-60	Added	19:26 VA.R. 3911	10/8/03
12 VAC 5-220-200	Amended	20:2 VA.R. 129	11/5/03
12 VAC 5-407-10 through 12 VAC 5-407-120	Added	19:26 VA.R. 3911	10/8/03
12 VAC 5-550-5	Added	19:26 VA.R. 3912	10/8/03
12 VAC 5-550-10	Repealed	19:26 VA.R. 3912	10/8/03
12 VAC 5-550-30	Amended	19:26 VA.R. 3912	10/8/03
12 VAC 5-550-40	Repealed	19:26 VA.R. 3912	10/8/03
12 VAC 5-550-70	Amended	19:26 VA.R. 3912	10/8/03
12 VAC 5-550-90 through 12 VAC 5-550-120	Amended	19:26 VA.R. 3912	10/8/03
12 VAC 5-550-125	Added	19:26 VA.R. 3912	10/8/03
12 VAC 5-550-130	Amended	19:26 VA.R. 3912	10/8/03
12 VAC 5-550-140	Amended	19:26 VA.R. 3912	10/8/03
12 VAC 5-550-150	Amended	19:26 VA.R. 3912	10/8/03
12 VAC 5-550-190	Amended	19:26 VA.R. 3912	10/8/03
12 VAC 5-550-200	Amended	19:26 VA.R. 3912	10/8/03
12 VAC 5-550-210	Amended	19:26 VA.R. 3912	10/8/03
12 VAC 5-550-230 through 12 VAC 5-550-260	Amended	19:26 VA.R. 3912	10/8/03
12 VAC 5-550-280 through 12 VAC 5-550-330	Amended	19:26 VA.R. 3912	10/8/03
12 VAC 5-550-350 through 12 VAC 5-550-410	Amended	19:26 VA.R. 3912	10/8/03

¹ 30 days after notice of EPA approval published in the Virginia Register of Regulations.

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 5-550-430 through 12 VAC 5-550-470	Amended	19:26 VA.R. 3912	10/8/03
12 VAC 5-550-510	Amended	19:26 VA.R. 3912	10/8/03
12 VAC 5-550-520	Amended	19:26 VA.R. 3912	10/8/03
12 VAC 30-40-100	Amended	20:4 VA.R. 351	12/3/03
12 VAC 30-40-140	Amended	20:4 VA.R. 351	12/3/03
12 VAC 30-40-240	Amended	20:4 VA.R. 351	12/3/03
12 VAC 30-40-280	Amended	20:4 VA.R. 351	12/3/03
12 VAC 30-40-290	Amended	20:4 VA.R. 351	12/3/03
12 VAC 30-50-10	Amended	20:1 VA.R. 25	10/22/03
12 VAC 30-50-20	Amended	20:1 VA.R. 26	10/22/03
12 VAC 30-50-50	Amended	20:1 VA.R. 26	10/22/03
12 VAC 30-50-60	Amended	20:1 VA.R. 27	10/22/03
12 VAC 30-50-120	Amended	20:1 VA.R. 27	10/22/03
12 VAC 30-50-140	Amended	20:1 VA.R. 27	10/22/03
12 VAC 30-50-140	Amended	20:1 VA.R. 29	10/22/03
12 VAC 30-50-150	Amended	20:1 VA.R. 30	10/22/03
12 VAC 30-50-530	Amended	20:1 VA.R. 28	10/22/03
12 VAC 30-70-201	Amended	20:5 VA.R. 455	1/4/04
12 VAC 30-70-291 emer	Amended	19:26 VA.R. 3920	8/13/03-8/12/04
12 VAC 30-70-301 emer	Amended	19:26 VA.R. 3921	8/13/03-8/12/04
12 VAC 30-70-331 emer	Amended	19:26 VA.R. 3922	8/13/03-8/12/04
12 VAC 30-80-40	Amended	20:2 VA.R. 132	11/6/03
12 VAC 30-120-700	Amended	19:25 VA.R. 3786	10/1/03
12 VAC 30-120-710	Amended	19:25 VA.R. 3789	10/1/03
12 VAC 30-120-720	Amended	19:25 VA.R. 3789	10/1/03
12 VAC 30-135-10 through 12 VAC 30-135-90	Added	19:25 VA.R. 3789-3791	10/1/03
12 VAC 35-105	Erratum	19:25 VA. R. 3844	--
Title 13. Housing			
13 VAC 5-21-10	Amended	19:25 VA.R. 3791	10/1/03
13 VAC 5-21-20	Amended	19:25 VA.R. 3792	10/1/03
13 VAC 5-21-31	Amended	19:25 VA.R. 3792	10/1/03
13 VAC 5-21-41	Amended	19:25 VA.R. 3793	10/1/03
13 VAC 5-21-51	Amended	19:25 VA.R. 3795	10/1/03
13 VAC 5-21-61	Amended	19:25 VA.R. 3795	10/1/03
13 VAC 5-21-70	Amended	19:25 VA.R. 3796	10/1/03
13 VAC 5-31-10	Amended	19:25 VA.R. 3796	10/1/03
13 VAC 5-31-40	Amended	19:25 VA.R. 3796	10/1/03
13 VAC 5-31-50	Amended	19:25 VA.R. 3796	10/1/03
13 VAC 5-31-60	Amended	19:25 VA.R. 3796	10/1/03
13 VAC 5-31-90	Amended	19:25 VA.R. 3796	10/1/03
13 VAC 5-31-110	Amended	19:25 VA.R. 3797	10/1/03
13 VAC 5-31-180	Amended	19:25 VA.R. 3797	10/1/03
13 VAC 5-31-190	Added	19:25 VA.R. 3797	10/1/03
13 VAC 5-51	Erratum	20:1 VA.R 39	--
13 VAC 5-51-11	Amended	19:25 VA.R. 3798	10/1/03
13 VAC 5-51-21	Amended	19:25 VA.R. 3798	10/1/03
13 VAC 5-51-31	Amended	19:25 VA.R. 3799	10/1/03
13 VAC 5-51-41	Amended	19:25 VA.R. 3799	10/1/03
13 VAC 5-51-51	Amended	19:25 VA.R. 3800	10/1/03
13 VAC 5-51-61	Amended	19:25 VA.R. 3801	10/1/03
13 VAC 5-51-71	Repealed	19:25 VA.R. 3801	10/1/03
13 VAC 5-51-81	Amended	19:25 VA.R. 3802	10/1/03
13 VAC 5-51-85	Added	19:25 VA.R. 3810	10/1/03
13 VAC 5-51-91	Amended	19:25 VA.R. 3812	10/1/03
13 VAC 5-51-101	Amended	19:25 VA.R. 3813	10/1/03
13 VAC 5-51-111	Amended	19:25 VA.R. 3814	10/1/03

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
13 VAC 5-51-121	Amended	19:25 VA.R. 3814	10/1/03
13 VAC 5-51-129	Added	19:25 VA.R. 3815	10/1/03
13 VAC 5-51-130	Amended	19:25 VA.R. 3815	10/1/03
13 VAC 5-51-131	Amended	19:25 VA.R. 3815	10/1/03
13 VAC 5-51-132	Added	19:25 VA.R. 3816	10/1/03
13 VAC 5-51-133	Amended	19:25 VA.R. 3816	10/1/03
13 VAC 5-51-135	Amended	19:25 VA.R. 3816	10/1/03
13 VAC 5-51-136	Amended	19:25 VA.R. 3817	10/1/03
13 VAC 5-51-140	Amended	19:25 VA.R. 3817	10/1/03
13 VAC 5-51-150	Amended	19:25 VA.R. 3818	10/1/03
13 VAC 5-51-155	Added	19:25 VA.R. 3822	10/1/03
13 VAC 5-51-160	Repealed	19:25 VA.R. 3822	10/1/03
13 VAC 5-51-170	Repealed	19:25 VA.R. 3822	10/1/03
13 VAC 5-51-180	Repealed	19:25 VA.R. 3823	10/1/03
13 VAC 5-51-181	Repealed	19:25 VA.R. 3823	10/1/03
13 VAC 5-51-182	Repealed	19:25 VA.R. 3824	10/1/03
13 VAC 5-51-190	Repealed	19:25 VA.R. 3824	10/1/03
13 VAC 5-51-200	Repealed	19:25 VA.R. 3824	10/1/03
13 VAC 5-61-11 through 13 VAC 5-61-460	Repealed	19:25 VA.R. 3824	10/1/03
13 VAC 5-62	Erratum	20:2 VA.R. 140	--
13 VAC 5-62-10 through 13 VAC 5-62-480	Added	19:25 VA.R. 3824	10/1/03
13 VAC 5-62-260 L	Suspended	20:2 VA.R. 133	²
13 VAC 5-62-260 M	Suspended	20:2 VA.R. 133	²
13 VAC 5-62-260 N	Suspended	20:2 VA.R. 133	²
13 VAC 5-80-10	Amended	19:25 VA.R. 3796	10/1/03
13 VAC 5-80-20	Repealed	19:25 VA.R. 3796	10/1/03
13 VAC 5-80-30	Repealed	19:25 VA.R. 3796	10/1/03
13 VAC 5-80-40 through 13 VAC 5-80-140	Amended	19:25 VA.R. 3796	10/1/03
13 VAC 5-80-150	Repealed	19:25 VA.R. 3796	10/1/03
13 VAC 5-91-10	Amended	19:25 VA.R. 3825	10/1/03
13 VAC 5-91-40	Amended	19:25 VA.R. 3825	10/1/03
13 VAC 5-91-50	Amended	19:25 VA.R. 3825	10/1/03
13 VAC 5-91-60	Amended	19:25 VA.R. 3825	10/1/03
13 VAC 5-91-100	Amended	19:25 VA.R. 3825	10/1/03
13 VAC 5-91-110	Amended	19:25 VA.R. 3825	10/1/03
13 VAC 5-91-120	Amended	19:25 VA.R. 3825	10/1/03
13 VAC 5-91-140	Amended	19:25 VA.R. 3825	10/1/03
13 VAC 5-91-160	Amended	19:25 VA.R. 3825	10/1/03
13 VAC 5-91-180	Amended	19:25 VA.R. 3826	10/1/03
13 VAC 5-91-200	Amended	19:25 VA.R. 3826	10/1/03
13 VAC 5-91-210	Amended	19:25 VA.R. 3826	10/1/03
13 VAC 5-91-230	Repealed	19:25 VA.R. 3826	10/1/03
13 VAC 5-91-245	Added	19:25 VA.R. 3826	10/1/03
13 VAC 5-91-250	Amended	19:25 VA.R. 3826	10/1/03
13 VAC 5-91-260	Amended	19:25 VA.R. 3826	10/1/03
13 VAC 5-91-270	Amended	19:25 VA.R. 3826	10/1/03
13 VAC 10-10-10	Amended	19:25 VA.R. 3826	8/1/03
13 VAC 10-10-20	Amended	19:25 VA.R. 3826	8/1/03
13 VAC 10-40-10	Amended	19:25 VA.R. 3827	8/1/03
13 VAC 10-40-30 through 13 VAC 10-40-70	Amended	19:25 VA.R. 3827	8/1/03
13 VAC 10-40-90	Amended	19:25 VA.R. 3827	8/1/03
13 VAC 10-40-100	Amended	19:25 VA.R. 3827	8/1/03
13 VAC 10-40-120	Amended	19:25 VA.R. 3827	8/1/03

² Effective date suspended for further public comment.

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
13 VAC 10-40-120	Amended	20:3 VA.R. 244	9/25/03
13 VAC 10-40-130	Amended	19:25 VA.R. 3827	8/1/03
13 VAC 10-40-130	Amended	20:3 VA.R. 244	9/25/03
13 VAC 10-40-140	Amended	19:25 VA.R. 3827	8/1/03
13 VAC 10-40-160	Amended	19:25 VA.R. 3827	8/1/03
13 VAC 10-40-160	Amended	20:3 VA.R. 244	9/25/03
13 VAC 10-40-170	Amended	19:25 VA.R. 3827	8/1/03
13 VAC 10-40-190 through 13 VAC 10-40-230	Amended	19:25 VA.R. 3827	8/1/03
13 VAC 10-40-190	Amended	20:3 VA.R. 244	9/25/03
13 VAC 10-40-210	Amended	20:3 VA.R. 244	9/25/03
13 VAC 10-40-230	Amended	20:3 VA.R. 244	9/25/03
Title 14. Insurance			
14 VAC 5-71-10	Amended	20:5 VA.R. 457	11/1/03
14 VAC 5-71-20	Amended	20:5 VA.R. 458	11/1/03
14 VAC 5-71-30	Repealed	20:5 VA.R. 459	11/1/03
14 VAC 5-71-31	Added	20:5 VA.R. 460	11/1/03
14 VAC 5-71-35	Added	20:5 VA.R. 463	11/1/03
14 VAC 5-71-40	Amended	20:5 VA.R. 464	11/1/03
14 VAC 5-71-60	Amended	20:5 VA.R. 464	11/1/03
14 VAC 5-71-70	Amended	20:5 VA.R. 465	11/1/03
14 VAC 5-71-80	Repealed	20:5 VA.R. 466	11/1/03
14 VAC 5-71-90	Amended	20:5 VA.R. 466	11/1/03
14 VAC 5-71-91	Added	20:5 VA.R. 467	11/1/03
14 VAC 5-71-92	Added	20:5 VA.R. 467	11/1/03
14 VAC 5-71-93	Added	20:5 VA.R. 467	11/1/03
14 VAC 5-310-10	Amended	20:5 VA.R. 469	12/31/03
14 VAC 5-310-20	Amended	20:5 VA.R. 469	12/31/03
14 VAC 5-310-30	Amended	20:5 VA.R. 469	12/31/03
14 VAC 5-310-40	Amended	20:5 VA.R. 470	12/31/03
14 VAC 5-310-50	Amended	20:5 VA.R. 470	12/31/03
14 VAC 5-310-60	Repealed	20:5 VA.R. 472	12/31/03
14 VAC 5-310-70	Repealed	20:5 VA.R. 473	12/31/03
14 VAC 5-310-80	Amended	20:5 VA.R. 475	12/31/03
14 VAC 5-310-90	Amended	20:5 VA.R. 479	12/31/03
14 VAC 5-310-100	Amended	20:5 VA.R. 481	12/31/03
14 VAC 5-310-105	Added	20:5 VA.R. 482	12/31/03
14 VAC 5-310-110	Repealed	20:5 VA.R. 482	12/31/03
Title 18. Professional and Occupational Licensing			
18 VAC 15-30	Erratum	19:26 VA.R. 3926	--
18 VAC 76-40-10 emer	Added	19:25 VA.R. 3831	8/6/03-8/5/04
18 VAC 76-40-20 emer	Added	19:25 VA.R. 3831	8/6/03-8/5/04
18 VAC 76-40-30 emer	Added	19:25 VA.R. 3832	8/6/03-8/5/04
18 VAC 76-40-30 emer (Forms)	Added	19:25 VA.R. 3833	--
18 VAC 80-20-70	Amended	19:25 VA.R. 3827	10/1/03
Title 19. Public Safety			
19 VAC 30-20-80	Amended	20:4 VA.R. 352	1/2/04
19 VAC 30-80-20	Amended	20:2 VA.R. 134	11/5/03
19 VAC 30-80-40	Added	20:2 VA.R. 134	11/5/03
Title 21. Securities and Retail Franchising			
21 VAC 5-120-50	Amended	20:1 VA.R. 32	9/2/03
Title 22. Social Services			
22 VAC 40-705-60	Amended	20:5 VA.R. 483	1/1/04
22 VAC 40-705-130	Amended	20:5 VA.R. 483	1/1/04
22 VAC 40-730-115	Added	20:5 VA.R. 484	1/1/04

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
Title 24. Transportation and Motor Vehicles			
24 VAC 30-71-10	Amended	20:4 VA.R. 353	12/3/03
24 VAC 30-71-20	Amended	20:4 VA.R. 353	12/3/03
24 VAC 30-71-30	Amended	20:4 VA.R. 354	12/3/03
24 VAC 30-71-50	Amended	20:4 VA.R. 354	12/3/03
24 VAC 30-71-70	Amended	20:4 VA.R. 354	12/3/03
24 VAC 30-71-80	Amended	20:4 VA.R. 354	12/3/03
24 VAC 30-71-90	Amended	20:4 VA.R. 355	12/3/03
24 VAC 30-71-100	Amended	20:4 VA.R. 355	12/3/03
24 VAC 30-71-110	Amended	20:4 VA.R. 355	12/3/03
24 VAC 30-71-120	Amended	20:4 VA.R. 355	12/3/03
24 VAC 30-71-130	Amended	20:4 VA.R. 355	12/3/03
24 VAC 30-71-150	Amended	20:4 VA.R. 357	12/3/03
24 VAC 30-71-160	Amended	20:4 VA.R. 357	12/3/03
24 VAC 30-71-170	Amended	20:4 VA.R. 362	12/3/03
24 VAC 30-580-10 through 24 VAC 30-580-40	Amended	20:5 VA.R. 485-486	10/28/03

NOTICES OF INTENDED REGULATORY ACTION

Symbol Key

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

TITLE 8. EDUCATION

STATE BOARD OF EDUCATION

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Education intends to consider adopting regulations entitled **8 VAC 20-680, Regulations Governing the General Achievement Diploma**. The purpose of the regulation is to provide individuals with an additional diploma option. The regulation will specify requirements for the award of a general achievement diploma for those persons who have (i) achieved a passing score on the GED examination; (ii) successfully completed an education and training program designated by the Board of Education; and (iii) satisfied other requirements as may be established by the board for the award of such diploma. The regulations will replace emergency regulations adopted by the Board of Education in July 2003.

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

Statutory Authority: §§ 22.1-253.13:4 and 22.1-254 of the Code of Virginia.

Public comments may be submitted until 5 p.m. on December 31, 2003.

Contact: Charles Finley, Assistant Superintendent for Accountability, Department of Education, P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 786-9421, FAX (804) 225-2524 or e-mail cfinley@mail.vak12ed.edu.

VA.R. Doc. No. R04-31; Filed November 7, 2003, 1:23 p.m.

TITLE 9. ENVIRONMENT

STATE WATER CONTROL BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Water Control Board intends to consider amending regulations entitled **9 VAC 25-260, Water Quality Standards**. The purpose of the proposed action is to include in the regulation updated numerical and narrative criteria to protect designated uses from the impacts of nutrients and sedimentation. The rulemaking will also include

new and revised use designations for the Chesapeake Bay and its tidal tributaries.

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

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

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

Contact: Elleanore M. Daub, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4111, FAX (804) 698-4522 or e-mail emdaub@deq.state.va.us.

VA.R. Doc. No. R04-39; Filed October 29, 2003, 11:17 a.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF COUNSELING

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Counseling intends to consider amending regulations entitled **18 VAC 115-20, Regulations Governing the Practice of Professional Counseling**. The purpose of the proposed action is to amend the existing regulation to update and provide for consistency of regulations relating to standards of practices, disciplinary actions, and reinstatement governing the three professions licensed by this board.

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

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

Public comments may be submitted until 5 p.m. on December 17, 2003.

Contact: Ben Foster, Deputy Executive Director, Board of Counseling, 6603 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9575, FAX (804) 662-7250 or e-mail ben.foster@dhp.state.va.us.

VA.R. Doc. No. R04-28; Filed October 28, 2003, 3:27 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Counseling intends to

Notices of Intended Regulatory Action

consider amending regulations entitled **18 VAC 115-50, Regulations Governing the Practice of Marriage and Family Therapy**. The purpose of the proposed action is to amend the existing regulation to update and provide for consistency of regulations relating to standards of practices, disciplinary actions, and reinstatement governing the three professions licensed by this board.

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

Statutory Authority: §§ 54.1-2400 and 54.1-3505 of the Code of Virginia.

Public comments may be submitted until 5 p.m. on December 17, 2003.

Contact: Ben Foster, Deputy Executive Director, Board of Counseling, 6603 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9575, FAX (804) 662-7250 or e-mail ben.foster@dhp.state.va.us.

VA.R. Doc. No. R04-29; Filed October 28, 2003, 3:27 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Counseling intends to consider amending regulations entitled **18 VAC 115-60, Regulations Governing the Practice of Licensed Substance Abuse Treatment Practitioners**. The purpose of the proposed action is to amend the existing regulation to update and provide for consistency of regulations relating to standards of practices, disciplinary actions, and reinstatement governing the three professions licensed by this board.

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

Statutory Authority: §§ 54.1-2400 and 54.1-3505 of the Code of Virginia.

Public comments may be submitted until 5 p.m. on December 17, 2003.

Contact: Ben Foster, Deputy Executive Director, Board of Counseling, 6603 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9575, FAX (804) 662-7250 or e-mail ben.foster@dhp.state.va.us.

VA.R. Doc. No. R04-30; Filed October 28, 2003, 3:27 p.m.



PROPOSED REGULATIONS

For information concerning Proposed Regulations, see Information Page.

Symbol Key

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

TITLE 1. ADMINISTRATION

DEPARTMENT OF THE TREASURY

Title of Regulation: **1 VAC 75-40. Unclaimed Property Administrative Review Process (adding 1 VAC 75-40-10 through 1 VAC 75-40-60).**

Statutory Authority: § 55-210.27 of the Code of Virginia.

Public Hearing Date: N/A -- Public comments may be submitted until 5 p.m. on February 1, 2004.

Agency Contact: Vicki D. Bridgeman, Director of Unclaimed Property, Department of the Treasury, James Monroe Building, 101 N. 14th Street, 4th Floor, Richmond, VA 23219, telephone (804) 225-3156, FAX (804) 786-4653, or e-mail vicki.bridgeman@trs.state.va.us.

Basis: Promulgation of this regulation is required by § 55-210.27 of the Code of Virginia, which states that the State Treasurer shall promulgate regulations pursuant to this section. This regulation complies with the statutory requirement and applies to all parties who may be impacted by the Uniform Disposition of Unclaimed Property Act.

Purpose: This regulation addresses the process whereby any person asserting ownership of property remitted to the Commonwealth or any holder of unclaimed property who is required to report and remit such property under the provisions of the Uniform Disposition of Unclaimed Property Act (Chapter 11.1, §§ 55-210.1 through 55-210.30 of the Code of Virginia) and who is aggrieved by a decision of the administrator of the act, may file an application for an administrative review of the administrator's decision. The goal is to set forth a standard procedure to be followed and a form to be used when disputes regarding claims and remittances occur. This regulation is essential for the protection and welfare of the citizens to which it applies by providing a higher level review to the aggrieved party of the administrator's decision.

Substance: This regulation allows any person or holder of unclaimed property the opportunity for an administrative review of a decision made by the Administrator of the Uniform Disposition of Unclaimed Property Act to which (i) a denial of payment decision notice was issued to a person asserting ownership of property remitted to the Commonwealth where it was determined the evidence submitted did not provide sufficient proof of ownership, (ii) a demand notice was issued requesting that a holder pay and deliver such property to the Commonwealth as required by the act along with such penalties and interest, if any, as required by the act, or (iii) for which any person was otherwise aggrieved by a decision of the administrator. The application for the administrative review must be filed within 90 days from the date such notice is received. The review panel has the ability to approve

claims made, correct errors detected and amend or withdraw any denial of payment or other notice from the administrator, based on any additional evidence and pertinent information presented supporting the basis for the review.

Issues: This regulation provides a benefit to both individual private citizens and holder businesses. Where an individual private citizen who has asserted ownership of property remitted to the Commonwealth and whose claim has been denied because the evidence submitted did not provide sufficient proof of ownership, this regulation provides a review process for this individual to request an administrative review of the decision. Where a holder business has received a demand notice requesting that the holder pay and deliver such unclaimed property to the Commonwealth as required by the act along with such penalties and interest, if any, as required by the act, this regulation provides a review process for the business to request an administrative review of the decision. The advantage to the Department of the Treasury's Division of Unclaimed Property is that the review process provides the department an additional opportunity to review additional information not previously presented by the claimant or the holder and to reconsider its previous decision in light of the new evidence presented. There is no disadvantage to the individual private citizen, the holder business or to the Commonwealth in the promulgation of this regulation.

Fiscal impact: This regulation has no fiscal impact on the Commonwealth as unclaimed property is held in perpetuity by the Commonwealth until the rightful owner is found and holders of unclaimed property are required to report and remit such property in accordance with the act. Further, the Department of the Treasury's Division of Unclaimed Property already addresses matters of this nature in much the same manner as the statutory requirement by virtue of internal procedures and statutory language in the act. There may be a small fiscal impact on individuals and holder businesses where such individuals and holder businesses must present additional evidence in the review process in order to overcome a decision by the administrator, however, statutory language in the act already requires this review process and promulgation of this regulation will not result in any additional fiscal impact than was already required or in any additional requests for administrative reviews.

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

the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the proposed regulation. Pursuant to § 55-210.27 C of the Code of Virginia, the Treasury Department (department) proposes to outline the process by which persons who have been required to pay or deliver abandoned property pursuant to the Uniform Disposition of Unclaimed Property Act (act), or who assert ownership of property remitted to the Commonwealth pursuant to the act, may file an application to appeal department administrator decisions.

Estimated economic impact. The Uniform Disposition of Unclaimed Property Act (act)¹ dictates that "all tangible and intangible property, including any income or increment thereon, less any lawful charges, that is held, issued or owing in the ordinary course of the holder's business and has remained unclaimed by the owner for more than five years² after it became payable is presumed abandoned ..." The act provides further specifics on when various financial instruments and funds are to be considered abandoned. Per § 55-210.12 of the act, every person (or entity) holding funds or other property, tangible or intangible,³ that have been determined to be abandoned, must report and remit the property to the State Treasurer (treasurer).

If the administrator,⁴ as agent of the treasurer, ascertains that any person or entity (holder) has failed to pay or deliver abandoned property in accordance with the provisions of the act, he issues a written notice demanding remittance of the property and payment of any penalties and interest prescribed by law. The department employs inspectors who seek to find persons and entities who have failed to deliver abandoned assets to the treasurer.

Holders are notified that they have the right to secure an administrative or judicial review (file an appeal) of the administrator's decision. In addition, individuals whose claims to abandoned property held by the Commonwealth have been denied may also file an appeal. These proposed regulations describe how the appeal process is conducted. Currently no regulations describe this process. For the most part, the appeal process remains unchanged from how it has occurred for at least twenty years.⁵ The appeal applicant notifies the

administrator that he wishes to appeal. The administrator contacts the applicant to schedule an administrative review meeting. Prior to the review meeting, the applicant submits evidence and pertinent information supporting the basis for the Application for an Administrative Review, etc. The only change in process brought about by the proposed regulations is the introduction of an application form for appeal applicants to fill out and submit. Currently, there is no set form for applicants to fill out. The form is one page and requests the same information that the department currently requires.

The proposed regulations are beneficial in that the public may become better informed on the existence and procedures of the appeal process. The introduction of the application form will provide some additional clarity to the process. The set form may reduce the frequency that applicants are unsure of the department's required information.

Businesses and entities affected. The proposed regulations affect the individuals, businesses, and other entities who appeal Treasury Department decisions concerning abandoned property. Appeals are relatively rare. There have been approximately six to ten appeals over the last 15 years.⁶

Localities particularly affected. The proposed regulations affect all Virginia localities.

Projected impact on employment. The proposed regulations will not have a significant impact on employment.

Effects on the use and value of private property. The proposed regulations may reduce wasted time due to confusion over the appeal process. Otherwise, the use and value of private property will not likely be significantly affected.

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

Summary:

This regulation addresses the process whereby any person (also, the applicant) (i) asserting ownership of property remitted to the Commonwealth under the Uniform Disposition of Unclaimed Property Act, (ii) required to pay or deliver abandoned property pursuant to the Uniform Disposition of Unclaimed Property Act, or (iii) otherwise aggrieved by a decision of the administrator, may file an application for administrative review and correction of the administrator's determination. The review process will provide the applicant with the opportunity to have its issues considered at a different management level in the Department of the Treasury. The applicant's participation in the review process is voluntary and completion of this administrative review process is not a condition precedent to litigation. In addition, the form of application is provided.

1 VAC 75-40-10. Definitions.

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

¹The Uniform Disposition of Unclaimed Property Act is Chapter 11.1, §§ 55-210.1 through 55-210.30.

²Under some circumstances, certain financial instruments are deemed abandoned after being unclaimed for seven or 15 years. See § 55-210.3:02.

³Per § 55-210.2 of the Code of Virginia, "Intangible property" includes, by way of illustration, (i) moneys, checks, drafts, deposits, interest, dividend income; (ii) credits, customer overpayments, gift certificates, security deposits, refunds, unpaid wages, and unidentified remittances; (iii) stocks and other intangible ownership interests in business associations; (iv) moneys deposited to redeem stocks, bonds, coupons, and other securities, or to make distributions; (v) amounts due and payable under the terms of insurance policies; and (vi) amounts distributable from a trust or custodial fund established under a plan to provide any health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance or similar benefit."

⁴The treasurer designates an administrator. The administrator is typically the Director of the Unclaimed Property Division at the Department of the Treasury.

⁵Source: Department of the Treasury

⁶Ibid

Proposed Regulations

"Abandoned property" means funds or other property, tangible or intangible, presumed abandoned under the act.

"Act" refers to the Uniform Disposition of Unclaimed Property Act, Chapter 11.1 (§ 55-210.1 et seq.) of Title 55 of the Code of Virginia.

"Administrator" means the Director of the Unclaimed Property Division at the Department of the Treasury or such other person as shall be designated by the State Treasurer.

"Applicant" means any person (i) asserting ownership of property remitted to the Commonwealth under the Uniform Disposition of Unclaimed Property Act, (ii) required to pay or deliver abandoned property pursuant to the Uniform Disposition of Unclaimed Property Act, or (iii) otherwise aggrieved by a decision of the administrator.

"Division of Unclaimed Property" means the Division in the Department of the Treasury of the Commonwealth of Virginia responsible for administration of the Uniform Disposition of Unclaimed Property Act.

"Holder" means a person, wherever organized or domiciled, who is (i) in possession of property belonging to another, (ii) a trustee in case of a trust, or (iii) indebted to another on an obligation.

1 VAC 75-40-20. State Treasurer to give written notice to any person asserting ownership of property when payment denied.

The State Treasurer will issue a denial of payment letter to any person asserting ownership of property remitted to the Commonwealth under the act where it is determined that the evidence submitted does not provide sufficient proof of ownership.

1 VAC 75-40-30. State Treasurer to give written notice for failure to pay or deliver abandoned property.

The State Treasurer shall issue a written notice to any person who he ascertains has failed to pay or deliver abandoned property. The notice will demand the remittance of the property and payment of any penalties and interest. The notice will be accompanied by a detailed explanation of the person's right to administrative or judicial review. The notice will require the holder to remit the demanded property, plus penalties and interest, if any, to the State Treasurer within 90 days from the date the notice is received by the holder unless the holder requests (i) an administrative review in accordance with this regulation, or (ii) a judicial review in accordance with § 55-210.22 of the Code of Virginia.

1 VAC 75-40-40. Request for administrative review.

Any person aggrieved by a decision of the administrator may file an application for administrative review and correction of the administrator's determination.

1. Any person asserting ownership of property remitted to the Commonwealth receiving a denial of payment letter from the State Treasurer may file an application for administrative review within 90 days from the date the notice is received by such person.

2. Any person receiving a written notice from the State Treasurer demanding the remittance of property and the payment of penalties and interest, if any, may file an application for administrative review within 90 days after receipt by the holder of the written notice.

3. Any person otherwise aggrieved by a decision of the administrator may file an application for administrative review within 90 days from the date the written notice is received by such person.

1 VAC 75-40-50. Application for administrative review.

All requests for an administrative review are required to be submitted on the form entitled "Application for an Administrative Review" within the prescribed time period. The Application for an Administrative Review must be accompanied by the documentation to support the review or an explanation as to why such supporting documentation is not available. No application shall be denied solely on the basis that no supporting documentation is available or that additional documentation may be desirable. Failure to submit the Application for an Administrative Review within the prescribed time period will bar administrative but not judicial review of the matter.

1 VAC 75-40-60. Administrative review process steps.

A. The Application for an Administrative Review form must be submitted to the administrator as agent for the State Treasurer within the prescribed time period.

B. The administrator will contact the applicant to schedule the administrative review meeting within 30 calendar days of the receipt of the Application for an Administrative Review.

C. The administrative review will be held at the office of the State Treasurer at an agreed upon time during the next 30 calendar days or at such later time as is mutually agreed upon by the applicant and the administrator. Prior to the review meeting, the applicant shall present any additional evidence and pertinent information supporting the basis for the Application for an Administrative Review.

D. The review panel for the Department of the Treasury will consist of the State Treasurer or designee, the Director of Unclaimed Property or designee, and a representative from the Office of the Attorney General. A representative from the Division of Unclaimed Property Audit or Claims area may also participate in the administrative review meeting. The applicant may be assisted at the review meeting by his agent or by legal counsel, or both.

E. During the administrative review meeting, the applicant will have an opportunity to explain his reason for requesting a correction. Members of the State Treasurer's review panel may ask questions to clarify their understanding of the issues. There will be no examination or cross-examination of any of those present at the meeting. The Division of Unclaimed Property (Division) shall allow the applicant to make an audio recording of the administrative review meeting at the applicant's expense and using the applicant's equipment. The division may make an audio recording of the administrative review meeting at the division's expense and using the division's equipment. The division shall, upon request of the

Proposed Regulations

applicant, provide the applicant a transcript of a meeting recorded by the division. The division may charge the applicant for the cost of the requested transcription and reproduction of the transcript. Receipts from the charges for the transcripts shall be credited to the division for reimbursement of transcription expenses.

F. The State Treasurer's review panel has the ability to approve claims, correct errors and amend or withdraw any denial of payment letter or other written notice from the administrator or State Treasurer.

G. Based on the evidence and additional information presented during the review meeting, the State Treasurer will issue a written determination to the applicant within 90 days of the receipt of the Application for an Administrative Review.

The State Treasurer will notify the applicant and the administrator if a longer period is required. The State Treasurer's written determination will also advise the applicant of his right to seek judicial review pursuant to § 55-210.22 of the Code of Virginia.

FORMS

NOTICE: The form used in administering 1 VAC 75-40, Unclaimed Property Administrative Review Process, is listed and published below.

Application for an Administrative Review.

APPLICATION FOR AN ADMINISTRATIVE REVIEW

Applicant Name: _____
Primary Contact: _____ Phone: _____
Address: _____

Fax Number: _____ E-mail Address: _____

Reason for Request: Claim Denial Demand Notice Other

Participants on behalf of the Applicant:

Name: _____	Title: _____
Name: _____	Title: _____
Name: _____	Title: _____
Name: _____	Title: _____

Review Amount (if known): \$ _____

Years Covered: _____

Review Issue: _____

(Continue on separate pages if necessary.)

Signature on behalf of Applicant: _____ Date: _____

Name: _____

Title, if applicable: _____

Note: Supporting documents, if available, must be submitted with this Application.

Proposed Regulations

TITLE 8. EDUCATION

STATE BOARD OF EDUCATION

Title of Regulation: 8 VAC 20-340. Regulations Governing Driver Education (amending 8 VAC 20-340-10; adding 8 VAC 20-340-20 and 8 VAC 20-340-30).

Statutory Authority: §§ 22.1-16, 22.1-205 and 46.2-334 of the Code of Virginia.

Public Hearing Date: January 7, 2004.

Public comments may be submitted until 5 p.m. on February 2, 2004.

(See Calendar of Events section for additional information)

Agency Contact: Vanessa Wigand, Specialist in Driver Education, Department of Education, P.O. Box 2120, Richmond, VA 23113, telephone (804) 225-3300, FAX (804) 225-2524.

Basis: In accordance with provisions of the National Highway Safety Act of 1966 (23 USC § 401 et seq.) and §§ 22.1-205, 46.2-340, 46.2-334, and 46.2-335 of the Code of Virginia, local school boards shall determine whether to offer a driver education program, and, if offered, whether it will be taught in lieu of 10th grade health education or as an elective course.

The Board of Education has specific authority over driver education programs under § 22.1-205 of the Code of Virginia.

Purpose: The current Regulations Governing Driver Education programs were last reviewed in 1980. Since that time two major factors have affected the need to revise the regulation:

1. The 2001 General Assembly amended § 22.1-205 of the Code of Virginia to require a minimum number of miles driven during the behind-the-wheel phase of driver education instruction as prescribed by the Board of Education.
2. The Department of Education, in cooperation with the Department of Motor Vehicles, has in recent years developed administrative guidelines for the operation of driver education programs. The present revisions incorporate the regulatory language that was previously contained in the administrative manual, thus giving these provisions regulatory impact on the regulated entities.

The proposed regulation will not adversely affect the public's health or welfare. The proposed regulation will have a positive effect on the public's safety because the provisions are expected to result in drivers who are more knowledgeable about safe driving techniques, strategies and laws.

Substance: Successful completion of a state-approved driver education program is a prerequisite to obtain a Virginia driver's license. The driver education program is designed to meet the future transportation safety needs of young drivers in the Commonwealth. Significant attention is given to risk awareness, driver alertness, and responsible actions relative to occupant protection devices, positive interaction with other roadway users, and the physical and psychological conditions that affect driver performance.

Upon successful completion of the driver education program, and with parent/guardian approval, the school will issue the student a 90-day temporary license. The provisional license is then awarded to the student at a judicial licensing ceremony as required by § 46.2-336 of the Code of Virginia. In addition, the Virginia standardized program of 36 periods of classroom instruction and 14 periods of in-car instruction meets the minimum educational requirements for a minor to obtain a driver's license in another state, U.S. territory, or Canadian province.

Issues: The primary issue to be addressed in the proposed revised regulations will be establishing a minimum number of miles driven during the behind-the-wheel phase of instruction as necessitated by the amendment to § 22.1-205 of the Code of Virginia. This code section directs the Board of Education to establish a standardized program of driver education in the safe operation of motor vehicles. Also, for the past several years, the Department of Education has enforced provisions currently contained in the administrative guidelines for driver education programs. It is imperative that these provisions be incorporated into the amended regulations in order to properly establish that the provisions are to be enforced as regulation.

Fiscal Impact: Essentially, the proposed regulation will not affect the cost of the program. Approximately 2,300 driver education teachers will monitor the number of miles driven during the behind-the-wheel phase of instruction, and 80,000 students, their families and the Commonwealth will benefit from a higher level of accountability.

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

Summary of the Proposed Regulation. The Board of Education (board) proposes to (i) establish a minimum number of miles driven during the behind-the-wheel phase of driver education instruction, (ii) incorporate language from the Driver Education Administration Manual into these regulations, and (iii) amend language to be consistent with the Code of Virginia.

Estimated Economic Impact. Section 22.1-205 of the Code of Virginia states that the "Board of Education shall establish for the public school system a standardized program of driver education in the safe operation of motor vehicles." Pursuant to legislation passed by the 2001 General Assembly, "such program shall require a minimum number of miles driven during the behind-the-wheel driver training." The board proposes to require that students drive a minimum of 50 miles

during the in-car phase of instruction in high school driver education programs. This requirement will have no impact. The board already requires that driver education programs have 14 periods of in-car instruction. Since a period lasts 50 minutes, 14 periods add up to 11 hours and 40 minutes. Even allowing for time to get into and out of the car, as well as pre and post-driving instruction, it seems unlikely that in any program students would drive less than 50 miles in 11 hours and 40 minutes. Indeed the Department of Education (department) surveyed school divisions and found that in all programs students drive substantially more than 50 miles during the in-car phase of instruction.

The board proposes to incorporate part of the *Driver Education Administration Manual* into these regulations. The incorporation does not affect policy.

These regulations have not been amended since 1980.¹ The current regulations state that "schools shall schedule a program of driver education for all eligible students." This conflicts with § 22.1-205 of the Code of Virginia, which states that "each (local) school board shall determine whether to offer the program of driver education ..." In order to conform the regulations with the Code of Virginia, the board proposes to eliminate the language requiring that schools schedule a program of driver education. According to the department, the board has left the decision on whether to offer driver education programs to local school boards for at least 12 years. Thus, this proposed change to the regulations will have no impact.

Businesses and Entities Affected. The proposed regulations affect all school divisions, the 2,300² driver education teachers in Virginia schools, and their students.

Localities Particularly Affected. The proposed regulations affect all Virginia localities.

Projected Impact on Employment. The proposed amendments do not affect employment.

Effects on the Use and Value of Private Property. The proposed amendments do not affect the use and value of private property.

Agency's Response the Department of Planning and Budget's Economic Impact Analysis: The agency concurs with the Economic Impact Statement issued by the Department of Planning and Budget on January 16, 2003.

Summary:

The amendments require that local school boards determine whether to offer a driver education program and require a minimum of 50 miles driven during the in-car phase of driver education instruction. New provisions define (i) length of class periods for driver education, (ii) the contents of a state-approved driver education program, (iii) application of regulations to private schools, (iv) collection of fees, (v) specialized requirements for driver education

teachers, (v) requirements for completion of program prior to the school issuing the 90-day provisional license to a student, (vi) requirement that successful completion of a standardized end-of-course road skills assessment must be achieved prior to the school issuing a 90-day provisional license, and (vii) minimum requirement for driver education vehicles.

8 VAC 20-340-10. Driver education program.

A. In accordance with provisions of the National Highway Safety Act of 1966 (23 USC § 401 et seq.) and § 46.2-334 of the Code of Virginia, ~~schools shall schedule a program of driver education for all eligible students. The program shall consist of 36 periods of classroom instruction and 14 periods of in-car instruction which shall include seven periods of actual driving and seven periods of observation time. The classroom instruction should be offered during the 10th grade. School divisions may offer alternative programs. These shall be developed in accordance with procedures outlined in the Curriculum Guide for Driver Education in Virginia. local school boards shall determine whether to offer a driver education program, and, if offered, whether it will be elective or required. School divisions offering programs that comply with the standardized program of study and regulations established by the Board of Education and the provisions of § 22.1-205 of the Code of Virginia are entitled to participate in the distribution of state funds for driver education.~~

B. A state-approved driver education program consists of a minimum of 36 periods of classroom instruction and 14 periods of in-car instruction. The standardized driver education program established by the Board of Education requires that:

1. Classroom and in-car instruction shall follow the standardized program of study.
2. Local programs shall have the option that classroom driver education may be taught in lieu of 36 class periods of health education or as an elective course.
3. Superintendents and heads of private schools must seek program approval from the Department of Education prior to providing instruction and certify that the proposed program meets all state-approved program requirements.
4. The length of a class period must be a minimum of 50 minutes.
5. Students must drive a minimum of 50 miles during the in-car phase of instruction.
6. In-car instruction must be limited to no more than two periods of instruction in any 24-hour period, of which at least one must be actual driving.
7. No more than four periods of actual driving and four periods of observation on a multiple-car-range can count towards the 14-period in-car requirement.
8. Combination, on-street, simulation, and multiple-car-range programs must provide at least six periods of on-street driving and observation, four periods of multiple-car-range driving and observation, and eight periods of simulation.

¹ Source: Department of Education.

² Approximate number from the Department of Education.

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9. Only fees approved by the Board of Education shall be collected for the laboratory phase of driver education pursuant to the Appropriation Act.

10. Public or private schools must submit classroom and in-car driver education teachers' driver license information for driver record monitoring as required by § 46.2-340 of the Code of Virginia.

11. Local school boards must develop written policies concerning initial or continued employment of classroom and in-car teachers who receive excessive demerit points on their driving record.

12. Public and private schools must provide the Department of Education with the previous year's program data to calculate in-car basic aid reimbursement and to monitor program compliance.

13. Classroom and laboratory phases of the program must be offered concurrently at the same school, or allow only a limited amount of time to elapse between classroom completion and laboratory instruction.

14. Students who have not successfully completed the classroom phase at one school cannot begin in-car instruction at another school.

15. Successful completion of a standardized end-of-course road skills assessment must be achieved prior to the school issuing a 90-day provisional license.

8 VAC 20-340-20. Driver education vehicles.

The school division or school shall:

1. Provide a vehicle in excellent mechanical condition, equipped with dual-control brakes, a roof top sign, dual side mirrors, and safety restraints;

2. Ensure all driver education vehicles are equipped with restraint systems of the type approved by the Department of State Police in accordance with §§ 46.2-1093 and 46.2-1095 of the Code of Virginia;

3. Provide a vehicle with a current Virginia inspection sticker and license plate;

4. Insure the vehicle above the minimum amount required by state statute for liability and property damage; and

5. Identify the instructional vehicle by displaying "DRIVER EDUCATION VEHICLE" and name of school (or school division) attached to the top of the vehicle. The school name does not have to be on the rooftop sign and may appear in another visible location on the vehicle.

8 VAC 20-340-30. Teacher requirements.

The standardized driver education program established by the Board of Education requires that teachers:

1. Hold a valid Virginia teaching license with an add-on endorsement or approved program endorsement in driver education; or, for in-car instruction, satisfy the paraprofessional training requirements;

2. Hold a valid Virginia driver's license; or, for teachers with valid out-of-state driver's licenses, provide the Department of Education with a copy of their driving record at the beginning of each semester, at the beginning of summer school, and when they receive a moving violation;

3. Have a broad background of driving experiences (two years minimum) in cities, rural roadways and highways;

4. Possess sound physical, mental and emotional qualities;

5. Have a satisfactory driving record; teachers who have accumulated six or more demerit points shall be removed from providing behind-the-wheel instruction for a period of 24 months, (no public or private school shall retain its driver education program approval by the Department of Education unless the teacher is removed);

6. Who have had their license suspended or revoked, or who have received a Driving Under the Influence (DUI) arrest or conviction, be immediately removed from any classroom or laboratory driver education teaching assignment;

7. Obtain parent/guardian permission to enroll a student in the laboratory phase of instruction;

8. Make every reasonable effort to protect students from injury;

9. Ensure the proper use of safety restraints by all persons occupying the driver education vehicle;

10. Ensure that the student driver has in his possession a valid Virginia learner's permit when operating a driver education vehicle;

11. Have at least two students, or no more than three students, in the car; however, when it is in the best interest of the student, and with prior written permission from the parents or legal guardians, one student may be scheduled for in-car instruction;

12. Shall not allow the driver education vehicle to be used by any student during on-street instruction without the teacher being in the vehicle providing direct instruction. If the vehicle is parked and students remain in the vehicle, the keys shall be removed by the teacher. In no event should the vehicle's engine remain running with students inside the vehicle without the teacher also being inside the vehicle; and

13. Shall not allow the driver education vehicle to be used during multiple-car range instruction without teacher supervision.

V.A.R. Doc. No. R01-259; Filed November 12, 2003, 10:03 a.m.

Title of Regulation: 8 VAC 20-670. Regulations Governing the Operation of Private Day Schools for Students with Disabilities (adding 8 VAC 20-670-10 through 8 VAC 20-670-440).

Statutory Authority: §§ 22.1-16 and 22.1-321 of the Code of Virginia.

Public Hearing Date: January 7, 2004.

Public comments may be submitted until 5 p.m. on February 2, 2004.

(See Calendar of Events section for additional information)

Agency Contact: Carolyn Hodgins, Specialist, Private Day Schools, Department of Education, P.O. Box 2120, Richmond, VA 23218, telephone (804) 225-4551, FAX (804) 225-2524.

Basis: The scope of legal authority is defined by § 22.1-16 of the Code of Virginia, which states that "The Board of Education may adopt bylaws for its own government and promulgate such regulations as may be necessary to carry out its powers and duties and the provisions of this title." Sections 22.1-319 through 22.1-335 of the Code of Virginia provide the legal requirements for private trade, technical, business and correspondence schools, and schools for students with disabilities. The Board of Education is charged in § 22.1-321 of the Code of Virginia with promulgation of regulations for the management and conduct of the schools. The schools for students with disabilities must also comply with federal special education law, 20 USC §§ 1400-1485, the Individuals with Disabilities Education Act, and Regulations Governing Special Education Programs for Children with Disabilities in Virginia.

Purpose: Private day schools for students with disabilities are currently regulated by The Regulations Governing the Operation of Proprietary Schools and Issuing of Agent Permits, which also covers private career schools. The purpose of these planned regulations is to separate the current complex and intertwined regulations. It is intended that revised regulations for the career schools and new regulations for the private day schools for students with disabilities be promulgated to provide clarity and specificity for each type of school. This would remove questions about applicability and ensure that both schools are licensed and operated in accordance with §§ 22.1-16 and 22.1-321 of the Code of Virginia.

The welfare, health and safety of the general public as well as students and staffs are protected by establishing clear, orderly requirements for the establishment and conduct of such schools. There have been several changes in the Code of Virginia and in applicable standards that need to be updated in the regulations. Additionally, the changes will reorganize, renumber, and simplify the regulations. There are inconsistencies that need to be addressed including academic standards, behavior management and the elimination of fees for such schools.

Substance: The regulations set forth requirements addressing the management and conduct of the schools including staff qualifications, physical facilities, instructional programs, student services, records and contracts, and cancellation and refund policies. They provide schools the guidance necessary to implement programs that are in compliance with the law

and that protect both the students' and the proprietors' interests. The regulations provide a clear process by which a school receives and maintains a license or a certificate to operate. Types of approval, advertising, student guaranty provisions, denial, revocation, suspension or refusal to renew certificates to operate or licenses are detailed in the document. Specific requirements clarify academic standards and educational programs, administrative, instructional, and support personnel, behavior management, accessibility, provisions for health care, and safety.

The proposed amendments are as follows:

1. Fees are eliminated to conform to an action of the General Assembly to eliminate collection of fees from private day schools for students with disabilities.
2. On-site visits currently required by regulation every two years will be aligned with the Code of Virginia, which allows the issuing of licenses for up to three years. The regulations will require visits every three years and allow unannounced visits during the three-year time period.
3. Language is added that requires criminal background checks including fingerprinting of full or part-time, permanent or temporary employees of schools whose accreditation is recognized by the State Board of Education.
4. Language was added to ensure that schools have policies and procedures for behavior management that protect the safety and well-being of students at all times.
5. Language was added to conform to the SOA to require the private day schools to be maintained in a manner ensuring compliance with the Virginia Uniform Statewide Building Code and regulations of the board pertaining to facilities. Also added is the establishment of procedures to deal with emergencies including hostage situations, bomb threats, power outages, fires and inclement weather.
6. Medication management including the transportation and dispensing of medications is addressed.
7. Schools serving privately placed students are required to offer access to a tuition insurance plan if they financially obligate students for more than quarterly increments of the annual tuition.
8. Provisions were added to conform to the current Regulations Governing Special Education Programs for Children with Disabilities in Virginia.

Issues: The advantages to parents of students who are placed in private day schools for students with disabilities, persons wishing to establish and operate such schools, local education agencies and Community Services Act team, and the general public is a set of clear concise fully applicable and orderly requirements for the establishment and conduct of such schools. There are no known disadvantages to the public or the Commonwealth.

Fiscal Impact: The cost to the agency will continue at its current allocation of approximately \$100,000 annually, which includes employment of a full time specialist, part-time administrative support, travel, and materials. All funds are federal dollars. A minor impact on agency resources resulting

Proposed Regulations

from the new regulations is only that for printing and disseminating the new regulations. Some cost savings may occur in travel as school visits will be required every three years rather than the current requirement of an on-site visit every two years. The savings would be contingent on the number of unannounced visits deemed prudent during the three years. Localities will not incur any cost as a result of the new regulations. There will be little to no fiscal impact on the private day schools for students with disabilities that are currently licensed and monitored by the department. Schools that serve only publicly placed students will see an annual cost savings of approximately \$100 after three years of operation as they will no longer have to have a surety bond.

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

Summary of the proposed regulation. The Virginia Board of Education (board) originally adopted the Regulations Governing the Operation of Proprietary Schools and Issuing of Agent Permits (8 VAC 20-13-10 et seq.) in 1970. Those regulations provide the basis upon which private trade, technical, business, and correspondence schools, and private day schools for children with disabilities can be established and operated within the Commonwealth. The proposed new regulations, Regulations Governing the Operation of Private Day Schools for Students with Disabilities, separate the current complex and intertwined regulations and provide the basis upon which private day schools for students with disabilities are licensed and operated in accordance with §§ 22.1-16 and 22.1-321 of the Code of Virginia. In addition, the proposed new regulations differ from the Regulations Governing the Operation of Proprietary Schools and Issuing of Agent Permits in several ways by: (i) not including fees, (ii) exempting schools that collect no advance tuition other than equal monthly installments from maintaining a guarantee instrument, (iii) allowing schools to obligate students for more than quarterly increments of their annual tuition if the school makes tuition insurance available, (iv) scheduled on-site inspections will occur every three years and unannounced visits may occur anytime, and (v) criminal background checks including fingerprinting are required for school employees.

Estimated economic impact. The current regulations include licensure fees, which have not been assessed for at least eight years.¹ The costs to the Department of Education (department) of regulating private day schools for students

with disabilities are fully paid for by the federal government.² The proposed regulations do not mention fees. Since these fees have not been assessed in many years and there have been no plans to assess them, removing the fee language will have no practical effect beyond avoiding some possible confusion.

The current and proposed regulations require that schools for students with disabilities maintain a guaranty instrument (surety bond, irrevocable letter of credit, or certificate of deposit) as a condition of continued certification or licensing. The purpose of the guarantee requirement is to ensure that schools are financially capable of refunding unused tuition if, for example, a school closed down. The department estimates that maintaining the guarantee instrument costs schools on average about \$100 per year. The board proposes to permit schools that have shown that they collect no advance tuition other than equal monthly installments or are paid after services have been rendered,³ to apply for exemption from the guarantee requirement. Regarding those schools that do not receive advanced tuition payments, the proposed exemption clearly provides a net benefit for the Commonwealth. The schools reduce their costs by approximately \$100 on average and tuition payers do not lose out since they have no advanced payments at risk.

For schools that receive payments one month in advance, the picture is less clear. The schools will reduce their costs by about \$100 on average. On the other hand, tuition payers could be made worse off by some degree since they do have one month of advanced tuition payments at risk. The amount of benefit they lose depends on the probability that their school will close down, multiplied by the probability that they do not get reimbursed for their advanced tuition if the school closes down, multiplied by the probability that the guarantee instrument held by the school will, in practice, reimburse the tuition payer, multiplied by the amount reimbursed. Since accurate estimates for these factors are not available, the cost of exempting schools that receive tuition payments one month in advance from maintaining a guarantee instrument cannot be determined. But the risk that contracted services will not be provided are present in most commercial transactions without government involvement attempting to eliminate that risk. Firms have the option to purchase insurance (bonding) to assure their customers that their upfront payments will not be lost.

Under the current regulations, private day schools for students with disabilities cannot effectively obligate students for more than quarterly increments of their annual tuition. The prohibition on allowing schools and students (or their parent or guardian) to contract on mutually agreeable terms that may include obligating tuition for more than one quarter is costly. Permitting schools to offer contracts to tuition payers that would financially obligate them for say one semester or the full year, rather than only one quarter, can be significantly beneficial for schools. These schools, like other

¹ Source: Department of Education

² Ibid

³ The schools would be required to demonstrate that they collect no advance tuition other than equal monthly installments or are paid after services have been rendered over three years of operation.

organizations, need to plan, create budgets, and make expenditures based on expectations of revenue. At least some schools would likely be willing to accept somewhat lower tuition if they could be assured that they will receive more than one quarter's tuition. Some tuition payers who are confident that they will be using more than one quarter of educational service would benefit and would be willing to obligate themselves for more than one quarter's tuition in exchange for lower tuition.

The board proposes to allow schools to financially obligate privately placed students for more than one quarter of the school year at a time if the school offers access to a tuition insurance plan. According to the department, handing a brochure on tuition insurance offered by a third party to the student (or parent or guardian) would satisfy the requirement for offering access to a tuition insurance plan. Tuition insurance is currently readily available. As long as it remains readily available, the board's proposal does in effect remove the prohibition on contracts between schools and tuition payers obligating the payers for more than one quarter's tuition. As discussed above, permitting binding contracts that last longer than one quarter of the year can be mutually beneficial for both schools and tuition payers.

Under the current regulations, schools receive announced on-site inspections by department staff once every two years to determine if their facilities meet licensure requirements, but do not receive surprise inspections. The proposed regulations require announced visits once every three years, but also allow unannounced visits to occur. If two conditions are met, permitting the department to conduct surprise inspections increases the schools' incentives to maintain their facilities such that they would meet licensure requirements year-round. Those conditions are: (i) the inspections occur often enough that the schools perceive there to be a nontrivial chance that they will receive surprise inspections, and (ii) the schools perceive that there is a nontrivial chance that they will lose their license or receive some other significant penalty if they do not maintain their facilities such that they would meet licensure requirements.

Unlike the current regulations, the proposed regulations require that staff at licensed schools have criminal background checks, including fingerprints. According to the department, the cost for these checks is approximately \$90 per person. The majority of schools already do conduct criminal background checks. All schools accredited by the Virginia Council of Private Education must conduct checks; 33 of the 61⁴ licensed schools in Virginia are so accredited. In addition, many, but not all, of the rest of the licensed schools conduct checks as well.⁵ For some schools required criminal background checks will introduce a new cost of doing business.

The benefits of requiring criminal background checks are not as easy to estimate as the costs. Schools are not required to change hiring decisions based upon the results of criminal

background checks. But it is likely that schools that are not already conducting criminal background checks will hire fewer individuals whose criminal past may indicate increased probability of abuse toward children when they are required to conduct background checks. Officials at these schools who believe that they can judge a job applicant's character without aid of a criminal background check will have the results of the checks to show them when past behavior indicates that they may be wrong; some reduced probability of hiring individuals with a criminal past relevant to working in a building with children will likely occur. Also, these school officials will know that they cannot plead ignorance in court if their hires with relevant criminal backgrounds commit additional crimes after they are hired. Thus, increased liability concerns will further reduce the likelihood that schools would hire staff with relevant criminal histories.

Businesses and entities affected. The proposed regulatory amendments affect the 61 private day schools for students with disabilities licensed in the Commonwealth, the up to 3,577 students at those schools, and the payers of tuition to the private day schools for students with disabilities.⁶

Localities particularly affected. The proposed regulatory amendments affect all localities.

Projected impact on employment. The proposed amendments are unlikely to significantly affect total employment levels. The proposal to require criminal background checks may affect which individuals are hired.

Effects on the use and value of private property. Exempting private schools that collect no advance tuition other than equal monthly installments from maintaining a guarantee instrument will reduce their annual costs by about \$100 and will thus increase their value by the same amount. Allowing schools to obligate students for more than quarterly increments of their annual tuition if the school makes tuition insurance available will enable schools and tuition payers to reach contract agreements that are mutually beneficial. Also, firms that sell tuition insurance may receive additional business. Permitting the department to conduct unannounced inspections may increase schools' incentives to maintain their facilities such that they would meet licensure requirements year-round. For those schools that are not already conducting criminal background checks of their hires, the proposed requirement that they do so will increase their costs. The information received from the criminal background checks may enable them to make better hiring decisions and thus will not necessarily reduce the value of their business by the full amount (if at all) of the background check costs.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The agency concurs with the Economic Impact Statement issued by the Department of Planning and Budget on January 31, 2003.

⁴ Source: Department of Education (numbers will be valid as of December 31, 2002)

⁵ Ibid

⁶ According to the Department of Education, there were 61 private day schools for students with disabilities licensed in the Commonwealth on December 31, 2002, and those schools had a combined student capacity of 3,577.

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Summary:

Existing regulations entitled, "Regulations Governing the Operation of Proprietary Schools and Issuing of Agent Permits" (8 VAC 20-13) provide the basis upon which private trade, technical, business, and correspondence schools, and private day schools for children with disabilities can be established and operated within the Commonwealth. The proposed new regulations entitled, "Regulations Governing the Operation of Private Day Schools for Students with Disabilities," provide in a separate regulation the requirements for private day schools for students with disabilities that are licensed and operated in accordance with §§ 22.1-16 and 22.1-321 of the Code of Virginia. In addition, the proposed new regulations differ from 8 VAC 20-13 (Regulations Governing the Operation of Proprietary Schools and Issuing of Agent Permits) in several ways by (i) exempting schools that collect no advance tuition other than equal monthly installments from maintaining a guarantee instrument, (ii) allowing schools to obligate privately placed students for more than quarterly increments of their annual tuition if the school makes tuition insurance available, (iii) providing that scheduled on-site inspections will occur every three years and unannounced visits may occur anytime, and (iv) requiring criminal background checks including fingerprinting for school employees. Fees are not included in conformance with action of the General Assembly to eliminate collection of fees from private day schools for students with disabilities.

CHAPTER 670.
REGULATIONS GOVERNING THE OPERATION OF
PRIVATE DAY SCHOOLS FOR STUDENTS WITH
DISABILITIES.

PART I.
DEFINITIONS; EXEMPTIONS.

8 VAC 20-670-10. Definitions.

"Behavioral intervention plan" means a plan that utilizes positive behavioral interventions and supports to address behaviors that interfere with the learning of students with disabilities or with the learning of others or behaviors that require disciplinary action.

"Behavior management" means those principles and methods employed by a school to help an individual student achieve a positive outcome and to address and correct inappropriate behavior in a constructive and safe manner. Behavior management principles and methods must be employed in accordance with the individualized education program or individualized instructional plan and written policies and procedures governing service expectation, educational and treatment goals, and safety and security.

"Board" means the Virginia Board of Education.

"Branch campus" means any multi-site location in the same town, city, or county where the school is offered on a regular continuing basis.

"Consent" means the voluntary and revocable agreement of the parent or parents or eligible student who has been fully informed of all information relevant to the activity including

which records, if any, will be released for which consent is sought in the parent's, parents' or eligible student's native language, or other mode of communication, and who understands and agrees, in writing, to the carrying out of the activity for which consent is sought.

"Department" means the Virginia Department of Education.

"Disability category" means a listing of special education eligibility classifications for students served.

"Extension classroom" means a location away from but in close proximity to the main campus where only classes are offered.

"Guaranty instrument" means a surety bond, irrevocable letter of credit or certificate of deposit.

"License to operate" means the legal document issued by the Board of Education that provides institutional and programmatic authority to operate a school as further defined in these regulations.

"Paraprofessional" means an appropriately trained employee who assists and is supervised by qualified professional staff.

"Physical restraint" (also referred to as "manual hold") means the use of approved physical interventions or "hands-on" holds to prevent a student from moving his body to engage in behavior that places himself or others at risk of physical harm. Physical restraint does not include the use of "hands on" approaches that occur for extremely brief periods of time and never exceeds more than a few seconds duration and is used for the following purposes:

1. To intervene in or redirect a potentially dangerous encounter in which the student may voluntarily move away from the situation or hands-on approach; or
2. To quickly deescalate a dangerous situation that could cause harm to the individual or others.

"Regulations" means this document in its entirety.

"Rules of conduct" means a listing of rules that is maintained to inform students and others about behaviors that are not permitted and the consequences applied when the behaviors occur.

"School for students with disabilities" means a privately owned or operated preschool, school or educational organization, no matter how titled, maintained or conducting classes for the purpose of offering instruction, for a consideration, profit or tuition, to persons determined to have autism, deaf-blindness, a developmental delay, a hearing impairment, including deafness, mental retardation, multiple disabilities, an orthopedic impairment, other health impairment, an emotional disturbance, a severe disability, a specific learning disability, a speech or language impairment, a traumatic brain injury, or a visual impairment including blindness.

"Time out" means removing the individual from his immediate environment to a different, open location until the student is calm or the problem behavior has subsided.

PART II.
GENERAL REQUIREMENTS.

8 VAC 20-670-20. License to operate.

A. Any school defined in the Code of Virginia as a school for students with disabilities shall receive a license to operate from the board prior to operation.

B. A License to operate shall be prominently displayed on the premises of the school.

8 VAC 20-670-30. Initial application.

A. The application forms and information regarding the application process shall be available from the department.

B. Complete applications and other required documentation shall be submitted to the department at least 60 administrative days in advance of the school's planned opening date.

8 VAC 20-670-40. Assessment of application.

A. The department shall evaluate each completed application within 60 administrative days of its receipt for licensure and advise the school in writing of its approval or any deficiencies.

B. All deficiencies shall be corrected within 100 calendar days from receipt of the department's written evaluation of the application. Any school not meeting this deadline shall submit to the department a written request for continued consideration.

8 VAC 20-670-50. Advertising and enrolling restrictions.

A. A school shall not advertise or enroll students prior to receiving a license to operate.

B. A license to operate shall be restricted to the disability categories specifically indicated.

C. Authority is granted to the department to suspend enrollment in or withdraw approval of programs of holders of licenses to operate that do not continue to meet the requirements of these regulations. A school that has had enrollment suspended or approval withdrawn shall be notified by certified mail and shall not enroll new students in such programs.

8 VAC 20-670-60. Certification or licensing of branch campus/ extension classroom.

A school with a license to operate may open an additional facility in the same town, city or county under the same certificate or license. The school shall submit an application and secure authorization from the department.

8 VAC 20-670-70. Penalty for noncompliance.

A. Any person who opens, operates, or conducts a school without first obtaining a license to operate may be found guilty of a Class 2 misdemeanor.

B. Each day the school remains open without a license to operate, the owner or board of directors shall incur a separate offense.

C. The department shall refer to the Office of the Attorney General any alleged or known violation of these provisions.

The Office of the Attorney General shall refer the matter to the Commonwealth Attorney of proper jurisdiction.

PART III.
APPLICATION.

8 VAC 20-670-80. Application requirements for schools seeking a license to operate.

The following information shall be submitted as part of the application:

1. Title or name of the school that is permanent and distinct and shall not be changed without first securing approval from the department.

2. Names and addresses of owners, controlling officials, and managing employees.

3. Evidence of compliance with applicable State Corporation Commission regulations when the school is owned by a partnership or corporation.

4. Curriculum information in the department's required format.

5. A scale drawing or copy of the floor plan including room use and dimensions.

6. A certificate of occupancy or other report from the appropriate government agency or agencies indicating that the location or locations meet applicable fire safety, building code, and sanitation requirements.

7. A copy of the deed, lease, or other legal instruments authorizing the school to occupy such locations.

8. A listing of the equipment, training aids, and textbooks used for instruction.

9. The maximum anticipated enrollment to be accommodated with the equipment available and the ratio of students to teachers and instructional aides.

10. A listing of the qualifications of the staff in the school.

11. A proposed budget, a three-year financial plan, and documentation of sufficient operating capital to carry the school through its first year including proof of a guaranty instrument described in subdivision 13 of this section.

12. A copy of the student enrollment agreement, a current schedule of tuition and other fees, copies of all other forms used to keep student records, and the procedure for collecting and refunding tuition.

13. A surety bond, irrevocable letter of credit or certificate of deposit as required by 8 VAC 20-670-320.

14. Copies of all proposed advertising.

15. Any additional information as the board or department may deem necessary to carry out the provisions of the Code of Virginia.

8 VAC 20-670-90. Applicant commitments.

Each applicant for a license to operate shall provide a notarized certificate of compliance form provided by the Department of Education, acknowledging their commitment to

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conduct the school in an ethical manner and in accordance with the provisions of state and federal laws and applicable regulations.

PART IV. PROGRAM REQUIREMENTS.

8 VAC 20-670-100. Statement of purpose, philosophy, and objectives.

Each school shall be responsible for formulating a written statement setting forth its purpose, philosophy, objectives, and admissions policies, which shall be used for guidance concerning the character and number of students with disabilities to be served, the instructional program to be offered, the staff to be used, and the services to be provided.

8 VAC 20-670-110. Instructional program.

A. The instructional program of each school shall reflect the written philosophy of the school by implementing the stated objectives through methods, procedures, and practices that reflect an understanding of and meet the applicable academic, vocational, therapeutic, recreational, and socialization needs of the students served. Instructional programs for students with disabilities shall be conducted in accordance with appropriate regulations governing the education of children with disabilities approved and issued by the board.

B. Each school shall provide a program of instruction that promotes the individual student's developmental growth or academic achievement at successive grade levels. Instruction shall be designed to accommodate each student and meet the abilities, interest, educational and transitional needs of the students.

C. Programs for students with disabilities shall also comply with the following requirements:

1. Each student identified by a local education agency (LEA) as eligible for special education and related services and placed by a local school division or for noneducational reasons by a comprehensive services team shall have an individualized education program on file with the school in accordance with regulations of the board governing the education of children with disabilities. Students not identified as such and those placed by parents shall have an individualized instruction program.

2. Individualized education programs shall address participation in the general curriculum and acquisition of the knowledge and skills contained in the Virginia Standards of Learning for English, mathematics, science, and history/social science.

3. Confidentiality of information including access rights; record of access; record on more than one child; list of types and location of information; fees; amendment of records at parent's request; consent; collection, storage, disclosure and destruction safeguards; and destruction of information shall be kept in accordance with regulations of the board.

4. The school shall use testing and evaluation materials that are not racially or culturally discriminatory and do take into

consideration the student's disabling condition or conditions, or racial and cultural background.

5. The Virginia State Assessment Program shall be addressed in the student's individualized education program.

6. Schools shall follow the Standards for Accrediting Public Schools in Virginia (8 VAC 20-131) or standards approved by the Virginia Council of Private Education for conferring credit and diplomas.

7. Records of current initial eligibility determinations or reevaluations of eligible students with disabilities, conducted in accordance with board regulations, shall be on file.

8. A planned program for personnel development shall be provided.

9. A plan for and documentation of contact with parents, guardians, and local school division personnel shall be available.

10. All procedural safeguards required by regulations governing the education of students with disabilities shall apply for eligible students.

11. Instructional/training schedules shall be conducted in accordance with board regulations.

12. The school shall maintain pupil-teacher ratios in accordance with department regulations.

D. A written agreement between the school and any third party organization shall be entered into for programs requiring an enrolled student internship or externship. A copy of the agreement shall be available for review by the board or department.

8 VAC 20-670-120. Intradepartmental cooperation.

Staff from the Department of Education will be available for consultation on educational programming.

8 VAC 20-670-130. Behavior management programs.

A. If a school has a program for behavior management or modification, the school shall develop, implement, and have on file written policies and procedures that describe the use of behavior management techniques approved by the governing body of the school. Positive approaches to behavior management shall be emphasized. The behavior management techniques used by the school shall be listed in order of their relative degree of intrusiveness or restrictiveness and the conditions under which they may be used by trained school personnel. The policies must protect the safety and well-being of the student at all times, including during fire and other emergencies. Policies must specify the mechanism for monitoring and methods of documenting the use of behavior management techniques.

B. All interested parties, including students, their parents, guardians and local education agencies when the student is publicly placed, shall be informed of the policies and rules of conduct through written information contained in the school's handbooks, brochure, enrollment contract, or other

publications. Informed consent shall be obtained before implementation of any behavior management program.

C. Schools may allow students to voluntarily take time outside the classroom or in a designated area of the classroom to regroup. If the student requires assistance to remove himself from the immediate environment, it must be done in accordance with the school's policies and procedures for the use of time out that comply with sound therapeutic practice. Staff must be available to students during this time in regaining emotional control.

D. A school that uses physical restraints shall have and implement written policies and procedures governing their use. The procedures shall include methods to be followed should physical restraint, less intrusive interventions, or measures permitted by other applicable state regulations prove unsuccessful in calming and moderating the student's behavior. Use of physical restraints shall be limited to that which is minimally necessary to protect the student or others and may only be used by trained staff and only after less intrusive interventions have failed and when failure to restrain would result in harm to the student or others.

E. The behavior management program shall be developed, implemented, and monitored by staff trained in behavior management programming. Staff shall review the training in physical restraints and less intrusive interventions at least annually.

F. Application of a formal behavior management technique designed to reduce or eliminate severely maladaptive, violent, or self-injurious behavior contingent upon the exhibition of such behaviors is allowed only as part of an individually approved time-specific plan that is consistent with sound therapeutic practice. Consent of the individual, parent or guardian, and the placing school division is required.

G. Individual applications of formal behavior management techniques including use of physical restraints shall be reported to the parents and documented in the student's record and, at a minimum, include date and time, staff involved, circumstances and reasons for use, including other behavior management techniques attempted, duration, type of technique used, and outcomes.

H. Injuries resulting from or occurring during the implementation of behavior management techniques shall be documented and appropriate health care shall be administered. The student's parents or legal guardian shall be notified.

I. Students shall not discipline, restrain or implement behavior management plans of other students.

J. The following actions are prohibited:

1. Any action that is humiliating, degrading, or abusive;
2. Deprivation of drinking water or food necessary to meet a student's daily nutritional needs except as ordered by a licensed physician for a legitimate medical purpose and documented in the student's file;
3. Denial of use of toilet facilities or toileting assistance;

4. Use of restraint as punishment, reprisal, or for the convenience of staff;

5. Corporal punishment;

6. Deprivation of health care including counseling; and

7. Use of mechanical and chemical restraints.

8 VAC 20-670-140. Equipment and instructional materials.

A. Equipment and materials for instruction shall be provided in sufficient variety, quantity, and design to implement the educational program to meet the needs of the students with disabilities as identified in the individualized education program (IEP) or individualized instruction plan (IIP) as appropriate.

B. There shall be a library adequately equipped or resource materials available on site to meet the needs of the students according to the types of training or educational programs offered by the school, if applicable. Depending upon the age and needs of the students with disabilities, reference materials should be available to the preacademic, the academic, and the career education levels, if applicable.

8 VAC 20-670-150. Provisions for health.

A. A report of physical examination not more than three years old by a qualified healthcare provider and an up-to-date immunization record shall be on file for each student.

B. A student suffering with a contagious or infectious condition or disease shall be excluded from school while in that condition unless attendance is approved by a qualified healthcare provider.

C. An adequate first aid kit shall be provided for use in the case of accidents, minor injuries, and medical emergencies.

D. All medications shall be accepted only in current original labeled prescription containers with parental permission to administer.

E. Transportation of medication shall be expressly covered in the school's policy manual. All interested parties shall be informed of the policy through written information.

F. Training shall be provided to all staff in medication procedures and effects and in infection control measures including the use of universal precautions. All staff administering medication shall receive approved training for medication management. At least one person trained in first aid and CPR shall be available at all times to the students at the school and on field trips.

G. In schools where meals are served on a daily basis, the school shall have the services of either a full-time or part-time dietitian or nutritionist, or consultative assistance to ensure that a well-balanced nutritious daily menu is provided. Records of menus for all meals served shall be kept on file for six months.

H. Any case of suspected child abuse or neglect shall be reported immediately to the local child protective services unit as required by the Code of Virginia. Any case of suspected child abuse or neglect that is related to the facility shall be reported immediately to the department and placing agency,

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and to either the parent or legal guardian. When a case of suspected child abuse or neglect is reported to child protective services, the student's records shall include the date and time the suspected abuse or neglect occurred, a description of the incident, the action taken as a result of the incident, and the name of the person to whom the report was made at the local child protective services unit.

8 VAC 20-670-160. Transportation.

A. All drivers of vehicles transporting students shall comply with the requirements of the applicable laws of Virginia. Appropriate safety measures that take into consideration the age range and disabling conditions of students served at the school shall be taken by staff members or other adults who may transport students to and from school.

B. Evidence of vehicle liability insurance to protect those students transported to and from the school shall be submitted.

C. All schools shall have on file evidence that school-owned vehicles used for the purpose of transporting students to and from school and school-related activities meet federal and state standards and are maintained in accordance with applicable state and federal laws.

D. All vehicles used to transport students on school activities shall be equipped with first aid kits, a fire extinguisher, and two-way communication devices.

E. Individual student emergency information including currently prescribed and over-the-counter medications, significant medical problems, and any allergies shall accompany students when they are being transported.

PART V. DISABILITY CATEGORIES.

8 VAC 20-670-170. Disability categories.

A. The instructional program shall exist only for those students who have a disability listed in the categories posted on the school's current license to operate.

B. Supplementary applications to serve additional categories of students may be submitted to the department for approval at any time. The information must be submitted in such form as prescribed by the department.

C. Revisions to existing program services must be submitted to the department for approval prior to implementation.

PART VI. STAFF.

8 VAC 20-670-180. Personnel policies.

Each school shall develop written personnel policies for employees that shall include, but not be limited to, job descriptions, evaluation procedures, procedures for handling accusations against staff, and termination policies and make them available to the board or department if requested.

Licensure Regulations for School Personnel (8 VAC 20-21) issued by the board are to be used by the schools when hiring staff employed by another school.

8 VAC 20-670-190. Administrative personnel.

A. Each school shall designate a person to be responsible for the administration of the school. This person shall be a graduate of an accredited college or university and shall have sufficient time, training, and ability to carry out effectively the duties involved.

B. The individual responsible for the day-to-day operation of the educational program, no matter how titled, shall hold and maintain a valid five-year renewable postgraduate professional license issued by the board. This individual shall hold an endorsement in at least one appropriate area of disability served by the school. The individual serving in this capacity could be the same person functioning as the administrator identified in subsection A of this section provided licensure requirements are met.

C. The department may make exception to the above requirements for good cause upon application by the school.

8 VAC 20-670-200. Teachers.

A. Teachers of academic courses in elementary and nondepartmentalized middle and high school programs shall hold a current Virginia teaching license issued by the board with endorsement in at least one of the specific areas of disability served by the school, or otherwise comply with board regulations. "Otherwise comply" means that a teacher without endorsement in a specific area of disability must secure a Special Education Conditional License from the board and agree in writing to earn credit at the rate of six semester hours per year toward full endorsement beginning in the next semester. Requirements for a teaching license and the procedure for securing a license are outlined in the Licensure Regulations for School Personnel (8 VAC 20-21).

B. Teachers in middle and high schools that are departmentalized must hold a current Virginia teachers license with endorsement in the academic area they are instructing. A sufficient number of appropriately endorsed special education teachers must be available to case manage individualized education programs (IEPs) and to provide disability specific technical assistance and instruction. Ongoing staff development must include disability specific training.

C. Teachers of specialized subjects such as music, art, physical education, health and vocational education must hold a valid teaching license with an endorsement in the teaching area of responsibility and agree to complete course work or inservice training in working with the types of students served by the school.

D. The board may make exception to the above requirements for good cause.

8 VAC 20-670-210. Ancillary personnel.

A. A therapist employed by a school shall be professionally trained in the area or areas of therapy in which he practices. If the school employs a therapist, this person shall be licensed or certified by the appropriate state and national authority or licensed eligible and currently working under the supervision of a licensed therapist. Documentation of continued progress toward licensure must be maintained.

B. Audiologists or speech therapists employed by the school shall be licensed by the appropriate state authority or meet the requirements for licensure as outlined in Licensure Regulations for School Personnel (8 VAC 20-21).

C. Psychologists employed by the school shall be licensed by the appropriate state authority, or meet the requirements for school psychologists, or both, as outlined in Virginia Licensure Regulations for School Personnel.

D. Paraprofessionals employed by the school shall be, at a minimum, high school graduates or the equivalent and have inservice training or experience in working with the type of student served by the school.

E. All support personnel such as librarians, guidance counselors, social workers, etc., shall have earned a bachelor's degree from an accredited institution and hold a valid license, where applicable, issued by the department or be licensed by the appropriate state authority.

F. All medical personnel, including but not limited to nurses and physicians, shall hold all licenses required by the Commonwealth of Virginia.

G. All volunteers and interns or students who are receiving professional training shall be properly supervised.

H. The department may make exception to the requirements of this section for good cause upon application by the school.

8 VAC 20-670-220. Personnel files.

Personnel files for staff shall be maintained and shall include the following documentation:

1. Academic preparation and past experience;
2. Attendance records;
3. Copies of contracts indicating dates and terms of employment;
4. Results of a current x-ray or tuberculin test and other health records required by § 22.1-300 of the Code of Virginia and applicable regulations of the Virginia Department of Health;
5. Evidence of child protective service and criminal records checks including fingerprinting. Additionally for all staff who may transport students, evidence of Department of Motor Vehicles checks and a current copy of the driver's license; and
6. Documentation of staff development.

PART VII.

PHYSICAL FACILITIES AND INSPECTIONS.

8 VAC 20-670-230. Facilities.

A. Department staff shall inspect the school facilities and file a report that is available to the board for review as a prerequisite to certification or licensing. The department shall schedule periodic monitoring visits to each school for students with disabilities at least once every three years. Unannounced visits by department staff may be made during the three-year time period. All facilities in use must comply

with appropriate state and local ordinances governing fire safety, sanitation, and health.

B. A change in the location of a school shall be reported to the department at least 30 days before the move on forms provided by the department. Documents required by subdivisions 5, 6 and 7 of 8 VAC 20-670-80 for the new location must be submitted to the department before the actual move takes place. An on-site visit must be made by department staff as soon as possible following notification of the pending change.

C. Schools that find it necessary to utilize extension and branch facilities must submit the information required by subdivisions 5, 6 and 7 of 8 VAC 20-670-80 and have an on-site visit to the facilities conducted by department staff prior to utilizing the facilities.

D. Schools that are modifying or expanding current facilities must submit the information required in subdivisions 5 and 6 of 8 VAC 20-670-80 and may have an on-site visit conducted by department staff.

E. In the event of fire or other emergency situations, the school must notify the department as soon as possible of the conditions and status of the school.

8 VAC 20-670-240. The school plant.

A. Schools shall be in compliance with the Uniform Statewide Building Code (13 VAC 5-62) and the Americans with Disabilities Act. They shall maintain a physical plant that is accessible, barrier free, safe, and clean.

B. In the case of new construction, schools shall comply with § 2.1-514 of the Code of Virginia with reference to architectural barriers.

C. Emergency procedures shall be established by the school for handling emergencies including hostage situations, bomb threats, power outages, fires, medical emergencies, and inclement weather.

PART VIII.

STUDENT SERVICES, RECORDS, AND CONTRACTS.

8 VAC 20-670-250. Student services and records.

A. Each school shall maintain a listing of all students who enroll that includes, but is not limited to, the student's name, address, telephone number, social security number, disability, and enrollment date. For all publicly placed students, this list shall include the student's local school division. The information shall be current as of the date the student enrolls and shall be available for inspection by or submission to the board or department upon request.

B. Records of student counseling sessions for academic or disciplinary reasons must be maintained in the student's permanent record if termination, dismissal, or withdrawal is the basis for the counseling. The student, parent or guardian, or local school division shall receive a copy of the report upon written request if the action resulted in dismissal or termination.

C. Schools shall develop, publish, and provide to students clearly written policies governing conduct, attendance,

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academic progress necessary to matriculate to the next grade or level, and other matters relative to encouraging responsible student behavior.

D. Each school shall develop, publish, and make available to parents and students a procedure for resolving complaints, which shall include information on reporting such complaints to the department. The department may utilize outside services to investigate and resolve complaints.

8 VAC 20-670-260. Applications and enrollment agreements for students privately placed.

A. An application for admission is not to be construed as a binding instrument on the part of the student or the school.

B. Any contract between a student, parent or guardian and a school certified or licensed by the board shall be separate from the application for admission and must clearly outline the obligations of both parties.

C. Any contract or enrollment agreement used by the school shall comply with the following provisions:

1. The name and address of the school shall be clearly stated.
2. The total cost of the program, including tuition and all other charges, shall be clearly stated.
3. A disclosure that such agreement becomes a legally binding instrument upon the school's written acceptance of the student shall be included.
4. The school's cancellation and refund policy shall be clearly stated.

D. Each school that serves privately placed students shall offer access to a tuition insurance plan if they financially obligate students for more than quarterly increments of the annual tuition.

E. A school may require the payment of a reasonable nonrefundable initial fee to cover expenses in connection with processing a student's application provided it retains a signed statement in which the parties acknowledge their understanding that the fee is nonrefundable. No other nonrefundable fees shall be allowed prior to enrollment.

F. Schools that charge or are paid on a "services-rendered" basis may be exempted from the provisions of this part upon written request to the department.

8 VAC 20-670-270. Application and enrollment agreements for students publicly placed.

A. An application for admission is not to be construed as a binding instrument on the part of the student or the school.

B. Any contract between a local school division or any other public agency or agencies financially responsible for the student's placement and a school certified or licensed by the board shall be separate from the application for admission and must clearly outline the obligations of both parties.

C. Any contract or enrollment agreement used by the school shall comply with the following provisions:

1. The name and address of the school must be clearly stated.

2. The total cost of the program, including tuition and all other charges, shall be clearly stated.

3. A disclosure that such agreement becomes a legally binding instrument upon the school's written acceptance of the student shall be included.

PART IX. ADVERTISING AND PUBLICATIONS.

8 VAC 20-670-280. Advertising and publications.

A. Each school shall use its complete name as listed on its license to operate for all publicity, publications, promotions or marketing purposes.

B. With respect to its status with the board, the school may advertise only that it has a "License to Operate from the Virginia Board of Education." No other wording is acceptable to the board.

A school holding a license to operate issued by the board shall not expressly or by implication indicate by any means that the license to operate represents an endorsement offered by the school.

C. Each school shall develop and publish a handbook describing the school's programs and policies that shall be submitted to the department for review and approval prior to final printing. All printed materials shall be accurate concerning the school's requirements for admission, curricula, programs and services, graduation requirements, tuition and other fees or charges, and terms for payment of tuition and other fees. Copies shall be filed with the board or department.

D. A school or its representatives shall not make any fraudulent or misleading statement about any phase of its operation in published or distributed materials.

E. Printed or electronic representations shall not be used by a school in such a manner as to convey a false impression about the size, importance, or location of the school's facilities or its equipment.

F. Schools shall not use endorsements, commendations, or recommendations by students, individuals, manufacturers, business establishments or organizations except with their written consent and without any offer of financial compensation. Written evidence of compliance shall be maintained and available to the board or department.

G. The accrediting agency must be named if accreditation is used as part of a school's promotional materials.

H. No school may use the seal of the Commonwealth in any advertisement, publication or document.

PART X. ELECTRONIC CAMPUS SCHOOLS.

8 VAC 20-670-290. Electronic campus schools.

A. This section shall apply only to electronic campus schools.

B. In addition to the general application requirements, considerable emphasis will be placed on the following components when reviewing documentation submitted with an application from an electronic campus school:

1. Clearly defined educational objectives that demonstrate that the objectives can be achieved through distance learning must be included with any application.
2. Courses offered are sufficiently comprehensive, accurate and up to date, and educationally sound instructional materials and methods are used to achieve the stated objectives.
3. The school provides adequate examination services, maintenance of records, encouragement to students, and attention to individual differences.

PART XI. CHANGE OF OWNERSHIP.

8 VAC 20-670-300. A license to operate is not transferable.

A. A change of ownership occurs when control of a school changes from one owner to another. New owners of a school shall make an application for an original license to operate.

B. If there is a change in ownership of a school, the current owner shall notify the department at least 30 days prior to the proposed date of sale and provide a copy of the agreement of sale. An application for an original license to operate or certificate of program compliance, including all attachments listed in 8 VAC 20-670-30, shall be submitted to the department by the new owner within 30 days following the effective date of the change. The school may be operated on a temporary basis under the new ownership until an original license to operate has been issued by the board.

PART XII. CONTRACTUAL RIGHTS OF STUDENTS.

8 VAC 20-670-310. Protection of contractual rights of students.

As required by § 22.1-324 of the Code of Virginia, each school applying for a License to Operate shall provide a certain guaranty to protect the contractual rights of students.

If the school holds a surety bond or other guaranty instrument as required by 8 VAC 20-670-320, the first priority shall be to file a claim against the guaranty instrument.

8 VAC 20-670-320. Guaranty instrument requirements.

A. All applicants for a new license to operate, including those who have a change of ownership, shall provide a surety bond, irrevocable letter of credit or certificate of deposit as required by this section and maintain the guaranty instrument. Schools for students with disabilities shall maintain a guaranty instrument as required by this section as a condition of continued certification or licensing.

B. The amount of the guaranty instrument shall be based on the total projected enrollments as follows:

1. The minimum guaranty for up to 50 students is \$5,000.

2. The minimum increases incrementally by \$5,000 for each additional 50 students or portion thereof.

C. If the school shows that it collects no advance tuition other than equal monthly installments or is paid after services have been rendered, the school may apply, after three full years of operation, on forms provided for that purpose, to the department for authority to be exempt from the guaranty requirements.

D. For guaranty instrument purposes, the school shall count its total current enrollment as of the date of the application, its largest enrollment as of the date of the application, or its largest enrollment in the preceding 12 months, whichever is greater. A school being organized shall use the maximum projected enrollment, which will be subject to revision based on the enrollment 60 days following the date classes start.

E. In the event a guaranty instrument is terminated other than as allowed in subsection C of this section, the license to operate will automatically expire if a replacement bond is not provided.

PART XIII. RENEWAL.

8 VAC 20-670-330. Renewal of license to operate.

A. Schools for students with disabilities may have their licenses to operate renewed for up to three years.

B. The application for renewal shall include, in addition to other information:

1. A current fire inspection report.
2. A current schedule of tuition and other fees.
3. A copy of the financial statements of the school or owning entity to include, but not be limited to, the following:
 - a. A balance sheet reflecting assets, liabilities, equity, and retained earnings;
 - b. An income statement reflecting revenues, expenses, and profits and losses;
 - c. A statement of increase or decrease in cash reflecting the sources and uses of working capital; and
 - d. Explanatory notes, which reflect the disclosures required by generally accepted accounting principles. These statements must be as of the date of the school's most recently ended fiscal year.
4. The department reserves the right to call for, if needed in specific cases, one of these two types of statements:
 - a. An audited financial statement certified by an outside independent, certified public accountant in accordance with standards established by the American Institute of Certified Public Accountants; or
 - b. A financial statement that has been reviewed by an outside independent, certified public accountant in accordance with principles established for reviews by the American Institute of Certified Public Accountants.

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C. Every license to operate that has not been renewed by the board on or before the renewal anniversary date shall expire, and the school shall cease operation immediately. A new license to operate shall be obtained from the board before such school may resume operations. All of the requirements of Part III (8 VAC 20-670-80 et seq.) of this chapter shall be met.

D. Any school not complying with the provisions of this section shall be deemed to be in violation of these regulations and shall be reported to the Office of the Attorney General for appropriate action.

PART XIV.

DENIAL, REVOCATION, SUSPENSION OR REFUSAL TO RENEW A CERTIFICATE, GROUNDS.

8 VAC 20-670-340. Board actions.

The license to operate shall not be denied, revoked or suspended or a request for renewal refused except upon action of the board, which shall be reported in writing. Records of the board's findings, recommendations, and actions shall be preserved in writing.

8 VAC 20-670-350. Refusal, denial, revocation, or suspension.

The board may refuse to renew or may deny, revoke or suspend the license to operate of a school for any one or combination of the following causes:

1. Violation of any provision of the Code of Virginia or any board regulations;
2. Furnishing false, misleading, or incomplete information or failure to furnish information requested by the board or department;
3. Violation of any commitment made in an application for a license to operate or certificate of program compliance;
4. Failure to provide or maintain the premises or equipment in a safe and sanitary condition as required by law, by state regulations or local ordinances;
5. Failure to maintain adequate financial resources to conduct the programs offered or to retain an adequate, qualified instructional staff;
6. Failure to safeguard the interests of the public; and
7. Failure within a reasonable time to provide information requested by the board or department as a result of a formal or informal complaint or as supplement to an application.

8 VAC 20-670-360. Board investigation.

The department may, upon its own motion, investigate the actions of any applicant or any persons holding or claiming to hold a license to operate. The department shall make such an investigation upon the written complaint of any individual setting forth facts which, if proved, would constitute grounds for denial, refusal, suspension, or revocation of a certificate or license.

8 VAC 20-670-370. Department investigation procedures.

Authority is granted to the department staff to investigate complaints from individuals and other sources concerning alleged violations of the Code of Virginia or regulations by a school. Where the findings of the department are in favor of the complainant, the school shall abide by any recommendations made or corrective action deemed necessary by the department. If the school disagrees with the recommendations or corrective actions, the department shall hold an informal hearing to determine whether further action (i.e., revocation, suspension or refusal to renew a certificate) is warranted. The Superintendent of Public Instruction or his designee shall chair the hearing.

8 VAC 20-670-380. Corrective actions.

Before proceeding to a hearing, as provided for in the Code of Virginia, on the question of whether a license to operate shall be denied, refused, suspended, or revoked for any cause, the department may grant a reasonable period of time to correct any unsatisfactory condition to the holder of or applicant for a license to operate. If within such time the condition is corrected to the department's satisfaction, no further action leading to denial, refusal, suspension, or revocation shall be taken by the board.

8 VAC 20-670-390. Procedure for taking actions.

All actions taken under the provisions of this section in regard to denials, revocations, suspensions, or refusals to renew shall be taken in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) of the Code of Virginia.

8 VAC 20-670-400. Revocation or denial consequences.

Any owner of a school that has had a certificate or license revoked or denied or has been refused renewal shall not be allowed to reapply before at least 12 months have passed since the date the formal action was taken. In addition, this policy shall apply to any owner who fails to comply with the provisions of Part XVI (8 VAC 20-670-420) of this chapter when closing a school.

PART XV. LISTING OF SCHOOLS.

8 VAC 20-670-410. School listing.

The department shall maintain a list of schools holding valid licenses to operate under the provisions of the Code of Virginia, which shall be available for the information of the public.

PART XVI. SCHOOL CLOSINGS.

8 VAC 20-670-420. Closing procedures.

A. A school that is closing shall notify its students of the closing in writing. Local school divisions of all publicly placed students will also be notified. Arrangements shall be made to assure that students are able to complete the school year or, if privately placed, are provided refunds. In the event such arrangements cannot be made, the department shall be available to assist in making special arrangements for

students to complete that year's program or students will be advised of their rights.

B. Each school that is closing shall notify the department in writing in advance of the anticipated closing date and provide the following information relative to the students currently enrolled:

- 1. A listing as described in subsection A of 8 VAC 20-670-250;
- 2. For privately placed students, academic records including credits, grades or courses completed, and grades for those courses; evidence of refunds made to students, where applicable; a copy of each student's academic attendance and financial payment records; and a copy of the enrollment agreement;
- 3. Records for publicly placed students in schools for children with disabilities shall be returned to the student's home school division with verification of this transmittal to the department; and
- 4. Students' records transmitted to the department shall be the originals or certified true copies.

C. At the time of notification, the school shall submit a written plan detailing the process of closure that provides for the following:

- 1. The cessation of all recruitment activities and student enrollments as of the date of the notice;
- 2. A description of the provisions made for the students to complete the academic year;
- 3. Copies of all notices of the closing given to students, local school divisions, the general public, and other interested parties such as accrediting agencies, tuition insurers, etc.;
- 4. Provisions for the transfer of all publicly placed students to their local school divisions and privately placed student records to the department within 30 days of the close and notification to all students of the location of their records; and
- 5. Provisions for notifying students in writing of their financial obligations.

D. The cost of transferring the records to the department shall be borne by the school.

E. In the event a school files a bankruptcy petition, a complete, certified true copy shall be filed with the department. If privately placed students are unable to complete the academic year, they shall be given the highest creditor status allowed by statute for refunds in the full amount of tuition and fees paid to the school.

F. The board or department may request any additional information that is reasonable and necessary to carry out its responsibility.

PART XVII.
TRANSMITTAL OF DOCUMENTS AND MATERIALS.

8 VAC 20-670-430. Transmitting documents and other materials.

A. The mailing of applications, forms, letters, or other papers shall not constitute receipt of the same by the department unless sent by registered mail, certified mail, express mail, or courier with return receipt requested.

B. All materials sent should be addressed to the Private Day Schools for Students with Disabilities, Department of Education, Box 2120, Richmond, VA 23218-2120, or Private Day Schools for Students with Disabilities, James Monroe Building, 24th Floor, 101 North 14th Street, Richmond, VA 23219.

C. Materials submitted by electronic means (e.g., facsimile machine, computer, etc.) will be accepted contingent upon receipt of original documents sent in accordance with subsection A of this section.

PART XVIII.
COMPLAINTS.

8 VAC 20-670-440. Complaints.

Schools are required to establish and provide to parents, students, and placing agencies an internal complaints resolution process. In the event that the complainant is not satisfied with the internal resolution or prefers, he may file a complaint with the Office for Private Special Education Day Schools, Virginia Department of Education, P.O. Box 2120, Richmond, VA 23218-2120.

V.A.R. Doc. No. R02-252; Filed November 12, 2003, 10:03 a.m.



TITLE 9. ENVIRONMENT

STATE WATER CONTROL BOARD

REGISTRAR'S NOTICE: The following regulations filed by the State Water Control Board are exempt from the Administrative Process Act in accordance with § 2.2-4006 A 9 of the Code of Virginia, which exempts general permits issued by the State Water Control Board pursuant to the State Water Control Law (§ 62.1-44.2 et seq.), Chapter 24 (§ 62.1-242 et seq.) of Title 62.1 and Chapter 25 (§ 62.1-254 et seq.) of Title 62.1 of the Code of Virginia if the board (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of § 2.2-4007 B, (ii) following the passage of 30 days from the publication of the Notice of Intended Regulatory Action forms a technical advisory committee composed of relevant stakeholders, including potentially affected citizens groups, to assist in the development of the general permit, (iii) provides notice and receives oral and written comment as provided in § 2.2-4007 F, and (iv) conducts at least one public hearing on the proposed general permit.

Due to its length, 9 VAC 25-151 is not being published. However, in accordance with § 2.2-4031 of the Code of

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Virginia, the summary is being published in lieu of the full text. The full text of the regulation is available for public inspection at the office of the Registrar of Regulations and at the State Water Control Board (see contact information above) and is accessible on the Virginia Register of Regulations website at <http://legis.state.va.us/codecomm/register/vol20/welcome.htm> or <http://legis.state.va.us/codecomm/register/vol20/iss06/p9v25151full.doc>.

Title of Regulation: 9 VAC 25-151. Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Discharges of Storm Water Associated with Industrial Activity (amending 9 VAC 25-151-10 and 9 VAC 25-151-40 through 9 VAC 25-151-370; adding 9 VAC 25-151-65).

Statutory Authority: § 62.1-44.15 of the Code of Virginia; § 402 of the Clean Water Act; 40 CFR Parts 122, 123 and 124.

Public Hearing Date: January 13, 2004 - 10 a.m.

Public comments may be submitted until 5 p.m. on January 30, 2004.

(See Calendar of Events section for additional information)

Agency Contact: Burt Tuxford, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4086, FAX (804) 698-4032, or e-mail brtuxford@deq.state.va.us.

Summary:

This regulation will reissue the existing general permit for industrial activity storm water discharges that will expire on June 30, 2004. This draft is modeled after the 2000 United States EPA multisector industrial storm water general permit. The significant revisions to the regulation are as follows:

1. Added TMDL language authorizing coverage only if the SWPPP that is developed incorporates and is consistent with any TMDL requirements, if applicable.

2. Deleted the "No Exposure Exemption" provision because it was superseded by the no exposure exemption in the EPA 1999 Phase 2 storm water regulation, which was incorporated into the VPDES Permit Regulation in September 2000.

3. Modified the monitoring periods for "Benchmark Monitoring" from twice a year in the second and fourth years of the permit, to once annually in each year of the permit. Also, required the monitoring data to be maintained on site with the SWPPP, and only submitted to the department upon request.

4. Modified the "Benchmark Monitoring Waiver" provision to require the permittee to submit waiver requests to the department, along with the supporting monitoring data and a certification statement that the discharges that the waiver request covers will remain as clean or better than when the monitoring occurred.

5. Added a special condition requiring the permittee to select, install, implement and maintain BMPs to minimize pollutants in storm water runoff and meet water quality standards. If the permittee's discharge causes water quality standards violations or significant downstream impacts, the board may take enforcement action or require an individual permit, or both.

6. Extensively reduced the "Special Pollution Prevention Plan Requirements" for EPCRA 313 facilities to be consistent with EPA's 2000 MSGP.

7. Modified the benchmark monitoring parameters for Sector C (Chemical and Allied Products) and Sector U (Food and Kindred Products) by combining "TKN" and "Nitrate + Nitrite Nitrogen" into "Total Nitrogen", and setting a benchmark concentration of 2.2 mg/L.

8. Added additional benchmark monitoring to Sector G (Metal Mining), consistent with EPA's 2000 MSGP.

9. Added effluent limitations to Sectors K (Hazardous Waste TSD Facilities) and Sector L (Landfills), consistent with EPA's 2000 MSGP.

10. Added coverage for SIC 4499 (limited to facilities that are engaged in dismantling ships, marine salvaging, and marine wrecking - ships for scrap) to Sector N (Scrap Recycling and Waste Recycling Facilities). Added specific SWPPP requirements for those facilities, and benchmark monitoring requirements.

11. Clarified coverage requirements for Sector O (Steam Electric Generating Facilities) to state that "heat capture/heat recovery/combined cycle generating facilities" are not covered by this permit.

V.A.R. Doc. No. R03-96; Filed November 12, 2003, 11:37 a.m.

Title of Regulation: 9 VAC 25-180. Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Discharges of Storm Water from Construction Activities (amending 9 VAC 25-180-10, 9 VAC 25-180-20, 9 VAC 25-180-40, 9 VAC 25-180-50, 9 VAC 25-180-55, 9 VAC 25-180-60, 9 VAC 25-180-70; adding 9 VAC 25-180-65).

Statutory Authority: § 62.1-44.15 of the Code of Virginia; § 402 of the Clean Water Act; and 40 CFR Parts 122, 123 and 124.

Public Hearing Date: January 13, 2004.

Public comments may be submitted until 5 p.m. on January 30, 2004.

(See Calendar of Events section for additional information)

Agency Contact: Burt Tuxford, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4086, FAX (804) 698-4032, or e-mail brtuxford@deq.state.va.us.

Summary:

This regulation will reissue the existing general permit for construction activity storm water discharges that will expire on June 30, 2004. This draft is modeled after the US EPA construction storm water general permit. Certain provisions were modified to make them conform to similar requirements in the Virginia Erosion and Sediment Control Regulation, which is administered by the Department of Conservation and Recreation.

The significant revisions to the regulation are as follows:

1. Added TMDL language authorizing coverage only if the SWPPP that is developed incorporates and is consistent with any TMDL requirements, if applicable.

2. Changed deadline for submitting Registration Statement from "two days prior to commencing construction" to "prior to commencing construction", and added language that a mailed Registration Statement is considered to be submitted once it is postmarked.

3. Added a special condition that requires the permittee to select, install, implement and maintain BMPs to minimize pollutants and meet water quality standards. If the permittee's discharge causes water quality standards violations or significant downstream impacts, the board may take enforcement action and/or require an individual permit.

4. Added a provision allowing the operator to "finally stabilize" a definable area, then mark this on the SWPPP, and no further SWPPP or inspection requirements apply to that area.

5. Modified the "Maintenance of Controls" section to require sediment to be removed from sediment traps or sedimentation ponds when the design capacity has been reduced by 25% (previous requirement was 50%).

6. Added an "Inspections" requirement that rainfall be measured using an on-site rain gauge, and the results be documented in a log.

7. Added an "Inspections" provision allowing linear construction activities (e.g., utility line installation, pipeline construction) to be inspected using "representative" inspections.

9 VAC 25-180-10. Definitions.

The words and terms used in this chapter shall have the meanings defined in the State Water Control Law (§ 62.1-44.2 et seq. of the Code of Virginia) and 9 VAC 25-31 (VPDES Permit Regulation) unless the context clearly indicates otherwise, except that for the purposes of this chapter:

"Commencement of construction" means the initial disturbance of soils associated with clearing, grading, or excavating activities or other construction activities.

"Construction activity" means any clearing, grading or excavation associated with ~~industrial large construction~~ activity, or associated with small construction activity.

"Control measure" means any best management practice or other method used to prevent or reduce the discharge of pollutants to surface waters.

"Final stabilization" means that one of the following situations has occurred:

1. All soil disturbing activities at the site have been completed and a permanent vegetative cover has been established on denuded areas not otherwise permanently stabilized. Permanent vegetation shall not be considered established until a ground cover is achieved that is uniform, mature enough to survive, and will inhibit erosion.

2. For individual lots in residential construction, final stabilization can occur by either:

a. The homebuilder completing final stabilization as specified in subdivision 1 of this definition; or

b. The homebuilder establishing temporary stabilization, including perimeter controls for an individual lot prior to occupation of the home by the homeowner, and informing the homeowner of the need for, and benefits of, final stabilization.

3. For construction projects on land used for agricultural purposes (e.g., pipelines across crop or range land), final stabilization may be accomplished by returning the disturbed land to its preconstruction agricultural use. Areas disturbed that were not previously used for agricultural activities, such as buffer strips immediately adjacent to surface waters, and areas which are not being returned to their preconstruction agricultural use must meet the final stabilization criteria specified in subdivision 1 or 2 of this definition.

~~"Industrial~~ "Large construction activity" means construction activity including clearing, grading and excavation except operations that result in the disturbance of less than five acres of total land area. ~~Industrial~~ "Large construction activity" also includes the disturbance of less than five acres of total land area that is a part of a larger common plan of development or sale if the larger common plan will ultimately disturb five acres or more.

"Municipal separate storm sewer" means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains): (i) owned or operated by a state, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to state law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under § 208 of the Clean Water Act (CWA) (33 USC § 1251 et seq.) that discharges to surface waters of the state; (ii) designed or used for collecting or conveying storm water; (iii) that is not a combined sewer; and (iv) that is not part of a POTW.

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"Operator" means, in the context of storm water associated with construction activity, any person associated with a construction project that meets either of the following two criteria: (i) the person has direct operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications or (ii) the person has day-to-day operational control of those activities at a project which are necessary to ensure compliance with a storm water pollution prevention plan for the site or other permit conditions (i.e., they are authorized to direct workers at a site to carry out activities required by the storm water pollution prevention plan or comply with other permit conditions).

"Permittee" means any operator whose construction site is covered under this general permit.

"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, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural storm water runoff.

"Runoff coefficient" means the fraction of total rainfall that will appear at the conveyance as runoff.

"Small construction activity" means construction activity including clearing, grading, and excavating that results in land disturbance of equal to or greater than one acre and less than five acres. Small construction activity also includes the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one and less than five acres. Small construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility.

"Storm water" means storm water runoff, snow melt runoff, and surface runoff and drainage.

"Storm water discharge associated with industrial construction activity" means a discharge of pollutants in storm water runoff from ~~construction activities~~ areas where soil disturbing activities (e.g., clearing, grading, or excavation); construction materials or equipment storage or maintenance (e.g., fill piles, borrow area, *concrete truck washout*, fueling); or other industrial storm water discharges directly related to the construction process (e.g., concrete or asphalt batch plants) are located.

9 VAC 25-180-20. Purpose.

This general permit regulation governs storm water discharges from construction activities. For the purposes of this chapter, these discharges are defined as storm water discharges associated with ~~industrial~~ large construction activity, and storm water discharges associated with small construction activity. Storm water discharges associated with other types of industrial activity shall not have coverage under this general permit. This general permit covers only discharges through a point source to a surface water or

through a municipal or nonmunicipal separate storm sewer system to surface waters. Storm water discharges associated with industrial activity that originate from the site after construction activities have been completed and the site has undergone final stabilization are not authorized by this permit.

9 VAC 25-180-40. Effective date of the permit.

This general permit ~~became~~ *will become* effective on ~~June 30, 1999~~ *July 1, 2004*. The general permit will expire on ~~June 30, 2004~~ *2009*. ~~The general permit was modified, effective December 4, 2002, to address amendments to the VPDES Permit Regulation (9 VAC 25-31).~~

9 VAC 25-180-50. Authorization to discharge.

A. Any operator governed by this general permit is authorized by this to discharge to surface waters of the Commonwealth of Virginia provided that the operator files ~~the~~ *a complete and accurate* registration statement ~~of~~ *in accordance with* 9 VAC 25-180-60 and, any fees required by 9 VAC 25-20, complies with the requirements of 9 VAC 25-180-70, and provided that:

1. The operator shall not have been required to obtain an individual permit according to 9 VAC 25-31-170 B;
2. The operator shall not be authorized by this general permit to discharge to state waters specifically named in other board regulations or policies which prohibit such discharges;
3. *Prior to commencing construction*, the operator shall obtain ~~prior~~ approval of an erosion and sediment control plan from the locality in which the construction activity is to occur or from another appropriate plan approving authority authorized under the Erosion and Sediment Control Regulations, (4 VAC 50-30), unless the operator *receives an "agreement in lieu of a plan" from the locality, or is exempt from the requirement to submit an erosion and sediment control plan by 4 VAC 50-30;*
4. Storm water discharges which the director determines cause, may reasonably be expected to cause, or contribute to a violation of water quality standards are not covered by this permit; and
5. The storm water discharge authorized by this permit may be combined with other sources of storm water which are not required to be covered under a VPDES permit, so long as the combined discharge is in compliance with this permit. Any discharge authorized by a different VPDES permit may be commingled with discharges authorized by this permit.
6. *Discharges to waters for which a "total maximum daily load" (TMDL) allocation for sediment or a parameter that addresses sediment (such as total suspended solids, turbidity, or siltation) has been established by the board and approved by EPA are not eligible for coverage under this permit unless the storm water pollution prevention plan (SWPPP) developed by the operator incorporates measures and controls that are consistent with the assumptions and requirements of such TMDL. To be eligible for coverage under this general permit, the SWPPP must incorporate any conditions applicable to discharges from the construction site that are necessary for consistency with the assumptions and requirements of the TMDL. If a specific wasteload*

allocation has been established that would apply to discharges from the construction site, the operator must incorporate that allocation into the SWPPP and implement necessary steps to meet that allocation.

B. This permit may also be used to authorize storm water discharges from support activities (e.g., concrete or asphalt batch plants, equipment staging yards, material storage areas, excavated material disposal areas, borrow areas) located on-site or off-site provided that:

1. The support activity is directly related to a construction site that is required to have VPDES permit coverage for discharges of storm water associated with construction activity;
2. The support activity is not a commercial operation serving multiple unrelated construction projects by different operators, and does not operate beyond the completion of the construction activity at the last construction project it supports; and
3. Appropriate controls and measures are identified in a storm water pollution prevention plan covering the discharges from the support activity areas.

C. Support activities located off-site are not required to be covered under this general permit. Discharges of storm water from off-site support activities may be authorized under another VPDES permit. Where storm water discharges from off-site support activities are not authorized under this general permit, the land area of the off-site support activity need not be included in determining the total land disturbance acreage of the construction activity seeking general permit coverage.

D. Receipt of this general permit does not relieve any operator of the responsibility to comply with any other applicable federal, state or local statute, ordinance or regulation.

E. The board may waive the otherwise applicable requirements in this general permit regulation for a storm water discharge from small construction activity where storm water controls are not needed based on a "total maximum daily load" (TMDL) established by ~~DEQ~~ *the board* and approved by EPA that addresses the pollutants of concern or, for nonimpaired waters that do not require TMDLs, an equivalent analysis that determines allocations for small construction sites for the pollutants of concern or that determines that such allocations are not needed to protect water quality based on consideration of existing in-stream concentrations, expected growth in pollutant contributions from all sources, and a margin of safety. For the purpose of this section, the pollutants of concern include sediment or a parameter that addresses sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the construction activity. In order to obtain this waiver, prior to the commencement of construction the operator must certify to the board that the construction activity will take place, and storm water discharges will occur, within the drainage area addressed by a TMDL, or within the drainage area addressed by an equivalent analysis.

9 VAC 25-180-55. Qualifying state, tribal and local programs.

~~For storm water discharges associated with industrial activity, and storm water discharges associated with small construction activity,~~ Qualifying state, tribal, or local erosion and sediment control program requirements may be incorporated by reference into the Storm Water Pollution Prevention Plan (SWPPP) required by 9 VAC 25-180-70 of this permit. Where a qualifying state, tribal, or local program does not include one or more of the elements in this section, then the permittee must include those elements as part of the SWPPP required by 9 VAC 25-180-70 of this permit. A qualifying state, tribal, or local erosion and sediment control program is one that includes:

1. Requirements for construction site operators to implement appropriate erosion and sediment control best management practices;
2. Requirements for construction site operators to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality;
3. Requirements for construction site operators to develop and implement an SWPPP. (An SWPPP includes site descriptions, descriptions of appropriate control measures, copies of approved state, tribal or local requirements, maintenance procedures, inspection procedures, and identification of nonstorm water discharges); and
4. Requirements to submit a site plan for review that incorporates consideration of potential water quality impacts.

9 VAC 25-180-60. Registration statement; ~~notice of termination.~~

A. Deadlines for submitting registration statement.

1. Except as provided in subdivision 3 of this subsection, operators must submit a complete *and accurate* registration statement in accordance with the requirements of this section ~~at least two days~~ prior to the commencement of construction activities (i.e., the initial disturbance of soils associated with clearing, grading, excavation activities, or other construction activities).
2. For storm water discharges from construction projects where the operator changes, *including instances where an operator is added* after a registration statement has been submitted, the new operator must submit a *complete and accurate* registration statement ~~at least two days before~~ *prior to* assuming operational control over site specifications or commencing work on-site.
3. *In order to continue permit coverage*, operators of ongoing ~~small~~ construction activity projects as of ~~December 4, 2002~~ *July 1, 2004*, ~~who propose to be covered by this general permit that received authorization to discharge for those projects under the construction storm water general permit issued in 1999~~ must:

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a. Submit a complete *and accurate* registration statement by ~~January 3, 2003~~ *July 1, 2004*; and

b. ~~Prepare and comply with a~~ *Update their* storm water pollution prevention plan ~~in accordance to comply~~ with the requirements of this general permit within 30 days after the date of coverage under this general permit.

4. *Effective date of permit coverage. The operator of a construction activity is authorized to discharge storm water from those construction activities under the terms and conditions of this permit immediately upon submission of a complete and accurate registration statement to DEQ, but in no event earlier than the effective date of this permit, except as noted in subdivision 3 of this subsection. For the purposes of this regulation, a registration statement that is mailed is considered to be submitted once it is postmarked. Operators are not authorized to discharge if the registration statement is incomplete or incorrect, or if the discharge(s) was not eligible for coverage under this permit.*

5. *Late notifications. Operators are not prohibited from submitting registration statements after initiating clearing, grading, excavation activities, or other construction activities. When a late registration statement is submitted, authorization for discharges occurs no earlier than the submission date of the registration statement. The department reserves the right to take enforcement action for any unpermitted discharges or permit noncompliance that occurs between the commencement of construction and discharge authorization.*

B. Registration statement. The operator shall submit a registration statement which shall contain the following information:

1. Name, mailing address and telephone number of the construction activity operator (*NOTE: The permit will be issued to this operator, and the certification in subdivision 12 of this subsection must be signed by the appropriate person associated with this operator*);

2. Name and location of the construction activity and all off-site support activities to be covered under the permit. If a street address is unavailable, provide latitude and longitude;

3. Status of the activity: federal, state, public, or private;

4. ~~Statement indicating if storm water runoff is discharged to a municipal separate storm sewer system (MS4)~~ *Nature of the construction project (e.g., commercial, industrial, residential, agricultural, oil and gas, etc.);*

5. Name of the ~~water body~~ receiving water(s);

6. ~~If the discharge from the construction activity or is through a municipal separate storm sewer system (MS4), the name of the municipal operator of the storm sewer;~~

~~7. Estimated project start date and completion date;~~

7. ~~8. Total land area of development and estimated area to be disturbed by construction activity (to the nearest quarter acres acre);~~

~~8. 9. Total land area of development, if Is the area to be disturbed by the construction activity is part of a larger common plan of development or sale (acres) ?~~

9. ~~10. A topographic map or other map that clearly shows the location of the construction activity, the area to be disturbed (including off-site support activities), and the receiving stream or streams for the storm water discharges.~~

10. ~~Statement indicating if~~ *NOTE: A storm water pollution prevention plan (SWPPP) has been must be prepared in accordance with the requirements of the VPDES General Permit for Storm Water Discharges from Construction Activities- prior to submitting this registration statement. By signing this registration statement you are certifying that the SWPPP has been prepared;*

11. ~~Statement indicating if an erosion and sediment control plan for the construction activity is required by the Erosion and Sediment Control Regulation (4 VAC 50-30). If a plan is required, indicate if one has been approved by an appropriate state or local plan approving authority.~~

11. *The location of where the SWPPP may be viewed, and the name and phone number of a contact person (NOTE: The contact person should be a person knowledgeable in the principles and practice of erosion and sediment controls, such as a licensed professional engineer, responsible land disturber (RLD), or other knowledgeable person who possesses the skills to assess conditions at the construction site that could impact storm water quality); and*

12. The following certification: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations."

C. The registration statement shall be signed in accordance with ~~9 VAC 25-31-110~~ *9 VAC 25-180-70, Part III K.*

D. *Where to submit. The registration statement shall be submitted to the DEQ regional office that serves the area where the construction activity is located.*

9 VAC 25-180-65. Termination of permit coverage.

~~C. Notice of termination. A. Requirements. When a site has been finally stabilized and all storm water discharges from construction activities that are authorized by this permit are eliminated or where the operator of the construction site has changed, The operator of the facility shall construction activity may only submit a notice of termination within 30 days after final stabilization has been achieved or when he is no longer the operator one or more of the following conditions have been met:~~

1. *Final stabilization has been achieved on all portions of the site for which the operator is responsible;*

2. Another operator has assumed control over all areas of the site that have not been finally stabilized;
3. Coverage under an alternative VPDES permit has been obtained; or
4. For residential construction only, temporary stabilization has been completed and the residence has been transferred to the homeowner.

The notice of termination must be submitted within 30 days of one of the above conditions being met. Authorization to discharge terminates seven days after the notice of termination is submitted. For the purposes of this regulation, a notice of termination that is mailed is considered to be submitted once it is postmarked.

B. Notice of termination.

The operator shall submit a notice of termination which shall contain the following information:

1. Name, mailing address and telephone number of the construction activity operator.
2. Name and location of the construction activity. If a street address is unavailable, provide latitude and longitude.
3. The VPDES storm water general permit number.
4. A statement indicating which of these circumstances applies. The basis for submission of the notice of termination, including:
 - a. The operator of the site has changed; or Final stabilization has been achieved on all portions of the site for which the operator is responsible;
 - b. The construction site has undergone final stabilization and the storm water discharges from the construction activity have been terminated and Another operator has assumed control over all areas of the site that have not been finally stabilized;
 - c. Coverage under an alternative VPDES permit has been obtained; or
 - d. For residential construction only, temporary stabilization has been completed and the residence has been transferred to the homeowner.

5. The following certification: "I certify under penalty of law that all storm water discharges from the identified construction activity that are authorized by a VPDES general permit have been eliminated, or that I am no longer the operator of the construction activity. I understand that by submitting this notice of termination, that I am no longer authorized to discharge storm water in accordance with this general permit, and that discharging pollutants in storm water to surface waters is unlawful where the discharge is not authorized by a VPDES permit. I also understand that the submittal of this notice of termination does not release an operator from liability for any violations of this permit." "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the

information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations."

C. The notice of termination shall be signed in accordance with ~~9 VAC 25-31-110~~ 9 VAC 25-180-70, Part III K.

D. Where to submit. The notice of termination shall be submitted to the DEQ regional office that serves the area where the construction activity is located.

9 VAC 25-180-70. General permit.

Any operator whose registration statement is accepted by the director will receive the following permit and shall comply with the requirements in it and be subject to all requirements of the VPDES Permit Regulation (9 VAC 25-31).

General Permit No.: VAR10

Effective Date: ~~June 30, 1999~~ July 1, 2004

Expiration Date: June 30, ~~2004~~ 2009

Modification Date: ~~December 4, 2002~~

GENERAL PERMIT FOR STORM WATER DISCHARGES OF STORM WATER FROM CONSTRUCTION ACTIVITIES

AUTHORIZATION TO DISCHARGE UNDER THE VIRGINIA POLLUTANT DISCHARGE ELIMINATION SYSTEM AND THE VIRGINIA STATE WATER CONTROL LAW

In compliance with the provisions of the Clean Water Act, as amended, and pursuant to the State Water Control Law and regulations adopted pursuant to that, operators of construction activities (those sites or common plans of development or sale that will result in the disturbance of one or more acres of total land area) with storm water discharges from these construction activities are authorized to discharge to surface waters within the boundaries of the Commonwealth of Virginia, except those specifically named in board regulation or policies which prohibit such discharges.

The authorized discharge shall be in accordance with this cover page, Part I - Discharge Authorization and Special Conditions, Part II - Storm Water Pollution Prevention Plan, and Part III - Conditions Applicable To All VPDES Permits as set forth herein.

PART I DISCHARGE AUTHORIZATION AND SPECIAL CONDITIONS

A. Coverage under this permit.

1. During the period beginning with the date of coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge storm water from construction activities.

2. This permit also authorizes storm water discharges from off-site support activities (e.g., concrete or asphalt batch plants, equipment staging yards, material storage areas,

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excavated material disposal areas, borrow areas) provided that:

- a. The support activity is directly related to a construction site that is required to have VPDES permit coverage for discharges of storm water associated with construction activity;
- b. The support activity is not a commercial operation serving multiple unrelated construction projects by different operators, and does not operate beyond the completion of the construction activity at the last construction project it supports; and
- c. Appropriate controls and pollution prevention measures for the discharges from the support activity areas are identified in the storm water pollution prevention plan *required* for the construction activity *under Part II D of this permit*.

3. There shall be no discharge of floating solids or visible foam in other than trace amounts.

B. Limitation on coverage.

1. Post-construction discharges. This permit does not authorize storm water discharges that originate from the site after construction activities have been completed and the site, including any temporary support activity site, has undergone final stabilization. Post-construction industrial storm water discharges may need to be covered by a separate VPDES permit.

2. Discharges mixed with nonstorm water. This permit does not authorize discharges that are mixed with sources of nonstorm water, other than those discharges which are identified in Part I D 2 (exceptions to prohibition of nonstorm water discharges) and are in compliance with Part II D 5 (Nonstorm water discharges *discharge management*).

3. Discharges covered by another permit. This permit does not authorize storm water discharges associated with construction activity that have been covered under an individual permit or required to obtain coverage under an alternative general permit in accordance with Part III X.

4. *TMDL limitation. Discharges to waters for which a "total maximum daily load" (TMDL) allocation for sediment or a parameter that addresses sediment (such as total suspended solids, turbidity, or siltation) has been established by the board and approved by EPA are not eligible for coverage under this permit unless the storm water pollution prevention plan (SWPPP) developed by the operator incorporates measures and controls that are consistent with the assumptions and requirements of such TMDL. To be eligible for coverage under this general permit, the SWPPP must incorporate any conditions applicable to discharges from the construction site that are necessary for consistency with the assumptions and requirements of the TMDL. If a specific wasteload allocation has been established that would apply to discharges from the construction site, the operator must incorporate that allocation into the SWPPP and implement necessary steps to meet that allocation.*

C. Commingled discharges. Any discharge authorized by a different VPDES permit may be commingled with discharges authorized by this permit.

D. Prohibition of nonstorm water discharges.

1. Except as provided in Parts I A 2, I C and I D 2, all discharges covered by this permit shall be composed entirely of storm water associated with construction activity.

2. The following nonstorm water discharges from active construction sites are authorized by this permit provided the nonstorm water component of the discharge is in compliance with Part II D 5 (Nonstorm water discharges):

- a. Discharges from fire fighting activities;
- b. Fire hydrant flushings;
- c. Waters used to wash vehicles where detergents are not used;
- d. Water used to control dust;
- e. Potable water sources, including waterline flushings;
- f. Water used for hydrostatic testing of new pipeline construction;
- g. Routine external building wash down which does not use detergents;
- h. Pavement washwaters where spills or leaks of toxic or hazardous materials have not occurred (unless all spilled material has been removed) and where detergents are not used; ~~air conditioning condensate~~;
- i. Uncontaminated *air conditioning* or compressor condensate;
- j. Uncontaminated ground water or spring water; ~~and~~
- k. Foundation or footing drains where flows are not contaminated with process materials such as solvents;
- l. *Uncontaminated excavation dewatering, and*
- m. *Landscape irrigation.*

E. Releases of hazardous substances or oil in excess of reportable quantities.

The discharge of hazardous substances or oil in the storm water discharges from ~~a facility~~ *the construction site* shall be prevented or minimized in accordance with the applicable storm water pollution prevention plan for the ~~facility~~ *site*. *This permit does not relieve the permittee of the reporting requirements of 40 CFR Part 110 (2002), 40 CFR Part 117 (2002) and 40 CFR Part 302 (2002) or § 62.1-44.34:19 of the Code of Virginia.*

Where a release containing a hazardous substance or oil in an amount equal to or in excess of a reportable quantity established under either 40 CFR Part 110 (~~1998~~2002), 40 CFR Part 117 (~~1998~~2002) or 40 CFR Part 302 (~~1998~~2002) occurs during a 24-hour period,:

1. The permittee is required to notify the department in accordance with the requirements of Part III G as soon as he has knowledge of the discharge;

2. Where a release enters a municipal separate storm sewer system (MS4), the permittee shall also notify the owner of the MS4; ~~and in addition,~~

3. The storm water pollution prevention plan required under Part II D of this permit must be reviewed to identify measures to prevent the reoccurrence of such releases and to respond to such releases, and the plan must be modified where appropriate. ~~This permit does not relieve the permittee of the reporting requirements of 40 CFR Part 110 (1998), 40 CFR Part 117 (1998) and 40 CFR Part 302 (1998) or § 62.144.34:19 of the Code of Virginia.~~

F. Spills.

This permit does not authorize the discharge of hazardous substances or oil resulting from an on-site spill.

G. Notice of Termination of permit coverage.

~~1. Where a site has been finally stabilized and all storm water discharges from construction activities that are authorized by this permit are eliminated, the permittee of the facility shall submit a notice of termination that is signed in accordance with Part III K. The operator of the construction activity may only submit a notice of termination after one or more of the following conditions have been met:~~

- ~~a. Final stabilization has been achieved on all portions of the site for which the operator is responsible;~~
- ~~b. Another operator has assumed control over all areas of the site that have not been finally stabilized;~~
- ~~c. Coverage under an alternative VPDES permit has been obtained; or~~
- ~~d. For residential construction only, temporary stabilization has been completed and the residence has been transferred to the homeowner.~~

~~2. The notice of termination must be submitted within 30 days of one of the conditions in Part I G 1 being met. Authorization to discharge terminates seven days after the notice of termination is submitted.~~

~~3. The notice of termination shall be signed in accordance with Part III K of this permit.~~

~~2. The terms and conditions of this permit shall remain in effect until a completed notice of termination is submitted. Coverage under the permit will be deemed terminated two days after the operator submits the notice of termination to the department.~~

H. Water quality protection. The permittee must select, install, implement and maintain best management practices (BMPs) at the construction site that minimize pollutants in the discharge as necessary to meet applicable water quality standards. If there is evidence indicating that the storm water discharges authorized by this permit are causing, have the reasonable potential to cause, or are contributing to an excursion above an applicable water quality standard, or are causing significant downstream impacts, the board may take appropriate enforcement action and/or require the permittee to obtain an individual permit in accordance with 9 VAC 25-31-170 B 3.

PART II STORM WATER POLLUTION PREVENTION PLAN

A storm water pollution prevention plan (SWPPP) shall be developed *and implemented* for the construction activity covered by this permit. ~~Storm water pollution prevention plans SWPPPs shall be prepared in accordance with good engineering practices. The plan SWPPP shall identify potential sources of pollution which may reasonably be expected to affect the quality of storm water discharges from the construction site. In addition, the plan SWPPP shall describe and ensure the implementation of practices which will be used to reduce the pollutants in storm water discharges at from the construction site, and to assure compliance with the terms and conditions of this permit. Permittees must implement the provisions of the storm water pollution prevention plan required under this part as a condition of this permit.~~

The storm water pollution prevention plan SWPPP requirements of this general permit may be fulfilled by incorporating by reference other state, tribal or local plans such as an erosion and sediment control (ESC) plan, a spill prevention control and countermeasure (SPCC) plan developed for the site under § 311 of the federal Clean Water Act or best management practices (BMP) programs otherwise required for the facility provided that the incorporated plan meets or exceeds the storm water pollution prevention plan SWPPP requirements of Part II D. If an erosion and sediment control plan for the construction activity is being incorporated by reference, the referenced plan must be approved by the locality in which the construction activity is to occur or by another appropriate plan approving authority authorized under the Erosion and Sediment Control Regulations (4 VAC 50-30) prior to the commencement of construction. All plans incorporated by reference into the storm water pollution prevention plan SWPPP become enforceable under this permit. If a plan incorporated by reference does not contain all of the required elements of the storm water pollution prevention plan SWPPP of Part II D, the permittee must develop the missing elements and include them in the required storm water pollution prevention plan SWPPP.

Once a definable area has been finally stabilized, the operator may mark this on the SWPPP and no further SWPPP or inspection requirements apply to that portion of the site (e.g., earth disturbing activities around one of three buildings in a complex are done and the area is finally stabilized; one mile of a roadway or pipeline project is done and finally stabilized, etc.).

The operator must implement the SWPPP as written from commencement of construction activity until final stabilization is complete.

A. Deadlines for plan SWPPP preparation and compliance.

~~1. For small construction activities that have begun on or before December 4, 2002, the storm water pollution prevention plan shall be prepared and provide for compliance with the terms and schedule of the plan beginning within 30 days after the date of coverage under this permit.~~

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~~2. For industrial activity construction activities that have begun after June 30, 1999, and small construction activities that have begun after December 4, 2002,~~

1. The plan SWPPP shall be prepared prior to submittal of the registration statement and provide for compliance with the terms and schedule of the plan beginning with the initiation of construction activities.

~~3.~~ 2. For ongoing construction activity involving a change of operator, the new operator shall accept and maintain the existing storm water pollution prevention plan SWPPP, or prepare and implement a new storm water pollution prevention plan SWPPP prior to taking over operations at the site.

B. Signature and plan review and making plans available.

1. The plan SWPPP shall be signed in accordance with Part III K and be.

2. The SWPPP shall be retained, along with a copy of this permit on-site at the facility which generates the storm water discharge in accordance with Part III B of this permit. ~~2. construction site from the date of commencement of construction activity~~ The permittee shall make plans available upon request to the department; a state or local agency approving sediment and erosion plans, grading plans, or storm water management plans; or in the case of a storm water discharge which discharges through a municipal separate storm sewer system to the operator of the municipal system from the date of project initiation to the date of final stabilization. Permittees with day-to-day operation control over plan implementation shall have a copy of the plan available at a central location on-site for the use of all operators and those identified as having responsibilities under the plan whenever they are on the construction site. The copy of the plan that is required to be kept on-site must be made available, in its entirety, to the department for review at the time of an on-site inspection.

~~3. The director may notify the permittee at any time that the plan does not meet one or more of the minimum requirements of this part. Such notification shall identify those provisions of the permit which are not being met by the plan and identify which provisions require modifications in order to meet the minimum requirements of this permit. Within seven days of such notification the permittee shall make the required changes and shall submit to the department a written certification that the requested changes have been made. The director may take appropriate enforcement action for the period of time the permittee was operating under a plan that did not meet the minimum requirements of this permit.~~

3. The permittee shall make plans available upon request to the department; a state or local agency approving sediment and erosion plans, grading plans, or storm water management plans; local government officials; or the operator of a municipal separate storm sewer system receiving discharges from the site.

C. Keeping plans current Maintaining an updated SWPPP.

1. The permittee shall amend the plan SWPPP whenever there is a change in design, construction, operation, or maintenance, which that has a significant effect on the potential for the discharge of pollutants to surface waters and which that has not otherwise been previously addressed in the plan or if the storm water pollution prevention plan proves to be SWPPP.

2. The SWPPP must be amended if during inspections or investigations by site staff, or by local, state or federal officials, it is determined that the discharges are causing water quality exceedances, or the SWPPP is ineffective in eliminating or significantly minimizing pollutants from sources identified under Part II D 1 of this permit, or in otherwise achieving the general objectives of controlling pollutants in storm water discharges from construction activities in storm water discharges from the construction site.

3. Based on the results of an inspection, the SWPPP must be modified as necessary to include additional or modified BMPs designed to correct problems identified. Revisions to the SWPPP must be completed within seven calendar days following the inspection. Implementation of these additional or modified BMPs must be accomplished as described in Part II D 3 b.

4. The SWPPP must clearly identify for each measure identified in the plan, the contractor(s) or subcontractor(s) that will implement the measure. The plan shall be amended in accordance with Part II E to identify any new contractor that will implement a measure of the plan.

D. Pollution prevention plan contents of plan.

The storm water pollution prevention plan SWPPP shall include the following items:

1. Site and activity description. Each plan shall provide a description of pollutant sources and other the following information as indicated:

a. A description of the nature of the construction activity, including the function of the project (e.g., low density residential, shopping mall, highway, etc.);

b. A description of The intended sequence and timing of major activities which that disturb soils for major portions of at the site (e.g., grubbing, excavation, grading, utilities and infrastructure installation).

c. Estimates of the total area of the site and the total area of the site that is expected to be disturbed by excavation, grading, or other construction activities including off-site borrow and fill areas covered by the plan;

d. An estimate of the runoff coefficient of the site prior to construction and after construction activities are completed and existing data describing the soil or the quality of any discharge from the site.

e. A description of existing vegetation at the site.

f. d. A description of any other potential pollution sources, such as vehicle fueling, storage of fertilizers or chemicals, sanitary waste facilities, etc.

~~g. e. The name of the Identification of the nearest receiving waters and the ultimate receiving waters, and areal extent of wetland acreage at the site at or near the construction site that will receive discharges from disturbed areas of the project;~~

~~i. f. The location and description on any discharge associated with industrial activity other than construction, including at the site. This includes storm water discharges from dedicated asphalt plants and dedicated concrete plants, which is that are covered by this permit.~~

~~h. g. A site map indicating:~~

~~(1) Drainage patterns Directions of storm water flow and approximate slopes or contours anticipated after major grading activities;~~

~~(2) Areas of soil disturbance and areas of the site which will not be disturbed;~~

~~(3) The location Locations of major structural and nonstructural controls identified in the plan SWPPP, including those that will be permanent controls that will remain after construction activities have been completed;~~

~~(4) The location of areas Locations where stabilization practices are expected to occur including the types of vegetative cover;~~

~~(5) Surface waters water bodies (including wetlands);~~

~~(6) Locations where storm water is discharged discharges to a surface water with an outline of the drainage area for each discharge point;~~

~~(7) Existing and planned paved areas and buildings;~~

~~(8) Locations of permanent storm water management practices to be used to control pollutants in storm water after construction activities have been completed;~~

~~(9) (7) Locations of off-site material, waste, borrow or equipment storage areas covered by the plan; and~~

~~(10) (8) Locations of other potential pollution sources as described in Part II D 4-f , such as vehicle fueling, storage of chemicals, sanitary waste facilities, etc.; and~~

~~(9) Areas where final stabilization has been accomplished and no further construction-phase permit requirements apply.~~

~~Two site maps may be developed, one indicating preconstruction site conditions and the second indicating final site conditions. The two maps should be on the same scale.~~

~~2. Controls to reduce pollutants. Each plan The SWPPP shall include a description of appropriate controls and all pollution control measures that will be implemented as part of the construction activity to control pollutants in storm water discharges at the construction site. For each major activity identified in the project description, the plan will shall clearly describe for each major activity identified in the site plan appropriate control measures and, the timing general sequencing during the construction process that in which~~

~~the measures will be implemented, and which operator is responsible for the control measure's implementation. (For example, perimeter controls for one portion of the site will be installed after the clearing and grubbing necessary for installation of the measure, but before the clearing and grubbing for the remaining portions of the site. Perimeter controls will be actively maintained until final stabilization of those portions of the site upward of the perimeter control. Temporary perimeter controls will be removed after final stabilization.) The description and implementation of controls shall address the following minimum components:~~

~~a. Erosion and sediment controls.~~

~~(1) Short and long term goals and criteria-~~

~~(a) The construction phase erosion and sediment controls shall be designed to retain sediment on site to the maximum extent practicable.~~

~~(b) All control measures must be properly selected, installed, and maintained in accordance with the manufacturers' specifications and good engineering practices. If periodic inspections or other information indicates a control has been used inappropriately or incorrectly, the permittee must replace or modify the control for site situations.~~

~~(c) If sediment escapes the construction site, off site accumulations of sediment must be removed at a frequency sufficient to minimize off-site impacts (e.g., fugitive sediment in the street could be washed into storm sewers by the next rain and/or pose a safety hazard to users of public streets).~~

~~(d) Sediment must be removed from sediment traps or sedimentation ponds when design capacity has been reduced by 50%.~~

~~(e) Litter, construction debris, and construction chemicals exposed to storm water shall be prevented from becoming a pollutant source for storm water discharges (e.g., screening outfalls, picked up daily).~~

~~(f) Off site material storage areas (also including overburden and stockpiles of dirt, borrow areas, etc.) where storm water discharges are authorized by this permit are considered a part of the project and shall be addressed in the plan.~~

~~(2) (1) Stabilization practices. The storm water pollution prevention plan shall include a description of interim and permanent stabilization practices, including site specific scheduling of the implementation of the practices for the site. Site plans should ensure that existing vegetation is preserved where attainable and that disturbed portions of the site are stabilized. Stabilization practices may include, but are not limited to: temporary seeding, permanent seeding, mulching, geotextiles, sod stabilization, vegetative buffer strips, protection of trees, preservation of mature vegetation, riprap, gabions, facines, biologs and other appropriate measures. Use of impervious surfaces for stabilization should be avoided.~~

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(a) A record of the dates when major grading activities occur, when construction activities temporarily or permanently cease on a portion of the site, and when stabilization measures are initiated shall be maintained and included in the plan.

(b) Except as provided in Part III D 2 a (2) (a) (1) (c), (d) and (e), stabilization measures shall be initiated as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased, but in no case more than seven days after the construction activity in that portion of the site has temporarily or permanently ceased.

(c) Where the initiation of stabilization measures by the seventh day after construction activity temporary or permanently ceased is precluded by snow cover or frozen ground conditions, stabilization measures shall be initiated as soon as practicable.

(d) Where construction activity on a portion of the site is temporarily ceased, and earth disturbing activities will be resumed within 30 days, temporary stabilization measures do not have to be initiated on that portion of the site.

(e) In drought-stricken areas where initiating perennial vegetative stabilization measures is not possible within seven days after construction activity has temporarily or permanently ceased, final vegetative stabilization measures shall be initiated as soon as practicable.

(2) Structural practices. The plan shall include a description of structural practices to divert flows from exposed soils, store retain/detain flows or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable. Such practices may include, but are not limited to: silt fences, earth dikes, drainage swales, sediment traps, check dams, subsurface drains, pipe slope drains, level spreaders, storm drain inlet protection, rock outlet protection, reinforced soil retaining systems, gabions, and temporary or permanent sediment basins. Structural practices should be placed on upland soils to the degree attainable. The installation of these devices may be subject to § 404 of the CWA. The department encourages the use of a combination of sediment and erosion control measures in order to achieve maximum pollutant removal.

(a) *Sediment basins:* For common drainage locations that serve an area with three or more acres at one time, a temporary (or permanent) sediment basin providing 3,618 cubic feet of storage per acre drained, or equivalent control measures, shall be provided where attainable until final stabilization of the site. The 3,618 cubic feet of storage area per acre drained does not apply to flows from off-site areas and flows from on-site areas that are either undisturbed or have undergone final stabilization where such flows are diverted around both the disturbed area and the sediment basin. In

determining whether installing a sediment basin is attainable, the permittee may consider factors such as site soils, slope, available area on site, etc. In any event, the permittee must consider public safety, especially as it relates to children, as a design factor for the sediment basin and alternative sediment controls shall be used where site limitations would preclude a safe design.

(b) For drainage locations which serve three or more acres at one time and where a temporary sediment basin or equivalent controls is not attainable, smaller sediment basins and/or sediment traps should be used. Where neither the sediment basin nor equivalent controls are attainable due to site limitations—At a minimum, silt fences, vegetative buffer strips, or equivalent sediment controls are required for all down slope boundaries of the construction area, and for those side slope boundaries deemed appropriate as dictated by individual site conditions. The department encourages the use of a combination of sediment and erosion control measures in order to achieve maximum pollutant removal.

(c) For drainage locations serving less than three acres, smaller sediment basins or sediment traps or both should be used. At a minimum, silt fences, vegetative buffer strips or equivalent sediment controls are required for all downslope boundaries, and for those side slope boundaries deemed appropriate as dictated by individual site conditions, of the construction area unless a sediment basin providing storage for 3,618 cubic feet of storage per acre drained is provided. The department encourages the use of a combination of sediment and erosion control measures in order to achieve maximum pollutant removal.

b. Management practices.

(1) All control measures must be properly selected, installed, and maintained in accordance with manufacturer specifications and good engineering practices. If periodic inspections or other information indicates a control has been used inappropriately, or incorrectly, the permittee must replace or modify the control for site situations as soon as practicable.

(2) If sediment escapes the construction site, off-site accumulations of sediment must be removed at a frequency sufficient to minimize off-site impacts.

(3) Litter, construction debris, and construction chemicals exposed to storm water shall be prevented from becoming a pollutant source in storm water discharges.

c. Storm water management.

(1) The plan shall include a description of all post-construction storm water management measures that will be installed during the construction process to control pollutants in storm water discharges that will occur after construction operations have been completed must be

~~included in the storm water pollution prevention plan. Structural measures should be placed on upland soils to the degree attainable. The installation of these devices may be subject to § 404 of the Clean Water Act. This permit only addresses the installation of storm water management measures, and not the ultimate operation and maintenance of such structures after the construction activities have been completed and the site has undergone final stabilization. Permittees are only responsible for the installation and maintenance of storm water management measures prior to final stabilization of the site, and are not responsible for maintenance after storm water discharges from construction activities have been eliminated from the site. Postconstruction storm water BMPs that discharge pollutants from point sources once construction is completed, may in themselves need authorization under a separate VPDES permit. Such measures must be designed and installed in accordance with applicable local and/or state requirements.~~

~~(1) (2) Such practices measures may include, but are not limited to: storm water detention structures (including dry ponds); storm water retention structures; flow attenuation by use of open vegetated swales and natural depressions; infiltration of runoff on-site; storm water wetlands; sand filters; bioretention systems; water quality structures; and sequential systems (which combine several practices). The pollution prevention plan shall include an explanation of the technical basis used to select the practices to control pollution where flows exceed predevelopment levels.~~

~~(2) (3) Velocity dissipation devices shall be placed at discharge locations and along the length of any outfall channel as necessary to provide a nonerosive flow velocity flow from the structure to a water course so that the natural physical and biological characteristics and functions are maintained and protected (e.g., no significant changes in the hydrological regime of the receiving water).~~

~~e. d. Other controls.~~

~~(1) No The SWPPP shall describe measures to prevent the discharge of solid materials, including building materials, garbage, and debris shall be discharged to surface waters of the state, except as authorized by a Clean Water Act § 404 permit.~~

~~(2) Where construction vehicle access routes intersect paved public roads, provisions shall be made to minimize the transport of sediment by vehicular tracking onto the paved surface. Where sediment is transported onto a public road surface, the road shall be cleaned thoroughly at the end of each day. Sediment shall be removed from the roads by shoveling or sweeping and transported to a sediment control disposal area. Street washing shall be allowed only after sediment is removed in this manner.~~

~~(3) The plan shall ensure and demonstrate compliance with applicable state or local waste disposal, sanitary sewer or septic system regulations.~~

~~(4) The plan shall include a description of construction and waste materials expected to be stored on-site with updates as appropriate. The plan shall also include a description of controls to reduce pollutants from these materials, including storage practices to minimize exposure of the materials to storm water, and for spill prevention and response.~~

~~(5) The plan shall include a description of pollutant sources from areas other than the permitted construction activity (including storm water discharges from dedicated asphalt plants and dedicated concrete plants) that contribute to the permitted discharge, and a description of controls and measures that will be implemented at those sites to minimize pollutant discharges.~~

~~d. e. Approved Applicable state or local plans programs.~~

~~(1) Permittees which discharge storm water associated with construction activities must ensure their storm water pollution prevention plan is The SWPPP shall be consistent with all applicable state or local requirements specified in applicable sediment for soil and erosion site plans or site permits, or control and storm water management site plans or site permits approved by state or local officials. (2) Storm water pollution prevention plans must be updated including updates to the SWPPP as necessary to remain consistent with reflect any changes applicable to protecting surface water resources in sediment erosion site plans or site permits, or storm water management site plans or site permits approved by state or local officials for which the permittee receives written notice revisions to applicable state or local requirements for soil and erosion control.~~

~~3. Maintenance of controls.~~

~~a. The storm water pollution prevention plan SWPPP must include a description and schedule of procedures to maintain in good and effective operating conditions vegetation, erosion and sediment control measures and other protective measures during construction identified in the site plan. If site inspections required by Part II D 4 identify BMPs that are not operating effectively, maintenance shall be performed before the next anticipated storm event, or as necessary soon as practicable to maintain the continued effectiveness of storm water controls. If maintenance prior to the next anticipated storm event is impracticable, maintenance must be scheduled and accomplished as soon as practicable.~~

~~b. If existing BMPs need to be modified or if additional BMPs are necessary for any reason, implementation shall be completed before the next anticipated storm event. If implementation before the next anticipated storm event is impracticable, the situation shall be documented in the SWPPP and alternative BMPs shall be implemented as soon as practicable.~~

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c. Sediment must be removed from sediment traps or sedimentation ponds when design capacity has been reduced by 25%.

4. Inspections. ~~Facility personnel who are familiar with the construction activity, the BMPs and the storm water pollution prevention plan shall inspect disturbed areas of the construction site that have not been finally stabilized, and areas used for storage of materials that are exposed to precipitation, structural control measures, and locations where vehicles enter or exit the site. Inspections by qualified personnel must be conducted of all areas of the site disturbed by construction activity, and areas used for storage of materials that are exposed to storm water. "Qualified personnel" means a person knowledgeable in the principles and practice of erosion and sediment controls, such as a licensed professional engineer, responsible land disturber (RLD), or other knowledgeable person who possesses the skills to assess conditions at the construction site that could impact storm water quality, and to assess the effectiveness of any sediment and erosion control measures selected to control the quality of storm water discharges from the construction activity.~~

a. ~~These~~ Inspections shall be conducted at least once every 14 calendar days and within 48 hours of the end of a storm event that is 0.5 inches or greater. Rainfall shall be measured using an appropriate rain gauge located on-site such that the rainfall measurement is representative of the precipitation from the storm event. The amount of precipitation (in inches), the individual taking the measurement, and the date and time of the measurement shall be documented in a log to be kept with the SWPPP. Where areas have been finally or temporarily stabilized or runoff is unlikely due to winter conditions (e.g., the site is covered with snow or ice, or frozen ground exists) such inspections shall be conducted at least once every month.

~~a. b. Disturbed areas and areas used for storage of materials that are exposed to precipitation shall be inspected. Inspectors must look for evidence of, or the potential for, pollutants entering the drainage storm water conveyance system. Erosion and sediment control measures identified in the plan shall be observed to ensure that they are operating correctly proper operation. Where Discharge locations or points are accessible, they where accessible shall be inspected to ascertain whether erosion control measures are effective in preventing significant impacts to receiving waters. Where discharge locations are inaccessible, nearby downstream locations shall be inspected to the extent that such inspections are practicable. Locations where vehicles enter or exit the site shall be inspected for evidence of off-site sediment tracking.~~

c. Utility line installation, pipeline construction, and other examples of long, narrow, linear construction activities may limit the access of inspection personnel to the areas described in Part II D 4 b. Inspection of these areas could require that vehicles compromise temporarily or even permanently stabilized areas, cause additional disturbance of soils, and increase the potential for erosion. In these circumstances, controls must be

inspected on the same frequencies as other construction projects, but representative inspections may be performed. For representative inspections, personnel must inspect controls along the construction site for 0.25 miles above and below each access point where a roadway, undisturbed right-of-way, or other similar feature intersects the construction site and allows access to the areas described above. The conditions of the controls along each inspected 0.25-mile segment may be considered as representative of the condition of controls along that reach extending from the end of the 0.25-mile segment to either the end of the next 0.25-mile segment, or to the end of the project, whichever occurs first. Inspection locations must be listed in the report required by Part II D 4 e.

~~b. d. Based on the results of the inspection, the site and activity description identified in the plan in accordance with Part II D 1 of this permit and pollution prevention measures identified in the plan in accordance with Part II D 2 of this permit shall be revised as appropriate within seven calendar days following the inspection. If existing BMPs need to be modified or if additional BMPs are necessary, implementation shall be completed before the next anticipated storm event. If implementation before the next anticipated storm event is impracticable, they shall be implemented as soon as practicable.~~

e. e. A report summarizing the scope of the inspection, names and qualifications of personnel making the inspection, the dates of the inspection, major observations relating to the implementation of the storm water pollution prevention plan, and actions taken in accordance with Part II D 4 b d of the permit shall be made and retained as part of the storm water pollution prevention plan in accordance with Part III B of this permit. Major observations should include:

- (1) The location(s) of discharges of sediment or other pollutants from the site;
- (2) Location(s) of BMPs that need to be maintained;
- (3) Location(s) of BMPs that failed to operate as designed or proved inadequate for a particular location; and
- (4) Location(s) where additional BMPs are needed that did not exist at the time of inspection; and
- (5) Corrective action required including any changes to the SWPPP that are necessary and implementation dates.

~~Such~~ The reports shall identify any incidents of noncompliance. Where a report does not identify any incidents of noncompliance, the report shall contain a certification that the facility is in compliance with the storm water pollution prevention plan and this permit. The report shall be signed in accordance with Part III K of this permit.

5. Nonstorm water discharges discharge management. ~~Except for flows from fire fighting activities, The SWPPP shall identify all allowable sources of nonstorm water discharges listed in Part I D 2 of this permit that are~~

combined with storm water discharges from the construction activity at the site ~~must be identified in the plan, except for flows from fire fighting activities.~~ The plan shall identify and ensure the implementation of appropriate pollution prevention measures for the nonstorm water components of the discharge.

E. Contractors.

~~1. The storm water pollution prevention plan must clearly identify for each measure identified in the plan, the contractors or subcontractors that will implement the measure. All contractors and subcontractors identified in the plan must sign a copy of the certification statement in Part II E 2 of this permit in accordance with Part III K of this permit. All certifications must be included in the storm water pollution prevention plan.~~

~~2. All contractors and subcontractors identified in a storm water pollution prevention plan in accordance with Part II E 1 of this permit shall sign a copy of the following certification statement before conducting any professional service at the site identified in the storm water pollution prevention plan:~~

~~"I certify under penalty of law that I understand the terms and conditions of this Virginia Pollutant Discharge Elimination System (VPDES) general permit that authorizes the storm water discharges from the construction activity identified as part of this certification."~~

~~The certification must include the name and title of the person providing the signature in accordance with Part III K of this permit; the name, address and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made.~~

PART III CONDITIONS APPLICABLE TO All VPDES PERMITS

A. Monitoring.

1. Samples and measurements taken as required by this permit shall be representative of the monitored activity.
2. Monitoring shall be conducted according to procedures approved under 40 CFR Part 136 or alternative methods approved by the U.S. Environmental Protection Agency, unless other procedures have been specified in this permit.
3. The permittee shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals that will ensure accuracy of measurements.

B. Records.

1. Records of monitoring information shall include:
 - a. The date, exact place, and time of sampling or measurements;
 - b. The individual(s) who performed the sampling or measurements;
 - c. The date(s) and time(s) analyses were performed;
 - d. The individual(s) who performed the analyses;

- e. The analytical techniques or methods used; and
- f. The results of such analyses.

2. Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years, the permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the registration statement for this permit, for a period of at least three years from the date of the sample, measurement, report or request for coverage. This period of retention shall be extended automatically during the course of any unresolved litigation regarding the regulated activity or regarding control standards applicable to the permittee, or as requested by the board.

C. Reporting monitoring results.

1. The permittee shall submit the results of the monitoring required by this permit not later than the 10th day of the month after monitoring takes place, unless another reporting schedule is specified elsewhere in this permit. Monitoring results shall be submitted to the department's regional office.

2. Monitoring results shall be reported on a discharge monitoring report (DMR) or on forms provided, approved or specified by the department.

3. If the permittee monitors any pollutant specifically addressed by this permit more frequently than required by this permit using test procedures approved under 40 CFR Part 136 or using other test procedures approved by the U.S. Environmental Protection Agency or using procedures specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or reporting form specified by the department.

4. Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in this permit.

D. Duty to provide information. The permittee shall furnish to the department, within a reasonable time, any information which the board may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The board may require the permittee to furnish, upon request, such plans, specifications, and other pertinent information as may be necessary to determine the effect of the wastes from his discharge on the quality of state waters, or such other information as may be necessary to accomplish the purposes of the State Water Control Law. The permittee shall also furnish to the department, upon request, copies of records required to be kept by this permit.

E. Compliance schedule reports. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of

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this permit shall be submitted no later than 14 days following each schedule date.

F. Unauthorized discharges. Except in compliance with this permit or another permit issued by the board, it shall be unlawful for any person to:

1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances; or
2. Otherwise alter the physical, chemical or biological properties of such state waters and make them detrimental to the public health, or to animal or aquatic life, or to the use of such waters for domestic or industrial consumption, or for recreation, or for other uses.

G. Reports of unauthorized discharges. Any permittee who discharges or causes or allows a discharge of sewage, industrial waste, other wastes or any noxious or deleterious substance into or upon state waters in violation of Part III F, or who discharges or causes or allows a discharge that may reasonably be expected to enter state waters in violation of Part III F, shall notify the department of the discharge immediately upon discovery of the discharge, but in no case later than 24 hours after said discovery. A written report of the unauthorized discharge shall be submitted to the department within five days of discovery of the discharge. The written report shall contain:

1. A description of the nature and location of the discharge;
2. The cause of the discharge;
3. The date on which the discharge occurred;
4. The length of time that the discharge continued;
5. The volume of the discharge;
6. If the discharge is continuing, how long it is expected to continue;
7. If the discharge is continuing, what the expected total volume of the discharge will be; and
8. Any steps planned or taken to reduce, eliminate and prevent a recurrence of the present discharge or any future discharges not authorized by this permit.

Discharges reportable to the department under the immediate reporting requirements of other regulations are exempted from this requirement.

H. Reports of unusual or extraordinary discharges. If any unusual or extraordinary discharge including a bypass or upset should occur from a treatment works and the discharge enters or could be expected to enter state waters, the permittee shall promptly notify, in no case later than 24 hours, the department by telephone after the discovery of the discharge. This notification shall provide all available details of the incident, including any adverse effects on aquatic life and the known number of fish killed. The permittee shall reduce the report to writing and shall submit it to the department within five days of discovery of the discharge in accordance with Part III I 2. Unusual and extraordinary discharges include but are not limited to any discharge resulting from:

1. Unusual spillage of materials resulting directly or indirectly from processing operations;
2. Breakdown of processing or accessory equipment;
3. Failure or taking out of service some or all of the treatment works; and
4. Flooding or other acts of nature.

I. Reports of noncompliance. The permittee shall report any noncompliance which may adversely affect state waters or may endanger public health.

1. An oral report shall be provided within 24 hours from the time the permittee becomes aware of the circumstances. The following shall be included as information which shall be reported within 24 hours under this paragraph:

- a. Any unanticipated bypass; and
 - b. Any upset which causes a discharge to surface waters.
2. A written report shall be submitted within five days and shall contain:
- a. A description of the noncompliance and its cause;
 - b. 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; and
 - c. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

The board may waive the written report on a case-by-case basis for reports of noncompliance under Part III I if the oral report has been received within 24 hours and no adverse impact on state waters has been reported.

3. The permittee shall report all instances of noncompliance not reported under Part III I 1 or 2 in writing at the time the next monitoring reports are submitted. The reports shall contain the information listed in Part III I 2.

NOTE: The immediate (within 24 hours) reports required in Part III G, H and I may be made to the department's regional office. Reports may be made by telephone or by fax. For reports outside normal working hours, leaving a recorded message shall fulfill the immediate reporting requirement. For emergencies, the Virginia Department of Emergency ~~Services~~ *Management* maintains a 24 hour telephone service at 1-800-468-8892.

J. Notice of planned changes.

1. The permittee shall give notice to the department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

- a. The permittee plans an alteration or addition to any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced:

- (1) After promulgation of standards of performance under § 306 of the federal Clean Water Act which are applicable to such source; or

(2) After proposal of standards of performance in accordance with § 306 of the Clean Water Act which are applicable to such source, but only if the standards are promulgated in accordance with § 306 within 120 days of their proposal;

b. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations nor to notification requirements specified elsewhere in this permit; or

c. The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.

2. The permittee shall give advance notice to the department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

K. Signatory requirements.

1. Registration statement. All registration statements shall be signed as follows:

a. For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means: (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy-making or decision-making functions for the corporation; or (ii) the manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or

c. For a municipality, state, federal, or other public agency: by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a public agency includes: (i) the chief executive officer of the agency or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

2. Reports, etc. All reports required by permits and other information requested by the board shall be signed by a person described in Part III K 1 or by a duly authorized representative of that person. A person is a duly authorized representative only if:

a. The authorization is made in writing by a person described in Part III K 1;

b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. A duly authorized representative may thus be either a named individual or any individual occupying a named position; and

c. The written authorization is submitted to the department.

3. Changes to authorization. If an authorization under Part III K 2 is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Part III K 2 shall be submitted to the department prior to or together with any reports or information to be signed by an authorized representative.

4. Certification. Any person signing a document under Part III K 1 or 2 shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

L. Duty to comply. The permittee shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the State Water Control Law and the Clean Water Act, except that noncompliance with certain provisions of this permit may constitute a violation of the State Water Control Law but not the Clean Water Act. Permit noncompliance is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

The permittee shall comply with effluent standards or prohibitions established under § 307(a) of the Clean Water Act for toxic pollutants and with standards for sewage sludge use or disposal established under § 405(d) of the Clean Water Act within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if this permit has not yet been modified to incorporate the requirement.

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M. Duty to reapply. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee shall submit a new registration statement at least 90 days before the expiration date of the existing permit, unless permission for a later date has been granted by the board. The board shall not grant permission for registration statements to be submitted later than the expiration date of the existing permit.

N. Effect of a permit. This permit does not convey any property rights in either real or personal property or any exclusive privileges, nor does it authorize any injury to private property or invasion of personal rights, or any infringement of federal, state or local law or regulations.

O. State law. Nothing in this permit shall be construed to preclude the institution of any legal action under, or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any other state law or regulation or under authority preserved by § 510 of the Clean Water Act. Except as provided in permit conditions on "bypassing" (Part III U), and "upset" (Part III V) nothing in this permit shall be construed to relieve the permittee from civil and criminal penalties for noncompliance.

P. Oil and hazardous substance liability. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under §§ 62.1-44.34:14 through 62.1-44.34:23 of the State Water Control Law.

Q. Proper operation and maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes effective plant performance, adequate funding, adequate staffing, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by the permittee only when the operation is necessary to achieve compliance with the conditions of this permit.

R. Disposal of solids or sludges. Solids, sludges or other pollutants removed in the course of treatment or management of pollutants shall be disposed of in a manner so as to prevent any pollutant from such materials from entering state waters.

S. Duty to mitigate. The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

T. Need to halt or reduce activity not a defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

U. Bypass.

1. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to ensure efficient operation. These bypasses are not subject to the provisions of Part III U 2 and 3.

2. Notice.

a. Anticipated bypass. If the permittee knows in advance of the need for a bypass, prior notice shall be submitted, if possible at least 10 days before the date of the bypass.

b. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in Part III I.

3. Prohibition of bypass.

a. Bypass is prohibited, and the board may take enforcement action against a permittee for bypass unless:

(1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(3) The permittee submitted notices as required under Part III U 2.

b. The board may approve an anticipated bypass, after considering its adverse effects, if the board determines that it will meet the three conditions listed in Part III U 3 a.

V. Upset.

1. An upset constitutes an affirmative defense to an action brought for noncompliance with technology-based permit effluent limitations if the requirements of Part III V 2 are met. A determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is not a final administrative action subject to judicial review.

2. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence that:

a. An upset occurred and that the permittee can identify the cause(s) of the upset;

b. The permitted facility was at the time being properly operated;

c. The permittee submitted notice of the upset as required in Part III I; and

d. The permittee complied with any remedial measures required under Part III S.

3. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

W. Inspection and entry. The permittee shall allow the director, or an authorized representative, upon presentation of credentials and other documents as may be required by law to:

1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
4. Sample or monitor at reasonable times, for the purposes of ensuring permit compliance or as otherwise authorized by the Clean Water Act and the State Water Control Law, any substances or parameters at any location.

For purposes of this section, the time for inspection shall be deemed reasonable during regular business hours, and whenever the facility is discharging. Nothing contained herein shall make an inspection unreasonable during an emergency.

X. Permit actions. Permits may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

Y. Transfer of permits.

1. Permits are not transferable to any person except after notice to the department. Except as provided in Part III Y 2, a permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued, or a minor modification made, to identify the new permittee and incorporate such other requirements as may be necessary under the State Water Control Law and the Clean Water Act.

2. As an alternative to transfers under Part III Y 1, this permit may be automatically transferred to a new permittee if:

a. The current permittee notifies the department at least ~~two~~ 30 days in advance of the proposed transfer of the title to the facility or property;

b. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and

c. The board does not notify the existing permittee and the proposed new permittee of its intent to modify or revoke and reissue the permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in Part III Y 2 b.

Z. Severability. The provisions of this permit are severable, and if any provision of this permit or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances and the remainder of this permit shall not be affected thereby.

NOTICE: The forms used in administering 9 VAC 25-180, Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Discharges of Storm Water from Construction Activities, are not being published; however, the name of each form is listed below. The forms are available for public inspection at the Department of Environmental Quality, 629 East Main Street, Richmond, Virginia or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

FORMS

Department of Environmental Quality, Water Division, Permit Application Fee (rev. ~~6/30/99~~ 7/02).

~~Virginia Pollutant Discharge Elimination System (VPDES) General Permit Registration Statement for Storm Water Discharges from Construction Activities, (VAR10), SWGP99-004-REG SWGP-VAR10-RS (rev. 12/02 7/04).~~

~~Virginia Pollutant Discharge Elimination System (VPDES) General Permit Notice of Termination for Storm Water Discharges from Construction Activities, (VAR10), SWGP99-004-NOT SWGP-VAR10-NOT (rev. 12/02 7/04).~~

VA.R. Doc. No. R03-97; Filed November 12, 2003, 11:36 a.m.

Title of Regulation: 9 VAC 25-190. Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Nonmetallic Mineral Mining (amending 9 VAC 25-190-10, 9 VAC 25-190-20, 9 VAC 25-190-50, 9 VAC 25-190-60 and 9 VAC 25-190-70).

Statutory Authority: § 62.1-44.15 of the Code of Virginia; § 402 of the Clean Water Act; and 40 CFR Parts 122, 123 and 124.

Public Hearing Date: January 13, 2004.

Public comments may be submitted until 5 p.m. on January 30, 2004.

(See Calendar of Events section for additional information)

Agency Contact: Michael B. Gregory, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4065 or e-mail mbgregory@deq.state.va.us.

Summary:

The State Water Control Board proposes to amend the VPDES General Permit Regulation for Nonmetallic Mineral Mining in order to reissue the general permit for another five year term. The reissued general permit will replace current General Permit VAG84, which will expire on June 30, 2004. The existing regulation sets forth guidelines for the permitting of wastewater discharges from nonmetallic mineral mines and establishes limitations and monitoring

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requirements for flow, pH and total suspended solids. The regulation also sets forth the minimum information requirements for all requests for coverage under the general permit. No significant changes to the existing regulation are proposed in this amendment.

9 VAC 25-190-10. Definitions.

The words and terms used in this chapter shall have the meanings defined in the State Water Control Law *Chapter 3.1* (§ 62.1-44.2 et seq.) of *Title 62.1* of the Code of Virginia and the Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation (9 VAC 25-31-10 et seq.) unless the context clearly indicates otherwise. Additionally, for the purposes of this chapter:

"Co-located facility" means an industrial activity other than mineral mining operating on a site where the primary industrial activity is mineral mining. Such an activity must have wastewater characteristics similar to those of the mineral mine and be located within the permitted mining area. The term refers to activities that are commonly found at mining sites such as manufacturing of ready-mix concrete (SIC Code 3273), concrete ~~block and pipe products~~ (SIC Codes 3271 and 3272), and asphalt paving materials (SIC Code 2951). ~~It does not include except asphalt emulsion manufacturing or any other activity.~~ *It does not mean industrial activity that is specifically excluded from this permit.*

~~"Department" means the Virginia Department of Environmental Quality.~~

~~"Director" means the Director of the Virginia Department of Environmental Quality or an authorized representative.~~

"Industrial activity" means activity associated with mineral mining facilities generally identified by SIC Major Group 14 including active or inactive mining operations that discharge storm water that has come into contact with any overburden, raw material, intermediate products, finished products, by-products or waste products located on the site of such operations. (Inactive mining operations are mining sites that are not being actively mined, but which have an identifiable owner/operator; inactive mining sites do not include sites where mining claims are being maintained prior to disturbances associated with the extraction, beneficiation, or processing of mined materials, nor sites where minimal activities are undertaken for the sole purpose of maintaining a mining claim.) Industrial activity also includes facilities classified under other SIC codes that may be colocated within the mineral mine permit area, unless they are expressly excluded by this general permit.

"Permittee" means the owner of a nonmetallic mineral mine covered under this general permit.

"Process wastewater" means *any wastewater used in the slurry transport of mined material, air emissions control, or processing exclusive of mining, and any other water that becomes commingled with such wastewater in a pit, pond, lagoon, mine, or other facility used for treatment of such wastewater. It includes mine pit dewatering, water used in the process of washing stone, noncontact cooling water, wastewater from vehicle/equipment washing activities, return*

water from operations where mined material is dredged and miscellaneous plant cleanup wastewaters.

"Run-off coefficient" means the fraction of total rainfall that will appear at the conveyance as run-off.

"SIC" means the Standard Industrial Classification Code or Industrial Grouping from the U.S. Office of Management and Budget Standard Industrial Classification Manual, 1987 Edition.

"Significant materials" includes, but is not limited to, raw materials; fuels; materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; raw materials used in food processing or production; hazardous substances designated under Section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) (42 USC § 9601 et seq.); any chemical the owner is required to report pursuant to Section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA) (42 USC § 11001 et seq.); fertilizers; pesticides; and waste products such as ashes, slag and sludge (including pond sediments) that have the potential to be released with storm water discharges.

"Storm water" means storm water run-off, snow melt run-off, and surface run-off and drainage.

"Storm water discharge associated with industrial activity" means the discharge from any conveyance which is used for collecting and conveying storm water and which is directly related to manufacturing, processing or raw materials storage areas at an industrial plant. The term does not include discharges from facilities or activities excluded from the VPDES program under 9 VAC 25-31-10 et seq. For the categories of industries identified in the "industrial activity" definition, the term includes, but is not limited to, storm water discharges from industrial plant yards; immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-products used or created by the mineral mine; material handling sites; refuse sites; sites used for the application or disposal of process wastewaters; sites used for the storage and maintenance of material handling equipment; sites used for residual treatment, storage, or disposal; shipping and receiving areas; manufacturing buildings; storage areas (including tank farms) for raw materials, and intermediate and finished products; and areas where industrial activity has taken place in the past and significant materials remain and are exposed to storm water. For the purposes of this paragraph, material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, finished product, by-product or waste product. The term excludes areas located on plant lands separate from the plant's industrial activities, such as office buildings and accompanying parking lots as long as the drainage from the excluded areas is not mixed with storm water drained from the above described areas.

9 VAC 25-190-20. Purpose; delegation of authority; effective date of permit.

A. The purpose of this ~~regulation chapter~~ is to establish General Permit Number VAG84 to ~~govern~~ *regulate*

wastewater discharge from nonmetallic mineral mines as follows:

1. For active and inactive nonmetallic mineral mining facilities in SIC Major Group 14, ~~the this~~ general permit covers discharges composed entirely of storm water associated with industrial activity, ~~except as specified in subdivision 2 of this subsection.~~
2. This general permit authorizes the discharge of ~~mine-pit dewatering and~~ process wastewater as well as storm water associated with industrial activity from active and inactive mineral mines classified under Standard Industrial Classification Codes 1411, 1422, 1423, 1429, 1442, 1455, 1459 excluding bentonite and magnesite mines, 1475, and 1499 excluding gypsum, graphite, asbestos, diatomite, jade, *novaculite*, *wollastonite*, tripoli or asphaltic mineral mines.
3. Coal mining, metal mining, and oil and gas extraction are not covered by this general permit.

B. The director, or an authorized representative, may perform any act of the board provided under this chapter, except as limited by § 62.1-44.14 of the Code of Virginia.

C. This general permit will become effective on ~~June 30, 1999~~ *July 1, 2004*, and will expire five years after the effective date. For any covered owner, this general permit is effective upon compliance with all the provisions of 9 VAC 25-190-50 and the receipt of this general permit.

9 VAC 25-190-50. Authorization to discharge.

A. Any owner governed by this general permit is authorized by this to discharge to surface waters of the Commonwealth of Virginia provided that the owner files ~~and receives acceptance by the board of the registration statement of 9 VAC 25-190-60~~ *a registration statement as described in 9 VAC 25-190-60 that is accepted by the board*, files the required permit fee, complies with the effluent limitations and other requirements of 9 VAC 25-190-70, and provided that:

1. The owner shall not have been required to obtain an individual permit as may be required in the VPDES permit regulation (9 VAC 25-31-10 et seq.);
2. The owner shall not be authorized by this general permit to discharge to state waters specifically named in other board regulations or policies which prohibit such discharges;
3. The owner shall have a mineral mining permit for the operation to be covered by this general permit which has been approved by the Virginia Department of Mines, Minerals and Energy, Division of Mineral Mining (or associated waived program, locality or state agency) under provisions and requirements of Title 45.1 of the Code of Virginia. *Mineral mines located in bordering states with discharges in Virginia shall provide documentation that they have a mining permit from the appropriate state authority.* Mineral mines owned and operated by governmental bodies not subject to the provisions and requirements of Title 45.1 of the Code of Virginia are exempt from this requirement; and

4. The owner shall implement pollution control measures necessary to comply with the conditions and limitations of this general permit including, but not limited to, the installation, operation and maintenance of sediment control structures.

B. The board shall deny coverage under this general permit to any owner with discharge or storm water discharge-related activities which the board determines cause, may reasonably be expected to cause, or may be contributing to a violation of water quality standards, including discharges or discharge-related activities that are likely to adversely affect aquatic life.

C. Receipt of this general permit does not relieve any owner of the responsibility to comply with any other federal, state or local statute, ordinance or regulation.

9 VAC 25-190-60. Registration statement.

The owner shall file a complete general VPDES permit registration statement, which will serve as a notice of intent for coverage under the general permit for nonmetallic mineral mining. Any owner proposing a new discharge shall file the registration statement at least 30 days prior to the date planned for operation of the mineral mine. Any owner of an existing mineral mine covered by an individual VPDES permit who is proposing to be covered by this general permit shall file the registration statement at least 180 days prior to the expiration date of the individual VPDES permit. Any owner of an existing mineral mine covered by the general VPDES permit for nonmetallic mineral mining that became effective on ~~June 30, 1994~~ *June 30, 1999*, who wishes to remain covered by this general permit shall file a new registration statement ~~by June 1, 1999, in accordance with the general permit requirements~~ in order to avoid a lapse in coverage. Any owner of an existing mineral mine not currently covered by a VPDES permit who is proposing to be covered by this general permit shall file the registration statement. The required registration statement shall contain the following information:

~~VIRGINIA POLLUTANT DISCHARGE ELIMINATION SYSTEM
GENERAL PERMIT REGISTRATION STATEMENT
NONMETALLIC MINERAL MINING~~

1. ~~Name of owner:~~

~~(please print or type)~~
 2. ~~Mailing address:~~

 3. ~~Telephone number:~~ _____
 4. ~~Fax number:~~ _____
 5. ~~Project name:~~

 6. ~~Description of mining activity (mineral mined):~~

 7. ~~Primary standard industrial classification (SIC) code:~~

- ~~Secondary SIC codes:~~ _____

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8. County: _____

9. Location: _____

10. Discharge Information: _____

OUTFALL NO.	OUTFALL TYPE	SOURCE OF DISCHARGE*	RECEIVING STREAM	LATITUDE/ LONGITUDE

* Include indication of any outfalls that receive discharges of process wastewater from vehicle/equipment washing facilities or activities.

Attach additional sheets if necessary.

11. Does this mine currently have a VPDES permit?
 Yes _____ No _____
 (If yes, give permit number.) _____

12. Description of wastewater treatment or reuse/recycle systems, or both:

13. List any chemicals added to water that could be discharged:

14. Indicate any co-located facilities:

15. Is this facility a hazardous waste treatment, storage, or disposal facility?
 Yes _____ No _____

16. Attach to this registration statement a schematic drawing showing the sources of water used on the property, the industrial operations contributing to or using water, and the conceptual design of the methods of treatment and disposal of wastewater and solids.

17. Attach to this registration statement an aerial photo or scale map which clearly shows the property boundaries, plant site, drainage areas associated with each outfall, locations of all mine pit dewatering, existing, significant sources of materials exposed to precipitation, storm water or process wastewater outfalls and the receiving streams.

18. Attach to this registration statement evidence that the operation to be covered by this general permit has a mining permit which has been approved by the Virginia Department of Mines, Minerals and Energy, Division of Mineral Mining (or associated waived program) under the provisions and requirements of Title 45.1 of the Code of Virginia. Mineral mines owned and operated by governmental bodies not subject to the provisions and requirements of Title 45.1 of the Code of Virginia are exempt from this requirement.

Mining Permit No.: _____

Certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted.

-Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations."

Signature: _____ Date: _____

Name of person signing above:

(printed or typed)

Title: _____

For department use only:

Accepted/Not accepted by: _____ Date: _____

Basin Stream Class Section

Special Standards

Required attachments:

- _____ 1. Evidence of approved mining permit
- _____ 2. Water use schematic drawing
- _____ 3. Aerial photo or map

- 1. Facility name, owner, mailing address and telephone number;
- 2. Project name, county and location;
- 3. Description of mining activity;
- 4. Primary and secondary SIC codes;
- 5. Discharge information including:
 - a. A list of outfalls identified by outfall numbers,
 - b. Characterization of the type of each listed outfall's discharge as either process wastewater, storm water, or process wastewater commingled with storm water,

c. Characterization of the source of each listed outfall's discharge as either mine pit dewatering, storm water associated with industrial activity (see definition in 9 VAC 25-115-10), storm water not associated with industrial activity, ground water infiltration, wastewater from vehicle and/or equipment washing activities, mined material washing, noncontact cooling water, miscellaneous plant cleanup wastewater, co-located facility discharges (identify the co-located facility), other discharges not listed here (describe), or any combination of the above,

d. The receiving stream for each outfall listed,

e. The latitude and longitude for each outfall listed;

6. Indicate if the facility has a current VPDES permit and the permit number if it does;

7. Description of wastewater treatment or reuse/recycle systems or both;

8. List of any chemicals added to water that could be discharged;

9. List of co-located facilities;

10. Indicate if the facility is a hazardous waste treatment, storage or disposal facility;

11. Schematic drawing showing water flow from source to water-using industrial operations to waste treatment and disposal, and disposal of any solids removed from wastewater;

12. Aerial photo or scale map that clearly shows the property boundaries, plant site, drainage areas associated with each outfall, locations of all mine pit dewatering, existing, significant sources of materials exposed to precipitation, storm water or process wastewater outfalls and the receiving streams;

13. Evidence that the operation to be covered by this general permit has a mining permit that has been approved by the Virginia Department of Mines, Minerals and Energy, Division of Mineral Mining (or associated waived program) under the provisions and requirements of Title 45.1 of the Code of Virginia (or appropriate bordering state authorization). Mineral mines owned and operated by governmental bodies not subject to the provisions and requirements of Title 45.1 of the Code of Virginia are exempt from this requirement;

14. Mining permit number;

15. The following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information

including the possibility of fine and imprisonment for knowing violations."

The registration statement shall be signed in accordance with 9 VAC 25-31-110.

9 VAC 25-190-70. General permit.

Any owner whose registration statement is accepted by the board will receive the following permit and shall comply with the requirements in it and be subject to all requirements of the VPDES permit regulation, 9 VAC 25-31-10 et seq.

General Permit No.: VAG84

Effective date: ~~June 30, 1999~~ July 1, 2004

Expiration date: June 30, ~~2004~~ 2009

GENERAL PERMIT FOR NONMETALLIC MINERAL MINING AUTHORIZATION TO DISCHARGE UNDER THE VIRGINIA POLLUTANT DISCHARGE ELIMINATION SYSTEM AND THE VIRGINIA STATE WATER CONTROL LAW

In compliance with the provisions of the Clean Water Act, as amended, and pursuant to the State Water Control Law and regulations adopted pursuant to it, owners of nonmetallic mineral mines are authorized to discharge to surface waters within the boundaries of the Commonwealth of Virginia, except those specifically named in board regulations or policies which prohibit such discharges.

The authorized discharge shall be in accordance with this cover page, Part I--Effluent Limitations and Monitoring Requirements, Part II--Storm Water Management, and Part III--Conditions Applicable to All VPDES Permits, as set forth herein.

PART I. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS.

A. Effluent limitations and monitoring requirements.

1. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge process wastewater, ~~effluent from mine pit dewatering~~ and commingled storm water associated with industrial activity from outfall(s).

Such discharges shall be limited and monitored by the permittee as specified below:

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EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS			MONITORING REQUIREMENTS	
	Monthly Average	Daily Minimum	Daily Maximum	Frequency	Sample Type
Flow (MGD)	NL	NA	NL	1/3 Months	Estimate
Total Suspended Solids (mg/l)	30	NA	60	1/3 Months	Grab
pH (standard units)	NA	6.0*	9.0*	1/3 Months	Grab
Total Petroleum Hydrocarbons (mg/l)**	NA	NA	NL	1/3 Months	Grab

NL = No Limitation, monitoring required

NA = Not Applicable

* Where the Water Quality Standards (9 VAC 25-260-10 et seq.) establish alternate standards for pH, pH effluent limits may be adjusted within the 6 to 9 S.U. range.

** Monitoring for Total Petroleum Hydrocarbons is only required for outfalls that receive discharges of process wastewater from vehicle/equipment washing facilities or activities or from discharges that pass through oil/water separators.

2. There shall be no discharge of floating solids or visible foam in other than trace amounts.

which does not combine with other wastewaters prior to discharge from outfall(s).

3. During the period beginning with the permittee's coverage under the general permit and lasting until the permit's expiration date, the permittee is authorized to discharge storm water associated with industrial activity

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS			MONITORING REQUIREMENTS	
	Monthly Average	Daily Minimum	Daily Maximum	Frequency	Sample Type
Flow (MG)	NA	NA	NL	1/Year	Estimate*
Total Suspended Solids (mg/l)	NA	NA	NL	1/Year	Grab
pH (standard units)	NA	NL	NL	1/Year	Grab
Total Petroleum Hydrocarbons (mg/l)	NA	NA	NL	1/Year	Grab

NL = No Limitation, monitoring required

NA = Not applicable

* Estimate of the total volume of the discharge during the storm event.

4. All samples taken to meet the monitoring requirements specified above in A 3 shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. The grab sample shall be taken during the first 30 minutes of the discharge. If the collection of a grab sample during the first 30 minutes is impracticable, a grab sample can be taken during the first hour of the discharge, and the permittee shall submit with the monitoring report a description of why a grab sample during the first 30 minutes was impracticable.

pollution of the surface or groundwaters of the state. Fuels, lubricants, coolants, and hydraulic fluids, or any other petroleum products, shall not be disposed of by discharging on the ground or into surface waters. Spent fluids shall be disposed of in a manner so as not to enter the surface or groundwaters of the state and in accordance with the applicable state and federal disposal regulations. Any spilled fluids shall be cleaned up to the maximum extent practicable and disposed of in a manner so as not to allow their entry into the surface or groundwaters of the state.

B. Special conditions.

1. Vehicles and equipment utilized during the industrial activity on a site must be operated and maintained in such a manner as to prevent the potential or actual point source

2. No sewage shall be discharged from this mineral mining activity except under the provisions of another VPDES permit specifically issued for that purpose.

3. There shall be no chemicals added to the discharge, other than those listed on the owner's approved registration statement, unless prior approval is granted by the director.

4. The permittee shall submit a new registration statement if the mining permit approved by the Division of Mineral Mining (or associated waived program, or *bordering state mine authority*) is modified or reissued in any way that would affect the outfall location or the characteristics of a discharge covered by this general permit. Government owned and operated mines without mining permits shall submit the registration statement whenever outfall location or characteristics are altered. The new registration statement shall be filed within 30 days of the outfall relocation or change in the characteristics of the discharge.

5. The permittee shall notify the department as soon as they know or have reason to believe:

a. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in this permit, if that discharge will exceed the highest of the following notification levels:

(1) One hundred micrograms per liter (100 ug/l);

(2) Two hundred micrograms per liter (200 ug/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/l) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;

(3) Five times the maximum concentration value reported for that pollutant in the permit application; or

(4) The level established by the board.

b. That any activity has occurred or will occur which would result in any discharge, on a nonroutine or infrequent basis, of a toxic pollutant which is not limited in this permit, if that discharge will exceed the highest of the following notification levels:

(1) Five hundred micrograms per liter (500 ug/l);

(2) One milligram per liter (1 mg/l) for antimony;

(3) Ten times the maximum concentration value reported for that pollutant in the permit application; or

(4) The level established by the board.

6. This permit shall be modified, or alternatively revoked and reissued, to comply with any applicable effluent standard or limitation or prohibition for a pollutant which is promulgated or approved under § 307 (a)(2) of the federal Clean Water Act, if the effluent standard or limitation so issued or approved:

a. Is more stringent than any effluent limitation on the pollutant already in the permit; or

b. Controls any pollutant not limited in the permit.

7. Except as expressly authorized by this permit, no product, materials, industrial wastes, or other wastes resulting from the purchase, sale, mining, extraction, transport, preparation, or storage of raw or intermediate materials, final product, by-product or wastes, shall be handled, disposed of, or stored so as to permit a discharge

of such product, materials, industrial wastes, or other wastes to state waters.

8. There shall be no discharge of process wastewater pollutants from co-located asphalt paving materials operations. For the purposes of this special condition, process wastewater pollutants are any pollutants present in water used in asphalt paving materials manufacturing which come into direct contact with any raw materials, intermediate product, by-product or product related to the asphalt paving materials manufacturing process.

PART II. STORM WATER MANAGEMENT.

A. Recording of results.

1. Additional information. In addition to any reporting requirements of Part III, for each measurement or sample taken pursuant to the storm event monitoring requirements of this permit, the permittee shall record and report with the discharge monitoring report the following information:

a. The date and duration (in hours) of the storm events sampled;

b. The rainfall measurements or estimates (in inches) of the storm event which generated the sampled discharge; and

c. The duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event.

2. Additional reporting. In addition to filing copies of discharge monitoring reports in accordance with Part III, permittees with at least one storm water discharge associated with industrial activity through a large or medium municipal separate storm sewer system (systems serving a population of 100,000 or more) or a municipal system designated by the board must submit signed copies of discharge monitoring reports to the operator of the municipal separate storm sewer system at the same time.

B. Representative discharge. When a facility has two or more exclusively storm water outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may test the effluent of one of such outfalls and include with the discharge monitoring report an explanation that the quantitative data also applies to the substantially identical outfalls provided that the permittee includes a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each exclusively storm water outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the run-off coefficient of the drainage area (e.g., low (under 40%), medium (40% to 65%) or high (above 65%)) shall be provided.

C. Sampling waiver.

1. Adverse conditions. When a permittee is unable to collect samples within a specified sampling period due to

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adverse climatic conditions, the permittee shall collect a substitute sample from a separate qualifying event in the next period and submit these data along with the data for the routine sampling in that period. Adverse weather conditions that may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

2. Inactive and unstaffed facilities. When a permittee is unable to conduct the storm water sampling required at an inactive and unstaffed facility, the permittee may exercise a waiver of the monitoring requirements as long as the facility remains inactive and unstaffed. The permittee must submit to the department, in lieu of monitoring data, a certification statement on the discharge monitoring report stating that the facility is inactive and unstaffed so that collecting a sample during a qualifying event is not possible.

D. Storm water pollution prevention plans. A storm water pollution prevention plan shall be developed for each facility covered by this permit. Storm water pollution prevention plans shall be prepared in accordance with good engineering practices. The plan shall identify potential sources of pollution which may reasonably be expected to affect the quality of storm water discharges associated with industrial activity from the facility. In addition, the plan shall describe and ensure the implementation of practices which are to be used to reduce the pollutants in storm water discharges associated with industrial activity at the facility and to assure compliance with the terms and conditions of this permit. Facilities must implement the provisions of the storm water pollution prevention plan required under this part as a condition of this permit.

The storm water pollution prevention plan requirements of this general permit may be fulfilled by incorporating by reference other plans or documents such as an erosion and sediment control plan, a mine drainage plan as required by the Virginia Division of Mineral Mining, a spill prevention control and countermeasure (SPCC) plan developed for the facility under § 311 of the federal Clean Water Act or best management practices (BMP) programs otherwise required for the facility provided that the incorporated plan meets or exceeds the plan requirements of Part II H. If an erosion and sediment control plan is being incorporated by reference, it shall have been approved by the locality in which the activity is to occur or by another appropriate plan-approving authority authorized under the Virginia Erosion and Sediment Control Regulations, 4 VAC 50-30-40 ~~et seq.~~ All plans incorporated by reference into the storm water pollution prevention plan become enforceable under this permit.

E. Deadlines for plan preparation and compliance.

1. Existing facilities and new facilities that begin operation on or before ~~June 30, 1999~~ *July 1, 2004*, shall prepare and implement a plan incorporating the storm water pollution prevention plan requirements of this permit, if not included in an existing plan, as expeditiously as practicable, but not later than ~~June 1, 2000~~ *July 1, 2005*. Existing storm water pollution prevention plans being implemented as of ~~June 30,~~

~~1999~~ *July 1, 2004*, shall continue to be implemented until a new plan is developed and implemented.

2. Facilities that begin operation after ~~June 30, 1999~~ *July 1, 2004*, shall prepare and implement a plan incorporating the requirements of this permit prior to submitting the registration statement.

~~3. Upon a showing of good cause, the director may establish a later date in writing for preparing and compliance with a plan for a storm water discharge associated with industrial activity.~~

F. Signature and plan review.

1. The plan shall be signed in accordance with Part III K (signatory requirements), and be retained on-site at the facility covered by this permit in accordance with Part III B (records) of this permit. When there are no on-site buildings or offices in which to store the plan, it shall be kept at the nearest company office.

2. The permittee shall make the storm water pollution prevention plan, annual site compliance inspection report, or other information available to the department upon request.

3. The director, or an authorized representative, may notify the permittee at any time that the plan does not meet one or more of the minimum requirements of this part. Such notification shall identify those provisions of the permit which are not being met by the plan, and identify which provisions of the plan require modifications in order to meet the minimum requirements of this part. Within 60 days of such notification from the director, or as otherwise provided by the director, or an authorized representative, the permittee shall make the required changes to the plan and shall submit to the department a written certification that the requested changes have been made.

G. Keeping plans current. The permittee shall amend the plan whenever there is a change in design, construction, operation, or maintenance, which has a significant effect on the potential for the discharge of pollutants to surface waters of the state or if the storm water pollution prevention plan proves to be ineffective in eliminating or significantly minimizing pollutants from sources identified under Part II H 2 (description of potential pollutant sources) of this permit, or in otherwise achieving the general objectives of controlling pollutants in storm water discharges associated with industrial activity. New owners shall review the existing plan and make appropriate changes. Amendments to the plan may be reviewed by the department in the same manner as described in Part II F.

H. Contents of plan. The plan shall include, at a minimum, the following items:

1. Pollution prevention team. Each plan shall identify a specific individual or individuals within the facility organization as members of a storm water pollution prevention team that are responsible for developing the storm water pollution prevention plan and assisting the facility or plant manager in its implementation, maintenance, and revision. The plan shall clearly identify the responsibilities of each team member. The activities and

responsibilities of the team shall address all aspects of the facility's storm water pollution prevention plan.

2. Description of potential pollutant sources. Each plan shall provide a description of potential sources which may reasonably be expected to add significant amounts of pollutants to storm water discharges or which may result in the discharge of pollutants during dry weather from separate storm sewers draining the facility. Each plan shall identify all activities and significant materials which may potentially be significant pollutant sources. Each plan shall include, at a minimum:

a. Drainage.

(1) A site map indicating an outline of the portions of the drainage area of each storm water outfall that are within the facility boundaries, each existing structural control measure to reduce pollutants in storm water run-off, surface water bodies, locations where significant materials are exposed to precipitation, locations where major spills or leaks identified under Part II H 2 c (spills and leaks) of this permit have occurred, and the locations of the following activities where such activities are exposed to precipitation: fueling stations, vehicle and equipment maintenance and/or cleaning areas, loading/unloading areas, locations used for the treatment, storage or disposal of wastes and wastewaters, liquid storage tanks, processing areas and storage areas. The map must indicate all outfall locations. The types of discharges contained in the drainage areas of the outfalls must be indicated either on the map or in an attached narrative.

(2) For each area of the facility that generates storm water discharges associated with industrial activity with a reasonable potential for containing significant amounts of pollutants, a prediction of the direction of flow, and an identification of the types of pollutants which are likely to be present in storm water discharges associated with industrial activity. Factors to consider include the toxicity of the chemicals; quantity of chemicals used, produced or discharged; the likelihood of contact with storm water; and history of significant leaks or spills of toxic or hazardous pollutants. Flows with a significant potential for causing erosion shall be identified.

b. Inventory of exposed materials. An inventory of the types of materials handled at the site that potentially may be exposed to precipitation. Such inventory shall include a narrative description of significant materials that have been handled, treated, stored or disposed in a manner to allow exposure to storm water between the time of three years prior to the date of coverage under this general permit and the present; method and location of on-site storage or disposal; materials management practices employed to minimize contact of materials with storm water run-off between the time of three years prior to the date of coverage under this general permit and the present; the location and a description of existing structural and nonstructural control measures to reduce pollutants in storm water run-off; and a description of any treatment the storm water receives.

c. Spills and leaks. A list of significant spills and significant leaks of toxic or hazardous pollutants that occurred at areas that are exposed to precipitation or that otherwise drain to a storm water conveyance at the facility after the date of three years prior to the date of coverage under this general permit. Such list shall be updated as appropriate during the term of the permit.

d. Sampling data. A summary of existing discharge sampling data describing pollutants in storm water discharges from the facility, including a summary of sampling data collected during the term of this permit.

e. Risk identification and summary of potential pollutant sources. A narrative description of the potential pollutant sources from the following activities: loading and unloading operations; outdoor storage activities; outdoor manufacturing or processing activities; significant dust or particulate generating processes; and on-site waste disposal practices. The description shall specifically list any significant potential source of pollutants at the site and for each potential source, any pollutant or pollutant parameter (e.g., biochemical oxygen demand, etc.) of concern shall be identified.

3. Measures and controls. Each facility covered by this permit shall develop a description of storm water management controls appropriate for the facility, and implement such controls. The appropriateness and priorities of controls in a plan shall reflect identified potential sources of pollutants at the facility. The description of storm water management controls shall address the following minimum components, including a schedule for implementing such controls:

a. Good housekeeping. Good housekeeping requires the maintenance of areas which may contribute pollutants to storm water discharges in a clean, orderly manner. The plan shall describe procedures performed to minimize contact of materials with storm water run-off. Particular attention should be paid to areas where raw materials are stockpiled, material handling areas, storage areas, liquid storage tanks, and loading/unloading areas.

b. Preventive maintenance. A preventive maintenance program shall involve timely inspection and maintenance of storm water management devices (e.g., cleaning oil/water separators, catch basins) as well as inspecting and testing facility equipment and systems to uncover conditions that could cause breakdowns or failures resulting in discharges of pollutants to surface waters, and ensuring appropriate maintenance of such equipment and systems. The maintenance program shall require periodic removal of debris from discharge diversions and conveyance systems. Permittees using settling basins to control their effluents must provide maintenance schedules for such basins in the pollution prevention plan.

c. Spill prevention and response procedures. Areas where potential spills which can contribute pollutants to storm water discharges can occur, and their accompanying drainage points shall be identified clearly in the storm water pollution prevention plan. Where appropriate, specifying material handling procedures,

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storage requirements, and use of equipment such as diversion valves in the plan should be considered. Procedures for cleaning up spills shall be identified in the plan and made available to the appropriate personnel. The necessary equipment to implement a clean up should be available to personnel.

d. Inspections. Facility personnel who are familiar with the mining activity, the best management practices and the storm water pollution prevention plan shall be identified to inspect material storage and handling areas, liquid storage tanks, hoppers or silos, vehicle and equipment maintenance areas, cleaning and fueling areas, material handling vehicles and designated equipment and processing areas of the facility; to inspect best management practices; and to conduct visual examinations of storm water associated with industrial activity. The inspection frequency shall be specified in the plan based upon a consideration of the level of industrial activity at the facility, but shall be a minimum of quarterly. Inspections of best management practices shall include inspection of storm water discharge diversions, conveyance systems, sediment control and collection systems, containment structures, vegetation, serrated slopes, and benched slopes to determine their effectiveness, the integrity of control structures, if soil erosion has occurred, or if there is evidence of actual or potential discharge of contaminated storm water. Visual examinations of storm water discharges associated with industrial activity shall include examination of storm water samples representative of storm event discharges from the facility and observation of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution. Site inspection, best management practices inspection and visual examination results must be documented and maintained on-site with the facility pollution prevention plan. Documentation for visual examinations of storm water shall include the examination date and time, examination personnel, outfall location, the nature of the discharge, visual quality of the storm water discharge and probable sources of any observed storm water contamination. Part II B regarding representative discharges and Part II C regarding sampling waivers shall apply to the taking of samples for visual examination except that (i) the documentation required by these sections shall be retained with the storm water pollution prevention plan visual examination records rather than submitted to the department, and (ii) substitute sampling for waived sampling is not required if the proper documentation is maintained. A set of tracking or followup procedures shall be used to ensure that appropriate actions are taken in response to the inspections.

e. Employee training. Employee training programs shall inform personnel responsible for implementing activities identified in the storm water pollution prevention plan or otherwise responsible for storm water management at all levels of responsibility of the components and goals of the storm water pollution prevention plan. Training should address topics such as spill response, good housekeeping and material management practices. A

pollution prevention plan shall identify periodic dates for such training.

f. Recordkeeping and internal reporting procedures. A description of incidents such as spills, or other discharges, along with other information describing the quality and quantity of storm water discharges shall be included in the plan required under this part. Inspections and maintenance activities shall be documented and records of such activities shall be incorporated into the plan. Ineffective best management practices must be recorded and the date of their corrective action noted.

g. Sediment and erosion control. The plan shall identify areas which, due to topography, activities, or other factors, have a high potential for significant soil erosion, and identify structural, vegetative, or stabilization measures to be used to limit erosion. Permittees must indicate the location and design for proposed best management practices to be implemented prior to land disturbance activities. For sites already disturbed but without best management practices, the permittee must indicate the location and design of best management practices that will be implemented. The permittee is required to indicate plans for grading, contouring, stabilization, and establishment of vegetative cover for all disturbed areas, including road banks.

h. Management of run-off. The plan shall contain a narrative consideration of the appropriateness of traditional storm water management practices (practices other than those which control the generation or sources of pollutants) used to divert, infiltrate, reuse, or otherwise manage storm water run-off in a manner that reduces pollutants in storm water discharges from the site. The plan shall provide that measures that the permittee determines to be reasonable and appropriate shall be implemented and maintained. The potential of various sources at the facility to contribute pollutants to storm water discharges associated with industrial activity (see Part II H 2 (description of potential pollutant sources) of this permit) shall be considered when determining reasonable and appropriate measures. Appropriate measures may include: vegetative swales and practices, reuse of collected storm water (such as for a process or as an irrigation source), inlet controls (such as oil/water separators), snow management activities, infiltration devices, and wet detention/retention devices.

4. Comprehensive site compliance evaluation. Facility personnel who are familiar with the mining activity, the best management practices and the storm water pollution prevention plan shall conduct site compliance evaluations at appropriate intervals specified in the plan, but in no case less than once a year for active sites. When annual compliance evaluations are shown in the plan to be impractical for inactive mining sites due to remote location and inaccessibility, site evaluations must be conducted at least once every three years. Such evaluations shall include the following:

a. Areas contributing to a storm water discharge associated with industrial activity, including material storage and handling areas; liquid storage tanks; hoppers

or silos; vehicle and equipment maintenance, cleaning, and fueling areas; material handling vehicles; equipment and processing areas; and areas where aggregate is stockpiled outdoors, shall be visually inspected for evidence of, or the potential for, pollutants entering the drainage system. Measures to reduce pollutant loadings shall be evaluated to determine whether they are adequate and properly implemented in accordance with the terms of the permit or whether additional control measures are needed. Structural storm water management measures, sediment and erosion control measures, and other structural pollution prevention measures identified in the plan shall be observed to ensure that they are operating correctly. A visual inspection of equipment needed to implement the plan, such as spill response equipment, shall be made.

b. Based on the results of the evaluation, the description of potential pollutant sources identified in the plan in accordance with Part II H 2 (description of potential pollutant sources) of this permit and pollution prevention measures and controls identified in the plan in accordance with Part II H 3 (measures and controls) of this permit shall be revised as appropriate within 14 days of such inspection and shall provide for implementation of any changes to the plan in a timely manner, but in no case more than 90 days after the inspection.

c. A report summarizing the scope of the inspection, personnel making the inspection, the dates of the inspection, major observations relating to the implementation of the storm water pollution prevention plan, and actions taken in accordance with Part II H 4 b of this permit shall be made and retained as required in Part III B (records). The report shall identify any incidents of noncompliance. Where a report does not identify any incidents of noncompliance, the report shall contain a certification that the facility is in compliance with the storm water pollution prevention plan and this permit. The report shall be signed in accordance with Part III K (signatory requirements) of this permit and retained as required in Part III B.

d. Where compliance evaluation schedules overlap with inspections required under Part II H 3 d (inspections), the compliance evaluation may be conducted in place of one such inspection.

5. Additional requirements for storm water discharges associated with industrial activity that discharge into or through municipal separate storm sewer systems serving a population of 100,000 or more.

a. In addition to the applicable requirements of this permit, facilities covered by this permit must comply with applicable requirements in municipal storm water management programs developed under VPDES permits issued for the discharge of the municipal separate storm sewer system that receives the facility's discharge, provided the permittee has been notified of such conditions.

b. Permittees that discharge storm water associated with industrial activity through a municipal separate storm

sewer system serving a population of 100,000 or more, or a municipal system designated by the director, shall make plans available to the municipal operator of the system upon request.

PART III.

CONDITIONS APPLICABLE TO ALL VPDES PERMITS.

A. Monitoring.

1. Samples and measurements taken as required by this permit shall be representative of the monitored activity.
2. Monitoring shall be conducted according to procedures approved under 40 CFR Part 136 or alternative methods approved by the U.S. Environmental Protection Agency, unless other procedures have been specified in this permit.
3. The permittee shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals that will ensure accuracy of measurements.

B. Records.

1. Records of monitoring information shall include:
 - a. The date, exact place, and time of sampling or measurements;
 - b. The individual(s) who performed the sampling or measurements;
 - c. The date(s) and time(s) analyses were performed;
 - d. The individual(s) who performed the analyses;
 - e. The analytical techniques or methods used; and
 - f. The results of such analyses.
2. Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years, the permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the registration statement for this permit, for a period of at least three years from the date of the sample, measurement, report or request for coverage. This period of retention shall be extended automatically during the course of any unresolved litigation regarding the regulated activity or regarding control standards applicable to the permittee, or as requested by the board.

C. Reporting monitoring results.

1. The permittee shall submit the results of the monitoring required by this permit not later than the 10th day of the month after monitoring takes place, unless another reporting schedule is specified elsewhere in this permit. Monitoring results shall be submitted to the department's regional office.

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2. Monitoring results shall be reported on a Discharge Monitoring Report (DMR) or on forms provided, approved or specified by the department.
 3. If the permittee monitors any pollutant specifically addressed by this permit more frequently than required by this permit using test procedures approved under 40 CFR Part 136 or using other test procedures approved by the U.S. Environmental Protection Agency or using procedures specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or reporting form specified by the department.
 4. Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in this permit.
- D. Duty to provide information. The permittee shall furnish to the department, within a reasonable time, any information which the board may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The board may require the permittee to furnish, upon request, such plans, specifications, and other pertinent information as may be necessary to determine the effect of the wastes from his discharge on the quality of state waters, or such other information as may be necessary to accomplish the purposes of the State Water Control Law. The permittee shall also furnish to the department, upon request, copies of records required to be kept by this permit.
- E. Compliance schedule reports. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.
- F. Unauthorized discharges. Except in compliance with this permit or another permit issued by the board, it shall be unlawful for any person to:
1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances; or
 2. Otherwise alter the physical, chemical or biological properties of such state waters and make them detrimental to the public health, or to animal or aquatic life, or to the use of such waters for domestic or industrial consumption, or for recreation, or for other uses.
- G. Reports of unauthorized discharges. Any permittee who discharges or causes or allows a discharge of sewage, industrial waste, other wastes or any noxious or deleterious substance into or upon state waters in violation of Part III F (unauthorized discharges); or who discharges or causes or allows a discharge that may reasonably be expected to enter state waters in violation of Part III F, shall notify the department of the discharge immediately upon discovery of the discharge, but in no case later than 24 hours after said discovery. A written report of the unauthorized discharge shall be submitted to the department within five days of discovery of the discharge. The written report shall contain:
1. A description of the nature and location of the discharge;
 2. The cause of the discharge;
 3. The date on which the discharge occurred;
 4. The length of time that the discharge continued;
 5. The volume of the discharge;
 6. If the discharge is continuing, how long it is expected to continue;
 7. If the discharge is continuing, what the expected total volume of the discharge will be; and
 8. Any steps planned or taken to reduce, eliminate and prevent a recurrence of the present discharge or any future discharges not authorized by this permit.
- Discharges reportable to the department under the immediate reporting requirements of other regulations are exempted from this requirement.
- H. Reports of unusual or extraordinary discharges. If any unusual or extraordinary discharge including a bypass or upset should occur from a treatment works and the discharge enters or could be expected to enter state waters, the permittee shall promptly notify, in no case later than 24 hours, the department by telephone after the discovery of the discharge. This notification shall provide all available details of the incident, including any adverse affects on aquatic life and the known number of fish killed. The permittee shall reduce the report to writing and shall submit it to the department within five days of discovery of the discharge in accordance with Part III I 2. Unusual and extraordinary discharges include but are not limited to any discharge resulting from:
1. Unusual spillage of materials resulting directly or indirectly from processing operations;
 2. Breakdown of processing or accessory equipment;
 3. Failure or taking out of service some or all of the treatment works; and
 4. Flooding or other acts of nature.
- I. Reports of noncompliance. The permittee shall report any noncompliance which may adversely affect state waters or may endanger public health.
1. An oral report shall be provided within 24 hours from the time the permittee becomes aware of the circumstances. The following shall be included as information which shall be reported within 24 hours under this subdivision:
 - a. Any unanticipated bypass; and
 - b. Any upset which causes a discharge to surface waters.
 2. A written report shall be submitted within five days and shall contain:
 - a. A description of the noncompliance and its cause;
 - b. 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; and

c. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

The board may waive the written report on a case-by-case basis for reports of noncompliance under Part III I if the oral report has been received within 24 hours and no adverse impact on state waters has been reported.

3. The permittee shall report all instances of noncompliance not reported under Parts III I 1 or 2, in writing, at the time the next monitoring reports are submitted. The reports shall contain the information listed in Part III I 2.

NOTE: The immediate (within 24 hours) reports required in Parts III G, H and I may be made to the department's regional office. Reports may be made by telephone or by fax. For reports outside normal working hours, leave a message and this shall fulfill the immediate reporting requirement. For emergencies, the Virginia Department of Emergency Services maintains a 24-hour telephone service at 1-800-468-8892.

J. Notice of planned changes.

1. The permittee shall give notice to the department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

a. The permittee plans alteration or addition to any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced:

(1) After promulgation of standards of performance under § 306 of the federal Clean Water Act which are applicable to such source; or

(2) After proposal of standards of performance in accordance with § 306 of the federal Clean Water Act which are applicable to such source, but only if the standards are promulgated in accordance with § 306 within 120 days of their proposal;

b. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations nor to notification requirements specified elsewhere in this permit; or

c. The alteration or addition results in a significant change in the permittee's sludge use or disposal practices and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.

2. The permittee shall give advance notice to the department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

K. Signatory requirements.

1. Registration statement. All registration statements shall be signed as follows:

a. For a corporation: by a responsible corporate officer. For the purposes of this section, a responsible corporate officer means: (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities ~~employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars),~~ *if provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making capital investment recommendations, and initiating and directing other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;*

b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or

c. For a municipality, state, federal, or other public agency: by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a public agency includes: (i) the chief executive officer of the agency or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

2. Reports, etc. All reports required by permits, and other information requested by the board, shall be signed by a person described in Part III K 1 or by a duly authorized representative of that person. A person is a duly authorized representative only if:

a. The authorization is made in writing by a person described in Part III K 1;

b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. A duly authorized representative may thus be either a named individual or any individual occupying a named position; and

c. The written authorization is submitted to the department.

3. Changes to authorization. If an authorization under Part III K 2 is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Part III K 2 shall be submitted to the department prior to or together with any reports or information to be signed by an authorized representative.

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4. Certification. Any person signing a document under Parts III K 1 or 2 shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

L. Duty to comply. The permittee shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the State Water Control Law and the federal Clean Water Act, except that noncompliance with certain provisions of this permit may constitute a violation of the State Water Control Law but not the federal Clean Water Act. Permit noncompliance is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

The permittee shall comply with effluent standards or prohibitions established under § 307(a) of the federal Clean Water Act for toxic pollutants and with standards for sewage sludge use or disposal established under § 405(d) of the federal Clean Water Act within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if this permit has not yet been modified to incorporate the requirement.

M. Duty to reapply. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee shall submit a new registration statement at least 180 days before the expiration date of the existing permit, unless permission for a later date has been granted by the board. The board shall not grant permission for registration statements to be submitted later than the expiration date of the existing permit.

N. Effect of a permit. This permit does not convey any property rights in either real or personal property or any exclusive privileges, nor does it authorize any injury to private property or invasion of personal rights or any infringement of federal, state or local laws or regulations.

O. State law. Nothing in this permit shall be construed to preclude the institution of any legal action under, or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to, any other state law or regulation or under authority preserved by § 510 of the federal Clean Water Act. Except as provided in permit conditions on "bypass" (Part III U) and "upset" (Part III V), nothing in this permit shall be construed to relieve the permittee from civil and criminal penalties for noncompliance.

P. Oil and hazardous substance liability. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be

subject under §§ 62.1-44.34:14 through 62.1-44.34:23 of the State Water Control Law.

Q. Proper operation and maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes effective plant performance, adequate funding, adequate staffing, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by the permittee only when the operation is necessary to achieve compliance with the conditions of this permit.

R. Disposal of solids or sludges. Solids, sludges or other pollutants removed in the course of treatment or management of pollutants shall be disposed of in a manner so as to prevent any pollutant from such materials from entering state waters.

S. Duty to mitigate. The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

T. Need to halt or reduce activity not a defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

U. Bypass.

1. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to ensure efficient operation. These bypasses are not subject to the provisions of Parts III U 2 and U 3.

2. Notice.

a. Anticipated bypass. If the permittee knows in advance of the need for a bypass, prior notice shall be submitted if possible at least 10 days before the date of the bypass.

b. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in Part III I (reports of noncompliance).

3. Prohibition of bypass.

a. Bypass is prohibited, and the board may take enforcement action against a permittee for bypass, unless:

(1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition

is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(3) The permittee submitted notices as required under Part III U 2.

b. The board may approve an anticipated bypass, after considering its adverse effects, if the board determines that it will meet the three conditions listed in Part III U 3 a.

V. Upset.

1. An upset constitutes an affirmative defense to an action brought for noncompliance with technology-based permit effluent limitations if the requirements of Part III V 2 are met. A determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is not a final administrative action subject to judicial review.

2. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence that:

- a. An upset occurred and that the permittee can identify the cause(s) of the upset;
- b. The permitted facility was at the time being properly operated;
- c. The permittee submitted notice of the upset as required in Part III I; and
- d. The permittee complied with any remedial measures required under Part III S.

3. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

W. Inspection and entry. The permittee shall allow the director or an authorized representative, upon presentation of credentials and other documents as may be required by law, to:

1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted or where records must be kept under the conditions of this permit;
2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
4. Sample or monitor at reasonable times, for the purposes of ensuring permit compliance or as otherwise authorized by the federal Clean Water Act and the State Water Control Law, any substances or parameters at any location.

For purposes of this section, the time for inspection shall be deemed reasonable during regular business hours and

whenever the facility is discharging. Nothing contained herein shall make an inspection unreasonable during an emergency.

X. Permit actions. Permits may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

Y. Transfer of permits.

1. Permits are not transferable to any person except after notice to the department. Except as provided in Part III Y 2, a permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued, or a minor modification made, to identify the new permittee and incorporate such other requirements as may be necessary under the State Water Control Law and the federal Clean Water Act.

2. As an alternative to transfers under Part III Y 1, this permit may be automatically transferred to a new permittee if:

- a. The current permittee notifies the department at least 30 days in advance of the proposed transfer of the title to the facility or property;
- b. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and
- c. The board does not notify the existing permittee and the proposed new permittee of its intent to modify or revoke and reissue the permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in Part III Y 2 b.

Z. Severability. The provisions of this permit are severable, and if any provision of this permit or the application of any provision of this permit to any circumstance is held invalid, the application of such provision to other circumstances and the remainder of this permit shall not be affected thereby.

VA.R. Doc. No. R03-73; Filed November 12, 2003, 11:33 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 4. CONSERVATION AND NATURAL RESOURCES

MARINE RESOURCES COMMISSION

REGISTRAR'S NOTICE: The following regulations filed by the Marine Resources Commission are exempt from the Administrative Process Act in accordance with § 2.2-4006 A 12 of the Code of Virginia; however, the commission is required to publish the full text of final regulations.

Title of Regulation: 4 VAC 20-490. Pertaining to Sharks (amending 4 VAC 20-490-40; adding 4 VAC 20-490-35 and 4 VAC 20-490-45).

Statutory Authority: § 28.2-201 of the Code of Virginia.

Effective Date: November 1, 2003.

Agency Contact: Deborah Cawthon, Regulatory Coordinator, Marine Resources Commission, 2600 Washington Avenue, 3rd Floor, Newport News, VA 23607, telephone (757) 247-2248, FAX (757) 247-2002 or e-mail dcawthon@mrc.state.va.us.

Summary:

The amendments (i) establish the harvest and landings quota of 500,000 pounds for spiny dogfish from May 1, 2003, through April 30, 2004; (ii) change the daily catch limit of spiny dogfish from 7,000 pounds to 4,000 pounds; (iii) close the fishing season for spiny dogfish after the 500,000 pound quota has been harvested; (iv) prohibit any seafood buyer from buying any spiny dogfish once the landings quota has been attained; and (v) require seafood dealers to contact the VMRC Interactive-Voice Response System and report the harvester's name and weight of spiny dogfish harvested within a 24-hour period.

4 VAC 20-490-35. Spiny dogfish quota.

The harvest and landings quota for the commercial spiny dogfish fishery shall be 500,000 pounds from May 1, 2003, through April 30, 2004.

4 VAC 20-490-40. Catch limitations.

A. It shall be unlawful for any person to take or catch by hook and line, rod and reel, or spear and retain possession of more than one shark at any time.

1. Any shark taken after the possession limit has been reached shall be returned to the water immediately.

2. When fishing from any boat or vessel where the entire catch is held in a common hold or container, the possession limit shall be for the boat or vessel and shall be equal to the number of persons on board legally eligible to fish. The

captain or operator of the boat or vessel shall be responsible for any boat or vessel possession limit.

B. It shall be unlawful for any commercial fishing vessel to have on board or to land more than 7,500 pounds of shark carcasses per day, except as provided by subsection F of this section. The vessel captain or operator is responsible for compliance with the provisions of this subsection.

C. Except as provided in subsection D of this section, it shall be unlawful for any person to land in Virginia or to possess for commercial purposes any shark less than 58 inches in fork length or any shark carcass less than 31 inches in carcass length.

D. Any person may harvest and land for commercial purposes from Virginia's portion of the Territorial Sea within the three nautical mile line only up to 200 pounds of shark carcasses less than the 31-inch minimum carcass length.

E. It shall be unlawful for any person to take, possess aboard any vessel or land in Virginia any spiny dogfish harvested from federal waters (Exclusive Economic Zone, 3-200 miles) for commercial purposes after it has been announced that the federal quota for spiny dogfish has been taken.

F. It shall be unlawful for any person to take, possess aboard any vessel or land in Virginia more than ~~7,000~~ 4,000 pounds of spiny dogfish per day for commercial purposes.

G. It shall be unlawful for any person to harvest any spiny dogfish for commercial purposes from state waters after it has been announced that the interstate quota for spiny dogfish has been taken.

H. It shall be unlawful for any person to land in Virginia for commercial purposes any spiny dogfish after it has been announced that the 500,000-pound state quota has been caught.

~~H.~~ I. All spiny dogfish harvested from state waters or federal waters for commercial purposes must be sold to a federally permitted dealer.

J. It shall be unlawful for any buyer of seafood to receive any spiny dogfish after any commercial harvest or landing quota described in this section has been attained and announced as such.

4 VAC 20-490-45. Reporting requirements.

The dealer shall contact the VMRC Interactive-Voice-Response System (1-800-937-9247) and report the harvester's name and corresponding weight of spiny dogfish landed within 24 hours.

VA.R. Doc. No. R04-42; Filed November 7, 2003, 10 a.m.

Title of Regulation: **4 VAC 20-650. Establishment of Oyster Management Areas (amending 4 VAC 20-650-10 through 4 VAC 20-650-40).**

Statutory Authority: §§ 28.2-201 and 28.2-507 of the Code of Virginia.

Effective Date: November 1, 2003.

Agency Contact: Katherine V. Leonard, Administrative and Program Specialist, Conservation and Replenishment Department, Marine Resources Commission, 2600 Washington Avenue, 3rd Floor, Newport News, VA 23607, telephone (757) 247-2120.

Summary:

The amendments provide a 300-foot buffer zone around the oyster reef sites or management areas and prohibit harvest from any public or unassigned oyster ground in that area. Other changes were made for clarification and correctness.

4 VAC 20-650-10. Purpose.

The purpose of this chapter is to protect and promote the oyster resources within the designated areas of the James and Piankatank Rivers and to protect oyster replenishment efforts on all public oyster grounds.

4 VAC 20-650-20. Oyster replenishment management areas.

A. The following Oyster Management Areas are established: 4- the Wreck Shoals - James River Bridge Oyster Management Area shall consist of all public oyster grounds located from Wreck Shoals downriver to the James River Bridge in the James River. The upriver boundary for the Oyster Management Area shall be from Jail Point southwest to the southernmost corner of the Jail Island clean cull area then westerly to Channel Buoy 16 then southeasterly to the Channel Buoy 12, then southerly to Mogarts Beach. The downriver boundary shall be the James River Bridge.

~~2. The Palace's Bar Oyster Reef - Piankatank River Oyster Management Area shall consist of all public oyster grounds in Public Ground No. 5, Mathews County bounded by the following corners:~~

- ~~a. Northwest corner - 37° 31' 42.33536" N; 76° 22' 25.60567" W~~
- ~~b. Southeast corner - 37° 31' 39.43913" N; 76° 22' 26.40939" W~~
- ~~c. Southwest corner - 37° 31' 42.74142" N; 76° 22' 40.71772" W~~
- ~~d. Northwest corner - 37° 31' 45.63757" N; 76° 22' 39.91328" W~~

~~B. All areas planted with oyster shell and seed by the commission's Oyster Replenishment Program in 1993 and in subsequent years shall be considered Oyster Management Areas.~~

B. Constructed oyster reefs include all reefs constructed and marked by "no harvesting" signs provided by the Conservation and Replenishment Department.

4 VAC 20-650-30. Closure of management areas.

~~A. Until further notice. All Oyster Management Areas are shall be closed to the harvest of oysters except on the that Seaside of the Eastern Shore where Oyster Management Areas are shall be closed to the harvest of all shellfish. Any person harvesting oysters or shellfish from the specified areas shall be guilty of a violation of this chapter.~~

B. It shall be unlawful for any person to possess any gear that could be used to harvest shellfish within 300 feet of public or unassigned oyster grounds in the area surrounding any oyster management area, and such possession shall be considered as prima facie evidence of a violation of this chapter.

4 VAC 20-650-40. Penalty.

A. As set forth in § 28.2-903 of the Code of Virginia, any person violating any provision of this chapter shall be guilty of a Class 3 misdemeanor, and a second or subsequent violation of any provision of this chapter committed by the same person within 12 months of a prior violation is a Class 1 misdemeanor.

B. In addition to the penalty prescribed by § 28.2-903 of the Code of Virginia, any persons violating any provision of this chapter shall forfeit all harvested oysters, have their gear license revoked immediately and shall be subject to seizure of all harvesting apparatus for the remainder of the season.

VA.R. Doc. No. R04-32; Filed October 31, 2003, 10:30 a.m.

Title of Regulation: **4 VAC 20-720. Pertaining to Restrictions on Oyster Harvest (amending 4 VAC 20-720-20, 4 VAC 20-720-40 and 4 VAC 20-720-50 through 4 VAC 20-720-90).**

Statutory Authority: §§ 28.2-201 and 28.2-507 of the Code of Virginia.

Effective Date: November 1, 2003.

Agency Contact: Katherine V. Leonard, Administrative and Program Specialist, Conservation and Replenishment Department, Marine Resources Commission, 2600 Washington Avenue, 3rd Floor, Newport News, VA 23607, telephone (757) 247-2120.

Summary:

The amendments open to oyster harvest two additional areas for the 2003-2004 public harvest season. Other restrictions are a sunrise to 2 p.m. time limit; an eight-bushel catch limit per commercial registered fisherman; a hand scrape gear license requirement, which is restricted to hand scrape harvest only; and in the James River Hand Scrape Area, a harvest permit requirement.

4 VAC 20-720-20. Definitions.

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

"Deep Rock Dredge Area" means the area described as follows: starting at Cherry Point, Gwynns Island, thence northeast to G'1P" along the south side of channel to

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Piankatank River; thence east-southeast to G'1R"; thence southwest to Sandy Point, Gwynns Island, north of Hole in Wall (see map).

"Deep Water Shoal State Replenishment Seed Area (DWS)" in the James River (574.66 Acres) means the areas beginning at a point approximately 530 feet west of Deep Water Shoal Light, said point being Corner 1 as located by Virginia State Plane Coordinates, South Zone, NAD 1927, north 302,280.00, east 2,542,360.00; thence north azimuth 30°49'59", 4,506.99 feet to Corner 2, north 306,150.00, east 2,544,670.00; thence north azimuth 135°08'57", 5,430.60 feet to Corner 3, north 302,300.00, east 2,548,500.00; thence north azimuth 212°13'54", 3,487.42 feet to Corner 4, north 299,350.00, east 2,546,640.00; thence north azimuth 269°10'16", 2,765.29 feet to Corner 5, north 299,310.00, east 2,543,875.00; thence north azimuth 332°58'26", 3,334.09 feet to Corner 1, being the point of beginning.

"Great Wicomico River Hand Scrape Area" means that area of a line drawn from Sandy Point to Cockrell Point.

"Hand scrape" means any device or instrument with a catching bar having an inside measurement of no more than 22 inches, which is used or usable for the purpose of extracting or removing shellfish from a water bottom or the bed of a body of water.

"James River Hand Scrape Area" means that area of the James River west of the Monitor and Merrimac Bridge Tunnel to the James River Bridge (Route 17).

"Pocomoke and Tangier Sounds Management Area (PTSMA)" means the area as defined in § 28.2-524 of the Code of Virginia.

"Pocomoke Sound" means that area northeast from a line from Beach Island Light to the house on the Great Fox Island.

"Public oyster ground" means all those grounds defined in § 28.2-551 of the Code of Virginia, all ground set aside as public oyster ground by court order, and all ground set aside as public oyster ground by order of the Marine Resources Commission.

"Rappahannock River Drumming Ground Hand Scrape Area" means that portion of the Rappahannock and Corrotoman River, west of the Route 3 bridge (Norris Bridge), and north of a line from the center of the Route 3 bridge (Norris Bridge) following westward along the channel to Towles Point at Buoy "R6," excluding the Corrotoman River north of a line from Balls Point to Corrotoman Point. (See map.)

"Rappahannock River Hand Scrape Area" means that area including all public grounds between a line extending from the eastern-most point of Long Point thence in an easterly direction to flashing red buoy "8"; thence due east to Rogue Point, upriver to a line extending from Tarpley Point; thence in a southwesterly direction to flashing green buoy "13"; thence south-southwesterly to Jones Point. (See map.)

"Rappahannock River Temples Bay Hand Scrape Area" means that area in the Rappahannock River, west of the Route 3 bridge (Norris Bridge) and south of a line drawn from the center of the Route 3 bridge (Norris Bridge) upriver to Towles Point continuing the line upriver to red buoy 8; thence

across to the southside of the river to Long Point, thence back to the Route 3 bridge (Norris Bridge) along the southern shoreline. (See map.)

"Tangier Sound" means that area from Tangier Light North to the Maryland-Virginia line (red buoy #6).

"Tangier Sound Hand Tong Area" means that area in the PTSMA south and west of a line from Fishbone Island thence southeast to bell buoy "5", thence south southwest to buoy "3" (such area to include all of Public Ground 3 and Flat Rock) and shall be a hand tong area only (see map) and Cod Harbor (approximately 1,124 acres) beginning at a point of East Point Marsh, said point having the Virginia state coordinates, south section, coordinates of north 555,414.89, east 2,730,388.85; thence south 79°59', east 2,260 feet to a line designating the western extent of the PTSMA as described in § 28.2-524 of the Code of Virginia; thence south 10°16', west 2,800 feet; thence south 28°46', west 8,500 feet to a point on Sand Spit, position north 545,131.78, east, 2,728,014.94; thence along the mean low water line of Cod Harbor in a west, north and northeast direction crossing Canton Creek and Mailboat Harbor from headland to headland to the point of beginning. (See map.)

"Unassigned ground" means all grounds other than public oyster ground as defined by this chapter and which have not been set aside or assigned by lease, permit, or easement by the Marine Resources Commission.

4 VAC 20-720-40. Open season and areas.

The lawful seasons and areas for the harvest of oysters from the public oyster grounds and unassigned grounds are as follows:

1. James River Seed Area, including the Deep Water Shoal State Replenishment Seed Area and James River Jail Island and Point of Shoals Clean Cull Areas: October 1, 2003, through April 30, 2004. By hand tong only.
2. Seaside of Eastern Shore: for clean cull oysters only, November 1, 2003, through January 31, 2004. By hand only.
3. The Rappahannock River Hand Scrape Area; the Rappahannock River Drumming Ground Hand Scrape Area; the Rappahannock River Temples Bay Hand Scrape Area: October 15, 2003, through January 15, 2004.
4. That area of the Rappahannock River, west of the line drawn from Tarpley Point to green buoy #13 to Jones Point and the area of the Corrotoman River, north of the line drawn from Balls Point to Corrotoman Point; that area of the Nomini and Lower Machodoc Rivers to the Virginia-Maryland state line (PRV6A to PRV6B; and PRV5A to PRV5C, respectively); that area of the Coan River to the Virginia-Maryland state line (PRV1A to PRV1B), except for that area above a line from Walnut Point (Survey Station Walnut) to Stephens Point (Survey Station Arthur); that area of the Yeocomico River inside Public Grounds 102, 104, 107, 112 and 113; that area of the Piankatank River, west of the Route 3 bridge; and Little Wicomico River: October 15, 2003, through January 15, 2004. ~~For~~ By hand tong only.

5. The following areas of the PTSMA in Tangier Sound, from Tangier Light north to the Maryland-Virginia Line (red buoy #6) and in the Pocomoke Sound, northeast from a line from Beach Island Light to the house on the Great Fox Island, excluding the Tangier Sound Hand Tong Areas: December 1, 2003, through February 29, 2004. ~~For~~ By dredge only.

6. Deep Rock Dredge Area: March 1, 2004, through March 31, 2004.

7. *Great Wicomico River Hand Scrape and James River Hand Scrape Area: February 1, 2004, through March 31, 2004. By hand scrape only.*

4 VAC 20-720-50. Closed harvest season and areas.

It shall be unlawful for any person to harvest oysters from the following areas during the specified periods:

1. All public oyster grounds and unassigned grounds in the Chesapeake Bay and its tributaries, including the tributaries of the Potomac River, except the following areas: that area of the Rappahannock River west of the line drawn from Tarpley Point to green buoy #13 to Jones Point; the area of the Corrotoman River north of the line drawn from Balls Point to Corrotoman Point; the Rappahannock River Hand Scrape Area; the Drumming Ground Hand Scrape Area; the Temples Bay Hand Scrape Area; that area of the Piankatank River west of the Route 3 bridge; that area of the Nomini and Lower Machodoc Rivers to the Virginia-Maryland state line; that area of the Coan River to the Virginia-Maryland state line, except for above a line from Walnut Point to Stephens Point; that area of the Yeocomico River inside Public Grounds 102, 104, 107, 112 and 113; the Little Wicomico River; the PTSMA in Tangier Sound, from Tangier Light north to the Maryland-Virginia Line; the Pocomoke Sound, northeast from a line from Beach Island Light to the house on the Great Fox Island; the James River Seed Area; the James River Jail Island and Point of Shoals Clean Cull Areas; the Seaside of Eastern Shore; *the Great Wicomico River Hand Scrape Area; the James River Hand Scrape Area;* and the Deep Rock Dredge Area: October 1, 2003, through September 30, 2004.

2. James River Seed Area, including the Deep Water Shoal State Replenishment Seed Area, and James River Jail Island and Point of Shoals Clean Cull Areas: May 1, 2004, through September 30, 2004.

3. All public oyster grounds and unassigned grounds on the Seaside of Eastern Shore: for clean cull oysters, October 1 through October 31, 2003, and February 1, 2004, through September 30, 2004; and for seed oysters, all year. Oyster harvest from leased oyster ground and fee simple oyster ground shall require a permit from the Marine Resources Commission as set forth in 4 VAC 20-720-90.

4. That area of the Rappahannock River west of the line drawn from Tarpley Point to green buoy #13 to Jones Point; the area of the Corrotoman River, north of the line drawn from Balls Point to Corrotoman Point; the Rappahannock River Hand Scrape; the Rappahannock River Drumming Ground Handscrape Area; the Rappahannock River Temples Bay Hand Scrape Area; that area of the Nomini

and Lower Machodoc Rivers to the Virginia-Maryland state line; that area of the Coan River to the Virginia-Maryland state line, except for above a line from Walnut Point to Stephens Point; that area of the Piankatank River west of the Route 3 bridge; and that area of the Yeocomico River inside Public Grounds 102, 104, 107, 112 and 113; and Little Wicomico River: October 1, 2003, through October 14, 2003, and January 16, 2004, through September 30, 2004.

5. The following areas of the PTSMA: in Tangier, from Tangier Light north to the Maryland-Virginia line, and in the area of the PTSMA in the Pocomoke Sound, northeast from a line from Beach Island Light to the house on the Great Fox Island: October 1, 2003, through November 30, 2003, and March 1, 2004, through September 30, 2004.

6. Deep Rock Dredge Area: October 1, 2003, through February 29, 2004, and April 1, 2004, through September 30, 2004.

7. *Great Wicomico River Hand Scrape and James River Hand Scrape Areas; October 1, 2003, through January 31, 2004, and April 1, 2004, through September 30, 2004.*

4 VAC 20-720-60. Day and time limit.

A. It shall be unlawful to take, catch or possess oysters on Saturday and Sunday from the public oyster grounds or unassigned grounds in the waters of the Commonwealth of Virginia, except that this provision shall not apply to any person harvesting no more than one bushel per day by hand for household use only during the season when the public oyster grounds or unassigned grounds are legally open for harvest. The presence of any gear normally associated with the harvesting of oysters on board the boat or other vehicle used during any harvesting under this exception shall be prima facie evidence of violation of this chapter.

B. It shall be unlawful for any person to harvest or attempt to harvest oysters prior to sunrise or after 2 p.m. from the areas described in subdivisions 1, and 3 through § 7 of 4 VAC 20-720-40.

C. The Commissioner of Marine Resources hereby is authorized to issue licenses to applicants to dredge for oysters where permitted on public oyster grounds by the Code of Virginia and Marine Resources Commission regulation or order, provided the applicant is eligible under all applicable laws and regulations, and further provided that such license shall be granted only upon the condition that the boat not leave the dock until one hour before sunrise and be back at dock before sunset.

D. The Commissioner of Marine Resources hereby is authorized to issue licenses to applicants to hand scrape, as described in 4 VAC 20-720-20, for oysters where permitted on public oyster grounds by the Code of Virginia and Marine Resources Commission regulation or order, provided the applicant is eligible under all applicable laws and regulations, and further provided that such license shall be granted only upon the condition that the boat not leave the dock until one-half hour before sunrise and be back at dock before sunset.

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4 VAC 20-720-70. Gear restrictions.

A. It shall be unlawful for any person to have a hand scrape on board a boat that is harvesting or attempting to harvest oysters from public grounds by hand tong.

B. It shall be unlawful for any person to harvest shellfish with a dredge from the public oyster grounds who has not first obtained a current gear license to use said dredge, and only at times and in areas as established by the commission can this dredge be used for harvesting on public oyster grounds. In order to be allowed to operate a dredge for harvesting oysters from any public oyster grounds, a harvester must have a current dredge gear license and the cost of this license shall be \$50.

C. It shall be unlawful for any person to harvest shellfish from the Rappahannock River Hand Scrape Area; Drumming Ground Hand Scrape Area; *Great Wicomico River Hand Scrape Area*; *James River Hand Scrape Area*; and Temples Bay Hand Scrape Area without first obtaining a valid hand scrape license at a cost of \$50.

D. It shall be unlawful for any person to harvest shellfish with a hand scrape from any public oyster grounds without first obtaining a valid hand scrape license and in accordance with times and areas established by the commission.

E. It shall be unlawful for any person to have more than one hand scrape on board any boat that is harvesting oysters or attempting to harvest oysters from public grounds. It shall be unlawful for any person to have a hand tong on board a boat that is harvesting or attempting to harvest oysters from public grounds by hand scrape.

F. Harvesting with a standard oyster dredge shall be allowed in that area in the Deep Rock Dredge Area and in the PTSMA in Tangier Sound from Tangier Light north to the Maryland-Virginia line, and in the Pocomoke Sound, northeast from a line from Beach Island Light to the house on the Great Fox Island, except for the designated hand tong areas. Only a standard oyster dredge (maximum weight 150 pounds with attachment, maximum width of 50 inches, maximum tooth length of four inches, minimum teeth spacing of three inches) may be used.

4 VAC 20-720-80. Quotas and harvest limits.

A. In the James River Seed Area, including the Deep Water Shoal State Replenishment Seed Area, there shall be an oyster harvest quota of 80,000 bushels of seed oysters. It shall be unlawful for any person to harvest seed oysters from the James River Seed Area after the 80,000 bushel quota has been reached. In the James River Seed Area, including the Deep Water Shoal State Replenishment Seed Area, and Clean Cull Areas there shall be an oyster harvest quota of 15,000 bushels of market oysters. It shall be unlawful for any person to harvest market oysters from the James River Seed and Clean Cull Areas after the 15,000 bushel quota has been reached.

B. The lawful daily limit of clean cull oysters harvested from the areas as described in subdivisions 3 ~~and~~, 4 ~~and~~ 7 of 4 VAC 20-720-40 shall be determined by the number of registered commercial fishermen licensees on board the vessel multiplied by eight bushels. It shall be unlawful to

possess on board any vessel or to land more than the daily limit of clean cull oysters.

C. In the PTSMA in Tangier Sound, from Tangier Light north to the Maryland-Virginia line, and in the Pocomoke Sound, northeast from a line from Beach Island Light to the house on the Great Fox Island, where harvesting is allowed by dredge, there shall be a harvest limit of 15 bushels per day, per vessel. It shall be unlawful to possess on board any vessel more than 15 bushels per day. No blue crab bycatch is allowed. It shall be unlawful to possess on board any vessel more than 250 hard clams.

D. In the Deep Rock Dredge Area there shall be a harvest limit of 15 bushels per day per vessel. It shall be unlawful to possess on board any vessel or to land more than 15 bushels per day per vessel. No blue crab bycatch is allowed. It shall be unlawful to possess on board any vessel more than 250 hard clams.

E. Harvesters who export the oysters to an out-of-state market or do not sell the oysters to a licensed and Department of Health certified Virginia buyer but sell the oysters directly to the public for human consumption shall report oysters harvested on a daily basis and pay oyster taxes weekly.

4 VAC 20-720-90. Harvest permit required; the James River Hand Scrape Area and Seaside of Eastern Shore.

A. It shall be unlawful for any person to harvest, or attempt to harvest, oysters from leased oyster ground, fee simple ground, or aquacultural operations on the Seaside of Eastern Shore without first obtaining a harvest permit from the Marine Resources Commission.

B. Applicants for the harvest permit shall have paid all rent fees and shall specify the location of the lease or fee simple ground to be harvested and shall verify that the ground is marked properly as specified by 4 VAC 20-290-10 et seq.

C. Applicants for the permit to harvest from aquacultural operations shall have these operations verified by the Marine Resources Commission and with this aquaculture harvest permit shall be exempt from all other fisheries regulations pertaining to harvesting and handling of wild oyster stocks.

D. No person shall hold more than four permits at any time.

E. The aquaculture harvest permit does not eliminate or exempt the aquacultural operation from all applicable Division of Shellfish Sanitation regulations pertaining to the harvest and marketing of shellfish.

F. A permit is required for the James River Hand Scrape Area. It shall be unlawful for any person to harvest, or attempt to harvest, oysters from the James River Hand Scrape Area without first obtaining a harvest permit from the Marine Resources Commission as required by § 28.2-518 of the Code of Virginia.

VA.R. Doc. No. R04-44; Filed October 31, 2003, 10:31 a.m.

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Title of Regulation: 4 VAC 20-950. Pertaining to Black Sea Bass (amending 4 VAC 20-950-46, 4 VAC 20-950-47 and 4 VAC 20-950-48).

Statutory Authority: § 28.2-201 of the Code of Virginia.

Effective Date: November 1, 2003.

Agency Contact: Deborah Cawthon, Regulatory Coordinator, Marine Resources Commission, 2600 Washington Avenue, 3rd Floor, Newport News, VA 23607, telephone (757) 247-2248, FAX (757) 247-2002 or e-mail dcawthon@mrc.state.va.us.

Summary:

The amendments (i) reduce the poundage of black sea bass that must have been harvested from July 1, 1997, through December 31, 2001, in order to be eligible for a commercial black sea bass fishery permit; (ii) establish the 2004 harvest quota for the directed commercial black sea bass fishery; (iii) establish the 2004 bycatch quota for the commercial black sea bass fishery; (iv) change the daily bycatch quota limit from 100 pounds to 200 pounds and establish requirements to possess or land up to 500 pounds of black sea bass as bycatch; and (v) establish provisions for the allocation of 17,000 pounds of the 2004 commercial quota of black sea bass to those fishermen who qualify for medical hardship exemptions.

4 VAC 20-950-46. Directed fishery and bycatch fishery permits.

A. It shall be unlawful for any person to participate in the commercial black sea bass fishery, or to possess, harvest, or sell black sea bass, without first qualifying for and obtaining either a directed fishery permit or a bycatch fishery permit from the commission, as described, respectively, in subsections B and C of this section.

B. A person shall be considered eligible for a directed commercial black sea bass fishery permit by satisfying all of the following eligibility criteria:

1. That person shall hold either a Commercial Fisherman Registration License or a Seafood Landing License in addition to a federal Black Sea Bass Moratorium Permit;
2. That person shall have landed and sold in Virginia at least ~~44,000~~ 10,000 pounds of black sea bass from July 1, 1997 through December 31, 2001.

C. A person shall be considered eligible for a bycatch commercial black sea bass fishery permit by satisfying all of the following eligibility criteria:

1. That person shall hold either a Commercial Fisherman Registration License or a Seafood Landing License, in addition to a federal Black Sea Bass Moratorium Permit;
2. That person shall have landed and sold in Virginia at least one pound of black sea bass from July 1, 1997 through December 31, 2001.

D. No person shall possess more than one black sea bass permit.

E. Any permit described in this section must be in the possession of the permittee who is harvesting, possessing, or selling black sea bass. Failure of the permittee to have the appropriate permit in possession shall be a violation of this chapter.

4 VAC 20-950-47. Commercial harvest quotas.

A. The 2003 directed commercial fishery black sea bass quota is 558,334 pounds, *and the 2004 quota is 635,025 pounds.* When it has been announced that the directed fishery quota has been projected as reached and the directed fishery has been closed, it shall be unlawful for any directed commercial black sea bass fishery permittee to possess aboard any vessel or land in Virginia any black sea bass.

B. The 2003 bycatch commercial fishery black sea bass quota is 42,073 pounds *and the 2004 quota is 118,764 pounds.* When it has been announced that the bycatch fishery quota has been projected as reached and the bycatch fishery has been closed, it shall be unlawful for any bycatch commercial black sea bass fishery permittee to possess aboard any vessel or land in Virginia any black sea bass. In the event the bycatch fishery quota is exceeded, the amount the quota is ~~exceeded~~ overage shall be deducted from the following year's bycatch fishing quota.

4 VAC 20-950-48. Individual fishery quotas; bycatch limit; at sea harvesters; exceptions.

A. Each person possessing a directed fishery permit shall be assigned an individual fishery quota, in pounds, for each calendar year. A person's individual fishery quota shall be equal to that person's percentage of the total landings of black sea bass in Virginia from July 1, 1997 through December 31, 2001, multiplied by the directed commercial fishery black sea bass quota for the calendar year. Any directed fishery permittee shall be limited to landings in the amount of his individual fishery quota, in pounds, in any calendar year and it shall be unlawful for any permittee to exceed his individual fishery quota. In addition to the penalties prescribed by law, any overages of an individual's fishery quota shall be deducted from that permittee's individual fishery quota for the following year.

B. In the determination of a person's percentage of total landings, the commission shall use the greater amount of landings from either the National Marine Fisheries Service Dealer Weigh-out Reports or National Marine Fisheries Service Vessel Trip Reports that have been reported and filed as of November 26, 2002.

~~C. Each bycatch fishery permittee shall be limited to 100 pounds of black sea bass per vessel per trip.~~ It shall be unlawful for any person permitted for the bycatch fishery to possess aboard a vessel or to land in Virginia, *in any one day more than 400 200 pounds of black sea bass, except that any person permitted for the bycatch fishery may possess aboard a vessel, or land in Virginia, more than 200 pounds in any one day, but not more than 500 pounds, provided the total weight of black sea bass on board the vessel, or landed in any one day, shall not exceed 10%, by weight, of all other species on board the vessel.*

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D. It shall be unlawful for any person to transfer black sea bass from one vessel to another while at sea.

E. Any person who is the owner of more than one vessel on December 17, 2002, that qualifies for a directed commercial fishery black sea bass permit, may combine the vessels' individual fishery quotas onto one of the vessels. Such declaration to combine quotas shall be made prior to the start of the fishing season.

F. The commission sets aside 17,000 pounds of the 2004 commercial fishery black sea bass quota for distribution to all qualified applicants granted an exception by the commission from the requirements of 4 VAC 20-950-46 B based upon medical conditions which limited the applicant's ability to fish for black sea bass during the qualifying period. Any portion of the 17,000 pounds not allotted by the commission to the qualified applicant shall be added to the 2004 bycatch quota described in 4 VAC 20-950-47 B.

VA.R. Doc. No. R04-43; Filed November 7, 2003, 10:02 a.m.

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TITLE 9. ENVIRONMENT

STATE AIR POLLUTION CONTROL BOARD

REGISTRAR'S NOTICE: The following regulatory action is exempt 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. The State Air Pollution Control Board will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: **9 VAC 5-10. General Definitions (amending 9 VAC 5-10-20).**

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

Effective Date: January 1, 2004.

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

Summary:

The definition of "initial performance test" is amended to correct a technical error and to clarify its meaning.

9 VAC 5-10-20. Terms defined.

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

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

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

"Affected facility" means, with reference to a stationary source, any part, equipment, facility, installation, apparatus, process or operation to which an emission standard is applicable or any other facility so designated. The term "affected facility" includes any affected source as defined in 40 CFR 63.2.

"Air pollution" means the presence in the outdoor atmosphere of one or more substances which are or may be harmful or injurious to human health, welfare or safety; to animal or plant life; or to property; or which unreasonably interfere with the enjoyment by the people of life or property.

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

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

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

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

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

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

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

"Class II area" means any prevention of significant deterioration area (i) in which any deterioration of existing air quality beyond that normally accompanying well-controlled growth is considered significant and (ii) designated as such in 9 VAC 5-20-205.

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

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

"Control program" means a plan formulated by the owner of a stationary source to establish pollution abatement goals, including a compliance schedule to achieve such goals. The

plan may be submitted voluntarily, or upon request or by order of the board, to ensure compliance by the owner with standards, policies and regulations adopted by the board. The plan shall include system and equipment information and operating performance projections as required by the board for evaluating the probability of achievement. A control program shall contain the following increments of progress:

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

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

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

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

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

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

"Dispersion technique"

1. Means any technique which attempts to affect the concentration of a pollutant in the ambient air by:
 - a. Using that portion of a stack which exceeds good engineering practice stack height;
 - b. Varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant; or
 - c. Increasing final exhaust gas plume rise by manipulating source process parameters, exhaust gas parameters, stack parameters, or combining exhaust gases from several existing stacks into one stack; or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise.
2. The preceding sentence does not include:
 - a. The reheating of a gas stream, following use of a pollution control system, for the purpose of returning the

gas to the temperature at which it was originally discharged from the facility generating the gas stream;

b. The merging of exhaust gas streams where:

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

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

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

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

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

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

"Emergency" means a situation that immediately and unreasonably affects, or has the potential to immediately and unreasonably affect, public health, safety or welfare; the health of animal or plant life; or property, whether used for recreational, commercial, industrial, agricultural or other reasonable use.

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

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

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

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

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

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

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

1. For sources seeking credit for stack height exceeding that established under subdivision 2 of the GEP definition, a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes, and eddy effects produced by nearby structures or nearby terrain features which individually is at least 40% in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and which contributes to a total concentration due to emissions from all sources that is greater than an ambient air quality standard. For sources subject to the provisions of Article 8 (9 VAC 5-80-1700 et seq.) of Part II of 9 VAC 5 Chapter 80, an excessive concentration alternatively means a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes, or eddy effects produced by nearby structures or nearby terrain features which individually is at least 40% in excess of the maximum concentration experienced in the absence of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and greater than a prevention of significant deterioration increment. The allowable emission rate to be used in making demonstrations under this provision shall be prescribed by the new source performance standard that is applicable to the source category unless the owner demonstrates that this emission rate is infeasible. Where such demonstrations are approved by the board, an alternative emission rate shall be established in consultation with the owner;

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

3. For sources seeking credit after January 12, 1979, for a stack height determined under subdivision 2 of the GEP definition where the board requires the use of a field study or fluid model to verify GEP stack height, for sources seeking stack height credit after November 9, 1984, based on the aerodynamic influence of cooling towers, and for

sources seeking stack height credit after December 31, 1970, based on the aerodynamic influence of structures not adequately represented by the equations in subdivision 2 of the GEP definition, a maximum ground-level concentration due in whole or part to downwash, wakes or eddy effects that is at least 40% in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects.

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

"Facility" means something that is built, installed or established to serve a particular purpose; includes, but is not limited to, buildings, installations, public works, businesses, commercial and industrial plants, shops and stores, heating and power plants, apparatus, processes, operations, structures, and equipment of all types.

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

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

1. Emission standards, alternative emission standards, alternative emission limitations, and equivalent emission limitations established pursuant to § 112 of the federal Clean Air Act as amended in 1990.
2. New source performance standards established pursuant to § 111 of the federal Clean Air Act, and emission standards established pursuant to § 112 of the federal Clean Air Act before it was amended in 1990.
3. All terms and conditions in a federal operating permit, including any provisions that limit a source's potential to emit, unless expressly designated as not federally enforceable.
4. Limitations and conditions that are part of an implementation plan.
5. Limitations and conditions that are part of a section 111(d) or section 111(d)/129 plan.
6. Limitations and conditions that are part of a federal construction permit issued under 40 CFR 52.21 or any construction permit issued under regulations approved by EPA in accordance with 40 CFR Part 51.
7. Limitations and conditions that are part of an operating permit issued pursuant to a program approved by EPA into an implementation plan as meeting EPA's minimum criteria for federal enforceability, including adequate notice and opportunity for EPA and public comment prior to issuance of the final permit and practicable enforceability.
8. Limitations and conditions in a Virginia regulation or program that has been approved by EPA under subpart E of 40 CFR Part 63 for the purposes of implementing and enforcing § 112 of the federal Clean Air Act.

9. Individual consent agreements issued pursuant to the legal authority of EPA.

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

1. 65 meters, measured from the ground-level elevation at the base of the stack;

2. a. For stacks in existence on January 12, 1979, and for which the owner had obtained all applicable permits or approvals required under 9 VAC 5 Chapter 80 (9 VAC 5-80-10 et seq.),

$$Hg = 2.5H,$$

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

b. For all other stacks,

$$Hg = H + 1.5L,$$

where:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Nonattainment area" means any area which is shown by air quality monitoring data or, where such data are not available, which is calculated by air quality modeling (or other methods determined by the board to be reliable) to exceed the levels allowed by the ambient air quality standard for a given

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pollutant including, but not limited to, areas designated as such in 9 VAC 5-20-204.

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

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

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

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

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

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

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

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

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

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

"Pollutant" means any substance the presence of which in the outdoor atmosphere is or may be harmful or injurious to human health, welfare or safety, to animal or plant life, or to property, or which unreasonably interferes with the enjoyment by the people of life or property.

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

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

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

"Public hearing" means, unless indicated otherwise, an informal proceeding, similar to that provided for in § 2.2-4007 of the Administrative Process Act, held to afford persons an opportunity to submit views and data relative to a matter on which a decision of the board is pending.

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

1. For ambient air quality standards in 9 VAC 5 Chapter 30 (9 VAC 5-30-10 et seq.): The applicable appendix of 40 CFR Part 50 or any method that has been designated as a reference method in accordance with 40 CFR Part 53, except that it does not include a method for which a reference designation has been canceled in accordance with 40 CFR 53.11 or 40 CFR 53.16.
2. For emission standards in 9 VAC 5 Chapter 40 (9 VAC 5-40-10 et seq.) and 9 VAC 5 Chapter 50 (9 VAC 5-50-10 et seq.): Appendix M of 40 CFR Part 51 or Appendix A of 40 CFR Part 60.
3. For emission standards in 9 VAC 5 Chapter 60 (9 VAC 5-60-10 et seq.): Appendix B of 40 CFR Part 61 or Appendix A of 40 CFR Part 63.

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

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

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

"Reid vapor pressure" means the absolute vapor pressure of volatile crude oil and volatile nonviscous petroleum liquids except liquefied petroleum gases as determined by American Society for Testing and Materials publication, "Test Method for Vapor Pressure of Petroleum Products (Reid Method)" (see 9 VAC 5-20-21).

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

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

"Section 111(d)/129 plan" means the portion or portions of the plan, or the most recent revision thereof, which has been approved under 40 CFR 60.27(b) in accordance with §§ 111(d)(1) and 129(b)(2) of the federal Clean Air Act, or

promulgated under 40 CFR 60.27(d) in accordance with §§ 111(d)(2) and 129(b)(3) of the federal Clean Air Act, and which implements the relevant requirements of the federal Clean Air Act.

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

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

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

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

1. Begun, or caused to begin, a continuous program of physical on site construction of the stack; or
2. Entered into binding agreements or contractual obligations, which could not be canceled or modified without substantial loss to the owner, to undertake a program of construction of the stack to be completed in a reasonable time.

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

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

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

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

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

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

Standard Industrial Classification Manual (see 9 VAC 5-20-21).

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

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

"*True vapor pressure*" means the equilibrium partial pressure exerted by a petroleum liquid as determined in accordance with methods described in American Petroleum Institute (API) publication, "Evaporative Loss from External Floating-Roof Tanks" (see 9 VAC 5-20-21). The API procedure may not be applicable to some high viscosity or high pour crudes. Available estimates of true vapor pressure may be used in special cases such as these.

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

"*Vapor pressure*," except where specific test methods are specified, means true vapor pressure, whether measured directly, or determined from Reid vapor pressure by use of the applicable nomograph in American Petroleum Institute publication, "Evaporative Loss from External Floating-Roof Tanks" (see 9 VAC 5-20-21).

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

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

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

- a. Methane;
- b. Ethane;
- c. Methylene chloride (dichloromethane);
- d. 1,1,1-trichloroethane (methyl chloroform);
- e. 1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113);
- f. Trichlorofluoromethane (CFC-11);
- g. Dichlorodifluoromethane (CFC-12);
- h. Chlorodifluoromethane (H CFC-22);
- i. Trifluoromethane (H FC-23);
- j. 1,2-dichloro 1,1,2,2,-tetrafluoroethane (CFC-114);
- k. Chloropentafluoroethane (CFC-115);
- l. 1,1,1-trifluoro 2,2-dichloroethane (HCFC-123);
- m. 1,1,1,2-tetrafluoroethane (HFC-134a);
- n. 1,1-dichloro 1-fluoroethane (HCFC-141b);

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- o. 1-chloro 1,1-difluoroethane (HCFC-142b);
- p. 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124);
- q. Pentafluoroethane (HFC-125);
- r. 1,1,2,2-tetrafluoroethane (HFC-134);
- s. 1,1,1-trifluoroethane (HFC-143a);
- t. 1,1-difluoroethane (HFC-152a);
- u. Parachlorobenzotrifluoride (PCBTF);
- v. Cyclic, branched, or linear completely methylated siloxanes;
- w. Acetone;
- x. Perchloroethylene (tetrachloroethylene);
- y. 3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca);
- z. 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb);
- aa. 1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC 43-10mee);
- bb. Difluoromethane (HFC-32);
- cc. Ethylfluoride (HFC-161);
- dd. 1,1,1,3,3,3-hexafluoropropane (HFC-236fa);
- ee. 1,1,2,2,3-pentafluoropropane (HFC-245ca);
- ff. 1,1,2,3,3-pentafluoropropane (HFC-245ea);
- gg. 1,1,1,2,3-pentafluoropropane (HFC-245eb);
- hh. 1,1,1,3,3-pentafluoropropane (HFC-245fa);
- ii. 1,1,1,2,3,3-hexafluoropropane (HFC-236ea);
- jj. 1,1,1,3,3-pentafluorobutane (HFC-365mfc);
- kk. Chlorofluoromethane (HCFC-31);
- ll. 1 chloro-1-fluoroethane (HCFC-151a);
- mm. 1,2-dichloro-1,1,2-trifluoroethane (HCFC-123a);
- nn. 1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxy-butane (C₄ F₉ OCH₃);
- oo. 2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF₃)₂ CFCF₂ OCH₃);
- pp. 1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane (C₄ F₉ OC₂ H₅);
- qq. 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF₃)₂ CFCF₂ OC₂ H₅);
- rr. Methyl acetate; and
- ss. Perfluorocarbon compounds which fall into these classes:
 - (1) Cyclic, branched, or linear, completely fluorinated alkanes;

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

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

3. As a precondition to excluding these compounds as volatile organic compounds or at any time thereafter, the board may require an owner to provide monitoring or testing methods and results demonstrating, to the satisfaction of the board, the amount of negligibly-reactive compounds in the emissions of the source.

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

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

VA.R. Doc. No. R04-41; Filed November 12, 2003, 11:31 a.m.



TITLE 12. HEALTH

STATE BOARD OF HEALTH

REGISTRAR'S NOTICE: The Department of Health 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 Department of Health will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 12 VAC 5-400. Rules and Regulations Governing the Practice of Midwifery (repealing 12 VAC 5-400-10 through 12 VAC 5-400-90).

Statutory Authority: § 32.1-12 of the Code of Virginia, and Chapter 641 of the 2003 Acts of Assembly.

Effective Date: December 31, 2003.

Summary:

Chapter 641 of the 2003 Acts of Assembly repealed Article 4 (§ 32.1-145 et seq.) of Chapter 5 of Title 32.1 and amended § 54.1-2901 of the Code of Virginia to eliminate the registration and permitting to practice midwifery of individuals who are not registered nurses and were registered and permitted to practice midwifery in compliance with this law prior to January 1, 1977. This has the effect of ending the nonnurse midwifery-permitting program administered by the Virginia Department of Health (VDH); therefore, this regulation is repealed.

Agency Contact: Mary Zoller, Department of Health, 1500 East Main Street, Richmond, VA 23219, telephone (804) 371-2622, FAX (804) 371-6032 or e-mail mzoller@vdh.state.va.us.

VA.R. Doc. No. R04-45; Filed November 4, 2003, 1:55 p.m.



GENERAL NOTICES/ERRATA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Total Maximum Daily Load (TMDL) - Ash Camp Creek

The Department of Environmental Quality (DEQ) seeks written and oral comments from interested persons on the development of a Total Maximum Daily Load (TMDL) for Ash Camp Creek. Ash Camp Creek is listed on the 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 Ash Camp Creek stream segment is located in Charlotte County and flows near Eureka, Virginia. The impaired segment is 2.36 miles in length, beginning upstream at the Route 654 bridge and continuing downstream to its mouth at Roanoke Creek.

Section 303(d) of the Clean Water Act and § 62.1-44.19:7 C of the Code of Virginia require DEQ to develop TMDLs for pollutants responsible for each impaired water contained in Virginia's 303(d) TMDL Priority List and Report.

The second public meeting on the development of the Ash Camp Creek TMDL will be held on Tuesday, December 2, 2003, 7 p.m. in Suite A of the County Administration Building, which is located at 250 LeGrande Avenue (1.35 miles south of the Hwy 40 and Hwy 47 intersection) in Charlotte Court House, Virginia.

The public comment period for this phase of the TMDL development will end on January 5, 2004. A fact sheet on the development of the Ash Camp Creek Benthic TMDL is available upon request or can be viewed at the DEQ website at <http://www.deq.state.va.us/tmdl>. Questions or information requests should be addressed to Kelly Wills. Written comments should include the name, address, and telephone number of the person submitting the comments and should be sent to Kelly J. Wills, Department of Environmental Quality, 7705 Timberlake Road, Lynchburg, VA 24502, telephone (434) 582-5120, FAX (434) 582-5125, or e-mail kjwills@deq.state.va.us.

Total Maximum Daily Load (TMDL) - Limestone Branch Watershed

The Department of Environmental Quality (DEQ) and the Department of Conservation and Recreation (DCR) seek written and oral comments from interested persons on the development of a Total Maximum Daily Load (TMDL) to address a bacteria impairment in the Limestone Branch Watershed. The subject stream segment is identified in Virginia's 2002 303(d) TMDL Priority List and Report as impaired due to violations of the state's water quality standard for fecal coliform bacteria.

Section 303(d) of the Clean Water Act and § 62.1-44.19:7 C of the Code of Virginia require DEQ to develop TMDLs for pollutants responsible for each impaired water contained in Virginia's 303(d) TMDL Priority List and Report.

The impaired stream segment is located in Loudoun County. The subject stream segment extends approximately 4.75 miles from the headwaters of Limestone Branch west of

Raspberry Drive to the confluence of the branch with the Potomac River north of Whites Ferry Road.

The first of two public meetings on the development of the Limestone Branch bacteria TMDL will be held on Tuesday, December 16, 2003, at 7 p.m. at the Lucketts Community Center, located at 42361 Lucketts Road in Leesburg, Virginia.

The public comment period on this first phase of TMDL development will begin on December 16, 2003, and end on January 14, 2004. A fact sheet on the development of the TMDL for the bacteria impairment in the Limestone Branch Watershed is available upon request. Questions or information requests should be addressed to Katherine Bennett. Written comments should include the name, address, and telephone number of the person submitting the comments and should be sent to Katherine E. Bennett, Department of Environmental Quality, 13901 Crown Court, Woodbridge, VA 22193, telephone (703) 583-3896, FAX (703) 583-3841, or e-mail kebennett@deq.state.va.us.

Total Maximum Daily Load (TMDL) - Piney Run Watershed

The Department of Environmental Quality (DEQ) and the Department of Conservation and Recreation (DCR) seek written and oral comments from interested persons on the development of a Total Maximum Daily Load (TMDL) to address a bacteria impairment in the Piney Run Watershed. The subject stream segment is identified in Virginia's 1998 303(d) TMDL Priority List and Report as impaired due to violations of the state's water quality standard for fecal coliform bacteria.

Section 303(d) of the Clean Water Act and § 62.1-44.19:7 C of the Code of Virginia require DEQ to develop TMDLs for pollutants responsible for each impaired water contained in Virginia's 303(d) TMDL Priority List and Report.

The impaired stream segment is located in Loudoun County. The subject stream segment extends approximately 3.52 miles from the mouth of an unnamed lake near Arnold Lane to the confluence of the run with the Potomac River west of Route 340.

The first of two public meetings on the development of the Piney Run bacteria TMDL will be held on Thursday, December 18, 2003, at 7 p.m. at the Neersville Fire and Rescue building, located at 11762 Harpers Ferry Road in Hillsboro, Virginia.

The public comment period on this first phase of TMDL development will begin on December 15, 2003, and end on January 13, 2004. A fact sheet on the development of the TMDL for the bacteria impairment in the Piney Run Watershed is available upon request. Questions or information requests should be addressed to Katherine Bennett. Written comments should include the name, address, and telephone number of the person submitting the comments and should be sent to Katherine E. Bennett, Department of Environmental Quality, 13901 Crown Court, Woodbridge, VA 22193, telephone (703) 583-3896, FAX (703) 583-3841, or e-mail kebennett@deq.state.va.us.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Notice of Intent to Amend (Pursuant to § 1902(a)(13) of the Act (USC 1396a(a)(13)) the Virginia State Plan for Medical Assistance and the Virginia Administrative Code

The Virginia Department of Medical Assistance Services (DMAS) hereby affords the public notice of its intention to amend the Virginia Title XIX State Plan for Medical Assistance (Medicaid) and the Virginia Administrative Code to provide for changes to the Amount, Duration, and Scope of Pharmacy Services, Drug Utilization Review, and State Supplemental Drug Rebates.

Pursuant to both § 1927(d) of the Social Security Act and the 2003 Acts of Assembly, Chapter 1042 Items 325 UU, VV, and ZZ, DMAS is making three important changes to its coverage of pharmacy services: (i) requiring prior authorization of all legend drugs that are not contained in its preferred drug list or other drugs as recommended by the Pharmacy and Therapeutics Committee prior to reimbursing for them, (ii) modifying the prospective drug utilization review (ProDUR) program, and (iii) requiring prior authorization of prescription drugs in instances when Medicaid recipients use high numbers of different prescription medications (high prescription thresholds). Two of these modifications to the Title XIX State Plan for Medical Assistance (Medicaid) were mandated, as discussed below, by the 2003 General Assembly. It was estimated during the 2003 budget development process that these three changes in combination will save or avert approximately \$44 million total funds for fiscal year 2004 in Medicaid expenditures.

Prior Authorization and Preferred Drug List with State Supplemental Rebates

Chapter 1042 of the 2003 Acts of Assembly Item, 325 ZZ, directs DMAS to establish a Pharmacy and Therapeutics Committee (P & T Committee) and utilize the committee's services to develop the Virginia Medicaid preferred drug list. The P & T Committee will recommend to DMAS: (i) therapeutic classes of drugs to be subject to the preferred drug list and prior authorization requirements, (ii) specific drugs within each class to be included on the preferred drug list, and (iii) appropriate exclusions and "grandfather" provisions. For those therapeutic classes of drugs subject to the preferred drug list program, a preferred drug is one that meets the safety, clinical efficacy, and pricing standards employed by the P & T Committee. The committee may also recommend prior authorization requirements or clinical guidance regarding preferred drugs or other drugs. Nonpreferred legend drugs may still be covered for reimbursement by DMAS but will require prior authorization before payment will be allowed. DMAS or its agent shall negotiate, with drug manufacturers, state supplemental rebates on prescription drugs to be included in the DMAS preferred drug list. Rebates for legend drugs, provided by the manufacturers under the authority of state supplemental rebate agreements, shall be in addition to those rebates resulting from federal agreements.

Prospective Drug Utilization Review (ProDUR)

Section 1927 of the Social Security Act requires states to conduct prospective, for noninstitutionalized recipients, and retrospective, for nursing facility residents, drug utilization review (DUR). The purpose of DUR is to protect recipients from taking different prescription drugs that might conflict with each other, taking different prescription drugs that have the same therapeutic effect (thereby doubling or tripling the therapeutic dosages), taking prescription drugs in incorrect dosages or for too long or not long enough to be effective, taking prescription drugs that are not approved for their diagnoses, or taking prescription drugs that could be harmful for other health conditions that they may have.

To date, the DMAS ProDUR program has been educational and advisory. DMAS has determined from evaluating claims processing data that further program enhancements are needed to protect Medicaid recipients from negative clinical outcomes. Therefore, this proposed change will be for the claims processing of prescription drugs that conflict with ProDUR edits. Such claims will be rejected back to the dispensing pharmacist for further interventions. The dispensing pharmacist will typically contact the prescribing physician in order to resolve the conflict. The prescribing physician will then be able to either change the prescription medication order or provide additional medical information in support of the original prescription. Such interventions have been the goal of the DUR program since its implementation.

High Prescription Thresholds

Chapter 1042 of the 2003 Acts of Assembly, Items 325 UU and VV, mandated that DMAS implement a program of utilization review and prior authorization of pharmacy services for institutionalized and noninstitutionalized recipients who use large numbers of different prescription drugs within specific time periods. The thresholds set out in the statute are noninstitutionalized recipients using more than nine unique prescription drugs in a 180-day period, and institutionalized (nursing facility) recipients using more than nine unique prescriptions in a 30-day period. In addition to the General Assembly's mandate noted above, Medicaid programs are permitted to conduct utilization review of covered services pursuant to 42 CFR § 440.230 (d) "[t]he agency may place appropriate limits on a service based on such criteria as medical necessity or on utilization control procedures." Pursuant to this federal authority, DMAS may modify the limits contained in the state mandate at Chapter 1042, Items UU and VV.

Pursuant to § 2.2-4011 of the Code of Virginia, the department is submitting emergency regulations for all three of these changes to the Governor. Once the Governor has approved these emergency regulations, DMAS will provide copies of the emergency regulations to all requesters. Please make your request in writing, indicating which emergency regulation is desired, to the address below. In addition, these emergency regulations will be published in the Virginia Register of Regulations and will also be available for public review on the electronic Regulatory Town Hall at www.townhall.state.va.us.

Persons wishing to comment on the emergency regulations may do so in writing in the following ways: written comments

General Notices/Errata

in hard copy may be submitted to Javier Menendez, R.Ph., Manager Pharmacy Services, DMAS, 600 East Broad Street, Richmond, VA, 23219; electronic written comments may be submitted to jmenendez@dmas.state.va.us; electronic written comments may be recorded in thepdlinput@dmas.state.va.us. Persons wishing to review submitted comments may do so either at DMAS (at the previously cited address) or in the proposed permanent regulations during the permanent rule making process (§ 2.2-4007 of the Code of Virginia). Further information is also available at www.dmas.state.va.us.

STATE CORPORATION COMMISSION

October 30, 2003

Administrative Letter 2003-10

TO: All Insurers Licensed to Market Credit Life Insurance or Credit Accident and Sickness Insurance in Virginia

RE: Credit Life Insurance and Credit Accident and Sickness Insurance Premium Rates Effective January 1, 2004

On July 18, 2003, the Virginia State Corporation Commission (the "Commission") issued an Order Adopting Adjusted Prima Facie Rates for the Triennium Commencing January 1, 2004, Case No. INS-2003-00022. All insurers licensed to market credit life insurance or credit accident and sickness insurance in Virginia were mailed a copy of the order and the adopted rates on July 23, 2003. Pursuant to § 38.2-3725 D and E of the Code of Virginia, the adjusted prima facie rates for the triennium commencing January 1, 2004, will remain in effect until January 1, 2007.

In accordance with §§ 38.2-3728 A and 38.2-3729 C of the Code of Virginia, each company that markets credit life or credit accident and sickness insurance in Virginia is required to file an actuarial memorandum setting forth the rates, and rate and refund formulas that it intends to use effective January 1, 2004. The actuarial memorandum must include, at a minimum, the following information:

- The specific single premium and monthly outstanding balance (MOB) rates and rate formulas, and examples of the rate formulas,
- All refund formulas, including examples,
- Any other information required to document the development of the rates and refund formulas,
- The date of previously approved formulas,
- The form numbers to which each rate or formula will apply, and
- A description of the referenced forms.

A request for approval of a deviated premium rate or rates to be effective on or after January 1, 2004 may be included as part of the actuarial memorandum referenced above. It should be noted that previously approved deviated premium rates can only be used through December 31, 2003 in accordance with § 38.2-3728 C 1 of the Code of Virginia. This section of the Code states that in no event will deviated rates remain in effect after the effective date that new prima facie

rates are effective as set forth in § 38.2-3730 of the Code of Virginia.

The filing requirements for Credit Life and Credit Accident and Sickness Insurance may be found on the Bureau's website at:

<http://www.state.va.us/scc/division/boi/webpages/boinaicproductreviewchecklisth.htm>

My staff will review filings as promptly as possible; however, companies that delay making filings cannot be assured that our review can be completed by January 1, 2004. Any insurer that does not have rates and refund formulas approved by the Commission on or before January 1, 2004, that comply with the prima facie rates set forth in INS-2003-00022 must cease marketing credit life insurance or credit accident and sickness in Virginia as of January 1, 2004, and must cease charging premiums for existing MOB contracts as of January 1, 2004, and until such date that it has received the Commission's approval, as noted above.

Any questions with regard to any of the above matters should be directed to Robert F. Grissom, Senior Insurance Market Examiner, State Corporation Commission, Bureau of Insurance, Life and Health Division - Forms and Rates Section, P.O. Box 1157, Richmond, VA 23218, telephone (804) 371-9152.

/s/ Alfred W. Gross
Commissioner of Insurance

STATE LOTTERY DEPARTMENT

The following Director's Orders of the State Lottery Department were filed with the Virginia Registrar of Regulations on November 12, 2003. The orders may be viewed at the State Lottery Department, 900 E. Main Street, Richmond, Virginia, or at the office of the Registrar of Regulations, 910 Capitol Street, 2nd Floor, Richmond, Virginia.

Director's Order Number Sixty-Three (03)

Virginia's Instant Game Lottery 597; "Lucky Blackjack," (effective 10/24/03)

Director's Order Number Sixty-Four (03)

Virginia's Instant Game Lottery 579; "Super Monopoly," (effective 11/06/03)

Director's Order Number Sixty-Five (03)

Virginia's Instant Game Lottery 585; "Spicy Hot Cash," (effective 11/06/03)

STATE WATER CONTROL BOARD

Proposed Consent Special Order

Grap Equipment, Inc.

The State Water Control Board (board) proposes to enter into a Consent Special Order (order) with Grap Equipment, Inc. (Grap). The parties have agreed to the terms of an order for settlement of violations of State Water Control Law occurring at an unnamed tributary to Lake Monticello near a house construction site in Palmyra, Virginia.

Grap is a construction general contractor and construction equipment supplier certified to do business in Virginia. On February 11, 2003, Valley Regional Office (VRO) staff of the Virginia Department of Environmental Quality (DEQ) investigated a salamander kill in an unnamed tributary to Lake Monticello that had occurred on February 9, 2003, after VRO received a complaint from a neighbor to a construction site. VRO inspectors determined that concrete had been discharged to a stream located near a house construction site as a result of clean-up operations following the pouring of concrete by Grap to reinforce the basement wing walls of a nearby home on Zephyr Road. Freshly poured concrete was found in and around a culvert in the stream and VRO determined that the concrete washed out into the stream and caused a sharp increase in the water's pH, which killed several salamanders. This discharge occurred in violation of State Water Control Law, § 62.1-44.5 A (3) of the Code of Virginia, which prohibits discharges of wastes that alter the physical, chemical, or biological properties of state waters to the detriment of aquatic life. The proposed order assesses a civil charge against Grap in settlement of the violation.

The board will receive written comments relating to the proposed order for 30 days from the date of publication of this notice. Comments should be addressed to Ricard J. Dunay, Department of Environmental Quality, P.O. Box 3000, Harrisonburg, VA 22801 and should refer to the order. The proposed order may be examined at the Department of Environmental Quality, Valley Regional Office, 4411 Early Road, Harrisonburg, VA. A copy of the order may be obtained in person or by mail from the DEQ office.

Comments may also be submitted via electronic mail to rjdunay@deq.state.va.us. In order to be considered, electronic comments must be received prior to the close of the comment period and must include the name, address and telephone number of the person making the comment.

Proposed Consent Special Order

Saint Paul's College

The State Water Control Board proposes to issue a consent special order to St. Paul's College to resolve certain alleged violations of environmental laws and regulations occurring at their facility in Lawrenceville, Virginia. The proposed order requires St. Paul's College to execute corrective action and pay a \$5,000 civil charge.

On behalf of the State Water Control Board, the Department of Environmental Quality will receive for 30 days from the date of publication of this notice written comments related to the proposed consent special order. Comments should be addressed to Frank Lupini, Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, VA 23060-6295 or sent to the email address of felupini@deq.state.va.us. All comments received by e-mail must include the name, address and phone number of the person making the comment. A copy of the order may be obtained in person or by mail from the above office.

Proposed Consent Special Order

Town of Warsaw

The State Water Control Board proposes to issue a consent special order to the Town of Warsaw to resolve certain alleged violations of environmental laws and regulations occurring at their facility in Richmond County, Virginia. The proposed order requires the Town of Warsaw to execute corrective action and pay a \$7,000 civil charge.

On behalf of the State Water Control Board, the Department of Environmental Quality will receive for 30 days from the date of publication of this notice written comments related to the proposed consent special order. Comments should be addressed to Frank Lupini, Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, VA 23060-6295 or sent to the email address of felupini@deq.state.va.us. All comments received by e-mail must include the name, address and phone number of the person making the comment. 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://register.state.va.us>.

FORMS:

NOTICE of INTENDED REGULATORY ACTION-RR01
NOTICE of COMMENT PERIOD-RR02
PROPOSED (Transmittal Sheet)-RR03
FINAL (Transmittal Sheet)-RR04
EMERGENCY (Transmittal Sheet)-RR05
NOTICE of MEETING-RR06

General Notices/Errata

AGENCY RESPONSE TO LEGISLATIVE OBJECTIONS-
RR08
RESPONSE TO PETITION FOR RULEMAKING-RR13
FAST-TRACK RULEMAKING ACTION-RR14

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

COMMONWEALTH COUNCIL ON AGING

December 4, 2003 - 9 a.m. -- Open Meeting

Department for the Aging, 1600 Forest Avenue, Suite 102, Richmond, Virginia.♿ (Interpreter for the deaf provided upon request)

A regular business meeting of the Public Relations Committee. Public comments are welcome.

Contact: Robin Brannon, Communications Director, Department for the Aging, 1600 Forest Ave., Suite 102, Richmond, VA 23229, telephone (804) 662-9323.

December 4, 2003 - 10 a.m. -- Open Meeting

Department for the Aging, 1600 Forest Avenue, Suite 102, Richmond, Virginia.♿ (Interpreter for the deaf provided upon request)

A regular business meeting. Public comments are welcome.

Contact: Marsha Mucha, Administrative Staff Assistant, Department for the Aging, 1600 Forest Ave., Suite 102, Richmond, VA 23229, telephone (804) 662-9312.

BOARD OF AGRICULTURE AND CONSUMER SERVICES

December 4, 2003 - 9 a.m. -- Open Meeting

Washington Building, 1100 Bank Street, Second Floor Boardroom, Richmond, Virginia.♿

A meeting to discuss issues related to Virginia agriculture and consumer services. Among matters the board has on its agenda are a public hearing, commencing at 10 a.m., on the quarantine relating to the Pine Shoot Beetle, *Tomicus piniperda* (Linnaeus), with a prior presentation on this subject and a review by the board of action taken already. Staff will ask the board to consider adopting a quarantine regulation to extend a quarantine on the Pine Shoot Beetle already adopted by the Commissioner of Agriculture and Consumer Services -- the commissioner's quarantine is of a

temporary nature. Also on the agenda: consideration of action to begin the process of adopting the Food and Drug Administration's Food Code or portions thereof, amending it as necessary, and a request by staff to reconsider its recently-adopted final regulation on the cotton boll weevil (2 VAC 5-440, Rules and Regulations for Enforcement of the Virginia Pest Law--Cotton Boll Weevil Quarantine). The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact Roy Seward at least five days before the meeting date so that suitable arrangements can be made.

Contact: Roy Seward, Board Secretary, Department of Agriculture and Consumer Services, Washington Bldg., 1100 Bank St., Suite 211, Richmond, VA 23219, telephone (804) 786-3538, FAX (804) 371-2945, e-mail rseward@vdacs.state.va.us.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Virginia Corn Board

December 16, 2003 - 9 a.m. -- Open Meeting


Wallace Manor, 3821 North Courthouse Road, Providence Forge, Virginia.♿

The board will hear and approve previous meeting minutes, review checkoff revenues, and review the financial status resulting from the sale of the 2003 Virginia Corn crop. Reports will be heard from the chairman, board member representation to the U.S. Grains Council, the National Corn Growers' Association, and the Virginia Corn Growers' Association. The nomination and election of 2004 officers will take place at this meeting. 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 Philip T. Hickman at least five days before the meeting date so that suitable arrangements can be made.

Calendar of Events

Contact: Philip T. Hickman, Program Director, Department of Agriculture and Consumer Services, 1100 Bank St., Room 906, Richmond, VA 23219, telephone (804) 371-6157, FAX (804) 371-7786, e-mail phickman@vdacs.state.va.us.


Virginia Marine Products Board

December 2, 2003 - 6 p.m. -- Open Meeting
Bill's Seafood House, Grafton, Virginia. 

The board will include the reading and approval of the previous board meeting in its meeting agenda. In addition, the board will hear reports on finance, trade shows, festivals, industry tours, and calendar sales. Cooperative programs with the Virginia Department of Agriculture and Consumer Services staff and croaker exports will be discussed. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact Shirley Estes at least five days before the meeting date so that suitable arrangements can be made.

Contact: Shirley Estes, Executive Director, Virginia Marine Products Board, 554 Denbigh Blvd., Suite B, Newport News, VA 23608-4200, telephone (757) 874-3474, FAX (757) 886-0671.


Virginia Seed Potato Board

† December 9, 2003 - 7:30 p.m. -- Open Meeting
Eastern Shore Agricultural Research and Extension Center, Research Drive, Painter, Virginia. 

The board will review regulations and plan for the 2004 seed season. Other business that may come before the board will be discussed. 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: J. W. Nottingham, Program Director, Virginia Seed Potato Board, P.O. Box 26, Onley, VA 23418, telephone (757) 787-5867, FAX (757) 787-5973, e-mail jknight@vdacs.state.va.us.

Virginia Soybean Board


December 9, 2003 - 1:30 p.m. -- Open Meeting
Virginia Soybean Association, 151 Kristiansand Drive, Suite E, Williamsburg, Virginia. 

The board will hear and approve meeting minutes, review checkoff revenues, and the financial status resulting from the sale of the 2003 Virginia soybean crop. Reports will be heard from the chairman, United Soybean Board representative, and the Virginia Soybean Association. The nomination and election of 2004 officers will take place at this meeting. 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 Philip T.

Hickman at least five days before the meeting date so that suitable arrangements can be made.

Contact: Philip T. Hickman, Program Director, Department of Agriculture and Consumer Services, 1100 Bank St., Room 906, Richmond, VA 23219, telephone (804) 371-6157, FAX (804) 371-7786, e-mail phickman@vdacs.state.va.us.

STATE AIR POLLUTION CONTROL BOARD

December 4, 2003 - 7 p.m. -- Public Hearing
Smyth-Bland Regional Library, Marion, Virginia. 

A public hearing to receive comments on a New Source Review permit application from Merillat Corporation to construct and operate a wood furniture finishing system, a major stationary source, at their facility on State Route 686, Smyth County, Atkins, Virginia. The public comment period closes on December 19, 2003.


Contact: Cliff Musick, Department of Environmental Quality, 355 Deadmore St., Abingdon, VA 24212, telephone (276) 676-4800, FAX (276) 676-4899, e-mail ecmusick@deq.state.va.us.

† December 8, 2003 - 10 a.m. -- Open Meeting
Locations to be determined.

A special meeting to consider adoption of Revision F02 - Emergency Regulation amending the NO_x Budget Trading Program (9 VAC 5-140), which establishes requirements for auctioning of the new source set aside budget.

Contact: Cindy Berndt, Regulatory Coordinator, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4378, FAX (804) 698-4346, e-mail cmberndt@deq.state.va.us.


ALCOHOLIC BEVERAGE CONTROL BOARD

December 8, 2003 - 9 a.m. -- Open Meeting
December 22, 2003 - 9 a.m. -- Open Meeting
Department of Alcoholic Beverage Control, 2901 Hermitage Road, Richmond, Virginia. 

A meeting of the executive staff to receive and discuss reports and activities from staff members and to consider other matters not yet determined.

Contact: W. Curtis Coleburn, III, Secretary to the Board, Department of Alcoholic Beverage Control, P.O. Box 27491, Richmond, VA 23261, telephone (804) 213-4409, FAX (804) 213-4442, e-mail wccolen@abc.state.va.us.

ALZHEIMER'S DISEASE AND RELATED DISORDERS COMMISSION

December 3, 2003 - 10 a.m. -- Open Meeting
Department for the Aging, 1600 Forest Avenue, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular meeting.

Contact: Janet L. Honeycutt, Director of Grant Operations, Alzheimer's Disease and Related Disorders Commission, 1600 Forest Ave., Suite 102, Richmond, VA, telephone (804) 662-9333, FAX (804) 662-9354, toll-free (800) 554-3402, (804) 662-9333/TTY ☎, e-mail jlhoneycutt@vdh.state.va.us.

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

December 15, 2003 - 1 p.m. -- Open Meeting
† **December 22, 2003 - 10 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Room 453, Richmond, Virginia. ♿

An informal fact-finding conference.

Contact: Mark N. Courtney, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail APELSCIDLA@dpor.state.va.us.

ART AND ARCHITECTURAL REVIEW BOARD

December 5, 2003 - 10 a.m. -- Open Meeting
Science Museum of Virginia, 2500 West Broad 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 Street, Room 221, Richmond, VA 23219, telephone (804) 643-1977, FAX (804) 643-1981, (804) 786-6152/TTY ☎, e-mail rifaia@aol.com.

VIRGINIA COMMISSION FOR THE ARTS

† **December 10, 2003 - 10 a.m.** -- Open Meeting
Center in the Square, 5th Floor Conference Room, Roanoke, Virginia. ♿

A quarterly meeting.

Contact: Peggy Baggett, Executive Director, Virginia Commission for the Arts, 223 Governor St., Richmond, VA 23219, telephone (804) 225-3132, FAX (804) 225-4327, (804) 225-3132/TTY ☎, e-mail pbaggett.arts@state.va.us.

VIRGINIA BOARD FOR ASBESTOS, LEAD, AND HOME INSPECTORS

† **February 18, 2004 - 9 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ♿

A meeting to conduct board business.

Contact: David Dick, Executive Director, Virginia Board for Asbestos, Lead, and Home Inspectors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8507, FAX (804) 367-6128, (804) 367-9753/TTY ☎, e-mail asbestos@dpor.state.va.us.

COMPREHENSIVE SERVICES FOR AT-RISK YOUTH AND FAMILIES

State Executive Council

December 31, 2003 - 9 a.m. -- Open Meeting
Department of Social Services, 730 East Broad Street, Lower Level Room 3, Richmond, Virginia. ♿

A monthly council meeting. For traveling directions, please call (804) 692-1100.

Contact: Alan G. Saunders, Director, Office of Comprehensive Services, 1604 Santa Rosa Rd., Richmond, VA 23229, telephone (804) 662-9815, FAX (804) 662-9831, e-mail ags992@central.dss.state.va.us.

BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

† **February 19, 2004 - 9:30 a.m.** -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A quarterly business meeting to include regulatory and disciplinary matters as may be presented on the agenda. Public comment will be received at the beginning of the meeting.

Contact: Elizabeth Young, Executive Director, Board of Audiology and Speech-Language Pathology, Alcoa Building, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9111, FAX (804) 662-9523, (804) 662-7197/TTY ☎, e-mail elizabeth.young@dhp.state.va.us.

VIRGINIA AVIATION BOARD

† **December 9, 2003 - 1 p.m.** -- Open Meeting
Department of Game and Inland Fisheries, 4000 West Broad Street, Richmond, Virginia. ♿

A meeting of the Aviation Compatible Land Use Committee to discuss compatible land use at Virginia airports.

Contact: Carolyn Toth, Administrative Assistant, Virginia Aviation Board, 5702 Gulfstream Rd., Richmond, VA 23250, telephone (804) 236-3637, FAX (804) 236-3635, toll-free

Calendar of Events

(800) 292-1034, (804) 236-3624/TTY ☎, e-mail Carolyn.Toth@doav.virginia.gov.

† **December 9, 2003 - 3 p.m.** -- Open Meeting

† **December 10, 2003 - 9 a.m.** -- Open Meeting

Department of Game and Inland Fisheries, 4000 West Broad Street, Richmond, Virginia. ♿

A regular bimonthly meeting. Applications 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 Carolyn.Toth@doav.virginia.gov.

BOARD FOR BARBERS AND COSMETOLOGY

December 15, 2003 - 9 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ♿

A general business meeting including consideration of regulatory issues as may be presented on the agenda. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Public comment will be heard at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: William H. Ferguson, II, Executive Director, Board for Barbers and Cosmetology, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-6295, (804) 367-9753/TTY ☎, e-mail barberscosmo@dpor.state.va.us.

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

† **December 8, 2003 - 10 a.m.** -- Open Meeting

James Monroe Building, 101 North 14th Street, Conference Room C, Lobby Level, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting to conduct general business, including review of local Chesapeake Bay Preservation Area programs. The board will discuss other policy related issues. Public comment will be taken at this meeting.

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

January 2, 2004 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Child Day-Care Council intends to amend regulations entitled **22 VAC 15-30, Standards for Licensed Child Day Centers**. The purpose of the proposed action is to provide more protection for children in care, be less intrusive and burdensome for providers, and clarify the language. Changes were made throughout the regulation as appropriate. Topics covered by the regulation include administration, staff qualifications and training, physical plant, staffing and supervision, programs, special care provisions and emergencies, and special services.

Statutory Authority: §§ 63.2-1734 and 63.2-1735 of the Code of Virginia.

Public comments may be submitted until January 2, 2004, to Gail Johnson, Chair, Child Day-Care Council, 730 East Broad Street, 7th Floor, Richmond, VA 23219.

Contact: Wenda Singer, Program Development Consultant, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-2201, FAX (804) 692-2370 or e-mail wxs2@dss.state.va.us.

January 2, 2004 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Child Day-Care Council intends to repeal regulations entitled **22 VAC 15-50, Regulation for Criminal Record Checks for Child Welfare Agencies**, and adopt regulations entitled **22 VAC 15-51, Background Checks for Licensed Child Day Centers**. The purpose of the proposed action is to repeal the current regulation for criminal background checks in order to promulgate a new regulation that establishes background checks for licensed child care centers in compliance with the Code of Virginia. A background check is a sworn statement or affirmation, a criminal history record check, and a child protective services central registry check.

Statutory Authority: §§ 63.2-1734 and 63.2-1735 of the Code of Virginia.

Public comments may be submitted until January 2, 2004.

Contact: Wenda Singer, Program Development Consultant, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-2201, FAX (804) 692-2370 or e-mail wxs2@dss.state.va.us.

STATE BOARD FOR COMMUNITY COLLEGES

January 21, 2004 - 1:30 p.m. -- Open Meeting

James Monroe Building, 101 North 14th Street, Godwin-Hamel Board Room, 15th Floor, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

Committees will meet as follows: Academic and Student Affairs, Audit, and Budget and Finance will meet at 1:30 p.m.; Facilities and Personnel Committees will meet at 3 p.m.

Contact: D. Susan Hayden, Director of Public Affairs, State Board for Community Colleges, 101 N. 14th St., 15th Floor, Richmond, VA 23219, telephone (804) 819-4961, FAX (804) 819-4768, (804) 371-8504/TTY ☎

January 22, 2004 - 8:30 a.m. -- Open Meeting
James Monroe Building, 101 North 14th Street, Godwin-Hamel Board Room, 15th Floor, Richmond, Virginia. ♿
(Interpreter for the deaf provided upon request)

A regular meeting. Public comment may be received at the beginning of the meeting upon notification at least five working days prior to the meeting.

Contact: D. Susan Hayden, Director of Public Affairs, State Board for Community Colleges, 101 N. 14th St., 15th Floor, Richmond, VA 23219, telephone (804) 819-4961, FAX (804) 819-4768, (804) 371-8504/TTY ☎

COMPENSATION BOARD

December 17, 2003 - 11 a.m. -- Open Meeting
January 13, 2004 - 2 p.m. -- Open Meeting
Compensation Board, 202 North 9th Street, 10th Floor, Richmond, Virginia. ♿

A monthly board meeting.

Contact: Cindy P. Waddell, Compensation Board, P.O. Box 710, Richmond, VA 23218, telephone (804) 786-0786, FAX (804) 371-0235, e-mail cwaddell@scb.state.va.us.

DEPARTMENT OF CONSERVATION AND RECREATION

† **December 5, 2003 - 11 a.m.** -- Open Meeting
Chippokes Plantation State Park Mansion Conference Room Surry, Virginia. ♿

A meeting of the Executive Committee of the Chippokes Plantation Farm Foundation Board of Trustees.

Contact: Katherine R. Wright, Executive Secretary, Department of Conservation and Recreation, 101 N. 14th St., 11th Floor, Richmond, VA 23219, telephone (804) 786-7950, FAX (804) 371-8500, e-mail kwright@dcr.state.va.us.

† **December 5, 2003 - 1 p.m.** -- Open Meeting
Chippokes Plantation State Park Mansion Conference Room Surry, Virginia. ♿

A meeting of the Chippokes Plantation Farm Foundation Board of Trustees to discuss the merger of the Chippokes Plantation Farm Foundation into the Department of Conservation and Recreation and to discuss general business.

Contact: Katherine R. Wright, Executive Secretary, Department of Conservation and Recreation, 101 N. 14th St., 11th Floor, Richmond, VA 23219, telephone (804) 786-7950, FAX (804) 371-8500, e-mail kwright@dcr.state.va.us.

Virginia Soil and Water Conservation Board

December 10, 2003 - 9 a.m. -- Open Meeting
Sheraton Richmond West, 6624 West Broad Street, Richmond, Virginia.

A regular meeting and joint meeting with the Board of Directors of the Virginia Association of Soil and Water Conservation Districts.

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.

January 23, 2004 - 11 a.m. -- Open Meeting
Natural Resources Conservation Service, 1606 Santa Rosa Road, Richmond, Virginia.

A regular business meeting. Following the regular business meeting, the board will conduct a hearing regarding an appeal filed under the Agricultural Stewardship Act.

Contact: Leon E. App, Acting Deputy Director, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-6124, FAX (804) 786-6141, e-mail leonapp@dcr.state.va.us.

BOARD FOR CONTRACTORS

December 2, 2003 - 9 a.m. -- Open Meeting
† **December 4, 2003 - 9 a.m.** -- Open Meeting
December 8, 2003 - 1 p.m. -- Open Meeting
December 9, 2003 - 9 a.m. -- Open Meeting
January 6, 2004 - 9 a.m. -- Open Meeting
January 13, 2004 - 9 a.m. -- Open Meeting
January 27, 2004 - 9 a.m. -- Open Meeting
February 3, 2004 - 9 a.m. -- Open Meeting
February 10, 2004 - 9 a.m. -- Open Meeting
February 11, 2004 - 1:30 p.m. -- Open Meeting
† **February 24, 2004 - 9 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

Informal fact-finding conferences. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at (804) 367-0946 at least 10 days prior to the meeting so that suitable arrangements can be made for appropriate accommodations. The department fully complies with the Americans with Disabilities Act.

Contact: Sharon Martin, 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 martin@dpor.state.va.us.

† **December 12, 2003 - 2 p.m.** -- Open Meeting
Virgil I. Grisson Library, 366 DeShazor Drive, Meeting Room, Newport News, Virginia. ♿

An informal fact-finding conference.

Calendar of Events

Contact: Eric L. Olson, Executive Director, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2785, FAX (804) 367-2474, (804) 367-9753/TTY ☎, e-mail contractors@dpor.state.va.us.

February 11, 2004 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. ♿

A meeting of the Tradesman and Education Committee to conduct committee business. The department fully complies with the Americans with Disabilities Act.

Contact: Eric L. Olson, Executive Director, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2785, FAX (804) 367-2474, (804) 367-9753/TTY ☎, e-mail contractors@dpor.state.va.us.

CRIMINAL JUSTICE SERVICES BOARD

† **December 2, 2003 - 10 a.m.** -- Open Meeting
Comfort Inn-Alexandria, 5716 South Van Dorn Street,
Alexandria, Virginia.

A general business meeting.

Contact: Judith Kirkendall, Regulatory Coordinator, Criminal Justice Services Board, 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.

December 11, 2003 - 9 a.m. -- Public Hearing
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. ♿

The Committee on Training will hold a public hearing on Regulations for the Implementation of the Law Permitting DNA Analysis Upon Arrest for All Violent Felonies and Certain Burglaries.

Contact: Judith Kirkendall, Regulatory Coordinator, Department of Criminal Justice Services, Eighth Street 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.

BOARD OF DENTISTRY

December 5, 2003 - 9 a.m. -- CANCELED

December 12, 2003 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street,
6th Floor, Richmond, Virginia. ♿

A special conference committee. There will be no public comment period.

Contact: Cheri Emma-Leigh, Operations Manager, Board of Dentistry, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-9906, FAX (804) 662-7246, (804) 662-7197/TTY ☎, e-mail Cheri.Emma-Leigh@dhp.state.va.us.

DESIGN-BUILD/CONSTRUCTION MANAGEMENT REVIEW BOARD

December 18, 2003 - 11 a.m. -- Open Meeting
Department of General Services, 8th Street Office Building,
3rd Floor, 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.

VIRGINIA ECONOMIC DEVELOPMENT PARTNERSHIP

† **December 2, 2003 - 11 a.m.** -- Open Meeting
901 East Byrd Street, Riverfront Plaza, West Tower, 20th Floor, Richmond, Virginia. ♿

A meeting of the Board of Directors. Discussion will focus on issues pertaining to the Virginia Economic Development Partnership.

Contact: Kimberly M. Ellett, Senior Executive Assistant, Virginia Economic Development Partnership, P.O. Box 798, Richmond, VA 23218, telephone (804) 371-8108, FAX (804) 371-8112, e-mail kellett@yesvirginia.org.

BOARD OF EDUCATION

January 7, 2004 - 9 a.m. -- Open Meeting

† **February 25, 2004 - 9 a.m.** -- Open Meeting
James Monroe Building, 101 North 14th Street, Conference Rooms C and D, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

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 72 hours in advance. Public comment will be received.

Contact: Dr. Margaret N. Roberts, Office of Policy and Public Affairs, Department of Education, P.O. Box 2120, James Monroe Bldg., 101 N. 14th St., 25th Floor, Richmond, VA 23219, telephone (804) 225-2540, FAX (804) 225-2524, e-mail mroberts@mail.vak12ed.edu.

† **January 7, 2004 - 11:30 a.m.** -- Public Hearing
James Monroe Building, 101 North 14th Street, Conference Rooms D and E, Richmond, Virginia.

February 2, 2004 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Education intends to adopt regulations entitled **8 VAC 20-670, Regulations Governing the Operation of Private Day Schools for Students with Disabilities**. Private day schools for students with disabilities are currently regulated by the Regulations Governing the Operation of Proprietary Schools and Issuing of Agent Permits, which also covers private career schools. The purpose of these planned regulations is to separate the current complex and intertwined regulations. It is intended that revised regulations for the career schools and new regulations for the private day schools for students with disabilities be promulgated to provide clarity and specificity for each type of school.

Statutory Authority: §§ 22.1-16 and 22.1-321 of the Code of Virginia.

Contact: Carolyn Hodgins, Specialist, Private Day Schools, Department of Education, P.O. Box 2120, Richmond, VA 23218, telephone (804) 225-4551 or FAX (804) 225-2524.

† **January 7, 2004 - 11:45 a.m.** -- Public Hearing
James Monroe Building, 101 North 14th Street, Conference Rooms D and E, Richmond, Virginia.

February 2, 2004 - Public comments may be submitted until this date.


Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Education intends to amend regulations entitled **8 VAC 20-340, Regulations Governing Driver Education**. The purpose of the proposed action is to require a minimum number of miles driven during the behind-the-wheel phase of driver education instruction pursuant to amendments to § 22.1-205 of the 2001 Acts of Assembly.

Statutory Authority: §§ 22.1-16, 22.1-205 and 46.2-334 of the Code of Virginia.

Contact: Vanessa Wigand, Specialist in Driver Education, Department of Education, P.O. Box 2120, Richmond, VA 23218, telephone (804) 225-3300 or FAX (804) 225-2524.

DEPARTMENT OF EDUCATION

Advisory Board for Teacher Education and Licensure

January 26, 2004 - 9 a.m. -- Open Meeting
Sheraton Richmond West, 6624 West Broad Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting of the Advisory Board for Teacher Education and Licensure. The public is urged to confirm arrangements prior to each meeting by viewing the Department of Education's public meeting calendar at <http://www.pen.k12.va.us/VDOE/meetings.html>. This site

will contain the latest information on the meeting arrangements and will note any last-minute changes in time or location. Persons requesting the services of an interpreter for the deaf are asked to do so at least 72 hours in advance so that the appropriate arrangements may be made.

Contact: Dr. Margaret N. Roberts, Office of Policy and Public Affairs, Department of Education, P.O. Box 2120, 101 N. 14th St., 25th Floor, Richmond, VA 23219, telephone (804) 225-2540, FAX (804) 225-2524, e-mail mroberts@mail.vak12ed.edu.


LOCAL EMERGENCY PLANNING COMMITTEE - CITY OF WINCHESTER

December 3, 2003 - 3 p.m. -- Open Meeting
Timbrook Public Safety Center, 231 East Piccadilly Street, Winchester, Virginia.

A regular meeting.


Contact: L.A. Miller, Fire and Rescue Chief, Local Emergency Planning Committee, Winchester Fire and Rescue Department, 231 E. Piccadilly St., Winchester, VA 22601, telephone (540) 662-2298.

DEPARTMENT OF ENVIRONMENTAL QUALITY

December 1, 2003 - 10:30 a.m. -- Public Hearing
Department of Environmental Quality, Tidewater Regional Office, 5636 Southern Boulevard, Virginia Beach, Virginia. 


A public hearing to receive comments on the application for a new source review permit for INGENCO Distributed Energy to construct and operate an electrical power generating facility in Virginia Beach.

Contact: Linda K. Lightfoot, Department of Environmental Quality, 5636 Southern Blvd., Virginia Beach, VA 23462, telephone (757) 518-2005, FAX (757) 518-2009, e-mail llightfoot@deq.state.va.us.

† **December 2, 2003 - 7 p.m.** -- Open Meeting
County Administration Building, 250 LeGrande Avenue, Suite A, Charlotte Court House, Virginia. 

The second public meeting on the development of the benthic TMDL for Ash Camp Creek in Charlotte County. The public notice may be found in the Virginia Register on December 1, 2003. The public comment period closes on January 5, 2004.

Contact: Kelly J. Wills, Department of Environmental Quality, 7705 Timberlake Rd., Lynchburg, VA 24502, telephone (434) 582-5120, FAX (434) 582-5125, e-mail kjwills@deq.state.va.us.


December 2, 2003 - 7 p.m. -- Open Meeting
Princess Anne High School, 4000 Virginia Beach Boulevard, Virginia Beach, Virginia. 

A public meeting on the development of a fecal coliform TMDL for Lynnhaven River, Broad Bay and Linkhorn Bay segments located within the City of Virginia Beach. The

Calendar of Events


public notice may be found in the Virginia Register of Regulations on November 17, 2003. The public comment period closes on January 3, 2004.

Contact: Chester Bigelow, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4554, FAX (804) 698-4116, e-mail ccbigeLOW@deq.state.va.us.

December 3, 2003 - 2 p.m. -- Open Meeting
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. 


A meeting to receive comment on the FY 2004 intended use plan and draft funding list for the revolving loan fund.

Contact: Walter Gills, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4133, e-mail wagills@deq.state.va.us.

December 3, 2003 - 7 p.m. -- Open Meeting
Augusta County Government Center, 18 Government Center Lane, Board Room, Verona, Virginia. 


The third public meeting on the development of multiple impairments in the Middle River watershed. The public notice may be found in the Virginia Register of Regulations on November 17, 2003. The public comment period closes on January 2, 2004.

Contact: Robert Brent, Department of Environmental Quality, P.O. Box 3000, Harrisonburg, VA 22801, telephone (540) 574-7848, FAX (540) 574-7878, e-mail rbrent@deq.state.va.us.

December 10, 2003 - 7 p.m. -- Open Meeting
Fairlington Community Center, 3308 South Stafford Street, Room 10, Arlington, Virginia. 


The second and final public meeting on the implementation plan for the Four Mile Run bacteria TMDL. The public notice may be found in the Virginia Register on November 17, 2003. The public comment period closes on January 8, 2004.

Contact: Katherine Bennett, Department of Environmental Quality, 13901 Crown Court, Woodbridge, VA 22193, telephone (703) 583-3896, FAX (703) 583-3841, e-mail kebennett@deq.state.va.us.

December 11, 2003 - 7 p.m. -- Open Meeting
Loudoun County Government Center, Lovettsville Room, 1 Harrison Street, SE, Leesburg, Virginia. 


The second and final public meeting on the development of the Goose Creek Watershed TMDL for benthos. The public notice may be found in the Virginia Register on November 17, 2003. The public comment period will end on January 9, 2004.

Contact: Katherine Bennett, Department of Environmental Quality, 13901 Crown Court, Woodbridge, VA 22193, telephone (703) 583-3896, FAX (703) 583-3841, e-mail kebennett@deq.state.va.us.

December 16, 2003 - 7 p.m. -- Open Meeting
Hollins University, Babcock Auditorium, 7916 Williamson Road, Roanoke, Virginia. 


The final public meeting on the development of bacteria TMDLs for five stream segments in the Tinker Creek watershed. The public notice may be found in the Virginia Register on November 17, 2003. The public comment period closes on January 17, 2004.

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.

† December 16, 2003 - 7 p.m. -- Open Meeting
Lucketts Community Center, 42361 Lucketts Road, Leesburg, Virginia. 


The first of two public meetings on the development of the bacteria TMDL for an approximately 4.75 mile segment located in Loudoun County. The public notice may be found in the Virginia Register on December 1, 2003. The public comment period will end on January 14, 2003.

Contact: Katherine Bennett, Department of Environmental Quality, 13901 Crown Court, Woodbridge, VA 22193, telephone (703) 583-3896, FAX (703) 583-3841, e-mail kebennett@deq.state.va.us.

† December 18, 2003 - 7 p.m. -- Open Meeting
Neersville Fire and Rescue Building, 11762 Harpers Ferry Road, Hillsboro, Virginia. 

The first of two public meetings on the development of a bacteria TMDL for an approximately 3.52-mile segment of Piney Run located in Loudoun County. The public notice may be found in the Virginia Register on December 1, 2003. The comment period closes on January 13, 2004.


Contact: Katherine Bennett, Department of Environmental Quality, 13901 Crown Court, Woodbridge, VA 22193, telephone (703) 583-3896, FAX (703) 583-3841, e-mail kebennett@deq.state.va.us.

December 18, 2003 - 7 p.m. -- Open Meeting
The Community and Hospitality Center, 52 Franklin Street, Rocky Mount, Virginia. 

The final public meeting on the development of the Blackwater River benthos TMDL. The public notice may be found in the Virginia Register on November 17, 2003. The public comment period closes on January 18, 2004.

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.

Small Business Environmental Compliance Advisory Board


December 10, 2003 - 10 a.m. -- Open Meeting
Location to be determined; Fredericksburg, Virginia. 

A regular meeting.

Contact: Richard G. Rasmussen, Department of Environmental Quality, P.O. Box 10009, Richmond, VA

23240, telephone (804) 698-4394, FAX (804) 698-4264, e-mail rgrasmusse@deq.state.va.us.

VIRGINIA FIRE SERVICES BOARD

December 17, 2003 - 10:30 a.m. -- Open Meeting
State Forestry Building, Fontaine Business Park, Charlottesville, Virginia.  (Interpreter for the deaf provided upon request)


A meeting of the Code Change and Development Subcommittee. For more details please contact Jennifer Cole at the Virginia Department of Fire Programs.

Contact: Jennifer Cole, VFSB Clerk, Department of Fire Programs, 101 N. 14th St., 18th Floor, Richmond, VA 23219, telephone (804) 371-0220, FAX (804) 371-0219, e-mail jcole@vdfp.state.va.us.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS


December 10, 2003 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 

A quarterly business meeting to include regulatory and disciplinary matters as may be presented on the agenda. Public comment will be received at the beginning of the meeting.


Contact: Elizabeth Young, Executive Director, Board of Funeral Directors and Embalmers, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9907, FAX (804) 662-9523, (804) 662-7197/TTY , e-mail elizabeth.young@dhp.state.va.us.

† December 16, 2003 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 

A meeting to hear possible violations of the laws and regulations governing the practice of funeral service.

Contact: Elizabeth Young, Executive Director, Board of Funeral Directors and Embalmers, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9907, FAX (804) 662-9523, (804) 662-7197/TTY , e-mail elizabeth.young@dhp.state.va.us.

CHARITABLE GAMING BOARD


December 2, 2003 - 10 a.m. -- Open Meeting
NOTE: CHANGE IN MEETING LOCATION
Science Museum of Virginia, 2500 West Broad Street, Discovery Room, Richmond, Virginia. 

Agenda to be posted. Directions to the Science Museum are on DCG website or at www.smv.org.


Contact: Frances C. Jones, Office Manager, Department of Charitable Gaming, 101 N. 14th St., 17th Floor, Richmond, VA 23219, telephone (804) 786-3014, FAX (804) 786-1079, e-mail fjones@dcg.state.va.us.

BOARD FOR GEOLOGY


January 6, 2004 - 9 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 


A meeting to conduct board business.

Contact: David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595, FAX (804) 367-6128, (804) 367-9753/TTY , e-mail geology@dpor.state.va.us.

GEORGE MASON UNIVERSITY

January 28, 2004 - 9 a.m. -- Open Meeting
George Mason University, Mason Hall, Fairfax, Virginia. 

A meeting of the Board of Visitors. The agenda will be published 10 days prior to the meeting.

Contact: Mary Roper, Secretary, pro tem, George Mason University, MSN 3A1, George Mason University, 4400 University Dr., Fairfax, VA 22030, telephone (703) 993-8703, (703) 993-8707/TTY , e-mail mroper@gmu.edu.

OFFICE OF GOVERNOR

December 9, 2003 - 10 a.m. -- Open Meeting
Ernst Community Cultural Center, Northern Virginia Community College, 8333 Little River Turnpike, Annandale, Virginia.

A meeting of the Urban Policy Task Force.


Contact: Kelly Spraker, Special Assistant to the Commissioner, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1902, FAX (804) 692-1964, e-mail kelly.spraker@governor.virginia.gov.

DEPARTMENT OF HEALTH

December 3, 2003 - 7 p.m. -- Public Hearing
Chantilly Regional Library, 4000 Stringfellow Road, Chantilly, Virginia.

A public hearing of the Ryan White CARE Act to advise the department on implementing certain federal funds.


Contact: Michelle Baker, Department of Health, Division of HIV/STD, 1500 E. Main St., Richmond, VA 23218, telephone (804) 371-2492, e-mail mbaker@vdh.state.va.us.

December 5, 2003 - 8:30 a.m. -- Open Meeting
Holiday Inn Select, 1021 Koger Center Boulevard, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting to develop a comprehensive HIV prevention plan for Virginia.

Contact: Elaine Martin, Health Department Co-chair, Department of Health, 1500 Main Street Station, Richmond, VA 23219, telephone (804) 786-5217, FAX (804) 225-3517.


Calendar of Events

December 12, 2003 - 10:30 a.m. -- Open Meeting
Virginia Hospital and Health Care Association, 4200 Innslake Drive, Glen Allen, Virginia. 

A meeting of an advisory committee to the Virginia Early Hearing Detection and Intervention program regarding implementing the program.

Contact: Pat Dewey, Program Manager, Department of Health, 1500 E. Main St., Richmond VA, telephone (804) 786-1964, e-mail pdewey@vdh.state.va.us.

DEPARTMENT OF HEALTH PROFESSIONS

December 5, 2003 - 11 a.m. -- Open Meeting
Lewis-Gale Medical Center, 1900 Electric Road, Salem, Virginia. 

A meeting of the Prescription Monitoring Program Committee for orientation and development of a work plan. The meeting is open to the public; however, public comment will not be received.

Contact: Ralph Orr, Program Manager, Department of Health Professions, 6603 W. Broad St., 5th Floor, Richmond, Virginia 23230, telephone (804) 662-9129, FAX (804) 662-9240, e-mail pmp@dhp.state.va.us.

December 12, 2003 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, 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, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-9424, FAX (804) 662-7358, e-mail donna.whitney@dhp.state.va.us.


DEPARTMENT OF HISTORIC RESOURCES

Board of Historic Resources and State Review Board


December 3, 2003 - 9 a.m. -- Open Meeting
Fort C.F. Smith Park, 2411 24th Street, North Arlington, Virginia.

The Board of Historic Resources will consider proposed historical highway markers and historic preservation easements.


NOTE: CHANGE IN MEETING TIME

December 3, 2003 - 1 p.m. -- Open Meeting
H-B Woodlawn School, formerly Stratford Junior High School, 4100 Vacation Lane, Arlington, Virginia. 


The Board of Historic Resources and State Review Board will meet to consider proposed nominations to the Virginia Landmarks Register and the National Register of Historic Places. Proposed nominations and minutes will be posted on the agency website.

Contact: Marc Christian Wagner, National Register Manager, Department of Historic Resources, 2801 Kensington Ave., Richmond, VA 23221, telephone (804) 367-2323, FAX (804) 367-2391, (804) 367-2386/TTY , e-mail mwagner@dhr.virginia.gov.

JAMESTOWN-YORKTOWN FOUNDATION

January 9, 2004 - Noon -- Open Meeting
The Library of Virginia, 800 East Broad Street, Rooms A and B, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting of the Jamestown 2007 Steering Committee.

Contact: Stacey Ruckman, Jamestown 2007 Executive Assistant, Jamestown-Yorktown Foundation, P.O. Box 1607, Williamsburg, VA 23187, telephone (757) 253-4659, FAX (757) 253-5299, toll-free (888) 593-4682, (757) 253-7236/TTY , e-mail sruckman@jyf.state.va.us.

STATE BOARD OF JUVENILE JUSTICE

December 5, 2003 - 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 Juvenile Justice intends to adopt regulations entitled **6 VAC 35-30, Regulations for State Reimbursement of Local Juvenile Residential Facility Costs**. The purpose of the proposed action is to make proper provision for review of reimbursement actions by the Governor as represented by the Secretary of Public Safety. Amendments are needed to clarify the sequence for submitting and approving materials at various stages of a construction project, and to clarify how construction projects can be completed and reimbursed in phases. Finally, amendments are proposed to establish the regulatory basis upon which the board may act in exercising its statutory responsibility to approve certain juvenile residential facilities, even when those facilities have been constructed without financial assistance from the Commonwealth.

Statutory Authority: §§ 16.1-313, 16.322.5 through 16.1-322.7 and 66-10 of the Code of Virginia.

Contact: Donald R. Carignan, Regulatory Coordinator, Department of Juvenile Justice, P.O. Box 1110, Richmond, VA 23208-1110, telephone (804) 371-0743, FAX (804) 371-0773 or e-mail carigndr@djj.state.va.us.

DEPARTMENT OF LABOR AND INDUSTRY

Virginia Apprenticeship Council

† **December 11, 2003 - 10 a.m.** -- Open Meeting
Confederate Hills Recreation Center, 302 Lee Avenue, Highland Springs, Virginia.  (Interpreter for the deaf provided upon request)

A quarterly meeting of the council.

Contact: Beverly Donati, Assistant Program Director, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 786-2382, FAX (804) 786-8418, (804) 786-2376/TTY ☎, e-mail bgd@doli.state.va.us.

Virginia Migrant and Seasonal Farmworkers Board

† **January 28, 2004 - 10 a.m.** -- Open Meeting
Virginia State University, Agriculture Building, Petersburg, 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 23219, telephone (804) 786-2391, FAX (804) 371-6524, (804) 786-2376/TTY ☎, e-mail bbj@doli.state.va.us.

STATE LIBRARY BOARD

January 23, 2004 - 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 - 9:15 a.m. - Public Library Development Committee
Publications and Educational Services Committee
Records Management Committee

9:30 - 10:30 a.m. - Archival and Information Services Committee
Collection Management Services Committee
Legislative and Finance Committee

10:30 a.m. - Library Board

Contact: Jean H. Taylor, Executive Secretary to the Librarian, The Library of Virginia, 800 E. Broad St., Richmond, VA 23219-2000, telephone (804) 692-3535, FAX (804) 692-3594, (804) 692-3976/TTY ☎, e-mail jtaylor@lva.lib.va.us.

LONGWOOD UNIVERSITY

† **December 12, 2003 - 9:15 a.m.** -- Open Meeting
The Stallard Board Room, Longwood University, 201 High Street, Lancaster 215, Farmville, Virginia. ♿

Meeting to conduct routine business of the following committees:

Audit Committee - 9 a.m.
Academic and Student Affairs Committee - 9:15 a.m.
Administration, Finance and Facilities Committee - 1 p.m.
University Advancement Committee - 3:30 p.m.

Contact: Jeanne Hayden, Administrative Staff Assistant, Office of the President, Longwood University, 201 High Street, Farmville, VA 23909, telephone (434) 395-2004.

† **December 13, 2003 - 9 a.m.** -- Open Meeting
The Stallard Board Room, Longwood University, 201 High Street, Lancaster 215, Farmville, Virginia. ♿

A meeting to conduct routine business of the Board of Visitors.

Contact: Jeanne Hayden, Administrative Staff Assistant, Office of the President, Longwood University, 201 High St., Farmville, VA 23909, telephone (434) 395-2004.

BOARD OF MEDICAL ASSISTANCE SERVICES

December 9, 2003 - 10 a.m. -- Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia. ♿

A routine quarterly meeting.

Contact: Nancy Malczewski, Board Liaison, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-8096, FAX (804) 371-4981, (800) 343-0634/TTY ☎, e-mail nmalczew@dmas.state.va.us.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

December 5, 2003 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 that the Department of Medical Assistance Services intends to amend regulations entitled **12 VAC 30-120, Waiver Services**. The purpose of the proposed action is to add coverage of consumer-directed personal assistance services and consumer-directed respite care services to the HIV/AIDS waiver program.

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

Public comments may be submitted until December 5, 2003, to Vivian Horn, LTC Analyst, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.


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

December 16, 2003 - 4 p.m. -- Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, 13th Floor Board Room, Richmond, Virginia. ♿


A meeting of the Medicaid Physicians Advisory Committee to discuss physician issues in the Medicaid system.

Contact: Chris Schroeder, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-0552, FAX (804) 371-4981, (800) 343-0634/TTY ☎, e-mail cschroed@dmas.state.va.us.

Calendar of Events

December 17, 2003 - 1 p.m. -- Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia. 

A meeting of the Medicaid Transportation Advisory Committee to provide a forum for ongoing input and communication with transportation providers, health care providers, and recipients regarding the Medicaid nonemergency brokerage transportation program.

Contact: Robert Knox, Transportation Supervisor, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8854, FAX (804) 786-1680, (800) 343-0634/TTY , e-mail Rknox@dmas.state.va.us.

January 16, 2004 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 that the Department of Medical Assistance Services intends to amend regulations entitled **12 VAC 30-130, Amount, Duration and Scope of Selected Services**. The purpose of the proposed action is to set reasonable limits on the amounts of money nursing facility residents may spend on noncovered medical care.

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

Public comments may be submitted until January 16, 2004, to James Cohen, Director, Program Support, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

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

January 16, 2004 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 that the Department of Medical Assistance Services intends to amend regulations entitled **12 VAC 30-80, Methods and Standards for Establishing Payment Rates; Other Types of Care**. The purpose of the proposed action is to limit outpatient hospital costs that are allowable for reimbursement to 80% and to establish a prospective methodology to reimburse rehab agencies.

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

Public comments may be submitted until January 16, 2004, to Steve Ford, Manager, Division of Provider Reimbursement, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.


Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St.,

Suite 1300, Richmond, VA 23219, telephone (804) 786-7959, FAX (804) 786-1680 or e-mail vsimmons@dmas.state.va.us.


BOARD OF MEDICINE

† **December 16, 2003 - 2 p.m.** -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 2, Richmond, Virginia.


The Ad Hoc Committee on House Bill 1706 (2003) will develop recommended guidelines for ethical practice pursuant to House Bill 1706. Public comment will be received at the beginning of the meeting.

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY , e-mail william.harp@dhp.state.va.us.

Advisory Board on Occupational Therapy

† **February 11, 2004 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 4, Richmond, Virginia. 

The board will consider issues related to the regulation of occupational therapy. Public comment will be received at the beginning of the meeting.

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY , e-mail william.harp@dhp.state.va.us.

Informal Conference Committee

December 3, 2003 - 9 a.m. -- Open Meeting

February 4, 2004 - 9 a.m. -- Open Meeting
Williamsburg Marriott, 50 Kingsmill Road, Williamsburg, Virginia.

† **December 5, 2003 - 1 p.m.** -- Open Meeting

December 10, 2003 - 8:30 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, Richmond, Virginia.

December 11, 2003 - 9:15 a.m. -- Open Meeting

Holiday Inn Select, 2801 Plank Road, Fredericksburg, Virginia.

December 17, 2003 - 9:15 a.m. -- Open Meeting

Clarion Hotel, 3315 Ordway Drive, Roanoke, 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, 6603 W. Broad St., Richmond, VA

23230, telephone (804) 662-7332, FAX (804) 662-9517, (804) 662-7197/TTY ☎, e-mail Peggy.Sadler@dhp.state.va.us.

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

December 4, 2003 - 9:30 a.m. -- Open Meeting
Henrico County Training Center, 7701 Parham Road, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A monthly meeting of the State and Local Advisory Team pursuant to §§ 2.2-5201 through 2.2-5203 of the Code of Virginia. A public comment period is scheduled.

Contact: Pamela Fitzgerald-Cooper, Director of Child and Adolescent Services, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218-1797, telephone (804) 371-2183, FAX (804) 786-1587, e-mail pcooper@dmhmrsas.state.va.us.

December 18, 2003 - 10 a.m. -- Public Hearing
Jefferson Building, 1220 Bank Street, 8th Floor Conference Room, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A public hearing to receive comments on the Synar Annual Report for the Substance Abuse Prevention and Treatment Block Grant Application for Federal Fiscal Year 2003. Copies of the report are available for review at the Office of Substance Abuse Services, Jefferson Building, Room 818, and at each community services board office. Comments may be made at the hearing or in writing no later than December 19, 2003, to the Office of the Commissioner, DMHMRSAS, P.O. Box 1797, Richmond, VA 23218. Any person wishing to make a presentation at the hearing should contact Sterling Deal, Ph.D. Copies of the presentation should be filed at the time of the hearing.

Contact: Sterling Deal, Ph.D., Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218, telephone (804) 371-2148, FAX (804) 786-4320, (804) 371-8977/TTY ☎, e-mail sdeal@dmhmrsas.state.va.us.

STATE MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES BOARD

† **December 12, 2003 - 10 a.m.** -- Open Meeting
Hanover County Community Services Board, 12300 Washington Highway, Ashland Virginia.

A regular session of the board.

Contact: Marlene A. Butler, Executive Secretary to the Board, State Mental Health, Mental Retardation and Substance Abuse Services Board, Jefferson Bldg., 1220 Bank St., 12th Floor, Richmond, VA 23219, telephone (804) 786-7945, FAX (804) 371-2308, e-mail mbutler@dmhmrsas.state.va.us.

STATE MILK COMMISSION

December 16, 2003 - 10:30 a.m. -- Open Meeting
Department of Agriculture and Consumer Services, 1100 Bank Street, 1st Floor Board Room, Richmond, Virginia. ♿

A regular meeting of the commission 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. Those persons 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, Washington Bldg., 1100 Bank Street, Suite 1019, Richmond, VA 23219, telephone (804) 786-2013, FAX (804) 786-3779, or e-mail ewilson@smc.state.va.us.

VIRGINIA MUSEUM OF FINE ARTS

December 2, 2003 - 8 a.m. -- Open Meeting
January 6, 2004 - 8 a.m. -- Open Meeting
Virginia Museum of Fine Arts, Main Lobby Conference Room, 2800 Grove Avenue, Richmond, Virginia. ♿

A meeting for staff to update the Executive Committee. Public comment will not be received.

Contact: Suzanne Broyles, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221, telephone (804) 340-1503, FAX (804) 340-1502, (804) 340-1401/TTY ☎, e-mail sbroyles@vmfa.state.va.us.

† **December 18, 2003 - 2 p.m.** -- Open Meeting
Virginia Museum of Fine Arts, Main Lobby Conference Room, 2800 Grove Avenue, Richmond, Virginia. ♿

A meeting of the Collections Committee for staff to discuss procedures with the committee. Public comment will not be received.

Contact: Suzanne Broyles, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221, telephone (804) 340-1503, FAX (804) 340-1502, (804) 340-1401/TTY ☎, e-mail sbroyles@vmfa.state.va.us.

VIRGINIA MUSEUM OF NATURAL HISTORY

December 10, 2003 - 10 a.m. -- Open Meeting
LeClair Ryan Consulting, 1010 First Union Building, 213 South Jefferson Avenue, Roanoke, Virginia. ♿

A meeting of the Executive Committee to discuss the management and direction of the museum.

Contact: Cindy Rorrer, Administrative 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.net.

Calendar of Events


BOARD OF NURSING

December 3, 2003 - 9 a.m. -- Open Meeting


December 4, 2003 - 9 a.m. -- Open Meeting

December 9, 2003 - 9 a.m. -- Open Meeting


December 16, 2003 - 9 a.m. -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia. 


December 9, 2003 - 9 a.m. -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia. 

December 16, 2003 - 9 a.m. -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia. 


A Special Conference Committee, comprised of two or three members of the Virginia Board of Nursing, will conduct informal conferences with licensees and certificate holders. Public comment will not be received.

Contact: Jay P. Douglas, R.N., M.S.M., C.S.A.C., Executive Director, Board of Nursing, 6603 West Broad Street, 5th Floor, Richmond, VA 23230, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY , e-mail nursebd@dhp.state.va.us.


January 26, 2004 - 9 a.m. -- Open Meeting

January 28, 2004 - 9 a.m. -- Open Meeting


January 29, 2004 - 9 a.m. -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. 


A panel of the board will conduct formal hearings with licensees or certificate holders. Public comment will not be received.

Contact: Jay P. Douglas, M.S.M., C.S.A.C., Executive Director, Board of Nursing, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY , e-mail nursebd@dhp.state.va.us.

January 27, 2004 - 9 a.m. -- Open Meeting

Department of Health Professions, 6603 West Broad Street, Board Room 2, 5th Floor, Richmond, Virginia. 

A general business meeting including committee reports, consideration of regulatory action, and disciplinary case decisions as presented on the agenda. Public comment will be received at 11 a.m.

Contact: Jay P. Douglas, R.N., Executive Director, Board of Nursing, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY , e-mail jay.douglas@dhp.state.va.us.

† **February 18, 2004 - 9 a.m.** -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 


A meeting of the Joint Boards of Nursing and Medicine.

Contact: Jay P. Douglas, R.N., M.S.M., C.S.A.C., Executive Director, Board of Nursing, 6603 W. Broad St., 5th Floor,

Richmond, VA 23230, telephone (804) 662-9909, FAX (804) 662-9512, e-mail nursebd@dhp.state.va.us.

OLD DOMINION UNIVERSITY

December 12, 2003 - 1:15 p.m. -- Open Meeting


Webb University Center, Old Dominion University, Norfolk, Virginia. 

A quarterly meeting of the governing board of the institution to discuss business of the board and the institution as determined by the rector and the president.


Contact: Donna Meeks, Executive Secretary to the Board of Visitors, Old Dominion University, 204 Koch Hall, Old Dominion University, Norfolk, VA 23529, telephone (757) 683-3072, FAX (757) 683-5679, e-mail dmeeks@odu.edu.

BOARD FOR OPTICIANS

January 9, 2004 - 9:30 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 

A general business meeting including consideration of regulatory issues as may be presented on the agenda. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Public comment will be heard at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: William H. Ferguson, II, Executive Director, Board for Opticians, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-6295, (804) 367-9753/TTY , e-mail opticians@dpor.state.va.us.

VIRGINIA OUTDOORS FOUNDATION

December 3, 2003 - 10 a.m. -- Open Meeting

December 4, 2003 - 9 a.m. -- Open Meeting


Department of Forestry, Fontaine Research Park, 900 Natural Resources Drive, Board Room, Charlottesville, Virginia.

A regular meeting of the Board of Trustees to accept conservation easements and to discuss the business of the foundation. Public comment session begins at 1 p.m. on December 3.

Contact: Tamara Vance, Executive Director, Virginia Outdoors Foundation, 203 Governor St., Richmond, VA 23219, telephone (804) 225-2822, e-mail tvance@virginiaoutdoorsfoundation.org.


VIRGINIA BOARD FOR PEOPLE WITH DISABILITIES

NOTE: CHANGE IN MEETING TIME

December 2, 2003 - 12:30 p.m. -- Open Meeting
Virginia Board for People with Disabilities Conference Room,
202 North 9th St, Richmond, Virginia.  (Interpreter for the
deaf provided upon request)

An Executive Committee meeting.


Contact: Sandra Smalls, Assistant to the Director, Virginia
Board for People with Disabilities, 202 N. 9th St., Richmond,
VA, telephone (804) 786-9368, FAX (804) 786-1118, toll-free
(800) 866-4464, e-mail smallsse@vbpd.state.va.us.

December 3, 2003 - 9 a.m. -- Open Meeting
Virginia Housing Development Authority, 601 S. Belvidere St.,
Richmond, Virginia.  (Interpreter for the deaf provided upon
request)

A full board meeting.


Contact: Sandra Smalls, Assistant to the Director, Virginia
Board for People with Disabilities, 202 N. 9th St., Richmond,
VA, telephone (804) 786-9368, FAX (804) 786-1118, toll-free
(800) 866-4464, e-mail smallsse@vbpd.state.va.us.

BOARD OF PHARMACY

† **December 1, 2003 - 1 p.m.** -- Open Meeting
Department of Health Professions, 6603 West Broad Street,
5th Floor, Conference Room 4, Richmond, Virginia. 

An informal conference committee meeting for approval of
a pilot program application.

Contact: Elizabeth Scott Russell, Executive Director, Board
of Pharmacy, 6603 W. Broad St., 5th Floor, Richmond, VA
23230, telephone (804) 662-9911, FAX (804) 662-9313.

December 2, 2003 - 9 a.m. -- Open Meeting
December 18, 2003 - 9 a.m. -- Open Meeting
January 15, 2004 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street,
5th Floor, Conference Room 3, Richmond, Virginia. 

A Special Conference Committee will discuss disciplinary
matters. Public comments will not be received.

Contact: Elizabeth Scott Russell, RPh., Executive Director,
Board of Pharmacy, 6603 W. Broad St., 5th Floor, Richmond,
VA 23230, telephone (804) 662-9911, FAX (804) 662-9313.

DEPARTMENT OF PLANNING AND BUDGET


Council on Virginia's Future

December 11, 2003 - 2 p.m. -- Open Meeting
Virginia Economic Development Partnership, Riverfront
Plaza, 901 East Byrd Street, 20th Floor, Richmond,
Virginia. 


A meeting to review and reach consensus on vision and
long-term objectives.


Contact: Trudy Norfleet, Department of Planning and
Budget, 200 N. 9th St., Richmond, VA 23219, telephone
(804) 786-3812, e-mail tnorfleet@dpb.state.va.us.

BOARD OF PSYCHOLOGY


December 11, 2003 - 9:30 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street,
5th Floor, Board Room 4, Richmond, Virginia. 

The board will inquire into allegations that possible
violations of certain laws and regulations governing the
practice of psychology have occurred.


Contact: Evelyn B. Brown, Executive Director, Board of
Psychology, Alcoa Bldg., 6603 W. Broad St., 5th Floor,
Richmond, VA 23230-1712, telephone (804) 662-9913, FAX
(804) 662-9943, (804) 662-7197/TTY , e-mail
evelyn.brown@dhp.state.va.us.

January 13, 2004 - 9:30 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street,
5th Floor, Board Room 4, Richmond, Virginia. 


A board business meeting and informal conference.

Contact: Evelyn B. Brown, Executive Director, Board of
Psychology, Alcoa Bldg., 6603 W. Broad St., 5th Floor,
Richmond, VA 23230-1712, telephone (804) 662-9913, FAX
(804) 662-9943, (804) 662-7197/TTY , e-mail
evelyn.brown@dhp.state.va.us.


VIRGINIA PUBLIC GUARDIAN AND CONSERVATOR ADVISORY BOARD

December 11, 2003 - 10 a.m. -- Open Meeting
Department for the Aging, 1600 Forest Avenue, Suite 102,
Richmond, Virginia. 


A regular quarterly meeting.

Contact: Terry Raney, Guardianship Coordinator,
Department for the Aging, 1600 Forest Ave., Suite 102,
Richmond, VA 23229, telephone (804) 662-7049, FAX (804)
662-9354, toll-free (800) 552-3402, (804) 662-9333/TTY ,
e-mail traney@vdh.stat.va.us.

REAL ESTATE APPRAISER BOARD

† **December 9, 2003 - 10 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, 4th Floor, Room 453, Richmond,
Virginia. 

An informal fact-finding conference.

Contact: Karen W. O'Neal, Regulatory Programs
Coordinator, Real Estate Appraiser Board, 3600 W. Broad St.,
Richmond, VA 23230, telephone (804) 367-8537, FAX (804)
367-2475, (804) 367-9753/TTY , e-mail
oneal@dpor.state.va.us.

Calendar of Events

REAL ESTATE BOARD

December 3, 2003 - 4 p.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia.

A meeting of the Education Committee to review education applications.

Contact: Karen W. O'Neal, Regulatory Programs Coordinator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8537, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail oneal@dpor.state.va.us.

December 4, 2003 - 8:30 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia.

A meeting of the Fair Housing Board to review fair housing cases.

Contact: Karen W. O'Neal, Regulatory Programs Coordinator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8537, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail oneal@dpor.state.va.us.

December 4, 2003 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia.

A meeting of the board to conduct board business.

Contact: Karen W. O'Neal, Regulatory Programs Coordinator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8537, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail oneal@dpor.state.va.us.

December 16, 2003 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

An informal fact-finding conference.

Contact: Karen W. O'Neal, Regulatory Programs Coordinator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8537, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail oneal@dpor.state.va.us.

December 17, 2003 - 9 a.m. -- Open Meeting

December 18, 2003 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

Informal fact-finding conferences. Persons desiring to participate in the meeting and requiring special accommodations or 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: Ilona LaPaglia, Legal Assistant, Department of Professional and Occupational Regulation, 3600 W. Broad

St., Richmond, VA 23230, telephone (804) 367-2394, FAX (804) 367-0194, (804) 367-9753/TTY ☎, e-mail amaker@dpor.state.va.us.

VIRGINIA RESOURCES AUTHORITY

December 9, 2003 - 9 a.m. -- Open Meeting
Eighth and Main Building, 707 East Main Street, 2nd Floor,
Richmond, Virginia. ♿

A regular meeting of the Board of Directors to (i) review and, if appropriate, approve the minutes from the most recent monthly meeting; (ii) review the authority's operations for the prior month; (iii) review applications for loans submitted to the authority for approval; (iv) consider loan commitments for approval and ratification under its various programs; (v) approve the issuance of any bonds; (vi) review the results of any bond sales; and (vii) consider such other matters and take such other actions as it may deem appropriate. Various committees of the Board of Directors may also meet immediately before or after the regular meeting and consider matters within their purview. The planned agenda of the meeting and any committee meetings will be available at the offices of the authority one week prior to the date of the meeting. Any person who needs any accommodation in order to participate in the meeting should contact the authority at least 10 days before the meeting so that suitable arrangements can be made.

Contact: Bonnie R. C. McRae, Executive Assistant, Virginia Resources Authority, 707 E. Main St., Richmond, VA 23219, telephone (804) 644-3100, FAX (804) 644-3109, e-mail bmcrac@vra.state.va.us.

SMALL BUSINESS ADVISORY BOARD

† **December 2, 2003 - 10 a.m.** -- Open Meeting
707 East Main Street, 3rd Floor, Board Room, Richmond,
Virginia. ♿

A meeting to conduct general business.

Contact: Barbara Anderson, Assistant to the Director, Existing Business Services, Department of Business Assistance, 707 E. Main St., Suite 300, Richmond, VA 23219, telephone (804) 371-8230, FAX (804) 371-2142, toll-free (866) 248-8814, e-mail banderson@dba.state.va.us.

VIRGINIA SMALL BUSINESS FINANCING AUTHORITY

† **December 16, 2003 - 11 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 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) 371-8254, FAX (804) 225-3384, e-mail sparsons@dba.state.va.us.

STATE BOARD OF SOCIAL SERVICES

Reproposed

December 17, 2003 - 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 40-295, Temporary Assistance for Needy Families**. The purpose of the proposed action is to provide the rules for qualifying for TANF assistance. The regulation establishes rules pertaining to the assistance unit, income eligibility criteria, processing time frames, advance notice requirements, procedures for intentional program violations, the collection of overpaid TANF assistance, emergency assistance, and criteria for determining the availability of child care.

Statutory Authority: § 63.2-217 of the Code of Virginia.

Contact: Mark L. Golden, TANF Manager, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1731, FAX (804) 225-2321 or e-mail mxg2@dss.state.va.us.

DEPARTMENT OF SOCIAL SERVICES

Family and Children's Trust Fund

NOTE: CHANGE IN MEETING TIME

December 5, 2003 - 9 a.m. -- Open Meeting
Department of Social Services, 730 East Broad Street, Lower Level 1, Richmond, Virginia. 

A regular meeting of the Board of Trustees.


Contact: Nan McKenney, Executive Director, Family and Children's Trust Fund, 730 E. Broad St., 8th Floor, Richmond, VA 23219, telephone (804) 692-1823, FAX (804) 692-1869.

COUNCIL ON TECHNOLOGY SERVICES

December 4, 2003 - 2 p.m. -- Open Meeting
Department of Information Technology, 110 South 7th Street, 3rd Floor, Executive Conference Room, Richmond, Virginia.


A regular monthly meeting of the Executive Committee. Agenda and meeting information available at www.cots.state.va.us.

Contact: Jenny Hunter, COTS Executive Director, Council on Technology Services, Department of Technology Planning, 110 S. 7th St., Richmond, VA 23219, telephone (804) 786-9579, FAX (804) 786-9584, e-mail jhunter@gov.state.va.us.

December 10, 2003 - 9:30 a.m. -- Open Meeting
Department of Motor Vehicles, 2300 West Broad Street, 7th Floor, Executive Conference Room, Richmond, Virginia. 

A regular monthly meeting of the Change Management Workgroup. Agenda and details available at www.cots.state.va.us.


Contact: Jenny Hunter, COTS Executive Director, Council on Technology Services, 110 S. 7th St., Suite 135, Richmond, VA 23219, telephone (804) 786-9579, FAX (804) 786-9584, e-mail jhunter@gov.state.va.us.

December 18, 2003 - 3 p.m. -- Open Meeting
Department of Rehabilitative Services, 8004 Franklin Farms Drive, Lee Building, Rooms 101, 103, and 105, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular monthly meeting of the Security Workgroup. Agenda and details can be found at www.cots.state.va.us.

Contact: Jenny Hunter, COTS Executive Director, Council on Technology Services, 110 S. 7th St., Suite 135, Richmond, VA 23219, telephone (804) 786-9579, FAX (804) 786-9584, e-mail jhunter@gov.state.va.us.


VIRGINIA TOBACCO SETTLEMENT FOUNDATION

December 2, 2003 - 3 p.m. -- Open Meeting
Crowne Plaza Richmond, 555 East Canal Street, Richmond, Virginia. 

A meeting of the Board of Trustees to plan for FY04.

Contact: Eloise Burke, Senior Executive Assistant, Virginia Tobacco Settlement Foundation, 701 E. Franklin St., Suite 501, Richmond, VA 23219, telephone (804) 786-2523, FAX (804) 225-2272, e-mail eburke@tsf.state.va.us.


VIRGINIA TOURISM AUTHORITY

† **December 4, 2003 - 11 a.m.** -- Open Meeting
New Millennium Studios, Stage 2, Petersburg, Virginia. 

Items to be discussed include an overview of the Motion Picture Advisory Committee and its purpose, plus incentives for filmmakers.

Contact: Nanette Maguire, Administrative Assistant, Virginia Tourism Authority, Virginia Film Office, 901 E. Byrd St., Richmond, VA 23219, telephone (804) 371-8204, FAX (804) 371-8177, toll-free (800) 854-6233, (804) 371-0327/TTY , e-mail nmaguire@virginia.org.

COMMONWEALTH TRANSPORTATION BOARD

December 18, 2003 - 11 a.m. -- Open Meeting
Department of Transportation, 1221 East Broad Street, Auditorium, Richmond, Virginia. 

A work session of the VTran 2025 Multi-modal Transportation Policy Committee, the chair and five members of which are members of the Commonwealth Transportation Board.

Contact: Katherine Tracy, Assistant Secretary to the CTB, Commonwealth Transportation Board, Policy Division, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-

Calendar of Events

3090, FAX (804) 225-4700, e-mail
katherine.tracy@virginiadot.org.

VA 23230, telephone (804) 662-9915, FAX (804) 662-7098,
(804) 662-7197/TTY ☎, e-mail terri.behr@dhp.state.va.us.

TREASURY BOARD

† **December 17, 2003 - 9 a.m.** -- Open Meeting
Department of the Treasury, 101 North 14th Street, 3rd Floor
Treasury Board Room, Richmond, Virginia. ♿

A regular meeting.

Contact: Melissa Mayes, Treasury Board Secretary,
Department of the Treasury, 101 N. 14th St., 3rd Floor
Treasury Board Room, Richmond, VA 23219, telephone (804)
371-6011, FAX (804) 225-3187, e-mail
melissa.mayes@trs.state.va.us.

DEPARTMENT OF THE TREASURY

† **February 1, 2004** - Public comments may be submitted
until this date.

Notice is hereby given in accordance with § 2.2-4007 of the
Code of Virginia that the Department of the Treasury
intends to adopt regulations entitled **1 VAC 75-40,
Unclaimed Property Administrative Review Process.**
The purpose of the proposed action is to allow any person
asserting ownership of unclaimed property or any holder of
unclaimed property who is aggrieved by a decision of the
administrator of the Uniform Disposition of Unclaimed
Property Act the opportunity to file an application for an
administrative review of the administrator's decision, all in
compliance with § 55-210.27 of the Code of Virginia.

Statutory Authority: § 55-210-27 of the Code of Virginia.

Contact: Vicki D. Bridgeman, Director of Unclaimed Property,
James Monroe Bldg., 101 N. 14th St., 4th Floor, Richmond,
VA 23219, telephone (804) 225-3156, FAX (804) 786-4653 or
e-mail vicki.bridgeman@trs.state.va.us.

DEPARTMENT OF VETERANS SERVICES

December 16, 2003 - 1 p.m. -- Open Meeting
Location to be announced.

A meeting of the Joint Leadership Council.

Contact: Geneva M. Claybrook, Executive Services Liaison,
Department of Veterans Services, 4550 Shenandoah Ave.,
Roanoke, VA 24017, telephone (540) 857-6974, FAX (549)
857-6954, e-mail gclaybrook@vvcc1.us.

BOARD OF VETERINARY MEDICINE

December 3, 2003 - 9:30 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street,
5th Floor, Richmond, Virginia. ♿

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, 6603 W. Broad St., 5th Floor, Richmond,

STATE WATER CONTROL BOARD

December 4, 2003 - 9:30 a.m. -- Open Meeting
State Capitol, House Room 4, Richmond, Virginia. ♿

A regular board meeting.

Contact: Cindy Berndt, Regulatory Coordinator, Department
of Environmental Quality, P.O. Box 10009, Richmond, VA
23240, telephone (804) 698-4378, FAX (804) 698-4346, e-
mail cberndt@deq.state.va.us.

January 7, 2004 - 2 p.m. -- Open Meeting
State Capitol, House Room 4, Richmond, Virginia. ♿

A public meeting to receive comments on the Notice of
Intended Regulatory Action (NOIRA) to amend the Water
Quality Standards (9 VAC 25-260) for Chesapeake Bay
and Tidal Waters Criteria for Dissolved Oxygen, Water
Clarity and Chlorophyll a and Designated Uses. The
NOIRA will be published in the Virginia Register on
November 17, 2003. The public comment period closes on
January 15, 2004.

Contact: Eleanore Daub, Department of Environmental
Quality, P.O. Box 10009, Richmond, VA 23240, telephone
(804) 698-4111, FAX (804) 698-4522, e-mail
emdaub@deq.state.va.us.

† **January 13, 2004 - 10 a.m.** -- Public Hearing
Department of Environmental Quality, 4949-A Cox Road,
Glen Allen, Virginia.

January 30, 2004 - Public comments may be submitted until
this date.

Notice is hereby given in accordance with § 2.2-4007 of the
Code of Virginia that the State Water Control Board intends
to amend regulations entitled **9 VAC 25-151, Virginia
Pollutant Discharge Elimination System (VPDES)
General Permit Regulation for Storm Water Discharges
Associated with Industrial Activity.** The purpose of the
proposed action is to reissue the existing storm water
industrial activity permit that expires on June 30, 2004. This
general permit regulation governs the discharge of storm
water from facilities with regulated industrial activities to
surface waters.

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

Contact: Burt Tuxford, Department of Environmental Quality,
P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-
4086, FAX (804) 698-4032 or e-mail
brtuxford@deq.state.va.us.

† **January 13, 2004 - 10 a.m.** -- Public Hearing
Department of Environmental Quality, 4949-A Cox Road,
Glen Allen, Virginia.

January 30, 2004 - Public comments may be submitted until
this date.

Notice is hereby given in accordance with § 2.2-4007 of the
Code of Virginia that the State Water Control Board intends
to amend regulations entitled **9 VAC 25-180, Virginia
Pollutant Discharge Elimination System (VPDES)
General Permit Regulation for Storm Water Discharges
From Construction Sites**. The purpose of the proposed
action is to reissue the existing storm water construction
general permit that expires on June 30, 2004. This general
permit regulation governs the discharge of storm water
from construction sites to surface waters.

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

Contact: Burt Tuxford, Department of Environmental Quality,
P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-
4086, FAX (804) 698-4032 or e-mail
brtuxford@deq.state.va.us.

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† **January 13, 2004 - 10 a.m.** -- Public Hearing
Department of Environmental Quality, 4949-A Cox Road,
Glen Allen, Virginia.


January 30, 2004 - Public comments may be submitted until
this date.

Notice is hereby given in accordance with § 2.2-4007 of the
Code of Virginia that the State Water Control Board intends
to amend regulations entitled **9 VAC 25-190, Virginia
Pollutant Discharge Elimination System (VPDES)
General Permit Regulation for Nonmetallic Mineral
Mining**. The purpose of the proposed action is to reissue a
general discharge permit for discharges from nonmetallic
mineral mining operations.


Statutory Authority: § 62.1-44.15 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.


BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

December 9, 2003 - 8:30 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. 

A meeting to conduct board business.

Contact: David E. Dick, Assistant Director, Board for
Waterworks and Wastewater Works Operators, 3600 W.
Broad St., Richmond, VA 23230, telephone (804) 367-8595,
FAX (804) 367-6128, (804) 367-9753/TTY , e-mail
waterwasteoper@dpor.state.va.us.

VIRGINIA WORKFORCE COUNCIL


† **December 4, 2003 - 9 a.m.** -- Open Meeting
VCU Student Commons, 907 Floyd Avenue, Richmond,
Virginia.  (Interpreter for the deaf provided upon request)

A quarterly business meeting. Public comment will be
scheduled for 10:30 a.m. There will be a five minute limit to
comments and it is requested that a written copy of
comments be provided. Agenda items include
presentations, the council strategic plan and WIB and One
Stop Standards.

Contact: Gail Robinson, Virginia Workforce Council Liaison,
Virginia Workforce Council, 703 E. Main St., Richmond, VA
23219, telephone (804) 225-3070, FAX (804) 225-2190, e-
mail grobinson@vec.state.va.us.

INDEPENDENT


STATE LOTTERY BOARD

† **December 17, 2003 - 9:30 a.m.** -- Open Meeting
Virginia Lottery, 900 East Main Street, 13th Floor, Richmond,
Virginia. 


A regular meeting for consideration of upcoming lottery
games and to conduct routine business. There will be an
opportunity for public comment shortly after the meeting is
convened.


Contact: Frank S. Ferguson, Director, Legislative and
Regulatory Affairs, State Lottery Department, 900 E. Main St.,
Richmond, VA 23219, telephone (804) 692-7901, FAX (804)
692-7905, e-mail fferguson@valottery.state.va.us.

VIRGINIA RETIREMENT SYSTEM


December 17, 2003 - 3 p.m. -- Open Meeting
Bank of America Building, 1111 East Main Street, 4th Floor
Conference Room, Richmond, Virginia 23219. 

The regular meeting of the Investment Advisory Committee
of the VRS Board of Trustees. No public comment will be
received at the meeting.

Contact: Phyllis Henderson, Investment Department
Administrative Assistant, Virginia Retirement System, 1111
East Main Street, Richmond, 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.

December 18, 2003 - 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.

Calendar of Events

LEGISLATIVE

VIRGINIA CODE COMMISSION

NOTE: CHANGE IN MEETING DATE AND LOCATION


December 9, 2003 - 2 p.m. -- Open Meeting
Lansdowne Resort, 44050 Woodridge Parkway, Lansdowne,
Virginia.  (Interpreter for the deaf provided upon request)

December 10, 2003 - 9:30 a.m. -- Open Meeting
Thomas Balch Library, 208 W. Market Street, Leesburg,
Virginia

A meeting to continue with the recodification of Titles 1 and 37.1 and to conduct any other business that may come before the commission. Public comment will be received.


Contact: Jane Chaffin, Registrar of Regulations, Virginia Code Commission, General Assembly Bldg., 910 Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591, FAX (804) 692-0625, e-mail jchaffin@leg.state.va.us.

JOINT COMMISSION ON TECHNOLOGY AND SCIENCE

December 2, 2003 - 8:30 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. 

A meeting of the JCOTS Consumer Protection Advisory Committee.

Contact: Eric Link, Staff Attorney, Joint Commission on Technology and Science, General Assembly Bldg., 2nd Floor, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591, e-mail elink@leg.state.va.us.

December 2, 2003 - 10 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. 

A meeting of the Joint Commission on Technology and Science. This meeting also will be teleconferenced from 510 Cumberland St., Suite 308, Bristol, Virginia.

Contact: Mitchell Goldstein, Director, Joint Commission on Technology and Science, General Assembly Building, 2nd Floor, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591, FAX (804) 371-0169.

CHRONOLOGICAL LIST

OPEN MEETINGS

December 1

- † Pharmacy, Board of
- Informal Conference Committee

December 2

- Agriculture and Consumer Services, Department of
- Virginia Marine Products Board
- Contractors, Board for
- † Criminal Justice Services Board

- † Economic Development Partnership, Virginia
- † Environmental Quality, Department of
- Gaming Board, Charitable
- Museum of Fine Arts, Virginia
- Executive Committee
- People with Disabilities, Virginia Board for
- Executive Committee
- Pharmacy, Board of
- Special Conference Committee
- † Small Business Advisory Board
- Technology and Science, Joint Commission on
- Consumer Protection Advisory Committee
- Tobacco Settlement Foundation, Virginia

December 3

- Alzheimer's Disease and Related Disorders Commission
- Emergency Planning Committee, Local
- City of Winchester
- Environmental Quality, Department of
- Historic Resources, Department of
- Board of Historic Resources and State Review Board
- Medicine, Board of
- Informal Conference Committee
- Nursing, Board of
- Special Conference Committee
- Outdoors Foundation, Virginia
- People with Disabilities, Virginia Board for
- Real Estate Board
- Education Committee
- Veterinary Medicine, Board of

December 4

- Aging, Commonwealth Council on
- Public Relations Committee
- Agriculture and Consumer Services, Board of
- † Contractors, Board for
- Mental Health, Mental Retardation and Substance Abuse Services, Department of
- Nursing, Board of
- Special Conference Committee
- Outdoors Foundation, Virginia
- Real Estate Board
- Fair Housing Board
- Technology Services, Council on
- Executive Committee
- † Tourism Authority, Virginia
- Water Control Board, State
- † Workforce Council, Virginia

December 5

- Art and Architectural Review Board
- † Conservation and Recreation, Department of
- Health, Department of
- Health Professions, Department of
- † Medicine, Board of
- Informal Conference Committee
- Social Services, Department of
- Family and Children's Trust Fund

December 8

- † Air Pollution Control Board, State
- Alcoholic Beverage Control Board
- † Chesapeake Bay Local Assistance Board
- Contractors, Board for

December 9

- † Agriculture and Consumer Services, Department of

- Virginia Seed Potato Board
- Virginia Soybean Board
- † Aviation Board, Virginia
- Code Commission, Virginia
- Contractors, Board for
- Governor, Office of
 - Urban Policy Task Force
- Medical Assistance Services, Board of
- Nursing, Board of
 - Special Conference Committee
- † Real Estate Appraiser Board
- Resources Authority, Virginia
- Waterworks and Wastewater Works Operators, Board for

December 10

- † Arts, Virginia Commission for the
- † Aviation Board, Virginia
- Code Commission, Virginia
- Conservation and Recreation, Department of
 - Virginia Soil and Water Conservation Board
- Environmental Quality, Department of
 - Small Business Environmental Compliance Advisory Board
- Funeral Directors and Embalmers, Board of
- Medicine, Board of
- Museum of Natural History
 - Executive Committee
- Technology Services, Council on
 - Change Management Workgroup

December 11

- Environmental Quality, Department of
- † Labor and Industry, Department of
 - Virginia Apprenticeship Council
- Medicine, Board of
 - Informal Conference Committee
- Planning and Budget, Department of
 - Council on Virginia's Future
- Psychology, Board of
- Public Guardian and Conservator Advisory Board, Virginia

December 12

- † Contractors, Board for
- Dentistry, Board of
- Health, Department of
 - Early Hearing Detection and Intervention Program Advisory Committee
- Health Professions, Department of
- † Longwood University
 - Academic and Student Affairs Committee
 - Administration, Finance and Facilities Committee
 - Audit Committee
 - University Advancement Committee
- † Mental Health, Mental Retardation and Substance Abuse Services Board, State
- Old Dominion University
 - Board of Visitors

December 13

- † Longwood University

December 15

- Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, Board for
- Barbers and Cosmetology, Board for

December 16

- Agriculture and Consumer Services, Department of
 - Virginia Corn Board
- † Environmental Quality, Department of
- † Funeral Directors and Embalmers, Board of
- Medical Assistance Services, Department of
 - Medicaid Physicians Advisory Committee
- † Medicine, Board of
- Milk Commission, State
- Nursing, Board of
 - Special Conference Committee
- Real Estate Board
- † Small Business Financing Authority, Virginia
- Veterans Services, Department of

December 17

- Compensation Board
- Fire Services Board, Virginia
 - Code Change and Development Subcommittee
- † Lottery Board, State
- Medical Assistance Services, Department of
 - Medicaid Transportation Advisory Committee
- Medicine, Board of
 - Informal Conference Committee
- Real Estate Board
- Retirement System, Virginia
 - Investment Advisory Committee
- † Treasury, Department of the

December 18

- Design-Build/Construction Management Review Board
- † Environmental Quality, Department of
- † Museum of Fine Arts, Virginia
- Pharmacy, Board of
 - Special Conference Committee
- Real Estate Board
- Retirement System, Virginia
 - Board of Trustees
- Technology Services, Council on
 - Security Workgroup
- Transportation Board, Commonwealth

December 22

- Alcoholic Beverage Control Board
- † Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, Board for

December 31

- At-Risk Youth and Families, Comprehensive Services for
 - State Executive Council

January 6, 2004

- Contractors, Board for
- Geology, Board for
- Museum of Fine Arts, Virginia
 - Executive Committee

January 7

- † Education, Board of
- Water Control Board, State

January 9

- Jamestown-Yorktown Foundation
- Opticians, Board for

January 13

- Compensation Board
- Contractors, Board for
- Psychology, Board of

Calendar of Events

January 15

Pharmacy, Board of

January 21

Community Colleges, State Board for

January 22

Community Colleges, State Board for

January 23

Conservation and Recreation, Department of
- Virginia Soil and Water Conservation Board
The Library of Virginia

- Archival and Information Services Committee
- Collection and Management Services Committee
- Legislative and Finance Committee
- Library Board
- Publications and Educational Services Committee
- Public Library Development Committee
- Records Management Committee

January 26

Education, Department of
- Advisory Board for Teacher Education and Licensure
Nursing, Board of

January 27

Contractors, Board for
Nursing, Board of

January 28

George Mason University
- Board of Visitors
† Labor and Industry, Department of
- Virginia Migrant and Seasonal Farmworkers Board
Nursing, Board of

January 29

Nursing, Board of

February 3

Contractors, Board for

February 4

Medicine, Board of
- Informal Conference Committee

February 10

Contractors, Board for

February 11

Contractors, Board for
† Medicine, Board of
- Advisory Board on Occupational Therapy

February 18

† Asbestos, Lead, and Home Inspectors, Virginia Board for
† Nursing and Medicine, Joints Boards for

February 19

† Audiology and Speech-Language Pathology, Board of

February 24

† Contractors, Board for

February 25

† Education, Board of

PUBLIC HEARINGS

December 1

Environmental Quality, Department of

December 3

† Health, Department of

December 4

Air Pollution Control Board, State

December 11

Criminal Justice Services Board

December 18

Mental Health, Mental Retardation and Substance Abuse
Services, Department of

January 7

† Education, Board of

January 13

† Water Control Board, State