



Virginia Register of Regulations

VOL. 23 ISS. 14

PUBLISHED EVERY OTHER WEEK BY THE VIRGINIA CODE COMMISSION

MARCH 19, 2007

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THE VIRGINIA REGISTER INFORMATION PAGE

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

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

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

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

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

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

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

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

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

specified, which shall be after the expiration of the 21-day objection period; (ii) the Governor exercises his authority to require the agency to provide for additional public comment, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the period for which the Governor has provided for additional public comment; (iii) the Governor and the General Assembly exercise their authority to suspend the effective date of a regulation until the end of the next regular legislative session; or (iv) the agency suspends the regulatory process, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the 30-day public comment period and no earlier than 15 days from publication of the readopted action.

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

FAST-TRACK RULEMAKING PROCESS

Section 2.2-4012.1 of the Code of Virginia provides an exemption from certain provisions of the Administrative Process Act for agency regulations deemed by the Governor to be noncontroversial. To use this process, Governor's concurrence is required and advance notice must be provided to certain legislative committees. Fast-track regulations will become effective on the date noted in the regulatory action if no objections to using the process are filed in accordance with § 2.2-4012.1.

EMERGENCY REGULATIONS

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

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

STATEMENT

The foregoing constitutes a generalized statement of the procedures to be followed. For specific statutory language, it is suggested that Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia be examined carefully.

CITATION TO THE VIRGINIA REGISTER

The *Virginia Register* is cited by volume, issue, page number, and date. **23:7 VA.R. 1023-1140 December 11, 2006**, refers to Volume 23, Issue 7, pages 1023 through 1140 of the *Virginia Register* issued on December 11, 2006.

The Virginia Register of Regulations is published pursuant to Article 6 (§ 2.2-4031 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia.

Members of the Virginia Code Commission: **R. Steven Landes**, Chairman; **John S. Edwards**, Vice Chairman; **Ryan T. McDougle**; **Robert Hurt**; **Robert L. Calhoun**; **Frank S. Ferguson**; **E.M. Miller, Jr.**; **Thomas M. Moncure, Jr.**; **James F. Almand**; **S. Bernard Goodwyn**.

Staff of the Virginia Register: **Jane D. Chaffin**, Registrar of Regulations; **June T. Chandler**, Assistant Registrar.

PUBLICATION SCHEDULE AND DEADLINES

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

March 2007 through February 2008

<u>Volume: Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
23:14	February 28, 2007	March 19, 2007
INDEX 2 Volume 23		April 2007
23:15	March 14, 2007	April 2, 2007
23:16	March 28, 2007	April 16, 2007
23:17	April 11, 2007	April 30, 2007
23:18	April 25, 2007	May 14, 2007
23:19	May 9, 2007	May 28, 2007
23:20	May 23, 2007	June 11, 2007
INDEX 3 Volume 23		July 2007
23:21	June 6, 2007	June 25, 2007
23:22	June 20, 2007	July 9, 2007
23:23	July 2, 2007 (Monday)	July 23, 2007
23:24	July 18, 2007	August 6, 2007
23:25	August 1, 2007	August 20, 2007
23:26	August 15, 2007	September 3, 2007
FINAL INDEX - Volume 23		October 2007
24:1	August 29, 2007	September 17, 2007
24:2	September 12, 2007	October 1, 2007
24:3	September 26, 2007	October 15, 2007
24:4	October 10, 2007	October 29, 2007
24:5	October 24, 2007	November 12, 2007
24:6	November 7, 2007	November 26, 2007
24:7	November 20, 2007 (Tuesday)	December 10, 2007
INDEX 1 Volume 24		January 2008
24:8	December 5, 2007	December 24, 2007
24:9	December 19, 2007	January 7, 2008
24:10	January 2, 2008	January 21, 2008
24:11	January 16, 2008	February 4, 2008

*Filing deadlines are Wednesdays unless otherwise specified.

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 2006 VAC Supplement includes final regulations published through *Virginia Register* Volume 22, Issue 22, dated July 10, 2006). Emergency regulations, if any, are listed, followed by the designation “emer,” and errata pertaining to final regulations are listed. Proposed regulations are not listed here. The table lists the sections in numerical order and shows action taken, the volume, issue and page number where the section appeared, and the effective date of the section.

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
Title 1. Administration			
1 VAC 50-10-10 through 1 VAC 50-10-50	Repealed	22:26 VA.R. 4083	10/4/06
1 VAC 50-10-60 through 1 VAC 50-10-150	Added	22:26 VA.R. 4084-4085	10/4/06
1 VAC 50-20-1	Added	22:26 VA.R. 4085	10/4/06
1 VAC 50-20-5	Added	22:26 VA.R. 4085	10/4/06
1 VAC 50-20-10	Amended	22:26 VA.R. 4086	10/4/06
1 VAC 50-20-20	Repealed	22:26 VA.R. 4086	10/4/06
1 VAC 50-20-30	Repealed	22:26 VA.R. 4086	10/4/06
1 VAC 50-20-40	Amended	22:26 VA.R. 4086	10/4/06
1 VAC 50-20-50	Amended	22:26 VA.R. 4086	10/4/06
1 VAC 50-20-60 through 1 VAC 50-20-90	Repealed	22:26 VA.R. 4086-4087	10/4/06
1 VAC 50-20-100	Amended	22:26 VA.R. 4087	10/4/06
1 VAC 50-20-110	Amended	22:26 VA.R. 4087	10/4/06
1 VAC 50-20-120	Repealed	22:26 VA.R. 4087	10/4/06
1 VAC 50-20-130	Repealed	22:26 VA.R. 4087	10/4/06
1 VAC 50-20-140	Amended	22:26 VA.R. 4087	10/4/06
1 VAC 50-20-142	Added	22:26 VA.R. 4087	10/4/06
1 VAC 50-20-150 through 1 VAC 50-20-180	Amended	22:26 VA.R. 4088	10/4/06
1 VAC 50-20-190 through 1 VAC 50-20-220	Repealed	22:26 VA.R. 4088	10/4/06
1 VAC 50-20-230	Amended	22:26 VA.R. 4089	10/4/06
1 VAC 50-20-240	Repealed	22:26 VA.R. 4089	10/4/06
1 VAC 50-20-250	Repealed	22:26 VA.R. 4089	10/4/06
1 VAC 50-20-260	Repealed	22:26 VA.R. 4089	10/4/06
1 VAC 50-20-270	Amended	22:26 VA.R. 4089	10/4/06
1 VAC 50-20-280	Repealed	22:26 VA.R. 4089	10/4/06
1 VAC 50-20-290	Repealed	22:26 VA.R. 4089	10/4/06
1 VAC 50-20-300	Repealed	22:26 VA.R. 4090	10/4/06
1 VAC 50-20-310	Amended	22:26 VA.R. 4090	10/4/06
1 VAC 50-20-320	Repealed	22:26 VA.R. 4090	10/4/06
1 VAC 50-20-330	Repealed	22:26 VA.R. 4090	10/4/06
1 VAC 50-20-340	Repealed	22:26 VA.R. 4090	10/4/06
1 VAC 50-20-350	Amended	22:26 VA.R. 4090	10/4/06
1 VAC 50-20-360	Repealed	22:26 VA.R. 4090	10/4/06
1 VAC 50-20-370	Repealed	22:26 VA.R. 4091	10/4/06
1 VAC 50-20-380	Repealed	22:26 VA.R. 4091	10/4/06
1 VAC 50-20-382	Added	22:26 VA.R. 4091	10/4/06
1 VAC 50-20-384	Added	22:26 VA.R. 4091	10/4/06
1 VAC 50-20-390	Amended	22:26 VA.R. 4091	10/4/06
1 VAC 50-20-400 through 1 VAC 50-20-530	Repealed	22:26 VA.R. 4091-4093	10/4/06
1 VAC 50-20-540 through 1 VAC 50-20-600	Amended	22:26 VA.R. 4093-4098	10/4/06

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
1 VAC 50-20-601	Added	22:26 VA.R. 4098	10/4/06
1 VAC 50-20-605	Added	22:26 VA.R. 4099	10/4/06
1 VAC 50-20-610	Amended	22:26 VA.R. 4100	10/4/06
1 VAC 50-20-612	Added	22:26 VA.R. 4101	10/4/06
1 VAC 50-20-614	Added	22:26 VA.R. 4101	10/4/06
1 VAC 50-20-616	Added	22:26 VA.R. 4102	10/4/06
1 VAC 50-20-620 through 1 VAC 50-20-670	Amended	22:26 VA.R. 4102-4105	10/4/06
1 VAC 50-20-680	Repealed	22:26 VA.R. 4105	10/4/06
1 VAC 50-20-690	Repealed	22:26 VA.R. 4105	10/4/06
1 VAC 50-20-700	Repealed	22:26 VA.R. 4105	10/4/06
1 VAC 55-30-10 through 1 VAC 55-30-90	Added	23:3 VA.R. 334-337	
Title 2. Agriculture			
2 VAC 5-195-10 through 2 VAC 5-195-180	Added	22:25 VA.R. 3872-3876	8/21/06
2 VAC 5-210-10	Amended	22:24 VA.R. 3579	7/19/06
2 VAC 5-210-20	Amended	22:24 VA.R. 3579	7/19/06
2 VAC 5-210-30	Amended	22:24 VA.R. 3579	7/19/06
2 VAC 5-210-40	Repealed	22:24 VA.R. 3580	7/19/06
2 VAC 5-210-41	Added	22:24 VA.R. 3580	7/19/06
2 VAC 5-210-50	Repealed	22:24 VA.R. 3580	7/19/06
2 VAC 5-210-60	Amended	22:24 VA.R. 3581	7/19/06
2 VAC 5-330-30	Amended	22:24 VA.R. 3587	9/7/06
2 VAC 20-40-10	Amended	22:26 VA.R. 4105	10/5/06
2 VAC 20-40-20	Amended	22:26 VA.R. 4106	10/5/06
2 VAC 20-40-40	Amended	22:26 VA.R. 4107	10/5/06
2 VAC 20-40-60	Amended	22:26 VA.R. 4107	10/5/06
2 VAC 20-40-65	Added	22:26 VA.R. 4107	10/5/06
2 VAC 20-40-70 through 2 VAC 20-40-110	Amended	22:26 VA.R. 4107-4109	10/5/06
2 VAC 20-40-120	Repealed	22:26 VA.R. 4109	10/5/06
Title 3. Alcoholic Beverages			
3 VAC 5-10-40	Amended	23:13 VA.R. 2117	5/19/07
3 VAC 5-10-50	Amended	23:13 VA.R. 2117	5/19/07
3 VAC 5-10-60	Amended	23:13 VA.R. 2117	5/19/07
3 VAC 5-10-130	Amended	23:13 VA.R. 2117	5/19/07
3 VAC 5-10-150	Amended	23:13 VA.R. 2117	5/19/07
3 VAC 5-10-230	Amended	23:13 VA.R. 2118	5/19/07
3 VAC 5-10-360	Amended	23:13 VA.R. 2118	5/19/07
3 VAC 5-10-400	Amended	23:13 VA.R. 2118	5/19/07
3 VAC 5-10-480	Amended	23:13 VA.R. 2129	5/19/07
3 VAC 5-40-20	Amended	23:13 VA.R. 2133	5/19/07
3 VAC 5-40-50	Amended	23:13 VA.R. 2134	5/19/07
3 VAC 5-60-20	Amended	23:13 VA.R. 2137	5/19/07
3 VAC 5-60-40	Amended	23:13 VA.R. 2138	5/19/07
3 VAC 5-60-80	Amended	23:13 VA.R. 2138	5/19/07
3 VAC 5-60-100	Added	23:13 VA.R. 2139	5/19/07
3 VAC 5-70-100	Amended	23:13 VA.R. 2142	5/19/07
3 VAC 5-70-150	Amended	23:13 VA.R. 2143	5/19/07
3 VAC 5-70-160	Amended	23:13 VA.R. 2143	5/19/07
3 VAC 5-70-230	Added	23:13 VA.R. 2143	5/19/07
Title 4. Conservation and Natural Resources			
4 VAC 5-36-50	Amended	23:6 VA.R. 845	1/1/07
4 VAC 5-36-60	Amended	23:6 VA.R. 848	1/1/07

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
4 VAC 5-36-70	Amended	23:6 VA.R. 849	1/1/07
4 VAC 5-36-90 through 4 VAC 5-36-120	Amended	23:6 VA.R. 850-856	1/1/07
4 VAC 5-36-150	Amended	23:6 VA.R. 856	1/1/07
4 VAC 5-36-170	Amended	23:6 VA.R. 857	1/1/07
4 VAC 5-36-200	Amended	23:6 VA.R. 858	1/1/07
4 VAC 5-36-210	Amended	23:6 VA.R. 862	1/1/07
4 VAC 15-20-220	Added	23:9 VA.R. 1382	12/15/06
4 VAC 15-320-40	Amended	23:9 VA.R. 1383	1/15/07
4 VAC 15-360-10	Amended	23:9 VA.R. 1383	1/15/07
4 VAC 20-20-20	Amended	23:4 VA.R. 574	10/1/06
4 VAC 20-20-20	Amended	23:8 VA.R. 1161	11/29/06
4 VAC 20-20-50	Amended	23:4 VA.R. 574	10/1/06
4 VAC 20-20-50	Amended	23:8 VA.R. 1161	11/29/06
4 VAC 20-70-100	Amended	23:12 VA.R. 1958	2/1/07
4 VAC 20-150-70	Amended	22:23 VA.R. 3277	6/28/06
4 VAC 20-200-10	Amended	23:11 VA.R. 1659	2/1/07
4 VAC 20-200-20	Amended	23:11 VA.R. 1659	2/1/07
4 VAC 20-200-30	Amended	23:11 VA.R. 1659	2/1/07
4 VAC 20-200-40	Amended	23:11 VA.R. 1660	2/1/07
4 VAC 20-200-50	Amended	23:11 VA.R. 1660	2/1/07
4 VAC 20-252-10	Amended	23:8 VA.R. 1162	1/1/07
4 VAC 20-252-20	Amended	23:8 VA.R. 1163	1/1/07
4 VAC 20-252-30	Amended	22:23 VA.R. 3277	7/1/06
4 VAC 20-252-50	Amended	22:23 VA.R. 3278	7/1/06
4 VAC 20-252-115	Added	22:23 VA.R. 3278	7/1/06
4 VAC 20-252-130	Amended	23:8 VA.R. 1163	1/1/07
4 VAC 20-252-135	Amended	23:8 VA.R. 1164	1/1/07
4 VAC 20-252-150	Amended	23:8 VA.R. 1165	1/1/07
4 VAC 20-252-155	Added	23:8 VA.R. 1165	1/1/07
4 VAC 20-252-160	Amended	23:8 VA.R. 1166	1/1/07
4 VAC 20-490-42 emer	Amended	23:8 VA.R. 1168	11/29/06-12/28/06
4 VAC 20-490-42	Amended	23:10 VA.R. 1540	12/21/06
4 VAC 20-510-10	Amended	23:12 VA.R. 1958	2/1/07
4 VAC 20-510-20	Amended	23:12 VA.R. 1958	2/1/07
4 VAC 20-510-33	Added	23:12 VA.R. 1959	2/1/07
4 VAC 20-510-35	Added	23:12 VA.R. 1959	2/1/07
4 VAC 20-510-37	Added	23:12 VA.R. 1959	2/1/07
4 VAC 20-530-10 emer	Amended	23:12 VA.R. 1959	2/1/07-3/1/07
4 VAC 20-530-20 emer	Amended	23:12 VA.R. 1959	2/1/07-3/1/07
4 VAC 20-530-31 emer	Amended	23:12 VA.R. 1960	2/1/07-3/1/07
4 VAC 20-530-31	Added	23:13 VA.R. 2144	2/1/07-3/1/07
4 VAC 20-530-32 emer	Amended	23:12 VA.R. 1960	2/1/07-3/1/07
4 VAC 20-530-32	Added	23:13 VA.R. 2145	2/1/07-3/1/07
4 VAC 20-566-30	Amended	22:25 VA.R. 3877	8/1/06
4 VAC 20-610-30	Amended	23:4 VA.R. 575	10/1/06
4 VAC 20-610-30	Amended	23:11 VA.R. 1660	2/1/07
4 VAC 20-610-40	Amended	23:4 VA.R. 576	10/1/06
4 VAC 20-610-60	Amended	23:4 VA.R. 576	10/1/06
4 VAC 20-610-60	Amended	23:11 VA.R. 1662	2/1/07
4 VAC 20-720-20	Amended	23:4 VA.R. 578	10/1/06

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
4 VAC 20-720-40	Amended	23:4 VA.R. 579	10/1/06
4 VAC 20-720-40 emer	Amended	23:10 VA.R. 1540	1/1/07-1/30/07
4 VAC 20-720-50	Amended	23:4 VA.R. 579	10/1/06
4 VAC 20-720-50 emer	Amended	23:10 VA.R. 1541	1/1/07-1/30/07
4 VAC 20-720-60	Amended	23:4 VA.R. 580	10/1/06
4 VAC 20-720-70	Amended	23:4 VA.R. 580	10/1/06
4 VAC 20-720-75	Amended	23:4 VA.R. 580	10/1/06
4 VAC 20-720-80	Amended	23:4 VA.R. 580	10/1/06
4 VAC 20-720-100	Amended	23:4 VA.R. 581	10/1/06
4 VAC 20-900-10 through 4 VAC 20-900-30	Amended	22:23 VA.R. 3279-3280	7/1/06
4 VAC 20-910-45	Amended	23:6 VA.R. 865	11/1/06
4 VAC 20-910-45	Erratum	23:8 VA.R. 1290	--
4 VAC 20-950-40 emer	Amended	23:12 VA.R. 1961	2/1/07-3/1/07
4 VAC 20-950-47 emer	Amended	23:12 VA.R. 1961	2/1/07-3/1/07
4 VAC 20-950-48.2 emer	Amended	23:12 VA.R. 1961	2/1/07-3/1/07
4 VAC 20-1090-20	Repealed	23:4 VA.R. 581	10/1/06
4 VAC 20-1090-30	Amended	23:4 VA.R. 582	10/1/06
4 VAC 20-1090-30	Amended	23:11 VA.R. 1663	2/1/07
4 VAC 25-20-420	Amended	23:13 VA.R. 2146	4/4/07
4 VAC 25-130-700.12	Amended	23:13 VA.R. 2146	4/4/07
4 VAC 25-130-773.21	Amended	23:13 VA.R. 2147	4/4/07
4 VAC 25-130-775.11	Amended	23:13 VA.R. 2147	4/4/07
4 VAC 25-130-775.13	Amended	23:13 VA.R. 2148	4/4/07
4 VAC 25-130-784.20	Amended	23:13 VA.R. 2148	4/4/07
4 VAC 25-130-800.51	Amended	23:13 VA.R. 2149	4/4/07
4 VAC 25-130-816.11	Amended	22:24 VA.R. 3587	9/6/06
4 VAC 25-130-816.64	Amended	22:24 VA.R. 3588	9/6/06
4 VAC 25-130-816.105	Amended	23:13 VA.R. 2150	4/4/07
4 VAC 25-130-817.11	Amended	23:13 VA.R. 2150	4/4/07
4 VAC 25-130-817.64	Amended	23:13 VA.R. 2151	4/4/07
4 VAC 25-130-817.121	Amended	23:13 VA.R. 2151	4/4/07
4 VAC 25-130-842.15	Amended	23:13 VA.R. 2153	4/4/07
4 VAC 25-130-843.12	Amended	23:13 VA.R. 2153	4/4/07
4 VAC 25-130-843.13	Amended	23:13 VA.R. 2154	4/4/07
4 VAC 25-130-843.15	Amended	23:13 VA.R. 2155	4/4/07
4 VAC 25-130-843.16	Amended	23:13 VA.R. 2156	4/4/07
4 VAC 25-130-845.13	Amended	23:13 VA.R. 2156	4/4/07
4 VAC 25-130-845.15	Amended	23:13 VA.R. 2158	4/4/07
4 VAC 25-130-845.18	Amended	23:13 VA.R. 2158	4/4/07
4 VAC 25-130-845.19	Amended	23:13 VA.R. 2159	4/4/07
4 VAC 25-130-846.14	Amended	23:13 VA.R. 2159	4/4/07
Title 6. Criminal Justice and Corrections			
6 VAC 20-30-10 through 6 VAC 20-30-60	Amended	23:9 VA.R. 1385-1388	2/9/07
6 VAC 20-30-80	Amended	23:9 VA.R. 1388	2/9/07
6 VAC 20-50-10 through 6 VAC 20-50-90	Amended	23:9 VA.R. 1392-1397	7/1/07
6 VAC 20-50-21	Added	23:9 VA.R. 1394	7/1/07
6 VAC 20-50-100	Repealed	23:9 VA.R. 1397	7/1/07
6 VAC 20-50-110	Added	23:9 VA.R. 1397	7/1/07
6 VAC 20-120-80	Amended	22:20 VA.R. 2704	7/12/06
6 VAC 20-190-10 through 6 VAC 20-190-200	Repealed	22:10 VA.R. 1556-1559	2/22/06
6 VAC 20-210-10 through 6 VAC 20-210-110	Repealed	22:10 VA.R. 1561-1562	2/22/06

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
6 VAC 20-220-20 through 6 VAC 20-220-80	Repealed	22:10 VA.R. 1559-1560	2/22/06
6 VAC 20-240-10 through 6 VAC 20-240-120	Added	22:11 VA.R. 1764-1768	3/8/06
6 VAC 20-260-10 through 6 VAC 20-260-360 emer	Added	22:12 VA.R. 2044-2053	2/20/06-2/19/07
6 VAC 35-10-10 through 6 VAC 35-10-50	Amended	23:1 VA.R. 25-26	10/18/06
6 VAC 35-10-60	Repealed	23:1 VA.R. 26	10/18/06
6 VAC 35-10-70 through 100	Amended	23:1 VA.R. 26-27	10/18/06
6 VAC 35-10-105	Added	23:1 VA.R. 27	10/18/06
6 VAC 35-10-110	Amended	23:1 VA.R. 28	10/18/06
6 VAC 35-10-120 through 6 VAC 35-10-150	Added	23:1 VA.R. 28	10/18/06
6 VAC 35-10-120	Amended	23:1 VA.R. 28	10/18/06
6 VAC 40-10-10 through 6 VAC 40-10-90	Added	22:24 VA.R. 3746-3747	10/25/06
6 VAC 40-50-10 through 6 VAC 40-50-80 emer	Added	22:23 VA.R. 3406-3407	7/1/06-6/30/07
Title 8. Education			
8 VAC 20-21-10 through 8 VAC 20-21-730	Repealed	23:3 VA.R. 337	11/28/06
8 VAC 20-22-10 through 8 VAC 20-22-760	Added	23:3 VA.R. 344-376	11/28/06
8 VAC 20-131-5	Added	22:24 VA.R. 3589	9/7/06
8 VAC 20-131-10	Amended	22:24 VA.R. 3590	9/7/06
8 VAC 20-131-20	Amended	22:24 VA.R. 3591	9/7/06
8 VAC 20-131-30	Amended	22:24 VA.R. 3591	9/7/06
8 VAC 20-131-40	Repealed	22:24 VA.R. 3592	9/7/06
8 VAC 20-131-50 through 8 VAC 20-131-110	Amended	22:24 VA.R. 3592-3598	9/7/06
8 VAC 20-131-140	Amended	22:24 VA.R. 3598	9/7/06
8 VAC 20-131-150	Amended	22:24 VA.R. 3598	9/7/06
8 VAC 20-131-160	Repealed	22:24 VA.R. 3599	9/7/06
8 VAC 20-131-170 through 8 VAC 20-131-210	Amended	22:24 VA.R. 3599-3600	9/7/06
8 VAC 20-131-240	Amended	22:24 VA.R. 3600	9/7/06
8 VAC 20-131-260 through 8 VAC 20-131-310	Amended	22:24 VA.R. 3601-3607	9/7/06
8 VAC 20-131-315	Added	22:24 VA.R. 3607	9/7/06
8 VAC 20-131-320	Repealed	22:24 VA.R. 3608	9/7/06
8 VAC 20-131-325	Amended	22:24 VA.R. 3608	9/7/06
8 VAC 20-131-330	Repealed	22:24 VA.R. 3608	9/7/06
8 VAC 20-131-340	Amended	22:24 VA.R. 3608	9/7/06
8 VAC 20-131-350	Added	22:24 VA.R. 3609	9/7/06
8 VAC 20-131-360	Added	22:24 VA.R. 3609	9/7/06
8 VAC 20-131, Appendix I	Repealed	22:24 VA.R. 3609	9/7/06
8 VAC 20-350-10 through 8 VAC 20-350-660	Repealed	23:12 VA.R. 1962	5/8/07
8 VAC 20-521-30	Amended	22:26 VA.R. 4110	10/4/06
8 VAC 20-541-10 through 8 VAC 20-541-60	Repealed	23:3 VA.R. 376	11/29/06
8 VAC 20-542-10 through 8 VAC 20-542-600	Added	23:3 VA.R. 376-434	11/29/06
8 VAC 20-700-10 through 8 VAC 20-700-50	Added	23:10 VA.R. 1541-1543	2/21/07
8 VAC 20-710-10 through 8 VAC 20-710-30	Added	23:10 VA.R. 1543-1544	2/21/07
8 VAC 40-30	Repealed	22:23 VA.R. 3281	8/24/06
8 VAC 40-31-10 through 8 VAC 40-31-320	Added	22:23 VA.R. 3281-3298	8/24/06
8 VAC 103-20-10 through 8 VAC 103-20-50	Added	23:7 VA.R. 1045-1050	12/11/06
Title 9. Environment			
9 VAC 5-20-21	Amended	22:26 VA.R. 4111	10/4/06
9 VAC 5-20-21	Erratum	23:5 VA.R. 791	--
9 VAC 5-20-203	Amended	22:23 VA.R. 3299	9/1/06
9 VAC 5-20-204	Amended	22:23 VA.R. 3299	9/1/06
9 VAC 5-20-206	Amended	22:26 VA.R. 4114	10/4/06

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9 VAC 5-40-250	Amended	23:5 VA.R. 737	12/15/06
9 VAC 5-40-300	Amended	22:26 VA.R. 4115	10/4/06
9 VAC 5-40-300	Repealed	23:5 VA.R. 737	12/15/06
9 VAC 5-40-310	Repealed	23:5 VA.R. 738	12/15/06
9 VAC 5-40-311	Repealed	23:5 VA.R. 739	12/15/06
9 VAC 5-40-5060	Amended	22:26 VA.R. 4115	10/4/06
9 VAC 5-40-5200	Amended	22:26 VA.R. 4116	10/4/06
9 VAC 5-40-5600	Amended	23:1 VA.R. 29	10/18/06
9 VAC 5-40-5610	Amended	23:1 VA.R. 29	10/18/06
9 VAC 5-40-5620	Amended	23:1 VA.R. 31	10/18/06
9 VAC 5-40-5630	Amended	23:1 VA.R. 31	10/18/06
9 VAC 5-40-5631	Amended	23:1 VA.R. 33	10/18/06
9 VAC 5-40-5641	Amended	23:1 VA.R. 33	10/18/06
9 VAC 5-40-5641	Erratum	23:5 VA.R. 791	--
9 VAC 5-40-5700	Amended	22:26 VA.R. 4116	10/4/06
9 VAC 5-40-5720	Amended	22:26 VA.R. 4117	10/4/06
9 VAC 5-40-5750	Amended	22:26 VA.R. 4118	10/4/06
9 VAC 5-40-6970	Amended	22:26 VA.R. 4118	10/4/06
9 VAC 5-40-7050	Amended	22:26 VA.R. 4118	10/4/06
9 VAC 5-40-7120	Amended	22:26 VA.R. 4119	10/4/06
9 VAC 5-40-7130	Amended	22:26 VA.R. 4119	10/4/06
9 VAC 5-40-7140	Amended	22:26 VA.R. 4122	10/4/06
9 VAC 5-40-7140	Erratum	23:5 VA.R. 791	--
9 VAC 5-40-7210	Amended	22:26 VA.R. 4124	10/4/06
9 VAC 5-40-7240	Amended	22:26 VA.R. 4124	10/4/06
9 VAC 5-40-7250	Amended	22:26 VA.R. 4124	10/4/06
9 VAC 5-40-7260	Amended	22:26 VA.R. 4125	10/4/06
9 VAC 5-40-7260	Erratum	23:5 VA.R. 791	--
9 VAC 5-40-7270	Amended	22:26 VA.R. 4136	10/4/06
9 VAC 5-40-7300	Amended	22:26 VA.R. 4139	10/4/06
9 VAC 5-40-7330	Amended	22:26 VA.R. 4140	10/4/06
9 VAC 5-40-7360	Amended	22:26 VA.R. 4140	10/4/06
9 VAC 5-40-7370 through 9 VAC 5-40-7540	Added	23:5 VA.R. 740-745	12/15/06
9 VAC 5-40-7800	Amended	22:26 VA.R. 4141	10/4/06
9 VAC 5-40-7880	Amended	22:26 VA.R. 4141	10/4/06
9 VAC 5-50-250	Amended	22:23 VA.R. 3301	9/1/06
9 VAC 5-50-270	Amended	22:23 VA.R. 3302	9/1/06
9 VAC 5-50-280	Amended	22:23 VA.R. 3302	9/1/06
9 VAC 5-80-1100	Amended	22:23 VA.R. 3302	9/1/06
9 VAC 5-80-1110	Amended	22:23 VA.R. 3303	9/1/06
9 VAC 5-80-1310	Repealed	22:23 VA.R. 3308	9/1/06
9 VAC 5-80-1605	Added	22:23 VA.R. 3309	9/1/06
9 VAC 5-80-1615	Added	22:23 VA.R. 3310	9/1/06
9 VAC 5-80-1625	Added	22:23 VA.R. 3321	9/1/06
9 VAC 5-80-1635	Added	22:23 VA.R. 3321	9/1/06
9 VAC 5-80-1645	Added	22:23 VA.R. 3322	9/1/06
9 VAC 5-80-1655	Added	22:23 VA.R. 3322	9/1/06
9 VAC 5-80-1665	Added	22:23 VA.R. 3322	9/1/06
9 VAC 5-80-1675	Added	22:23 VA.R. 3322	9/1/06
9 VAC 5-80-1685	Added	22:23 VA.R. 3322	9/1/06
9 VAC 5-80-1695	Added	22:23 VA.R. 3323	9/1/06

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9 VAC 5-80-1700	Repealed	22:23 VA.R. 3324	9/1/06
9 VAC 5-80-1705	Added	22:23 VA.R. 3324	9/1/06
9 VAC 5-80-1710	Repealed	22:23 VA.R. 3324	9/1/06
9 VAC 5-80-1715	Added	22:23 VA.R. 3324	9/1/06
9 VAC 5-80-1720	Repealed	22:23 VA.R. 3324	9/1/06
9 VAC 5-80-1725	Added	22:23 VA.R. 3324	9/1/06
9 VAC 5-80-1730	Repealed	22:23 VA.R. 3324	9/1/06
9 VAC 5-80-1735	Added	22:23 VA.R. 3324	9/1/06
9 VAC 5-80-1740	Repealed	22:23 VA.R. 3325	9/1/06
9 VAC 5-80-1745	Added	22:23 VA.R. 3325	9/1/06
9 VAC 5-80-1750	Repealed	22:23 VA.R. 3325	9/1/06
9 VAC 5-80-1755	Added	22:23 VA.R. 3325	9/1/06
9 VAC 5-80-1760	Repealed	22:23 VA.R. 3325	9/1/06
9 VAC 5-80-1765	Added	22:23 VA.R. 3325	9/1/06
9 VAC 5-80-1770	Repealed	22:23 VA.R. 3327	9/1/06
9 VAC 5-80-1775	Added	22:23 VA.R. 3327	9/1/06
9 VAC 5-80-1780	Repealed	22:23 VA.R. 3328	9/1/06
9 VAC 5-80-1785	Added	22:23 VA.R. 3328	9/1/06
9 VAC 5-80-1790	Repealed	22:23 VA.R. 3329	9/1/06
9 VAC 5-80-1795	Added	22:23 VA.R. 3329	9/1/06
9 VAC 5-80-1800	Repealed	22:23 VA.R. 3329	9/1/06
9 VAC 5-80-1805	Added	22:23 VA.R. 3329	9/1/06
9 VAC 5-80-1810	Repealed	22:23 VA.R. 3329	9/1/06
9 VAC 5-80-1815	Added	22:23 VA.R. 3329	9/1/06
9 VAC 5-80-1820	Repealed	22:23 VA.R. 3329	9/1/06
9 VAC 5-80-1825	Added	22:23 VA.R. 3329	9/1/06
9 VAC 5-80-1830	Repealed	22:23 VA.R. 3330	9/1/06
9 VAC 5-80-1835	Added	22:23 VA.R. 3330	9/1/06
9 VAC 5-80-1840	Repealed	22:23 VA.R. 3332	9/1/06
9 VAC 5-80-1845	Added	22:23 VA.R. 3332	9/1/06
9 VAC 5-80-1850	Repealed	22:23 VA.R. 3334	9/1/06
9 VAC 5-80-1855	Added	22:23 VA.R. 3334	9/1/06
9 VAC 5-80-1860	Repealed	22:23 VA.R. 3335	9/1/06
9 VAC 5-80-1865	Added	22:23 VA.R. 3335	9/1/06
9 VAC 5-80-1870 through 9 VAC 5-80-1920	Repealed	22:23 VA.R. 3340	9/1/06
9 VAC 5-80-1925	Added	22:23 VA.R. 3340	9/1/06
9 VAC 5-80-1930	Repealed	22:23 VA.R. 3341	9/1/06
9 VAC 5-80-1935	Added	22:23 VA.R. 3341	9/1/06
9 VAC 5-80-1940	Repealed	22:23 VA.R. 3341	9/1/06
9 VAC 5-80-1945	Added	22:23 VA.R. 3341	9/1/06
9 VAC 5-80-1950	Repealed	22:23 VA.R. 3342	9/1/06
9 VAC 5-80-1955	Added	22:23 VA.R. 3342	9/1/06
9 VAC 5-80-1960	Repealed	22:23 VA.R. 3342	9/1/06
9 VAC 5-80-1965	Added	22:23 VA.R. 3342	9/1/06
9 VAC 5-80-1970	Repealed	22:23 VA.R. 3342	9/1/06
9 VAC 5-80-1975	Added	22:23 VA.R. 3342	9/1/06
9 VAC 5-80-1985	Added	22:23 VA.R. 3343	9/1/06
9 VAC 5-80-1995	Added	22:23 VA.R. 3343	9/1/06
9 VAC 5-80-2000 through 9 VAC 5-80-2020	Amended	22:23 VA.R. 3343-3355	9/1/06
9 VAC 5-80-2040 through 9 VAC 5-80-2070	Amended	22:23 VA.R. 3355-3358	9/1/06

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9 VAC 5-80-2090	Amended	22:23 VA.R. 3358	9/1/06
9 VAC 5-80-2091	Added	22:23 VA.R. 3358	9/1/06
9 VAC 5-80-2110 through 9 VAC 5-80-2140	Amended	22:23 VA.R. 3359-3362	9/1/06
9 VAC 5-80-2141 through 9 VAC 5-80-2143	Added	22:23 VA.R. 3362-3366	9/1/06
9 VAC 5-80-2144	Added	22:23 VA.R. 3367	9/1/06
9 VAC 5-80-2180	Amended	22:23 VA.R. 3372	9/1/06
9 VAC 5-80-2200 through 9 VAC 5-80-2240	Amended	22:23 VA.R. 3373-3375	9/1/06
9 VAC 5-140-5010 through 9 VAC 5-140-5750	Added	23:13 VA.R. 2160-2186	4/4/07
9 VAC 20-60-18	Amended	22:23 VA.R. 3375	8/23/06
9 VAC 20-85-20	Amended	23:4 VA.R. 584	11/29/06
9 VAC 20-85-30	Amended	23:4 VA.R. 585	11/29/06
9 VAC 20-85-40	Amended	23:4 VA.R. 585	11/29/06
9 VAC 20-85-60 through 9 VAC 20-85-170	Amended	23:4 VA.R. 585-589	11/29/06
9 VAC 20-110-90	Amended	23:11 VA.R. 1665	3/21/07
9 VAC 20-110-110	Amended	23:11 VA.R. 1665	3/21/07
9 VAC 20-200-10 through 9 VAC 20-200-70	Added	23:11 VA.R. 1666-1667	3/21/07
9 VAC 25-31-10	Amended	22:24 VA.R. 3610	9/6/06
9 VAC 25-31-30	Amended	22:24 VA.R. 3619	9/6/06
9 VAC 25-31-80	Amended	22:24 VA.R. 3620	9/6/06
9 VAC 25-31-100	Amended	22:24 VA.R. 3620	9/6/06
9 VAC 25-31-165	Added	22:24 VA.R. 3637	9/6/06
9 VAC 25-31-220	Amended	22:24 VA.R. 3651	9/6/06
9 VAC 25-31-290	Amended	22:24 VA.R. 3656	9/6/06
9 VAC 25-31-770	Amended	22:24 VA.R. 3657	9/6/06
9 VAC 25-31-780	Amended	22:24 VA.R. 3658	9/6/06
9 VAC 25-31-790	Amended	22:24 VA.R. 3662	9/6/06
9 VAC 25-31-800	Amended	22:24 VA.R. 3667	9/6/06
9 VAC 25-31-840	Amended	22:24 VA.R. 3670	9/6/06
9 VAC 25-31-870	Amended	22:24 VA.R. 3677	9/6/06
9 VAC 25-260-5	Amended	23:1 VA.R. 41	*
9 VAC 25-260-30	Amended	22:26 VA.R. 4142	*
9 VAC 25-260-30	Amended	23:1 VA.R. 38	*
9 VAC 25-260-50	Amended	23:1 VA.R. 42	*
9 VAC 25-260-187	Added	23:1 VA.R. 42	*
9 VAC 25-260-310	Amended	23:1 VA.R. 44	*
9 VAC 25-260-480	Amended	23:1 VA.R. 46	*
9 VAC 25-660-90	Erratum	22:23 VA.R. 3424	--
9 VAC 25-680-70	Erratum	22:23 VA.R. 3424	--
9 VAC 25-680-90	Erratum	22:23 VA.R. 3424	--
9 VAC 25-690-70	Erratum	22:23 VA.R. 3424	--
9 VAC 25-720-50	Amended	23:11 VA.R. 1669	3/21/07
9 VAC 25-720-60	Amended	23:12 VA.R. 1966	5/21/07
9 VAC 25-720-70	Amended	23:6 VA.R. 869	2/26/07
9 VAC 25-720-80	Amended	23:11 VA.R. 1670	3/21/07
9 VAC 25-720-90	Amended	23:11 VA.R. 1671	3/21/07
9 VAC 25-720-100	Amended	23:11 VA.R. 1671	3/21/07
9 VAC 25-820-10 through 9 VAC 25-820-70	Added	23:2 VA.R. 231-251	11/1/06
Title 10. Finance and Financial Institutions			
10 VAC 5-160-40	Amended	23:13 VA.R. 2187	2/10/07

* Upon filing notice of EPA approval with the Registrar of Regulations.

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Title 11. Gaming			
11 VAC 5-20-200	Amended	22:25 VA.R. 3907	11/6/06
11 VAC 5-20-210 through 11 VAC 5-20-520	Repealed	22:25 VA.R. 3907-3914	11/6/06
11 VAC 10-70-20	Amended	22:25 VA.R. 3916	11/4/06
11 VAC 10-70-20	Amended	22:26 VA.R. 4144	9/4/06-11/3/06
11 VAC 10-70-30	Amended	22:25 VA.R. 3917	11/4/06
11 VAC 10-70-30	Amended	22:26 VA.R. 4144	9/4/06-11/3/06
11 VAC 10-70-40	Amended	22:25 VA.R. 3917	11/4/06
11 VAC 10-70-40	Amended	22:26 VA.R. 4144	9/4/06-11/3/06
11 VAC 10-70-50	Repealed	22:25 VA.R. 3917	11/4/06
11 VAC 10-70-50	Repealed	22:26 VA.R. 4144	9/4/06-11/3/06
11 VAC 10-70-60 through 11 VAC 10-70-90	Amended	22:25 VA.R. 3917-3918	11/4/06
11 VAC 10-70-60	Amended	22:26 VA.R. 4144	9/4/06-11/3/06
11 VAC 10-70-70	Amended	22:26 VA.R. 4145	9/4/06-11/3/06
11 VAC 10-70-80	Amended	22:26 VA.R. 4146	9/4/06-11/3/06
11 VAC 10-70-90	Amended	22:26 VA.R. 4146	9/4/06-11/3/06
11 VAC 10-70-170	Amended	22:25 VA.R. 3918	11/4/06
11 VAC 10-70-170	Amended	22:26 VA.R. 4146	9/4/06-11/3/06
11 VAC 10-90-10	Amended	22:25 VA.R. 3919	11/4/06
11 VAC 10-90-10	Amended	22:26 VA.R. 4146	9/4/06-11/3/06
11 VAC 10-90-30	Amended	22:25 VA.R. 3919	11/4/06
11 VAC 10-90-30	Amended	22:26 VA.R. 4146	9/4/06-11/3/06
11 VAC 10-90-50	Amended	22:25 VA.R. 3919	11/4/06
11 VAC 10-90-50	Amended	22:26 VA.R. 4146	9/4/06-11/3/06
11 VAC 10-130-10	Amended	23:11 VA.R. 1672	1/10/07
11 VAC 10-130-60	Amended	23:11 VA.R. 1673	1/10/07
Title 12. Health			
12 VAC 5-31-10	Amended	23:6 VA.R. 870	12/13/06
12 VAC 5-31-50	Amended	23:6 VA.R. 876	12/13/06
12 VAC 5-31-60	Amended	23:6 VA.R. 876	12/13/06
12 VAC 5-31-110	Amended	23:6 VA.R. 877	12/13/06
12 VAC 5-31-140	Amended	23:6 VA.R. 877	12/13/06
12 VAC 5-31-190	Amended	23:6 VA.R. 877	12/13/06
12 VAC 5-31-220	Amended	23:6 VA.R. 878	12/13/06
12 VAC 5-31-230	Amended	23:6 VA.R. 878	12/13/06
12 VAC 5-31-1610	Amended	23:5 VA.R. 745	12/13/06
12 VAC 5-31-2000 through 12 VAC 5-31-2260	Repealed	23:6 VA.R. 879-888	12/13/06
12 VAC 5-60-10 through 12 VAC 5-60-260	Repealed	23:5 VA.R. 745	12/13/06
12 VAC 5-70-10 through 12 VAC 5-70-50	Repealed	23:13 VA.R. 2187	4/4/07
12 VAC 5-71-10 through 12 VAC 5-71-190	Added	23:13 VA.R. 2188-2195	4/4/07
12 VAC 5-371-10	Amended	23:10 VA.R. 1544	3/1/07
12 VAC 5-371-20	Repealed	23:10 VA.R. 1546	3/1/07
12 VAC 5-371-30	Amended	23:10 VA.R. 1547	3/1/07
12 VAC 5-371-40	Amended	23:10 VA.R. 1547	3/1/07
12 VAC 5-371-50	Repealed	23:10 VA.R. 1548	3/1/07
12 VAC 5-371-60	Amended	23:10 VA.R. 1548	3/1/07
12 VAC 5-371-70 through 12 VAC 5-371-130	Amended	23:10 VA.R. 1548-1551	3/1/07
12 VAC 5-371-150	Amended	23:10 VA.R. 1551	3/1/07
12 VAC 5-371-160	Amended	23:10 VA.R. 1551	3/1/07
12 VAC 5-371-190	Amended	23:10 VA.R. 1551	3/1/07

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12 VAC 5-371-200	Amended	23:10 VA.R. 1552	3/1/07
12 VAC 5-371-400	Amended	23:10 VA.R. 1552	3/1/07
12 VAC 5-371-410	Amended	23:10 VA.R. 1552	3/1/07
12 VAC 5-410-10	Amended	23:10 VA.R. 1554	3/1/07
12 VAC 5-410-30	Amended	23:10 VA.R. 1555	3/1/07
12 VAC 5-410-70	Amended	23:10 VA.R. 1555	3/1/07
12 VAC 5-410-80	Amended	23:10 VA.R. 1555	3/1/07
12 VAC 5-410-100	Amended	23:10 VA.R. 1555	3/1/07
12 VAC 5-410-110	Amended	23:10 VA.R. 1555	3/1/07
12 VAC 5-410-130	Amended	23:10 VA.R. 1555	3/1/07
12 VAC 5-410-140	Amended	23:10 VA.R. 1555	3/1/07
12 VAC 5-410-150	Amended	23:10 VA.R. 1556	3/1/07
12 VAC 5-410-180	Amended	23:10 VA.R. 1556	3/1/07
12 VAC 5-410-210	Amended	23:10 VA.R. 1556	3/1/07
12 VAC 5-410-220	Amended	23:10 VA.R. 1557	3/1/07
12 VAC 5-410-270	Amended	23:10 VA.R. 1558	3/1/07
12 VAC 5-410-442	Amended	23:10 VA.R. 1558	3/1/07
12 VAC 5-410-445	Amended	23:10 VA.R. 1559	3/1/07
12 VAC 5-410-650	Amended	23:10 VA.R. 1560	3/1/07
12 VAC 5-410-720	Amended	23:10 VA.R. 1560	3/1/07
12 VAC 5-410-760	Amended	23:10 VA.R. 1560	3/1/07
12 VAC 5-410-1150	Amended	23:10 VA.R. 1560	3/1/07
12 VAC 5-410-1170	Amended	23:10 VA.R. 1561	3/1/07
12 VAC 5-410-1350	Amended	23:10 VA.R. 1561	3/1/07
12 VAC 5-410-1380	Amended	23:10 VA.R. 1561	3/1/07
12 VAC 5-480-10 through 12 VAC 5-480-8920	Repealed	22:25 VA.R. 3877	9/20/06
12 VAC 5-481-10 through 12 VAC 5-481-3670	Added	22:25 VA.R. 3877	9/20/06
12 VAC 5-585-70	Amended	23:3 VA.R. 438	11/9/06
12 VAC 5-585-310	Amended	23:9 VA.R. 1406	2/9/07
12 VAC 5-585-460	Amended	23:9 VA.R. 1406	2/9/07
12 VAC 5-585-480	Amended	23:9 VA.R. 1407	2/9/07
12 VAC 5-585-490	Amended	23:9 VA.R. 1408	2/9/07
12 VAC 5-585-510	Amended	23:3 VA.R. 438	11/9/06
12 VAC 5-585-600 through 12 VAC 5-585-630	Amended	23:3 VA.R. 442-450	11/9/06
12 VAC 5-590-10	Amended	22:24 VA.R. 3677	9/6/06
12 VAC 5-590-370	Amended	22:24 VA.R. 3683	9/6/06
12 VAC 5-590-410	Amended	22:24 VA.R. 3708	9/6/06
12 VAC 5-590-440	Amended	22:24 VA.R. 3711	9/6/06
12 VAC 5-590-505	Added	23:1 VA.R. 47	10/18/06
12 VAC 5-590, Appendix N	Amended	22:24 VA.R. 3717	9/6/06
12 VAC 5-590, Appendix O	Erratum	23:7 VA.R. 1112	9/6/06
12 VAC 5-590-545	Amended	22:24 VA.R. 3712	9/6/06
12 VAC 5-590-820	Amended	22:24 VA.R. 3717	9/6/06
12 VAC 30-30-60	Added	23:11 VA.R. 1673	3/7/07
12 VAC 30-40-10	Amended	22:23 VA.R. 3376	8/23/06
12 VAC 30-40-10	Amended	23:11 VA.R. 1674	3/7/07
12 VAC 30-40-290	Amended	22:23 VA.R. 3377	8/23/06
12 VAC 30-40-300	Amended	22:23 VA.R. 3379	8/23/06
12 VAC 30-40-360	Added	22:23 VA.R. 3385	8/23/06
12 VAC 30-50-35	Added	23:11 VA.R. 1675	3/7/07
12 VAC 30-50-75	Added	23:11 VA.R. 1676	3/7/07

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12 VAC 30-50-190	Amended	22:23 VA.R. 3386	8/23/06
12 VAC 30-50-530	Amended	23:11 VA.R. 1676	3/7/07
12 VAC 30-70-221 emer	Amended	22:26 VA.R. 4183	9/4/06-9/3/07
12 VAC 30-70-291	Amended	22:23 VA.R. 3388	8/23/06
12 VAC 30-70-301	Amended	22:25 VA.R. 3921	11/6/06
12 VAC 30-70-425	Amended	22:23 VA.R. 3389	8/23/06
12 VAC 30-70-426	Repealed	22:23 VA.R. 3390	8/23/06
12 VAC 30-80-20	Amended	22:23 VA.R. 3390	8/23/06
12 VAC 30-80-30	Amended	22:23 VA.R. 3393	8/23/06
12 VAC 30-80-75 emer	Added	23:7 VA.R. 1067	11/21/06-11/20/07
12 VAC 30-90-19	Amended	22:23 VA.R. 3395	8/23/06
12 VAC 30-110-90	Amended	22:26 VA.R. 4168	11/20/06
12 VAC 30-110-370	Amended	22:26 VA.R. 4168	11/20/06
12 VAC 30-110-710	Amended	22:23 VA.R. 3385	8/23/06
12 VAC 30-110-960	Amended	22:23 VA.R. 3385	8/23/06
12 VAC 30-120-215	Amended	22:24 VA.R. 3718	9/6/06
12 VAC 30-120-280	Amended	22:26 VA.R. 4170	11/20/06
12 VAC 30-120-290	Amended	22:26 VA.R. 4172	11/20/06
12 VAC 30-120-310	Amended	22:26 VA.R. 4172	11/20/06
12 VAC 30-120-320	Amended	22:26 VA.R. 4173	11/20/06
12 VAC 30-120-380	Amended	22:23 VA.R. 3386	8/23/06
12 VAC 30-120-720	Amended	22:24 VA.R. 3721	9/6/06
12 VAC 30-120-920	Amended	22:24 VA.R. 3724	9/6/06
12 VAC 30-130-900	Amended	23:12 VA.R. 1967	3/21/07
12 VAC 30-130-910	Amended	23:12 VA.R. 1968	3/21/07
12 VAC 30-130-930	Amended	23:12 VA.R. 1968	3/21/07
12 VAC 30-141-10	Amended	22:26 VA.R. 4147	10/4/06
12 VAC 30-141-10	Amended	23:7 VA.R. 1083	1/10/07
12 VAC 30-141-40	Amended	22:26 VA.R. 4149	10/4/06
12 VAC 30-141-100	Amended	22:26 VA.R. 4150	10/4/06
12 VAC 30-141-100	Amended	23:7 VA.R. 1085	1/10/07
12 VAC 30-141-120	Amended	23:7 VA.R. 1086	1/10/07
12 VAC 30-141-150	Amended	23:7 VA.R. 1087	1/10/07
12 VAC 30-141-160	Amended	22:26 VA.R. 4151	10/4/06
12 VAC 30-141-170	Repealed	22:26 VA.R. 4152	10/4/06
12 VAC 30-141-175	Added	22:26 VA.R. 4153	10/4/06
12 VAC 30-141-180	Amended	23:7 VA.R. 1088	1/10/07
12 VAC 30-141-200	Amended	22:23 VA.R. 3387	8/23/06
12 VAC 30-141-200	Amended	22:26 VA.R. 4155	10/4/06
12 VAC 30-141-500	Amended	22:16 VA.R. 2385	7/3/06
12 VAC 30-141-500	Amended	22:23 VA.R. 3387	8/23/06
12 VAC 30-141-650	Amended	23:7 VA.R. 1088	1/10/07
12 VAC 30-141-670 through 12 VAC 30-141-880	Added	23:7 VA.R. 1089-1098	1/10/07
12 VAC 30-150-40	Amended	22:25 VA.R. 3924	11/6/06
12 VAC 30-150-50	Amended	22:25 VA.R. 3925	11/6/06
12 VAC 30-150-70	Amended	22:25 VA.R. 3925	11/6/06
12 VAC 30-150-80	Amended	22:25 VA.R. 3926	11/6/06
12 VAC 30-150-90	Amended	22:25 VA.R. 3926	11/6/06
12 VAC 35-45-10	Amended	23:10 VA.R. 1562	2/21/07
12 VAC 35-45-25	Added	23:10 VA.R. 1565	2/21/07

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12 VAC 35-45-70	Amended	23:10 VA.R. 1564	2/21/07
12 VAC 35-45-80	Amended	23:10 VA.R. 1564	2/21/07
12 VAC 35-45-210	Added	23:10 VA.R. 1564	2/21/07
12 VAC 35-105-20	Amended	23:10 VA.R. 1567	2/21/07
12 VAC 35-105-30	Amended	23:10 VA.R. 1575	2/21/07
12 VAC 35-105-115 emer	Added	23:10 VA.R. 1566	1/3/07-1/2/08
12 VAC 35-105-590	Amended	23:10 VA.R. 1575	2/21/07
12 VAC 35-105-660	Amended	23:10 VA.R. 1576	2/21/07
12 VAC 35-115-10 through 12 VAC 35-115-150	Amended	23:1 VA.R. 50-79	10/18/06
12 VAC 35-115-145	Added	23:1 VA.R. 76	10/18/06
12 VAC 35-115-146	Added	23:1 VA.R. 77	10/18/06
12 VAC 35-115-160	Repealed	23:1 VA.R. 79	10/18/06
12 VAC 35-115-170 through 12 VAC 35-115-250	Amended	23:1 VA.R. 79-91	10/18/06
Title 13. Housing			
13 VAC 5-111-10 through 13 VAC 5-111-40	Repealed	23:12 VA.R. 1971	3/21/07
13 VAC 5-112-10 through 13 VAC 5-112-560	Added	23:12 VA.R. 1971-1994	3/21/07
13 VAC 10-50-10 through 13 VAC 10-50-100	Repealed	23:5 VA.R. 746	11/1/06
13 VAC 10-120-10 through 13 VAC 10-120-80	Amended	23:5 VA.R. 746-748	11/1/06
Title 14. Insurance			
14 VAC 5-30-10 through 14 VAC 5-30-40	Amended	23:9 VA.R. 1409-1413	4/1/07
14 VAC 5-30-20	Erratum	22:24 VA.R. 3755	--
14 VAC 5-30-50	Repealed	23:9 VA.R. 1413	4/1/07
14 VAC 5-30-51	Added	23:9 VA.R. 1413	4/1/07
14 VAC 5-30-55	Added	23:9 VA.R. 1413	4/1/07
14 VAC 5-30-60 through 14 VAC 5-30-90	Amended	23:9 VA.R. 1414-1416	4/1/07
14 VAC 5-30-80	Erratum	22:24 VA.R. 3755	--
14 VAC 5-30-100 and Exhibit A	Repealed	23:9 VA.R. 1416	4/1/07
14 VAC 5-45-10 through 14 VAC 5-45-50	Added	23:9 VA.R. 1423-1424	4/1/07
14 VAC 5-260 (Forms)	Erratum	22:24 VA.R. 3756	--
14 VAC 5-260-10	Amended	23:2 VA.R. 253	10/2/06
14 VAC 5-260-20	Repealed	23:2 VA.R. 253	10/2/06
14 VAC 5-260-30 through 14 VAC 5-260-60	Amended	23:2 VA.R. 253-257	10/2/06
14 VAC 5-260-80	Amended	23:2 VA.R. 257	10/2/06
14 VAC 5-260-90	Amended	23:2 VA.R. 257	10/2/06
14 VAC 5-260-110	Added	23:2 VA.R. 258	10/2/06
14 VAC 5-321-10	Amended	23:10 VA.R. 1577	1/1/07
14 VAC 5-321-20	Amended	23:10 VA.R. 1577	1/1/07
14 VAC 5-321-30	Amended	23:10 VA.R. 1578	1/1/07
14 VAC 5-321-70	Added	23:10 VA.R. 1578	1/1/07
14 VAC 5-322-10 through 14 VAC 5-322-50	Added	23:10 VA.R. 1579-1581	1/1/07
Title 16. Labor and Employment			
16 VAC 25-55-10 and 16 VAC 25-55-20	Added	23:12 VA.R. 1995-1996	3/22/07
16 VAC 25-60-10	Amended	22:25 VA.R. 3878	9/21/06
16 VAC 25-60-30	Amended	22:25 VA.R. 3879	9/21/06
16 VAC 25-60-40	Amended	22:25 VA.R. 3879	9/21/06
16 VAC 25-60-80	Amended	22:25 VA.R. 3879	9/21/06
16 VAC 25-60-90	Amended	22:25 VA.R. 3880	9/21/06
16 VAC 25-60-100	Amended	22:25 VA.R. 3881	9/21/06
16 VAC 25-60-120 through 16 VAC 25-60-150	Amended	22:25 VA.R. 3882-3883	9/21/06
16 VAC 25-60-190	Amended	22:25 VA.R. 3883	9/21/06
16 VAC 25-60-260	Amended	22:25 VA.R. 3884	9/21/06

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16 VAC 25-60-300	Amended	22:25 VA.R. 3885	9/21/06
16 VAC 25-60-320	Amended	22:25 VA.R. 3885	9/21/06
16 VAC 25-60-340	Amended	22:25 VA.R. 3886	9/21/06
16 VAC 25-90-1910.95	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-90-1910.134	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-90-1910.134	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.178	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-90-1910.266	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-90-1910.441	Repealed	22:23 VA.R. 3396	9/1/06
16 VAC 25-90-1910.1000	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-90-1910.1000	Amended	23:12 VA.R. 1996	3/21/07
16 VAC 25-90-1910.1001	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-90-1910.1001	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.1017	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-90-1910.1017	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.1018	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-90-1910.1018	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.1020	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-90-1910.1025	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-90-1910.1025	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.1027	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-90-1910.1027	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.1028	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-90-1910.1028	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.1029	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-90-1910.1029	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.1030	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-90-1910.1043	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-90-1910.1043	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.1044	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.1045	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-90-1910.1045	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.1047	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-90-1910.1047	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.1048	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-90-1910.1048	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.1050	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-90-1910.1050	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.1051	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-90-1910.1052	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-90-1910.1052	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.1450	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-100-1915.5	Amended	23:12 VA.R. 1998	3/21/07
16 VAC 25-100-1915.505	Amended	23:12 VA.R. 1998	3/21/07
16 VAC 25-100-1915.507	Amended	23:12 VA.R. 1998	3/21/07
16 VAC 25-100-1915.1000	Amended	23:12 VA.R. 1996	3/21/07
16 VAC 25-100-1915.1001	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-100-1915.1001	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-175-1926.55	Added	23:12 VA.R. 1996	3/21/07
16 VAC 25-175-1926.60	Amended	22:23 VA.R. 3396	9/1/06

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16 VAC 25-175-1926.60	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-175-1926.62	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-175-1926.62	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-175-1926.754	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-175-1926.1002, Appendix A of Subpart W	Amended	23:12 VA.R. 1999	3/21/07
16 VAC 25-175-1926.1092	Repealed	22:23 VA.R. 3396	9/1/06
16 VAC 25-175-1926.1101	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-175-1926.1101	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-175-1926.1127	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-175-1926.1127	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-190-1928.52	Amended	23:12 VA.R. 1999	3/21/07
16 VAC 25-190-1928.53, Appendix B to Subpart C	Amended	23:12 VA.R. 1999	3/21/07
Title 18. Professional and Occupational Licensing			
18 VAC 5-10-10 through 18 VAC 5-10-90	Amended	23:11 VA.R. 1678-1680	4/23/07
18 VAC 10-20-10	Amended	23:1 VA.R. 96	2/1/07
18 VAC 10-20-15	Amended	23:1 VA.R. 97	2/1/07
18 VAC 10-20-17	Added	23:1 VA.R. 97	2/1/07
18 VAC 10-20-20	Amended	23:1 VA.R. 97	2/1/07
18 VAC 10-20-25	Added	23:1 VA.R. 98	2/1/07
18 VAC 10-20-30	Repealed	23:1 VA.R. 98	2/1/07
18 VAC 10-20-60	Repealed	23:1 VA.R. 99	2/1/07
18 VAC 10-20-35 through 18 VAC 10-20-55	Amended	23:1 VA.R. 98-99	2/1/07
18 VAC 10-20-70	Amended	23:1 VA.R. 99	2/1/07
18 VAC 10-20-75	Amended	23:1 VA.R. 99	2/1/07
18 VAC 10-20-80	Repealed	23:1 VA.R. 99	2/1/07
18 VAC 10-20-85	Added	23:1 VA.R. 99	2/1/07
18 VAC 10-20-90 through 18 VAC 10-20-420	Amended	23:1 VA.R. 99-110	2/1/07
18 VAC 10-20-440 through 18 VAC 10-20-560	Amended	23:1 VA.R. 110-113	2/1/07
18 VAC 10-20-565	Repealed	23:1 VA.R. 114	2/1/07
18 VAC 10-20-570 through 18 VAC 10-20-620	Amended	23:1 VA.R. 113-116	2/1/07
18 VAC 10-20-625	Repealed	23:1 VA.R. 116	2/1/07
18 VAC 10-20-630 through 18 VAC 10-20-660	Amended	23:1 VA.R. 116-117	2/1/07
18 VAC 10-20-665	Repealed	23:1 VA.R. 117	2/1/07
18 VAC 10-20-670 through 18 VAC 10-20-795	Amended	23:1 VA.R. 117-122	2/1/07
18 VAC 15-20-20	Amended	23:3 VA.R. 451	12/1/06
18 VAC 15-20-30	Repealed	23:3 VA.R. 453	12/1/06
18 VAC 15-20-31	Added	23:3 VA.R. 454	12/1/06
18 VAC 15-20-32	Added	23:3 VA.R. 454	12/1/06
18 VAC 15-20-33	Added	23:3 VA.R. 457	12/1/06
18 VAC 15-20-33	Erratum	23:5 VA.R. 791	--
18 VAC 15-20-34	Added	23:3 VA.R. 458	12/1/06
18 VAC 15-20-40	Repealed	23:3 VA.R. 459	12/1/06
18 VAC 15-20-50	Repealed	23:3 VA.R. 459	12/1/06
18 VAC 15-20-51	Added	23:3 VA.R. 459	12/1/06
18 VAC 15-20-52	Added	23:3 VA.R. 459	12/1/06
18 VAC 15-20-53	Added	23:3 VA.R. 459	12/1/06
18 VAC 15-20-60	Amended	23:3 VA.R. 460	12/1/06
18 VAC 15-20-70	Amended	23:3 VA.R. 460	12/1/06
18 VAC 15-20-80 through 18 VAC 15-20-150	Repealed	23:3 VA.R. 461	12/1/06
18 VAC 15-20-250 through 18 VAC 15-20-361	Repealed	23:3 VA.R. 461-463	12/1/06
18 VAC 15-20-400 through 18 VAC 15-20-451	Amended	23:3 VA.R. 464-466	12/1/06

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 15-20-453	Amended	23:3 VA.R. 466	12/1/06
18 VAC 15-20-456	Amended	23:3 VA.R. 466	12/1/06
18 VAC 15-20-459.6 through 18 VAC 15-20-460	Repealed	23:3 VA.R. 466-468	12/1/06
18 VAC 15-20-461	Added	23:3 VA.R. 468	12/1/06
18 VAC 15-20-462	Added	23:3 VA.R. 468	12/1/06
18 VAC 15-20-463	Added	23:3 VA.R. 469	12/1/06
18 VAC 15-20-464	Added	23:3 VA.R. 469	12/1/06
18 VAC 15-20-470	Amended	23:3 VA.R. 469	12/1/06
18 VAC 15-30-30	Repealed	23:3 VA.R. 471	12/1/06
18 VAC 15-30-40	Repealed	23:3 VA.R. 471	12/1/06
18 VAC 15-30-50	Repealed	23:3 VA.R. 471	12/1/06
18 VAC 15-30-51 through 18 VAC 15-30-54	Added	23:3 VA.R. 472-475	12/1/06
18 VAC 15-30-100 through 18 VAC 15-30-330	Repealed	23:3 VA.R. 475-481	12/1/06
18 VAC 15-30-161 through 18 VAC 15-30-167	Added	23:3 VA.R. 477-479	12/1/06
18 VAC 15-30-332	Added	23:3 VA.R. 481	12/1/06
18 VAC 15-30-334	Added	23:3 VA.R. 481	12/1/06
18 VAC 15-30-420	Amended	23:3 VA.R. 481	12/1/06
18 VAC 15-30-510	Amended	23:3 VA.R. 482	12/1/06
18 VAC 15-30-810	Amended	23:3 VA.R. 483	12/1/06
18 VAC 15-30-820	Amended	23:3 VA.R. 484	12/1/06
18 VAC 25-21-70	Amended	22:26 VA.R. 4155	11/1/06
18 VAC 25-21 (Forms)	Amended	22:26 VA.R. 4155	--
18 VAC 30-20-80 emer	Amended	22:26 VA.R. 4186	9/1/06-8/31/07
18 VAC 30-20-170 emer	Amended	22:26 VA.R. 4186	9/1/06-8/31/07
18 VAC 30-20-171 emer	Added	22:26 VA.R. 4186	9/1/06-8/31/07
18 VAC 41-30-10 through 18 VAC 41-30-250	Added	23:1 VA.R. 124-131	11/1/06
18 VAC 41-50-10 through 18 VAC 41-50-420	Added	22:25 VA.R. 3887-3900	10/1/06
18 VAC 41-60-10 through 18 VAC 41-60-220	Added	23:12 VA.R. 2000-2009	4/1/07
18 VAC 45-20-10	Amended	23:9 VA.R. 1425	3/1/07
18 VAC 45-20-20	Amended	23:9 VA.R. 1425	3/1/07
18 VAC 50-22-40 emer	Amended	23:1 VA.R. 131	8/21/06-8/20/07
18 VAC 50-22-50 emer	Amended	23:1 VA.R. 132	8/21/06-8/20/07
18 VAC 50-22-60 emer	Amended	23:1 VA.R. 133	8/21/06-8/20/07
18 VAC 50-22-300 through 18 VAC 50-22-350 emer	Added	23:1 VA.R. 134	8/21/06-8/20/07
18 VAC 50-30-10 through 18 VAC 50-30-50	Amended	23:12 VA.R. 2020-2025	4/1/07
18 VAC 50-30-60	Repealed	23:12 VA.R. 2025	4/1/07
18 VAC 50-30-70	Amended	23:12 VA.R. 2025	4/1/07
18 VAC 50-30-80	Repealed	23:12 VA.R. 2025	4/1/07
18 VAC 50-30-90 through 18 VAC 50-30-150	Amended	23:12 VA.R. 2026-2028	4/1/07
18 VAC 50-30-180	Repealed	23:12 VA.R. 2028	4/1/07
18 VAC 50-30-185	Added	23:12 VA.R. 2028	4/1/07
18 VAC 50-30-190	Amended	23:12 VA.R. 2028	4/1/07
18 VAC 50-30-200	Amended	23:12 VA.R. 2029	4/1/07
18 VAC 50-30-210 through 18 VAC 50-30-260	Added	23:12 VA.R. 2030-2031	4/1/07
18 VAC 60-20-10	Amended	22:23 VA.R. 3397	8/23/06
18 VAC 60-20-20	Amended	22:23 VA.R. 3398	8/23/06
18 VAC 60-20-20	Amended	23:7 VA.R. 1098	1/10/07
18 VAC 60-20-30	Amended	23:7 VA.R. 1099	1/10/07
18 VAC 60-20-71	Added	22:23 VA.R. 3399	8/23/06
18 VAC 60-20-100	Amended	22:24 VA.R. 3749	10/23/06

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18 VAC 60-20-105	Amended	22:23 VA.R. 3399	8/23/06
18 VAC 60-20-106	Amended	22:23 VA.R. 3399	8/23/06
18 VAC 60-20-108	Amended	22:26 VA.R. 4175	11/18/06
18 VAC 60-20-210	Amended	22:23 VA.R. 3400	8/23/06
18 VAC 60-20-230	Amended	22:23 VA.R. 3400	8/23/06
18 VAC 60-20-250	Amended	23:7 VA.R. 1099	1/10/07
18 VAC 60-20 (Forms)	Amended	23:7 VA.R. 1100	1/10/07
18 VAC 65-20-70	Amended	23:7 VA.R. 1102	1/10/07
18 VAC 65-20-130	Amended	23:7 VA.R. 1103	1/10/07
18 VAC 65-20-140	Amended	23:7 VA.R. 1103	1/10/07
18 VAC 65-20-154	Amended	23:7 VA.R. 1103	1/10/07
18 VAC 65-20 (Forms)	Amended	23:7 VA.R. 1103	1/10/07
18 VAC 65-40-10	Amended	23:12 VA.R. 2031	3/21/07
18 VAC 65-40-40	Amended	23:12 VA.R. 2031	3/21/07
18 VAC 65-40-90	Amended	23:12 VA.R. 2032	3/21/07
18 VAC 65-40-110	Amended	23:12 VA.R. 2032	3/21/07
18 VAC 65-40-130	Amended	23:12 VA.R. 2032	3/21/07
18 VAC 65-40-160	Repealed	23:12 VA.R. 2032	3/21/07
18 VAC 65-40-220	Amended	23:12 VA.R. 2032	3/21/07
18 VAC 65-40-250	Amended	23:12 VA.R. 2032	3/21/07
18 VAC 65-40-300	Repealed	23:12 VA.R. 2032	3/21/07
18 VAC 65-40-320	Amended	23:12 VA.R. 2033	3/21/07
18 VAC 65-40-340	Amended	23:12 VA.R. 2033	3/21/07
18 VAC 70-20-30	Amended	22:26 VA.R. 4156	11/1/06
18 VAC 70-20-50	Amended	22:26 VA.R. 4156	11/1/06
18 VAC 70-20 (Forms)	Amended	22:26 VA.R. 4156	--
18 VAC 76-20-10	Amended	22:23 VA.R. 3402	8/23/06
18 VAC 76-20-20	Amended	22:23 VA.R. 3402	8/23/06
18 VAC 76-20-30	Amended	22:23 VA.R. 3402	8/23/06
18 VAC 76-20-50	Amended	22:23 VA.R. 3402	8/23/06
18 VAC 76-20-60	Amended	22:23 VA.R. 3402	8/23/06
18 VAC 76-20-70	Added	22:23 VA.R. 3403	8/23/06
18 VAC 85-20-22 emer	Amended	22:26 VA.R. 4187	9/1/06-8/31/07
18 VAC 85-20-122	Amended	22:26 VA.R. 4157	10/4/06
18 VAC 85-20-226 emer	Added	22:26 VA.R. 4188	9/1/06-8/31/07
18 VAC 85-20-235	Amended	23:11 VA.R. 1692	4/21/07
18 VAC 85-20-290	Amended	23:13 VA.R. 2206	4/4/07
18 VAC 85-20-330	Amended	22:25 VA.R. 3901	9/20/06
18 VAC 85-40-35 emer	Amended	22:26 VA.R. 4189	9/1/06-8/31/07
18 VAC 85-40-35	Amended	23:9 VA.R. 1429	2/7/07
18 VAC 85-40-65	Amended	23:9 VA.R. 1429	2/7/07
18 VAC 85-40-67 emer	Added	22:26 VA.R. 4190	9/1/06-8/31/07
18 VAC 85-50-35 emer	Amended	22:26 VA.R. 4190	9/1/06-8/31/07
18 VAC 85-50-35	Amended	23:9 VA.R. 1429	2/7/07
18 VAC 85-50-61 emer	Added	22:26 VA.R. 4191	9/1/06-8/31/07
18 VAC 85-80-26 emer	Amended	22:26 VA.R. 4191	9/1/06-8/31/07
18 VAC 85-80-26	Amended	23:9 VA.R. 1430	2/7/07
18 VAC 85-80-73 emer	Added	22:26 VA.R. 4191	9/1/06-8/31/07
18 VAC 85-80-80	Amended	23:9 VA.R. 1430	2/7/07
18 VAC 85-101-25 emer	Amended	22:26 VA.R. 4192	9/1/06-8/31/07
18 VAC 85-101-25	Amended	23:9 VA.R. 1430	2/7/07

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18 VAC 85-101-153 emer	Added	22:26 VA.R. 4192	9/1/06-8/31/07
18 VAC 85-110-35 emer	Amended	22:26 VA.R. 4193	9/1/06-8/31/07
18 VAC 85-110-35	Amended	23:9 VA.R. 1431	2/7/07
18 VAC 85-110-161 emer	Added	22:26 VA.R. 4193	9/1/06-8/31/07
18 VAC 85-120-100	Amended	23:9 VA.R. 1431	2/7/07
18 VAC 85-120-150	Amended	23:9 VA.R. 1431	2/7/07
18 VAC 85-130-10 through 18 VAC 85-130-170	Added	23:10 VA.R. 1582-1586	2/21/07
18 VAC 90-20-60	Amended	23:12 VA.R. 2033	3/21/07
18 VAC 90-25-15 through 18 VAC 90-25-80	Amended	23:3 VA.R. 487-492	11/14/06
18 VAC 90-25-71	Added	23:3 VA.R. 491	11/14/06
18 VAC 90-25-72	Added	23:3 VA.R. 491	11/14/06
18 VAC 90-25-81	Added	23:3 VA.R. 492	11/14/06
18 VAC 90-25-100 through 18 VAC 90-25-130	Amended	23:3 VA.R. 492-494	11/14/06
18 VAC 90-30-10 emer	Amended	22:26 VA.R. 4194	9/1/06-8/31/07
18 VAC 90-30-80	Amended	22:26 VA.R. 4177	11/18/06
18 VAC 90-30-120 emer	Amended	22:26 VA.R. 4195	9/1/06-8/31/07
18 VAC 90-30-121 emer	Added	22:26 VA.R. 4195	9/1/06-8/31/07
18 VAC 90-30-230	Amended	23:12 VA.R. 2034	3/21/07
18 VAC 90-40-140	Amended	23:12 VA.R. 2034	3/21/07
18 VAC 95-20-220	Amended	22:26 VA.R. 4157	10/4/06
18 VAC 95-20-221	Added	22:26 VA.R. 4158	10/4/06
18 VAC 95-20-310	Amended	22:26 VA.R. 4158	10/4/06
18 VAC 95-20-330	Amended	22:26 VA.R. 4158	10/4/06
18 VAC 95-20-340	Amended	22:26 VA.R. 4159	10/4/06
18 VAC 95-20-380	Amended	22:26 VA.R. 4159	10/4/06
18 VAC 95-20-390	Amended	22:26 VA.R. 4159	10/4/06
18 VAC 105-20-20	Amended	22:26 VA.R. 4159	10/4/06
18 VAC 110-20-20	Amended	22:15 VA.R. 2321	5/3/06
18 VAC 110-20-20	Erratum	22:16 VA.R. 2399	--
18 VAC 110-20-20	Amended	22:24 VA.R. 3726	9/6/06
18 VAC 110-20-20	Erratum	22:25 VA.R. 3935	--
18 VAC 110-20-20	Amended	23:4 VA.R. 635	11/29/06
18 VAC 110-20-70	Amended	22:24 VA.R. 3751	10/23/06
18 VAC 110-20-630	Amended	22:24 VA.R. 3728	9/6/06
18 VAC 110-20-640	Repealed	22:24 VA.R. 3728	9/6/06
18 VAC 110-20-660	Repealed	22:24 VA.R. 3728	9/6/06
18 VAC 110-20-670	Repealed	22:24 VA.R. 3728	9/6/06
18 VAC 110-20-720	Amended	23:4 VA.R. 634	11/29/06
18 VAC 110-30-15	Amended	23:4 VA.R. 637	11/29/06
18 VAC 110-50-10 through 18 VAC 110-50-150	Added	22:24 VA.R. 3729-3735	9/6/06
18 VAC 110-50-20	Amended	23:4 VA.R. 637	11/29/06
18 VAC 112-20-50	Amended	22:23 VA.R. 3404	8/23/06
18 VAC 112-20-65	Amended	22:23 VA.R. 3404	8/23/06
18 VAC 120-30-100	Amended	23:3 VA.R. 497	12/11/06
18 VAC 125-20-30	Amended	23:12 VA.R. 2035	3/21/07
18 VAC 125-30-20	Amended	23:12 VA.R. 2035	3/21/07
18 VAC 155-20-10	Amended	22:26 VA.R. 4160	11/1/06
18 VAC 155-20-110	Amended	22:26 VA.R. 4161	11/1/06
18 VAC 155-20-120	Amended	22:26 VA.R. 4161	11/1/06
18 VAC 155-20-160	Amended	22:26 VA.R. 4162	11/1/06

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18 VAC 155-20-220	Amended	22:26 VA.R. 4163	11/1/06
18 VAC 155-20-280	Amended	22:26 VA.R. 4166	11/1/06
18 VAC 155-20 (Forms)	Amended	22:26 VA.R. 4166	--
18 VAC 160-20-10	Amended	23:1 VA.R. 136	12/1/06
18 VAC 160-20-74	Amended	23:1 VA.R. 137	12/1/06
18 VAC 160-20-76	Amended	22:26 VA.R. 4179	12/1/06
18 VAC 160-20-90	Amended	22:26 VA.R. 4180	12/1/06
18 VAC 160-20-95	Added	23:1 VA.R. 137	12/1/06
18 VAC 160-20-104	Amended	23:1 VA.R. 137	12/1/06
18 VAC 160-20-106	Amended	23:1 VA.R. 137	12/1/06
18 VAC 160-20-109	Amended	23:1 VA.R. 138	12/1/06
18 VAC 160-20-140	Amended	23:1 VA.R. 139	12/1/06
Title 19. Public Safety			
19 VAC 30-20-80	Amended	23:10 VA.R. 1587	3/1/07
Title 20. Public Utilities and Telecommunications			
20 VAC 5-315 (Form)	Amended	23:4 VA.R. 639	--
20 VAC 5-315-10	Amended	23:3 VA.R. 500	9/26/06
20 VAC 5-315-20	Amended	23:3 VA.R. 500	9/26/06
20 VAC 5-315-30	Amended	23:3 VA.R. 500	9/26/06
20 VAC 5-315-40	Amended	23:3 VA.R. 501	9/26/06
20 VAC 5-413-5	Added	23:3 VA.R. 504	12/1/06
20 VAC 5-413-10	Amended	23:3 VA.R. 504	12/1/06
20 VAC 5-413-20	Amended	23:3 VA.R. 505	12/1/06
20 VAC 5-413-25	Added	23:3 VA.R. 505	12/1/06
20 VAC 5-413-30	Amended	23:3 VA.R. 505	12/1/06
20 VAC 5-413-35	Added	23:3 VA.R. 506	12/1/06
20 VAC 5-413-40	Amended	23:3 VA.R. 506	12/1/06
20 VAC 5-413-50	Added	23:3 VA.R. 506	12/1/06
Title 22. Social Services			
22 VAC 15-10-40	Amended	23:10 VA.R. 1587	3/1/07
22 VAC 15-10-50	Amended	23:10 VA.R. 1587	3/1/07
22 VAC 40-35-10 emer	Amended	22:26 VA.R. 4196	9/1/06-8/31/07
22 VAC 40-35-80 emer	Amended	22:26 VA.R. 4198	9/1/06-8/31/07
22 VAC 40-35-90 emer	Amended	22:26 VA.R. 4198	9/1/06-8/31/07
22 VAC 40-35-100 emer	Amended	22:26 VA.R. 4199	9/1/06-8/31/07
22 VAC 40-71	Repealed	23:6 VA.R. 892	12/28/06
22 VAC 40-72-10 through 22 VAC 40-72-1160	Added	23:6 VA.R. 893-952	12/28/06
22 VAC 40-72-789	Erratum	22:26 VA.R. 4207	--
22 VAC 40-72-1060	Erratum	22:26 VA.R. 4207	--
22 VAC 40-80-60	Amended	23:6 VA.R. 952	12/28/06
22 VAC 40-80-120	Amended	23:6 VA.R. 952	12/28/06
22 VAC 40-80-340	Amended	23:6 VA.R. 953	12/28/06
22 VAC 40-80-345	Added	23:6 VA.R. 954	12/28/06
22 VAC 40-80-370	Amended	23:6 VA.R. 955	12/28/06
22 VAC 40-80-430	Amended	23:6 VA.R. 955	12/28/06
22 VAC 40-325-10	Amended	22:25 VA.R. 3901	10/1/06
22 VAC 40-325-20	Amended	22:25 VA.R. 3902	10/1/06
22 VAC 40-740-10	Amended	23:10 VA.R. 1588	3/1/07
22 VAC 40-740-15	Added	23:10 VA.R. 1591	3/1/07
22 VAC 40-740-20	Repealed	23:10 VA.R. 1592	3/1/07
22 VAC 40-740-21	Added	23:10 VA.R. 1592	3/1/07

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22 VAC 40-740-30	Repealed	23:10 VA.R. 1593	3/1/07
22 VAC 40-740-31	Added	23:10 VA.R. 1593	3/1/07
22 VAC 40-740-40	Amended	23:10 VA.R. 1593	3/1/07
22 VAC 40-740-50	Amended	23:10 VA.R. 1594	3/1/07
22 VAC 40-740-60	Amended	23:10 VA.R. 1595	3/1/07
22 VAC 40-740-70	Added	23:10 VA.R. 1596	3/1/07
22 VAC 40-740-80	Added	23:10 VA.R. 1596	3/1/07
22 VAC 40-745-10 through 22 VAC 40-745-70	Amended	23:1 VA.R. 140-145	11/1/06
22 VAC 40-745-90	Amended	23:1 VA.R. 145	11/1/06
22 VAC 40-745-100	Amended	23:1 VA.R. 145	11/1/06
22 VAC 40-745-110	Amended	23:1 VA.R. 145	11/1/06
22 VAC 40-901-10	Amended	22:25 VA.R. 3903	10/1/06
22 VAC 40-901-40 through 22 VAC 40-901-90	Added	22:25 VA.R. 3903-3905	10/1/06
22 VAC 42-10-10 emer	Amended	23:9 VA.R. 1451	12/28/06-12/27/07
22 VAC 42-10-15 emer	Added	23:9 VA.R. 1455	12/28/06-12/27/07
22 VAC 42-10-30 emer	Amended	23:9 VA.R. 1456	12/28/06-12/27/07
22 VAC 42-10-32 emer	Added	23:9 VA.R. 1456	12/28/06-12/27/07
22 VAC 42-10-35 emer	Amended	23:9 VA.R. 1456	12/28/06-12/27/07
22 VAC 42-10-40 emer	Amended	23:9 VA.R. 1456	12/28/06-12/27/07
22 VAC 42-10-85 emer	Added	23:9 VA.R. 1457	12/28/06-12/27/07
22 VAC 42-10-180 emer	Amended	23:9 VA.R. 1458	12/28/06-12/27/07
22 VAC 42-10-200 through 22 VAC 42-10-230 emer	Amended	23:9 VA.R. 1458-1459	12/28/06-12/27/07
22 VAC 42-10-255 emer	Added	23:9 VA.R. 1459	12/28/06-12/27/07
22 VAC 42-10-260 emer	Amended	23:9 VA.R. 1459	12/28/06-12/27/07
22 VAC 42-10-270 emer	Amended	23:9 VA.R. 1459	12/28/06-12/27/07
22 VAC 42-10-330 emer	Amended	23:9 VA.R. 1460	12/28/06-12/27/07
22 VAC 42-10-530 emer	Amended	23:9 VA.R. 1460	12/28/06-12/27/07
22 VAC 42-10-570 emer	Amended	23:9 VA.R. 1460	12/28/06-12/27/07
22 VAC 42-10-580 emer	Amended	23:9 VA.R. 1461	12/28/06-12/27/07
22 VAC 42-10-600 emer	Amended	23:9 VA.R. 1461	12/28/06-12/27/07
22 VAC 42-10-690 through 22 VAC 42-10-720 emer	Amended	23:9 VA.R. 1461	12/28/06-12/27/07
22 VAC 42-10-740 emer	Amended	23:9 VA.R. 1463	12/28/06-12/27/07
22 VAC 42-10-750 emer	Amended	23:9 VA.R. 1464	12/28/06-12/27/07
22 VAC 42-10-780 emer	Amended	23:9 VA.R. 1464	12/28/06-12/27/07
22 VAC 42-10-790 emer	Amended	23:9 VA.R. 1465	12/28/06-12/27/07
22 VAC 42-10-800 emer	Amended	23:9 VA.R. 1465	12/28/06-12/27/07
22 VAC 42-10-820 emer	Amended	23:9 VA.R. 1466	12/28/06-12/27/07
22 VAC 42-10-850 emer	Amended	23:9 VA.R. 1466	12/28/06-12/27/07
22 VAC 42-10-870 emer	Amended	23:9 VA.R. 1466	12/28/06-12/27/07
22 VAC 42-10-880 emer	Amended	23:9 VA.R. 1467	12/28/06-12/27/07
22 VAC 42-10-970 emer	Amended	23:9 VA.R. 1467	12/28/06-12/27/07
22 VAC 42-10-980 emer	Repealed	23:9 VA.R. 1469	12/28/06-12/27/07
22 VAC 42-10-990 emer	Repealed	23:9 VA.R. 1469	12/28/06-12/27/07
22 VAC 42-10-1000 emer	Repealed	23:9 VA.R. 1469	12/28/06-12/27/07
Title 23. Taxation			
23 VAC 10-20-40	Repealed	23:8 VA.R. 1196	3/10/07
23 VAC 10-20-50	Repealed	23:8 VA.R. 1196	3/10/07
23 VAC 10-20-70	Repealed	23:8 VA.R. 1196	3/10/07
23 VAC 10-20-100	Repealed	23:8 VA.R. 1197	3/10/07
23 VAC 10-20-120	Repealed	23:8 VA.R. 1197	3/10/07

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
23 VAC 10-20-150	Repealed	23:8 VA.R. 1197	3/10/07
23 VAC 10-55-10	Repealed	23:8 VA.R. 1199	3/10/07
23 VAC 10-55-20	Repealed	23:8 VA.R. 1199	3/10/07
23 VAC 10-55-30	Repealed	23:8 VA.R. 1199	3/10/07
23 VAC 10-55-60 through 23 VAC 10-55-90	Repealed	23:8 VA.R. 1199	3/10/07
23 VAC 10-60-10	Repealed	23:8 VA.R. 1201	3/10/07
23 VAC 10-60-20	Repealed	23:8 VA.R. 1201	3/10/07
23 VAC 10-60-30	Repealed	23:8 VA.R. 1201	3/10/07
23 VAC 10-60-60 through 23 VAC 10-60-100	Repealed	23:8 VA.R. 1201	3/10/07
23 VAC 10-65-10	Repealed	23:8 VA.R. 1204	3/10/07
23 VAC 10-65-20	Repealed	23:8 VA.R. 1203	3/10/07
23 VAC 10-65-30	Repealed	23:8 VA.R. 1204	3/10/07
23 VAC 10-65-50 through 23 VAC 10-65-100	Repealed	23:8 VA.R. 1204-1205	3/10/07
23 VAC 10-75-10	Repealed	23:8 VA.R. 1206	3/10/07
23 VAC 10-75-30 through 23 VAC 10-75-60	Repealed	23:6 VA.R. 958-959	2/10/07
23 VAC 10-110-10	Repealed	23:8 VA.R. 1208	3/10/07
23 VAC 10-110-50	Repealed	23:8 VA.R. 1208	3/10/07
23 VAC 10-110-100	Repealed	23:8 VA.R. 1209	3/10/07
23 VAC 10-110-120	Repealed	23:8 VA.R. 1209	3/10/07
23 VAC 10-110-140	Repealed	23:8 VA.R. 1209	3/10/07
23 VAC 10-110-150 through 23 VAC 10-110-167	Repealed	23:8 VA.R. 1212-1221	3/10/07
23 VAC 10-110-200	Repealed	23:8 VA.R. 1221	3/10/07
23 VAC 10-110-210	Repealed	23:8 VA.R. 1209	3/10/07
23 VAC 10-110-260	Repealed	23:8 VA.R. 1210	3/10/07
23 VAC 10-110-290	Repealed	23:8 VA.R. 1210	3/10/07
23 VAC 10-110-300	Repealed	23:8 VA.R. 1210	3/10/07
23 VAC 10-112-50 through 23 VAC 10-112-90	Repealed	23:6 VA.R. 960-961	2/10/07
23 VAC 10-115-30	Repealed	23:6 VA.R. 962	2/10/07
23 VAC 10-115-120	Repealed	23:6 VA.R. 962	2/10/07
23 VAC 10-115-130	Repealed	23:6 VA.R. 962	2/10/07
23 VAC 10-120-50 through 23 VAC 10-120-67	Repealed	23:8 VA.R. 1223-1232	3/10/07
23 VAC 10-120-85	Repealed	23:8 VA.R. 1238	3/10/07
23 VAC 10-120-87	Repealed	23:8 VA.R. 1239	3/10/07
23 VAC 10-120-290	Repealed	23:8 VA.R. 1232	3/10/07
23 VAC 10-120-340	Repealed	23:8 VA.R. 1239	3/10/07
23 VAC 10-120-360 through 23 VAC 10-120-364	Repealed	23:8 VA.R. 1233-1236	3/10/07
23 VAC 10-120-370	Repealed	23:8 VA.R. 1239	3/10/07
23 VAC 10-120-450	Repealed	23:8 VA.R. 1240	3/10/07
23 VAC 10-130	Repealed	23:8 VA.R. 1240	3/10/07
23 VAC 10-140-20	Repealed	23:6 VA.R. 963	2/10/07
23 VAC 10-140-30	Repealed	23:6 VA.R. 964	2/10/07
23 VAC 10-140-80	Repealed	23:6 VA.R. 964	2/10/07
23 VAC 10-140-90	Repealed	23:6 VA.R. 964	2/10/07
23 VAC 10-140-120	Repealed	23:6 VA.R. 964	2/10/07
23 VAC 10-140-140 through 23 VAC 10-140-180	Repealed	23:6 VA.R. 964-965	2/10/07
23 VAC 10-140-210	Repealed	23:6 VA.R. 965	2/10/07
23 VAC 10-140-220	Repealed	23:6 VA.R. 965	2/10/07
23 VAC 10-140-240 through 23 VAC 10-140-270	Repealed	23:6 VA.R. 965	2/10/07
23 VAC 10-210-60	Repealed	23:8 VA.R. 1243	3/10/07
23 VAC 10-210-110	Repealed	23:8 VA.R. 1243	3/10/07
23 VAC 10-210-150	Repealed	23:8 VA.R. 1243	3/10/07

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
23 VAC 10-210-180	Repealed	23:8 VA.R. 1243	3/10/07
23 VAC 10-210-200	Repealed	23:8 VA.R. 1243	3/10/07
23 VAC 10-210-210	Repealed	23:8 VA.R. 1243	3/10/07
23 VAC 10-210-240	Repealed	23:8 VA.R. 1243	3/10/07
23 VAC 10-210-260	Repealed	23:8 VA.R. 1243	3/10/07
23 VAC 10-210-270	Repealed	23:8 VA.R. 1244	3/10/07
23 VAC 10-210-300	Repealed	23:8 VA.R. 1244	3/10/07
23 VAC 10-210-330	Repealed	23:8 VA.R. 1244	3/10/07
23 VAC 10-210-370	Repealed	23:8 VA.R. 1251	3/10/07
23 VAC 10-210-460	Repealed	23:8 VA.R. 1244	3/10/07
23 VAC 10-210-510	Repealed	23:8 VA.R. 1245	3/10/07
23 VAC 10-210-520	Repealed	23:8 VA.R. 1245	3/10/07
23 VAC 10-210-540	Repealed	23:8 VA.R. 1245	3/10/07
23 VAC 10-210-640	Repealed	23:8 VA.R. 1245	3/10/07
23 VAC 10-210-710	Repealed	23:8 VA.R. 1245	3/10/07
23 VAC 10-210-740	Repealed	23:8 VA.R. 1245	3/10/07
23 VAC 10-210-890	Repealed	23:8 VA.R. 1246	3/10/07
23 VAC 10-210-950	Repealed	23:8 VA.R. 1246	3/10/07
23 VAC 10-210-1000	Repealed	23:8 VA.R. 1246	3/10/07
23 VAC 10-210-1010	Repealed	23:8 VA.R. 1246	3/10/07
23 VAC 10-210-1040	Repealed	23:8 VA.R. 1246	3/10/07
23 VAC 10-210-1050	Repealed	23:8 VA.R. 1246	3/10/07
23 VAC 10-210-2000	Repealed	23:8 VA.R. 1246	3/10/07
23 VAC 10-210-2010	Repealed	23:8 VA.R. 1246	3/10/07
23 VAC 10-210-2030	Repealed	23:8 VA.R. 1247	3/10/07
23 VAC 10-210-2034	Repealed	23:8 VA.R. 1247	3/10/07
23 VAC 10-210-2040	Repealed	23:8 VA.R. 1248	3/10/07
23 VAC 10-210-3020	Repealed	23:8 VA.R. 1253	3/10/07
23 VAC 10-210-4000	Repealed	23:8 VA.R. 1248	3/10/07
23 VAC 10-210-4030	Repealed	23:8 VA.R. 1248	3/10/07
23 VAC 10-210-4060	Repealed	23:8 VA.R. 1248	3/10/07
23 VAC 10-210-4080 through 23 VAC 10-210-5050	Repealed	23:8 VA.R. 1248-1249	3/10/07
23 VAC 10-210-5080	Repealed	23:8 VA.R. 1249	3/10/07
23 VAC 10-210-5090 through 23 VAC 10-210-5094	Repealed	23:8 VA.R. 1255-1257	3/10/07
23 VAC 10-220-80 and 23 VAC 10-220-90	Repealed	23:6 VA.R. 967	2/10/07
23 VAC 10-230-10	Repealed	23:8 VA.R. 1258	3/10/07
23 VAC 10-230-60	Repealed	23:8 VA.R. 1258	3/10/07
23 VAC 10-230-70	Repealed	23:8 VA.R. 1259	3/10/07
23 VAC 10-230-100	Repealed	23:8 VA.R. 1259	3/10/07
23 VAC 10-230-130	Repealed	23:8 VA.R. 1260	3/10/07
23 VAC 10-230-50	Repealed	23:6 VA.R. 968	2/10/07
23 VAC 10-250	Repealed	23:8 VA.R. 1260	3/10/07
23 VAC 10-300-10	Repealed	23:8 VA.R. 1262	3/10/07
23 VAC 10-300-40	Repealed	23:8 VA.R. 1263	3/10/07
23 VAC 10-300-60	Repealed	23:8 VA.R. 1263	3/10/07
23 VAC 10-300-70	Repealed	23:8 VA.R. 1263	3/10/07
23 VAC 10-310-10	Repealed	23:6 VA.R. 970	2/10/07
23 VAC 10-310-40	Repealed	23:6 VA.R. 970	2/10/07
23 VAC 10-330-1 through 23 VAC 10-330-10	Repealed	23:8 VA.R. 1264-1265	3/10/07
23 VAC 10-330-40 through 23 VAC 10-330-130	Repealed	23:8 VA.R. 1265-1267	3/10/07

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
23 VAC 10-340-10	Repealed	23:8 VA.R. 1268	3/10/07
23 VAC 10-340-50 through 23 VAC 10-340-190	Repealed	23:8 VA.R. 1268-1271	3/10/07
23 VAC 10-350-10 through 23 VAC 10-350-40	Repealed	23:8 VA.R. 1272-1273	3/10/07
23 VAC 10-350-50	Repealed	23:6 VA.R. 971	2/10/07
23 VAC 10-350-60	Repealed	23:6 VA.R. 973	2/10/07
23 VAC 10-350-70	Repealed	23:8 VA.R. 1273	3/10/07
23 VAC 10-350-80	Repealed	23:8 VA.R. 1273	3/10/07
23 VAC 10-350-90	Repealed	23:6 VA.R. 974	2/10/07
23 VAC 10-350-100	Repealed	23:6 VA.R. 974	2/10/07
23 VAC 10-350-110 through 23 VAC 10-350-190	Repealed	23:8 VA.R. 1273-1275	3/10/07
23 VAC 10-360	Repealed	23:6 VA.R. 975	2/10/07
23 VAC 10-370-10	Repealed	23:8 VA.R. 1277	3/10/07
23 VAC 10-370-30	Repealed	23:8 VA.R. 1277	3/10/07
23 VAC 10-370-50	Repealed	23:6 VA.R. 977	2/10/07
23 VAC 10-370-60	Repealed	23:6 VA.R. 977	2/10/07
23 VAC 10-370-130	Repealed	23:8 VA.R. 1277	3/10/07
23 VAC 10-370-140	Repealed	23:8 VA.R. 1277	3/10/07
23 VAC 10-370-150	Repealed	23:6 VA.R. 977	2/10/07
23 VAC 10-370-160	Repealed	23:8 VA.R. 1278	3/10/07
23 VAC 10-370-170	Repealed	23:8 VA.R. 1278	3/10/07
23 VAC 10-370-190 through 23 VAC 10-370-230	Repealed	23:8 VA.R. 1278-1279	3/10/07
23 VAC 10-380	Repealed	23:8 VA.R. 1279	3/10/07
23 VAC 10-390-10	Repealed	23:6 VA.R. 979	2/10/07
23 VAC 10-390-30	Repealed	23:6 VA.R. 979	2/10/07
23 VAC 10-390-50	Repealed	23:6 VA.R. 979	2/10/07
Title 24. Transportation and Motor Vehicles			
24 VAC 30-271-10	Amended	23:2 VA.R. 259	11/1/06
24 VAC 30-271-20	Amended	23:2 VA.R. 259	11/1/06
24 VAC 30-280-10	Repealed	23:8 VA.R. 1281	12/1/06
24 VAC 30-280-20 through 24 VAC 30-280-70	Amended	23:8 VA.R. 1281-1287	12/1/06
24 VAC 30-280-25	Added	23:8 VA.R. 1282	12/1/06
24 VAC 30-280-65	Added	23:8 VA.R. 1287	12/1/06
24 VAC 30-550	Repealed	22:24 VA.R. 3736	9/6/06
24 VAC 30-551-10 through 24 VAC 30-551-100	Added	22:24 VA.R. 3736-3744	9/6/06
24 VAC 30-600	Repealed	22:24 VA.R. 3736	9/6/06

PETITIONS FOR RULEMAKING

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF MEDICINE

Agency Decision

Title of Regulation: **18 VAC 85-20. Regulations Governing the Practice of Medicine, Osteopathic Medicine, Podiatry and Chiropractic.**

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

Name of Petitioner: Dr. William Ward on behalf of the Virginia Chiropractic Association.

Nature of Petitioner's Request: Require applicants for licensure in chiropractic after July 1, 2010, to have a bachelor's degree from an accredited college or university prior to enrolling in chiropractic school.

Agency's Decision: Request granted.

Statement of Reasons for Decision: On February 22, 2007, the board decided to proceed with a Notice of Intended Regulatory Action to amend its regulations in accordance with the petition.

Agency Contact: William L. Harp, M.D., Executive Director, Virginia Board of Medicine, 6603 West Broad Street, Richmond, VA 23230-1712, telephone (804) 662-7423, FAX (804) 662-9943, or email william.harp@dhp.virginia.gov.

VA.R. Doc. No. R07-19; Filed February 27, 2007, 12:44 p.m.

NOTICES OF INTENDED REGULATORY ACTION

Symbol Key

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

TITLE 4. CONSERVATION AND NATURAL RESOURCES

VIRGINIA SOIL AND WATER CONSERVATION BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Virginia Soil and Water Conservation Board intends to consider amending regulations entitled **4 VAC 50-60, Stormwater Management Regulations**. The purpose of the proposed action is to develop a new General Permit for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems. Regulations developed under the federal Clean Water Act (33 USC § 1251 et seq.) and the Virginia Stormwater Management Law (§ 10.1-603.2 et seq. of the Code of Virginia) require that VSMP permits be effective for a fixed term not to exceed five years (§ 10.1-603.2:2 B). The existing five-year general permit was issued on December 9, 2002, thus necessitating the promulgation of a new general permit by the December 9, 2007, expiration date.

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

Statutory Authority: §§ 10.1-107 and 10.1-603.4 of the Code of Virginia.

Public comments may be submitted until 5 p.m., April 4, 2007.

Contact: David C. Dowling, Policy, Planning, and Budget Director, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-2291, FAX (804) 786-6141, or email david.dowling@dcr.virginia.gov.

VA.R. Doc. No. R07-147; Filed February 13, 2007, 1:21 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 amend the state's antidegradation policy part of

the Water Quality Standards by designating the Hazel River within Rappahannock County from its headwaters downstream to the Shenandoah National Park boundary and that portion of the Hazel River within Culpeper County from its first crossing of the Rappahannock County and Culpeper County boundary line downstream to its confluence with the Rappahannock River as exceptional state waters.

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

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

Public comments may be submitted until 5 p.m. on April 2, 2007.

Contact: David C. Whitehurst, Department of Environmental Quality, P.O. Box 1105, 629 E. Main St., Richmond, VA 23218, telephone (804) 698-4121, FAX (804) 698-4116, or email dewwhitehurst@deq.virginia.gov.

VA.R. Doc. No. R07-138; Filed January 24, 2007, 10:47 a.m.



TITLE 12. HEALTH

STATE MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Mental Health, Mental Retardation and Substance Abuse Services Board intends to consider amending regulations entitled **12 VAC 35-200, Regulations for Respite and Emergency Care Admissions to Mental Retardation Facilities**. The purpose of the proposed action is to revise the regulations to clarify, update and respond to changes in practice related to admissions to state mental retardation facilities.

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

Statutory Authority: §§ 37.2-203 and 37.2-807 of the Code of Virginia.

Public comments may be submitted until March 20, 2007.

Contact: Cynthia Smith, Office of Mental Retardation Services, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218, telephone (804) 786-0946, FAX (804) 692-0077 or email cynthia.smith@co.dmhmrzas.virginia.gov.

VA.R. Doc. No. R07-134; Filed January 19, 2007, 11:39 a.m.

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TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS, CERTIFIED INTERIOR DESIGNERS AND LANDSCAPE ARCHITECTS

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects intends to consider amending regulations entitled **18 VAC 10-20, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects Rules and Regulations**. The purpose of the proposed action is to develop regulations to implement a mandatory continuing education program as required by HB 1054 from the 2006 General Assembly session. Other changes that may be necessary may also be considered.

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

Statutory Authority: §§ 54.1-404 and 54.1-404.2 of the Code of Virginia.

Public comments may be submitted until March 21, 2007.

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, email apelscidla@dpor.virginia.gov.

VA.R. Doc. No. R07-135; Filed January 23, 2007, 11:15 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects intends to consider amending regulations entitled **18 VAC 10-20, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects Rules and Regulations**. The purpose of the proposed action is to amend the regulation to permit architect license applicants who are applying via examination to begin taking divisions of the Architect Registration Examination (ARE) prior to completing the Intern Development Program (IDP). Currently, the board's regulation requires an architect

examination applicant to complete the IDP prior to becoming eligible to take the ARE. Other changes that may be necessary may also be considered.

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

Statutory Authority: § 54.1-404 of the Code of Virginia.

Public comments may be submitted until March 21, 2007.

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) 367-0795, email apelscidla@dpor.virginia.gov.

VA.R. Doc. No. R07-136; Filed January 23, 2007, 11:15 a.m.

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REGULATIONS

For information concerning the different types of regulations, see the Information Page.

Symbol Key

Roman type indicates existing text of regulations. Underscored language indicates proposed new text. Language that has been stricken indicates proposed text for deletion. Brackets are used in final regulations to indicate changes from the proposed regulation.

TITLE 4. CONSERVATION AND NATURAL RESOURCES

MARINE RESOURCES COMMISSION

Emergency Regulation

Title of Regulation: **4 VAC 20-270. Pertaining to Crabbing (amending 4 VAC 20-270-30 and 4 VAC 20-270-40).**

Statutory Authority: § 28.2-210 of the Code of Virginia.

Effective Dates: March 1, 2007 through March 30, 2007.

Agency Contact: Brandy L. Battle, Agency Regulatory Coordinator, Marine Resources Commission, 2600 Washington Avenue, 3rd Floor, Newport News, VA 23607, telephone (757) 247-2248, FAX (757) 247-2002, or email brandy.battle@mrc.virginia.gov.

Preamble:

This emergency amendment (i) modifies the dates when it is lawful to harvest crabs by crab pot or peeler pot during the hours of 6 a.m. to 2 p.m. to include March 17 through March 31, (ii) extends the fishing season for crabs by crab pot or peeler pot by starting that season on March 17 instead of April 1, and (iii) modifies the dates when fish pots are prohibited in Virginia waters to March 12 through March 16.

4 VAC 20-270-30. Daily time limits.

A. It shall be unlawful for any person licensed to catch and sell crabs taken by crab pot or peeler pot to take and harvest crabs from any crab pot or peeler pot, or to retrieve, bait or set any crab pot or peeler pot, except during the lawful daily time periods described in this subsection or subsection B of this section. The lawful daily time periods for the commercial harvesting of crabs by crab pot or peeler pot shall be from 6 a.m. to 2 p.m. ~~during the months of April, September, October, and November~~ from March 17 through April 30 and September 1 through November 30, and from 5 a.m. to 1 p.m. during the months of May, June, July, and August, except as specified in subsection B of this section. Crab pots or peeler pots already on board a boat at the end of the lawful daily time period, as defined in this subsection or subsection B of this section, may be set during the period starting immediately following the lawful daily time period and ending one hour after the lawful daily time period.

B. Any licensed crab pot or peeler pot fisherman who provides an opinion and supporting documentation from an

attending physician to the commissioner of an existing medical condition that prevents him from adhering to the daily time limit established in subsection A of this section may be permitted by the commissioner or his designee to take and harvest crabs from his crab pot or peeler pot, or to retrieve, bait or set his crab pot or peeler pot during an alternate eight-hour daily time limit. That alternative eight-hour daily time limit will be prescribed by the commissioner or his designee in accordance with the medical condition that forms a basis for the exception to the daily time limit as described in subsection A of this section.

Nothing in this regulation shall prohibit any licensed crab pot or peeler pot fisherman, who has been granted an exception to the eight-hour work schedule, on a medical basis, from using another licensed crab pot or peeler pot fisherman as a mate, provided; however, during the designated alternate work hours, only the crab pots or peeler pots of the fisherman receiving the exception shall be fished. Further, it shall be unlawful for the licensed crab fisherman, who has been granted an exception, or his mate, who is a licensed crab pot or peeler pot fisherman, to fish, set, retrieve, or bait, during the alternate work hours, any crab pot or peeler pot that is not owned and licensed by the fisherman granted the exception.

C. It shall be unlawful to take or harvest crabs by crab dredge between sunset and sunrise.

D. The lawful daily time periods for the commercial harvest of crabs by crab pot or peeler pot may be rescinded by the Commissioner of Marine Resources when he determines that a pending weather event is sufficient cause for the removal of crab pots from the tidal waters of the Commonwealth.

4 VAC 20-270-40. Season limits.

A. It shall be unlawful for any person knowingly to place, set, fish or leave any hard crab pot or peeler crab pot in any tidal waters of Virginia from December 1 through March ~~31~~ 16.

B. It shall be unlawful for any person knowingly to place, set, fish or leave any fish pot in any tidal waters from March ~~27~~ 12 through March ~~31~~ 16 period, except as provided in subdivisions 1 and 2 of this subsection.

1. It shall be lawful for any person to place, set, or fish any fish pot in those waters located upriver of the following boundary lines:

a. In the James River the boundary shall be a line connecting Hog Point and the downstream point at the mouth of College Creek.

b. In the York River the boundary lines shall be the Route 33 bridges at West Point.

c. In the Rappahannock River the boundary line shall be the Route 360 bridge at Tappahannock.

2. This subsection shall not apply to lawful eel pots as described in 4 VAC 20-500-50.

VA.R. Doc. No. R07-159; Filed March 2, 2007, 9:44 a.m.

Emergency Regulation

Title of Regulation: 4 VAC 20-300. Pertaining to Crab Catch Limits (amending 4 VAC 20-300-20).

Statutory Authority: § 28.2-210 of the Code of Virginia.

Effective Dates: March 1, 2007 through March 30, 2007.

Agency Contact: Brandy L. Battle, Agency Regulatory Coordinator, Marine Resources Commission, 2600 Washington Avenue, 3rd Floor, Newport News, VA 23607, telephone (757) 247-2248, FAX (757) 247-2002, or email brandy.battle@mrc.virginia.gov.

Preamble:

This emergency amendment extends the time period when the crab pot catch per vessel or boat is limited to 51 bushels or 17 barrels by starting that limit on March 17 instead of April 1.

4 VAC 20-300-20. Catch limit and season.

A. During the period ~~April 1~~ March 17 through May 31, no boat or vessel shall take or catch by crab pot, or have in possession more than 51 bushels or 17 barrels of crabs in any one day.

B. In examining a particular boat's catch, if the marine patrol officer finds crabs in excess of the 51 bushel or 17 barrel limit, the quantity of crabs in excess shall be immediately returned to the water by the person who possessed such crabs. The refusal to return the crabs to the water shall constitute a separate violation of this chapter.

VA.R. Doc. No. R07-160; Filed March 2, 2007, 9:44 a.m.

TITLE 9. ENVIRONMENT

STATE AIR POLLUTION CONTROL BOARD

Final Regulation

Title of Regulation: 9 VAC 5-140. Regulation for Emissions Trading (adding Part II: Article 1 (9 VAC 5-140-1010 through 9 VAC 5-140-1080), Article 2 (9 VAC 5-140-1100 through 9 VAC 5-140-1150), Article 3 (9 VAC 5-140-1200 through 9 VAC 5-140-1240), Article 4 (9 VAC 5-

140-1300), Article 5 (9 VAC 5-140-1400 through 9 VAC 5-140-1430), Article 6 (9 VAC 5-140-1500 through 9 VAC 5-140-1570), Article 7 (9 VAC 5-140-1600), Article 8 (9 VAC 5-140-1700 through 9 VAC 5-140-1750), Article 9 (9 VAC 5-140-1800 through 9 VAC 5-140-1880); Part III: Article 1 (9 VAC 5-140-2010 through 9 VAC 5-140-2080), Article 2 (9 VAC 5-140-2100 through 9 VAC 5-140-2150), Article 3 (9 VAC 5-140-2200 through 9 VAC 5-140-2240), Article 4 (9 VAC 5-140-2300), Article 5 (9 VAC 5-140-2400 through 9 VAC 5-140-2430), Article 6 (9 VAC 5-140-2500 through 9 VAC 5-140-2570), Article 7 (9 VAC 5-140-2600 through 9 VAC 5-140-2620), Article 8 (9 VAC 5-140-2700 through 9 VAC 5-140-2750), Article 9 (9 VAC 5-140-2800 through 9 VAC 5-140-2880); Part IV: Article 1 (9 VAC 5-140-3010 through 9 VAC 5-140-3080), Article 2 (9 VAC 5-140-3100 through 9 VAC 5-140-3150), Article 3 (9 VAC 5-140-3200 through 9 VAC 5-140-3240), Article 4 (9 VAC 5-140-3300), Article 5 (9 VAC 5-140-3400 through 9 VAC 5-140-3420), Article 6 (9 VAC 5-140-3500 through 9 VAC 5-140-3570), Article 7 (9 VAC 5-140-3600 through 9 VAC 5-140-3620), Article 8 (9 VAC 5-140-3700 through 9 VAC 5-140-3750), Article 9 (9 VAC 5-140-3800 through 9 VAC 5-140-3880).

Statutory Authority: §§ 10.1-1308 and 10.1-1322.3 of the Code of Virginia; 40 CFR Part 51; 42 USC §§ 7408, 7409, 7410 and 7602.

Effective Date: April 18, 2007.

Agency Contact: Mary E. Major, Department of Environmental Quality, P.O. Box 1105, 629 East Main Street, Richmond, VA 23218, telephone (804) 698-4423, FAX (804) 698-4510, or email memajor@deq.virginia.gov.

Summary:

(Part II): NO_x Annual Trading Program. This part establishes a NO_x Annual Trading Program, which addresses the following substantive provisions: permitting, allowance methodology, monitoring, banking, compliance supplement pool, compliance determination, and opt-in provisions for sources not covered by the regulation. Virginia's NO_x annual budgets are 36,074 tons in 2009 through 2014 and 30,062 tons in 2015 and thereafter.

Beginning January 1, 2009, electric generating units with a nameplate capacity greater than 25 MWe will be subject to the provisions of this part. To accommodate the NO_x emissions from the affected units, the units are allocated from the budget a specific limited number of allowances (measured in tons per year) during the months of January 1 through December 31, otherwise known as the control period. The NO_x allocations are determined through a methodology based upon heat input for existing units and electrical output for new units. January 1, 2006, is the cutoff for determining whether a unit is new or existing. If a unit does not use all of its allowances for a specific control

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period, those extra tons may be banked for future use or sold. If a unit exceeds the allocated allowances, additional allowances may be purchased or the source may use banked allowances to offset the amount of NO_x generated above the allocated allowances. Smaller sources within the affected source categories are allowed to opt-in to the program.

Sources found to be out of compliance will be forced to surrender allowances for the next year on a ratio of 3:1, i.e. for every ton over its allocations, three tons will be forfeited from the next year's allocation.

Emissions will need to be monitored according to 40 CFR Part 75 for all sources subject to the regulation and for any sources wishing to opt-in to the program.

A compliance supplement pool (5,134 tons) is provided for sources that generate early reduction credits. The allowances from the pool are valid for only one year (2009) and cannot be banked after that one-year period.

The following substantive changes have been made since publication of the proposal:

1. The provisions related to compliance in nonattainment areas have been revised to establish an independent annual emissions cap equivalent to the number of allowances issued to the affected unit.

2. Provisions have been added to establish a set-aside budget for efficient energy/renewable energy (EERE) sources.

3. The provisions related to the compliance supplement pool (CSP) have been revised to comply with § 10.1-1328 B of the Code of Virginia.

(Part III): NO_x Ozone Season Trading Program. This part establishes a NO_x Ozone Season Trading Program that addresses the following substantive provisions: permitting, allowance methodology, monitoring, banking, compliance determination, and opt-in provisions for sources not covered by the regulation. Virginia's NO_x ozone season budgets for electric generating units are 15,994 tons in 2009 through 2014 and 13,328 tons in 2015 and thereafter. Virginia's NO_x ozone season budget for nonelectric generating units is 3,840 tons in 2009 and thereafter.

Beginning May 1, 2009, electric generating units with a nameplate capacity greater than 25 MWe and nonelectric generating units above 250 mmBtu will be subject to the provisions of this part. To accommodate the NO_x emissions from the affected units, the units are allocated from the budget a specific limited number of allowances (measured in tons per season) during the summer months of May 1 through September 30, otherwise known as the control period. The NO_x allocations are determined through a methodology based upon heat input for existing units and electrical output for new units. January 1, 2006, is the

cutoff for determining whether a unit is new or existing. If a unit does not use all of its allowances for a specific control period, those extra tons may be banked for future use or sold. If a unit exceeds the allocated allowances, additional allowances may be purchased or the source may use banked allowances to offset the amount of NO_x generated above the allocated allowances. Smaller sources within the affected source categories are allowed to opt-in to the program.

Sources found to be out of compliance will be forced to surrender allowances for the next year on a ratio of 3:1, i.e. for every ton over its allocations, three tons will be forfeited from the next year's allocation.

Emissions will need to be monitored according to 40 CFR Part 75 of the Code of Federal Regulations for all sources subject to the regulation and for any sources wishing to opt-in to the program.

The following substantive changes have been made since publication of the proposal:

1. The provisions related to compliance in nonattainment areas have been revised to establish an independent annual emissions cap equivalent to the number of allowances issued to the affected unit.

2. Provisions related to the efficient energy/renewable energy (EERE) sources have been reconfigured to increase the set-aside to a value equal to 1.0% of the EGU trading budget.

3. The non-EGU provisions have been revised to follow recent guidance from EPA regarding the transition from the NO_x SIP Call program to the CAIR program.

(Part IV): SO₂ Annual Trading Program. This part establishes a SO₂ Annual Trading Program that addresses the following substantive provisions: permitting, monitoring, banking, compliance determination, and opt-in provisions for sources not covered by the regulation. Virginia's SO₂ annual budgets are 63,478 tons in 2010 through 2014 and 44,435 tons in 2015 and thereafter.

Beginning January 1, 2010, electric generating units with a nameplate capacity greater than 25 MWe will be subject to the provisions of this part. To accommodate the SO₂ emissions from the affected units, the units have been allocated from the budget a specific limited number of allowances (measured in tons per year) during the months of January 1 through December 31, otherwise known as the control period. The SO₂ allocations are carried over from the Acid Rain Program and are valid indefinitely, except the value of the allowances is reduced over time. If a unit does not use all of its allowances for a specific control period, those extra tons may be banked for future use or sold. If a unit exceeds the allocated allowances, additional allowances may be purchased or the source may use

banked allowances to offset the amount of SO₂ generated above the allocated allowances. Smaller sources within the affected source categories are allowed to opt-in to the program.

Sources found to be out of compliance will be forced to surrender allowances for the next year on a ratio of 3:1, i.e. for every ton over its allocations, three tons will be forfeited from the next year's allocation.

Emissions will need to be monitored according to 40 CFR Part 75 for all sources subject to the regulation and for any sources wishing to opt-in to the program.

Since publication of the proposal, provisions have been added to address compliance in nonattainment areas similar to those for the NO_x trading programs.

Summary of Public Comments and Agency's Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the office of the Registrar of Regulations.

PART II. NO_x ANNUAL TRADING PROGRAM.

Article 1.

CAIR NO_x Annual Trading Program General Provisions.

9 VAC 5-140-1010. Purpose.

This part establishes general provisions and the designated representative, permitting, allowance, monitoring, and opt-in provisions for the State Clean Air Interstate Rule (CAIR) NO_x Annual Trading Program, under § 110 of the Clean Air Act (42 USC § 7410) and 40 CFR 51.123, as a means of mitigating interstate transport of fine particulates and nitrogen oxides. The board authorizes the administrator to assist the board in implementing the CAIR NO_x Annual Trading Program by carrying out the functions set forth for the administrator in this part.

9 VAC 5-140-1020. Definitions.

A. As used in this part, all words or terms not defined here shall have the meaning given them in 9 VAC 5 Chapter 10 (9 VAC 5-10), unless otherwise required by context.

B. For the purpose of this part and any related use, the words or terms shall have the meaning given them in this paragraph.

"Account number" means the identification number given by the administrator to each CAIR NO_x Allowance Tracking System account.

"Acid rain emissions limitation" means a limitation on emissions of sulfur dioxide or nitrogen oxides under the Acid Rain Program.

"Acid Rain Program" means a multistate sulfur dioxide and nitrogen oxides air pollution control and emission reduction

program established by the administrator under Title IV of the CAA and 40 CFR Parts 72 through 78.

"Administrator" means the administrator of the United States Environmental Protection Agency or the administrator's duly authorized representative.

"Allocate" or "allocation" means, with regard to CAIR NO_x allowances [~~issued under Article 5 (9 VAC 5-140-1400 et seq.) of this part~~], the determination by [~~the a~~] permitting authority or the administrator of the amount of such CAIR NO_x allowances to be initially credited to a CAIR NO_x unit [~~or~~] a new unit set-aside [~~and, with regard to CAIR NO_x allowances issued under 9 VAC 5-140-1880, the determination by the permitting authority of the amount of such CAIR NO_x allowances to be initially credited to a CAIR NO_x unit~~], a new energy efficiency/renewable energy unit set-aside, or other entity [].

"Allocation year" means the year in which allowance allocations are calculated for a future year.

"Allowance transfer deadline" means, for a control period, midnight of March 1 [~~;~~] if it is a business day []], or [~~if March 1 is not a business day;~~] midnight of the first business day thereafter [~~;~~ (if March 1 is not a business day),] immediately following the control period and is the deadline by which a CAIR NO_x allowance transfer must be submitted for recordation in a CAIR NO_x source's compliance account in order to be used to meet the source's CAIR NO_x emissions limitation for such control period in accordance with 9 VAC 5-140-1540.

"Alternate CAIR-designated representative" means, for a CAIR NO_x source and each CAIR NO_x unit at the source, the natural person who is authorized by the owners and operators of the source and all such units at the source [~~;~~] in accordance with Article 2 (9 VAC 5-140-1100 et seq.) and Article 9 (9 VAC 5-140-1800 et seq.) of this part, to act on behalf of the CAIR-designated representative in matters pertaining to the CAIR NO_x Annual Trading Program. If the CAIR NO_x source is also a CAIR SO₂ source, then this natural person shall be the same person as the alternate CAIR-designated representative under the CAIR SO₂ Trading Program. If the CAIR NO_x source is also a CAIR NO_x Ozone Season source, then this natural person shall be the same person as the alternate CAIR-designated representative under the CAIR NO_x Ozone Season Trading Program. If the CAIR NO_x source is also subject to the Acid Rain Program, then this natural person shall be the same person as the alternate designated representative under the Acid Rain Program. [If the CAIR NO_x source is also subject to the Hg Budget Trading Program, then this natural person shall be the same person as the alternate Hg designated representative under the Hg Budget Trading Program.]

"Automated data acquisition and handling system" or "DAHS" means that component of the continuous emission

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monitoring system, or other emissions monitoring system approved for use under Article 8 (9 VAC 5-140-1700 et seq.) of this part, designed to interpret and convert individual output signals from pollutant concentration monitors, flow monitors, diluent gas monitors, and other component parts of the monitoring system to produce a continuous record of the measured parameters in the measurement units required by Article 8 (9 VAC 5-140-1700 et seq.) of this part.

["Biomass energy" means energy derived from the combustion or electro-chemical reaction (as with a fuel cell) of hydrocarbon materials of a biogenic origin using a solid, liquid or gaseous fuel. Biomass fuel materials include, but are not limited to, animal wastes (e.g., manure) and clean plant materials (e.g., wood chips, waste paper and crop wastes). Biomass fuels exclude products that have emissions that include heavy metals and other neurotoxins (e.g., municipal solid wastes). Biomass fuel materials may be converted to a gaseous fuel, such as landfills (i.e., landfill gas) or waste treatment facilities (i.e., digester gas), or to liquid fuels (e.g., biodiesel). To be considered a biomass facility, the facility must (i) employ maximum achievable control technology and continuous emission stack monitors for all chemical emissions of concern to human health and (ii) be listed in one of the following categories: anaerobic digestion systems operating on animal or plant wastes, methane gas, combustion of clean wood, bark or other plant material; or on combustion of fuels derived entirely from processing of clean wood, bark, or other plant or animal material, including processing by gasification, pyrolysis, fermentation, distillation, or densification.]

"Boiler" means an enclosed fossil- or other fuel-fired combustion device used to produce heat and to transfer heat to recirculating water, steam, or other medium.

"Bottoming-cycle cogeneration unit" means a cogeneration unit in which the energy input to the unit is first used to produce useful thermal energy and at least some of the reject heat from the useful thermal energy application or process is then used for electricity production.

"CAIR-authorized account representative" means, with regard to a general account, a responsible natural person who is authorized, in accordance with Article 2 (9 VAC 5-140-1100 et seq.) [, Article 6 (9 VAC 5-140-1500 et seq.),] and Article 9 (9 VAC 5-140-1800 et seq.) of this part, to transfer and otherwise dispose of CAIR NO_x allowances held in the general account and, with regard to a compliance account, the CAIR-designated representative of the source.

"CAIR-designated representative" means, for a CAIR NO_x source and each CAIR NO_x unit at the source, the natural person who is authorized by the owners and operators of the source and all such units at the source, in accordance with Article 2 (9 VAC 5-140-1100 et seq.) and Article 9 (9 VAC 5-140-1800 et seq.) of this part, to represent and legally bind each owner and operator in matters pertaining to the CAIR

NO_x Annual Trading Program. If the CAIR NO_x source is also a CAIR SO₂ source, then this natural person shall be the same person as the CAIR-designated representative under the CAIR SO₂ Trading Program. If the CAIR NO_x source is also a CAIR NO_x Ozone Season source, then this natural person shall be the same person as the CAIR-designated representative under the CAIR NO_x Ozone Season Trading Program. If the CAIR NO_x source is also subject to the Acid Rain Program, then this natural person shall be the same person as the designated representative under the Acid Rain Program. [If the CAIR NO_x source is also subject to the Hg Budget Trading Program, then this natural person shall be the same person as the Hg designated representative under the Hg Budget Trading Program.]

"CAIR NO_x allowance" means a limited authorization issued by [~~the a~~] permitting authority or the administrator under Article 5 (9 VAC 5-140-1400 et seq.) of this part or 9 VAC 5-140-1880 [, provisions of an implementation plan that are approved under 40 CFR 51.123(o)(1) or (2) or (p), or under subpart EE of 40 CFR Part 97 or 40 CFR 97.188,] to emit one ton of nitrogen oxides during a control period of the specified calendar year for which the authorization is allocated or of any calendar year thereafter under the CAIR NO_x Program. An authorization to emit nitrogen oxides that is not issued under [Article 5 (9 VAC 5-140-1400 et seq.) of this part or 9 VAC 5-140-1880,] provisions of [~~a state an~~] implementation plan that are approved under 40 CFR 51.123(o)(1) or (2) [or (p), or under subpart EE of 40 CFR Part 97 or 40 CFR 97.188] shall not be a CAIR NO_x allowance. No provision of the CAIR NO_x Annual Trading Program, the CAIR permit application, the CAIR permit, or an exemption under [~~subdivision 1~~ of 9 VAC 5-140-1040 [B] or 9 VAC 5-140-1050 and no provision of law shall be construed to limit the authority of the United States or board to terminate or limit such authorization, which does not constitute a property right.

"CAIR NO_x allowance deduction" or "deduct CAIR NO_x allowances" means the permanent withdrawal of CAIR NO_x allowances by the administrator from a compliance account [, e.g.,] in order to account for a specified number of tons of total nitrogen oxides emissions from all CAIR NO_x units at a CAIR NO_x source for a control period, determined in accordance with Article 18 (9 VAC 5-140-1700 et seq.) of this part, or to account for excess emissions.

"CAIR NO_x Allowance Tracking System" means the system by which the administrator records allocations, deductions, and transfers of CAIR NO_x allowances under the CAIR NO_x Annual Trading Program. Such allowances will be allocated, held, deducted, or transferred only as whole allowances.

"CAIR NO_x Allowance Tracking System account" means an account in the CAIR NO_x Allowance Tracking System established by the administrator for purposes of recording the

allocation, holding, transferring, or deducting of CAIR NO_x allowances.

"CAIR NO_x allowances held" or "hold CAIR NO_x allowances" means the CAIR NO_x allowances recorded by the administrator, or submitted to the administrator for recordation, in accordance with Article 6 (9 VAC 5-140-1500 et seq.), Article 7 (9 VAC 5-140-1600 et seq.), and Article 9 (9 VAC 5-140-1800 et seq.) of this part, in a CAIR NO_x Allowance Tracking System account.

["CAIR NO_x Annual core trading budget" means the amount of tons of NO_x emissions in the CAIR NO_x Annual trading budget for the control period minus the new unit set-aside budget and the new energy efficiency/renewable energy unit set-aside budget.

"CAIR NO_x Annual trading budget" means the total number of NO_x tons set forth in 9 VAC 5-140-1400 and apportioned to all CAIR NO_x units and energy efficiency/renewable energy units in accordance with the CAIR NO_x Annual Trading Program, for use in a given control period.]

"CAIR NO_x Annual Trading Program" means a multistate nitrogen oxides air pollution control and emission reduction program approved and administered by the administrator in accordance with this part and 40 CFR 51.123 [(o)(1) or (2) or established by the administrator in accordance with subparts AA through II of 40 CFR Part 97 and 40 CFR 51.123(p) and 52.35], as a means of mitigating interstate transport of fine particulates and nitrogen oxides.

"CAIR NO_x emissions limitation" means, for a CAIR NO_x source, the tonnage equivalent [in NO_x emissions in a control period.] of the CAIR NO_x allowances available for deduction for the source under 9 VAC 5-140-1540 A and B for [a the] control period.

"CAIR NO_x Ozone Season source" means a source that [~~includes one or more~~ is subject to the] CAIR NO_x Ozone Season [~~units~~ Trading Program].

"CAIR NO_x Ozone Season Trading Program" means a multistate nitrogen oxides air pollution control and emission reduction program approved and administered by the administrator in accordance with Part III [(9 VAC 5-140-2010 et seq.)] of this chapter and 40 CFR 51.123 [(aa)(1) or (2) and (bb)(1), (bb)(2), or (dd) or established by the administrator in accordance with subparts AAAA through IIII of 40 CFR Part 97 and 40 CFR 51.123(ee) and 52.35], as a means of mitigating interstate transport of ozone and nitrogen oxides.

["~~CAIR NO_x Ozone Season unit~~" means a unit that is subject to the CAIR NO_x Ozone Season Trading Program under 9 VAC 5-140-2040 and a CAIR NO_x Ozone Season opt in unit under Article 9 (9 VAC 5-140-2800 et seq.) of Part III of this chapter.]

"CAIR NO_x source" means a source that includes one or more CAIR NO_x units.

"CAIR NO_x unit" means a unit that is subject to the CAIR NO_x Annual Trading Program under 9 VAC 5-140-1040 and, except for purposes of 9 VAC 5-140-1050 and Article 5 (9 VAC 5-140-1400 et seq.) of this part, a CAIR NO_x opt-in unit under Article 9 (9 VAC 5-140-1800 et seq.) of this part.

"CAIR permit" means the [the terms and conditions in a] Title V operating permit or state operating permit, issued by the permitting authority under Article 3 (9 VAC 5-140-1200 et seq.) of this part, including any permit revisions, specifying the CAIR NO_x Annual Trading Program requirements applicable to a CAIR NO_x source, to each CAIR NO_x unit at the source, and to the owners and operators and the CAIR-designated representative of the source and each such unit.

"CAIR SO₂ source" means a source that [~~includes one or more CAIR SO₂ units~~ is subject to the CAIR SO₂ Trading Program].

"CAIR SO₂ Trading Program" means a multistate sulfur dioxide air pollution control and emission reduction program approved and administered by the administrator in accordance with Part IV (9 VAC 5-140-3010 et seq.) of this chapter and 40 CFR 51.124 [(o)(1) or (2) or established by the administrator in accordance with subparts AAA through III of 40 CFR Part 97 and 40 CFR 51.124(r) and 52.36], as a means of mitigating interstate transport of fine particulates and sulfur dioxide.

["~~CAIR SO₂ unit~~" means a unit that is subject to the CAIR SO₂ Trading Program under 9 VAC 5-140-3040 and a CAIR SO₂ opt in unit under Article 9 (9 VAC 5-140-3800 et seq.) of Part IV (9 VAC 5-140-3010 et seq.) of this chapter.]

"Clean Air Act" or "CAA" means the Clean Air Act, 42 USC § 7401 [] et seq.

"Coal" means any solid fuel classified as anthracite, bituminous, subbituminous, or lignite.

"Coal-derived fuel" means any fuel (whether in a solid, liquid, or gaseous state) produced by the mechanical, thermal, or chemical processing of coal.

"Coal-fired" means:

1. Except for purposes of Article 5 (9 VAC 5-140-1400 et seq.) of this part, combusting any amount of coal or coal-derived fuel, alone or in combination with any amount of any other fuel, during any year; or

2. For purposes of Article 5 (9 VAC 5-140-1400 et seq.) of this part, combusting any amount of coal or coal-derived fuel, alone or in combination with any amount of any other fuel, during a specified year.

"Cogeneration unit" means a stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine;

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1. Having equipment used to produce electricity and useful thermal energy for industrial, commercial, heating, or cooling purposes through the sequential use of energy; and

2. Producing during the 12-month period starting on the date the unit first produces electricity and during any calendar year after [the calendar year in] which the unit first produces electricity:

a. For a topping-cycle cogeneration unit,

(1) Useful thermal energy not less than 5.0% of total energy output; and

(2) Useful power that, when added to one-half of useful thermal energy produced, is not less than 42.5% of total energy input, if useful thermal energy produced is 15% or more of total energy output, or not less than 45% of total energy input, if useful thermal energy produced is less than 15% of total energy output.

b. For a bottoming-cycle cogeneration unit, useful power not less than 45% of total energy input.

"Combustion turbine" means:

1. An enclosed device comprising a compressor, a combustor, and a turbine and in which the flue gas resulting from the combustion of fuel in the combustor passes through the turbine, rotating the turbine; and

2. If the enclosed device under subdivision 1 of this definition is combined cycle, any associated [duct burner,] heat recovery steam generator [,] and steam turbine.

"Commence commercial operation" means, with regard to a unit [serving a generator]:

1. To have begun to produce steam, gas, or other heated medium used to generate electricity for sale or use, including test generation, except as provided in 9 VAC 5-140-1050 [and subdivision 8 of 9 VAC 5-140-1840].

a. For a unit that is a CAIR NO_x unit under 9 VAC 5-140-1040 on [the later of November 15, 1990, or] the date the unit commences commercial operation as defined in subdivision 1 of this definition and that subsequently undergoes a physical change (other than replacement of the unit by a unit at the same source), such date shall remain the [unit's] date of commencement of commercial operation [of the unit, which shall continue to be treated as the same unit].

b. For a unit that is a CAIR NO_x unit under 9 VAC 5-140-1040 on [the later of November 15, 1990, or] the date the unit commences commercial operation as defined in subdivision 1 of this definition and that is subsequently replaced by a unit at the same source (e.g., repowered), [such date shall remain the replaced unit's date of commencement of commercial operation, and] the replacement unit shall be treated as a separate unit with a separate date for

commencement of commercial operation as defined in subdivision 1 [~~2~~] or [~~3~~ 2] of this definition as appropriate.

2. Notwithstanding subdivision 1 of this definition and except as provided in 9 VAC 5-140-1050, for a unit that is not a CAIR NO_x unit under 9 VAC 5-140-1040 on [the later of November 15, 1990, or] the date the unit commences commercial operation as defined in subdivision 1 of this definition [~~and is not a unit under subdivision 3 of this definition~~], the unit's date for commencement of commercial operation shall be the date on which the unit becomes a CAIR NO_x unit under 9 VAC 5-140-1040.

a. For a unit with a date for commencement of commercial operation as defined in subdivision 2 of this definition and that subsequently undergoes a physical change (other than replacement of the unit by a unit at the same source), such date shall remain the [unit's] date of commencement of commercial operation [of the unit, which shall continue to be treated as the same unit].

b. For a unit with a date for commencement of commercial operation as defined in subdivision 2 of this definition and that is subsequently replaced by a unit at the same source (e.g., repowered), [such date shall remain the replaced unit's date of commencement of commercial operation, and] the replacement unit shall be treated as a separate unit with a separate date for commencement of commercial operation as defined in subdivision 1 [~~2~~] or [~~3~~ 2] of this definition as appropriate.

~~[3. Notwithstanding subdivision 1 of this definition and except as provided in subdivision 8 of 9 VAC 5-140-1840 or 9 VAC 5-140-1870-B 3, for a CAIR NO_x unit or a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under Article 9 (9 VAC 5-140-1800 et seq.) of this part, the unit's date for commencement of commercial operation shall be the date on which the owner or operator is required to start monitoring and reporting the NO_x emissions rate and the heat input of the unit under subdivision 2 a (1) of 9 VAC 5-140-1840.~~

~~a. For a unit with a date for commencement of commercial operation as defined in subdivision 3 of this definition and that subsequently undergoes a physical change (other than replacement of the unit by a unit at the same source), such date shall remain the unit's date of commencement of commercial operation.~~

~~b. For a unit with a date for commencement of commercial operation as defined in subdivision 3 of this definition and that is subsequently replaced by a unit at the same source (e.g., repowered), the replacement unit shall be treated as a separate unit with a separate date for commencement of commercial operation as defined in subdivision 1, 2, or 3 of this definition as appropriate.~~

~~4. Notwithstanding subdivisions 1 through 3 of this definition, for a unit not serving a generator producing electricity for sale, the unit's date of commencement of operation shall also be the unit's date of commencement of commercial operation.~~]

"Commence operation" means:

~~1. To have begun any mechanical, chemical, or electronic process, including, with regard to a unit, start-up of a unit's combustion chamber, except as provided in [9 VAC 5-140-1050 subdivision 8 of 9 VAC 5-140-1840].~~

~~[a. 2. For a unit that [is a CAIR NO_x unit under 9 VAC 5-140-1040 on the date the unit commences operation as defined in subdivision 1 of this definition and that subsequently] undergoes a physical change (other than replacement of the unit by a unit at the same source) [after the date the unit commences operation as defined in subdivision 1 of this definition], such date shall remain the [unit's] date of commencement of operation [of the unit, which shall continue to be treated as the same unit].~~

~~[b. 3.] For a unit that is [a CAIR NO_x unit under 9 VAC 5-140-1040 on the date the unit commences operation as defined in subdivision 1 of this definition and that is subsequently] replaced by a unit at the same source (e.g., repowered), [after the date the unit commences operation as defined in subdivision 1 of this definition, such date shall remain the replaced unit's date of commencement of operation, and] the replacement unit shall be treated as a separate unit with a separate date for commencement of operation as defined in subdivision 1, 2, or 3 of this definition as appropriate [, except as provided in subdivision 8 of 9 VAC 5-140-1840].~~

~~[2. Notwithstanding subdivision 1 of this definition and except as provided in 9 VAC 5-140-1050, for a unit that is not a CAIR NO_x unit under 9 VAC 5-140-1040 on the date the unit commences operation as defined in subdivision 1 of this definition and is not a unit under subdivision 3 of this definition, the unit's date for commencement of operation shall be the date on which the unit becomes a CAIR NO_x unit under 9 VAC 5-140-1040.~~

~~a. For a unit with a date for commencement of operation as defined in subdivision 2 of this definition and that subsequently undergoes a physical change (other than replacement of the unit by a unit at the same source), such date shall remain the unit's date of commencement of operation.~~

~~b. For a unit with a date for commencement of operation as defined in subdivision 2 of this definition and that is subsequently replaced by a unit at the same source (e.g., repowered), the replacement unit shall be treated as a separate unit with a separate date for commencement of operation as~~

~~defined in subdivision 1, 2, or 3 of this definition as appropriate.~~

~~3. Notwithstanding subdivision 1 of this definition and except as provided in subdivision 8 of 9 VAC 5-140-1840 or 9 VAC 5-140-1870 B 3, for a CAIR NO_x opt-in unit or a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under Article 9 (9 VAC 5-140-1800 et seq.) of this part, the unit's date for commencement of operation shall be the date on which the owner or operator is required to start monitoring and reporting the NO_x emissions rate and the heat input of the unit under subdivision 2 a (1) of 9 VAC 5-140-1840.~~

~~a. For a unit with a date for commencement of operation as defined in subdivision 3 of this definition and that subsequently undergoes a physical change (other than replacement of the unit by a unit at the same source), such date shall remain the unit's date of commencement of operation.~~

~~b. For a unit with a date for commencement of operation as defined in subdivision 3 of this definition and that is subsequently replaced by a unit at the same source (e.g., repowered), the replacement unit shall be treated as a separate unit with a separate date for commencement of operation as defined in subdivision 1, 2, or 3 of this definition as appropriate.~~]

"Common stack" means a single flue through which emissions from 2 or more units are exhausted.

"Compliance account" means a CAIR NO_x Allowance Tracking System account, established by the administrator for a CAIR NO_x source under Article 6 (9 VAC 5-140-1500 et seq.) or Article 9 (9 VAC 5-140-1800 et seq.) of this part, in which any CAIR NO_x allowance allocations for the CAIR NO_x units at the source are initially recorded and in which are held any CAIR NO_x allowances available for use for a control period in order to meet the source's CAIR NO_x emissions limitation in accordance with 9 VAC 5-140-1540.

"Continuous emission monitoring system" or "CEMS" means the equipment required under Article 8 (9 VAC 5-140-1700 et seq.) of this part to sample, analyze, measure, and provide, by means of readings recorded at least once every 15 minutes (using an automated data acquisition and handling system (DAHS)), a permanent record of nitrogen oxides emissions, stack gas volumetric flow rate, stack gas moisture content, and oxygen or carbon dioxide concentration (as applicable), in a manner consistent with 40 CFR Part 75. The following systems are the principal types of continuous emission monitoring systems required under Article 8 (9 VAC 5-140-1700 et seq.) of this part:

1. A flow monitoring system, consisting of a stack flow rate monitor and an automated data acquisition and handling

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system and providing a permanent, continuous record of stack gas volumetric flow rate, in standard cubic feet per hour (scfh);

2. A nitrogen oxides concentration monitoring system, consisting of a NO_x pollutant concentration monitor and an automated data acquisition and handling system and providing a permanent, continuous record of NO_x emissions, in parts per million (ppm);

3. A nitrogen oxides emission rate (or NO_x-diluent) monitoring system, consisting of a NO_x pollutant concentration monitor, a diluent gas (CO₂ or O₂) monitor, and an automated data acquisition and handling system and providing a permanent, continuous record of NO_x concentration, in parts per million (ppm), diluent gas concentration, in percent CO₂ or O₂ [$\frac{1}{2}$] and NO_x emission rate, in pounds per million British thermal units (lb/mmBtu);

4. A moisture monitoring system, as defined in 40 CFR 75.11(b)(2) and providing a permanent, continuous record of the stack gas moisture content, in percent H₂O;

5. A carbon dioxide monitoring system, consisting of a CO₂ pollutant concentration monitor (or an oxygen monitor plus suitable mathematical equations from which the CO₂ concentration is derived) and an automated data acquisition and handling system and providing a permanent, continuous record of CO₂ emissions, in percent CO₂; and

6. An oxygen monitoring system, consisting of an O₂ concentration monitor and an automated data acquisition and handling system and providing a permanent, continuous record of O₂, in percent O₂.

"Control period" means the period beginning January 1 of a calendar year, except as provided in 9 VAC 5-140-1060 C 2, and ending on December 31 of the same year, inclusive.

["EERE proponent" means any person who owns, leases, operates or controls an energy efficiency unit or a renewable energy unit, or an EERE representative.

"EERE representative" means a party that aggregates one or more energy efficiency units or renewable energy units. An EERE representative may include, without limitation, a common owner of projects, an energy service company, an emission trading broker or a state or municipal entity.]

"Emissions" means air pollutants exhausted from a unit or source into the atmosphere, as measured, recorded, and reported to the administrator by the CAIR-designated representative and as determined by the administrator in accordance with Article 8 (9 VAC 5-140-1700 et seq.) of this part.

["Energy efficiency unit" means an end-use energy efficiency project implemented after January 1, 2006, that reduces electricity consumption at a building or facility located in Virginia according to an energy efficiency

verification protocol acceptable to the permitting authority. Projects resulting in energy savings at a CAIR NO_x unit are not encompassed within this definition.]

"Excess emissions" means any ton of nitrogen oxides emitted by the CAIR NO_x units at a CAIR NO_x source during a control period that exceeds the CAIR NO_x emissions limitation for the source.

"Fossil fuel" means natural gas, petroleum, coal, or any form of solid, liquid, or gaseous fuel derived from such material.

"Fossil-fuel-fired" means, with regard to a unit, combusting any amount of fossil fuel in any calendar year.

"Fuel oil" means any petroleum-based fuel (including diesel fuel or petroleum derivatives such as oil tar) and any recycled or blended petroleum products or petroleum byproducts used as a fuel whether in a liquid, solid, or gaseous state.

"General account" means a CAIR NO_x Allowance Tracking System account, established under Article 6 (9 VAC 5-140-1500 et seq.) of this part, that is not a compliance account.

"Generator" means a device that produces electricity.

"Gross electrical output" means, with regard to a cogeneration unit, electricity made available for use, including any such electricity used in the power production process (which process includes, but is not limited to, any on-site processing or treatment of fuel combusted at the unit and any on-site emission controls).

"Heat input" means, with regard to a specified period of time, the product (in mmBtu/time) of the gross calorific value of the fuel (in Btu/lb) divided by 1,000,000 Btu/mmBtu and multiplied by the fuel feed rate into a combustion device (in lb of fuel/time), as measured, recorded, and reported to the administrator by the CAIR-designated representative and determined by the administrator in accordance with Article 8 (9 VAC 5-140-1700 et seq.) of this part and excluding the heat derived from preheated combustion air, recirculated flue gases, or exhaust from other sources.

"Heat input rate" means the amount of heat input (in mmBtu) divided by unit operating time (in hr) or, with regard to a specific fuel, the amount of heat input attributed to the fuel (in mmBtu) divided by the unit operating time (in hr) during which the unit combusts the fuel.

["Hg Budget Trading Program" means a multistate Hg air pollution control and emission reduction program approved and administered by the administrator in accordance with Part VI (9 VAC 5-140-5010 et seq.) of this chapter and 40 CFR 60.24(h)(6), or established by the administrator under § 111 of the Clean Air Act, as a means of reducing national Hg emissions.]

"Implementation plan" means the portion or portions of the state implementation plan, or the most recent revision thereof, which has been approved in subpart VV of 40 CFR Part 52 by

the administrator under § 110 of the CAA, or promulgated under § 110(c) of the CAA, or promulgated or approved pursuant to regulations promulgated under § 301(d) of the CAA and that implements the relevant requirements of the CAA.

"Life-of-the-unit, firm power contractual arrangement" means a unit participation power sales agreement under which a utility or industrial customer reserves, or is entitled to receive, a specified amount or percentage of nameplate capacity and associated energy generated by any specified unit and pays its proportional amount of such unit's total costs, pursuant to a contract:

1. For the life of the unit;
2. For a cumulative term of no less than 30 years, including contracts that permit an election for early termination; or
3. For a period no less than 25 years or 70% of the economic useful life of the unit determined as of the time the unit is built, with option rights to purchase or release some portion of the nameplate capacity and associated energy generated by the unit at the end of the period.

"Maximum design heat input" means [~~starting from the initial installation of a unit,~~] the maximum amount of fuel per hour (in Btu/hr) that a unit is capable of combusting on a steady state basis as [of the initial installation of the unit as] specified by the manufacturer of the unit [~~or, starting from the completion of any subsequent physical change in the unit resulting in a decrease in the maximum amount of fuel per hour (in Btu/hr) that a unit is capable of combusting on a steady state basis, such decreased maximum amount as specified by the person conducting the physical change~~].

"Monitoring system" means any monitoring system that meets the requirements of Article 8 (9 VAC 5-140-1700 et seq.) of this part, including a continuous emissions monitoring system, an alternative monitoring system, or an excepted monitoring system under 40 CFR Part 75.

"Most stringent state or federal NO_x emissions limitation" means the lowest NO_x emissions limitation (in lb/mmBtu) that is applicable to the unit under the Virginia Air Pollution Control Law or federal law, regardless of the averaging period to which the emissions limitation applies. In cases where a unit is subject to a permit that provides for the use of multiple fuels, the primary fuel shall be used as the basis to determine the most stringent state or federal NO_x emissions limitation. [~~The primary fuel shall be the fuel designated in the permit as such or as having the greatest throughput.~~]

"Nameplate capacity" means, starting from the initial installation of a generator, the maximum electrical generating output (in MWe) that the generator is capable of producing on a steady state basis and during continuous operation (when not restricted by seasonal or other deratings) as [of such installation as] specified by the manufacturer of the generator

or, starting from the completion of any subsequent physical change in the generator resulting in an increase in the maximum electrical generating output (in MWe) that the generator is capable of producing on a steady state basis and during continuous operation (when not restricted by seasonal or other deratings), such increased maximum amount as [of such completion as] specified by the person conducting the physical change.

["New energy efficiency/renewable energy unit set-aside budget" means the amount of tons of NO_x emissions in the CAIR NO_x Annual trading budget for each control period in 2009 and thereafter multiplied by 1.0%, rounded to the nearest whole allowance as appropriate.

"New unit set-aside budget" means the amount of tons of NO_x emissions in the CAIR NO_x Annual trading budget for the control period to which the new unit set-aside applies multiplied by the new unit set-aside percentage, rounded to the nearest whole allowance as appropriate.

"New unit set-aside percentage" means 4.0% for each control period in 2009 through 2013 or 1.0% for each control period in 2014 and thereafter.]

"Nonattainment condition" means a condition where any area is shown by air quality monitoring data or that is shown by an air quality impact analysis (using modeling or other methods determined by the board to be reliable) to exceed the levels allowed by the ambient air quality standard for a given pollutant, regardless of whether such demonstration is based on current or projected emissions data.

"Oil-fired" means, for purposes of Article 5 (9 VAC 5-140-1400 et seq.) of this part, combusting fuel oil for more than 15% of the annual heat input in a specified year and not qualifying as coal-fired.

"Operator" means any person who operates, controls, or supervises a CAIR NO_x unit or a CAIR NO_x source and shall include, but not be limited to, any holding company, utility system, or plant manager of such a unit or source.

"Owner" means any of the following persons:

1. With regard to a CAIR NO_x source or a CAIR NO_x unit at a source, respectively:

a. Any holder of any portion of the legal or equitable title in a CAIR NO_x unit at the source or the CAIR NO_x unit;

b. Any holder of a leasehold interest in a CAIR NO_x unit at the source or the CAIR NO_x unit; or

c. Any purchaser of power from a CAIR NO_x unit at the source or the CAIR NO_x unit under a life of the unit, firm power contractual arrangement; provided that, unless expressly provided for in a leasehold agreement, the owner shall not include a passive lessor, or a person who has an equitable interest through such lessor, whose rental payments

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are not based (either directly or indirectly) on the revenues or income from such CAIR NO_x unit; or

2. With regard to any general account, any person who has an ownership interest with respect to the CAIR NO_x allowances held in the general account and who is subject to the binding agreement for the CAIR-authorized account representative to represent the person's ownership interest with respect to CAIR NO_x allowances.

"Permitting authority" means [the state air pollution control agency, local agency, other state agency, or other agency authorized by the administrator to issue or revise permits to meet the requirements of the CAIR NO_x Annual Trading Program in accordance with Article 3 (9 VAC 5-140-1200 et seq.) of this part or, if no such agency has been so authorized, the administrator. For the Commonwealth of Virginia, the permitting authority shall be the] State Air Pollution Control Board.

"Potential electrical output capacity" means 33.0% of a unit's maximum design heat input, divided by 3,413 Btu/kWh, divided by 1,000 kWh/MWh, and multiplied by 8,760 hr/yr.

"Receive" or "receipt of" means, when referring to the permitting authority or the administrator, to come into possession of a document, information, or correspondence (whether sent in hard copy or by authorized electronic transmission), as indicated in an official [~~correspondence~~] log, or by a notation made on the document, information, or correspondence, by the permitting authority or the administrator in the regular course of business.

"Recordation," "record," or "recorded" means, with regard to CAIR NO_x allowances, the movement of CAIR NO_x allowances by the administrator into or between CAIR NO_x Allowance Tracking System accounts, for purposes of allocation, transfer, or deduction.

"Reference method" means any direct test method of sampling and analyzing for an air pollutant as specified in 40 CFR 75.22.

["Renewable energy unit" means an electric generator that began commercial operation after January 1, 2006, and is powered by (i) wind, solar, ocean thermal, wave, tidal, geothermal, or biomass energy; or (ii) fuel cells powered by hydrogen generated by a renewable energy source. Renewable energy does not include energy derived from (i) material that has been treated or painted or derived from demolition or construction material; (ii) municipal, industrial or other multiple source solid waste; and (iii) co-firing of biomass with fossil fuels or solid waste.

"Replacement," "replace," or "replaced" means, with regard to a unit, the demolishing of a unit, or the permanent shutdown and permanent disabling of a unit, and the construction of another unit (the replacement unit) to be used

instead of the demolished or shutdown unit (the replaced unit).]

"Repowered" means, with regard to a unit, replacement of a coal-fired boiler with one of the following coal-fired technologies at the same source as the coal-fired boiler:

1. Atmospheric or pressurized fluidized bed combustion;
2. Integrated gasification combined cycle;
3. Magnetohydrodynamics;
4. Direct and indirect coal-fired turbines;
5. Integrated gasification fuel cells; or

6. As determined by the administrator in consultation with the Secretary of Energy, a derivative of one or more of the technologies under subdivisions 1 through 5 of this definition and any other coal-fired technology capable of controlling multiple combustion emissions simultaneously with improved boiler or generation efficiency and with significantly greater waste reduction relative to the performance of technology in widespread commercial use as of January 1, 2005.

[~~"Serial number" means, for a CAIR NO_x allowance, the unique identification number assigned to each CAIR NO_x allowance by the administrator.]~~

"Sequential use of energy" means:

1. For a topping-cycle cogeneration unit, the use of reject heat from electricity production in a useful thermal energy application or process; or
2. For a bottoming-cycle cogeneration unit, the use of reject heat from useful thermal energy application or process in electricity production.

["Serial number" means, for a CAIR NO_x allowance, the unique identification number assigned to each CAIR NO_x allowance by the administrator.

"Solid waste incineration unit" means a stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine that is a "solid waste incineration unit" as defined in § 129(g)(1) of the Clean Air Act.]

"Source" means all buildings, structures, or installations located in one or more contiguous or adjacent properties under common control of the same person or persons. For purposes of § 502(c) of the Clean Air Act, a "source," including a "source" with multiple units, shall be considered a single "facility."

"State" means the Commonwealth of Virginia. The term "state" shall have its conventional meaning where such meaning is clear from the context.

"State operating permit" means a permit issued under Article 5 (9 VAC 5-80-800 et seq.) of Part II of 9 VAC 5 Chapter 80.

"State operating permit regulations" means the regulations codified in Article 5 (9 VAC 5-80-800 et seq.) of Part II of 9 VAC 5 Chapter

80.

"Submit or serve" means to send or transmit a document, information, or correspondence to the person specified in accordance with the applicable regulation:

1. In person;

2. By United States Postal Service; or

3. By other means of dispatch or transmission and delivery. Compliance with any "submission" or "service" deadline shall be determined by the date of dispatch, transmission, or mailing and not the date of receipt.

"Title V operating permit" means a permit issued under Article 1 (9 VAC 5-80-50 et seq.) or Article 3 (9 VAC 5-80-360 et seq.) of Part II of 9 VAC 5 Chapter 80.

"Title V operating permit regulations" means the regulations codified in Article 1 (9 VAC 5-80-50 et seq.), Article 2 (9 VAC 5-80-310 et seq.), Article 3 (9 VAC 5-80-360 et seq.), and Article 4 (9 VAC 5-80-710 et seq.) of Part II of 9 VAC 5-80.

"Ton" means 2,000 pounds. For the purpose of determining compliance with the CAIR NO_x emissions limitation, total tons of nitrogen oxides emissions for a control period shall be calculated as the sum of all recorded hourly emissions (or the mass equivalent of the recorded hourly emission rates) in accordance with Article 8 (9 VAC 5-140-1700 et seq.) of this part, but with any remaining fraction of a ton equal to or greater than 0.50 tons deemed to equal one ton and any remaining fraction of a ton less than 0.50 tons deemed to equal zero tons.

"Topping-cycle cogeneration unit" means a cogeneration unit in which the energy input to the unit is first used to produce useful power, including electricity, and at least some of the reject heat from the electricity production is then used to provide useful thermal energy.

"Total energy input" means, with regard to a cogeneration unit, total energy of all forms supplied to the cogeneration unit, excluding energy produced by the cogeneration unit itself.

"Total energy output" means, with regard to a cogeneration unit, the sum of useful power and useful thermal energy produced by the cogeneration unit.

"Unit" means a stationary, fossil-fuel-fired boiler or combustion turbine or other stationary, fossil-fuel-fired combustion device.

"Unit operating day" means a calendar day in which a unit combusts any fuel.

"Unit operating hour" or "hour of unit operation" means an hour in which a unit combusts any fuel.

"Useful power" means, with regard to a cogeneration unit, electricity or mechanical energy made available for use, excluding any such energy used in the power production process (which process includes, but is not limited to, any on-site processing or treatment of fuel combusted at the unit and any on-site emission controls).

"Useful thermal energy" means, with regard to a cogeneration unit, thermal energy that is:

1. Made available to an industrial or commercial process (not a power production process), excluding any heat contained in condensate return or makeup water;

2. Used in a heating application (e.g., space heating or domestic hot water heating); or

3. Used in a space cooling application (i.e., thermal energy used by an absorption chiller).

"Utility power distribution system" means the portion of an electricity grid owned or operated by a utility and dedicated to delivering electricity to customers.

9 VAC 5-140-1030. Measurements, abbreviations, and acronyms.

Measurements, abbreviations, and acronyms used in this part are defined as follows:

Btu-British thermal unit.

CO₂-carbon dioxide.

[~~NO_x-nitrogen oxides.~~

H₂O-water.

Hg-mercury.]

hr-hour.

kW-kilowatt electrical.

kWh-kilowatt hour.

[lb-pound.]

mmBtu-million Btu.

MWe-megawatt electrical.

MWh-megawatt hour.

[~~NO_x-nitrogen oxides.~~]

O₂-oxygen.

ppm-parts per million.

[~~lb-pound.~~]

scfh-standard cubic feet per hour.

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SO₂-sulfur dioxide.

[~~H₂O~~ water.]

yr-year.

9 VAC 5-140-1040. Applicability.

[A. Except as provided in subsection B of this section:]

[1.] ~~The following units shall be CAIR NO_x units, and any source that includes one or more such units shall be a CAIR NO_x source, subject to the requirements of this article and Article 2 (9 VAC 5-140-1100 et seq.) through Article 8 (9 VAC 5-140-1700 et seq.) of this part: [1. Except as provided in subdivision 2 of this section, a any] stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine serving at any time, since [the later of November 15, 1990, or] the start-up of the unit's combustion chamber, a generator with nameplate capacity of more than 25 MWe producing electricity for sale.~~

[2. ~~For a unit that qualifies as a cogeneration unit during the 12-month period starting on the date the unit first produces electricity and continues to qualify as a cogeneration unit, a cogeneration unit serving at any time a generator with nameplate capacity of more than 25 MWe and supplying in any calendar year more than one-third of the unit's potential electric output capacity or 219,000 MWh, whichever is greater, to any utility power distribution system for sale.~~

2. If a stationary boiler or stationary combustion turbine that, under subdivision 1 of this subsection, is not a CAIR NO_x unit begins to combust fossil fuel or to serve a generator with nameplate capacity of more than 25 MWe producing electricity for sale, the unit shall become a CAIR NO_x unit as provided in subdivision 1 of this subsection on the first date on which it both combusts fossil fuel and serves such generator.

B. The units that meet the requirements set forth in subdivision 1 a, 2 a, or 2 b of this subsection shall not be CAIR NO_x units:

1. a. Any unit that is a CAIR NO_x unit under subdivision A 1 or 2 of this section:

(1) Qualifying as a cogeneration unit during the 12-month period starting on the date the unit first produces electricity and continuing to qualify as a cogeneration unit; and

(2) Not serving at any time, since the later of November 15, 1990, or the start-up of the unit's combustion chamber, a generator with nameplate capacity of more than 25 MWe supplying in any calendar year more than one-third of the unit's potential electric output capacity or 219,000 MWh, whichever is greater, to any utility power distribution system for sale.

b.] If a unit qualifies as a cogeneration unit during the 12-month period starting on the date the unit first produces

electricity [and meets the requirements of subdivision 1 a of this subsection for at least one calendar year,] but subsequently no longer [~~qualifies as a cogeneration unit meets all such requirements~~], the unit shall [~~be subject to subdivision 1 of this section~~ become a CAIR NO_x unit] starting on the [~~day on~~ earlier of January 1 after the first calendar year during] which the unit first no longer qualifies as a cogeneration unit [or January 1 after the first calendar year during which the unit no longer meets the requirements of subdivision 1 a (2) of this subsection].

[2. a. Any unit that is a CAIR NO_x unit under subdivision A 1 or 2 of this section commencing operation before January 1, 1985:

(1) Qualifying as a solid waste incineration unit; and

(2) With an average annual fuel consumption of nonfossil fuel for 1985-1987 exceeding 80% (on a Btu basis) and an average annual fuel consumption of nonfossil fuel for any three consecutive calendar years after 1990 exceeding 80% (on a Btu basis).

b. Any unit that is a CAIR NO_x unit under subdivision A 1 or 2 of this section commencing operation on or after January 1, 1985:

(1) Qualifying as a solid waste incineration unit; and

(2) With an average annual fuel consumption of nonfossil fuel for the first three calendar years of operation exceeding 80% (on a Btu basis) and an average annual fuel consumption of nonfossil fuel for any three consecutive calendar years after 1990 exceeding 80% (on a Btu basis).

3. If a unit qualifies as a solid waste incineration unit and meets the requirements of subdivision 2 a or b of this subsection for at least three consecutive calendar years, but subsequently no longer meets all such requirements, the unit shall become a CAIR NO_x unit starting on the earlier of January 1 after the first calendar year during which the unit first no longer qualifies as a solid waste incineration unit or January 1 after the first three consecutive calendar years after 1990 for which the unit has an average annual fuel consumption of fossil fuel of 20% or more.]

9 VAC 5-140-1050. Retired unit exemption.

A.1. Any CAIR NO_x unit that is permanently retired and is not a CAIR NO_x opt-in unit under Article 9 (9 VAC 5-140-1800 et seq.) of this part shall be exempt from the CAIR NO_x Annual Trading Program, except for the provisions of this section, 9 VAC 5-140-1020, 9 VAC 5-140-1030, 9 VAC 5-140-1040, 9 VAC 5-140-1060 C 4 through 7, 9 VAC 5-140-1070, [9 VAC 5-140-1080,] Article 2 (9 VAC 5-140-1100 et seq.), and Article 5 (9 VAC 5-140-1400 et seq.) through Article 7 (9 VAC 5-140-1600 et seq.) of this part.

2. The exemption under subdivision 1 of this subsection shall become effective the day on which the CAIR NO_x unit is

permanently retired. Within 30 days of the unit's permanent retirement, the CAIR-designated representative shall submit a statement to the permitting authority otherwise responsible for administering any CAIR permit for the unit and shall submit a copy of the statement to the administrator. The statement shall state, in a format acceptable to the permitting authority, that the unit was permanently retired on a specific date and will comply with the requirements of subsection B of this section.

3. After receipt of the statement under subdivision 2 of this subsection, the permitting authority will amend any permit under Article 3 (9 VAC 5-140-1200 et seq.) of this part covering the source at which the unit is located to add the provisions and requirements of the exemption under subdivision 1 of this subsection and subsection B of this section.

B. Special provisions for exempt units shall be as follows:

1. A unit exempt under subsection A of this section shall not emit any nitrogen oxides, starting on the date that the exemption takes effect.

2. The permitting authority will allocate CAIR NO_x allowances under Article 5 (9 VAC 5-140-1400 et seq.) of this part to a unit exempt under subsection A of this section.

3. For a period of five years from the date the records are created, the owners and operators of a unit exempt under subsection A of this section shall retain, at the source that includes the unit, records demonstrating that the unit is permanently retired. The five-year period for keeping records may be extended for cause, at any time before the end of the period, in writing by the permitting authority or the administrator. The owners and operators bear the burden of proof that the unit is permanently retired.

4. The owners and operators and, to the extent applicable, the CAIR-designated representative of a unit exempt under subsection A of this section shall comply with the requirements of the CAIR NO_x Annual Trading Program concerning all periods for which the exemption is not in effect, even if such requirements arise, or must be complied with, after the exemption takes effect.

5. A unit exempt under subsection A of this section and located at a source that is required, or but for this exemption would be required, to have a Title V operating permit shall not resume operation unless the CAIR-designated representative of the source submits a complete CAIR permit application under 9 VAC 5-140-1220 for the unit not less than 18 months (or such lesser time acceptable to the permitting authority) before the later of January 1, 2009, or the date on which the unit resumes operation.

6. On the earlier of the following dates, a unit exempt under subsection A of this section shall lose its exemption:

a. The date on which the CAIR-designated representative submits a CAIR permit application for the unit under subdivision 5 of this subsection;

b. The date on which the CAIR-designated representative is required under subdivision 5 of this subsection to submit a CAIR permit application for the unit; or

c. The date on which the unit resumes operation, if the CAIR-designated representative is not required to submit a CAIR permit application for the unit.

7. For the purpose of applying monitoring, reporting, and recordkeeping requirements under Article 8 (9 VAC 5-140-1700 et seq.) of this part, a unit that loses its exemption under subsection A of this section shall be treated as a unit that commences [~~operation and~~] commercial operation on the first date on which the unit resumes operation.

9 VAC 5-140-1060. Standard requirements.

A. Permit requirements shall be as follows:

1. The CAIR-designated representative of each CAIR NO_x source required to have a Title V operating permit and each CAIR NO_x unit required to have a Title V operating permit at the source shall:

a. Submit to the permitting authority a complete CAIR permit application under 9 VAC 5-140-1220 in accordance with the deadlines specified in 9 VAC 5-140-1210; and

b. Submit in a timely manner any supplemental information that the permitting authority determines is necessary in order to review a CAIR permit application and issue or deny a CAIR permit.

2. The owners and operators of each CAIR NO_x source required to have a Title V operating permit and each CAIR NO_x unit required to have a Title V operating permit at the source shall have a CAIR permit issued by the permitting authority under Article 3 (9 VAC 5-140-1200 et seq.) of this part for the source and operate the source and the unit in compliance with such CAIR permit.

3. Except as provided in Article 9 (9 VAC 5-140-1800 et seq.) of this part, the owners and operators of a CAIR NO_x source that is not otherwise required to have a Title V operating permit and each CAIR NO_x unit that is not otherwise required to have a Title V operating permit are not required to submit a CAIR permit application, and to have a CAIR permit, under Article 3 (9 VAC 5-140-1200 et seq.) of this part for such CAIR NO_x source and such CAIR NO_x unit.

B. Monitoring, reporting, and recordkeeping shall be performed as follows:

1. The owners and operators, and the CAIR-designated representative, of each CAIR NO_x source and each CAIR NO_x unit at the source shall comply with the monitoring,

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reporting, and recordkeeping requirements of Article 8 (9 VAC 5-140-1700 et seq.) of this part.

2. The emissions measurements recorded and reported in accordance with Article 8 (9 VAC 5-140-1700 et seq.) of this part shall be used to determine compliance by each CAIR NO_x source with the CAIR NO_x emissions limitation under subsection C of this section.

C. Nitrogen oxides emission requirements shall be as follows:

1. As of the allowance transfer deadline for a control period, the owners and operators of each CAIR NO_x source and each CAIR NO_x unit at the source shall hold, in the source's compliance account, CAIR NO_x allowances available for compliance deductions for the control period under 9 VAC 5-140-1540 A in an amount not less than the tons of total nitrogen oxides emissions for the control period from all CAIR NO_x units at the source, as determined in accordance with Article 8 (9 VAC 5-140-1700 et seq.) of this part.

2. A CAIR NO_x unit shall be subject to the requirements under subdivision 1 of this subsection for the control period starting on the later of January 1, 2009, or the deadline for meeting the unit's monitor certification requirements under 9 VAC 5-140-1700 C 1, 2, or 5 and for each control period thereafter.

3. A CAIR NO_x allowance shall not be deducted, for compliance with the requirements under subdivision 1 of this subsection, for a control period in a calendar year before the year for which the CAIR NO_x allowance was allocated.

4. CAIR NO_x allowances shall be held in, deducted from, or transferred into or among CAIR NO_x Allowance Tracking System accounts in accordance with Article 5 (9 VAC 5-140-1400 et seq.) [, Article 6 (9 VAC 5-140-1500 et seq.), Article 7 (9 VAC 5-140-1600 et seq.), and Article 9 (9 VAC 5-140-1800 et seq.)] of this part.

5. A CAIR NO_x allowance is a limited authorization to emit one ton of nitrogen oxides in accordance with the CAIR NO_x Annual Trading Program. No provision of the CAIR NO_x Annual Trading Program, the CAIR permit application, the CAIR permit, or an exemption under 9 VAC 5-140-1050 and no provision of law shall be construed to limit the authority of the state or the United States to terminate or limit such authorization.

6. A CAIR NO_x allowance does not constitute a property right.

7. Upon recordation by the administrator under [Article 5 (9 VAC 5-140-1400 et seq.),] Article 6 (9 VAC 5-140-1500 et seq.), Article 7 (9 VAC 5-140-1600 et seq.), or Article 9 (9 VAC 5-140-1800 et seq.) of this part, every allocation, transfer, or deduction of a CAIR NO_x allowance to or from a CAIR NO_x [unit's source's] compliance account is incorporated automatically in any CAIR permit of the source that includes the CAIR NO_x unit.

D. If a CAIR NO_x source emits nitrogen oxides during any control period in excess of the CAIR NO_x emissions limitation, then:

1. The owners and operators of the source and each CAIR NO_x unit at the source shall surrender the CAIR NO_x allowances required for deduction under 9 VAC 5-140-1540 D 1 and pay any fine, penalty, or assessment or comply with any other remedy imposed, for the same violations, under the Clean Air Act or the Virginia Air Pollution Control Law; and

2. Each ton of such excess emissions and each day of such control period shall constitute a separate violation of this article, the Clean Air Act, and the Virginia Air Pollution Control Law.

E. Recordkeeping and reporting shall be performed as follows:

1. Unless otherwise provided, the owners and operators of the CAIR NO_x source and each CAIR NO_x unit at the source shall keep on site at the source each of the following documents for a period of five years from the date the document is created. This period may be extended for cause, at any time before the end of five years, in writing by the permitting authority or the administrator.

a. The certificate of representation under 9 VAC 5-140-1130 for the CAIR-designated representative for the source and each CAIR NO_x unit at the source and all documents that demonstrate the truth of the statements in the certificate of representation; provided that the certificate and documents shall be retained on site at the source beyond such five-year period until such documents are superseded because of the submission of a new certificate of representation under 9 VAC 5-140-1130 changing the CAIR-designated representative.

b. All emissions monitoring information, in accordance with Article 8 (9 VAC 5-140-1700 et seq.) of this part, provided that to the extent that Article 8 (9 VAC 5-140-1700 et seq.) of this part provides for a three-year period for recordkeeping, the three-year period shall apply.

c. Copies of all reports, compliance certifications, and other submissions and all records made or required under the CAIR NO_x Annual Trading Program.

d. Copies of all documents used to complete a CAIR permit application and any other submission under the CAIR NO_x Annual Trading Program or to demonstrate compliance with the requirements of the CAIR NO_x Annual Trading Program.

2. The CAIR-designated representative of a CAIR NO_x source and each CAIR NO_x unit at the source shall submit the reports required under the CAIR NO_x Annual Trading Program, including those under Article 8 (9 VAC 5-140-1700 et seq.) of this part.

F. Liability shall be assigned as follows:

1. Each CAIR NO_x source and each CAIR NO_x unit shall meet the requirements of the CAIR NO_x Annual Trading Program.

2. Any provision of the CAIR NO_x Annual Trading Program that applies to a CAIR NO_x source or the CAIR-designated representative of a CAIR NO_x source shall also apply to the owners and operators of such source and of the CAIR NO_x units at the source.

3. Any provision of the CAIR NO_x Annual Trading Program that applies to a CAIR NO_x unit or the CAIR-designated representative of a CAIR NO_x unit shall also apply to the owners and operators of such unit.

G. No provision of the CAIR NO_x Annual Trading Program, a CAIR permit application, a CAIR permit, or an exemption under 9 VAC 5-140-1050 shall be construed as exempting or excluding the owners and operators, and the CAIR-designated representative, of a CAIR NO_x source or CAIR NO_x unit from compliance with any other provision of the applicable implementation plan, a state operating permit, the Virginia Air Pollution Control Law, or the Clean Air Act.

[**9 VAC 5-140-1061. Nonattainment and requirements.**

~~H. A.]~~ The following requirements apply to any CAIR NO_x unit ~~[or CAIR NO_x source]~~ located in a nonattainment area designated in 9 VAC 5-20-204:

1. No owner, operator or other person shall cause or permit to be discharged into the atmosphere from any CAIR NO_x unit ~~[or CAIR NO_x source]~~ any NO_x emissions in excess of the ~~[NO_x annual emissions cap. For each control period, the NO_x annual emissions cap shall be equal to the number of]~~ NO_x allowances ~~[(expressed in tons)]~~ allocated for the CAIR NO_x unit ~~[or CAIR NO_x source for the control period]~~ in accordance with 9 VAC 5-140-1420.

2. A CAIR NO_x unit ~~[or CAIR NO_x source]~~ shall be subject to the requirements under subdivision 1 of this subsection for the control period starting on the later of January 1, 2009, or the deadline for meeting the unit's monitor certification requirements under 9 VAC 5-140-1700 ~~[B C]~~ 1, 2, or 5 and for each control period thereafter.

3. ~~[No NO_x allowances other than those issued to a CAIR NO_x unit or CAIR NO_x source in accordance with 9 VAC 5-140-1420 may be used to demonstrate compliance with the emission standard in subdivision 1 of this subsection.]~~ Compliance with ~~[the NO_x annual emissions cap in subdivision 1 of]~~ this subsection shall be ~~[demonstrated annually.]~~ based on a comparison of (i) the total NO_x emissions (expressed in tons) from each CAIR NO_x unit during the ~~[preceding]~~ control period, as determined in accordance with Article 8 (9 VAC 5-140-1700 et seq.) of this part and (ii) the ~~[number of NO_x allowances (expressed in tons) allocated for the CAIR NO_x unit for the preceding control period in accordance with 9 VAC 5-140-1420.~~

~~However, this subsection does not otherwise prohibit any CAIR NO_x unit or CAIR NO_x source from participating in the CAIR NO_x Annual Trading Program NO_x annual emissions cap].~~

~~[4. If the board determines that the provisions of this subsection may be waived for a CAIR NO_x unit or CAIR NO_x source without the CAIR NO_x unit or CAIR NO_x source causing or contributing to a violation of any air quality standard or a nonattainment condition, the board may issue a state operating permit granting relief from the requirements of this subsection. The board may include in any permit issued to implement this subdivision any terms and conditions the board determines are necessary to ensure that the CAIR NO_x unit or CAIR NO_x source will not cause or contribute to a violation of any air quality standard or a nonattainment condition. The owner or operator of a CAIR NO_x unit subject to this section shall be in violation of this subsection if the owner or operator fails to submit by April 1 of each year for the preceding control period (i) documentation to verify compliance with the NO_x annual emissions cap set forth in subdivision 1 of this subsection or (ii) a NO_x emissions compliance demonstration in accordance with 9 VAC 5-140-1062.]~~

~~[F. B.]~~ Nothing in this ~~[article part]~~ shall prevent the ~~[board permitting authority]~~ from issuing a ~~[nonattainment area permit under the authority and procedures of the]~~ state operating permit ~~[program]~~ in order to:

1. Cap the emissions of a CAIR NO_x unit or CAIR NO_x source contributing to a violation of any air quality standard or a nonattainment condition;

2. Remedy a situation that may cause or contribute to nonattainment condition or the endangerment of human health or welfare; or

3. Establish a source-specific emission standard or other requirements necessary to implement the federal Clean Air Act or the Virginia Air Pollution Control Law.

~~[F. C.]~~ Nothing in this ~~[article part]~~ shall prevent the ~~[board permitting authority]~~ from including in any ~~[nonattainment area]~~ permit issued to implement ~~[subsection 1 subdivision B 1]~~ of this section any terms and conditions that would prohibit any CAIR NO_x unit or CAIR NO_x source subject to this ~~[article part]~~ from engaging in any emissions trading activities or using any emissions credits obtained from emissions reductions external to the CAIR NO_x unit or CAIR NO_x source to comply with the requirements of ~~[this article. subsection A of this section or any nonattainment area permit issued pursuant to subdivision B 1 of this section except that such terms and conditions may not prohibit any CAIR NO_x unit or CAIR NO_x source subject to this part from engaging in any emissions trading activities unrelated to compliance with the requirements of subsection~~

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A of this section or any nonattainment area permit issued pursuant to subdivision B 1 of this section.

D. Nothing in this section shall be construed to prohibit any CAIR NO_x unit or CAIR NO_x source from participating in the CAIR NO_x Annual Trading Program. Notwithstanding any other provision of this section or any regulation of the board, the permitting authority may not include in any permit any terms and conditions that restrict any emissions trading activities under the CAIR NO_x Annual Trading Program. Compliance with the CAIR NO_x Annual Trading Program and this section (including any nonattainment area permits issued pursuant to this section) shall be determined separately and in accordance with the terms of the provisions of each.

E. The provisions of subsection A of this section shall not apply once an area is no longer listed in 9 VAC 5-20-204 as nonattainment for any pollutant; however, regardless of the attainment status of the area, any nonattainment area permits issued to implement this section shall remain in effect until revoked by the permitting authority.

9 VAC 5-140-1062. NO_x emissions compliance demonstration.

A. Compliance with the NO_x annual emissions cap set forth in 9 VAC 5-140-1061 A 1 may also be achieved through a NO_x emissions compliance demonstration meeting the requirements of this section.

B. The NO_x emissions compliance demonstration submitted pursuant to this section may include one or more CAIR NO_x units in a CAIR NO_x source under common control and located in the nonattainment area.

C. NO_x emissions compliance demonstrations shall be submitted to the permitting authority by April 1 of each year for the preceding control period.

D. A complete NO_x emissions compliance demonstration shall include the following elements in a format acceptable to the permitting authority:

1. Identification of each CAIR NO_x unit in the NO_x emissions compliance demonstration.

2. The number of NO_x allowances (expressed in tons) allocated for each CAIR NO_x unit for the preceding control period.

3. The total NO_x emissions (expressed in tons) from each CAIR NO_x unit during the preceding control period.

4. The calculation for the equation in subsection E of this section.

E. Compliance with this section shall be demonstrated with the following equation:

$$\sum_{i=1}^n (ANOE_i) \leq \sum_{i=1}^n (X)$$

where:

n is the number of CAIR NO_x units in the NO_x emissions compliance demonstration (n may equal 1).

Σ is the sum of all i CAIR NO_x units.

i is a CAIR NO_x unit identified in subsection B of this section.

ANOE (Actual Nitrogen Oxides Emissions) are the total NO_x emissions (expressed in tons) from each CAIR NO_x unit during the preceding control period, as determined in accordance with Article 8 (9 VAC 5-140-1700 et seq.) of this part.

X is the number of NO_x allowances (expressed in tons) allocated for the CAIR NO_x unit for the preceding control period in accordance with 9 VAC 5-140-1420.

F. The emissions measurements recorded and reported in accordance with Article 8 (9 VAC 5-140-1700 et seq.) of this part shall be used to determine compliance by each CAIR NO_x source with the NO_x annual emissions cap set forth in 9 VAC 5-140-1061 A.]

9 VAC 5-140-1070. Computation of time.

A. Unless otherwise stated, any time period scheduled, under the CAIR NO_x Annual Trading Program, to begin on the occurrence of an act or event shall begin on the day the act or event occurs.

B. Unless otherwise stated, any time period scheduled, under the CAIR NO_x Annual Trading Program, to begin before the occurrence of an act or event shall be computed so that the period ends the day before the act or event occurs.

C. Unless otherwise stated, if the final day of any time period, under the CAIR NO_x Annual Trading Program, falls on a weekend or a state or federal holiday, the time period shall be extended to the next business day.

9 VAC 5-140-1080. Appeal procedures.

The appeal procedures for decisions of the administrator under the CAIR NO_x Annual Trading Program are set forth in 40 CFR Part 78.

Article 2.

CAIR-designated Representative for CAIR NO_x Sources.

9 VAC 5-140-1100. Authorization and responsibilities of CAIR-designated representative.

A. Except as provided under 9 VAC 5-140-1110, each CAIR NO_x source, including all CAIR NO_x units at the source, shall have one and only one CAIR-designated representative, with regard to all matters under the CAIR NO_x Annual Trading Program concerning the source or any CAIR NO_x unit at the source.

B. The CAIR-designated representative of the CAIR NO_x source shall be selected by an agreement binding on the

owners and operators of the source and all CAIR NO_x units at the source and shall act in accordance with the certification statement in 9 VAC 5-140-1130 A 4 d.

C. Upon receipt by the administrator of a complete certificate of representation under 9 VAC 5-140-1130, the CAIR-designated representative of the source shall represent and, by the CAIR-designated representative's representations, actions, inactions, or submissions, legally bind each owner and operator of the CAIR NO_x source represented and each CAIR NO_x unit at the source in all matters pertaining to the CAIR NO_x Annual Trading Program, notwithstanding any agreement between the CAIR-designated representative and such owners and operators. The owners and operators shall be bound by any decision or order issued to the CAIR-designated representative by the permitting authority, the administrator, or a court regarding the source or unit.

D. No CAIR permit will be issued, no emissions data reports will be accepted, and no CAIR NO_x Allowance Tracking System account will be established for a CAIR NO_x unit at a source, until the administrator has received a complete certificate of representation under 9 VAC 5-140-1130 for a CAIR-designated representative of the source and the CAIR NO_x units at the source.

E. 1. Each submission under the CAIR NO_x Annual Trading Program shall be submitted, signed, and certified by the CAIR-designated representative for each CAIR NO_x source on behalf of which the submission is made. Each such submission shall include the following certification statement by the CAIR-designated representative: "I am authorized to make this submission on behalf of the owners and operators of the source or units for which the submission is made. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment."

2. The permitting authority and the administrator will accept or act on a submission made on behalf of owner or operators of a CAIR NO_x source or a CAIR NO_x unit only if the submission has been made, signed, and certified in accordance with subdivision 1 of this subsection.

9 VAC 5-140-1110. Alternate CAIR-designated representative.

A. A certificate of representation under 9 VAC 5-140-1130 may designate one and only one alternate CAIR-designated representative, who may act on behalf of the CAIR-designated representative. The agreement by which the

alternate CAIR-designated representative is selected shall include a procedure for authorizing the alternate CAIR-designated representative to act in lieu of the CAIR-designated representative.

B. Upon receipt by the administrator of a complete certificate of representation under 9 VAC 5-140-1130, any representation, action, inaction, or submission by the alternate CAIR-designated representative shall be deemed to be a representation, action, inaction, or submission by the CAIR-designated representative.

C. Except in this section and 9 VAC 5-140-1020, 9 VAC 5-140-1100 A and D, 9 VAC 5-140-1120, 9 VAC 5-140-1130, [9 VAC 5-140-1150,] 9 VAC 5-140-1510, and 9 VAC 5-140-1820, whenever the term "CAIR-designated representative" is used in this part, the term shall be construed to include the CAIR-designated representative or any alternate CAIR-designated representative.

9 VAC 5-140-1120. Changing CAIR-designated representative and alternate CAIR-designated representative; changes in owners and operators.

A. The CAIR-designated representative may be changed at any time upon receipt by the administrator of a superseding complete certificate of representation under 9 VAC 5-140-1130. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous CAIR-designated representative before the time and date when the administrator receives the superseding certificate of representation shall be binding on the new CAIR-designated representative and the owners and operators of the CAIR NO_x source and the CAIR NO_x units at the source.

B. The alternate CAIR-designated representative may be changed at any time upon receipt by the administrator of a superseding complete certificate of representation under 9 VAC 5-140-1130. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous alternate CAIR-designated representative before the time and date when the administrator receives the superseding certificate of representation shall be binding on the new alternate CAIR-designated representative and the owners and operators of the CAIR NO_x source and the CAIR NO_x units at the source.

C. Changes in owners and operators shall be established as follows:

1. In the event [~~a new an~~] owner or operator of a CAIR NO_x source or a CAIR NO_x unit is not included in the list of owners and operators in the certificate of representation under 9 VAC 5-140-1130, such [~~new~~] owner or operator shall be deemed to be subject to and bound by the certificate of representation, the representations, actions, inactions, and submissions of the CAIR-designated representative and any alternate CAIR-designated representative of the source or

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unit, and the decisions and orders of the permitting authority, the administrator, or a court, as if the [new] owner or operator were included in such list.

2. Within 30 days following any change in the owners and operators of a CAIR NO_x source or a CAIR NO_x unit, including the addition of a new owner or operator, the CAIR-designated representative or any alternate CAIR-designated representative shall submit a revision to the certificate of representation under 9 VAC 5-140-1130 amending the list of owners and operators to include the change.

9 VAC 5-140-1130. Certificate of representation.

A. A complete certificate of representation for a CAIR-designated representative or an alternate CAIR-designated representative shall include the following elements in a format prescribed by the administrator:

1. Identification of the CAIR NO_x source, and each CAIR NO_x unit at the source, for which the certificate of representation is submitted [including identification and nameplate capacity of each generator served by such unit].

2. The name, address, email address (if any), telephone number, and facsimile transmission number (if any) of the CAIR-designated representative and any alternate CAIR-designated representative.

3. A list of the owners and operators of the CAIR NO_x source and of each CAIR NO_x unit at the source.

4. The following certification statements by the CAIR-designated representative and any alternate CAIR-designated representative:

a. "I certify that I was selected as the CAIR-designated representative or alternate CAIR-designated representative, as applicable, by an agreement binding on the owners and operators of the source and each CAIR NO_x unit at the source."

b. "I certify that I have all the necessary authority to carry out my duties and responsibilities under the CAIR NO_x Annual Trading Program on behalf of the owners and operators of the source and of each CAIR NO_x unit at the source and that each such owner and operator shall be fully bound by my representations, actions, inactions, or submissions."

c. "I certify that the owners and operators of the source and of each CAIR NO_x unit at the source shall be bound by any order issued to me by the administrator, the permitting authority, or a court regarding the source or unit."

d. "Where there are multiple holders of a legal or equitable title to, or a leasehold interest in, a CAIR NO_x unit, or where a [utility or industrial] customer purchases power from a CAIR NO_x unit under a life-of-the-unit, firm power contractual arrangement, I certify that: I have given a written notice of my selection as the 'CAIR-designated representative' or 'alternate CAIR-designated representative',

as applicable, and of the agreement by which I was selected to each owner and operator of the source and of each CAIR NO_x unit at the source; and CAIR NO_x allowances and proceeds of transactions involving CAIR NO_x allowances will be deemed to be held or distributed in proportion to each holder's legal, equitable, leasehold, or contractual reservation or entitlement, except that, if such multiple holders have expressly provided for a different distribution of CAIR NO_x allowances by contract, CAIR NO_x allowances and proceeds of transactions involving CAIR NO_x allowances will be deemed to be held or distributed in accordance with the contract."

5. The signature of the CAIR-designated representative and any alternate CAIR-designated representative and the dates signed.

B. Unless otherwise required by the permitting authority or the administrator, documents of agreement referred to in the certificate of representation shall not be submitted to the permitting authority or the administrator. Neither the permitting authority nor the administrator shall be under any obligation to review or evaluate the sufficiency of such documents, if submitted.

9 VAC 5-140-1140. Objections concerning CAIR-designated representative.

A. Once a complete certificate of representation under 9 VAC 5-140-1130 has been submitted and received, the permitting authority and the administrator will rely on the certificate of representation unless and until a superseding complete certificate of representation under 9 VAC 5-140-1130 is received by the administrator.

B. Except as provided in 9 VAC 5-140-1120 A or B, no objection or other communication submitted to the permitting authority or the administrator concerning the authorization, or any representation, action, inaction, or submission, of the CAIR-designated representative shall affect any representation, action, inaction, or submission of the CAIR-designated representative or the finality of any decision or order by the permitting authority or the administrator under the CAIR NO_x Annual Trading Program.

C. Neither the permitting authority nor the administrator will adjudicate any private legal dispute concerning the authorization or any representation, action, inaction, or submission of any CAIR-designated representative, including private legal disputes concerning the proceeds of CAIR NO_x allowance transfers.

[9 VAC 5-140-1150. Delegation by CAIR-designated representative and alternate CAIR-designated representative.

A. A CAIR-designated representative may delegate to one or more natural persons his authority to make an electronic

submission to the administrator provided for or required under this part.

B. An alternate CAIR-designated representative may delegate to one or more natural persons his authority to make an electronic submission to the administrator provided for or required under this part.

C. In order to delegate authority to make an electronic submission to the administrator in accordance with subsection A or B of this section, the CAIR-designated representative or alternate CAIR-designated representative, as appropriate, must submit to the administrator a notice of delegation, in a format prescribed by the administrator, that includes the following elements:

1. The name, address, email address, telephone number, and facsimile transmission number (if any) of such CAIR-designated representative or alternate CAIR-designated representative;

2. The name, address, email address, telephone number, and facsimile transmission number (if any) of each such natural person (referred to as an "agent");

3. For each such natural person, a list of the type or types of electronic submissions under subsection A or B of this section for which authority is delegated to him; and

4. The following certification statements by such CAIR-designated representative or alternate CAIR-designated representative:

a. "I agree that any electronic submission to the administrator that is by an agent identified in this notice of delegation and of a type listed for such agent in this notice of delegation and that is made when I am a CAIR-designated representative or alternate CAIR-designated representative, as appropriate, and before this notice of delegation is superseded by another notice of delegation under 9 VAC 5-140-1150 D shall be deemed to be an electronic submission by me."

b. "Until this notice of delegation is superseded by another notice of delegation under 9 VAC 5-140-1150 D, I agree to maintain an email account and to notify the administrator immediately of any change in my email address unless all delegation of authority by me under 9 VAC 5-140-1150 D is terminated."

D. A notice of delegation submitted under subsection C of this section shall be effective, with regard to the CAIR-designated representative or alternate CAIR-designated representative identified in such notice, upon receipt of such notice by the administrator and until receipt by the administrator of a superseding notice of delegation submitted by such CAIR-designated representative or alternate CAIR-designated representative, as appropriate. The superseding notice of delegation may replace any previously identified

agent, add a new agent, or eliminate entirely any delegation of authority.

E. Any electronic submission covered by the certification in subdivision C 4 a of this section and made in accordance with a notice of delegation effective under subsection D of this section shall be deemed to be an electronic submission by the CAIR-designated representative or alternate CAIR-designated representative submitting such notice of delegation.]

Article 3.
Permits.

9 VAC 5-140-1200. General CAIR [NO_x] Annual Trading Program permit requirements.

A. For each CAIR NO_x source required to have a Title V operating permit or required, under Article 9 (9 VAC 5-140-1800 et seq.) of this part, to have a Title V operating permit or state operating permit, such permit shall include a CAIR permit administered by the permitting authority for the Title V operating permit or the state operating permit as applicable. The CAIR portion of the Title V permit or state operating permit as applicable shall be administered in accordance with the permitting authority's Title V operating permit regulations or regulations for state operating permits as applicable, except as provided otherwise by [9 VAC 5-140-1050,] this article [,] and Article 9 (9 VAC 5-140-1800 et seq.) of this part.

B. Each CAIR permit shall contain, with regard to the CAIR NO_x source and the CAIR NO_x units at the source covered by the CAIR permit, all applicable CAIR NO_x Annual Trading Program, CAIR NO_x Ozone Season Trading Program, and CAIR SO₂ Trading Program requirements and shall be a complete and separable portion of the Title V operating permit or state operating permit under subsection A of this section.

9 VAC 5-140-1210. Submission of CAIR permit applications.

A. The CAIR-designated representative of any CAIR NO_x source required to have a Title V operating permit shall submit to the permitting authority a complete CAIR permit application under 9 VAC 5-140-1220 for the source covering each CAIR NO_x unit at the source at least 18 months (or such lesser time provided by the permitting authority) before the later of January 1, 2009, or the date on which the CAIR NO_x unit commences [commercial] operation [, except as provided in 9 VAC 5-140-1830 A].

B. For a CAIR NO_x source required to have a Title V operating permit, the CAIR-designated representative shall submit a complete CAIR permit application under 9 VAC 5-140-1220 for the source covering each CAIR NO_x unit at the source to renew the CAIR permit in accordance with the permitting authority's Title V operating permit regulations

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addressing permit renewal [, except as provided in 9 VAC 5-140-1830 B] .

9 VAC 5-140-1220. Information requirements for CAIR permit applications.

A complete CAIR permit application shall include the following elements concerning the CAIR NO_x source for which the application is submitted, in a format acceptable to the permitting authority:

1. Identification of the CAIR NO_x source;
2. Identification of each CAIR NO_x unit at the CAIR NO_x source; and
3. The standard requirements under 9 VAC 5-140-1060.

9 VAC 5-140-1230. CAIR permit contents and term.

A. Each CAIR permit will contain, in a format acceptable to the permitting authority, all elements required for a complete CAIR permit application under 9 VAC 5-140-1220.

B. Each CAIR permit is deemed to incorporate automatically the definitions of terms under 9 VAC 5-140-1020 and, upon recordation by the administrator under [Article 5 (9 VAC 5-140-1400 et seq.),] Article 6 (9 VAC 5-140-1500 et seq.), Article 7 (9 VAC 5-140-1600 et seq.), or Article 9 (9 VAC 5-140-1800 et seq.) of this part, every allocation, transfer, or deduction of a CAIR NO_x allowance to or from the compliance account of the CAIR NO_x source covered by the permit.

C. The term of the CAIR permit will be set by the permitting authority, as necessary to facilitate coordination of the renewal of the CAIR permit with issuance, revision, or renewal of the CAIR NO_x source's Title V operating permit or state operating permit as applicable.

9 VAC 5-140-1240. CAIR permit revisions.

Except as provided in 9 VAC 5-140-1230 B, the permitting authority will revise the CAIR permit, as necessary, in accordance with the permitting authority's Title V operating permit regulations or the permitting authority's regulations for state operating permits as applicable addressing permit revisions.

Article 4.
(Reserved.)

9 VAC 5-140-1300. (Reserved).

Article 5.
CAIR NO_x Allowance Allocations.

9 VAC 5-140-1400. [State CAIR NO_x Annual] trading budgets.

The [state CAIR NO_x Annual] trading budgets for annual allocations of CAIR NO_x allowances [apportioned to all

CAIR NO_x units and energy efficiency units and renewable energy units] for the control periods are as follows:

1. For use in each control period in 2009 through 2014, the total number of NO_x tons [~~apportioned to all CAIR NO_x units~~] is 36,074.

2. For use in each control period in 2015 and thereafter, the total number of NO_x tons [~~apportioned to all CAIR NO_x units~~] is 30,062.

9 VAC 5-140-1410. Timing requirements for CAIR NO_x allowance allocations.

A. By October 31, 2006, the permitting authority will submit to the administrator the CAIR NO_x allowance allocations, in a format prescribed by the administrator and in accordance with 9 VAC 5-140-1420 A and B, for the control periods in 2009, 2010, 2011, 2012, and 2013.

B. [~~1.~~] By October 31, 2009, and October 31 of each year thereafter, the permitting authority will submit to the administrator the CAIR NO_x allowance allocations, in a format prescribed by the administrator and in accordance with 9 VAC 5-140-1420 A and B, for the control period in the fifth year after the year of the applicable deadline for submission under this subsection.

[~~2. If the permitting authority fails to submit to the administrator the CAIR NO_x allowance allocations in accordance with subdivision 1 of this subsection, the administrator will assume that the allocations of CAIR NO_x allowances for the applicable control period are the same as for the control period that immediately precedes the applicable control period, except that, if the applicable control period is in 2014, the administrator will assume that the allocations equal 83.0% of the allocations for the control period that immediately precedes the applicable control period.~~]

C. [~~1.~~] By October 31, 2009, the permitting authority will submit to the administrator the CAIR NO_x allowance allocations, in a format prescribed by the administrator and in accordance with 9 VAC 5-140-1420 A, C, and E, for the control periods in 2009, 2010, 2011, 2012, and 2013.

[~~2. If the permitting authority fails to submit to the administrator the CAIR NO_x allowance allocations in accordance with subdivision 1 of this subsection, the administrator will assume that the allocations of CAIR NO_x allowances for the applicable control period are the same as for the control period that immediately precedes the applicable control period, except that, if the applicable control period is in 2014, the administrator will assume that the allocations equal 83% of the allocations for the control period that immediately precedes the applicable control period and except that any CAIR NO_x unit that would otherwise be allocated CAIR NO_x allowances under 9 VAC 5 140 1420 A and B, as well as under 9 VAC 5 140 1420 A, C, and E, for~~]

~~the applicable control period will be assumed to be allocated no CAIR NO_x allowances under 9 VAC 5-140-1420 A, C, and E for the applicable control period.]~~

~~D. [1.] By October 31, 2014, and October 31 of each year thereafter, the permitting authority will submit to the administrator the CAIR NO_x allowance allocations, in a format prescribed by the administrator and in accordance with 9 VAC 5-140-1420 A, D, and E, for the control period in the year of the applicable deadline for submission under this subsection.~~

~~[2. If the permitting authority fails to submit to the administrator the CAIR NO_x allowance allocations in accordance with subdivision 1 of this subsection, the administrator will assume that the allocations of CAIR NO_x allowances for the applicable control period are the same as for the control period that immediately precedes the applicable control period, except that, if the applicable control period is in 2014, the administrator will assume that the allocations equal 83.0% of the allocations for the control period that immediately precedes the applicable control period and except that any CAIR NO_x unit that would otherwise be allocated CAIR NO_x allowances under 9 VAC 5-140-1420 A and B, as well as under 9 VAC 5-140-1420 A, D, and E, for the applicable control period will be assumed to be allocated no CAIR NO_x allowances under 9 VAC 5-140-1420 A, D, and E for the applicable control period.]~~

9 VAC 5-140-1420. CAIR NO_x allowance allocations.

A. 1. The baseline heat input (in mmBtu) used with respect to CAIR NO_x allowance allocations under subsection B of this section for each CAIR NO_x unit will be:

a. For units commencing operation before January 1, 2006, the average of the three highest amounts of the unit's control period heat input for the five years prior to the allocation year. For units operating each calendar year during a period of at least one but less than five consecutive calendar years, one year or, where available, the average of the two highest amounts of the unit's control period heat input over the consecutive years of operation.

b. For units commencing operation on or after January 1, 2006:

(1) For units operating each calendar year during a period of five or more consecutive calendar years, the average of the three highest amounts of the unit's total converted control period heat input over the most recent five years prior to the allocation year.

(2) For units operating each calendar year during a period of at least three but less than five consecutive calendar years, the average of the three highest amounts of the unit's total converted control period heat input over the consecutive years of operation.

(3) For units operating each calendar year during a period of at least one but less than five consecutive calendar years, one year or, where available, the average of the two highest amounts of the unit's control period heat input over the consecutive years of operation.

2. a. A unit's control period heat input for a calendar year under subdivision 1 a of this subsection, and a unit's total tons of NO_x emissions during a calendar year under subdivision C 3 of this section, will be determined in accordance with 40 CFR Part 75, to the extent the unit was otherwise subject to the requirements of 40 CFR Part 75 for the year, or will be based on the best available data reported to the permitting authority for the unit, to the extent the unit was not otherwise subject to the requirements of 40 CFR Part 75 for the year.

b. A unit's converted control period heat input for a calendar year specified under subdivision 1 b of this section equals:

(1) Except as provided in subdivision (2) of this subdivision, the control period gross electrical output of the generator or generators served by the unit multiplied by 7,900 Btu/kWh and divided by 1,000,000 Btu/mmBtu, provided that if a generator is served by two or more units, then the gross electrical output of the generator will be attributed to each unit in proportion to the unit's share of the total control period heat input of such units for the year;

(2) For a unit that has equipment used to produce electricity and useful thermal energy for industrial, commercial, heating, or cooling purposes through the sequential use of energy, the control period gross electrical output of the unit multiplied by 7,900 Btu/kWh [1.] plus the useful thermal energy (in Btu) produced during the control period, divided by 0.8 [1.] and [with the sum divided] by 1,000,000 Btu/mmBtu.

B. 1. For each control period in 2009 and thereafter, the permitting authority will allocate to all CAIR NO_x units that have a baseline heat input (as determined under subsection A of this section) a total amount of CAIR NO_x allowances equal to [95.0% for a control period during 2009 through 2013, and 98.0% for a control period during 2014 and thereafter, of the tons of NO_x emissions in the state trading budget under 9 VAC 5-140-1400 the CAIR NO_x Annual core trading budget] (except as provided in subsection E of this section).

2. The permitting authority will allocate CAIR NO_x allowances to each CAIR NO_x unit under subdivision 1 of this subsection in an amount determined by multiplying the total amount of CAIR NO_x allowances allocated under subdivision 1 of this subsection by the ratio of the baseline heat input of such CAIR NO_x unit to the total amount of baseline heat input of all such CAIR NO_x units and rounding to the nearest whole allowance as appropriate.

C. For each control period in 2009 through 2013, the permitting authority will allocate CAIR NO_x allowances to

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CAIR NO_x units that [~~commenced operation on or after January 1, 2006, and do not yet have a baseline heat input (as determined~~ are not allocated CAIR NO_x allowances] under subsection [~~A-B~~] of this section [~~} because the units do not yet have a baseline heat input under subsection A of this section or because the units have a baseline heat input but all CAIR NO_x allowances available under subsection B of this section for the control period are already allocated] , in accordance with the following procedures:~~

1. The permitting authority will establish a separate new unit set aside for each control period. Each new unit set aside will be allocated CAIR NO_x allowances equal to [~~5.0% of the amount of tons of NO_x emissions in the state trading budget under 9 VAC 5-140-1400~~ the new unit set-aside budget] .

2. The CAIR-designated representative of such a CAIR NO_x unit may submit to the permitting authority a request, in a format acceptable to the permitting authority, to be allocated CAIR NO_x allowances, [~~starting with the for each~~] control period in 2009 [~~and until the later of the control period 2014 or the first control period for which the unit is allocated CAIR NO_x allowances under subsection B of this section through 2013~~] . The CAIR NO_x allowance allocation request shall be submitted on or before [~~July 1 of the first control period for which the CAIR NO_x allowances are requested~~ May 1, 2009,] and after the date on which the CAIR NO_x unit commences commercial operation.

3. In a CAIR NO_x allowance allocation request under subdivision 2 of this subsection, the CAIR-designated representative may request for a control period CAIR NO_x allowances in an amount not exceeding the CAIR NO_x unit's total tons of NO_x emissions during the calendar year [~~immediately before such control period~~ 2008] .

4. The permitting authority will review each CAIR NO_x allowance allocation request under subdivision 2 of this subsection and will allocate CAIR NO_x allowances for each control period pursuant to such request as follows:

a. The permitting authority will accept an allowance allocation request only if the request meets, or is adjusted by the permitting authority as necessary to meet, the requirements of subdivisions 2 and 3 of this subsection.

b. On or after [~~July~~ May] 1 [~~of the control period~~ , 2009] , the permitting authority will determine the sum of the CAIR NO_x allowances requested (as adjusted under subdivision a of this subsection) in all allowance allocation requests accepted under subdivision a of this subsection for the control period.

c. If the amount of CAIR NO_x allowances in the new unit set aside for the control period is greater than or equal to the sum under subdivision b of this subsection, then the permitting authority will allocate the amount of CAIR NO_x allowances requested (as adjusted under subdivision a of this subsection) to each CAIR NO_x unit covered by an allowance allocation request accepted under subdivision a of this subsection.

d. If the amount of CAIR NO_x allowances in the new unit set aside for the control period is less than the sum under subdivision b of this subsection, then the permitting authority will allocate to each CAIR NO_x unit covered by an allowance allocation request accepted under subdivision a of this subsection the amount of the CAIR NO_x allowances requested (as adjusted under subdivision a of this subsection), multiplied by the amount of CAIR NO_x allowances in the new unit set aside for the control period, divided by the sum determined under subdivision b of this subsection, and rounded to the nearest whole allowance as appropriate.

e. The permitting authority will notify each CAIR-designated representative that submitted an allowance allocation request of the amount of CAIR NO_x allowances (if any) allocated for the control period to the CAIR NO_x unit covered by the request.

D. For each control period in 2014 and thereafter, the permitting authority will allocate CAIR NO_x allowances to CAIR NO_x units that [~~commenced operation on or after January 1, 2006 and do not yet have a baseline heat input (as determined~~ are not allocated CAIR NO_x allowances] under subsection [~~A B~~] of this section [~~} because the units do not yet have a baseline heat input under subsection A of this section or because the units have a baseline heat input but all CAIR NO_x allowances available under subsection B of this section for the control period are already allocated] , in accordance with the following procedures:~~

1. The permitting authority will establish a separate new unit set aside for each control period. Each new unit set aside will be allocated CAIR NO_x allowances equal to [~~2.0% of the amount of tons of NO_x emissions in the state trading budget under 9 VAC 5-140-1400~~ the new unit set-aside budget] .

2. The CAIR-designated representative of such a CAIR NO_x unit may submit to the permitting authority a request, in a format acceptable to the permitting authority, to be allocated CAIR NO_x allowances, starting with the later of the control period in 2014 or the first control period after the control period in which the CAIR NO_x unit commences commercial operation and until the first control period for which the unit is allocated CAIR NO_x allowances under subsection B of this section. [~~The A separate~~] CAIR NO_x allowance allocation request shall be submitted on or before July 1 of the first control period for which [~~the~~] CAIR NO_x allowances are [~~requested~~ sought must be submitted on or before May 1 of such control period] and after the date on which the CAIR NO_x unit commences commercial operation.

3. In a CAIR NO_x allowance allocation request under subdivision 2 of this subsection, the CAIR-designated representative may request for a control period CAIR NO_x allowances in an amount not exceeding the CAIR NO_x unit's total tons of NO_x emissions during the calendar year immediately before such control period.

4. The permitting authority will review each CAIR NO_x allowance allocation request under subdivision 2 of this subsection and will allocate CAIR NO_x allowances for each control period pursuant to such request as follows:

a. The permitting authority will accept an allowance allocation request only if the request meets, or is adjusted by the permitting authority as necessary to meet, the requirements of subdivisions 2 and 3 of this subsection.

b. On or after [~~July~~ May] 1 of the control period, the permitting authority will determine the sum of the CAIR NO_x allowances requested (as adjusted under subdivision a of this subdivision) in all allowance allocation requests accepted under subdivision a of this subdivision for the control period.

c. If the amount of CAIR NO_x allowances in the new unit set aside for the control period is greater than or equal to the sum under subdivision b of this subdivision, then the permitting authority will allocate the amount of CAIR NO_x allowances requested (as adjusted under subdivision a of this subdivision) to each CAIR NO_x unit covered by an allowance allocation request accepted under subdivision a of this subdivision.

d. If the amount of CAIR NO_x allowances in the new unit set aside for the control period is less than the sum under subdivision b of this subdivision, then the permitting authority will allocate to each CAIR NO_x unit covered by an allowance allocation request accepted under subdivision a of this subdivision the amount of the CAIR NO_x allowances requested (as adjusted under subdivision a of this subdivision), multiplied by the amount of CAIR NO_x allowances in the new unit set aside for the control period, divided by the sum determined under subdivision b of this subdivision, and rounded to the nearest whole allowance as appropriate.

e. The permitting authority will notify each CAIR-designated representative that submitted an allowance allocation request of the amount of CAIR NO_x allowances (if any) allocated for the control period to the CAIR NO_x unit covered by the request.

E. If, after completion of the procedures under [~~subdivision subdivisions~~] C 4 [~~and D 4~~] of this section for a control period, any unallocated CAIR NO_x allowances remain in the new unit set aside for the control period, the permitting authority will allocate to each CAIR NO_x unit that was allocated CAIR NO_x allowances under subsection B of this section an amount of CAIR NO_x allowances equal to the total amount of such remaining unallocated CAIR NO_x allowances, multiplied by the unit's allocation under subsection B of this section, divided by [~~95.0% for a control period during 2009 through 2014, and 98.0% for a control period during 2015 and thereafter, of the amount of tons of NO_x emissions in the state trading budget under 9 VAC 5-140-1400~~ the CAIR NO_x Annual core trading budget], and rounded to the nearest whole allowance as appropriate.

F. For each control period in 2009 and thereafter, the permitting authority will establish an annual voluntary public health set-aside. Any allowances contributed to the public health set-aside will be permanently retired and will not be available for compliance for any affected unit.

[G. For each control period in 2009 and thereafter, the permitting authority will allocate CAIR NO_x allowances not to exceed the new energy efficiency/renewable energy unit set-aside budget to qualifying energy efficiency units and renewable energy units in accordance with the following procedures:

1. The EERE proponent of an energy efficiency unit or a renewable energy unit may submit to the permitting authority a request, in a format acceptable to the permitting authority, to be allocated CAIR NO_x allowances, starting with the later of the control period in 2009 or the first control period after the control period in which the energy efficiency unit is implemented or the renewable energy unit commences commercial operation. The CAIR NO_x allowance allocation request must be submitted on or before July 1 of each control period for which the CAIR NO_x allowances are requested and after the date on which the energy efficiency unit is implemented or the renewable energy unit commences commercial operation.

2. EERE proponents may submit an application that aggregates two or more energy efficiency units or renewable energy units. The permitting authority will not allocate CAIR NO_x allowances for energy efficiency units or renewable energy units totaling less than one whole allowance or any fraction thereof. If more than one proponent submits an application for allowances for the same energy efficiency unit or renewable energy unit for the same calendar year, the permitting authority, at its discretion, may refuse to accept the applications.

3. In a CAIR NO_x allowance allocation request under subdivisions 1 and 2 of this subsection, the EERE proponent may request for a control period CAIR NO_x allowances in an amount not exceeding:

a. For a renewable energy unit, the control period gross electrical output of the facility during the calendar year immediately before such control period multiplied by 1.5 lb/MWh for the years 2009-2014, or 1.25 lb/MWh for 2015 and thereafter and divided by 2000 and rounded to nearest whole allowance as appropriate.

b. For an energy efficiency unit, the control period verified reduction in electricity consumption during the calendar year immediately before such control period multiplied by 1.5 lb/MWh for the years 2009- 2013, or 1.25 lb/MWh for 2014 and thereafter and divided by 2000 and rounded to the nearest whole allowance as appropriate.

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4. The permitting authority will review each CAIR NO_x allowance allocation request under subdivisions 1 and 2 of this subsection and will allocate CAIR NO_x allowances for each control period pursuant to such request as follows:

a. The permitting authority will accept an allowance allocation request only if the request meets, or is adjusted by the permitting authority as necessary to meet, the requirements of subdivisions 1, 2 and 3 of this subsection.

b. On or after October 1 of the control period, the permitting authority will determine the sum of the CAIR NO_x allowances requested (as adjusted under subdivision a of this subdivision 4) in all allowance allocation requests accepted under subdivision a of this subdivision 4 for the control period.

c. If the amount of CAIR NO_x allowances in the energy efficiency/renewable set-aside budget for the control period is greater than or equal to the sum under subdivision b of this subdivision 4, the permitting authority will allocate the amount of CAIR NO_x allowances requested (as adjusted under subdivision a of this subdivision 4) to each energy efficiency unit or renewable energy unit covered by an allowance allocation request accepted under subdivision a of this subdivision 4.

d. If the amount of CAIR NO_x allowances in the energy efficiency/renewable set-aside budget for the control period is less than the sum under subdivision b of this subdivision 4, the permitting authority will allocate to each energy efficiency unit or renewable energy unit covered by an allowance allocation request accepted under subdivision a of this subdivision 4 the amount of the CAIR NO_x allowances requested (as adjusted under subdivision a of this subdivision 4), multiplied by the amount of CAIR NO_x allowances in the energy efficiency/renewable unit set-aside budget for the control period, divided by the sum determined under subdivision b of this subdivision 4, and rounded to the nearest whole allowance as appropriate.

5. By October 31, 2009, and October 31 of each year thereafter, the permitting authority will notify each EERE proponent that submitted an allowance allocation request under subdivisions 1 and 2 of this subsection of the amount of CAIR NO_x allowances (if any) allocated under subdivision 4 of this subsection for the control period to the energy efficiency unit or renewable energy unit covered by the request.

6. If, after completion of the procedures under subdivisions 4 and 5 of this subsection for a control period, any unallocated CAIR NO_x allowances have remained in the new energy efficiency/renewable set-aside budget for more than three control periods, the permitting authority will permanently retire those allowances, and they will not be available for compliance for any CAIR NO_x unit.

7. The permitting authority will not submit to the administrator the CAIR NO_x allowance allocations under subdivision 4 of this subsection.

8. CAIR NO_x allowances allocated under subdivision 4 of this subsection (i) shall be retired permanently by the EERE proponent making the request under subdivision 2 of this subsection, (ii) shall not be considered valid or capable of being lawfully traded under the CAIR NO_x Annual Trading Program, and (iii) shall not be available for compliance for any CAIR NO_x unit.]

9 VAC 5-140-1430. Compliance supplement pool.

A. [The provisions of this section shall apply to early reduction credit (ERC) units. A ERC unit is a CAIR NO_x unit which is (i) identified as such in 9 VAC 5-140-1040 and (ii) part of a group of units under single ownership with combined emissions of NO_x that exceeded 40,000 tons in 2004.

B.] In addition to the CAIR NO_x allowances allocated under 9 VAC 5-140-1420, the permitting authority may allocate for the control period in 2009 up to 5,134 CAIR NO_x allowances [(hereinafter called the compliance supplement pool)] to [CAIR-NO_x ERC] units.

[B. For any CAIR NO_x unit that achieves NO_x emission reductions in 2007 and 2008 that are not necessary to comply with any state or federal emissions limitation applicable during such years, the CAIR designated representative of the unit may request early reduction credits, and allocation of CAIR NO_x allowances from the compliance supplement pool under subsection A of this section for such early reduction credits, in accordance with the following:

1. The owners and operators of such CAIR NO_x unit shall monitor and report the NO_x emissions rate and the heat input of the unit in accordance with Article 8 (9 VAC 5-140-1700 et seq.) of this part in each control period for which early reduction credit is requested.

2. The CAIR designated representative of such CAIR NO_x unit shall submit to the permitting authority by July 1, 2009, a request, in a format acceptable to the permitting authority, for allocation of an amount of CAIR NO_x allowances from the compliance supplement pool not exceeding the sum of the amounts (in tons) of the unit's NO_x emission reductions in 2007 and 2008 that are not necessary to comply with any state or federal emissions limitation applicable during such years, determined in accordance with Article 8 (9 VAC 5-140-1700 et seq.) of this part.

C. For any CAIR NO_x unit whose compliance with CAIR NO_x emissions limitation for the control period in 2009 would create an undue risk to the reliability of electricity supply during such control period, the CAIR-designated representative of the unit may request the allocation of CAIR NO_x allowances from the compliance supplement pool under

~~subsection A of this section, in accordance with the following:~~

~~1. The CAIR-designated representative of such CAIR NO_x unit shall submit to the permitting authority by July 1, 2009, a request, in a format acceptable to the permitting authority, for allocation of an amount of CAIR NO_x allowances from the compliance supplement pool not exceeding the minimum amount of CAIR NO_x allowances necessary to remove such undue risk to the reliability of electricity supply.~~

~~2. In the request under subdivision 1 of this subsection, the CAIR-designated representative of such CAIR NO_x unit shall demonstrate that, in the absence of allocation to the unit of the amount of CAIR NO_x allowances requested, the unit's compliance with CAIR NO_x emissions limitation for the control period in 2009 would create an undue risk to the reliability of electricity supply during such control period. This demonstration shall include a showing that it would not be feasible for the owners and operators of the unit to:~~

~~a. Obtain a sufficient amount of electricity from other electricity generation facilities, during the installation of control technology at the unit for compliance with the CAIR NO_x emissions limitation, to prevent such undue risk; or~~

~~b. Obtain under subsections B and D of this section, or otherwise obtain, a sufficient amount of CAIR NO_x allowances to prevent such undue risk.~~

~~C. ERC units shall in the collective achieve an amount of early reductions in NO_x emissions during the control periods in 2007 or 2008, or both, equal to the compliance supplement pool (CSP). The early reductions in NO_x emissions required for each ERC unit shall be equal to the amount of CAIR NO_x allowances allocated to each ERC unit under subsection D of this section.~~

~~D. By April 1, 2007, the permitting authority will make a preliminary determination of the amount of CAIR NO_x allowances in the CSP to be allocated to each ERC unit and notify the CAIR-designated representative of the ERC unit.~~

~~1. The amount of CAIR NO_x allowances in the CSP to be allocated to each ERC unit will be determined by multiplying the total amount of tons in the CSP by the ratio of the baseline heat input of each ERC unit to the total amount of baseline heat input of all ERC units and rounding to the nearest whole allowance as appropriate.~~

~~2. The baseline heat input (in mmBtu) used with respect to CAIR NO_x allowance allocations under subdivision 1 of this subsection for each ERC unit shall be the unit's baseline heat input for the calendar year 2004.~~

~~3. A unit's baseline heat input for calendar year 2004, and a unit's total tons of NO_x emissions during calendar years 2007 and 2008, shall be determined in accordance with 40 CFR Part 75, to the extent the unit was otherwise subject to the~~

~~requirements of 40 CFR Part 75 for the year, or shall be based on the best available data reported to the permitting authority for the unit, to the extent the unit was not otherwise subject to the requirements of 40 CFR Part 75 for the year.~~

~~E. The CAIR-designated representative of an ERC unit shall submit to the permitting authority by May 1, 2009, a demonstration, in a format acceptable to the permitting authority, of the unit's compliance with subsection C of this section.~~

~~1. The demonstration shall set forth the amounts (in tons) of the unit's NO_x emission reductions in 2007 and 2008 that are not necessary to comply with an average NO_x emission rate of 0.25 lb/mmBtu during such years, determined in accordance with Article 8 (9 VAC 5-140-1700 et seq.) of this part.~~

~~2. The demonstration shall include a calculation of the sum of the unit's heat input for the control period in 2007 multiplied by the difference (if any greater than zero) between 0.25 lb/mmBtu and the unit's NO_x emission rate for the control period in 2007 plus the unit's heat input for the control period in 2008 multiplied by the difference (if any greater than zero) between 0.25 lb/mmBtu and the unit's NO_x emission rate for the control period in 2008, determined in accordance with Article 8 (9 VAC 5-140-1700 et seq.) of this part and with the sum divided by 2,000 lb/ton and rounded to the nearest whole number of tons as appropriate.~~

~~3. The demonstration shall be based on the NO_x emissions rate and the heat input of the ERC unit monitored and reported in accordance with Article 8 (9 VAC 5-140-1700 et seq.) of this part in each control period for which early reduction reductions are achieved.~~

~~4. Compliance with subsection C of this section may be demonstrated in the aggregate for all ERC units under single ownership.]~~

~~[D. F.] The permitting authority will review each [request compliance demonstration] under subsection [B or C E] of this section submitted by [July May] 1, 2009, and will allocate CAIR NO_x allowances for the control period in 2009 to [CAIR NO_x ERC] units [and] covered by such [request demonstration] as follows:~~

~~1. [The permitting authority will accept a compliance demonstration only if the demonstration meets the requirements of subdivisions E 1 and 2 of this section.~~

~~2.] Upon receipt of each such [request demonstration], the permitting authority will make any necessary adjustments to the [request demonstration] to ensure that the amount of the [CAIR] NO_x [allowances requested emissions reduction demonstrated] meets the requirements of subsection [B or] C of this section.~~

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~~[2. If the state's compliance supplement pool under subsection A of this section has an amount of CAIR NO_x allowances not less than the total amount of CAIR NO_x allowances in all such requests (as adjusted under subdivision 1 of this subsection), the permitting authority will allocate to each CAIR NO_x unit covered by such requests the amount of CAIR NO_x allowances requested (as adjusted under subdivision 1 of this subsection).~~

~~3. If the state's compliance supplement pool under subsection A of this section has a smaller amount of CAIR NO_x allowances than the total amount of CAIR NO_x allowances in all such requests (as adjusted under subdivision 1 of this subsection), the permitting authority will allocate CAIR NO_x allowances to each CAIR NO_x unit covered by such requests according to the following formula and rounding to the nearest whole allowance as appropriate:~~

~~Unit's allocation = Unit's adjusted allocation X (5,134 ÷ Total adjusted allocations for all units)~~

~~Where:~~

~~"Total adjusted allocations for all units" is the sum of the amounts of allocations requested for all units under subsection B or C of this section, as adjusted under subdivision 1 of this subsection.~~

~~"Unit's adjusted allocation" is the amount of CAIR NO_x allowances requested for the unit under subsection B or C of this section, as adjusted under subdivision 1 of this subsection.~~

~~"Unit's allocation" is the number of CAIR NO_x allowances allocated to the unit from the state's compliance supplement pool.~~

~~3. By November 30, 2009, the permitting authority will notify the CAIR-designated representative of the ERC unit of the allocations under this subsection.]~~

~~4. By November 30, 2009, the permitting authority will determine, and submit to the administrator, the allocations under [subdivision 2 or 3 of] this subsection.~~

~~5. By January 1, 2010, the administrator will record the allocations under subdivision 4 of this subsection.~~

~~[G. If an ERC unit fails to achieve the early reductions in NO_x emissions required by subsection C of this section, then:~~

~~1. The owners and operators of the ERC unit shall not be allocated any CAIR NO_x allowances from the CSP and shall pay any fine, penalty, or assessment or comply with any other remedy imposed, for the same violations, under the Clean Air Act or the Virginia Air Pollution Control Law; and~~

~~2. Each ton of such excess emissions and each day of such control period shall constitute a separate violation of this article, the Clean Air Act, and the Virginia Air Pollution Control Law.~~

~~H. If the CAIR-designated representative of an ERC unit fails to submit to the permitting authority by May 1, 2009, the demonstration required under subsection E of this section, then:~~

~~1. The owners and operators of the ERC unit shall not be allocated any CAIR NO_x allowances from the CSP and shall pay any fine, penalty, or assessment or comply with any other remedy imposed, for the same violations, under the Clean Air Act or the Virginia Air Pollution Control Law; and~~

~~2. Each ton of such excess emissions and each day of such control period shall constitute a separate violation of this article, the Clean Air Act, and the Virginia Air Pollution Control Law.]~~

Article 6.

CAIR NO_x Allowance Tracking System.

9 VAC 5-140-1500. (Reserved).

9 VAC 5-140-1510. Establishment of accounts.

~~A. Except as provided in subdivision 5 of 9 VAC 5-140-1840, upon receipt of a complete certificate of representation under 9 VAC 5-140-1130, the administrator will establish a compliance account for the CAIR NO_x source for which the certificate of representation was submitted unless the source already has a compliance account.~~

~~B. General accounts shall be established as follows:~~

~~1. Applications for general accounts shall be submitted as follows:~~

~~a. Any person may apply to open a general account for the purpose of holding and transferring CAIR NO_x allowances. An application for a general account may designate one and only one CAIR-authorized account representative and one and only one alternate CAIR-authorized account representative who may act on behalf of the CAIR-authorized account representative. The agreement by which the alternate CAIR-authorized account representative is selected shall include a procedure for authorizing the alternate CAIR-authorized account representative to act in lieu of the CAIR-authorized account representative.~~

~~b. A complete application for a general account shall be submitted to the administrator and shall include the following elements in a format prescribed by the administrator:~~

~~(1) Name, mailing address, email address (if any), telephone number, and facsimile transmission number (if any) of the CAIR-authorized account representative and any alternate CAIR-authorized account representative;~~

~~(2) Organization name and type of organization, if applicable;~~

~~(3) A list of all persons subject to a binding agreement for the CAIR-authorized account representative and any alternate CAIR-authorized account representative to represent their~~

ownership interest with respect to the CAIR NO_x allowances held in the general account;

(4) The following certification statement by the CAIR-authorized account representative and any alternate CAIR-authorized account representative: "I certify that I was selected as the CAIR-authorized account representative or the alternate CAIR-authorized account representative, as applicable, by an agreement that is binding on all persons who have an ownership interest with respect to CAIR NO_x allowances held in the general account. I certify that I have all the necessary authority to carry out my duties and responsibilities under the CAIR NO_x Annual Trading Program on behalf of such persons and that each such person shall be fully bound by my representations, actions, inactions, or submissions and by any order or decision issued to me by the administrator or a court regarding the general account."

(5) The signature of the CAIR-authorized account representative and any alternate CAIR-authorized account representative and the dates signed.

c. Unless otherwise required by the permitting authority or the administrator, documents of agreement referred to in the application for a general account shall not be submitted to the permitting authority or the administrator. Neither the permitting authority nor the administrator shall be under any obligation to review or evaluate the sufficiency of such documents, if submitted.

2. Authorization of a CAIR-authorized account representative [and alternate CAIR-authorized account representative] shall be established as follows:

a. Upon receipt by the administrator of a complete application for a general account under subdivision 1 of this subsection:

(1) The administrator will establish a general account for the person or persons for whom the application is submitted.

(2) The CAIR-authorized account representative and any alternate CAIR-authorized account representative for the general account shall represent and, by such persons' representations, actions, inactions, or submissions, legally bind each person who has an ownership interest with respect to CAIR NO_x allowances held in the general account in all matters pertaining to the CAIR NO_x Annual Trading Program, notwithstanding any agreement between the CAIR-authorized account representative or any alternate CAIR-authorized account representative and such person. Any such person shall be bound by any order or decision issued to the CAIR-authorized account representative or any alternate CAIR-authorized account representative by the administrator or a court regarding the general account.

(3) Any representation, action, inaction, or submission by any alternate CAIR-authorized account representative shall be deemed to be a representation, action, inaction, or submission by the CAIR-authorized account representative.

b. Each submission concerning the general account shall be submitted, signed, and certified by the CAIR-authorized account representative or any alternate CAIR-authorized account representative for the persons having an ownership interest with respect to CAIR NO_x allowances held in the general account. Each such submission shall include the following certification statement by the CAIR-authorized account representative or any alternate CAIR-authorized account representative: "I am authorized to make this submission on behalf of the persons having an ownership interest with respect to the CAIR NO_x allowances held in the general account. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment."

c. The administrator will accept or act on a submission concerning the general account only if the submission has been made, signed, and certified in accordance with subdivision b of this subdivision.

3. Changing the CAIR-authorized account representative and alternate CAIR-authorized account representative and changes in persons with ownership interest shall be accomplished as follows:

a. The CAIR-authorized account representative for a general account may be changed at any time upon receipt by the administrator of a superseding complete application for a general account under subdivision 1 of this subsection. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous CAIR-authorized account representative before the time and date when the administrator receives the superseding application for a general account shall be binding on the new CAIR-authorized account representative and the persons with an ownership interest with respect to the CAIR NO_x allowances in the general account.

b. The alternate CAIR-authorized account representative for a general account may be changed at any time upon receipt by the administrator of a superseding complete application for a general account under subdivision 1 of this subsection. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous alternate CAIR-authorized account representative before the time and date when the administrator receives the superseding application for a general account shall be binding on the new alternate CAIR-authorized account representative and the

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persons with an ownership interest with respect to the CAIR NO_x allowances in the general account.

c. (1) In the event a [new] person having an ownership interest with respect to CAIR NO_x allowances in the general account is not included in the list of such persons in the application for a general account, such [new] person shall be deemed to be subject to and bound by the application for a general account, the representation, actions, inactions, and submissions of the CAIR-authorized account representative and any alternate CAIR-authorized account representative of the account, and the decisions and orders of the administrator or a court, as if the [new] person were included in such list.

(2) Within 30 days following any change in the persons having an ownership interest with respect to CAIR NO_x allowances in the general account, including the addition of [persons a new person], the CAIR-authorized account representative or any alternate CAIR-authorized account representative shall submit a revision to the application for a general account amending the list of persons having an ownership interest with respect to the CAIR NO_x allowances in the general account to include the change.

4. Objections concerning the CAIR-authorized account representative [and alternate CAIR-authorized account representative] shall be processed as follows:

a. Once a complete application for a general account under subdivision 1 of this subsection has been submitted and received, the administrator will rely on the application unless and until a superseding complete application for a general account under subdivision 1 of this subsection is received by the administrator.

b. Except as provided in subdivision 3 a or b of this subsection, no objection or other communication submitted to the administrator concerning the authorization, or any representation, action, inaction, or submission of the CAIR-authorized account representative or any [alternative alternate] CAIR-authorized account representative for a general account shall affect any representation, action, inaction, or submission of the CAIR-authorized account representative or any [alternative alternate] CAIR-authorized account representative or the finality of any decision or order by the administrator under the CAIR NO_x Annual Trading Program.

c. The administrator will not adjudicate any private legal dispute concerning the authorization or any representation, action, inaction, or submission of the CAIR-authorized account representative or any [alternative alternate] CAIR-authorized account representative for a general account, including private legal disputes concerning the proceeds of CAIR NO_x allowance transfers.

[5. Delegation by CAIR-authorized account representative and alternate CAIR-authorized account representative shall be as follows.

a. A CAIR-authorized account representative may delegate to one or more natural persons his authority to make an electronic submission to the administrator provided for or required under Article 6 (9 VAC 5-140-1500 et seq.) and Article 7 (9 VAC 5-140-1600 et seq.) of this part.

b. An alternate CAIR-authorized account representative may delegate to one or more natural persons his authority to make an electronic submission to the administrator provided for or required under Article 6 (9 VAC 5-140-1500 et seq.) and Article 7 (9 VAC 5-140-1600 et seq.) of this part.

c. In order to delegate authority to make an electronic submission to the administrator in accordance with subdivision a or b of this subdivision 5, the CAIR-authorized account representative or alternate CAIR-authorized account representative, as appropriate, must submit to the administrator a notice of delegation, in a format prescribed by the administrator, that includes the following elements:

(1) The name, address, email address, telephone number, and facsimile transmission number (if any) of such CAIR-authorized account representative or alternate CAIR-authorized account representative;

(2) The name, address, email address, telephone number, and facsimile transmission number (if any) of each such natural person (referred to as an "agent");

(3) For each such natural person, a list of the type or types of electronic submissions under subdivision 5 a or b of this subsection for which authority is delegated to him;

(4) The following certification statement by such CAIR-authorized account representative or alternate CAIR-authorized account representative: "I agree that any electronic submission to the administrator that is by an agent identified in this notice of delegation and of a type listed for such agent in this notice of delegation and that is made when I am a CAIR-authorized account representative or alternate CAIR-authorized representative, as appropriate, and before this notice of delegation is superseded by another notice of delegation under 9 VAC 5-140-1510 B 5 d shall be deemed to be an electronic submission by me."; and

(5) The following certification statement by such CAIR-authorized account representative or alternate CAIR-authorized account representative: "Until this notice of delegation is superseded by another notice of delegation under 9 VAC 5-140-1510 B 5 d, I agree to maintain an email account and to notify the administrator immediately of any change in my email address unless all delegation of authority by me under 9 VAC 5-140-1510 B 5 is terminated."

d. A notice of delegation submitted under subdivision c of this subdivision 5 shall be effective, with regard to the CAIR-authorized account representative or alternate CAIR-authorized account representative identified in such notice, upon receipt of such notice by the administrator and until

receipt by the administrator of a superseding notice of delegation submitted by such CAIR-authorized account representative or alternate CAIR-authorized account representative, as appropriate. The superseding notice of delegation may replace any previously identified agent, add a new agent, or eliminate entirely any delegation of authority.

e. Any electronic submission covered by the certification in subdivision c (4) of this subdivision 5 and made in accordance with a notice of delegation effective under subdivision d of this subdivision 5 shall be deemed to be an electronic submission by the CAIR-designated representative or alternate CAIR-designated representative submitting such notice of delegation.]

C. The administrator will assign a unique identifying number to each account established under subsection A or B of this section.

9 VAC 5-140-1520. Responsibilities of CAIR-authorized account representative.

Following the establishment of a CAIR NO_x Allowance Tracking System account, all submissions to the administrator pertaining to the account, including, but not limited to, submissions concerning the deduction or transfer of CAIR NO_x allowances in the account, shall be made only by the CAIR-authorized account representative for the account.

9 VAC 5-140-1530. Recordation of CAIR NO_x allowance allocations.

A. [~~The~~ By September 30, 2007, the] administrator will record in the CAIR NO_x source's compliance account the CAIR NO_x allowances allocated for the CAIR NO_x units at [~~a~~ the] source, as submitted by the permitting authority in accordance with 9 VAC 5-140-1410 A, for the control periods in 2009, 2010, 2011, 2012, and 2013.

B. By December 1, 2009, the administrator will record in the CAIR NO_x source's compliance account the CAIR NO_x allowances allocated for the CAIR NO_x units at the source, as submitted by the permitting authority [~~or as determined by the administrator~~] in accordance with 9 VAC 5-140-1410 B, for the control period in 2014.

C. [~~In 2011 and~~ By December 1, 2010, and December 1 of] each year thereafter, [~~after the administrator has made all deductions (if any) from a CAIR NO_x source's compliance account under 9 VAC 5-140-1540.~~] the administrator will record in the CAIR NO_x source's compliance account the CAIR NO_x allowances allocated for the CAIR NO_x units at the source, as submitted by the permitting authority [~~or determined by the administrator~~] in accordance with 9 VAC 5-140-1410 B, for the control period in the fifth year after the year of the [~~control period~~ applicable deadline] for [~~which such deductions were or could have been made~~ recordation under this section].

D. By December 1, 2009, [~~and December 1 of each year thereafter.~~] the administrator will record in the CAIR NO_x source's compliance account the CAIR NO_x allowances allocated for the CAIR NO_x units at the source, as submitted by the permitting authority [~~or determined by the administrator~~] in accordance with 9 VAC 5-140-1410 C, for the [~~control period in the year of the applicable deadline for recordation under this subsection~~ control periods in 2009, 2010, 2011, 2012, and 2013].

E. [By December 1, 2014, and December 1 of each year thereafter, the administrator will record in the CAIR NO_x source's compliance account the CAIR NO_x allowances allocated for the CAIR NO_x units at the source, as submitted by the permitting authority in accordance with 9 VAC 5-140-1410 D, for the control period in the year of the applicable deadline for recordation under this subsection.

F.] When recording the allocation of CAIR NO_x allowances for a CAIR NO_x unit in a compliance account, the administrator will assign each CAIR NO_x allowance a unique identification number that will include digits identifying the year of the control period for which the CAIR NO_x allowance is allocated.

9 VAC 5-140-1540. Compliance with CAIR NO_x emissions limitation.

A. The CAIR NO_x allowances are available to be deducted for compliance with a source's CAIR NO_x emissions limitation for a control period in a given calendar year only if the CAIR NO_x allowances:

1. Were allocated for the control period in the year or a prior year; [and]
2. Are held in the compliance account as of the allowance transfer deadline for the control period or are transferred into the compliance account by a CAIR NO_x allowance transfer correctly submitted for recordation under 9 VAC 5-140-1600 [and 9 VAC 5-140-1610] by the allowance transfer deadline for the control period [~~; and~~].

[~~3. Are not necessary for deductions for excess emissions for a prior control period under subsection D of this section.~~]

B. Following the recordation, in accordance with 9 VAC 5-140-1610, of CAIR NO_x allowance transfers submitted for recordation in a source's compliance account by the allowance transfer deadline for a control period, the administrator will deduct from the compliance account CAIR NO_x allowances available under subsection A of this section in order to determine whether the source meets the CAIR NO_x emissions limitation for the control period, as follows:

1. Until the amount of CAIR NO_x allowances deducted equals the number of tons of total nitrogen oxides emissions, determined in accordance with Article 8 (9 VAC 5-140-1700

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et seq.) of this part, from all CAIR NO_x units at the source for the control period; or

2. If there are insufficient CAIR NO_x allowances to complete the deductions in subdivision 1 of this subsection, until no more CAIR NO_x allowances available under subsection A of this section remain in the compliance account.

C.1. The CAIR-authorized account representative for a source's compliance account may request that specific CAIR NO_x allowances, identified by serial number, in the compliance account be deducted for emissions or excess emissions for a control period in accordance with subsection B or D of this section. Such request shall be submitted to the administrator by the allowance transfer deadline for the control period and include, in a format prescribed by the administrator, the identification of the CAIR NO_x source and the appropriate serial numbers.

2. The administrator will deduct CAIR NO_x allowances under subsection B or D of this section from the source's compliance account, in the absence of an identification or in the case of a partial identification of CAIR NO_x allowances by serial number under subdivision 1 of this subsection, on a first in, first out accounting basis in the following order:

a. Any CAIR NO_x allowances that were allocated to the units at the source, in the order of recordation; and then

b. Any CAIR NO_x allowances that were allocated to any entity and transferred and recorded in the compliance account pursuant to Article 7 (9 VAC 5-140-1600 et seq.) of this part, in the order of recordation.

D. Deductions for excess emissions shall be made as follows:

1. After making the deductions for compliance under subsection B of this section for a control period in a calendar year in which the CAIR NO_x source has excess emissions, the administrator will deduct from the source's compliance account an amount of CAIR NO_x allowances, allocated for the control period in the immediately following calendar year, equal to three times the number of tons of the source's excess emissions.

2. Any allowance deduction required under subdivision 1 of this subsection shall not affect the liability of the owners and operators of the CAIR NO_x source or the CAIR NO_x units at the source for any fine, penalty, or assessment, or their obligation to comply with any other remedy, for the same violations, as ordered under the Clean Air Act or the Virginia Air Pollution Control Law.

E. The administrator will record in the appropriate compliance account all deductions from such an account under [~~subsection~~ subsections] B [~~or~~ and] D of this section [and Article 9 (9 VAC 5-140-1800 et seq.) of this part].

F. Administrator actions on submissions will occur as follows:

1. The administrator may review and conduct independent audits concerning any submission under the CAIR NO_x Annual Trading Program and make appropriate adjustments of the information in the submissions.

2. The administrator may deduct CAIR NO_x allowances from or transfer CAIR NO_x allowances to a source's compliance account based on the information in the submissions, as adjusted under subdivision 1 of this subsection [, and record such deductions and transfers].

9 VAC 5-140-1550. Banking.

A. CAIR NO_x allowances may be banked for future use or transfer in a compliance account or a general account in accordance with subsection B of this section.

B. Any CAIR NO_x allowance that is held in a compliance account or a general account will remain in such account unless and until the CAIR NO_x allowance is deducted or transferred under 9 VAC 5-140-1540, 9 VAC 5-140-1560, or Article 7 (9 VAC 5-140-1600 et seq.) [or Article 9 (9 VAC 5-140-1800 et seq.)] of this part.

9 VAC 5-140-1560. Account error.

The administrator may, at the administrator's sole discretion and on the administrator's own motion, correct any error in any CAIR NO_x Allowance Tracking System account. Within 10 business days of making such correction, the administrator will notify the CAIR-authorized account representative for the account.

9 VAC 5-140-1570. Closing of general accounts.

A. The CAIR-authorized account representative of a general account may submit to the administrator a request to close the account, which shall include a correctly submitted allowance transfer under 9 VAC 5-140-1600 [and 9 VAC 5-140-1610] for any CAIR NO_x allowances in the account to one or more other CAIR NO_x Allowance Tracking System accounts.

B. If a general account has no allowance transfers in or out of the account for a 12-month period or longer and does not contain any CAIR NO_x allowances, the administrator may notify the CAIR-authorized account representative for the account that the account will be closed following 20 business days after the notice is sent. The account will be closed after the 20-day period unless, before the end of the 20-day period, the administrator receives a correctly submitted transfer of CAIR NO_x allowances into the account under 9 VAC 5-140-1600 [and 9 VAC 5-140-1610] or a statement submitted by the CAIR-authorized account representative demonstrating to the satisfaction of the administrator good cause as to why the account should not be closed.

Article 7.
CAIR NO_x Allowance Transfers.

9 VAC 5-140-1600. Submission of CAIR NO_x allowance transfers.

A. CAIR-authorized account representative seeking recordation of a CAIR NO_x allowance transfer shall submit the transfer to the administrator. To be considered correctly submitted, the CAIR NO_x allowance transfer shall include the following elements, in a format specified by the administrator:

1. The account numbers for both the transferor and transferee accounts;
2. The serial number of each CAIR NO_x allowance that is in the transferor account and is to be transferred; and
3. The name and signature of the CAIR-authorized account representative of the transferor account and the date signed.

9 VAC 5-140-1610. EPA recordation.

A. Within five business days (except as provided in subsection B of this section) of receiving a CAIR NO_x allowance transfer, the administrator will record a CAIR NO_x allowance transfer by moving each CAIR NO_x allowance from the transferor account to the transferee account as specified by the request, provided that:

1. The transfer is correctly submitted under 9 VAC 5-140-1600; and
2. The transferor account includes each CAIR NO_x allowance identified by serial number in the transfer.

B. A CAIR NO_x allowance transfer that is submitted for recordation after the allowance transfer deadline for a control period and that includes any CAIR NO_x allowances allocated for any control period before such allowance transfer deadline will not be recorded until after the administrator completes the deductions under 9 VAC 5-140-1540 for the control period immediately before such allowance transfer deadline.

C. Where a CAIR NO_x allowance transfer submitted for recordation fails to meet the requirements of subsection A of this section, the administrator will not record such transfer.

9 VAC 5-140-1620. Notification.

A. Within five business days of recordation of a CAIR NO_x allowance transfer under 9 VAC 5-140-1610, the administrator will notify the CAIR-authorized account representatives of both the transferor and transferee accounts.

B. Within 10 business days of receipt of a CAIR NO_x allowance transfer that fails to meet the requirements of 9 VAC 5-140-1610 A, the administrator will notify the CAIR-authorized account representatives of both accounts subject to the transfer of:

1. A decision not to record the transfer, and
2. The reasons for such nonrecordation.

C. Nothing in this section shall preclude the submission of a CAIR NO_x allowance transfer for recordation following notification of nonrecordation.

Article 8.
Monitoring and Reporting.

9 VAC 5-140-1700. General requirements.

A. The owners and operators, and to the extent applicable, the CAIR-designated representative, of a CAIR NO_x unit, shall comply with the monitoring, recordkeeping, and reporting requirements as provided in this article and in subpart H of 40 CFR Part 75. For purposes of complying with such requirements, the definitions in 9 VAC 5-140-1020 and in 40 CFR 72.2 shall apply, and the terms "affected unit," "designated representative," and "continuous emission monitoring system (CEMS)" in 40 CFR Part 75 shall be deemed to refer to the terms "CAIR NO_x unit," "CAIR-designated representative," and "continuous emission monitoring system (CEMS)" respectively, as defined in 9 VAC 5-140-1020. The owner or operator of a unit that is not a CAIR NO_x unit but that is monitored under 40 CFR 75.72(b)(2)(ii) shall comply with the same monitoring, recordkeeping, and reporting requirements as a CAIR NO_x unit.

B. The owner or operator of each CAIR NO_x unit shall:

1. Install all monitoring systems required under this article for monitoring NO_x mass emissions and individual unit heat input (including all systems required to monitor NO_x emission rate, NO_x concentration, stack gas moisture content, stack gas flow rate, CO₂ or O₂ concentration, and fuel flow rate, as applicable, in accordance with 40 CFR 75.71 and 75.72);

2. Successfully complete all certification tests required under 9 VAC 5-140-1710 and meet all other requirements of this article and 40 CFR Part 75 applicable to the monitoring systems under subdivision 1 of this subsection; and

3. Record, report, and quality-assure the data from the monitoring systems under subdivision 1 of this subsection.

C. [~~The~~ Except as provided in subsection F of this section, the] owner or operator shall meet the monitoring system certification and other requirements of subdivisions B 1 and 2 of this section on or before the following dates. The owner or operator shall record, report, and quality-assure the data from the monitoring systems under subdivision B 1 of this section on and after the following dates.

1. For the owner or operator of a CAIR NO_x unit that commences commercial operation before July 1, 2007, by January 1, 2008.

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2. For the owner or operator of a CAIR NO_x unit that commences commercial operation on or after July 1, 2007, by the later of the following dates:

a. January 1, 2008; or

b. Ninety unit operating days or 180 calendar days, whichever occurs first, after the date on which the unit commences commercial operation.

3. For the owner or operator of a CAIR NO_x unit for which construction of a new stack or flue or installation of add-on NO_x emission controls is completed after the applicable deadline under subdivision 1, 2, 4, or 5 of this subsection, by 90 unit operating days or 180 calendar days, whichever occurs first, after the date on which emissions first exit to the atmosphere through the new stack or flue or add-on NO_x emissions controls.

4. Notwithstanding the dates in subdivisions 1 and 2 of this subsection, for the owner or operator of a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under Article 9 (9 VAC 5-140-1800 et seq.) of this part, by the date specified in subdivision 2 of 9 VAC 5-140-1840.

5. Notwithstanding the dates in subdivisions 1 [~~2, and 4 and 2~~] of this subsection [~~and solely for purposes of 9 VAC 5-140-1060 C 2~~], for the owner or operator of a CAIR NO_x opt-in unit under Article 9 (9 VAC 5-140-1800 et seq.) of this part, by the date on which the CAIR NO_x opt-in unit enters the CAIR NO_x Annual Trading Program as provided in subdivision 7 of 9 VAC 5-140-1840.

[~~D. Data shall be reported as follows:~~

~~1. Except as provided in subdivision 2 of this subsection, the D. The] owner or operator of a CAIR NO_x unit that does not meet the applicable compliance date set forth in subsection C of this section for any monitoring system under subdivision B 1 of this section shall, for each such monitoring system, determine, record, and report maximum potential (or, as appropriate, minimum potential) values for NO_x concentration, NO_x emission rate, stack gas flow rate, stack gas moisture content, fuel flow rate, and any other parameters required to determine NO_x mass emissions and heat input in accordance with 40 CFR 75.31(b)(2) or (c)(3), section 2.4 of appendix D to 40 CFR Part 75, or section 2.5 of appendix E to 40 CFR Part 75, as applicable.~~

[~~2. The owner or operator of a CAIR NO_x unit that does not meet the applicable compliance date set forth in subdivision C 3 of this section for any monitoring system under subdivision B 1 of this section shall, for each such monitoring system, determine, record, and report substitute data using the applicable missing data procedures in subpart D or subpart H of, or appendix D or appendix E to, 40 CFR Part 75, in lieu of the maximum potential (or, as appropriate, minimum~~

~~potential) values, for a parameter if the owner or operator demonstrates that there is continuity between the data streams for that parameter before and after the construction or installation under subdivision C 3 of this section.]~~

E. The following prohibitions shall apply.

1. No owner or operator of a CAIR NO_x unit shall use any alternative monitoring system, alternative reference method, or any other alternative to any requirement of this article without having obtained prior written approval in accordance with 9 VAC 5-140-1750.

2. No owner or operator of a CAIR NO_x unit shall operate the unit so as to discharge, or allow to be discharged, NO_x emissions to the atmosphere without accounting for all such emissions in accordance with the applicable provisions of this article and 40 CFR Part 75.

3. No owner or operator of a CAIR NO_x unit shall disrupt the continuous emission monitoring system, any portion thereof, or any other approved emission monitoring method, and thereby avoid monitoring and recording NO_x mass emissions discharged into the atmosphere [or heat input], except for periods of recertification or periods when calibration, quality assurance testing, or maintenance is performed in accordance with the applicable provisions of this article and 40 CFR Part 75.

4. No owner or operator of a CAIR NO_x unit shall retire or permanently discontinue use of the continuous emission monitoring system, any component thereof, or any other approved monitoring system under this article, except under any one of the following circumstances:

a. During the period that the unit is covered by an exemption under 9 VAC 5-140-1050 that is in effect;

b. The owner or operator is monitoring emissions from the unit with another certified monitoring system approved, in accordance with the applicable provisions of this article and 40 CFR Part 75, by the permitting authority for use at that unit that provides emission data for the same pollutant or parameter as the retired or discontinued monitoring system; or

c. The CAIR-designated representative submits notification of the date of certification testing of a replacement monitoring system for the retired or discontinued monitoring system in accordance with 9 VAC 5-140-1710 D [~~3 1~~] a.

[F. The owner or operator of a CAIR NO_x unit is subject to the applicable provisions of 40 CFR Part 75 concerning units in long-term cold storage.]

9 VAC 5-140-1710. Initial certification and recertification procedures.

A. The owner or operator of a CAIR NO_x unit shall be exempt from the initial certification requirements of this

section for a monitoring system under 9 VAC 5-140-1700 B 1 if the following conditions are met:

1. The monitoring system has been previously certified in accordance with 40 CFR Part 75; and

2. The applicable quality-assurance and quality-control requirements of 40 CFR 75.21 and appendix B, appendix D, and appendix E to 40 CFR Part 75 are fully met for the certified monitoring system described in subdivision 1 of this subsection.

B. The recertification provisions of this section shall apply to a monitoring system under 9 VAC 5-140-1700 [~~A B~~] 1 exempt from initial certification requirements under subsection A of this section.

C. If the administrator has previously approved a petition under 40 CFR 75.17(a) or (b) for apportioning the NO_x emission rate measured in a common stack or a petition under 40 CFR 75.66 for an alternative to a requirement in 40 CFR 75.12 [~~7~~ or] 40 CFR 75.17 [~~7~~ or subpart H of 40 CFR Part 75], the CAIR-designated representative shall resubmit the petition to the administrator under 9 VAC 5-140-1750 A to determine whether the approval applies under the CAIR NO_x Annual Trading Program.

D. Except as provided in subsection A of this section, the owner or operator of a CAIR NO_x unit shall comply with the following initial certification and recertification procedures for a continuous monitoring system (i.e., a continuous emission monitoring system and an excepted monitoring system under appendices D and E to 40 CFR Part 75) under 9 VAC 5-140-1700 B 1. The owner or operator of a unit that qualifies to use the low mass emissions excepted monitoring methodology under 40 CFR 75.19 or that qualifies to use an alternative monitoring system under subpart E of 40 CFR Part 75 shall comply with the procedures in subsections E or F of this section, respectively.

1. The owner or operator shall ensure that each continuous monitoring system under 9 VAC 5-140-1700 B 1 (including the automated data acquisition and handling system) successfully completes all of the initial certification testing required under 40 CFR 75.20 by the applicable deadline in 9 VAC 5-140-1700 C. In addition, whenever the owner or operator installs a monitoring system to meet the requirements of this article in a location where no such monitoring system was previously installed, initial certification in accordance with 40 CFR 75.20 is required.

2. Whenever the owner or operator makes a replacement, modification, or change in any certified continuous emission monitoring system under 9 VAC 5-140-1700 B 1 that may significantly affect the ability of the system to accurately measure or record NO_x mass emissions or heat input rate or to meet the quality-assurance and quality-control requirements of 40 CFR 75.21 or appendix B to 40 CFR Part

75, the owner or operator shall recertify the monitoring system in accordance with 40 CFR 75.20(b). Furthermore, whenever the owner or operator makes a replacement, modification, or change to the flue gas handling system or the unit's operation that may significantly change the stack flow or concentration profile, the owner or operator shall recertify each continuous emission monitoring system whose accuracy is potentially affected by the change, in accordance with 40 CFR 75.20(b). Examples of changes to a continuous emission monitoring system that require recertification include [~~:~~] replacement of the analyzer, complete replacement of an existing continuous emission monitoring system, or change in location or orientation of the sampling probe or site. Any fuel flowmeter system, and any excepted NO_x monitoring system under appendix E to 40 CFR Part 75, under 9 VAC 5-140-1700 B 1 are subject to the recertification requirements in 40 CFR 75.20(g)(6).

3. Subdivisions a through d of this subdivision apply to both initial certification and recertification of a continuous monitoring system under 9 VAC 5-140-1700 B 1. For recertifications, replace the words "certification" and "initial certification" with the word "recertification," replace the word "certified" with the word "recertified," and follow the procedures in 40 CFR 75.20(b)(5) and (g)(7) in lieu of the procedures in subdivision e of this subdivision.

a. The CAIR-designated representative shall submit to the permitting authority, the EPA Region III Office, and the administrator written notice of the dates of certification testing, in accordance with 9 VAC 5-140-1730.

b. The CAIR-designated representative shall submit to the permitting authority a certification application for each monitoring system. A complete certification application shall include the information specified in 40 CFR 75.63.

c. The provisional certification date for a monitoring system shall be determined in accordance with 40 CFR 75.20(a)(3). A provisionally certified monitoring system may be used under the CAIR NO_x Annual Trading Program for a period not to exceed 120 days after receipt by the permitting authority of the complete certification application for the monitoring system under subdivision b of this subdivision. Data measured and recorded by the provisionally certified monitoring system, in accordance with the requirements of 40 CFR Part 75, will be considered valid quality-assured data (retroactive to the date and time of provisional certification), provided that the permitting authority does not invalidate the provisional certification by issuing a notice of disapproval within 120 days of the date of receipt of the complete certification application by the permitting authority.

d. The permitting authority will issue a written notice of approval or disapproval of the certification application to the owner or operator within 120 days of receipt of the complete certification application under subdivision b of this

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subdivision. In the event the permitting authority does not issue such a notice within such 120-day period, each monitoring system that meets the applicable performance requirements of 40 CFR Part 75 and is included in the certification application will be deemed certified for use under the CAIR NO_x Annual Trading Program.

(1) If the certification application is complete and shows that each monitoring system meets the applicable performance requirements of 40 CFR Part 75, then the permitting authority will issue a written notice of approval of the certification application within 120 days of receipt.

(2) If the certification application is not complete, then the permitting authority will issue a written notice of incompleteness that sets a reasonable date by which the CAIR-designated representative shall submit the additional information required to complete the certification application. If the CAIR-designated representative does not comply with the notice of incompleteness by the specified date, then the permitting authority may issue a notice of disapproval under subdivision d (3) of this subdivision. The 120-day review period shall not begin before receipt of a complete certification application.

(3) If the certification application shows that any monitoring system does not meet the performance requirements of 40 CFR Part 75 or if the certification application is incomplete and the requirement for disapproval under subdivision d (2) of this subdivision is met, then the permitting authority will issue a written notice of disapproval of the certification application. Upon issuance of such notice of disapproval, the provisional certification is invalidated by the permitting authority and the data measured and recorded by each uncertified monitoring system shall not be considered valid quality-assured data beginning with the date and hour of provisional certification (as defined under 40 CFR 75.20(a)(3)). The owner or operator shall follow the procedures for loss of certification in subdivision e of this subdivision for each monitoring system that is disapproved for initial certification.

(4) The permitting authority or, for a CAIR NO_x opt-in unit or a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under Article 9 (9 VAC 5-140-1800 et seq.) of this part, the administrator may issue a notice of disapproval of the certification status of a monitor in accordance with 9 VAC 5-140-1720 B.

e. If the permitting authority or the administrator issues a notice of disapproval of a certification application under subdivision d (3) of this subdivision or a notice of disapproval of certification status under subdivision d (4) of this subdivision, then:

(1) The owner or operator shall substitute the following values, for each disapproved monitoring system, for each

hour of unit operation during the period of invalid data specified under 40 CFR 75.20(a)(4)(iii), 40 CFR 75.20(g)(7), or 40 CFR 75.21(e) and continuing until the applicable date and hour specified under 40 CFR 75.20(a)(5)(i) or (g)(7):

(a) For a disapproved NO_x emission rate (i.e., NO_x-diluent) system, the maximum potential NO_x emission rate, as defined in 40 CFR 72.2.

(b) For a disapproved NO_x pollutant concentration monitor and disapproved flow monitor, respectively, the maximum potential concentration of NO_x and the maximum potential flow rate, as defined in sections 2.1.2.1 and 2.1.4.1 of appendix A to 40 CFR Part 75.

(c) For a disapproved moisture monitoring system and disapproved diluent gas monitoring system, respectively, the minimum potential moisture percentage and either the maximum potential CO₂ concentration or the minimum potential O₂ concentration (as applicable), as defined in sections 2.1.5, 2.1.3.1, and 2.1.3.2 of appendix A to 40 CFR Part 75.

(d) For a disapproved fuel flowmeter system, the maximum potential fuel flow rate, as defined in section 2.4.2.1 of appendix D to 40 CFR Part 75.

(e) For a disapproved excepted NO_x monitoring system under appendix E to 40 CFR Part 75, the fuel-specific maximum potential NO_x emission rate, as defined in 40 CFR [~~75.2~~ 72.2].

(2) The CAIR-designated representative shall submit a notification of certification retest dates and a new certification application in accordance with subdivisions 3 a and b of this subsection.

(3) The owner or operator shall repeat all certification tests or other requirements that were failed by the monitoring system, as indicated in the permitting authority's or the administrator's notice of disapproval, no later than 30 unit operating days after the date of issuance of the notice of disapproval.

E. The owner or operator of a unit qualified to use the low mass emissions (LME) excepted methodology under 40 CFR 75.19 shall meet the applicable certification and recertification requirements in 40 CFR 75.19(a)(2) and 75.20(h). If the owner or operator of such a unit elects to certify a fuel flowmeter system for heat input determination, the owner or operator shall also meet the certification and recertification requirements in 40 CFR 75.20(g).

F. The CAIR-designated representative of each unit for which the owner or operator intends to use an alternative monitoring system approved by the administrator and, if applicable, the permitting authority under subpart E of 40 CFR Part 75 shall comply with the applicable notification and application procedures of 40 CFR 75.20(f).

9 VAC 5-140-1720. Out of control periods.

A. Whenever any monitoring system fails to meet the quality-assurance and quality-control requirements or data validation requirements of 40 CFR Part 75, data shall be substituted using the applicable missing data procedures in subpart D or subpart H of, or appendix D or appendix E to, 40 CFR Part 75.

B. Whenever both an audit of a monitoring system and a review of the initial certification or recertification application reveal that any monitoring system should not have been certified or recertified because it did not meet a particular performance specification or other requirement under 9 VAC 5-140-1710 or the applicable provisions of 40 CFR Part 75, both at the time of the initial certification or recertification application submission and at the time of the audit, the permitting authority or, for a CAIR NO_x opt-in unit or a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under Article 9 (9 VAC 5-140-1800 et seq.) of this part, the administrator will issue a notice of disapproval of the certification status of such monitoring system. For the purposes of this subsection, an audit shall be either a field audit or an audit of any information submitted to the permitting authority or the administrator. By issuing the notice of disapproval, the permitting authority or the administrator revokes prospectively the certification status of the monitoring system. The data measured and recorded by the monitoring system shall not be considered valid quality-assured data from the date of issuance of the notification of the revoked certification status until the date and time that the owner or operator completes subsequently approved initial certification or recertification tests for the monitoring system. The owner or operator shall follow the applicable initial certification or recertification procedures in 9 VAC 5-140-1710 for each disapproved monitoring system.

9 VAC 5-140-1730. Notifications.

The CAIR-designated representative for a CAIR NO_x unit shall submit written notice to the permitting authority and the administrator in accordance with 40 CFR 75.61 [~~except that if the unit is not subject to an acid rain emissions limitation, the notification is only required to be sent to the permitting authority~~].

9 VAC 5-140-1740. Recordkeeping and reporting.

A. The CAIR-designated representative shall comply with all recordkeeping and reporting requirements in this section, the applicable recordkeeping and reporting requirements under 40 CFR 75.73, and the requirements of 9 VAC 5-140-1100 E 1.

B. The owner or operator of a CAIR NO_x unit shall comply with requirements of 40 CFR 75.73(c) and (e) and, for a unit for which a CAIR opt-in permit application is submitted and

not withdrawn and a CAIR opt-in permit is not yet issued or denied under Article 9 (9 VAC 5-140-1800 et seq.) of this part, 9 VAC 5-140-1830 and subdivision 1 of 9 VAC 5-140-1840.

C. The CAIR-designated representative shall submit an application to the permitting authority within 45 days after completing all initial certification or recertification tests required under 9 VAC 5-140-1710, including the information required under 40 CFR 75.63.

D. The CAIR-designated representative shall submit quarterly reports, as follows:

1. The CAIR-designated representative shall report the NO_x mass emissions data and heat input data for the CAIR NO_x unit, in an electronic quarterly report in a format prescribed by the administrator, for each calendar quarter beginning with:

a. For a unit that commences commercial operation before July 1, 2007, the calendar quarter covering January 1, 2008, through March 31, 2008; [~~or~~]

b. For a unit that commences commercial operation on or after July 1, 2007, the calendar quarter corresponding to the earlier of the date of provisional certification or the applicable deadline for initial certification under 9 VAC 5-140-1700 C, unless that quarter is the third or fourth quarter of 2007, in which case reporting shall commence in the quarter covering January 1, 2008, through March 31, 2008 [;

c. Notwithstanding subdivisions 1 a and b of this subsection, for a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under Article 9 (9 VAC 5-140-1800 et seq.) of this part, the calendar quarter corresponding to the date specified in subdivision 2 of 9 VAC 5-140-1840; and

d. Notwithstanding subdivisions 1 a and b of this subsection, for a CAIR NO_x opt-in unit under Article 9 (9 VAC 5-140-1800 et seq.) of this part, the calendar quarter corresponding to the date on which the CAIR NO_x opt-in unit enters the CAIR NO_x Annual Trading Program as provided in subdivision 7 of 9 VAC 5-140-1840.]

2. The CAIR-designated representative shall submit each quarterly report to the administrator within 30 days following the end of the calendar quarter covered by the report. Quarterly reports shall be submitted in the manner specified in 40 CFR 75.73(f).

3. For CAIR NO_x units that are also subject to an acid rain emissions limitation or the CAIR NO_x Ozone Season Trading Program [~~or~~ ,] CAIR SO₂ Trading Program, [or Hg Budget Trading Program,] quarterly reports shall include the applicable data and information required by subparts F through [H I] of 40 CFR Part 75 as applicable, in addition to

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the NO_x mass emission data, heat input data, and other information required by this article.

E. The CAIR-designated representative shall submit to the administrator a compliance certification (in a format prescribed by the administrator) in support of each quarterly report based on reasonable inquiry of those persons with primary responsibility for ensuring that all of the unit's emissions are correctly and fully monitored. The certification shall state that:

1. The monitoring data submitted were recorded in accordance with the applicable requirements of this article and 40 CFR Part 75, including the quality assurance procedures and specifications; and

2. For a unit with add-on NO_x emission controls and for all hours where NO_x data are substituted in accordance with 40 CFR 75.34(a)(1), the add-on emission controls were operating within the range of parameters listed in the quality assurance/quality control program under appendix B to 40 CFR Part 75 and the substitute data values do not systematically underestimate NO_x emissions.

9 VAC 5-140-1750. Petitions.

A. Except as provided in subdivision B 2 of this section, the CAIR-designated representative of a CAIR NO_x unit that is subject to an acid rain emissions limitation may submit a petition under 40 CFR 75.66 to the administrator requesting approval to apply an alternative to any requirement of this article. Application of an alternative to any requirement of this article is in accordance with this article only to the extent that the petition is approved in writing by the administrator, in consultation with the permitting authority.

B. 1. The CAIR-designated representative of a CAIR NO_x unit that is not subject to an acid rain emissions limitation may submit a petition under 40 CFR 75.66 to the permitting authority and the administrator requesting approval to apply an alternative to any requirement of this article. Application of an alternative to any requirement of this article is in accordance with this article only to the extent that the petition is approved in writing by both the permitting authority and the administrator.

2. The CAIR-designated representative of a CAIR NO_x unit that is subject to an acid rain emissions limitation may submit a petition under 40 CFR 75.66 to the permitting authority and the administrator requesting approval to apply an alternative to a requirement concerning any additional continuous emission monitoring system required under 40 CFR 75.72. Application of an alternative to any such requirement is in accordance with this article only to the extent that the petition is approved in writing by both the permitting authority and the administrator.

[~~9 VAC 5-140-1760. Additional requirements to provide heat input data.~~

~~The owner or operator of a CAIR NO_x unit that monitors and reports NO_x mass emissions using a NO_x concentration system and a flow system shall also monitor and report heat input rate at the unit level using the procedures set forth in 40 CFR Part 75.]~~

Article 9. CAIR NO_x Opt-in Units.

9 VAC 5-140-1800. Applicability.

A CAIR NO_x opt-in unit shall be a unit that:

1. Is located in the state;

2. Is not a CAIR NO_x unit under 9 VAC 5-140-1040 and is not covered by a retired unit exemption under 9 VAC 5-140-1050 that is in effect;

3. Is not covered by a retired unit exemption under 40 CFR 72.8 that is in effect;

4. Has or is required or qualified to have a Title V operating permit or state operating permit; and

5. Vents all of its emissions to a stack and can meet the monitoring, recordkeeping, and reporting requirements of Article 8 (9 VAC 5-140-1700 et seq.) of this part.

9 VAC 5-140-1810. General.

A. Except as otherwise provided in 9 VAC 5-140-1010 through 9 VAC 5-140-1040, 9 VAC 5-140-1060 through 9 VAC 5-140-1080, and Article 2 (9 VAC 5-140-1100 et seq.), Article 3 (9 VAC 5-140-1400 et seq.), and Article 6 (9 VAC 5-140-1500 et seq.) through Article 8 (9 VAC 5-140-1700 et seq.) of this part, a CAIR NO_x opt-in unit shall be treated as a CAIR NO_x unit for purposes of applying such sections and articles of this part.

B. Solely for purposes of applying, as provided in this article, the requirements of Article 8 (9 VAC 5-140-1700 et seq.) of this part to a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under this article, such unit shall be treated as a CAIR NO_x unit before issuance of a CAIR opt-in permit for such unit.

9 VAC 5-140-1820. CAIR-designated representative.

Any CAIR NO_x opt-in unit, and any unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under this article, located at the same source as one or more CAIR NO_x units shall have the same CAIR-designated representative and alternate CAIR-designated representative as such CAIR NO_x units.

9 VAC 5-140-1830. Applying for CAIR opt-in permit.

A. The CAIR-designated representative of a unit meeting the requirements for a CAIR NO_x opt-in unit in 9 VAC 5-140-1800 may apply for an initial CAIR opt-in permit at any time, except as provided under 9 VAC 5-140-1860 [F and] G [and H], and, in order to apply, shall submit the following:

1. A complete CAIR permit application under 9 VAC 5-140-1220;

2. A certification, in a format acceptable to the permitting authority, that the unit:

a. Is not a CAIR NO_x unit under 9 VAC 5-140-1040 and is not covered by a retired unit exemption under 9 VAC 5-140-1050 that is in effect;

b. Is not covered by a retired unit exemption under 40 CFR 72.8 that is in effect;

c. Vents all of its emissions to a stack; and

d. Has documented heat input for more than 876 hours during the six months immediately preceding submission of the CAIR permit application under 9 VAC 5-140-1220;

3. A monitoring plan in accordance with Article 8 (9 VAC 5-140-1700 et seq.) of this part;

4. A complete certificate of representation under 9 VAC 5-140-1130 consistent with 9 VAC 5-140-1820, if no CAIR-designated representative has been previously designated for the source that includes the unit; and

5. A statement, in a format acceptable to the permitting authority, whether the CAIR-designated representative requests that the unit be allocated CAIR NO_x allowances under 9 VAC 5-140-1880 [B or] C (subject to the conditions in subdivision 8 of 9 VAC 5-140-1840 and 9 VAC 5-140-1860 H). [If allocation under 9 VAC 5-140-1880 C is requested, this statement shall include a statement that the owners and operators of the unit intend to repower the unit before January 1, 2015, and that they will provide, upon request, documentation demonstrating such intent.]

B. Opt-in permit renewal shall be required as follows:

1. The CAIR-designated representative of a CAIR NO_x opt-in unit shall submit a complete CAIR permit application under 9 VAC 5-140-1220 to renew the CAIR opt-in unit permit in accordance with the permitting authority's regulations for Title V operating permits, or the permitting authority's regulations for state operating permits if applicable, addressing permit renewal.

2. Unless the permitting authority issues a notification of acceptance of withdrawal of the CAIR [NO_x] opt-in unit from the CAIR NO_x Annual Trading Program in accordance with 9 VAC 5-140-1860 or the unit becomes a CAIR NO_x unit under 9 VAC 5-140-1040, the CAIR NO_x opt-in unit

shall remain subject to the requirements for a CAIR NO_x opt-in unit, even if the CAIR-designated representative for the CAIR NO_x opt-in unit fails to submit a CAIR permit application that is required for renewal of the CAIR opt-in permit under subdivision 1 of this subsection.

9 VAC 5-140-1840. Opt-in process.

The permitting authority will issue or deny a CAIR opt-in permit for a unit for which an initial application for a CAIR opt-in permit under 9 VAC 5-140-1830 is submitted in accordance with the following:

1. The permitting authority and the administrator will determine, on an interim basis, the sufficiency of the monitoring plan accompanying the initial application for a CAIR opt-in permit under 9 VAC 5-140-1830. A monitoring plan is sufficient, for purposes of interim review, if the plan appears to contain information demonstrating that the NO_x emissions rate and heat input of the unit and all other applicable parameters are monitored and reported in accordance with Article 8 (9 VAC 5-140-1700 et seq.) of this part. A determination of sufficiency shall not be construed as acceptance or approval of the monitoring plan.

2. Monitoring and reporting shall be as follows:

a. (1) If the permitting authority and the administrator determine that the monitoring plan is sufficient under subdivision 1 of this section, the owner or operator shall monitor and report the NO_x emissions rate and the heat input of the unit and all other applicable parameters, in accordance with Article 8 (9 VAC 5-140-1700 et seq.) of this part, starting on the date of certification of the appropriate monitoring systems under Article 8 (9 VAC 5-140-1700 et seq.) of this part and continuing until a CAIR opt-in permit is denied under subdivision 6 of this section or, if a CAIR opt-in permit is issued, the date and time when the unit is withdrawn from the CAIR NO_x Annual Trading Program in accordance with 9 VAC 5-140-1860.

(2) The monitoring and reporting under subdivision a (1) of this subdivision shall include the entire control period immediately before the date on which the unit enters the CAIR NO_x Annual Trading Program under subdivision 7 of this section, during which period monitoring system availability shall not be less than 90% under Article 8 (9 VAC 5-140-1700 et seq.) of this part and the unit shall be in full compliance with any applicable state or federal emissions or emissions-related requirements.

b. To the extent the NO_x emissions rate and the heat input of the unit are monitored and reported in accordance with Article 8 (9 VAC 5-140-1700 et seq.) of this part for one or more control periods, in addition to the control period under subdivision a (2) of this subdivision, during which control periods monitoring system availability is not less than 90% under Article 8 (9 VAC 5-140-1700 et seq.) of this part and

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the unit is in full compliance with any applicable state or federal emissions or emissions-related requirements and which control periods begin not more than three years before the unit enters the CAIR NO_x Annual Trading Program under subdivision 7 of this section, such information shall be used as provided in subdivisions 3 and 4 of this section.

3. The unit's baseline heat [~~rate input~~] shall equal:

a. If the unit's NO_x emissions rate and heat input are monitored and reported for only one control period, in accordance with subdivision 2 a of this section, the unit's total heat input (in mmBtu) for the control period; or

b. If the unit's NO_x emissions rate and heat input are monitored and reported for more than one control period, in accordance with subdivisions 2 a and b of this section, the average of the amounts of the unit's total heat input (in mmBtu) for the control periods under subdivisions 2 a (2) and 2 b of this section.

4. The unit's baseline NO_x emission rate shall equal:

a. If the unit's NO_x emissions rate and heat input are monitored and reported for only one control period, in accordance with subdivision 2 a of this section, the unit's NO_x emissions rate (in lb/mmBtu) for the control period;

b. If the unit's NO_x emissions rate and heat input are monitored and reported for more than one control period, in accordance with subdivisions 2 a and b of this section, and the unit does not have add-on NO_x emission controls during any such control periods, the average of the amounts of the unit's NO_x emissions rate (in lb/mmBtu) for the control periods under subdivisions 2 a (2) and 2 b of this section; or

c. If the unit's NO_x emissions rate and heat input are monitored and reported for more than one control period, in accordance with subdivisions 2 a and b of this section, and the unit has add-on NO_x emission controls during any such control periods, the average of the amounts of the unit's NO_x emissions rate (in lb/mmBtu) for such control periods during which the unit has add-on NO_x emission controls.

5. After calculating the baseline heat input and the baseline NO_x emissions rate for the unit under subdivisions 3 and 4 of this section and if the permitting authority determines that the CAIR-designated representative shows that the unit meets the requirements for a CAIR NO_x opt-in unit in 9 VAC 5-140-1800 and meets the elements certified in 9 VAC 5-140-1830 A 2, the permitting authority will issue a CAIR opt-in permit. The permitting authority will provide a copy of the CAIR opt-in permit to the administrator, who will then establish a compliance account for the source that includes the CAIR NO_x opt-in unit unless the source already has a compliance account.

6. Notwithstanding subdivisions 1 through 5 of this section, if at any time before issuance of a CAIR opt-in permit for the unit, the permitting authority determines that the CAIR-

designated representative fails to show that the unit meets the requirements for a CAIR NO_x opt-in unit in 9 VAC 5-140-1800 or meets the elements certified in 9 VAC 5-140-1830 A 2, the permitting authority will issue a denial of a CAIR [NO_x] opt-in permit for the unit.

7. A unit for which an initial CAIR opt-in permit is issued by the permitting authority shall become a CAIR NO_x opt-in unit, and a CAIR NO_x unit, as of the later of January 1, 2009, or January 1 of the first control period during which such CAIR opt-in permit is issued.

8. Repowered CAIR NO_x opt-in units shall meet the following requirements.

a. If the CAIR-designated representative requests, and the permitting authority issues a CAIR opt-in permit providing for, allocation to a CAIR NO_x opt-in unit of CAIR NO_x allowances under 9 VAC 5-140-1880 C and such unit is repowered after its date of entry into the CAIR NO_x Annual Trading Program under [~~subsection G subdivision 7~~] of this section, the repowered unit shall be treated as a CAIR NO_x opt-in unit replacing the original CAIR NO_x opt-in unit, as of the date of start-up of the repowered unit's combustion chamber.

b. Notwithstanding [~~subsections C and D subdivisions 3 and 4~~] of this section, as of the date of start-up under subdivision [~~4 of this subsection~~ 8 a of this section], the repowered unit shall be deemed to have the same date of commencement of operation, date of commencement of commercial operation, baseline heat input, and baseline NO_x emission rate as the original CAIR NO_x opt-in unit, and the original CAIR NO_x opt-in unit shall no longer be treated as a CAIR [NO_x] opt-in unit or a CAIR NO_x unit.

9 VAC 5-140-1850. CAIR opt-in permit contents.

A. Each CAIR opt-in permit will contain:

1. All elements required for a complete CAIR permit application under 9 VAC 5-140-1220;

2. The certification in 9 VAC 5-140-1830 A 2;

3. The unit's baseline heat input under subdivision 3 of 9 VAC 5-140-1840;

4. The unit's baseline NO_x emission rate under subdivision 4 of 9 VAC 5-140-1840;

5. A statement whether the unit is to be allocated CAIR NO_x allowances under 9 VAC 5-140-1880 [B or] C (subject to the conditions in subdivision 8 of 9 VAC 5-140-1840 and 9 VAC 5-140-1860 H);

6. A statement that the unit may withdraw from the CAIR NO_x Annual Trading Program only in accordance with 9 VAC 5-140-1860; and

7. A statement that the unit is subject to, and the owners and operators of the unit shall comply with, the requirements of 9 VAC 5-140-1870.

B. Each CAIR opt-in permit is deemed to incorporate automatically the definitions of terms under 9 VAC 5-140-1020 and, upon recordation by the administrator under Article 6 (9 VAC 5-140-1500 et seq.), Article 7 (9 VAC 5-140-1600 et seq.) [~~or Article 9 (9 VAC 5-140-1800 et seq.)~~] of this part or this article, every allocation, transfer, or deduction of CAIR NO_x allowances to or from the compliance account of the source that includes a CAIR NO_x opt-in unit covered by the CAIR opt-in permit.

C. The CAIR opt-in permit shall be included, in a format acceptable to the permitting authority, in the CAIR permit for the source where the CAIR [NO_x] opt-in unit is located [and in a Title V operating permit or state operating permit for the source].

9 VAC 5-140-1860. Withdrawal from CAIR NO_x Annual Trading Program.

A. Except as provided under subsection H of this section, a CAIR NO_x opt-in unit may withdraw from the CAIR NO_x Annual Trading Program, but only if the permitting authority issues a notification to the CAIR-designated representative of the CAIR NO_x opt-in unit of the acceptance of the withdrawal of the CAIR NO_x opt-in unit in accordance with subsection E of this section.

B. In order to withdraw a CAIR [NO_x] opt-in unit from the CAIR NO_x Annual Trading Program, the CAIR-designated representative of the CAIR NO_x opt-in unit shall submit to the permitting authority a request to withdraw effective as of midnight of December 31 of a specified calendar year, which date must be at least four years after December 31 of the year of entry into the CAIR NO_x Annual Trading Program under subdivision 7 of 9 VAC 5-140-1840. The request shall be submitted no later than 90 days before the requested effective date of withdrawal.

C. Before a CAIR NO_x opt-in unit covered by a request under subsection B of this section may withdraw from the CAIR NO_x Annual Trading Program and the CAIR opt-in permit may be terminated under subsection F of this section, the following conditions must be met:

1. For the control period ending on the date on which the withdrawal is to be effective, the source that includes the CAIR NO_x opt-in unit must meet the requirement to hold CAIR NO_x allowances under 9 VAC 5-140-1060 C and must not have any excess emissions.

2. After the requirement for withdrawal under subdivision 1 of this subsection is met, the administrator will deduct from the compliance account of the source that includes the CAIR NO_x opt-in unit CAIR NO_x allowances equal in amount to and allocated for the same or a prior control period as any

CAIR NO_x allowances allocated to the CAIR NO_x opt-in unit under 9 VAC 5-140-1880 for any control period for which the withdrawal is to be effective. If there are no remaining CAIR NO_x units at the source, the administrator will close the compliance account, and the owners and operators of the CAIR NO_x opt-in unit may submit a CAIR NO_x allowance transfer for any remaining CAIR NO_x allowances to another CAIR NO_x Allowance Tracking System in accordance with Article 7 (9 VAC 5-140-1600 et seq.) of this part.

D. Notification shall be performed as follows:

1. After the requirements for withdrawal under subsections B and C of this section are met (including deduction of the full amount of CAIR NO_x allowances required), the permitting authority will issue a notification to the CAIR-designated representative of the CAIR NO_x opt-in unit of the acceptance of the withdrawal of the CAIR NO_x opt-in unit as of midnight on December 31 of the calendar year for which the withdrawal was requested.

2. If the requirements for withdrawal under subsections B and C of this section are not met, the permitting authority will issue a notification to the CAIR-designated representative of the CAIR NO_x opt-in unit that the CAIR NO_x opt-in unit's request to withdraw is denied. Such CAIR NO_x opt-in unit shall continue to be a CAIR NO_x opt-in unit.

E. After the permitting authority issues a notification under subdivision D 1 of this section that the requirements for withdrawal have been met, the permitting authority will revise the CAIR permit covering the CAIR NO_x opt-in unit to terminate the CAIR opt-in permit for such unit as of the effective date specified under subdivision D 1 of this section. The unit shall continue to be a CAIR NO_x opt-in unit until the effective date of the termination and shall comply with all requirements under the CAIR NO_x Annual Trading Program concerning any control periods for which the unit is a CAIR NO_x opt-in unit, even if such requirements arise or must be complied with after the withdrawal takes effect.

F. If the permitting authority denies the CAIR NO_x opt-in unit's request to withdraw, the CAIR-designated representative may submit another request to withdraw in accordance with subsections B and C of this section.

G. Once a CAIR NO_x opt-in unit withdraws from the CAIR NO_x Annual Trading Program and its CAIR opt-in permit is terminated under this section, the CAIR-designated representative may not submit another application for a CAIR opt-in permit under 9 VAC 5-140-1830 for such CAIR NO_x opt-in unit before the date that is four years after the date on which the withdrawal became effective. Such new application for a CAIR opt-in permit will be treated as an initial application for a CAIR opt-in permit under 9 VAC 5-140-1840.

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H. Notwithstanding subsections B through G of this section, a CAIR NO_x opt-in unit shall not be eligible to withdraw from the CAIR NO_x Annual Trading Program if the CAIR-designated representative of the CAIR NO_x opt-in unit requests, and the permitting authority issues a CAIR NO_x opt-in permit providing for, allocation to the CAIR NO_x opt-in unit of CAIR NO_x allowances under 9 VAC 5-140-1880 C.

9 VAC 5-140-1870. Change in regulatory status.

A. If a CAIR NO_x opt-in unit becomes a CAIR NO_x unit under 9 VAC 5-140-1040, then the CAIR-designated representative shall notify in writing the permitting authority and the administrator of such change in the CAIR NO_x opt-in unit's regulatory status, within 30 days of such change.

B. The permitting authority and administrator will take the following actions:

1. If a CAIR NO_x opt-in unit becomes a CAIR NO_x unit under 9 VAC 5-140-1040, the permitting authority will revise the CAIR NO_x opt-in unit's CAIR opt-in permit to meet the requirements of a CAIR permit under 9 VAC 5-140-1230 [, and remove the CAIR opt-in permit provisions] as of the date on which the CAIR NO_x opt-in unit becomes a CAIR NO_x unit under 9 VAC 5-140-1040.

2. a. The administrator will deduct from the compliance account of the source that includes the CAIR NO_x opt-in unit that becomes a CAIR NO_x unit under 9 VAC 5-140-1040, CAIR NO_x allowances equal in amount to and allocated for the same or a prior control period as:

(1) Any CAIR NO_x allowances allocated to the CAIR NO_x opt-in unit under 9 VAC 5-140-1880 for any control period after the date on which the CAIR NO_x opt-in unit becomes a CAIR NO_x unit under 9 VAC 5-140-1040; and

(2) If the date on which the CAIR NO_x opt-in unit becomes a CAIR NO_x unit under 9 VAC 5-140-1040 is not December 31, the CAIR NO_x allowances allocated to the CAIR NO_x opt-in unit under 9 VAC 5-140-1880 for the control period that includes the date on which the CAIR NO_x opt-in unit becomes a CAIR NO_x unit under 9 VAC 5-140-1040, multiplied by the ratio of the number of days, in the control period, starting with the date on which the CAIR NO_x opt-in unit becomes a CAIR NO_x unit under 9 VAC 5-140-1040 divided by the total number of days in the control period and rounded to the nearest whole allowance as appropriate.

b. The CAIR-designated representative shall ensure that the compliance account of the source that includes the CAIR NO_x [opt-in] unit that becomes a CAIR NO_x unit under 9 VAC 5-140-1040 contains the CAIR NO_x allowances necessary for completion of the deduction under subdivision a of this subdivision.

3. a. For every control period after the date on which the CAIR NO_x opt-in unit becomes a CAIR NO_x unit under 9 VAC 5-140-1040, the CAIR NO_x opt-in unit will be [~~treated~~

~~solely for purposes of CAIR NO_x allowance allocations under 9 VAC 5-140-1420, as a unit that commences operation on the date on which the CAIR NO_x opt-in unit becomes a CAIR NO_x unit under 9 VAC 5-140-1040 and will be] allocated CAIR NO_x allowances under 9 VAC 5-140-1420.~~

b. [~~Notwithstanding subdivision 3 a of this subsection, if~~ If] the date on which the CAIR NO_x opt-in unit becomes a CAIR NO_x unit under 9 VAC 5-140-1040 is not [~~January 1~~ December 31], the following amount of CAIR NO_x allowances will be allocated to the CAIR NO_x opt-in unit (as a CAIR NO_x unit) under 9 VAC 5-140-1420 for the control period that includes the date on which the CAIR NO_x opt-in unit becomes a CAIR NO_x unit under 9 VAC 5-140-1040:

(1) The amount of CAIR NO_x allowances otherwise allocated to the CAIR NO_x opt-in unit (as a CAIR NO_x unit) under 9 VAC 5-140-1420 for the control period multiplied by:

(2) The ratio of the number of days, in the control period, starting with the date on which the CAIR NO_x opt-in unit becomes a CAIR NO_x unit under 9 VAC 5-140-1040, divided by the total number of days in the control period; and

(3) Rounded to the nearest whole allowance as appropriate.

9 VAC 5-140-1880. [CAIR] NO_x allowance allocations to CAIR NO_x opt-in units.

A. Timing requirements shall be met as follows:

1. When the CAIR opt-in permit is issued under subdivision 5 of 9 VAC 5-140-1840, the permitting authority will allocate CAIR NO_x allowances to the CAIR NO_x opt-in unit, and submit to the administrator the allocation for the control period in which a CAIR NO_x opt-in unit enters the CAIR NO_x Annual Trading Program under subdivision 7 of 9 VAC 5-140-1840, in accordance with subsection B or C of this section.

2. By no later than October 31 of the control period [after the control period] in which a CAIR [NO_x] opt-in unit enters the CAIR NO_x Annual Trading Program under subdivision 7 of 9 VAC 5-140-1840 and October 31 of each year thereafter, the permitting authority will allocate CAIR NO_x allowances to the CAIR NO_x opt-in unit, and submit to the administrator the allocation for the control period that includes such submission deadline and in which the unit is a CAIR NO_x opt-in unit, in accordance with subsection B or C of this section.

B. For each control period for which a CAIR NO_x opt-in unit is to be allocated CAIR NO_x allowances, the permitting authority will allocate in accordance with the following procedures:

1. The heat input (in mmBtu) used for calculating the CAIR NO_x allowance allocation will be the lesser of:

a. The CAIR NO_x opt-in unit's baseline heat input determined under subdivision 3 of 9 VAC 5-140-1840; or

b. The CAIR NO_x opt-in unit's heat input, as determined in accordance with Article 8 (9 VAC 5-140-1700 et seq.) of this part, for the immediately prior control period, except when the allocation is being calculated for the control period in which the CAIR NO_x opt-in unit enters the CAIR NO_x Annual Trading Program under subdivision 7 of 9 VAC 5-140-1840.

2. The NO_x emission rate (in lb/mmBtu) used for calculating CAIR NO_x allowance allocations will be the lesser of:

a. The CAIR NO_x opt-in unit's baseline NO_x emissions rate (in lb/mmBtu) determined under subdivision 4 of 9 VAC 5-140-1840 and multiplied by 70%; or

b. The most stringent state or federal NO_x emissions limitation applicable to the CAIR NO_x opt-in unit at any time during the control period for which CAIR NO_x allowances are to be allocated.

3. The permitting authority will allocate CAIR NO_x allowances to the CAIR NO_x opt-in unit in an amount equaling the heat input under subdivision 1 of this subsection, multiplied by the NO_x emission rate under subdivision 2 of this subsection, divided by 2,000 lb/ton, and rounded to the nearest whole allowance as appropriate.

C. Notwithstanding subsection B of this section and if the CAIR-designated representative requests, and the permitting authority issues a CAIR opt-in permit [(based on a demonstration of the intent to repower stated under 9 VAC 5-140-1830 A 5)] providing for, allocation to a CAIR NO_x opt-in unit of CAIR NO_x allowances under this subsection (subject to the conditions in subdivision 8 of 9 VAC 5-140-1840 and 9 VAC 5-140-1860 H), the permitting authority will allocate to the CAIR NO_x opt-in unit as follows:

1. For each control period in 2009 through 2014 for which the CAIR NO_x opt-in unit is to be allocated CAIR NO_x allowances,

a. The heat input (in mmBtu) used for calculating CAIR NO_x allowance allocations will be determined as described in subdivision B 1 of this section.

b. The NO_x emission rate (in lb/mmBtu) used for calculating CAIR NO_x allowance allocations will be the lesser of:

(1) The CAIR NO_x opt-in unit's baseline NO_x emissions rate (in lb/mmBtu) determined under subdivision 4 of 9 VAC 5-140-1840; or

(2) The most stringent state or federal NO_x emissions limitation applicable to the CAIR NO_x opt-in unit at any time during the control period in which the CAIR NO_x opt-in unit enters the CAIR NO_x Annual Trading Program under subdivision 7 of 9 VAC 5-140-1840.

c. The permitting authority will allocate CAIR NO_x allowances to the CAIR NO_x opt-in unit in an amount

equaling the heat input under subdivision a of this subdivision, multiplied by the NO_x emission rate under subdivision b of this subdivision, divided by 2,000 lb/ton, and rounded to the nearest whole allowance as appropriate.

2. For each control period in 2015 and thereafter for which the CAIR NO_x opt-in unit is to be allocated CAIR NO_x allowances,

a. The heat input (in mmBtu) used for calculating the CAIR NO_x allowance allocations will be determined as described in subdivision B 1 of this section.

b. The NO_x emission rate (in lb/mmBtu) used for calculating the CAIR NO_x allowance allocation will be the lesser of:

(1) 0.15 lb/mmBtu;

(2) The CAIR NO_x opt-in unit's baseline NO_x emissions rate (in lb/mmBtu) determined under subdivision 4 of 9 VAC 5-140-1840; or

(3) The most stringent state or federal NO_x emissions limitation applicable to the CAIR NO_x opt-in unit at any time during the control period for which CAIR NO_x allowances are to be allocated.

c. The permitting authority will allocate CAIR NO_x allowances to the CAIR NO_x opt-in unit in an amount equaling the heat input under subdivision a of this subdivision, multiplied by the NO_x emission rate under subdivision b of this subdivision, divided by 2,000 lb/ton, and rounded to the nearest whole allowance as appropriate.

D. Recordation shall be performed as follows:

1. The administrator will record, in the compliance account of the source that includes the CAIR NO_x opt-in unit, the CAIR NO_x allowances allocated by the permitting authority to the CAIR NO_x opt-in unit under subdivision A 1 of this section.

2. By December 1 of the control period in which a CAIR [NO_x] opt-in unit enters the CAIR NO_x Annual Trading Program under subdivision 7 of 9 VAC 5-140-1840 and December 1 of each year thereafter, the administrator will record, in the compliance account of the source that includes the CAIR NO_x opt-in unit, the CAIR NO_x allowances allocated by the permitting authority to the CAIR NO_x opt-in unit under subdivision A 2 of this section.

PART III

NO_x OZONE SEASON TRADING PROGRAM.

Article 1.

CAIR NO_x Ozone Season Trading Program General Provisions.

9 VAC 5-140-2010. Purpose.

This part establishes general provisions and the designated representative, permitting, allowance, monitoring, and opt-in provisions for the State Clean Air Interstate Rule (CAIR)

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NO_x Ozone Season Trading Program, under § 110 of the Clean Air Act and 40 CFR 51.123, as a means of mitigating interstate transport of ozone and nitrogen oxides. The board authorizes the administrator to assist the board in implementing the CAIR NO_x Ozone Season Trading Program by carrying out the functions set forth for the administrator in this part.

9 VAC 5-140-2020. Definitions.

A. As used in this part, all words or terms not defined here shall have the meaning given them in 9 VAC 5 Chapter 10 (9 VAC 5-10), unless otherwise required by context.

B. For the purpose of this part and any related use, the words or terms shall have the meaning given them in this paragraph.

"Account number" means the identification number given by the administrator to each CAIR NO_x Ozone Season Allowance Tracking System account.

"Acid Rain emissions limitation" means a limitation on emissions of sulfur dioxide or nitrogen oxides under the Acid Rain Program.

"Acid Rain Program" means a multistate sulfur dioxide and nitrogen oxides air pollution control and emission reduction program established by the administrator under Title IV of the CAA and 40 CFR Parts 72 through 78.

"Administrator" means the administrator of the United States Environmental Protection Agency or the administrator's duly authorized representative.

"Allocate" or "allocation" means, with regard to CAIR NO_x Ozone Season allowances [~~issued under Article 5 (9 VAC 5-140-2400 et seq.) of this part~~], the determination by [~~the~~] a permitting authority or the administrator of the amount of such CAIR NO_x Ozone Season allowances to be initially credited to a CAIR NO_x Ozone Season unit [~~or,~~] a new unit set-aside [~~and, with regard to CAIR NO_x Ozone Season allowances issued under 9 VAC 5-140-2880, the determination by the permitting authority of the amount of such CAIR NO_x Ozone Season allowances to be initially credited to a CAIR NO_x Ozone Season unit,~~ a new energy efficiency/renewable energy set-aside, or other entity].

"Allocation year" means the year in which allowance allocations are calculated for a future year.

"Allowance transfer deadline" means, for a control period, ~~midnight of November 30 [~~] if it is a business day [~~]~~], or [~~if November 30 is not a business day,~~] midnight of the first business day thereafter [(if November 30 is not a business day),] immediately following the control period and is the deadline by which a CAIR NO_x Ozone Season allowance transfer must be submitted for recordation in a CAIR NO_x Ozone Season source's compliance account in order to be used to meet the source's CAIR NO_x Ozone~~~~

Season emissions limitation for such control period in accordance with 9 VAC 5-140-2540.

"Alternate CAIR-designated representative" means, for a CAIR NO_x Ozone Season source and each CAIR NO_x Ozone Season unit at the source, the natural person who is authorized by the owners and operators of the source and all such units at the source [~~] in accordance with Article 2 (9 VAC 5-140-2100 et seq.) and Article 9 (9 VAC 5-140-2800 et seq.) of this part, to act on behalf of the CAIR-designated representative in matters pertaining to the CAIR NO_x Ozone Season Trading Program. If the CAIR NO_x Ozone Season source is also a CAIR NO_x source, then this natural person shall be the same person as the alternate CAIR-designated representative under the CAIR NO_x Annual Trading Program. If the CAIR NO_x Ozone Season source is also a CAIR SO₂ source, then this natural person shall be the same person as the alternate CAIR-designated representative under the CAIR SO₂ Trading Program. If the CAIR NO_x Ozone Season source is also subject to the Acid Rain Program, then this natural person shall be the same person as the alternate designated representative under the Acid Rain Program. [If the CAIR NO_x Ozone Season source is also subject to the Hg Budget Trading Program, then this natural person shall be the same person as the alternate Hg designated representative under the Hg Budget Trading Program.]~~

"Automated data acquisition and handling system" or "DAHS" means that component of the continuous emission monitoring system, or other emissions monitoring system approved for use under Article 8 (9 VAC 5-140-2700 et seq.) of this part, designed to interpret and convert individual output signals from pollutant concentration monitors, flow monitors, diluent gas monitors, and other component parts of the monitoring system to produce a continuous record of the measured parameters in the measurement units required by Article 8 (9 VAC 5-140-2700 et seq.) of this part.

"Biomass energy" means energy derived from the combustion or electro-chemical reaction (as with a fuel cell) of hydrocarbon materials of a biogenic origin using a solid, liquid or gaseous fuel. Biomass fuel materials include, but are not limited to, animal wastes (e.g. [~~] manure) and [clean] plant materials (e.g. wood chips, waste paper and crop wastes). Biomass fuels exclude products that have emissions that include heavy metals and other [~~neuro-toxins neurotoxins~~] (e.g. [~~] municipal solid wastes). Biomass fuel materials may be converted to a gaseous fuel, such as landfills (i.e. [~~] landfill gas) or waste treatment facilities (i.e. [~~] digester gas), or to liquid fuels (e.g. [~~] biodiesel). To be considered a biomass facility, the facility must [(i)] employ maximum achievable control technology and continuous emission stack monitors for all chemical emissions of concern to human health [and (ii)] be listed in one of the following categories: anaerobic digestion systems operating on animal or plant wastes, methane gas, combustion of clean wood, bark or other plant material; or on combustion of fuels derived~~~~~~~~~~

entirely from processing of clean wood, bark, or other plant or animal material, including processing by gasification, pyrolysis, fermentation, distillation, or densification]].

"Boiler" means an enclosed fossil- or other-fuel-fired combustion device used to produce heat and to transfer heat to recirculating water, steam, or other medium.

"Bottoming-cycle cogeneration unit" means a cogeneration unit in which the energy input to the unit is first used to produce useful thermal energy and at least some of the reject heat from the useful thermal energy application or process is then used for electricity production.

"CAIR-authorized account representative" means, with regard to a general account, a responsible natural person who is authorized, in accordance with Article 2 (9 VAC 5-140-2100 et seq.) [, Article 6 (9 VAC 5-140-2500 et seq.)] and Article 9 (9 VAC 5-140-2800 et seq.) of this part, to transfer and otherwise dispose of CAIR NO_x Ozone Season allowances held in the general account and, with regard to a compliance account, the CAIR-designated representative of the source.

"CAIR-designated representative" means, for a CAIR NO_x Ozone Season source and each CAIR NO_x Ozone Season unit at the source, the natural person who is authorized by the owners and operators of the source and all such units at the source, in accordance with Article 2 (9 VAC 5-140-2100 et seq.) and Article 9 (9 VAC 5-140-2800 et seq.) of this part, to represent and legally bind each owner and operator in matters pertaining to the CAIR NO_x Ozone Season Trading Program. If the CAIR NO_x Ozone Season source is also a CAIR NO_x source, then this natural person shall be the same person as the CAIR-designated representative under the CAIR NO_x Annual Trading Program. If the CAIR NO_x Ozone Season source is also a CAIR SO₂ source, then this natural person shall be the same person as the CAIR-designated representative under the CAIR SO₂ Trading Program. If the CAIR NO_x Ozone Season source is also subject to the Acid Rain Program, then this natural person shall be the same person as the designated representative under the Acid Rain Program. [If the CAIR NO_x Ozone Season source is also subject to the Hg Budget Trading Program, then this natural person shall be the same person as the Hg designated representative under the Hg Budget Trading Program.]

"CAIR NO_x Annual Trading Program" means a multistate nitrogen oxides air pollution control and emission reduction program approved and administered by the administrator in accordance with Part II [(9 VAC 5-140-1010 et seq.)] of this chapter and 40 CFR 51.123 [(o) (1) or (2) or established by the administrator in accordance with subparts AA through II of 40 CFR Part 97 and 40 CFR 51.123 (p) and 52.35], as a means of mitigating interstate transport of fine particulates and nitrogen oxides.

"CAIR NO_x Ozone Season allowance" means a limited authorization issued by [the a] permitting authority or the

administrator under Article 5 (9 VAC 5-140-2400 et seq.) of this part [, provisions of an implementation plan that are approved under 40 CFR 51.123(aa)(1) or (2) and (bb)(1), (bb)(2), (dd), or (ee), or under subpart EEEE of 40 CFR Part 97 or 40 CFR 97.388], [~~or 9 VAC 5-140-2880~~] to emit one ton of nitrogen oxides during a control period of the specified calendar year for which the authorization is allocated or of any calendar year thereafter under the CAIR NO_x Ozone Season Trading Program or a limited authorization issued by [the a] permitting authority for a control period during 2003 through 2008 under the NO_x Budget Trading Program under Part I [(9 VAC 5-140-10 et seq.)] of this chapter to emit one ton of nitrogen oxides during a control period, provided that the provision in 40 CFR 51.121(b)(2) [~~(i) (ii)~~] (E) shall not be used in applying this definition [and the limited authorization shall not have been used to meet the allowance-holding requirement under the NO_x Budget Trading Program]. An authorization to emit nitrogen oxides that is not issued under [Article 5 (9 VAC 5-140-2400 et seq.) of this part,] provisions of [a state an] implementation plan [that meet the requirements of 40 CFR 51.121(p) or approved under] 40 CFR 51.123(aa)(1) or (2) [and (bb) (2), (dd), or (ee) or subpart EEEE of 40 CFR Part 97 or 40 CFR 97.388 or under the NO_x Budget Trading Program as described in the prior sentence] shall not be a CAIR NO_x Ozone Season allowance. No provision of the CAIR NO_x Ozone Season Program, the CAIR permit application, the CAIR permit, or an exemption under 9 VAC 5-140-2050 and no provision of law shall be construed to limit the authority of the United States or the board to terminate or limit such authorization, which does not constitute a property right.

"CAIR NO_x Ozone Season allowance deduction" or "deduct CAIR NO_x Ozone Season allowances" means the permanent withdrawal of CAIR NO_x Ozone Season allowances by the administrator from a compliance account [, e.g.,] in order to account for a specified number of tons of total nitrogen oxides emissions from all CAIR NO_x Ozone Season units at a CAIR NO_x Ozone Season source for a control period, determined in accordance with Article 8 (9 VAC 5-140-2700 et seq.) of this part, or to account for excess emissions.

"CAIR NO_x Ozone Season Allowance Tracking System" means the system by which the administrator records allocations, deductions, and transfers of CAIR NO_x Ozone Season allowances under the CAIR NO_x Ozone Season Trading Program. Such allowances will be allocated, held, deducted, or transferred only as whole allowances.

"CAIR NO_x Ozone Season Allowance Tracking System account" means an account in the CAIR NO_x Ozone Season Allowance Tracking System established by the administrator for purposes of recording the allocation, holding, transferring, or deducting of CAIR NO_x Ozone Season allowances.

"CAIR NO_x Ozone Season allowances held" or "hold CAIR NO_x Ozone Season allowances" means the CAIR NO_x Ozone

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Season allowances recorded by the administrator, or submitted to the administrator for recordation, in accordance with Article 6 (9 VAC 5-140-2500 et seq.), Article 7 (9 VAC 5-140-2600 et seq.), and Article 9 (9 VAC 5-140-2800 et seq.) of this part, in a CAIR NO_x Ozone Season Allowance Tracking System account.

["CAIR NO_x Ozone Season core trading budget" means the amount of tons of NO_x emissions in the CAIR NO_x Ozone Season trading budget for the control period minus the amount of tons of NO_x emissions under subdivision 1 of the definition of new unit set-aside budget and the new energy efficiency/renewable energy unit set-aside budget.]

"CAIR NO_x Ozone Season emissions limitation" means, for a CAIR NO_x Ozone Season source, the tonnage equivalent [, in NO_x emissions in a control period,] of the CAIR NO_x Ozone Season allowances available for deduction for the source under 9 VAC 5-140-2540 A and B for [a the] control period.

"CAIR NO_x Ozone Season source" means a source that includes one or more CAIR NO_x Ozone Season units.

["CAIR NO_x Ozone Season trading budget" means the total number of NO_x tons set forth in 9 VAC 5-140-2400 and apportioned to all CAIR NO_x Ozone Season units and energy efficiency/renewable energy units in accordance with the CAIR NO_x Ozone Trading Program, for use in a given control period.]

"CAIR NO_x Ozone Season Trading Program" means a multistate nitrogen oxides air pollution control and emission reduction program approved and administered by the administrator in accordance with this part and 40 CFR 51.123 [(aa)(1) or (2) and (bb)(1), (bb)(2), or (dd) or established by the administrator in accordance with subparts AAAA through IIII of 40 CFR Part 97 and 40 CFR 51.123(ee) and 52.35], as a means of mitigating interstate transport of ozone and nitrogen oxides.

"CAIR NO_x Ozone Season unit" means a unit that is subject to the CAIR NO_x Ozone Season Trading Program under 9 VAC 5-140-2040 and, except for purposes of 9 VAC 5-140-2050 and Article 5 (9 VAC 5-140-2400 et seq.) of this part, a CAIR NO_x Ozone Season opt-in unit under Article 9 (9 VAC 5-140-2800 et seq.) of this part.

"CAIR NO_x source" means a source that [~~includes one or more CAIR NO_x units~~ is subject to the CAIR NO_x Annual Trading Program].

[~~"CAIR NO_x unit" means a unit that is subject to the CAIR NO_x Annual Trading Program under 9 VAC 5-140-1040 and a CAIR NO_x opt in unit under Article 9 (9 VAC 5-140-1800 et seq.) of Part II of this chapter.]~~

"CAIR permit" means the [items and conditions in a] Title V operating permit or state operating permit, issued by the permitting authority under Article 3 (9 VAC 5-140-2200 et

seq.) of this part, including any permit revisions, specifying the CAIR NO_x Ozone Season Trading Program requirements applicable to a CAIR NO_x Ozone Season source, to each CAIR NO_x Ozone Season unit at the source, and to the owners and operators and the CAIR-designated representative of the source and each such unit.

"CAIR SO₂ source" means a source that [~~includes one or more CAIR SO₂ units~~ is subject to the CAIR SO₂ Trading Program].

"CAIR SO₂ Trading Program" means a multistate sulfur dioxide air pollution control and emission reduction program approved and administered by the administrator in accordance with Part IV [(9 VAC 5-140-3010 et seq.)] of this chapter and 40 CFR 51.124 [(o)(1) or (2) or established by the administrator in accordance with subparts AAA through III of 40 CFR Part 97 and 40 CFR 51.124(r) and 52.36], as a means of mitigating interstate transport of fine particulates and sulfur dioxide.

[~~"CAIR SO₂ unit" means a unit that is subject to the CAIR SO₂ Trading Program under 9 VAC 5-140-3040 and a CAIR SO₂ opt in unit under Article 9 (9 VAC 5-140-3800 et seq.) of Part IV of this chapter.]~~

"Clean Air Act" or "CAA" means the Clean Air Act, 42 USC § 7401 et seq.

"Coal" means any solid fuel classified as anthracite, bituminous, subbituminous, or lignite.

"Coal-derived fuel" means any fuel (whether in a solid, liquid, or gaseous state) produced by the mechanical, thermal, or chemical processing of coal.

"Coal-fired" means:

1. Except for purposes of Article 5 (9 VAC 5-140-2400 et seq.) of this part, combusting any amount of coal or coal-derived fuel, alone or in combination with any amount of any other fuel, during any year; or

2. For purposes of Article 5 (9 VAC 5-140-2400 et seq.) of this part, combusting any amount of coal or coal-derived fuel, alone or in combination with any amount of any other fuel, during a specified year.

"Cogeneration unit" means a stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine:

1. Having equipment used to produce electricity and useful thermal energy for industrial, commercial, heating, or cooling purposes through the sequential use of energy; and

2. Producing during the 12-month period starting on the date the unit first produces electricity and during any calendar year after [the calendar year in] which the unit first produces electricity:

a. For a topping-cycle cogeneration unit,

(1) Useful thermal energy not less than 5.0% of total energy output; and

(2) Useful power that, when added to one-half of useful thermal energy produced, is not less than 42.5% of total energy input, if useful thermal energy produced is 15% or more of total energy output, or not less than 45% of total energy input, if useful thermal energy produced is less than 15% of total energy output.

b. For a bottoming-cycle cogeneration unit, useful power not less than 45% of total energy input.

"Combustion turbine" means:

1. An enclosed device comprising a compressor, a combustor, and a turbine and in which the flue gas resulting from the combustion of fuel in the combustor passes through the turbine, rotating the turbine; and

2. If the enclosed device under subdivision 1 of this definition is combined cycle, any associated [duct burner,] heat recovery steam generator [,] and steam turbine.

"Commence commercial operation" means, with regard to a unit [serving a generator]:

1. To have begun to produce steam, gas, or other heated medium used to generate electricity for sale or use, including test generation, except as provided in 9 VAC 5-140-2050 [and subdivision 8 of 9 VAC 5-140-2840].

a. For a unit that is a CAIR NO_x Ozone Season unit under 9 VAC 5-140-2040 on [the later of November 15, 1990, or] the date the unit commences commercial operation as defined in subdivision 1 of this definition and that subsequently undergoes a physical change (other than replacement of the unit by a unit at the same source), such date shall remain the [unit's] date of commencement of commercial operation [of the unit which shall continue to be treated as the same unit].

b. For a unit that is a CAIR NO_x Ozone Season unit under 9 VAC 5-140-2040 [the later of November 15 1990, or] on the date the unit commences commercial operation as defined in subdivision 1 of this definition and that is subsequently replaced by a unit at the same source (e.g., repowered), [such date shall remain the replaced unit's date of commencement of commercial operation, and] the replacement unit shall be treated as a separate unit with a separate date for commencement of commercial operation as defined in subdivision 1 [, 2,] or [3 2] of this definition as appropriate.

2. Notwithstanding subdivision 1 of this definition and except as provided in 9 VAC 5-140-2050, for a unit that is not a CAIR NO_x Ozone Season unit under 9 VAC 5-140-2040 on [the later of November 15, 1990, or] the date the unit commences commercial operation as defined in subdivision 1 of this definition [and is not a unit under subdivision 3 of this definition], the unit's date for commencement of commercial

operation shall be the date on which the unit becomes a CAIR NO_x Ozone Season unit under 9 VAC 5-140-2040.

a. For a unit with a date for commencement of commercial operation as defined in subdivision 2 of this definition and that subsequently undergoes a physical change (other than replacement of the unit by a unit at the same source), such date shall remain the [unit's] date of commencement of commercial operation [of the unit, which shall continue to be treated as the same unit].

b. For a unit with a date for commencement of commercial operation as defined in subdivision 2 of this definition and that is subsequently replaced by a unit at the same source (e.g., repowered), [such date shall remain the replaced unit's date of commencement of commercial operation, and] the replacement unit shall be treated as a separate unit with a separate date for commencement of commercial operation as defined in subdivision 1 [, 2,] or [3 2] of this definition as appropriate.

~~[3. Notwithstanding subdivision 1 of this definition and except as provided in subdivision 8 of 9 VAC 5-140-2840 or 9 VAC 5-140-2870 B 3, for a CAIR NO_x Ozone Season opt-in unit or a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under Article 9 (9 VAC 5-140-2800 et seq.) of this part, the unit's date for commencement of commercial operation shall be the date on which the owner or operator is required to start monitoring and reporting the NO_x emissions rate and the heat input of the unit under 2 a (1) of subdivision 9 VAC 5-140-2840.~~

~~a. For a unit with a date for commencement of commercial operation as defined in subdivision 3 of this definition and that subsequently undergoes a physical change (other than replacement of the unit by a unit at the same source), such date shall remain the unit's date of commencement of commercial operation.~~

~~b. For a unit with a date for commencement of commercial operation as defined in subdivision 3 of this definition and that is subsequently replaced by a unit at the same source (e.g., repowered), the replacement unit shall be treated as a separate unit with a separate date for commencement of commercial operation as defined in subdivision 1, 2, or 3 of this definition as appropriate.~~

~~4. Notwithstanding subdivisions 1 through 3 of this definition, for a unit not serving a generator producing electricity for sale, the unit's date of commencement of operation shall also be the unit's date of commencement of commercial operation.~~

"Commence commercial operation" means, with regard to an existing nonelectric generating unit that serves a generator, to have begun to produce steam, gas, or other heated medium used to generate electricity for sale or use, including test

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generation. For a unit that is a CAIR NO_x Ozone Season unit under 9 VAC 5-140-2040 C 2 on the date the unit commences commercial operation, such date shall remain the unit's date of commencement of commercial operation even if the unit is subsequently modified, reconstructed, or repowered. Except as provided in Article 9 (9 VAC 5-140-2800 et seq.) of this part, for a unit that is not a CAIR NO_x Ozone Season unit under 9 VAC 5-140-2040 C 2 on the date the unit commences commercial operation, the date the unit becomes a CAIR NO_x Ozone Season unit under 9 VAC 5-140-2040 C 2 shall be the unit's date of commencement of commercial operation.]

"Commence operation" means:

1. To have begun any mechanical, chemical, or electronic process, including, with regard to a unit, start-up of a unit's combustion chamber, except as provided in [~~9 VAC 5 140-2050~~ subdivision 8 of 9 VAC 5-140-2840].

[~~a. 2.] For a unit that [is a CAIR NO_x Ozone Season unit under 9 VAC 5 140 2040 on the date the unit commences operation as defined in subdivision 1 of this definition and that subsequently] undergoes a physical change (other than replacement of the unit by a unit at the same source) [after the date the unit commences operation as defined in subdivision 1 of this definition], such date shall remain the [unit's] date of commencement of operation [of the unit, which shall continue to be treated as the same unit].~~

[~~b. 3.] For a unit that is [a CAIR NO_x Ozone Season unit under 9 VAC 5 140 2040 on the date the unit commences operation as defined in subdivision 1 of this definition and that is subsequently] replaced by a unit at the same source (e.g., repowered) [, after the date the unit commences operation as defined in subdivision 1 of this definition], [such date shall remain the replaced unit's date of commencement of operation, and] the replacement unit shall be treated as a separate unit with a separate date for commencement of operation as defined in subdivisions 1, 2, or 3 of this definition as appropriate [, except as provided in subdivision 8 of 9 VAC 5-140-2840].~~

[~~2. Notwithstanding subdivision 1 of this definition and except as provided in 9 VAC 5 140 2050, for a unit that is not a CAIR NO_x Ozone Season unit under 9 VAC 5 140-2040 on the date the unit commences operation as defined in subdivision 1 of this definition and is not a unit under subdivision 3 of this definition, the unit's date for commencement of operation shall be the date on which the unit becomes a CAIR NO_x Ozone Season unit under 9 VAC 5-140-2040.~~

~~a. For a unit with a date for commencement of operation as defined in subdivision 2 of this definition and that subsequently undergoes a physical change (other than replacement of the unit by a unit at the same source), such date shall remain the unit's date of commencement of operation.~~

~~b. For a unit with a date for commencement of operation as defined in subdivision 2 of this definition and that is subsequently replaced by a unit at the same source (e.g., repowered), the replacement unit shall be treated as a separate unit with a separate date for commencement of operation as defined in subdivision 1, 2, or 3 of this definition as appropriate.~~

~~3. Notwithstanding subdivision 1 of this definition and except as provided in subdivision 8 of 9 VAC 5 140 2840 or 9 VAC 5 140 2870 B 3, for a CAIR NO_x Ozone Season opt in unit or a unit for which a CAIR opt in permit application is submitted and not withdrawn and a CAIR opt in permit is not yet issued or denied under Article 9 (9 VAC 5 140 2800 et seq.) of this part, the unit's date for commencement of operation shall be the date on which the owner or operator is required to start monitoring and reporting the NO_x emissions rate and the heat input of the unit under subdivision 2 a (1) of 9 VAC 5 140 2840.~~

~~a. For a unit with a date for commencement of operation as defined in subdivision 3 of this definition and that subsequently undergoes a physical change (other than replacement of the unit by a unit at the same source), such date shall remain the unit's date of commencement of operation.~~

~~b. For a unit with a date for commencement of operation as defined in subdivision 3 of this definition and that is subsequently replaced by a unit at the source (e.g., repowered), the replacement unit shall be treated as a separate unit with a separate date for commencement of operation as defined in subdivision 1, 2, or 3 of this definition as appropriate.~~

"Commence operation" means, with regard to an existing nonelectric generating unit, to have begun any mechanical, chemical, or electronic process, including, with regard to a unit, start-up of a unit's combustion chamber. For a unit that is a CAIR NO_x Ozone Season unit under 9 VAC 5-140-2040 C 2 on the date of commencement of operation, such date shall remain the unit's date of commencement of operation even if the unit is subsequently modified, reconstructed, or repowered. Except as provided in Article 9 (9 VAC 5-140-2800 et seq.) of this part, for a unit that is not a CAIR NO_x Ozone Season unit under 9 VAC 5-140-2040 C 2 on the date of commencement of operation, the date the unit becomes a CAIR NO_x Ozone Season unit under 9 VAC 5-140-2040 C 2 shall be the unit's date of commencement of operation.]

"Common stack" means a single flue through which emissions from 2 or more units are exhausted.

"Compliance account" means a CAIR NO_x Ozone Season Allowance Tracking System account, established by the administrator for a CAIR NO_x Ozone Season source under Article 6 (9 VAC 5-140-2500 et seq.) or Article 9 (9 VAC 5-140-2800 et seq.) of this part, in which any CAIR NO_x Ozone

Season allowance allocations for the CAIR NO_x Ozone Season units at the source are initially recorded and in which are held any CAIR NO_x Ozone Season allowances available for use for a control period in order to meet the source's CAIR NO_x Ozone Season emissions limitation in accordance with 9 VAC 5-140-2540.

"Continuous emission monitoring system" or "CEMS" means the equipment required under Article 8 (9 VAC 5-140-2700 et seq.) of this part to sample, analyze, measure, and provide, by means of readings recorded at least once every 15 minutes (using an automated data acquisition and handling system (DAHS)), a permanent record of nitrogen oxides emissions, stack gas volumetric flow rate, stack gas moisture content, and oxygen or carbon dioxide concentration (as applicable), in a manner consistent with 40 CFR Part 75. The following systems are the principal types of continuous emission monitoring systems required under Article 8 (9 VAC 5-140-2700 et seq.) of this part:

1. A flow monitoring system, consisting of a stack flow rate monitor and an automated data acquisition and handling system and providing a permanent, continuous record of stack gas volumetric flow rate, in standard cubic feet per hour (scfh);

2. A nitrogen oxides concentration monitoring system, consisting of a NO_x pollutant concentration monitor and an automated data acquisition and handling system and providing a permanent, continuous record of NO_x emissions, in parts per million (ppm);

3. A nitrogen oxides emission rate (or NO_x-diluent) monitoring system, consisting of a NO_x pollutant concentration monitor, a diluent gas (CO₂ or O₂) monitor, and an automated data acquisition and handling system and providing a permanent, continuous record of NO_x concentration, in parts per million (ppm), diluent gas concentration, in percent CO₂ or O₂, and NO_x emission rate, in pounds per million British thermal units (lb/mmBtu);

4. A moisture monitoring system, as defined in 40 CFR 75.11(b)(2) and providing a permanent, continuous record of the stack gas moisture content, in percent H₂O;

5. A carbon dioxide monitoring system, consisting of a CO₂ pollutant concentration monitor (or an oxygen monitor plus suitable mathematical equations from which the CO₂ concentration is derived) and an automated data acquisition and handling system and providing a permanent, continuous record of CO₂ emissions, in percent CO₂; and

6. An oxygen monitoring system, consisting of an O₂ concentration monitor and an automated data acquisition and handling system and providing a permanent, continuous record of O₂, in percent O₂.

"Control period" or "ozone season" means the period beginning May 1 of a calendar year, except as provided in

9 VAC 5-140-2060 C 2, and ending on September 30 of the same year, inclusive.

["Core trading program budget" means the amount of tons of NO_x emissions in the state trading program budget for the control period to which the new unit set-aside applies minus the new unit set-aside budget.

"EERE proponent" means any person who owns, leases, operates or controls an energy efficiency unit or a renewable energy unit, or an EERE representative.

"EERE representative" means a party that aggregates one or more energy efficiency units or renewable energy units. An EERE representative may include, without limitation, a common owner of projects, an energy service company, an emission trading broker or a state or municipal entity.]

"Electricity for sale under firm contract to the grid" means electricity for sale where the capacity involved is intended to be available at all times during the period covered by a guaranteed commitment to deliver, even under adverse conditions.

"Emissions" means air pollutants exhausted from a unit or source into the atmosphere, as measured, recorded, and reported to the administrator by the CAIR-designated representative and as determined by the administrator in accordance with Article 8 (9 VAC 5-140-2700 et seq.) of this part.

"Energy efficiency unit" means an end-use energy efficiency project implemented after January 1, 2006, that reduces electricity consumption [at a building or facility located in Virginia] according to an energy efficiency verification protocol acceptable to the [board permitting authority]. [Projects resulting in energy savings at a CAIR NO_x Ozone Season unit are not encompassed within this definition.]

"Excess emissions" means any ton of nitrogen oxides emitted by the CAIR NO_x Ozone Season units at a CAIR NO_x Ozone Season source during a control period that exceeds the CAIR NO_x Ozone Season emissions limitation for the source.

["Existing nonelectric generating unit" means a source of NO_x emissions that is a CAIR NO_x Ozone Season unit under 9 VAC 5-140-2040 C 1 and listed in 9 VAC 5-140-2430.]

"Fossil fuel" means natural gas, petroleum, coal, or any form of solid, liquid, or gaseous fuel derived from such material.

"Fossil-fuel-fired" means, with regard to a unit, combusting any amount of fossil fuel in any calendar year.

["Fossil fuel-fired" means, with regard to an existing nonelectric generating unit:

1. For units that commenced operation before January 1, 1996, the combustion of fossil fuel, alone or in combination with any other fuel, where fossil fuel actually combusted comprises more than 50% of the annual heat input on a Btu

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basis during 1995 or, if a unit had no heat input in 1995, during the last year of operation of the unit prior to 1995;

2. For units that commenced operation on or after January 1, 1996, and before January 1, 1997, the combustion of fossil fuel, alone or in combination with any other fuel, where fossil fuel actually combusted comprises more than 50% of the annual heat input on a Btu basis during 1996; or

3. For units that commence operation on or after January 1, 1997:

a. The combustion of fossil fuel, alone or in combination with any other fuel, where fossil fuel actually combusted comprises more than 50% of the annual heat input on a Btu basis during any year; or

b. The combustion of fossil fuel, alone or in combination with any other fuel, where fossil fuel is projected to comprise more than 50% of the annual heat input on a Btu basis during any year, provided that the unit shall be "fossil fuel-fired" as of the date, during such year, on which the unit begins combusting fossil fuel.]

"Fuel oil" means any petroleum-based fuel (including diesel fuel or petroleum derivatives such as oil tar) and any recycled or blended petroleum products or petroleum by-products used as a fuel whether in a liquid, solid, or gaseous state.

"General account" means a NO_x Ozone Season Allowance Tracking System account, established under Article 6 (9 VAC 5-140-2500 et seq.) of this part, that is not a compliance account.

"Generator" means a device that produces electricity.

"Gross electrical output" means, with regard to a cogeneration unit, electricity made available for use, including any such electricity used in the power production process (which process includes, but is not limited to, any on-site processing or treatment of fuel combusted at the unit and any on-site emission controls).

"Heat input" means, with regard to a specified period of time, the product (in mmBtu/time) of the gross calorific value of the fuel (in Btu/lb) divided by 1,000,000 Btu/mmBtu and multiplied by the fuel feed rate into a combustion device (in lb of fuel/time), as measured, recorded, and reported to the administrator by the CAIR-designated representative and determined by the administrator in accordance with Article 8 (9 VAC 5-140-2700 et seq.) of this part and excluding the heat derived from preheated combustion air, recirculated flue gases, or exhaust from other sources.

"Heat input rate" means the amount of heat input (in mmBtu) divided by unit operating time (in hr) or, with regard to a specific fuel, the amount of heat input attributed to the fuel (in mmBtu) divided by the unit operating time (in hr) during which the unit combusts the fuel.

["Hg Budget Trading Program" means a multistate Hg air pollution control and emission reduction program approved and administered by the administrator in accordance with Part VI (9 VAC 5-140-5010 et seq.) of this chapter and 40 CFR 60.24(h)(6), or established by the administrator under § 111 of the Clean Air Act, as a means of reducing national Hg emissions.]

"Implementation plan" means the portion or portions of the state implementation plan, or the most recent revision thereof, which has been approved in subpart VV of 40 CFR Part 52 by the administrator under § 110 of the CAA, or promulgated under § 110(c) of the CAA, or promulgated or approved pursuant to regulations promulgated under § 301(d) of the CAA and which implements the relevant requirements of the CAA.

"Life of the unit, firm power contractual arrangement" means a unit participation power sales agreement under which a utility or industrial customer reserves, or is entitled to receive, a specified amount or percentage of nameplate capacity and associated energy generated by any specified unit and pays its proportional amount of such unit's total costs, pursuant to a contract:

1. For the life of the unit;

2. For a cumulative term of no less than 30 years, including contracts that permit an election for early termination; or

3. For a period no less than 25 years or 70.0% of the economic useful life of the unit determined as of the time the unit is built, with option rights to purchase or release some portion of the nameplate capacity and associated energy generated by the unit at the end of the period.

"Maximum design heat input" means [~~starting from the initial installation of a unit,~~] the maximum amount of fuel per hour (in Btu/hr) that a unit is capable of combusting on a steady state basis as [of the initial installation of the unit as] specified by the manufacturer of the unit [~~, or, starting from the completion of any subsequent physical change in the unit resulting in a decrease in the maximum amount of fuel per hour (in Btu/hr) that a unit is capable of combusting on a steady state basis, such decreased maximum amount as specified by the person conducting the physical change].~~

"Monitoring system" means any monitoring system that meets the requirements of Article 8 (9 VAC 5-140-2700 et seq.) of this part, including a continuous emissions monitoring system, an alternative monitoring system, or an excepted monitoring system under 40 CFR Part 75.

"Most stringent state or federal NO_x emissions limitation" means the lowest NO_x emissions limitation (in lb/mmBtu) that is applicable to the unit under the Virginia Air Pollution Control Law or federal law, regardless of the averaging period to which the emissions limitation applies. In cases where a unit is subject to a permit which provides for the use

of multiple fuels, the primary fuel shall be used as the basis to determine the most stringent state or federal NO_x emissions limitation. ~~[The primary fuel shall be the fuel designated in the permit as such or as having the greatest throughput.]~~

"Nameplate capacity" means, starting from the initial installation of a generator, the maximum electrical generating output (in MWe) that the generator is capable of producing on a steady state basis and during continuous operation (when not restricted by seasonal or other deratings) as [of such installation as] specified by the manufacturer of the generator or, starting from the completion of any subsequent physical change in the generator resulting in an increase in the maximum electrical generating output (in MWe) that the generator is capable of producing on a steady state basis and during continuous operation (when not restricted by seasonal or other deratings), such increased maximum amount as [of such installation as] specified by the person conducting the physical change.

["New energy efficiency/renewable energy unit set-aside budget" means the amount of tons of NO_x emissions in the CAIR NO_x Ozone Season trading budget for each control period in 2009 and thereafter multiplied by 1.0%, rounded to the nearest whole allowance as appropriate.

"New nonelectric generating unit" means a source of NO_x emissions that is a CAIR NO_x Ozone Season unit under 9 VAC 5-140-2040 C 2.]

"New unit set-aside budget" means the sum of:

1. ~~[For CAIR NO_x Ozone Season units under subdivision 1 of 9 VAC 5-140-2040, the]~~ amount of tons of NO_x emissions in the [state CAIR NO_x Ozone Season] trading [~~program~~] budget for the control period to which the new unit set-aside applies multiplied by the [new unit] set-aside percentage, rounded to the nearest whole [~~number of NO_x allowances~~ allowance] as appropriate.

2. ~~[For CAIR NO_x Ozone Season units under subdivision 2 of 9 VAC 5-140-2040 736],~~ 700 tons of NO_x emissions for each control period.

["New unit set-aside percentage" means 4.0% for each control period in 2009 through 2013 or 1.0 % for each control period in 2014 and thereafter.]

"Nonelectric generating unit [~~(EGU)~~]" means a source of NO_x emissions that is a CAIR NO_x Ozone Season] unit [~~with a maximum design heat input greater than 250 mmBtu/hr but not an EGU under 9 VAC 5-140-2040 C but is not covered under 9 VAC 5-140-2040 A]~~.

"Nonattainment condition" means a condition where any area is shown by air quality monitoring data or which is shown by an air quality impact analysis (using modeling or other methods determined by the board to be reliable) to exceed the levels allowed by the ambient air quality standard for a given

pollutant, regardless of whether such demonstration is based on current or projected emissions data.

"Oil-fired" means, for purposes of Article 5 (9 VAC 5-140-2400 et seq.) of this part, combusting fuel oil for more than 15.0% of the annual heat input in a specified year and not qualifying as coal-fired.

"Operator" means any person who operates, controls, or supervises a CAIR NO_x Ozone Season unit or a CAIR NO_x Ozone Season source and shall include, but not be limited to, any holding company, utility system, or plant manager of such a unit or source.

"Owner" means any of the following persons:

1. With regard to a CAIR NO_x Ozone Season source or a CAIR NO_x Ozone Season unit at a source, respectively:

a. Any holder of any portion of the legal or equitable title in a CAIR NO_x Ozone Season unit at the source or the CAIR NO_x Ozone Season unit;

b. Any holder of a leasehold interest in a CAIR NO_x Ozone Season unit at the source or the CAIR NO_x Ozone Season unit; or

c. Any purchaser of power from a CAIR NO_x Ozone Season unit at the source or the CAIR NO_x Ozone Season unit under a life of the unit, firm power contractual arrangement; provided that, unless expressly provided for in a leasehold agreement, owner shall not include a passive lessor, or a person who has an equitable interest through such lessor, whose rental payments are not based (either directly or indirectly) on the revenues or income from such CAIR NO_x Ozone Season unit; or

2. With regard to any general account, any person who has an ownership interest with respect to the CAIR NO_x Ozone Season allowances held in the general account and who is subject to the binding agreement for the CAIR-authorized account representative to represent the person's ownership interest with respect to CAIR NO_x Ozone Season allowances.

"Permitting authority" means [the state air pollution control agency, local agency, other state agency, or other agency authorized by the administrator to issue or revise permits to meet the requirements of the CAIR NO_x Ozone Season Trading Program in accordance with Article 3 (9 VAC 5-140-2200 et seq.) of this part or, if no such agency has been so authorized, the administrator. For the Commonwealth of Virginia, the permitting authority shall be] the State Air Pollution Control Board.

"Potential electrical output capacity" means 33.0% of a unit's maximum design heat input, divided by 3,413 Btu/kWh, divided by 1,000 kWh/MWh, and multiplied by 8,760 hr/yr.

"Receive or receipt of" means, when referring to the permitting authority or the administrator, to come into

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possession of a document, information, or correspondence (whether sent in hard copy or by authorized electronic transmission), as indicated in an official [~~correspondence~~] log, or by a notation made on the document, information, or correspondence, by the permitting authority or the administrator in the regular course of business.

"Recordation," "record," or "recorded" means, with regard to CAIR NO_x Ozone Season allowances, the movement of CAIR NO_x Ozone Season allowances by the administrator into or between CAIR NO_x Ozone Season Allowance Tracking System accounts, for purposes of allocation, transfer, or deduction.

"Reference method" means any direct test method of sampling and analyzing for an air pollutant as specified in 40 CFR 75.22.

"Renewable energy unit" means [~~a nonemitting an~~] electric generator that began commercial operation after January 1, 2006, and is powered by (i) wind, solar, ocean thermal, wave, [tidal,] geothermal, or biomass energy, or (ii) [~~landfill gas~~] fuel cells powered by hydrogen generated by a renewable energy source. Renewable energy does not include energy derived from: (i) material that has been treated or painted or derived from demolition or construction material; (ii) municipal, industrial or other multiple source solid waste; and (iii) co-firing of biomass with fossil fuels or solid waste.

Replacement," "replace," or "replaced" means, with regard to a unit, the demolishing of a unit, or the permanent shutdown and permanent disabling of a unit, and the construction of another unit (the replacement unit) to be used instead of the demolished or shutdown unit (the replaced unit).]

"Repowered" means, with regard to a unit, replacement of a coal-fired boiler with one of the following coal-fired technologies at the same source as the coal-fired boiler:

1. Atmospheric or pressurized fluidized bed combustion;
2. Integrated gasification combined cycle;
3. Magnetohydrodynamics;
4. Direct and indirect coal-fired turbines;
5. Integrated gasification fuel cells; or
6. As determined by the administrator in consultation with the Secretary of Energy, a derivative of one or more of the technologies under subdivisions 1 through 5 of this definition and any other coal-fired technology capable of controlling multiple combustion emissions simultaneously with improved boiler or generation efficiency and with significantly greater waste reduction relative to the performance of technology in widespread commercial use as of January 1, 2005.

"Sequential use of energy" means:

1. For a topping-cycle cogeneration unit, the use of reject heat from electricity production in a useful thermal energy application or process; or

2. For a bottoming-cycle cogeneration unit, the use of reject heat from useful thermal energy application or process in electricity production.

"Serial number" means, for a CAIR NO_x Ozone Season allowance, the unique identification number assigned to each CAIR NO_x Ozone Season allowance by the administrator.

[~~"Set-aside percentage" means 5.0% for each control period in 2009 through 2013 or 2.0% for each control period in 2014 and thereafter.~~

"Solid waste incineration unit" means a stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine that is a "solid waste incineration unit" as defined in § 129(g)(1) of the Clean Air Act.]

"Source" means all buildings, structures, or installations located in one or more contiguous or adjacent properties under common control of the same person or persons. For purposes of § 502(c) of the Clean Air Act, a "source," including a "source" with multiple units, shall be considered a single "facility."

"State" means the Commonwealth of Virginia. The term "state" shall have its conventional meaning where such meaning is clear from the context.

"State operating permit" means a permit issued under Article 5 (9 VAC 5-80-800 et seq.) of Part II of 9 VAC 5 Chapter 80.

"State operating permit regulations" means the regulations codified in Article 5 (9 VAC 5-80-800 et seq.) of Part II of 9 VAC 5 Chapter 80.

"Submit or serve" means to send or transmit a document, information, or correspondence to the person specified in accordance with the applicable regulation:

1. In person;
2. By United States Postal Service; or
3. By other means of dispatch or transmission and delivery. Compliance with any "submission" or "service" deadline shall be determined by the date of dispatch, transmission, or mailing and not the date of receipt.

"Title V operating permit" means a permit issued under Article 1 (9 VAC 5-80-50 et seq.) or Article 3 (9 VAC 5-80-360 et seq.) of Part II of 9 VAC 5 Chapter 80.

"Title V operating permit regulations" means the regulations codified in Article 1 (9 VAC 5-80-50 et seq.), Article 2 (9 VAC 5-80-310 et seq.), Article 3 (9 VAC 5-80-360 et seq.), and Article 4 (9 VAC 5-80-710 et seq.) of Part II of 9 VAC 5 Chapter 80.

"Ton" means 2,000 pounds. For the purpose of determining compliance with the CAIR NO_x Ozone Season emissions limitation, total tons of nitrogen oxides emissions for a control period shall be calculated as the sum of all recorded hourly emissions (or the mass equivalent of the recorded hourly emission rates) in accordance with Article 8 (9 VAC 5-140-2700 et seq.) of this part, but with any remaining fraction of a ton equal to or greater than 0.50 tons deemed to equal one ton and any remaining fraction of a ton less than 0.50 tons deemed to equal zero tons.

"Topping-cycle cogeneration unit" means a cogeneration unit in which the energy input to the unit is first used to produce useful power, including electricity, and at least some of the reject heat from the electricity production is then used to provide useful thermal energy.

"Total energy input" means, with regard to a cogeneration unit, total energy of all forms supplied to the cogeneration unit, excluding energy produced by the cogeneration unit itself.

"Total energy output" means, with regard to a cogeneration unit, the sum of useful power and useful thermal energy produced by the cogeneration unit.

"Unit" means a stationary, fossil-fuel-fired boiler or combustion turbine or other stationary, fossil-fuel-fired combustion device.

"Unit operating day" means a calendar day in which a unit combusts any fuel.

"Unit operating hour" or "hour of unit operation" means an hour in which a unit combusts any fuel.

"Useful power" means, with regard to a cogeneration unit, electricity or mechanical energy made available for use, excluding any such energy used in the power production process (which process includes, but is not limited to, any on-site processing or treatment of fuel combusted at the unit and any on-site emission controls).

"Useful thermal energy" means, with regard to a cogeneration unit, thermal energy that is:

1. Made available to an industrial or commercial process (not a power production process), excluding any heat contained in condensate return or makeup water;
2. Used in a heating application (e.g., space heating or domestic hot water heating); or
3. Used in a space cooling application (i.e., thermal energy used by an absorption chiller).

"Utility power distribution system" means the portion of an electricity grid owned or operated by a utility and dedicated to delivering electricity to customers.

9 VAC 5-140-2030. Measurements, abbreviations, and acronyms.

Measurements, abbreviations, and acronyms used in this part are defined as follows:

Btu-British thermal unit.

CO₂-carbon dioxide.

[~~NO_x-nitrogen oxides.~~

H₂O-water.

Hg-mercury.]

hr-hour.

kW-kilowatt electrical.

kWh-kilowatt hour.

[lb-pound.]

mmBtu-million Btu.

MWe-megawatt electrical.

MWh-megawatt hour.

NO_x-nitrogen oxides.]

O₂-oxygen.

ppm-parts per million.

[~~lb-pound.~~]

scfh-standard cubic feet per hour.

SO₂-sulfur dioxide.

[~~H₂O-water.~~]

yr-year.

9 VAC 5-140-2040. Applicability.

[A. Except as provided in subsection B of this section:

1.] The following units shall be CAIR NO_x Ozone Season units, and any source that includes one or more such units shall be a CAIR NO_x Ozone Season source, subject to the requirements of this article and Article 2 (9 VAC 5-140-2100 et seq.) through Article 8 (9 VAC 5-140-2700 et seq.) of this part: [~~1. a. Except as provided in subdivision B 2 of this section, a~~ any] stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine serving at any time, since [the later of November 15, 1990, or] the start-up of the unit's combustion chamber, a generator with nameplate capacity of more than 25 MWe producing electricity for sale.

[2. If a stationary boiler or stationary combustion turbine that, under subdivision 1 of this subsection, is not a CAIR NO_x Ozone Season unit begins to combust fossil fuel or to serve a generator with nameplate capacity of more than 25 MWe producing electricity for sale, the unit shall become a

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CAIR NO_x Ozone Season unit as provided in subdivision 1 of this subsection on the first date on which it both combusts fossil fuel and serves such generator.

B. The units that meet the requirements set forth in subdivision 1 a, 2 a, or 2 b of this subsection shall not be CAIR NO_x Ozone Season units:

1. a. Any unit that is a CAIR NO_x Ozone Season unit under subdivision A 1 or 2 of this section:

(1) Qualifying as a cogeneration unit during the 12-month period starting on the date the unit first produces electricity and continuing to qualify as a cogeneration unit; and

(2) Not serving at any time, since the later of November 15, 1990, or the start-up of the unit's combustion chamber, a generator with nameplate capacity of more than 25 MWe supplying in any calendar year more than one-third of the unit's potential electric output capacity or 219,000 MWh, whichever is greater, to any utility power distribution system for sale.]

b. ~~[For a unit that qualifies as a cogeneration unit during the 12-month period starting on the date the unit first produces electricity and continues to qualify as a cogeneration unit, a cogeneration unit serving at any time a generator with nameplate capacity of more than 25 MWe and supplying in any calendar year more than one-third of the unit's potential electric output capacity or 219,000 MWh, whichever is greater, to any utility power distribution system for sale.] If a unit qualifies as a cogeneration unit during the 12-month period starting on the date the unit first produces electricity [and meets the requirements of subdivision 1 a of this subsection for at least one calendar year,] but subsequently no longer [qualifies as a cogeneration unit meets all such requirements], the unit shall [be subject to subdivision A 1 of this section become a CAIR NO_x Ozone Season unit] starting on the [day on earlier of January 1 after the first calendar year during] which the unit first no longer qualifies as a cogeneration unit [or January 1 after the first calendar year during which the unit no longer meets the requirements of subdivision 1 a (2) of this subsection].~~

2. a. [Any unit that is a CAIR NO_x Ozone Season unit under subdivision A 1 or 2 of this section commencing operation before January 1, 1985:

(1) Qualifying as a solid waste incineration unit; and

(2) With an average annual fuel consumption of nonfossil fuel for 1985-1987 exceeding 80% (on a Btu basis) and an average annual fuel consumption of nonfossil fuel for any three consecutive calendar years after 1990 exceeding 80% (on a Btu basis).

b. Any unit that is a CAIR NO_x Ozone Season unit under subdivision A 1 or 2 of this section commencing operation on or after January 1, 1985:

(1) Qualifying as a solid waste incineration unit; and

(2) With an average annual fuel consumption of nonfossil fuel for the first three calendar years of operation exceeding 80% (on a Btu basis) and an average annual fuel consumption of nonfossil fuel for any three consecutive calendar years after 1990 exceeding 80% (on a Btu basis).

c. If a unit qualifies as a solid waste incineration unit and meets the requirements of subdivision 2 a or b of this subsection for at least three consecutive calendar years, but subsequently no longer meets all such requirements, the unit shall become a CAIR NO_x Ozone Season unit starting on the earlier of January 1 after the first calendar year during which the unit first no longer qualifies as a solid waste incineration unit or January 1 after the first three consecutive calendar years after 1990 for which the unit has an average annual fuel consumption of fossil fuel of 20% or more.]

C. The following units shall be CAIR NO_x Ozone Season units, and any source that includes one or more such units shall be a CAIR NO_x Ozone Season source, subject to the requirements of this article and Article 2 (9 VAC 5-140-2100 et seq.) through Article 8 (9 VAC 5-140-2700 et seq.) of this part:]

[For units that commenced operation before January 1, 2006, a unit that is 1. Units] listed in 9 VAC 5-140-2430.

[2. Except for units under subsection A or subdivision C 1 of this section, the units that meet the requirements set forth in subdivisions a and b of this subdivision:

a. (1) For units that commenced operation before January 1, 1997, a unit serving during 1995 or 1996 a generator that had a nameplate capacity greater than 25 MWe and produced electricity for sale under a firm contract to the electric grid.

(2) For units that commenced operation on or after January 1, 1997, and before January 1, 1999, a unit serving during 1997 or 1998 a generator that had a nameplate capacity greater than 25 MWe and produced electricity for sale under a firm contract to the electric grid.

(3) For units that commence operation on or after January 1, 1999, a unit serving at any time a generator that has a nameplate capacity greater than 25 MWe and produces electricity for sale.

b. (1) For units that commenced operation before January 1, 1997, a unit that has a maximum design heat input greater than 250 mmBtu/hr and that did not serve during 1995 or 1996 a generator producing electricity for sale under a firm contract to the electric grid.

(2) For units that commenced operation on or after January 1, 1997, and before January 1, 1999, a unit that has a maximum design heat input greater than 250 mmBtu/hr and that did not serve during 1997 or 1998 a generator producing electricity for sale under a firm contract to the electric grid.]

~~[(3)]~~ For units that commence operation on or after January 1, ~~[2006 1999]~~, a unit with a maximum design heat input greater than 250 mmBtu/hr that:

~~[(1) (a)]~~ At no time serves a generator producing electricity for sale under firm contract to the grid; or

~~[(2) (b)]~~ At any time serves a generator producing electricity for sale under firm contract to the grid, if any such generator has a nameplate capacity of 25 MWe or less and has the potential to use no more than 50% of the potential electrical output capacity of the unit.

9 VAC 5-140-2050. Retired unit exemption.

A. 1. Any CAIR NO_x Ozone Season unit that is permanently retired and is not a CAIR NO_x Ozone Season opt-in unit [under Article 9 (9 VAC 5-140-2800 et seq.) of this part] shall be exempt from the CAIR NO_x Ozone Season Trading Program, except for the provisions of this section, 9 VAC 5-140-2020, 9 VAC 5-140-2030, 9 VAC 5-140-2040, 9 VAC 5-140-2060 C 4 through 7, 9 VAC 5-140-2070, [9 VAC 5-140-2080,] and Article 2 (9 VAC 5-140-2100 et seq.) and Article 5 (9 VAC 5-140-2400 et seq.) through Article 7 (9 VAC 5-140-2600 et seq.) of this part.

2. The exemption under subdivision 1 of this subsection shall become effective the day on which the CAIR NO_x Ozone Season unit is permanently retired. Within 30 days of the unit's permanent retirement, the CAIR-designated representative shall submit a statement to the permitting authority otherwise responsible for administering any CAIR permit for the unit and shall submit a copy of the statement to the administrator. The statement shall state, in a format acceptable to the permitting authority, that the unit was permanently retired on a specific date and will comply with the requirements of subsection B of this section.

3. After receipt of the statement under subdivision 2 of this subsection, the permitting authority will amend any permit under Article 3 (9 VAC 5-140-2200 et seq.) of this part covering the source at which the unit is located to add the provisions and requirements of the exemption under subdivision 1 of this subsection and subsection B of this section.

B. Special provisions for exempt units shall be as follows:

1. A unit exempt under subsection A of this section shall not emit any nitrogen oxides, starting on the date that the exemption takes effect.

2. The permitting authority will allocate CAIR NO_x Ozone Season allowances under Article 5 (9 VAC 5-140-2400 et seq.) of this part to a unit exempt under subsection A of this section.

3. For a period of five years from the date the records are created, the owners and operators of a unit exempt under subsection A of this section shall retain [,] at the source that

includes the unit, records demonstrating that the unit is permanently retired. The five year period for keeping records may be extended for cause, at any time before the end of the period, in writing by the permitting authority or the administrator. The owners and operators bear the burden of proof that the unit is permanently retired.

4. The owners and operators and, to the extent applicable, the CAIR-designated representative of a unit exempt under subsection A of this section shall comply with the requirements of the CAIR NO_x Ozone Season Trading Program concerning all periods for which the exemption is not in effect, even if such requirements arise, or shall be complied with, after the exemption takes effect.

5. A unit exempt under subsection A of this section and located at a source that is required, or but for this exemption would be required, to have a Title V operating permit shall not resume operation unless the CAIR-designated representative of the source submits a complete CAIR permit application under 9 VAC 5-140-2220 for the unit not less than 18 months (or such lesser time provided by the permitting authority) before the later of January 1, 2009, or the date on which the unit resumes operation.

6. On the earlier of the following dates, a unit exempt under subsection A of this section shall lose its exemption:

a. The date on which the CAIR-designated representative submits a CAIR permit application for the unit under subdivision 5 of this subsection;

b. The date on which the CAIR-designated representative is required under subdivision 5 of this subsection to submit a CAIR permit application for the unit; or

c. The date on which the unit resumes operation, if the CAIR-designated representative is not required to submit a CAIR permit application for the unit.

7. For the purpose of applying monitoring, reporting, and recordkeeping requirements under Article 8 (9 VAC 5-140-2700 et seq.) of this part, a unit that loses its exemption under subsection A of this section shall be treated as a unit that commences [~~operation and~~] commercial operation on the first date on which the unit resumes operation.

9 VAC 5-140-2060. Standard requirements.

A. Permit requirements shall be as follows:

1. The CAIR-designated representative of each CAIR NO_x Ozone Season source required to have a Title V operating permit and each CAIR NO_x Ozone Season unit required to have a Title V operating permit at the source shall:

a. Submit to the permitting authority a complete CAIR permit application under 9 VAC 5-140-2220 in accordance with the deadlines specified in 9 VAC 5-140-2210; and

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b. Submit in a timely manner any supplemental information that the permitting authority determines is necessary in order to review a CAIR permit application and issue or deny a CAIR permit.

2. The owners and operators of each CAIR NO_x Ozone Season source required to have a Title V operating permit and each CAIR NO_x Ozone Season unit required to have a Title V operating permit at the source shall have a CAIR permit issued by the permitting authority under Article 3 (9 VAC 5-140-2200 et seq.) of this part for the source and operate the source and the unit in compliance with such CAIR permit.

3. Except as provided in Article 9 (9 VAC 5-140-2800 et seq.) of this part, the owners and operators of a CAIR NO_x Ozone Season source that is not otherwise required to have a Title V operating permit and each CAIR NO_x Ozone Season unit that is not otherwise required to have a Title V operating permit are not required to submit a CAIR permit application, and to have a CAIR permit, under Article 3 (9 VAC 5-140-2200 et seq.) of this part for such CAIR NO_x Ozone Season source and such CAIR NO_x Ozone Season unit.

B. Monitoring, reporting, and recordkeeping requirements shall be performed as follows:

1. The owners and operators, and the CAIR-designated representative, of each CAIR NO_x Ozone Season source and each CAIR NO_x Ozone Season unit at the source shall comply with the monitoring, reporting, and recordkeeping requirements of Article 8 (9 VAC 5-140-2700 et seq.) of this part.

2. The emissions measurements recorded and reported in accordance with Article 8 (9 VAC 5-140-2700 et seq.) of this part shall be used to determine compliance by each CAIR NO_x Ozone Season source with the CAIR NO_x Ozone Season emissions limitation under subsection C of this section.

C. Nitrogen oxides ozone season emission requirements shall be as follows:

1. As of the allowance transfer deadline for a control period, the owners and operators of each CAIR NO_x Ozone Season source and each CAIR NO_x Ozone Season unit at the source shall hold, in the source's compliance account, CAIR NO_x Ozone Season allowances available for compliance deductions for the control period under 9 VAC 5-140-2540 A in an amount not less than the tons of total nitrogen oxides emissions for the control period from all CAIR NO_x Ozone Season units at the source, as determined in accordance with Article 8 (9 VAC 5-140-2700 et seq.) of this part.

2. A CAIR NO_x Ozone Season unit shall be subject to the requirements under subdivision 1 of this subsection for the control period starting on the later of May 1, 2009, or the deadline for meeting the unit's monitor certification

requirements under 9 VAC 5-140-2700 C 1, 2, 3, or 7 and for each control period thereafter.

3. A CAIR NO_x Ozone Season allowance shall not be deducted, for compliance with the requirements under subdivision 1 of this subsection, for a control period in a calendar year before the year for which the CAIR NO_x Ozone Season allowance was allocated.

4. CAIR NO_x Ozone Season allowances shall be held in, deducted from, or transferred into or among CAIR NO_x Ozone Season Allowance Tracking System accounts in accordance with Article 5 (9 VAC 5-140-2400 et seq.), [Article 6 (9 VAC 5-140-2500 et seq.), Article 7 (9 VAC 5-140-2600 et seq.), and Article 9 (9 VAC 5-140-2800 et seq.)] of this part.

5. A CAIR NO_x Ozone Season allowance is a limited authorization to emit one ton of nitrogen oxides in accordance with the CAIR NO_x Ozone Season Trading Program. No provision of the CAIR NO_x Ozone Season Trading Program, the CAIR permit application, the CAIR permit, or an exemption under 9 VAC 5-140-2050 and no provision of law shall be construed to limit the authority of the state or the United States to terminate or limit such authorization.

6. A CAIR NO_x Ozone Season allowance does not constitute a property right.

7. Upon recordation by the administrator under [Article 5 (9 VAC 5-140-2400 et seq.),] Article 6 (9 VAC 5-140-2500 et seq.), Article 7 (9 VAC 5-140-2600 et seq.), or Article 9 (9 VAC 5-140-2800 et seq.) of this part, every allocation, transfer, or deduction of a CAIR NO_x Ozone Season allowance to or from a CAIR NO_x Ozone Season [~~unit's~~ source's] compliance account is incorporated automatically in any CAIR permit of the source [~~that includes the CAIR NO_x Ozone Season unit~~].

D. If a CAIR NO_x Ozone Season source emits nitrogen oxides during any control period in excess of the CAIR NO_x Ozone Season emissions limitation, then:

1. The owners and operators of the source and each CAIR NO_x Ozone Season unit at the source shall surrender the CAIR NO_x Ozone Season allowances required for deduction under 9 VAC 5-140-2540 D 1 and pay any fine, penalty, or assessment or comply with any other remedy imposed, for the same violations, under the Clean Air Act or the Virginia Air Pollution Control Law; and

2. Each ton of such excess emissions and each day of such control period shall constitute a separate violation of this article, the Clean Air Act, and the Virginia Air Pollution Control Law.

E. Recordkeeping and reporting requirements shall be performed as follows:

1. Unless otherwise provided, the owners and operators of the CAIR NO_x Ozone Season source and each CAIR NO_x Ozone Season unit at the source shall keep on site at the source each of the following documents for a period of five years from the date the document is created. This period may be extended for cause, at any time before the end of five years, in writing by the permitting authority or the administrator.

a. The certificate of representation under 9 VAC 5-140-2130 for the CAIR-designated representative for the source and each CAIR NO_x Ozone Season unit at the source and all documents that demonstrate the truth of the statements in the certificate of representation; provided that the certificate and documents shall be retained on site at the source beyond such five-year period until such documents are superseded because of the submission of a new certificate of representation under 9 VAC 5-140-2130 changing the CAIR-designated representative.

b. All emissions monitoring information, in accordance with Article 8 (9 VAC 5-140-2700 et seq.) of this part, provided that to the extent that Article 8 (9 VAC 5-140-2700 et seq.) of this part provides for a three-year period for recordkeeping, the three-year period shall apply.

c. Copies of all reports, compliance certifications, and other submissions and all records made or required under the CAIR NO_x Ozone Season Trading Program.

d. Copies of all documents used to complete a CAIR permit application and any other submission under the CAIR NO_x Ozone Season Trading Program or to demonstrate compliance with the requirements of the CAIR NO_x Ozone Season Trading Program.

2. The CAIR-designated representative of a CAIR NO_x Ozone Season source and each CAIR NO_x Ozone Season unit at the source shall submit the reports required under the CAIR NO_x Ozone Season Trading Program, including those under Article 8 (9 VAC 5-140-2700 et seq.) of this part.

F. Liability shall be assigned as follows:

1. Each CAIR NO_x Ozone Season source and each CAIR NO_x Ozone Season unit shall meet the requirements of the CAIR NO_x Ozone Season Trading Program.

2. Any provision of the CAIR NO_x Ozone Season Trading Program that applies to a CAIR NO_x Ozone Season source or the CAIR-designated representative of a CAIR NO_x Ozone Season source shall also apply to the owners and operators of such source and of the CAIR NO_x Ozone Season units at the source.

3. Any provision of the CAIR NO_x Ozone Season Trading Program that applies to a CAIR NO_x Ozone Season unit or the CAIR-designated representative of a CAIR NO_x Ozone Season unit shall also apply to the owners and operators of such unit.

G. No provision of the CAIR NO_x Ozone Season Trading Program, a CAIR permit application, a CAIR permit, or an exemption under 9 VAC 5-140-2050 shall be construed as exempting or excluding the owners and operators, and the CAIR-designated representative, of a CAIR NO_x Ozone Season source or CAIR NO_x Ozone Season unit from compliance with any other provision of the applicable, approved state implementation plan, a state operating permit, the Virginia Air Pollution Control Law, or the Clean Air Act.

[9 VAC 5-140-2061. Nonattainment area requirements.

H. A.] The following requirements apply to any CAIR NO_x Ozone Season unit [~~or CAIR NO_x Ozone Season source~~] located in a nonattainment area designated in 9 VAC 5-20-204:

1. No owner, operator or other person shall cause or permit to be discharged into the atmosphere from any CAIR NO_x Ozone Season unit [~~or CAIR NO_x Ozone Season source~~] any NO_x emissions in excess of the [NO_x Ozone Season emissions cap. For each control period, the NO_x Ozone Season emissions cap shall be equal to the number of] NO_x allowances [(expressed in tons)] allocated for the CAIR NO_x Ozone Season unit [~~or CAIR NO_x Ozone Season source~~] for the control period] in accordance with 9 VAC 5-140-2420.

2. A CAIR NO_x Ozone Season unit [~~or CAIR NO_x Ozone Season source~~] shall be subject to the requirements under subdivision 1 of this subsection for the control period starting on the later of [~~January~~ May] 1, 2009, or the deadline for meeting the unit's monitor certification requirements under 9 VAC 5-140-2700 C 1, 2, [3] or [~~5~~ 7] and for each control period thereafter.

3. [~~No NO_x allowances other than those issued to a CAIR NO_x Ozone Season unit or CAIR NO_x Ozone Season source in accordance with 9 VAC 5-140-2420 may be used to demonstrate compliance with the emission standard in subdivision 1 of this subsection.~~] Compliance with [the NO_x Ozone Season emissions cap in subdivision 1 of] this subsection shall be [~~demonstrated annually,~~] based on a comparison of (i) the total NO_x emissions (expressed in tons) from each CAIR NO_x Ozone Season unit during the [~~preceding~~] control period, as determined in accordance with Article 8 (9 VAC 5-140-2700 et seq.) of this part and (ii) [~~the number of NO_x allowances (expressed in tons) allocated for the CAIR NO_x Ozone Season unit for the preceding control period in accordance with 9 VAC 5-140-2420 NO_x Ozone Season emissions cap~~]. [~~However, this subsection does not otherwise prohibit any CAIR NO_x Ozone Season unit or CAIR NO_x Ozone Season source from participating in the CAIR NO_x Ozone Season Trading Program.~~]

4. [If the board determines that the provisions of this subsection may be waived for a CAIR NO_x Ozone Season unit or CAIR NO_x Ozone Season source without the CAIR

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~~NO_x Ozone Season unit or CAIR NO_x Ozone Season source causing or contributing to a violation of any air quality standard or a nonattainment condition, the board may issue a state operating permit granting relief from the requirements of this subsection. The board may include in any permit issued to implement this subdivision any terms and conditions the board determines are necessary to ensure that the CAIR NO_x Ozone Season unit or CAIR NO_x Ozone Season source will not cause or contribute to a violation of any air quality standard or a nonattainment condition. The owner or operator of a CAIR NO_x Ozone Season unit subject to this section shall be in violation of this subsection if the owner or operator fails to submit by January 1 of each year for the preceding control period (i) documentation to verify compliance with the NO_x Ozone Season emissions cap set forth in subdivision 1 of this subsection or (ii) a NO_x emissions compliance demonstration in accordance with 9 VAC 5-140-2062.]~~

~~[1. B.] Nothing in this [article part] shall prevent the [board permitting authority] from issuing a [nonattainment area permit under the authority and procedures of the] state operating permit [program] in order to:~~

- ~~1. Cap the emissions of a CAIR NO_x Ozone Season unit or CAIR NO_x Ozone Season source contributing to a violation of any air quality standard or a nonattainment condition;~~
- ~~2. Remedy a situation that may cause or contribute to nonattainment condition or the endangerment of human health or welfare; or~~
- ~~3. Establish a source-specific emission standard or other requirements necessary to implement the federal Clean Air Act or the Virginia Air Pollution Control Law.~~

~~[1. C.] Nothing in this [article part] shall prevent the [board permitting authority] from including in any [nonattainment area] permit issued to implement [subsection 1 subdivision B 1] of this section any terms and conditions that would prohibit any CAIR NO_x Ozone Season unit or CAIR NO_x Ozone Season source subject to this [article part] from engaging in any emissions trading activities or using any emissions credits obtained from emissions reductions external to the CAIR NO_x Ozone Season unit or CAIR NO_x Ozone Season source to comply with the requirements of [this article. Ozone Season Trading Program. subsection A of this section or any nonattainment area permit issued pursuant to subdivision B 1 of this section except that such terms and conditions may not prohibit any CAIR NO_x Ozone Season unit or CAIR NO_x Ozone Season source subject to this part from engaging in any emissions trading activities unrelated to compliance with the requirements of subsection A of this section or any nonattainment area permit issued pursuant to subdivision B 1 of this section.~~

D. Nothing in this section shall be construed to prohibit any CAIR NO_x Ozone Season unit or CAIR NO_x Ozone Season source from participating in the CAIR NO_x Ozone Season Trading Program. Notwithstanding any other provision of this section or any regulation of the board, the permitting authority may not include in any permit any terms and conditions that restrict any emissions trading activities under the CAIR NO_x Ozone Season Trading Program. Compliance with the CAIR NO_x Ozone Season Trading Program and this section (including any nonattainment area permits issued pursuant to this section) shall be determined separately and in accordance with the terms of the provisions of each.

E. The provisions of subsection A of this section shall not apply once an area is no longer listed in 9 VAC 5-20-204 as nonattainment for any pollutant; however, regardless of the attainment status of the area, any nonattainment area permits issued to implement this section shall remain in effect until revoked by the permitting authority.

9 VAC 5-140-2062. NO_x emissions compliance demonstration.

A. Compliance with the NO_x Ozone Season emissions cap set forth in 9 VAC 5-140-2061 A 1 may also be achieved through a NO_x emissions compliance demonstration meeting the requirements of this section.

B. The NO_x emissions compliance demonstration submitted pursuant to this section may include one or more CAIR NO_x Ozone Season units in a CAIR NO_x Ozone Season source under common control and located in the nonattainment area.

C. NO_x emissions compliance demonstrations shall be submitted to the permitting authority by January 1 of each year for the preceding control period.

D. A complete NO_x emissions compliance demonstration shall include the following elements in a format acceptable to the permitting authority:

1. Identification of each CAIR NO_x Ozone Season unit in the NO_x emissions compliance demonstration.
2. The number of NO_x allowances (expressed in tons) allocated for each CAIR NO_x Ozone Season unit for the preceding control period.
3. The total NO_x emissions (expressed in tons) from each CAIR NO_x Ozone Season unit during the preceding control period.
4. The calculation for the equation in subsection E of this section.

E. Compliance with this section shall be demonstrated with the following equation:

$$\sum_{i=1}^n (ANO_{E_i}) \leq \sum_{i=1}^n (X)$$

where:

n is the number of CAIR NO_x Ozone Season units in the NO_x emissions compliance demonstration

(n may equal 1).

Σ is the sum of all i CAIR NO_x Ozone Season units.

i is a CAIR NO_x Ozone Season unit identified in subsection B of this section.

ANOE (Actual Nitrogen Oxides Emissions) are the total NO_x emissions (expressed in tons) from each CAIR NO_x Ozone Season unit during the preceding control period, as determined in accordance with Article 8 (9 VAC 5-140-2700 et seq.) of this part.

X is the number of NO_x allowances (expressed in tons) allocated for the CAIR NO_x Ozone Season unit for the preceding control period in accordance with 9 VAC 5-140-2420.

F. The emissions measurements recorded and reported in accordance with Article 8 (9 VAC 5-140-2700 et seq.) of this part shall be used to determine compliance by each CAIR NO_x Ozone Season source with the NO_x Ozone Season emissions cap set forth in 9 VAC 5-140-2061 A.]

9 VAC 5-140-2070. Computation of time.

A. Unless otherwise stated, any time period scheduled, under the CAIR NO_x Ozone Season Trading Program, to begin on the occurrence of an act or event shall begin on the day the act or event occurs.

B. Unless otherwise stated, any time period scheduled, under the CAIR NO_x Ozone Season Trading Program, to begin before the occurrence of an act or event shall be computed so that the period ends the day before the act or event occurs.

C. Unless otherwise stated, if the final day of any time period, under the CAIR NO_x Ozone Season Trading Program, falls on a weekend or a state or federal holiday, the time period shall be extended to the next business day.

9 VAC 5-140-2080. Appeal procedures.

The appeal procedures for decisions of the administrator under the CAIR NO_x Ozone Season Trading Program are set forth in 40 CFR Part 78.

Article 2.

CAIR-Designated Representative for CAIR NO_x Ozone Season Sources.

9 VAC 5-140-2100. Authorization and responsibilities of CAIR-designated representative.

A. Except as provided under 9 VAC 5-140-2110, each CAIR NO_x Ozone Season source, including all CAIR NO_x Ozone Season units at the source, shall have one and only one CAIR-designated representative, with regard to all matters

under the CAIR NO_x Ozone Season Trading Program concerning the source or any CAIR NO_x Ozone Season unit at the source.

B. The CAIR-designated representative of the CAIR NO_x Ozone Season source shall be selected by an agreement binding on the owners and operators of the source and all CAIR NO_x Ozone Season units at the source and shall act in accordance with the certification statement in 9 VAC 5-140-2130 A 4 d.

C. Upon receipt by the administrator of a complete certificate of representation under 9 VAC 5-140-2130, the CAIR-designated representative of the source shall represent and, by the CAIR-designated representative's representations, actions, inactions, or submissions, legally bind each owner and operator of the CAIR NO_x Ozone Season source represented and each CAIR NO_x Ozone Season unit at the source in all matters pertaining to the CAIR NO_x Ozone Season Trading Program, notwithstanding any agreement between the CAIR-designated representative and such owners and operators. The owners and operators shall be bound by any decision or order issued to the CAIR-designated representative by the permitting authority, the administrator, or a court regarding the source or unit.

D. No CAIR permit will be issued, no emissions data reports will be accepted, and no CAIR NO_x Ozone Season Allowance Tracking System account will be established for a CAIR NO_x Ozone Season unit at a source, until the administrator has received a complete certificate of representation under 9 VAC 5-140-2130 for a CAIR-designated representative of the source and the CAIR NO_x Ozone Season units at the source.

E. 1. Each submission under the CAIR NO_x Ozone Season Trading Program shall be submitted, signed, and certified by the CAIR-designated representative for each CAIR NO_x Ozone Season source on behalf of which the submission is made. Each such submission shall include the following certification statement by the CAIR-designated representative: "I am authorized to make this submission on behalf of the owners and operators of the source or units for which the submission is made. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment."

2. The permitting authority and the administrator will accept or act on a submission made on behalf of owner or operators

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of a CAIR NO_x Ozone Season source or a CAIR NO_x Ozone Season unit only if the submission has been made, signed, and certified in accordance with subdivision 1 of this subsection.

9 VAC 5-140-2110. Alternate CAIR-designated representative.

A. A certificate of representation under 9 VAC 5-140-2130 may designate one and only one alternate CAIR-designated representative, who may act on behalf of the CAIR-designated representative. The agreement by which the alternate CAIR-designated representative is selected shall include a procedure for authorizing the alternate CAIR-designated representative to act in lieu of the CAIR-designated representative.

B. Upon receipt by the administrator of a complete certificate of representation under 9 VAC 5-140-2130, any representation, action, inaction, or submission by the alternate CAIR-designated representative shall be deemed to be a representation, action, inaction, or submission by the CAIR-designated representative.

C. Except in this section and 9 VAC 5-140-2020, 9 VAC 5-140-2100 A and D, 9 VAC 5-140-2120, 9 VAC 5-140-2130, [9 VAC 5-140-2150,] 9 VAC 5-140-2510, and 9 VAC 5-140-2820 whenever the term "CAIR-designated representative" is used in this part, the term shall be construed to include the CAIR-designated representative or any alternate CAIR-designated representative.

9 VAC 5-140-2120. Changing CAIR-designated representative and alternate CAIR-designated representative; changes in owners and operators.

A. The CAIR-designated representative may be changed at any time upon receipt by the administrator of a superseding complete certificate of representation under 9 VAC 5-140-2130. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous CAIR-designated representative before the time and date when the administrator receives the superseding certificate of representation shall be binding on the new CAIR-designated representative and the owners and operators of the CAIR NO_x Ozone Season source and the CAIR NO_x Ozone Season units at the source.

B. The alternate CAIR-designated representative may be changed at any time upon receipt by the administrator of a superseding complete certificate of representation under 9 VAC 5-140-2130. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous alternate CAIR-designated representative before the time and date when the administrator receives the superseding certificate of representation shall be binding on the new alternate CAIR-designated representative and the owners and operators of the CAIR NO_x Ozone Season source and the CAIR NO_x Ozone Season units at the source.

C. Changes in owners and operators shall be established as follows:

1. In the event [~~a new~~ an] owner or operator of a CAIR NO_x Ozone Season source or a CAIR NO_x Ozone Season unit is not included in the list of owners and operators in the certificate of representation under 9 VAC 5-140-2130, such [~~new~~] owner or operator shall be deemed to be subject to and bound by the certificate of representation, the representations, actions, inactions, and submissions of the CAIR-designated representative and any alternate CAIR-designated representative of the source or unit, and the decisions and orders of the permitting authority, the administrator, or a court, as if the [~~new~~] owner or operator were included in such list.

2. Within 30 days following any change in the owners and operators of a CAIR NO_x Ozone Season source or a CAIR NO_x Ozone Season unit, including the addition of a new owner or operator, the CAIR-designated representative or any alternate CAIR-designated representative shall submit a revision to the certificate of representation under 9 VAC 5-140-2130 amending the list of owners and operators to include the change.

9 VAC 5-140-2130. Certificate of representation.

A. A complete certificate of representation for a CAIR-designated representative or an alternate CAIR-designated representative shall include the following elements in a format prescribed by the administrator:

1. Identification of the CAIR NO_x Ozone Season source, and each CAIR NO_x Ozone Season unit at the source, for which the certificate of representation is submitted [, including identification and nameplate capacity of each generator served by each such unit].

2. The name, address, email address (if any), telephone number, and facsimile transmission number (if any) of the CAIR-designated representative and any alternate CAIR-designated representative.

3. A list of the owners and operators of the CAIR NO_x Ozone Season source and of each CAIR NO_x Ozone Season unit at the source.

4. The following certification statements by the CAIR-designated representative and any alternate CAIR-designated representative:

a. "I certify that I was selected as the CAIR-designated representative or alternate CAIR-designated representative, as applicable, by an agreement binding on the owners and operators of the source and each CAIR NO_x Ozone Season unit at the source."

b. "I certify that I have all the necessary authority to carry out my duties and responsibilities under the CAIR NO_x Ozone Season Trading Program on behalf of the owners and

operators of the source and of each CAIR NO_x Ozone Season unit at the source and that each such owner and operator shall be fully bound by my representations, actions, inactions, or submissions."

c. "I certify that the owners and operators of the source and of each CAIR NO_x Ozone Season unit at the source shall be bound by any order issued to me by the administrator, the permitting authority, or a court regarding the source or unit."

d. "Where there are multiple holders of a legal or equitable title to, or a leasehold interest in, a CAIR NO_x Ozone Season unit, or where a [utility or industrial] customer purchases power from a CAIR NO_x Ozone Season unit under a life-of-the-unit, firm power contractual arrangement, I certify that: I have given a written notice of my selection as the 'CAIR-designated representative' or 'alternate CAIR-designated representative,' as applicable, and of the agreement by which I was selected to each owner and operator of the source and of each CAIR NO_x Ozone Season unit at the source; and CAIR NO_x Ozone Season allowances and proceeds of transactions involving CAIR NO_x Ozone Season allowances will be deemed to be held or distributed in proportion to each holder's legal, equitable, leasehold, or contractual reservation or entitlement, except that, if such multiple holders have expressly provided for a different distribution of CAIR NO_x Ozone Season allowances by contract, CAIR NO_x Ozone Season allowances and proceeds of transactions involving CAIR NO_x Ozone Season allowances will be deemed to be held or distributed in accordance with the contract."

5. The signature of the CAIR-designated representative and any alternate CAIR-designated representative and the dates signed.

B. Unless otherwise required by the permitting authority or the administrator, documents of agreement referred to in the certificate of representation shall not be submitted to the permitting authority or the administrator. Neither the permitting authority nor the administrator shall be under any obligation to review or evaluate the sufficiency of such documents, if submitted.

9 VAC 5-140-2140. Objections concerning CAIR-designated representative.

A. Once a complete certificate of representation under 9 VAC 5-140-2130 has been submitted and received, the permitting authority and the administrator will rely on the certificate of representation unless and until a superseding complete certificate of representation under 9 VAC 5-140-2130 is received by the administrator.

B. Except as provided in 9 VAC 5-140-2120 A or B, no objection or other communication submitted to the permitting authority or the administrator concerning the authorization, or any representation, action, inaction, or submission, of the CAIR-designated representative shall affect any

representation, action, inaction, or submission of the CAIR-designated representative or the finality of any decision or order by the permitting authority or the administrator under the CAIR NO_x Ozone Season Trading Program.

C. Neither the permitting authority nor the administrator will adjudicate any private legal dispute concerning the authorization or any representation, action, inaction, or submission of any CAIR-designated representative, including private legal disputes concerning the proceeds of CAIR NO_x Ozone Season allowance transfers.

[9 VAC 5-140-2150. Delegation by CAIR-designated representative and alternate CAIR-designated representative.

A. A CAIR-designated representative may delegate to one or more natural persons his authority to make an electronic submission to the administrator provided for or required under this part.

B. An alternate CAIR-designated representative may delegate to one or more natural persons his authority to make an electronic submission to the administrator provided for or required under this part.

C. In order to delegate authority to make an electronic submission to the administrator in accordance with subsection A or B of this section, the CAIR-designated representative or alternate CAIR-designated representative, as appropriate, must submit to the administrator a notice of delegation, in a format prescribed by the administrator, that includes the following elements:

1. The name, address, email address, telephone number, and facsimile transmission number (if any) of such CAIR-designated representative or alternate CAIR-designated representative;

2. The name, address, email address, telephone number, and facsimile transmission number (if any) of each such natural person (referred to as an "agent");

3. For each such natural person, a list of the type or types of electronic submissions under subsection A or B of this section for which authority is delegated to him; and

4. The following certification statements by such CAIR-designated representative or alternate CAIR-designated representative:

a. "I agree that any electronic submission to the administrator that is by an agent identified in this notice of delegation and of a type listed for such agent in this notice of delegation and that is made when I am a CAIR-designated representative or alternate CAIR-designated representative, as appropriate, and before this notice of delegation is superseded by another notice of delegation under 9 VAC 5-140-2150 D shall be deemed to be an electronic submission by me."

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b. “Until this notice of delegation is superseded by another notice of delegation under 9 VAC 5-140-2150 D, I agree to maintain an email account and to notify the administrator immediately of any change in my email address unless all delegation of authority by me under 9 VAC 5-140-2150 is terminated.”

D. A notice of delegation submitted under subsection C of this section shall be effective, with regard to the CAIR-designated representative or alternate CAIR-designated representative identified in such notice, upon receipt of such notice by the administrator and until receipt by the administrator of a superseding notice of delegation submitted by such CAIR-designated representative or alternate CAIR-designated representative, as appropriate. The superseding notice of delegation may replace any previously identified agent, add a new agent, or eliminate entirely any delegation of authority.

E. Any electronic submission covered by the certification in subdivision C 4 a of this section and made in accordance with a notice of delegation effective under subsection D of this section shall be deemed to be an electronic submission by the CAIR-designated representative or alternate CAIR-designated representative submitting such notice of delegation.]

Article 3. Permits.

9 VAC 5-140-2200. General CAIR NO_x Ozone Season Trading Program permit requirements.

A. For each CAIR NO_x Ozone Season source required to have a Title V operating permit or required, under Article 9 (9 VAC 5-140-2800 et seq.) of this part, to have a Title V operating permit or other state operating permit, such permit shall include a CAIR permit administered by the permitting authority for the Title V operating permit or the state operating permit as applicable. The CAIR portion of the Title V permit or state operating permit as applicable shall be administered in accordance with the permitting authority’s Title V operating permit regulations or regulations for state operating permits as applicable, except as provided otherwise by [9 VAC 5-140-2050,] this article [,] and Article 9 (9 VAC 5-140-2800 et seq.) of this part.

B. Each CAIR permit shall contain, with regard to the CAIR NO_x Ozone Season source and the CAIR NO_x Ozone Season units at the source covered by the CAIR permit, all applicable CAIR NO_x Ozone Season Trading Program, CAIR NO_x Annual Trading Program, and CAIR SO₂ Trading Program requirements and shall be a complete and separable portion of the Title V operating permit or other state operating permit under subsection A of this section.

9 VAC 5-140-2210. Submission of CAIR permit applications.

A. The CAIR-designated representative of any CAIR NO_x Ozone Season source required to have a Title V operating permit shall submit to the permitting authority a complete CAIR permit application under 9 VAC 5-140-2220 for the source covering each CAIR NO_x Ozone Season unit at the source at least 18 months (or such lesser time provided by the permitting authority) before the later of January 1, 2009, or the date on which the CAIR NO_x Ozone Season unit commences [commercial] operation [, except as provided in 9 VAC 5-140-2830 A].

B. For a CAIR NO_x Ozone Season source required to have a Title V operating permit, the CAIR-designated representative shall submit a complete CAIR permit application under 9 VAC 5-140-2220 for the source covering each CAIR NO_x Ozone Season unit at the source to renew the CAIR permit in accordance with the permitting authority’s Title V operating permit regulations addressing permit renewal [, except as provided in 9 VAC 5-140-2830 B].

9 VAC 5-140-2220. Information requirements for CAIR permit applications.

A complete CAIR permit application shall include the following elements concerning the CAIR NO_x Ozone Season source for which the application is submitted, in a format acceptable to the permitting authority:

1. Identification of the CAIR NO_x Ozone Season source;
2. Identification of each CAIR NO_x Ozone Season unit at the CAIR NO_x Ozone Season source; and
3. The standard requirements under 9 VAC 5-140-2060.

9 VAC 5-140-2230. CAIR permit contents and term.

A. Each CAIR permit will contain, in a format acceptable to the permitting authority, all elements required for a complete CAIR permit application under 9 VAC 5-140-2220.

B. Each CAIR permit is deemed to incorporate automatically the definitions of terms under 9 VAC 5-140-2020 and, upon recordation by the administrator under Article 6 (9 VAC 5-140-2500 et seq.), Article 7 (9 VAC 5-140-2600 et seq.), or Article 9 (9 VAC 5-140-2800 et seq.) of this part, every allocation, transfer, or deduction of a CAIR NO_x Ozone Season allowance to or from the compliance account of the CAIR NO_x Ozone Season source covered by the permit.

C. The term of the CAIR permit will be set by the permitting authority, as necessary to facilitate coordination of the renewal of the CAIR permit with issuance, revision, or renewal of the CAIR NO_x Ozone Season source’s Title V operating permit or state operating permit as applicable.

9 VAC 5-140-2240. CAIR permit revisions.

Except as provided in 9 VAC 5-140-2230 B, the permitting authority will revise the CAIR permit, as necessary, in accordance with the permitting authority's Title V operating permit regulations or the permitting authority's regulations for state operating permits as applicable addressing permit revisions.

Article 4.
(Reserved).

9 VAC 5-140-2300. (Reserved.)

Article 5.
CAIR NO_x Ozone Season Allowance Allocations.

9 VAC 5-140-2400. [State CAIR NO_x Ozone Season] trading budgets.

A. The [state CAIR NO_x Ozone Season] trading budgets for annual allocations of CAIR NO_x ozone season allowances [apportioned to all CAIR NO_x Ozone Season units, except for units under 9 VAC 5-140-2040 C 1, and energy efficiency units and renewable energy units] for the control periods are as follows:

1. For use in each control period in 2009 through 2014, the total number of NO_x tons [apportioned to all CAIR NO_x Ozone Season units] is 15,994.

2. For use in each control period in 2015 and thereafter, the total number of NO_x tons [apportioned to all CAIR NO_x Ozone Season units] is 13,328.

B. The amount [of CAIR NO_x Ozone Season allowances] in the [state CAIR NO_x Ozone Season] trading budget for a control period in a calendar year [will be the sum of the amount] set forth [for the year] in subsection A of this section [and shall not include] the amount of [additional] CAIR NO_x Ozone Season [allowance allocations issued allowances allocated] under 9 VAC 5-140-2405 for the year.

9 VAC 5-140-2405. [Total State trading budgets for] nonelectric generating [unit allocations units].

[The state trading budgets for annual allocations of CAIR NO_x ozone season allowances for the control periods are as follows:

1.] For use in each control period in 2009 and thereafter, the total number of NO_x tons apportioned to all CAIR NO_x Ozone Season units under [subdivision 2 of] 9 VAC 5-140-2040 [C 1] is [~~3,840~~ 3,104].

[2. For use in the new unit set-aside budget for each control period in 2009 and thereafter, the total number of NO_x tons apportioned to all CAIR NO_x Ozone Season units is 736.]

9 VAC 5-140-2410. Timing requirements for CAIR NO_x Ozone Season allowance allocations.

A. By October 31, 2006, the permitting authority will submit to the administrator the CAIR NO_x Ozone Season allowance allocations, in a format prescribed by the administrator and in accordance with 9 VAC 5-140-2420 A and C [and 9 VAC 5-140-2430], for the control periods in 2009, 2010, 2011, 2012, and 2013.

B. [~~1.~~] By October 31, 2009, and October 31 of each year thereafter, the permitting authority will submit to the administrator the CAIR NO_x Ozone Season allowance allocations, in a format prescribed by the administrator and in accordance with 9 VAC 5-140-2420 A and C [and 9 VAC 5-140-2430], for the control period in the fifth year after the year of the applicable deadline for submission under this subsection.

[~~2. If the permitting authority fails to submit to the administrator the CAIR NO_x Ozone Season allowance allocations in accordance with subdivision 1 of this subsection, the administrator will assume that the allocations of CAIR NO_x Ozone Season allowances for the applicable control period are the same as for the control period that immediately precedes the applicable control period, except that, if the applicable control period is in 2014, the administrator will assume that the allocations equal 83.0% of the allocations for the control period that immediately precedes the applicable control period.]~~

C. [~~1.~~] By July 31, 2009, the permitting authority will submit to the administrator the CAIR NO_x Ozone Season allowance allocations, in a format prescribed by the administrator and in accordance with 9 VAC 5-140-2420 A, B, D, and F, for the control periods in 2009, 2010, 2011, 2012, and 2013.

[~~2. If the permitting authority fails to submit to the administrator the CAIR NO_x Ozone Season allowance allocations in accordance with subdivision 1 of this subsection, the administrator will assume that the allocations of CAIR NO_x Ozone Season allowances for the applicable control period are the same as for the control period that immediately precedes the applicable control period, except that, if the applicable control period is in 2014, the administrator will assume that the allocations equal 83.0% of the allocations for the control period that immediately precedes the applicable control period and except that any CAIR NO_x Ozone Season unit that would otherwise be allocated CAIR NO_x Ozone Season allowances under 9 VAC 5-140-2420 A, B, and C, as well as under 9 VAC 5-140-2420 A, B, D, and F, for the applicable control period will be assumed to be allocated no CAIR NO_x Ozone Season allowances under 9 VAC 5-140-2420 A, B, D, and F for the applicable control period.]~~

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D. [~~±~~] By July 31, 2014, and July 31 of each year thereafter, the permitting authority will submit to the administrator the CAIR NO_x Ozone Season allowance allocations, in a format prescribed by the administrator and in accordance with 9 VAC 5-140-2420 A, B, E, and F, for the control period in the year of the applicable deadline for submission under this subsection.

[~~2. If the permitting authority fails to submit to the administrator the CAIR NO_x Ozone Season allowance allocations in accordance with subdivision 1 of this subsection, the administrator will assume that the allocations of CAIR NO_x Ozone Season allowances for the applicable control period are the same as for the control period that immediately precedes the applicable control period, except that, if the applicable control period is in 2014, the administrator will assume that the allocations equal 83.0% of the allocations for the control period that immediately precedes the applicable control period and except that any CAIR NO_x Ozone Season unit that would otherwise be allocated CAIR NO_x Ozone Season allowances under 9 VAC 5-140-2420 A, B, and C, as well as under 9 VAC 5-140-2420 A, B, E, and F, for the applicable control period will be assumed to be allocated no CAIR NO_x Ozone Season allowances under 9 VAC 5-140-2420 A, B, E, and F for the applicable control period.]~~

9 VAC 5-140-2420. CAIR NO_x Ozone Season allowance allocations.

A. 1. The baseline heat input (in mmBtu) used with respect to CAIR NO_x Ozone Season allowance allocations under subsection C of this section for each CAIR NO_x Ozone Season unit under [~~subdivision 1 of~~] 9 VAC 5-140-2400 [~~A~~] will be:

a. For units commencing operation before January 1, 2006, the average of the three highest amounts of the unit's control period heat input for the five years prior to the allocation year. For units operating each calendar year during a period of at least one but less than five consecutive calendar years, one year or, where available, the average of the two highest amounts of the unit's control period heat input over the consecutive years of operation.

b. For units commencing operation on or after January 1, 2006:

(1) For units operating each calendar year during a period of five or more consecutive calendar years, the average of the three highest amounts of the unit's total converted control period heat input over the most recent five years prior to the allocation year.

(2) For units operating each calendar year during a period of at least three but less than five consecutive calendar years, the average of the three highest amounts of the unit's total converted control period heat input over the consecutive years of operation.

(3) For units operating each calendar year during a period of at least one but less than five consecutive calendar years, one year or, where available, the average of the two highest amounts of the unit's control period heat input over the consecutive years of operation.

2. a. A unit's control period heat input for a calendar year under subdivision 1 a of this subsection, and a unit's total tons of NO_x emissions during a control period in a calendar year under [~~subdivision~~ subdivisions] D 3 [and E 3] of this section, will be determined in accordance with 40 CFR Part 75, to the extent the unit was otherwise subject to the requirements of 40 CFR Part 75 for the year, or will be based on the best available data reported to the permitting authority for the unit, to the extent the unit was not otherwise subject to the requirements of 40 CFR Part 75 for the year.

b. A unit's converted control period heat input for a calendar year specified under subdivision 1 b of this subsection equals:

(1) Except as provided in subdivision (2) of this subdivision, the control period gross electrical output of the generator or generators served by the unit multiplied by 7,900 Btu/kWh and divided by 1,000,000 Btu/mmBtu, provided that if a generator is served by two or more units, then the gross electrical output of the generator will be attributed to each unit in proportion to the unit's share of the total control period heat input of such units for the year;

(2) For a unit that has equipment used to produce electricity and useful thermal energy for industrial, commercial, heating, or cooling purposes through the sequential use of energy, the control period gross electrical output of the unit multiplied by 7,900 Btu/kWh [~~±~~] plus the useful thermal energy (in Btu) produced during the control period, divided by 0.8 [~~±~~] and [with the sum divided] by 1,000,000 Btu/mmBtu.

B. 1. [~~For units commencing operation on or after January 1, 2006, the~~ The] baseline heat input (in mmBtu) used with respect to CAIR NO_x Ozone Season allowance allocations under subsection C of this section for each CAIR NO_x Ozone Season unit under [~~subdivision 2 of~~] 9 VAC 5-140-2400 [~~C 2~~] will be:

a. For units operating each calendar year during a period of five or more consecutive calendar years, the average of the three highest amounts of the unit's total control period heat input over the most recent five years prior to the allocation year.

b. For units operating each calendar year during a period of at least three but less than five consecutive calendar years, the average of the three highest amounts of the unit's total control period heat input over the consecutive years of operation.

2. A unit's control period heat input for a calendar year under subdivision 1 of this subsection, and a unit's total tons of NO_x emissions during a control period in a calendar year under [~~subdivision~~ subdivisions] D 3 [and E 3] of this

section, will be determined in accordance with 40 CFR Part 75, to the extent the unit was otherwise subject to the requirements of 40 CFR Part 75 for the year, or will be based on the best available data reported to the permitting authority for the unit, to the extent the unit was not otherwise subject to the requirements of 40 CFR Part 75 for the year.

C. 1. For each control period in 2009 and thereafter, the permitting authority will allocate to all CAIR NO_x Ozone Season units that have a baseline heat input (as determined under subsections A and B of this section) a total amount of CAIR NO_x Ozone Season allowances equal to the core trading [~~program~~ CAIR NO_x Ozone Season core trading] budget (except as provided in subsection F of this section).

2. The permitting authority will allocate CAIR NO_x Ozone Season allowances to each CAIR NO_x Ozone Season unit under subdivision 1 of this subsection in an amount determined by multiplying the total amount of CAIR NO_x Ozone Season allowances allocated under subdivision 1 of this subsection by the ratio of the baseline heat input of such CAIR NO_x Ozone Season unit to the total amount of baseline heat input of all such CAIR NO_x Ozone Season units and rounding to the nearest whole allowance as appropriate.

D. For each control period in 2009 through 2013, the permitting authority will allocate CAIR NO_x Ozone Season allowances to CAIR NO_x Ozone Season units that [~~commenced operation on or after January 1, 2006, and are not allocated CAIR NO_x allowances under subsection C of this section because the units~~] do not yet have a baseline heat input [~~(as determined)~~] under subsections A and B of this section [~~)~~] or because the units have a baseline heat input but all CAIR NO_x allowances under subsection C of this section for the control period are already allocated], in accordance with the following procedures:

1. The permitting authority will establish a separate new unit set aside for each control period. Each new unit set aside will be allocated CAIR NO_x Ozone Season allowances equal to the new unit set-aside budget.

2. The CAIR-designated representative of such a CAIR NO_x Ozone Season unit may submit to the permitting authority a request, in a format acceptable to the permitting authority, to be allocated CAIR NO_x Ozone Season allowances, [~~starting with the for each~~] control period in 2009 [~~and until the later of the control period in 2014 or the first control period for which the unit is allocated CAIR NO_x Ozone Season allowances under subsection C of this section through 2013~~]. The CAIR NO_x Ozone Season allowance allocation request shall be submitted on or before [~~April 1 before the first control period for which the CAIR NO_x Ozone Season allowances are requested~~ February 1, 2009,] and after the date on which the CAIR NO_x Ozone Season unit commences commercial operation.

3. In a CAIR NO_x Ozone Season allowance allocation request under subdivision 2 of this subsection, the CAIR-designated representative may request for a control period CAIR NO_x Ozone Season allowances in an amount not exceeding the CAIR NO_x Ozone Season unit's total tons of NO_x emissions during the control period immediately before such control period.

4. The permitting authority will review each CAIR NO_x Ozone Season allowance allocation request under subdivision 2 of this subsection and will allocate CAIR NO_x Ozone Season allowances for each control period pursuant to such request as follows:

a. The permitting authority will accept an allowance allocation request only if the request meets, or is adjusted by the permitting authority as necessary to meet, the requirements of subdivisions 2 and 3 of this subsection.

b. On or after [~~April~~ February] 1 [~~before the control period, 2009~~], the permitting authority will determine the sum of the CAIR NO_x Ozone Season allowances requested (as adjusted under subdivision a of this subdivision) in all allowance allocation requests accepted under subdivision a of this subdivision for the control period.

c. If the amount of CAIR NO_x Ozone Season allowances in the new unit set aside for the control period is greater than or equal to the sum under subdivision b of this subdivision, then the permitting authority will allocate the amount of CAIR NO_x Ozone Season allowances requested (as adjusted under subdivision a of this subdivision) to each CAIR NO_x Ozone Season unit covered by an allowance allocation request accepted under subdivision a of this subdivision.

d. If the amount of CAIR NO_x Ozone Season allowances in the new unit set aside for the control period is less than the sum under subdivision b of this subdivision, then the permitting authority will allocate to each CAIR NO_x Ozone Season unit covered by an allowance allocation request accepted under subdivision a of this subdivision the amount of the CAIR NO_x Ozone Season allowances requested (as adjusted under subdivision a of this subdivision), multiplied by the amount of CAIR NO_x Ozone Season allowances in the new unit set aside for the control period, divided by the sum determined under subdivision b of this subdivision, and rounded to the nearest whole allowance as appropriate.

e. The permitting authority will notify each CAIR-designated representative that submitted an allowance allocation request of the amount of CAIR NO_x Ozone Season allowances (if any) allocated for the control period to the CAIR NO_x Ozone Season unit covered by the request.

E. For each control period in 2014 and thereafter, the permitting authority will allocate CAIR NO_x Ozone Season allowances to CAIR NO_x Ozone Season units that [~~commenced operation on or after January 1, 2006, and are~~

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not allocated CAIR NO_x allowances under subsection C of this section because the units] do not yet have a baseline heat input [~~as determined~~] under subsections A and B of this section [) or because the units have a baseline heat input but all CAIR NO_x allowances under subsection C of this section for the control period are already allocated], in accordance with the following procedures:

1. The permitting authority will establish a separate new unit set aside for each control period. Each new unit set aside will be allocated CAIR NO_x Ozone Season allowances equal to the new unit set-aside budget.

2. The CAIR-designated representative of such a CAIR NO_x Ozone Season unit may submit to the permitting authority a request, in a format acceptable to the permitting authority, to be allocated CAIR NO_x Ozone Season allowances, starting with the later of the control period in 2014 or the first control period after the control period in which the CAIR NO_x Ozone Season unit commences commercial operation and until the first control period for which the unit is allocated CAIR NO_x Ozone Season allowances under subsection B of this section. [~~The A separate~~] CAIR NO_x Ozone Season allowance allocation request [~~shall be submitted on or before April 1 before the first~~ for each] control period for which [~~the~~] CAIR NO_x Ozone Season allowances are [~~requested~~ sought must be submitted on or before February 1 before such control period] and after the date on which the CAIR NO_x Ozone Season unit commences commercial operation.

3. In a CAIR NO_x Ozone Season allowance allocation request under subdivision 2 of this subsection, the CAIR-designated representative may request for a control period CAIR NO_x Ozone Season allowances in an amount not exceeding the CAIR NO_x Ozone Season unit's total tons of NO_x emissions during the control period immediately before such control period.

4. The permitting authority will review each CAIR NO_x Ozone Season allowance allocation request under subdivision 2 of this subsection and will allocate CAIR NO_x Ozone Season allowances for each control period pursuant to such request as follows:

a. The permitting authority will accept an allowance allocation request only if the request meets, or is adjusted by the permitting authority as necessary to meet, the requirements of subdivisions 2 and 3 of this subsection.

b. On or after [~~April~~ February] 1 before the control period, the permitting authority will determine the sum of the CAIR NO_x Ozone Season allowances requested (as adjusted under subdivision a of this subdivision) in all allowance allocation requests accepted under subdivision a of this subdivision for the control period.

c. If the amount of CAIR NO_x Ozone Season allowances in the new unit set aside for the control period is greater than or equal to the sum under subdivision b of this subdivision, then

the permitting authority will allocate the amount of CAIR NO_x Ozone Season allowances requested (as adjusted under subdivision a of this subdivision) to each CAIR NO_x Ozone Season unit covered by an allowance allocation request accepted under subdivision a of this subdivision.

d. If the amount of CAIR NO_x Ozone Season allowances in the new unit set aside for the control period is less than the sum under subdivision b of this subdivision, then the permitting authority will allocate to each CAIR NO_x Ozone Season unit covered by an allowance allocation request accepted under subdivision a of this subdivision the amount of the CAIR NO_x Ozone Season allowances requested (as adjusted under subdivision a of this subdivision), multiplied by the amount of CAIR NO_x Ozone Season allowances in the new unit set aside for the control period, divided by the sum determined under subdivision b of this subdivision, and rounded to the nearest whole allowance as appropriate.

e. The permitting authority will notify each CAIR-designated representative that submitted an allowance allocation request of the amount of CAIR NO_x Ozone Season allowances (if any) allocated for the control period to the CAIR NO_x Ozone Season unit covered by the request.

F. If, after completion of the procedures under subdivision D 4 or E 4 of this section for a control period, any unallocated CAIR NO_x Ozone Season allowances remain in the new unit set aside for the control period, the permitting authority will allocate to each CAIR NO_x Ozone Season unit that was allocated CAIR NO_x Ozone Season allowances under subsection C of this section an amount of CAIR NO_x Ozone Season allowances equal to the total amount of such remaining unallocated CAIR NO_x Ozone Season allowances, multiplied by the unit's allocation under subsection C of this section, divided by the [CAIR NO_x Ozone Season] core trading budget, and rounded to the nearest whole allowance as appropriate.

G. For each control period in 2009 and thereafter, the permitting authority will allocate CAIR NO_x [Ozone Season] allowances [not to exceed the new energy efficiency/renewal energy unit set-aside budget] to qualifying energy efficiency [units] and renewable energy units in accordance with the following procedures:

[~~1. The total number of NO_x tons available for the new energy efficiency/renewable set aside for annual allocations of CAIR NO_x ozone season allowances for use in each control period for the years 2009 and thereafter is 36.~~

~~2. The CAIR-designated representative of such an energy efficiency/renewal energy unit 1. The EERE proponent of an energy efficiency unit or a renewable energy unit] may submit to the permitting authority a request, in a format acceptable to the permitting authority, to be allocated CAIR NO_x [Ozone Season] allowances, starting with the later of the control period in 2009 or the first control period after the~~

control period in which the energy efficiency [unit is implemented] or [the] renewable [energy] unit commences commercial operation. The CAIR NO_x [Ozone Season] allowance allocation request must be submitted on or before [July April] 1 of [the first each] control period for which the CAIR NO_x [Ozone Season] allowances are requested and after the date on which the energy efficiency [unit is implemented] or [the] renewable [energy] unit commences commercial operation.

[2. EERE proponents may submit an application that aggregates two or more energy efficiency units or renewable energy units. The permitting authority will not allocate CAIR NO_x Ozone Season allowances for energy efficiency units or renewable energy units totaling less than one whole allowance or any fraction thereof. If more than one proponent submits an application for allowances for the same energy efficiency unit or renewable energy unit for the same calendar year, the permitting authority, at its discretion, may refuse to accept the applications.]

3. In a CAIR NO_x [Ozone Season] allowance allocation request under [~~subdivision~~ subdivisions 1 and] 2 of this subsection, the [~~CAIR designated representative EERE proponent~~] may request for a control period CAIR NO_x [Ozone Season] allowances in an amount not exceeding:

a. For a renewable energy unit, the control period gross electrical output of the facility during the calendar year immediately before such control period multiplied by 1.5 lb/MWh for the years 2009-2014, or 1.25 lb/MWh for 2015 and thereafter and divided by 2000 and rounded to nearest whole allowance as appropriate.

b. For an energy efficiency [~~project~~ unit], the control period verified reduction in electricity consumption during the calendar year immediately before such control period multiplied by 1.5 lb/MWh for the years 2009-2013, or 1.25 lb/MWh for 2014 and thereafter and divided by 2000 and rounded to the nearest whole allowance as appropriate.

4. The permitting authority will review each CAIR NO_x [Ozone Season] allowance allocation request under [~~subdivision~~ subdivisions 1 and] 2 of this subsection [~~section~~] and will allocate CAIR NO_x [Ozone Season] allowances for each control period pursuant to such request as follows:

a. The permitting authority will accept an allowance allocation request only if the request meets, or is adjusted by the permitting authority as necessary to meet, the requirements of subdivisions [1,] 2 and 3 of this subsection.

b. On or after July 1 of the control period, the permitting authority will determine the sum of the CAIR NO_x [Ozone Season] allowances requested (as adjusted under subdivision a of this subdivision) in all allowance allocation requests

accepted under subdivision a of this subdivision for the control period.

c. If the amount of CAIR NO_x [Ozone Season] allowances in the energy efficiency/renewable set-aside [budget] for the control period is greater than or equal to the sum under subdivision b of this subdivision, the permitting authority will allocate the amount of CAIR NO_x [Ozone Season] allowances requested (as adjusted under subdivision a of this subdivision) to each [~~energy efficiency/renewable unit~~ energy efficiency unit or renewable energy unit] covered by an allowance allocation request accepted under subdivision a of this subdivision.

d. If the amount of CAIR NO_x [Ozone Season] allowances in the energy efficiency/renewable set-aside [budget] for the control period is less than the sum under subdivision b of this subdivision, the permitting authority will allocate to each [~~energy efficiency/renewable unit~~ energy efficiency unit or renewable energy unit] covered by an allowance allocation request accepted under subdivision a of this subdivision the amount of the CAIR NO_x [Ozone Season] allowances requested (as adjusted under subdivision a of this subdivision), multiplied by the amount of CAIR NO_x [Ozone Season] allowances in the energy efficiency/renewable unit set-aside [budget] for the control period, divided by the sum determined under subdivision b of this subdivision, and rounded to the nearest whole allowance as appropriate.

5. [~~The~~ By July 31, 2009, and July 31 of each year thereafter, the] permitting authority will notify each [~~CAIR designated representative EERE proponent~~] that submitted an allowance allocation request [under subdivisions 1 and 2 of this subsection] of the amount of CAIR NO_x [Ozone Season] allowances (if any) allocated [under subdivision 4 of this subsection] for the control period to the [~~energy efficiency/renewable unit~~ energy efficiency unit or renewable energy unit] covered by the request.

6. If, after completion of the procedures under [~~subdivision~~ subdivisions] 4 [and 5] of this subsection for a control period, any unallocated CAIR NO_x [Ozone Season] allowances have remained in the [new] energy efficiency/renewable set-aside [budget] for more than three control periods, the permitting authority will permanently retire those allowances [,] and they will not be available for compliance for any CAIR NO_x [Ozone Season] unit.

[7. The permitting authority will not submit to the administrator the CAIR NO_x Ozone Season allowance allocations under subdivision 4 of this subsection.

8. CAIR NO_x Ozone Season allowances allocated under subdivision 4 of this subsection (i) shall be retired permanently by the EERE proponent making the request under subdivision 2 of this subsection, (ii) shall not be considered valid or capable of being lawfully traded under the

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CAIR NO_x Ozone Season Trading Program, and (iii) shall not be available for compliance for any CAIR NO_x Ozone Season unit.]

H. For each control period in 2009 and thereafter, the permitting authority will establish an annual voluntary public health set-aside. Any allowances contributed to the public health set-aside will be permanently retired and will not be available for compliance for any affected unit.

9 VAC 5-140-2430. [Individual CAIR NO_x Ozone Season allowance allocations for individual existing] nonelectric generating [unit allocations units].

For use in each control period for the year 2009 and each year thereafter, the number of NO_x tons apportioned to each CAIR NO_x Ozone Season unit under [~~subdivision 2 a of~~] 9 VAC 5-140-2040 [C 1] is as follows:

Plant	Stack ID	Point ID	NO _x Allocation (Tons per control period)
CELANESE ACETATE LLC	001	001	154
CELANESE ACETATE LLC	002	002	55
DAN RIVER INC (SCHOOLFIELD DIV)	003	003	100
GEORGIA-PACIFIC - BIG ISLAND MILL	001	002	89
GEORGIA-PACIFIC - BIG ISLAND MILL	005	005	103
HONEYWELL INTERNATIONAL INC	100	10A	0
HONEYWELL INTERNATIONAL INC	101	10B	200
HONEYWELL INTERNATIONAL INC	102	10C	156
INTERNATIONAL PAPER – FRANKLIN	001	003	306
INTERNATIONAL PAPER – FRANKLIN	012	017	107
INTERNATIONAL PAPER – FRANKLIN	022	029	262
ST. LAURENT PAPER PRODUCTS CORP.	002	002	292
WESTVACO CORP BLEACHED BOARD	001	001	293
WESTVACO CORP BLEACHED BOARD	002	002	158
WESTVACO CORP BLEACHED BOARD	003	003	243
WESTVACO CORP BLEACHED BOARD	004	004	429
WESTVACO CORP BLEACHED BOARD	005	005	87
WESTVACO CORP BLEACHED BOARD	024	011	70
TOTAL			3104

Article 6.

CAIR NO_x Ozone Season Allowance Tracking System.

9 VAC 5-140-2500. (Reserved.)

9 VAC 5-140-2510. Establishment of accounts.

A. Except as provided in subdivision 5 of 9 VAC 5-140-2840, upon receipt of a complete certificate of representation under 9 VAC 5-140-2130, the administrator will establish a compliance account for the CAIR NO_x Ozone Season source for which the certificate of representation was submitted, unless the source already has a compliance account.

B. General accounts shall be established as follows:

1. Applications for general accounts shall be submitted as follows:

a. Any person may apply to open a general account for the purpose of holding and transferring CAIR NO_x Ozone Season allowances. An application for a general account may designate one and only one CAIR-authorized account representative and one and only one alternate CAIR-authorized account representative who may act on behalf of the CAIR-authorized account representative. The agreement by which the alternate CAIR-authorized account representative is selected shall include a procedure for authorizing the alternate CAIR-authorized account representative to act in lieu of the CAIR-authorized account representative.

b. A complete application for a general account shall be submitted to the administrator and shall include the following elements in a format prescribed by the administrator:

(1) Name, mailing address, email address (if any), telephone number, and facsimile transmission number (if any) of the CAIR-authorized account representative and any alternate CAIR-authorized account representative;

(2) Organization name and type of organization, if applicable;

(3) A list of all persons subject to a binding agreement for the CAIR-authorized account representative and any alternate CAIR-authorized account representative to represent their ownership interest with respect to the CAIR NO_x Ozone Season allowances held in the general account;

(4) The following certification statement by the CAIR-authorized account representative and any alternate CAIR-authorized account representative: "I certify that I was selected as the CAIR-authorized account representative or the alternate CAIR-authorized account representative, as applicable, by an agreement that is binding on all persons who have an ownership interest with respect to CAIR NO_x Ozone Season allowances held in the general account. I certify that I have all the necessary authority to carry out my duties and responsibilities under the CAIR NO_x Ozone Season Trading Program on behalf of such persons and that each such person shall be fully bound by my representations,

actions, inactions, or submissions and by any order or decision issued to me by the administrator or a court regarding the general account."

(5) The signature of the CAIR-authorized account representative and any alternate CAIR-authorized account representative and the dates signed.

c. Unless otherwise required by the permitting authority or the administrator, documents of agreement referred to in the application for a general account shall not be submitted to the permitting authority or the administrator. Neither the permitting authority nor the administrator shall be under any obligation to review or evaluate the sufficiency of such documents, if submitted.

2. Authorization of a CAIR-authorized account representative [and alternate CAIR-authorized account representative] shall be established as follows:

a. Upon receipt by the administrator of a complete application for a general account under subdivision 1 of this subsection:

(1) The administrator will establish a general account for the person or persons for whom the application is submitted.

(2) The CAIR-authorized account representative and any alternate CAIR-authorized account representative for the general account shall represent and, by such persons' representations, actions, inactions, or submissions, legally bind each person who has an ownership interest with respect to CAIR NO_x Ozone Season allowances held in the general account in all matters pertaining to the CAIR NO_x Ozone Season Trading Program, notwithstanding any agreement between the CAIR-authorized account representative or any alternate CAIR-authorized account representative and such person. Any such person shall be bound by any order or decision issued to the CAIR-authorized account representative or any alternate CAIR-authorized account representative by the administrator or a court regarding the general account.

(3) Any representation, action, inaction, or submission by any alternate CAIR-authorized account representative shall be deemed to be a representation, action, inaction, or submission by the CAIR-authorized account representative.

b. Each submission concerning the general account shall be submitted, signed, and certified by the CAIR-authorized account representative or any alternate CAIR-authorized account representative for the persons having an ownership interest with respect to CAIR NO_x Ozone Season allowances held in the general account. Each such submission shall include the following certification statement by the CAIR-authorized account representative or any alternate CAIR-authorized account representative: "I am authorized to make this submission on behalf of the persons having an ownership interest with respect to the CAIR NO_x Ozone Season allowances held in the general account. I certify under penalty

of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment."

c. The administrator will accept or act on a submission concerning the general account only if the submission has been made, signed, and certified in accordance with subdivision b of this subdivision.

3. Changing the CAIR-authorized account representative and alternate CAIR-authorized account representative and changes in persons with ownership interest shall be accomplished as follows:

a. The CAIR-authorized account representative for a general account may be changed at any time upon receipt by the administrator of a superseding complete application for a general account under subdivision 1 of this subsection. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous CAIR-authorized account representative before the time and date when the administrator receives the superseding application for a general account shall be binding on the new CAIR-authorized account representative and the persons with an ownership interest with respect to the CAIR NO_x Ozone Season allowances in the general account.

b. The alternate CAIR-authorized account representative for a general account may be changed at any time upon receipt by the administrator of a superseding complete application for a general account under subdivision 1 of this subsection. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous alternate CAIR-authorized account representative before the time and date when the administrator receives the superseding application for a general account shall be binding on the new alternate CAIR-authorized account representative and the persons with an ownership interest with respect to the CAIR NO_x Ozone Season allowances in the general account.

c. (1) In the event a [~~new~~] person having an ownership interest with respect to CAIR NO_x Ozone Season allowances in the general account is not included in the list of such persons in the application for a general account, such [~~new~~] person shall be deemed to be subject to and bound by the application for a general account, the representation, actions, inactions, and submissions of the CAIR-authorized account representative and any alternate CAIR-authorized account representative of the account, and the decisions and orders of

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the administrator or a court, as if the [~~new~~] person were included in such list.

(2) Within 30 days following any change in the persons having an ownership interest with respect to CAIR NO_x Ozone Season allowances in the general account, including the addition of [~~persons~~ a new person], the CAIR-authorized account representative or any alternate CAIR-authorized account representative shall submit a revision to the application for a general account amending the list of persons having an ownership interest with respect to the CAIR NO_x Ozone Season allowances in the general account to include the change.

4. Objections concerning the CAIR-authorized account representative [and alternate CAIR-authorized account representative] shall be processed as follows:

a. Once a complete application for a general account under subdivision 1 of this subsection has been submitted and received, the administrator will rely on the application unless and until a superseding complete application for a general account under subdivision 1 of this subsection is received by the administrator.

b. Except as provided in subdivision 3 a or b of this subsection, no objection or other communication submitted to the administrator concerning the authorization, or any representation, action, inaction, or submission of the CAIR-authorized account representative or any [~~alternate~~] CAIR-authorized account representative for a general account shall affect any representation, action, inaction, or submission of the CAIR-authorized account representative or any [~~alternate~~] CAIR-authorized account representative or the finality of any decision or order by the administrator under the CAIR NO_x Ozone Season Trading Program.

c. The administrator will not adjudicate any private legal dispute concerning the authorization or any representation, action, inaction, or submission of the CAIR-authorized account representative or any [~~alternate~~] CAIR-authorized account representative for a general account, including private legal disputes concerning the proceeds of CAIR NO_x Ozone Season allowance transfers.

[5. Delegation by CAIR-authorized account representative and alternate CAIR-authorized account representative shall be made as follows.

a. A CAIR-authorized account representative may delegate to one or more natural persons his authority to make an electronic submission to the administrator provided for or required under Article 6 (9 VAC 5-140-2500 et seq.) and Article 7 (9 VAC 5-140-2600 et seq.) of this part.

b. An alternate CAIR-authorized account representative may delegate to one or more natural persons his authority to make an electronic submission to the administrator provided for or

required under Article 6 (9 VAC 5-140-2500 et seq.) and Article 7 (9 VAC 5-140-2600 et seq.) of this part.

c. In order to delegate authority to make an electronic submission to the administrator in accordance with subdivision a or b of this subdivision 5, the CAIR-authorized account representative or alternate CAIR-authorized account representative, as appropriate, must submit to the administrator a notice of delegation, in a format prescribed by the administrator, that includes the following elements:

(1) The name, address, email address, telephone number, and facsimile transmission number (if any) of such CAIR-authorized account representative or alternate CAIR-authorized account representative;

(2) The name, address, email address, telephone number, and facsimile transmission number (if any) of each such natural person (referred to as an "agent");

(3) For each such natural person, a list of the type or types of electronic submissions under subdivision a or b of this subdivision 5 for which authority is delegated to him;

(4) The following certification statement by such CAIR-authorized account representative or alternate CAIR-authorized account representative: "I agree that any electronic submission to the administrator that is by an agent identified in this notice of delegation and of a type listed for such agent in this notice of delegation and that is made when I am a CAIR-authorized account representative or alternate CAIR-authorized representative, as appropriate, and before this notice of delegation is superseded by another notice of delegation under 9 VAC 5-140-2510 B 5 d shall be deemed to be an electronic submission by me."; and

(5) The following certification statement by such CAIR-authorized account representative or alternate CAIR-authorized account representative: "Until this notice of delegation is superseded by another notice of delegation under 9 VAC 5-140-2510 B 5 d, I agree to maintain an email account and to notify the administrator immediately of any change in my email address unless all delegation of authority by me under 9 VAC 5-140-2510 B 5 is terminated."

d. A notice of delegation submitted under subdivision c of this subdivision 5 shall be effective, with regard to the CAIR-authorized account representative or alternate CAIR-authorized account representative identified in such notice, upon receipt of such notice by the administrator and until receipt by the administrator of a superseding notice of delegation submitted by such CAIR-authorized account representative or alternate CAIR-authorized account representative, as appropriate. The superseding notice of delegation may replace any previously identified agent, add a new agent, or eliminate entirely any delegation of authority.

e. Any electronic submission covered by the certification in subdivision c (4) of this subdivision 5 and made in

accordance with a notice of delegation effective under subdivision d of this subdivision 5 shall be deemed to be an electronic submission by the CAIR-designated representative or alternate CAIR-designated representative submitting such notice of delegation.]

C. The administrator will assign a unique identifying number to each account established under subsection A or B of this section.

9 VAC 5-140-2520. Responsibilities of CAIR-authorized account representative.

Following the establishment of a CAIR NO_x Ozone Season Allowance Tracking System account, all submissions to the administrator pertaining to the account, including, but not limited to, submissions concerning the deduction or transfer of CAIR NO_x Ozone Season allowances in the account, shall be made only by the CAIR-authorized account representative for the account.

9 VAC 5-140-2530. Recordation of CAIR NO_x Ozone Season allowance allocations.

A. [~~The~~ By September 30, 2007, the] administrator will record in the CAIR NO_x Ozone Season source's compliance account the CAIR NO_x Ozone Season allowances allocated for the CAIR NO_x Ozone Season units at [~~a~~ the] source, as submitted by the permitting authority in accordance with 9 VAC 5-2410 A, for the control periods in 2009, 2010, 2011, 2012, and 2013.

B. By December 1, 2009, the administrator will record in the CAIR NO_x Ozone Season source's compliance account the CAIR NO_x Ozone Season allowances allocated for the CAIR NO_x Ozone Season units at the source, as submitted by the permitting authority [~~or as determined by the administrator~~] in accordance with 9 VAC 5-140-2410 B, for the control period in 2014.

C. [~~In 2011~~ By December 1, 2010,] and [by December 1 of] each year thereafter, [~~after the administrator has made all deductions (if any) from a CAIR NO_x Ozone Season source's compliance account under 9 VAC 5-140-2540,~~] the administrator will record in the CAIR NO_x Ozone Season source's compliance account the CAIR NO_x Ozone Season allowances allocated for the CAIR NO_x Ozone Season units at the source, as submitted by the permitting authority [~~or determined by the administrator~~] in accordance with 9 VAC 5-140-2410 B, for the control period in the fifth year after the year of the [~~control period for which such deductions were or could have been made~~ applicable deadline for recordation under this paragraph].

D. By September 1, 2009, [~~and September 1 of each year thereafter,~~] the administrator will record in the CAIR NO_x Ozone Season source's compliance account the CAIR NO_x Ozone Season allowances allocated for the CAIR NO_x Ozone Season units at the source, as submitted by the permitting

authority [~~or determined by the administrator~~] in accordance with 9 VAC 5-140-2410 C, for the [~~control period in the year of the applicable deadline for recordation under this subsection~~ control periods in 2009, 2010, 2011, 2012, and 2013].

E. [By September 1, 2014, and September 1 of each year thereafter, the administrator will record in the CAIR NO_x Ozone Season source's compliance account the CAIR NO_x Ozone Season allowances allocated for the CAIR NO_x Ozone Season units at the source, as submitted by the permitting authority in accordance with 9 VAC 5-140-2410 D, for the control period in the year of the applicable deadline for recordation under this subsection.

F.] When recording the allocation of CAIR NO_x Ozone Season allowances for a CAIR NO_x Ozone Season unit in a compliance account, the administrator will assign each CAIR NO_x Ozone Season allowance a unique identification number that will include digits identifying the year of the control period for which the CAIR NO_x Ozone Season allowance is allocated.

9 VAC 5-140-2540. Compliance with CAIR NO_x emissions limitation.

A. The CAIR NO_x Ozone Season allowances are available to be deducted for compliance with a source's CAIR NO_x Ozone Season emissions limitation for a control period in a given calendar year only if the CAIR NO_x Ozone Season allowances:

1. Were allocated for the control period in the year or a prior year; [and]
2. Are held in the compliance account as of the allowance transfer deadline for the control period or are transferred into the compliance account by a CAIR NO_x Ozone Season allowance transfer correctly submitted for recordation under 9 VAC 5-140-2600 [and 9 VAC 5-140-2610] by the allowance transfer deadline for the control period [~~and~~].

[~~3. Are not necessary for deductions for excess emissions for a prior control period under subsection D of this section.~~]

B. Following the recordation, in accordance with 9 VAC 5-140-2610, of CAIR NO_x Ozone Season allowance transfers submitted for recordation in a source's compliance account by the allowance transfer deadline for a control period, the administrator will deduct from the compliance account CAIR NO_x Ozone Season allowances available under subsection A of this section in order to determine whether the source meets the CAIR NO_x Ozone Season emissions limitation for the control period, as follows:

1. Until the amount of CAIR NO_x Ozone Season allowances deducted equals the number of tons of total nitrogen oxides emissions, determined in accordance with Article 8 (9 VAC

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5-140-2700 et seq.) of this part, from all CAIR NO_x Ozone Season units at the source for the control period; or

2. If there are insufficient CAIR NO_x Ozone Season allowances to complete the deductions in subdivision 1 of this subsection, until no more CAIR NO_x Ozone Season allowances available under subsection A of this section remain in the compliance account.

C.1. The CAIR-authorized account representative for a source's compliance account may request that specific CAIR NO_x Ozone Season allowances, identified by serial number, in the compliance account be deducted for emissions or excess emissions for a control period in accordance with subsection B or D of this section. Such request shall be submitted to the administrator by the allowance transfer deadline for the control period and include, in a format prescribed by the administrator, the identification of the CAIR NO_x Ozone Season source and the appropriate serial numbers.

2. The administrator will deduct CAIR NO_x Ozone Season allowances under subsection B or D of this section from the source's compliance account, in the absence of an identification or in the case of a partial identification of CAIR NO_x Ozone Season allowances by serial number under subdivision 1 of this subsection, on a first in, first out accounting basis in the following order:

a. Any CAIR NO_x Ozone Season allowances that were allocated to the units at the source, in the order of recordation; and then

b. Any CAIR NO_x Ozone Season allowances that were allocated to any entity and transferred and recorded in the compliance account pursuant to Article 7 (9 VAC 5-140-2600 et seq.) of this part, in the order of recordation.

D. Deductions for excess emissions shall be made as follows:

1. After making the deductions for compliance under subsection B of this section for a control period in a calendar year in which the CAIR NO_x Ozone Season source has excess emissions, the administrator will deduct from the source's compliance account an amount of CAIR NO_x Ozone Season allowances, allocated for the control period in the immediately following calendar year, equal to three times the number of tons of the source's excess emissions.

2. Any allowance deduction required under subdivision 1 of this subsection shall not affect the liability of the owners and operators of the CAIR NO_x Ozone Season source or the CAIR NO_x Ozone Season units at the source for any fine, penalty, or assessment, or their obligation to comply with any other remedy, for the same violations, as ordered under the Clean Air Act or the Virginia Air Pollution Control Law.

E. The administrator will record in the appropriate compliance account all deductions from such an account

under [~~subsection~~ subsections] B [~~or~~ and] D of this section [and Article 9 (9 VAC 5-140-2800 et seq.) of this part].

F. Administrator actions on submissions will occur as follows:

1. The administrator may review and conduct independent audits concerning any submission under the CAIR NO_x Ozone Season Trading Program and make appropriate adjustments of the information in the submissions.

2. The administrator may deduct CAIR NO_x Ozone Season allowances from or transfer CAIR NO_x Ozone Season allowances to a source's compliance account based on the information in the submissions, as adjusted under subdivision 1 of this subsection [and record such deductions and transfers].

9 VAC 5-140-2550. Banking.

A. CAIR NO_x Ozone Season allowances may be banked for future use or transfer in a compliance account or a general account in accordance with subsection B of this section.

B. Any CAIR NO_x Ozone Season allowance that is held in a compliance account or a general account will remain in such account unless and until the CAIR NO_x Ozone Season allowance is deducted or transferred under 9 VAC 5-140-2540, 9 VAC 5-140-2560, or Article 7 (9 VAC 5-140-2600 et seq.) [or Article 9 (9 VAC 5-140-2800 et seq.)] of this part.

9 VAC 5-140-2560. Account error.

The administrator may, at the administrator's sole discretion and on the administrator's own motion, correct any error in any CAIR NO_x Ozone Season Allowance Tracking System account. Within 10 business days of making such correction, the administrator will notify the CAIR-authorized account representative for the account.

9 VAC 5-140-2570. Closing of general accounts.

A. The CAIR-authorized account representative of a general account may submit to the administrator a request to close the account, which shall include a correctly submitted allowance transfer under 9 VAC 5-140-2600 [and 9 VAC 5-140-2610] for any CAIR NO_x Ozone Season allowances in the account to one or more other CAIR NO_x Ozone Season Allowance Tracking System accounts.

B. If a general account has no allowance transfers in or out of the account for a 12-month period or longer and does not contain any CAIR NO_x Ozone Season allowances, the administrator may notify the CAIR-authorized account representative for the account that the account will be closed following 20 business days after the notice is sent. The account will be closed after the 20-day period unless, before the end of the 20-day period, the administrator receives a correctly submitted transfer of CAIR NO_x Ozone Season allowances into the account under 9 VAC 5-140-2600 [and 9 VAC 5-140-2610] or a statement submitted by the CAIR-

authorized account representative demonstrating to the satisfaction of the administrator good cause as to why the account should not be closed.

Article 7.

CAIR NO_x Ozone Season Allowance Transfers.

9 VAC 5-140-2600. Submission of CAIR NO_x Ozone Season allowance transfers.

A. CAIR-authorized account representative seeking recordation of a CAIR NO_x Ozone Season allowance transfer shall submit the transfer to the administrator. To be considered correctly submitted, the CAIR NO_x Ozone Season allowance transfer shall include the following elements, in a format specified by the administrator:

1. The account numbers for both the transferor and transferee accounts;
2. The serial number of each CAIR NO_x Ozone Season allowance that is in the transferor account and is to be transferred; and
3. The name and signature of the CAIR-authorized account representative of the transferor account and the date signed.

9 VAC 5-140-2610. EPA recordation.

A. Within five business days (except as provided in subsection B of this section) of receiving a CAIR NO_x Ozone Season allowance transfer, the administrator will record a CAIR NO_x Ozone Season allowance transfer by moving each CAIR NO_x Ozone Season allowance from the transferor account to the transferee account as specified by the request, provided that:

1. The transfer is correctly submitted under 9 VAC 5-140-2600; and
2. The transferor account includes each CAIR NO_x Ozone Season allowance identified by serial number in the transfer.

B. A CAIR NO_x Ozone Season allowance transfer that is submitted for recordation after the allowance transfer deadline for a control period and that includes any CAIR NO_x Ozone Season allowances allocated for any control period before such allowance transfer deadline will not be recorded until after the administrator completes the deductions under 9 VAC 5-140-2540 for the control period immediately before such allowance transfer deadline.

C. Where a CAIR NO_x Ozone Season allowance transfer submitted for recordation fails to meet the requirements of subsection A of this section, the administrator will not record such transfer.

9 VAC 5-140-2620. Notification.

A. Within five business days of recordation of a CAIR NO_x Ozone Season allowance transfer under 9 VAC 5-140-2610,

the administrator will notify the CAIR-authorized account representatives of both the transferor and transferee accounts.

B. Within 10 business days of receipt of a CAIR NO_x Ozone Season allowance transfer that fails to meet the requirements of 9 VAC 5-140-2610 A, the administrator will notify the CAIR-authorized account representatives of both accounts subject to the transfer of:

1. A decision not to record the transfer, and
2. The reasons for such nonrecordation.

C. Nothing in this section shall preclude the submission of a CAIR NO_x Ozone Season allowance transfer for recordation following notification of nonrecordation.

Article 8.

Monitoring and Reporting.

9 VAC 5-140-2700. General requirements.

A. The owners and operators, and to the extent applicable, the CAIR-designated representative, of a CAIR NO_x Ozone Season unit, shall comply with the monitoring, recordkeeping, and reporting requirements as provided in this article and in subpart H of 40 CFR Part 75. For purposes of complying with such requirements, the definitions in 9 VAC 5-140-2020 and in 40 CFR 72.2 shall apply, and the terms "affected unit," "designated representative," and "continuous emission monitoring system (CEMS)" in 40 CFR Part 75 shall be deemed to refer to the terms "CAIR NO_x Ozone Season unit," "CAIR-designated representative," and "continuous emission monitoring system (CEMS)" respectively, as defined in 9 VAC 5-140-2020. The owner or operator of a unit that is not a CAIR NO_x Ozone Season unit but that is monitored under 40 CFR 75.72(b)(2)(ii) shall comply with the same monitoring, recordkeeping, and reporting requirements as a CAIR NO_x Ozone Season unit.

B. The owner or operator of each CAIR NO_x Ozone Season unit shall:

1. Install all monitoring systems required under this article for monitoring NO_x mass emissions and individual unit heat input (including all systems required to monitor NO_x emission rate, NO_x concentration, stack gas moisture content, stack gas flow rate, CO₂ or O₂ concentration, and fuel flow rate, as applicable, in accordance with 40 CFR 75.71 and 40 CFR 75.72);
2. Successfully complete all certification tests required under 9 VAC 5-140-2710 and meet all other requirements of this article and 40 CFR Part 75 applicable to the monitoring systems under subdivision [~~B-1 of this section~~ 1 of this subsection]; and
3. Record, report, and quality-assure the data from the monitoring systems under subdivision [~~B-1 of this section~~ 1 of this subsection].

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C. [~~The~~ Except as provided in subsection F of this section, the] owner or operator shall meet the monitoring system certification and other requirements of subdivisions B 1 and 2 of this section on or before the following dates. The owner or operator shall record, report, and quality-assure the data from the monitoring systems under subdivision B 1 of this section on and after the following dates.

1. For the owner or operator of a CAIR NO_x Ozone Season unit that commences commercial operation before July 1, 2007, by May 1, 2008.

2. For the owner or operator of a CAIR NO_x Ozone Season unit that commences commercial operation on or after July 1, 2007, and that reports on an annual basis under 9 VAC 5-140-2740 D, by the later of the following dates:

a. Ninety unit operating days or 180 calendar days, whichever occurs first, after the date on which the unit commences commercial operation; or

b. May 1, 2008 [~~, if the compliance date under subdivision a of this subdivision is before May 1, 2008~~].

3. For the owner or operator of a CAIR NO_x Ozone Season unit that commences [commercial] operation on or after July 1, 2007, and that reports on a control period basis under 9 VAC 5-140-2740 D 2 b, by the later of the following dates:

a. Ninety unit operating days or 180 calendar days, whichever occurs first, after the date on which the unit commences commercial operation; or

b. If the compliance date under subdivision a of this subdivision is not during a control period, May 1 immediately following the compliance date under subdivision a of this subdivision.

4. For the owner or operator of a CAIR NO_x Ozone Season unit for which construction of a new stack or flue or installation of add-on NO_x emission controls is completed after the applicable deadline under subdivision 1, 2, 6, or 7 of this subsection and that reports on an annual basis under 9 VAC 5-140-2740 D, by 90 unit operating days or 180 calendar days, whichever occurs first, after the date on which emissions first exit to the atmosphere through the new stack or flue or add-on NO_x emissions controls.

5. For the owner or operator of a CAIR NO_x Ozone Season unit for which construction of a new stack or flue or installation of add-on NO_x emission controls is completed after the applicable deadline under subdivision 1, 3, 6, or 7 of this section and that reports on a control period basis under 9 VAC 5-140-2740 D 2 b, by the later of the following dates:

a. Ninety unit operating days or 180 calendar days, whichever occurs first, after the date on which emissions first exit to the atmosphere through the new stack or flue or add-on NO_x emissions controls; or

b. If the compliance date under subdivision a of this subdivision is not during a control period, May 1 immediately following the compliance date under subdivision a of this subdivision.

6. Notwithstanding the dates in subdivisions 1, 2, and 3 of this subsection, for the owner or operator of a unit for which a CAIR NO_x Ozone Season opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under Article 9 (9 VAC 5-140-2800 et seq.) of this part, by the date specified in subdivision 2 of 9 VAC 5-140-2840.

7. Notwithstanding the dates in subdivisions 1, 2, and 3 of this subsection [~~and solely for purposes of 9 VAC 5-140-2060 C 2~~], for the owner or operator of a CAIR NO_x Ozone Season opt-in unit under Article 9 (9 VAC 5-140-2800 et seq.) of this part, by the date on which the CAIR NO_x Ozone Season opt-in unit enters the CAIR NO_x Ozone Season Trading Program as provided in subdivision 7 of 9 VAC 5-140-2840.

[~~D. Data shall be reported as follows:~~

~~1. Except as provided in subdivision 2 of this subsection, the D. The] owner or operator of a CAIR NO_x Ozone Season unit that does not meet the applicable compliance date set forth in subsection C of this section for any monitoring system under subdivision B 1 of this section shall, for each such monitoring system, determine, record, and report maximum potential (or, as appropriate, minimum potential) values for NO_x concentration, NO_x emission rate, stack gas flow rate, stack gas moisture content, fuel flow rate, and any other parameters required to determine NO_x mass emissions and heat input in accordance with 40 CFR 75.31(b)(2) or (c)(3), section 2.4 of appendix D to 40 CFR Part 75, or section 2.5 of appendix E to 40 CFR Part 75, as applicable.~~

[~~2. The owner or operator of a CAIR NO_x unit that does not meet the applicable compliance date set forth in subdivision C 4 of this section for any monitoring system under subdivision B 1 of this section shall, for each such monitoring system, determine, record, and report substitute data using the applicable missing data procedures in 40 CFR 75.74(c)(7) or subpart D or subpart H of, or appendix D or appendix E to, 40 CFR Part 75, in lieu of the maximum potential (or, as appropriate, minimum potential) values, for a parameter if the owner or operator demonstrates that there is continuity between the data streams for that parameter before and after the construction or installation under subdivision C 4 of this section.~~]

E. The following prohibitions shall apply.

1. No owner or operator of a CAIR NO_x Ozone Season unit shall use any alternative monitoring system, alternative reference method, or any other alternative to any requirement of this article without having obtained prior written approval in accordance with 9 VAC 5-140-2750.

2. No owner or operator of a CAIR NO_x Ozone Season unit shall operate the unit so as to discharge, or allow to be discharged, NO_x emissions to the atmosphere without accounting for all such emissions in accordance with the applicable provisions of this [~~part~~ article] and 40 CFR Part 75.

3. No owner or operator of a CAIR NO_x Ozone Season unit shall disrupt the continuous emission monitoring system, any portion thereof, or any other approved emission monitoring method, and thereby avoid monitoring and recording NO_x mass emissions discharged into the atmosphere [or heat input], except for periods of recertification or periods when calibration, quality assurance testing, or maintenance is performed in accordance with the applicable provisions of this article and 40 CFR Part 75.

4. No owner or operator of a CAIR NO_x Ozone Season unit shall retire or permanently discontinue use of the continuous emission monitoring system, any component thereof, or any other approved monitoring system under this article, except under any one of the following circumstances:

a. During the period that the unit is covered by an exemption under 9 VAC 5-140-2050 that is in effect;

b. The owner or operator is monitoring emissions from the unit with another certified monitoring system approved, in accordance with the applicable provisions of this [~~part~~ article] and 40 CFR Part 75, by the permitting authority for use at that unit that provides emission data for the same pollutant or parameter as the retired or discontinued monitoring system; or

c. The CAIR-designated representative submits notification of the date of certification testing of a replacement monitoring system for the retired or discontinued monitoring system in accordance with 9 VAC 5-140-2710 D 3 a.

[F. The owner or operator of a CAIR NO_x Ozone Season unit is subject to the applicable provisions of 40 CFR Part 75 concerning units in long-term cold storage.]

9 VAC 5-140-2710. Initial certification and recertification procedures.

A. The owner or operator of a CAIR NO_x Ozone Season unit shall be exempt from the initial certification requirements of this section for a monitoring system under 9 VAC 5-140-2700 B 1 if the following conditions are met:

1. The monitoring system has been previously certified in accordance with 40 CFR Part 75; and

2. The applicable quality-assurance and quality-control requirements of 40 CFR 75.21 and appendix B, appendix D, and appendix E to 40 CFR Part 75 are fully met for the certified monitoring system described in subdivision 1 of this subsection.

B. The recertification provisions of this section shall apply to a monitoring system under 9 VAC 5-140-2700 B 1 exempt from initial certification requirements under subsection A of this section.

C. If the administrator has previously approved a petition under 40 CFR 75.17(a) or (b) for apportioning the NO_x emission rate measured in a common stack or a petition under 40 CFR 75.66 for an alternative to a requirement in 40 CFR 75.12 [; or] 75.17 [; or subpart H of 40 CFR Part 75], the CAIR-designated representative shall resubmit the petition to the administrator under 9 VAC 5-140-2750 A to determine whether the approval applies under the CAIR NO_x Ozone Season Trading Program.

D. Except as provided in subsection A of this section, the owner or operator of a CAIR NO_x Ozone Season unit shall comply with the following initial certification and recertification procedures for a continuous monitoring system (i.e., a continuous emission monitoring system and an excepted monitoring system under appendices D and E to 40 CFR Part 75) under 9 VAC 5-140-2700 B 1. The owner or operator of a unit that qualifies to use the low mass emissions excepted monitoring methodology under 40 CFR 75.19 or that qualifies to use an alternative monitoring system under subpart E of 40 CFR Part 75 shall comply with the procedures in subsection E or F of this section, respectively.

1. The owner or operator shall ensure that each continuous monitoring system under 9 VAC 5-140-2700 B 1 (including the automated data acquisition and handling system) successfully completes all of the initial certification testing required under 40 CFR 75.20 by the applicable deadline in 9 VAC 5-140-2700 C. In addition, whenever the owner or operator installs a monitoring system to meet the requirements of this article in a location where no such monitoring system was previously installed, initial certification in accordance with 40 CFR 75.20 is required.

2. Whenever the owner or operator makes a replacement, modification, or change in any certified continuous emission monitoring system under 9 VAC 5-140-2700 B 1 that may significantly affect the ability of the system to accurately measure or record NO_x mass emissions or heat input rate or to meet the quality-assurance and quality-control requirements of 40 CFR 75.21 or appendix B to 40 CFR Part 75 the owner or operator shall recertify the monitoring system in accordance with 40 CFR 75.20(b). Furthermore, whenever the owner or operator makes a replacement, modification, or change to the flue gas handling system or the unit's operation that may significantly change the stack flow or concentration profile, the owner or operator shall recertify each continuous emission monitoring system whose accuracy is potentially affected by the change, in accordance with 40 CFR 75.20(b). Examples of changes to a continuous emission monitoring system that require recertification include: replacement of the analyzer, complete replacement of an existing continuous

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emission monitoring system, or change in location or orientation of the sampling probe or site. Any fuel flowmeter systems, and any excepted NO_x monitoring system under appendix E to 40 CFR Part 75, under 9 VAC 5-140-2700 B 1 are subject to the recertification requirements in 40 CFR 75.20(g)(6).

3. Subdivisions a through d of this subdivision apply to both initial certification and recertification of a continuous monitoring system under 9 VAC 5-140-2700 B 1. For recertifications, replace the words "certification" and "initial certification" with the word "recertification," replace the word "certified" with the word "recertified," and follow the procedures in 40 CFR 75.20(b)(5) and (g)(7) in lieu of the procedures in subdivision e of this subdivision.

a. The CAIR-designated representative shall submit to the permitting authority, the EPA Region III Office, and the administrator written notice of the dates of certification testing, in accordance with 9 VAC 5-140-2730.

b. The CAIR-designated representative shall submit to the permitting authority a certification application for each monitoring system. A complete certification application shall include the information specified in 40 CFR 75.63.

c. The provisional certification date for a monitoring system shall be determined in accordance with 40 CFR 75.20(a)(3). A provisionally certified monitoring system may be used under the CAIR NO_x Ozone Season Trading Program for a period not to exceed 120 days after receipt by the permitting authority of the complete certification application for the monitoring system under subdivision b of this subdivision. Data measured and recorded by the provisionally certified monitoring system, in accordance with the requirements of 40 CFR Part 75, will be considered valid quality-assured data (retroactive to the date and time of provisional certification), provided that the permitting authority does not invalidate the provisional certification by issuing a notice of disapproval within 120 days of the date of receipt of the complete certification application by the permitting authority.

d. The permitting authority will issue a written notice of approval or disapproval of the certification application to the owner or operator within 120 days of receipt of the complete certification application under subdivision b of this subdivision. In the event the permitting authority does not issue such a notice within such 120-day period, each monitoring system that meets the applicable performance requirements of 40 CFR Part 75 and is included in the certification application will be deemed certified for use under the CAIR NO_x Ozone Season Trading Program.

(1) If the certification application is complete and shows that each monitoring system meets the applicable performance requirements of 40 CFR Part 75, then the permitting authority will issue a written notice of approval of the certification application within 120 days of receipt.

(2) If the certification application is not complete, then the permitting authority will issue a written notice of incompleteness that sets a reasonable date by which the CAIR-designated representative shall submit the additional information required to complete the certification application. If the CAIR-designated representative does not comply with the notice of incompleteness by the specified date, then the permitting authority may issue a notice of disapproval under subdivision (3) of this subdivision. The 120-day review period shall not begin before receipt of a complete certification application.

(3) If the certification application shows that any monitoring system does not meet the performance requirements of 40 CFR Part 75 or if the certification application is incomplete and the requirement for disapproval under subdivision (2) of this subdivision is met, then the permitting authority will issue a written notice of disapproval of the certification application. Upon issuance of such notice of disapproval, the provisional certification is invalidated by the permitting authority and the data measured and recorded by each uncertified monitoring system shall not be considered valid quality-assured data beginning with the date and hour of provisional certification (as defined under 40 CFR 75.20(a)(3)). The owner or operator shall follow the procedures for loss of certification in subdivision e of this subdivision for each monitoring system that is disapproved for initial certification.

(4) The permitting authority or, for a CAIR NO_x Ozone Season opt-in unit or a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under Article 9 (9 VAC 5-140-2800 et seq.) of this part, the administrator may issue a notice of disapproval of the certification status of a monitor in accordance with 9 VAC 5-140-2720 B.

e. If the permitting authority or the administrator issues a notice of disapproval of a certification application under subdivision d (3) of this subdivision or a notice of disapproval of certification status under subdivision d (4) of this subdivision, then:

(1) The owner or operator shall substitute the following values, for each disapproved monitoring system, for each hour of unit operation during the period of invalid data specified under 40 CFR 75.20(a)(4)(iii), 40 CFR 75.20(g)(7), or 40 CFR 75.21(e) and continuing until the applicable date and hour specified under 40 CFR 75.20(a)(5)(i) or (g)(7):

(a) For a disapproved NO_x emission rate (i.e., NO_x-diluent) system, the maximum potential NO_x emission rate, as defined in 40 CFR 72.2.

(b) For a disapproved NO_x pollutant concentration monitor and disapproved flow monitor, respectively, the maximum potential concentration of NO_x and the maximum potential

flow rate, as defined in sections 2.1.2.1 and 2.1.4.1 of appendix A to 40 CFR Part 75.

(c) For a disapproved moisture monitoring system and disapproved diluent gas monitoring system, respectively, the minimum potential moisture percentage and either the maximum potential CO₂ concentration or the minimum potential O₂ concentration (as applicable), as defined in sections 2.1.5, 2.1.3.1, and 2.1.3.2 of appendix A to 40 CFR Part 75.

(d) For a disapproved fuel flowmeter system, the maximum potential fuel flow rate, as defined in section 2.4.2.1 of appendix D to 40 CFR Part 75.

(e) For a disapproved excepted NO_x monitoring system under appendix E to 40 CFR Part 75, the fuel-specific maximum potential NO_x emission rate, as defined in 40 CFR 72.2.

(2) The CAIR-designated representative shall submit a notification of certification retest dates and a new certification application in accordance with subdivisions [~~(4)~~ 3] a and b of this subdivision.

(3) The owner or operator shall repeat all certification tests or other requirements that were failed by the monitoring system, as indicated in the permitting authority's or the administrator's notice of disapproval, no later than 30 unit operating days after the date of issuance of the notice of disapproval.

E. The owner or operator of a unit qualified to use the low mass emissions (LME) excepted methodology under 40 CFR 75.19 shall meet the applicable certification and recertification requirements in 40 CFR 75.19(a)(2) and 75.20(h). If the owner or operator of such a unit elects to certify a fuel flowmeter system for heat input determination, the owner or operator shall also meet the certification and recertification requirements in 40 CFR 75.20(g).

F. The CAIR-designated representative of each unit for which the owner or operator intends to use an alternative monitoring system approved by the administrator and, if applicable, the permitting authority under subpart E of 40 CFR Part 75 shall comply with the applicable notification and application procedures of 40 CFR 75.20(f).

9 VAC 5-140-2720. Out of control periods.

A. Whenever any monitoring system fails to meet the quality-assurance and quality-control requirements or data validation requirements of 40 CFR Part 75, data shall be substituted using the applicable missing data procedures in subpart D or subpart H of, or appendix D or appendix E to, 40 CFR Part 75.

B. Whenever both an audit of a monitoring system and a review of the initial certification or recertification application reveal that any monitoring system should not have been certified or recertified because it did not meet a particular

performance specification or other requirement under 9 VAC 5-140-2710 or the applicable provisions of 40 CFR Part 75, both at the time of the initial certification or recertification application submission and at the time of the audit, the permitting authority or, for a CAIR NO_x Ozone Season opt-in unit or a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under Article 9 (9 VAC 5-140-2800 et seq.) of this part, the administrator will issue a notice of disapproval of the certification status of such monitoring system. For the purposes of this subsection, an audit shall be either a field audit or an audit of any information submitted to the permitting authority or the administrator. By issuing the notice of disapproval, the permitting authority or the administrator revokes prospectively the certification status of the monitoring system. The data measured and recorded by the monitoring system shall not be considered valid quality-assured data from the date of issuance of the notification of the revoked certification status until the date and time that the owner or operator completes subsequently approved initial certification or recertification tests for the monitoring system. The owner or operator shall follow the applicable initial certification or recertification procedures in 9 VAC 5-140-2710 for each disapproved monitoring system.

9 VAC 5-140-2730. Notifications.

The CAIR-designated representative for a CAIR NO_x Ozone Season unit shall submit written notice to the permitting authority and the administrator in accordance with 40 CFR 75.61 [~~except that if the unit is not subject to an acid rain emissions limitation, the notification is only required to be sent to the permitting authority~~].

9 VAC 5-140-2740. Recordkeeping and reporting.

A. The CAIR-designated representative shall comply with all recordkeeping and reporting requirements in this section, the applicable recordkeeping and reporting requirements under 40 CFR 75.73, and the requirements of 9 VAC 5-140-2100 E 1.

B. The owner or operator of a CAIR NO_x Ozone Season unit shall comply with requirements of 40 CFR 75.73(c) and (e) and, for a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under Article 9 (9 VAC 5-140-2800 et seq.) of this part, 9 VAC 5-140-2830 and subdivision 1 of 9 VAC 5-140-2840.

C. The CAIR-designated representative shall submit an application to the permitting authority within 45 days after completing all initial certification or recertification tests required under 9 VAC 5-140-2710, including the information required under 40 CFR 75.63.

D. The CAIR-designated representative shall submit quarterly reports, as follows:

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1. If the CAIR NO_x Ozone Season unit is subject to an acid rain emissions limitation or a CAIR NO_x emissions limitation or if the owner or operator of such unit chooses to report on an annual basis under this article, the CAIR-designated representative shall meet the requirements of subpart H of 40 CFR Part 75 (concerning monitoring of NO_x mass emissions) for such unit for the entire year and shall report the NO_x mass emissions data and heat input data for such unit, in an electronic quarterly report in a format prescribed by the administrator, for each calendar quarter beginning with:

a. For a unit that commences commercial operation before July 1, 2007, the calendar quarter covering May 1, 2008 through June 30, 2008; [~~or~~]

b. For a unit that commences commercial operation on or after July 1, 2007, the calendar quarter corresponding to the earlier of the date of provisional certification or the applicable deadline for initial certification under 9 VAC 5-140-2700 C, unless that quarter is the third or fourth quarter of 2007 [or the first quarter of 2008], in which case reporting shall commence in the quarter covering May 1, 2008, through June 30, 2008 [;

c. Notwithstanding subdivisions a and b of this subdivision 1, for a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under Article 9 (9 VAC 5-140-2800 et seq.) of this part, the calendar quarter corresponding to the date specified in subdivision 2 of 9 VAC 5-140-2840; and

d. Notwithstanding subdivisions a and b of this subdivision 1, for a CAIR NO_x Ozone Season opt-in unit under Article 9 (9 VAC 5-140-2800 et seq.) of this part, the calendar quarter corresponding to the date on which the CAIR NO_x Ozone Season opt-in unit enters the CAIR NO_x Ozone Season Trading Program as provided in subdivision 7 of 9 VAC 5-140-2840].

2. If the CAIR NO_x Ozone Season unit is not subject to an acid rain emissions limitation or a CAIR NO_x emissions limitation, then the CAIR-designated representative shall either:

a. Meet the requirements of subpart H of 40 CFR Part 75 (concerning monitoring of NO_x mass emissions) for such unit for the entire year and report the NO_x mass emissions data and heat input data for such unit in accordance with subdivision 1 of this subsection; or

b. Meet the requirements of subpart H of 40 CFR Part 75 for the control period (including the requirements in 40 CFR 75.74(c)) and report NO_x mass emissions data and heat input data (including the data described in 40 CFR 75.74(c)(6)) for such unit only for the control period of each year and report, in an electronic quarterly report in a format prescribed by the administrator, for each calendar quarter beginning with:

(1) For a unit that commences commercial operation before July 1, 2007, the calendar quarter covering May 1, 2008, through June 30, 2008;

(2) For a unit that commences commercial operation on or after July 1, 2007, the calendar quarter corresponding to the earlier of the date of provisional certification or the applicable deadline for initial certification under 9 VAC 5-140-2700 C, unless that date is not during a control period, in which case reporting shall commence in the quarter that includes May 1 through June 30 of the first control period after such date [;

(3) Notwithstanding subdivisions b (1) and (2) of this subdivision 2, for a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under Article 9 (9 VAC 5-140-2800 et seq.) of this part, the calendar quarter corresponding to the date specified in subdivision 2 of 9 VAC 5-140-2840; and

(4) Notwithstanding subdivisions b (1) and (2) of this subdivision 2, for a CAIR NO_x Ozone Season opt-in unit under Article 9 (9 VAC 5-140-2800 et seq.) of this part, the calendar quarter corresponding to the date on which the CAIR NO_x Ozone Season opt-in unit enters the CAIR NO_x Ozone Season Trading Program as provided in subdivision 7 of 9 VAC 5-140-2840].

[~~2-~~ 3.] The CAIR-designated representative shall submit each quarterly report to the administrator within 30 days following the end of the calendar quarter covered by the report. Quarterly reports shall be submitted in the manner specified in 40 CFR 75.73(f).

[~~3-~~ 4.] For CAIR NO_x Ozone Season units that are also subject to an acid rain emissions limitation or the CAIR NO_x Annual Trading Program [~~or~~] CAIR SO₂ Trading Program, [or Hg Budget Trading Program,] quarterly reports shall include the applicable data and information required by subparts F through [~~H~~ I] of 40 CFR Part 75 as applicable, in addition to the NO_x mass emission data, heat input data, and other information required by this article.

E. The CAIR-designated representative shall submit to the administrator a compliance certification (in a format prescribed by the administrator) in support of each quarterly report based on reasonable inquiry of those persons with primary responsibility for ensuring that all of the unit's emissions are correctly and fully monitored. The certification shall state that:

1. The monitoring data submitted were recorded in accordance with the applicable requirements of this article and 40 CFR Part 75, including the quality assurance procedures and specifications;

2. For a unit with add-on NO_x emission controls and for all hours where NO_x data are substituted in accordance with 40 CFR 75.34(a)(1), the add-on emission controls were

operating within the range of parameters listed in the quality assurance/quality control program under appendix B to 40 CFR Part 75 and the substitute data values do not systematically underestimate NO_x emissions; and

3. For a unit that is reporting on a control period basis under subdivision D 2 b of this section, the NO_x emission rate and NO_x concentration values substituted for missing data under subpart D of 40 CFR Part 75 are calculated using only values from a control period and do not systematically underestimate NO_x emissions.

9 VAC 5-140-2750. Petitions.

A. Except as provided in subdivision B 2 of this section, the CAIR-designated representative of a CAIR NO_x Ozone Season unit that is subject to an acid rain emissions limitation may submit a petition under 40 CFR 75.66 to the administrator requesting approval to apply an alternative to any requirement of this article. Application of an alternative to any requirement of this article is in accordance with this article only to the extent that the petition is approved in writing by the administrator, in consultation with the permitting authority.

B. 1. The CAIR-designated representative of a CAIR NO_x Ozone Season unit that is not subject to an acid rain emissions limitation may submit a petition under 40 CFR 75.66 to the permitting authority and the administrator requesting approval to apply an alternative to any requirement of this article. Application of an alternative to any requirement of this article is in accordance with this article only to the extent that the petition is approved in writing by both the permitting authority and the administrator.

2. The CAIR-designated representative of a CAIR NO_x Ozone Season unit that is subject to an acid rain emissions limitation may submit a petition under 40 CFR 75.66 to the permitting authority and the administrator requesting approval to apply an alternative to a requirement concerning any additional continuous emission monitoring system required under 40 CFR 75.72. Application of an alternative to any such requirement is in accordance with this article only to the extent that the petition is approved in writing by both the permitting authority and the administrator.

[9 VAC 5-140-2760. Additional requirements to provide heat input data.

The owner or operator of a CAIR NO_x Ozone Season unit that monitors and reports NO_x mass emissions using a NO_x concentration system and a flow system shall also monitor and report heat input rate at the unit level using the procedures set forth in 40 CFR Part 75.]

Article 9.

CAIR NO_x Ozone Season Opt-in Units.

9 VAC 5-140-2800. Applicability.

A CAIR NO_x Ozone Season opt-in unit shall be a unit that:

1. Is located in the state;
2. Is not a CAIR NO_x Ozone Season unit under 9 VAC 5-140-2040 and is not covered by a retired unit exemption under 9 VAC 5-140-2050 that is in effect;
3. Is not covered by a retired unit exemption under 40 CFR 72.8 that is in effect;
4. Has or is required or qualified to have a Title V operating permit or state operating permit; and
5. Vents all of its emissions to a stack and can meet the monitoring, recordkeeping, and reporting requirements of Article 8 (9 VAC 5-140-2700 et seq.) of this part.

9 VAC 5-140-2810. General.

A. Except as otherwise provided in 9 VAC 5-140-2010 through 9 VAC 5-140-2040, 9 VAC 5-140-2060 through 9 VAC 5-140-2080, and Article 2 (9 VAC 5-140-2100 et seq.), Article 3 (9 VAC 5-140-2200 et seq.), Article 6 (9 VAC 5-140-2500 et seq.), Article 7 (9 VAC 5-140-2600 et seq.), and Article 8 (9 VAC 5-140-2700 et seq.) of this part, a CAIR NO_x Ozone Season opt-in unit shall be treated as a CAIR NO_x Ozone Season unit for purposes of applying such sections and articles of this part.

B. Solely for purposes of applying, as provided in this article, the requirements of Article 8 (9 VAC 5-140-2700 et seq.) of this part to a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under this article, such unit shall be treated as a CAIR NO_x Ozone Season unit before issuance of a CAIR opt-in permit for such unit.

9 VAC 5-140-2820. CAIR-designated representative.

Any CAIR NO_x Ozone Season opt-in unit, and any unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under this article, located at the same source as one or more CAIR NO_x Ozone Season units shall have the same CAIR-designated representative and alternate CAIR-designated representative as such CAIR NO_x Ozone Season units.

9 VAC 5-140-2830. Applying for CAIR opt-in permit.

A. The CAIR-designated representative of a unit meeting the requirements for a CAIR NO_x Ozone Season opt-in unit in 9 VAC 5-140-2800 may apply for an initial CAIR opt-in permit at any time, except as provided under 9 VAC 5-140-2860 G and H, and, in order to apply, shall submit the following:

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1. A complete CAIR permit application under 9 VAC 5-140-2220;

2. A certification, in a format acceptable to the permitting authority, that the unit:

a. Is not a CAIR NO_x Ozone Season unit under 9 VAC 5-140-2040 and is not covered by a retired unit exemption under 9 VAC 5-140-2050 that is in effect;

b. Is not covered by a retired unit exemption under 40 CFR 72.8 that is in effect;

c. Vents all of its emissions to a stack; and

d. Has documented heat input for more than 876 hours during the six months immediately preceding submission of the CAIR permit application under 9 VAC 5-140-2220;

3. A monitoring plan in accordance with Article 8 (9 VAC 5-140-2700 et seq.) of this part;

4. A complete certificate of representation under 9 VAC 5-140-2130 consistent with 9 VAC 5-140-2820, if no CAIR-designated representative has been previously designated for the source that includes the unit; and

5. A statement, in a format acceptable to the permitting authority, whether the CAIR-designated representative requests that the unit be allocated CAIR NO_x Ozone Season allowances under 9 VAC 5-140-2880 [B or] C (subject to the conditions in subdivision 8 of 9 VAC 5-140-2840 and 9 VAC 5-140-2860 H). [If allocation under 9 VAC 5-140-2880 C is requested, the statement shall include a statement that the owners and operators intend to repower the unit before January 1, 2015, and that they will provide, upon request, documentation demonstrating such intent.]

B. Opt-in permit renewal shall be required as follows:

1. The CAIR-designated representative of a CAIR NO_x Ozone Season opt-in unit shall submit a complete CAIR permit application under 9 VAC 5-140-2220 to renew the CAIR opt-in unit permit in accordance with the permitting authority's regulations for Title V operating permits, or the permitting authority's regulations for state operating permits if applicable, addressing permit renewal.

2. Unless the permitting authority issues a notification of acceptance of withdrawal of the CAIR [NO_x Ozone Season] opt-in unit from the CAIR NO_x [~~Annual~~ Ozone Season] Trading Program in accordance with [~~9 VAC 5-140-1860~~ 9 VAC 5-140-2860] or the unit becomes a CAIR NO_x [Ozone Season] unit under 9 VAC 5-140-2040, the CAIR NO_x [Ozone Season] opt-in unit shall remain subject to the requirements for a CAIR NO_x [Ozone Season] opt-in unit, even if the CAIR-designated representative for the CAIR NO_x [Ozone Season] opt-in unit fails to submit a CAIR permit application that is required for renewal of the CAIR opt-in permit under subdivision 1 of this subsection.

9 VAC 5-140-2840. Opt-in process.

The permitting authority will issue or deny a CAIR opt-in permit for a unit for which an initial application for a CAIR opt-in permit under 9 VAC 5-140-2830 is submitted in accordance with the following:

1. The permitting authority and the administrator will determine, on an interim basis, the sufficiency of the monitoring plan accompanying the initial application for a CAIR opt-in permit under 9 VAC 5-140-2830. A monitoring plan is sufficient, for purposes of interim review, if the plan appears to contain information demonstrating that the NO_x emissions rate and heat input of the unit and all other applicable parameters are monitored and reported in accordance with Article 8 (9 VAC 5-140-2700 et seq.) of this part. A determination of sufficiency shall not be construed as acceptance or approval of the monitoring plan.

2. Monitoring and reporting shall be as follows:

a. (1) If the permitting authority and the administrator determine that the monitoring plan is sufficient under subdivision 1 of this section, the owner or operator shall monitor and report the NO_x emissions rate and the heat input of the unit [~~emissions rate and the heat input of the unit~~] and all other applicable parameters, in accordance with Article 8 (9 VAC 5-140-2700 et seq.) of this part, starting on the date of certification of the appropriate monitoring systems under Article 8 (9 VAC 5-140-2700 et seq.) of this part and continuing until a CAIR opt-in permit is denied under subdivision 6 of this section or, if a CAIR opt-in permit is issued, the date and time when the unit is withdrawn from the CAIR NO_x Ozone Season Trading Program in accordance with 9 VAC 5-140-2860.

(2) The monitoring and reporting under subdivision a (1) of this subdivision shall include the entire control period immediately before the date on which the unit enters the CAIR NO_x Ozone Season Trading Program under subdivision 7 of this section, during which period monitoring system availability shall not be less than 90% under Article 8 (9 VAC 5-140-2700 et seq.) of this part and the unit shall be in full compliance with any applicable state or federal emissions or emissions-related requirements.

b. To the extent the NO_x emissions rate and the heat input of the unit are monitored and reported in accordance with [~~subpart~~] Article 8 (9 VAC 5-140-2700 et seq.) of this part for one or more control periods, in addition to the control period under subdivision a (2) of this subdivision, during which control periods monitoring system availability is not less than 90% under Article 8 (9 VAC 5-140-2700 et seq.) of this part and the unit is in full compliance with any applicable state or federal emissions or emissions-related requirements and that control periods begin not more than three years before the unit enters the CAIR NO_x Ozone Season Trading Program under subdivision 7 of this section, such information

shall be used as provided in subdivision 3 and 4 of this section.

3. The unit's baseline heat [rate input] shall equal:

a. If the unit's NO_x emissions rate and heat input are monitored and reported for only one control period, in accordance with subdivision 2 a of this section, the unit's total heat input (in mmBtu) for the control period; or

b. If the unit's NO_x emissions rate and heat input are monitored and reported for more than one control period, in accordance with subdivisions 2 a and b of this section, the average of the amounts of the unit's total heat input (in mmBtu) for the control periods under subdivisions 2 a (2) and 2 b of this section.

4. The unit's baseline NO_x emission rate shall equal:

a. If the unit's NO_x emissions rate and heat input are monitored and reported for only one control period, in accordance with subdivision 2 a of this section, the unit's NO_x emissions rate (in lb/mmBtu) for the control period;

b. If the unit's NO_x emissions rate and heat input are monitored and reported for more than one control period, in accordance with subdivisions 2 a and b of this section, and the unit does not have add-on NO_x emission controls during any such control periods, the average of the amounts of the unit's NO_x emissions rate (in lb/mmBtu) for the control periods under subdivisions 2 a (2) and 2 b of this section; or

c. If the unit's NO_x emissions rate and heat input are monitored and reported for more than one control period, in accordance with subdivisions 2 a and b of this section, and the unit has add-on NO_x emission controls during any such control periods, the average of the amounts of the unit's NO_x emissions rate (in lb/mmBtu) for such control periods during which the unit has add-on NO_x emission controls.

5. After calculating the baseline heat input and the baseline NO_x emissions rate for the unit under subdivision 3 and 4 of this section and if the permitting authority determines that the CAIR-designated representative shows that the unit meets the requirements for a CAIR NO_x Ozone Season opt-in unit in 9 VAC 5-140-2800 and meets the elements certified in 9 VAC 5-140-2830 A 2, the permitting authority will issue a CAIR opt-in permit. The permitting authority will provide a copy of the CAIR opt-in permit to the administrator, who will then establish a compliance account for the source that includes the CAIR NO_x Ozone Season opt-in unit unless the source already has a compliance account.

6. Notwithstanding subdivisions 1 through 5 of this section, if at any time before issuance of a CAIR opt-in permit for the unit, the permitting authority determines that the CAIR-designated representative fails to show that the unit meets the requirements for a CAIR NO_x Ozone Season opt-in unit in 9 VAC 5-140-2800 or meets the elements certified in 9 VAC

5-140-2830 A 2, the permitting authority will issue a denial of a CAIR opt-in permit for the unit.

7. A unit for which an initial CAIR opt-in permit is issued by the permitting authority shall become a CAIR NO_x Ozone Season opt-in unit, and a CAIR NO_x Ozone Season unit, as of the later of May 1, 2009, or May 1 of the first control period during which such CAIR opt-in permit is issued.

8. Repowered CAIR NO_x Ozone Season opt-in units shall meet the following requirements.

a. If the CAIR-designated representative requests, and the permitting authority issues a CAIR opt-in permit providing for, allocation to a CAIR NO_x Ozone Season opt-in unit of CAIR NO_x Ozone Season allowances under 9 VAC 5-140-2880 C and such unit is repowered after its date of entry into the CAIR NO_x Ozone Season Trading Program under subdivision 7 of this section, the repowered unit shall be treated as a CAIR NO_x Ozone Season opt-in unit replacing the original CAIR NO_x Ozone Season opt-in unit, as of the date of start-up of the repowered unit's combustion chamber.

b. Notwithstanding subdivisions 3 and 4 of this section, as of the date of start-up under subdivision 8 a of this section, the repowered unit shall be deemed to have the same date of commencement of operation, date of commencement of commercial operation, baseline heat input, and baseline NO_x emission rate as the original CAIR NO_x Ozone Season opt-in unit, and the original CAIR NO_x Ozone Season opt-in unit shall no longer be treated as a CAIR [NO_x Ozone Season] opt-in unit or a CAIR NO_x Ozone Season unit.

9 VAC 5-140-2850. CAIR opt-in permit contents.

A. Each CAIR opt-in permit will contain:

1. All elements required for a complete CAIR permit application under 9 VAC 5-140-2220;

2. The certification in 9 VAC 5-140-2830 A 2;

3. The unit's baseline heat input under subdivision 3 of 9 VAC 5-140-2840;

4. The unit's baseline NO_x emission rate under subdivision 4 of 9 VAC 5-140-2840;

5. A statement whether the unit is to be allocated CAIR NO_x Ozone Season allowances under 9 VAC 5-140-2880 [B or] C (subject to the conditions in subdivision 8 of 9 VAC 5-140-2840 and 9 VAC 5-140-2860 H);

6. A statement that the unit may withdraw from the CAIR NO_x Ozone Season Trading Program only in accordance with 9 VAC 5-140-2860; and

7. A statement that the unit is subject to, and the owners and operators of the unit shall comply with, the requirements of 9 VAC 5-140-2870.

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B. Each CAIR opt-in permit is deemed to incorporate automatically the definitions of terms under 9 VAC 5-140-2020 and, upon recordation by the administrator under Article 6 (9 VAC 5-140-2500 et seq.) [~~or~~] Article 7 (9 VAC 5-140-2600 et seq.) [~~or Article 9 (9 VAC 5-140-2800 et seq.)~~] of this part or this article, every allocation, transfer, or deduction of CAIR NO_x Ozone Season allowances to or from the compliance account of the source that includes a CAIR NO_x Ozone Season opt-in unit covered by the CAIR opt-in permit.

C. The CAIR opt-in permit shall be included, in a format acceptable to the permitting authority, in the CAIR permit for the source where the CAIR [NO_x Ozone Season] opt-in unit is located [and in a Title V operating permit or state operating permit for the source].

9 VAC 5-140-2860. Withdrawal from CAIR NO_x Ozone Season Trading Program.

A. Except as provided under subsection H of this section, a CAIR NO_x Ozone Season opt-in unit may withdraw from the CAIR NO_x Ozone Season Trading Program, but only if the permitting authority issues a notification to the CAIR-designated representative of the CAIR NO_x Ozone Season opt-in unit of the acceptance of the withdrawal of the CAIR NO_x Ozone Season opt-in unit in accordance with subsection E of this section.

B. In order to withdraw a CAIR [NO_x Ozone Season] opt-in unit from the CAIR NO_x Ozone Season Trading Program, the CAIR-designated representative of the CAIR NO_x Ozone Season opt-in unit shall submit to the permitting authority a request to withdraw effective as of midnight of September 30 of a specified calendar year, which date must be at least four years after September 30 of the year of entry into the CAIR NO_x Ozone Season Trading Program under subdivision 7 of 9 VAC 5-140-2840. The request shall be submitted no later than 90 days before the requested effective date of withdrawal.

C. Before a CAIR NO_x Ozone Season opt-in unit covered by a request under subsection B of this section may withdraw from the CAIR NO_x Ozone Season Trading Program and the CAIR opt-in permit may be terminated under subsection F of this section, the following conditions must be met:

1. For the control period ending on the date on which the withdrawal is to be effective, the source that includes the CAIR NO_x Ozone Season opt-in unit must meet the requirement to hold CAIR NO_x Ozone Season allowances under 9 VAC 5-140-2060 C and must not have any excess emissions.

2. After the requirement for withdrawal under subdivision 1 of this subsection is met, the administrator will deduct from the compliance account of the source that includes the CAIR NO_x Ozone Season opt-in unit CAIR NO_x Ozone Season allowances equal in amount to and allocated for the same or a prior control period as any CAIR NO_x Ozone Season

allowances allocated to the CAIR NO_x Ozone Season opt-in unit under 9 VAC 5-140-2880 for any control period for which the withdrawal is to be effective. If there are no remaining CAIR NO_x Ozone Season units at the source, the administrator will close the compliance account, and the owners and operators of the CAIR NO_x Ozone Season opt-in unit may submit a CAIR NO_x Ozone Season allowance transfer for any remaining CAIR NO_x Ozone Season allowances to another CAIR NO_x Ozone Season Allowance Tracking System in accordance with Article 7 (9 VAC 5-140-2600 et seq.) of this part.

D. Notification shall be performed as follows:

1. After the requirements for withdrawal under subsections B and C of this section are met (including deduction of the full amount of CAIR NO_x Ozone Season allowances required), the permitting authority will issue a notification to the CAIR-designated representative of the CAIR NO_x Ozone Season opt-in unit of the acceptance of the withdrawal of the CAIR NO_x Ozone Season opt-in unit as of midnight on September 30 of the calendar year for which the withdrawal was requested.

2. If the requirements for withdrawal under subsections B and C of this section are not met, the permitting authority will issue a notification to the CAIR-designated representative of the CAIR NO_x Ozone Season opt-in unit that the CAIR NO_x Ozone Season opt-in unit's request to withdraw is denied. Such CAIR NO_x [Ozone Season] opt-in unit shall continue to be a CAIR NO_x Ozone Season opt-in unit.

E. After the permitting authority issues a notification under subdivision D 1 of this section that the requirements for withdrawal have been met, the permitting authority will revise the CAIR permit covering the CAIR NO_x Ozone Season opt-in unit to terminate the CAIR opt-in permit for such unit as of the effective date specified under subdivision D 1 of this section. The unit shall continue to be a CAIR NO_x Ozone Season opt-in unit until the effective date of the termination and shall comply with all requirements under the CAIR NO_x Ozone Season Trading Program concerning any control periods for which the unit is a CAIR NO_x Ozone Season opt-in unit, even if such requirements arise or shall be complied with after the withdrawal takes effect.

F. If the permitting authority denies the CAIR NO_x Ozone Season opt-in unit's request to withdraw, the CAIR-designated representative may submit another request to withdraw in accordance with subsections B and C of this section.

G. Once a CAIR NO_x Ozone Season opt-in unit withdraws from the CAIR NO_x Ozone Season Trading Program and its CAIR opt-in permit is terminated under this section, the CAIR-designated representative may not submit another application for a CAIR opt-in permit under 9 VAC 5-140-2830 for such CAIR NO_x Ozone Season opt-in unit before

the date that is four years after the date on which the withdrawal became effective. Such new application for a CAIR opt-in permit will be treated as an initial application for a CAIR opt-in permit under 9 VAC 5-140-2840.

H. Notwithstanding subsections B through G of this section, a CAIR NO_x Ozone Season opt-in unit shall not be eligible to withdraw from the CAIR NO_x Ozone Season Trading Program if the CAIR-designated representative of the CAIR NO_x [Ozone Season] opt-in unit requests, and the permitting authority issues a CAIR opt-in permit providing for allocation to the CAIR NO_x Ozone Season opt-in unit of CAIR NO_x Ozone Season allowances under 9 VAC 5-140-2880 C.

9 VAC 5-140-2870. Change in regulatory status.

A. If a CAIR NO_x Ozone Season opt-in unit becomes a CAIR NO_x Ozone Season unit under 9 VAC 5-140-2040, then the CAIR-designated representative shall notify in writing the permitting authority and the administrator of such change in the CAIR NO_x Ozone Season opt-in unit's regulatory status, within 30 days of such change.

B. The permitting authority and the administrator shall take the following actions.

1. If a CAIR NO_x Ozone Season opt-in unit becomes a CAIR NO_x Ozone Season unit under 9 VAC 5-140-2040, the permitting authority will revise the CAIR NO_x Ozone Season opt-in unit's CAIR opt-in permit to meet the requirements of a CAIR permit under 9 VAC 5-140-2230 [, and remove the CAIR opt-in permit provisions] as of the date on which the CAIR NO_x Ozone Season opt-in unit becomes a CAIR NO_x Ozone Season unit under 9 VAC 5-140-2040.

2. a. The administrator will deduct from the compliance account of the source that includes the CAIR NO_x Ozone Season opt-in unit that becomes a CAIR NO_x Ozone Season unit under 9 VAC 5-140-2040, CAIR NO_x Ozone Season allowances equal in amount to and allocated for the same or a prior control period as:

(1) Any CAIR NO_x Ozone Season allowances allocated to the CAIR NO_x Ozone Season opt-in unit under 9 VAC 5-140-2880 for any control period after the date on which the CAIR NO_x Ozone Season opt-in unit becomes a CAIR NO_x Ozone Season unit under 9 VAC 5-140-2040; and

(2) If the date on which the CAIR NO_x Ozone Season opt-in unit becomes a CAIR NO_x Ozone Season unit under 9 VAC 5-140-2040 is not September 30, the CAIR NO_x Ozone Season allowances allocated to the CAIR NO_x Ozone Season opt-in unit under 9 VAC 5-140-2880 for the control period that includes the date on which the CAIR NO_x Ozone Season opt-in unit becomes a CAIR NO_x Ozone Season unit under 9 VAC 5-140-2040, multiplied by the ratio of the number of days, in the control period, starting with the date on which the CAIR NO_x Ozone Season opt-in unit becomes a CAIR NO_x

Ozone Season unit under 9 VAC 5-140-2040 divided by the total number of days in the control period and rounded to the nearest whole allowance as appropriate.

b. The CAIR-designated representative shall ensure that the compliance account of the source that includes the CAIR NO_x Ozone Season unit that becomes a CAIR NO_x Ozone Season [opt-in] unit under 9 VAC 5-140-2040 contains the CAIR NO_x Ozone Season allowances necessary for completion of the deduction under subdivision a of this subdivision.

3. a. For every control period after the date on which the CAIR NO_x Ozone Season opt-in unit becomes a CAIR NO_x Ozone Season unit under 9 VAC 5-140-2040, the CAIR NO_x Ozone Season opt-in unit will be [~~treated, solely for purposes of CAIR NO_x Ozone Season allowance allocations under 9 VAC 5 140 2420, as a unit that commences operation on the date on which the CAIR NO_x Ozone Season opt in unit becomes a CAIR NO_x Ozone Season unit under 9 VAC 5-140-2040 and will be] allocated CAIR NO_x Ozone Season allowances under 9 VAC 5-140-2420.~~

b. [~~Notwithstanding subdivision a of this subdivision, if~~ If] the date on which the CAIR NO_x Ozone Season opt-in unit becomes a CAIR NO_x Ozone Season unit under 9 VAC 5-140-2040 is not [~~May 1~~ September 30], the following amount of CAIR NO_x Ozone Season allowances will be allocated to the CAIR NO_x Ozone Season opt-in unit (as a CAIR NO_x Ozone Season unit) under 9 VAC 5-140-2420 for the control period that includes the date on which the CAIR NO_x Ozone Season opt-in unit becomes a CAIR NO_x Ozone Season unit under 9 VAC 5-140-2040:

(1) The amount of CAIR NO_x Ozone Season allowances otherwise allocated to the CAIR NO_x Ozone Season opt-in unit (as a CAIR NO_x Ozone Season unit) under 9 VAC 5-140-2420 for the control period multiplied by:

(2) The ratio of the number of days, in the control period, starting with the date on which the CAIR NO_x Ozone Season opt-in unit becomes a CAIR NO_x Ozone Season unit under 9 VAC 5-140-2040, divided by the total number of days in the control period; and

(3) Rounded to the nearest whole allowance as appropriate.

9 VAC 5-140-2880. [CAIR] NO_x Ozone Season allowance allocations to CAIR NO_x Ozone Season opt-in units.

A. Timing requirements shall be met as follows:

1. When the CAIR opt-in permit is issued under subdivision 5 of 9 VAC 5-140-2840, the permitting authority will allocate CAIR NO_x Ozone Season allowances to the CAIR NO_x Ozone Season opt-in unit, and submit to the administrator the allocation for the control period in which a CAIR NO_x Ozone Season opt-in unit enters the CAIR NO_x Ozone Season

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Trading Program under subdivision 7 of 9 VAC 5-140-2840, in accordance with subsection B or C of this section.

2. By no later than July 31 of the control period [after the control period] in which a CAIR [NO_x Ozone Season] opt-in unit enters the CAIR NO_x Ozone Season Trading Program under subdivision 7 of 9 VAC 5-140-2840 and July 31 of each year thereafter, the permitting authority will allocate CAIR NO_x Ozone Season allowances to the CAIR NO_x Ozone Season opt-in unit, and submit to the administrator the allocation for the control period that includes such submission deadline and in which the unit is a CAIR NO_x [Ozone Season] opt-in unit, in accordance with subsection B or C of this section.

B. For each control period for which a CAIR NO_x Ozone Season opt-in unit is to be allocated CAIR NO_x Ozone Season allowances, the permitting authority will allocate in accordance with the following procedures:

1. The heat input (in mmBtu) used for calculating the CAIR NO_x Ozone Season allowance allocation will be the lesser of:

a. The CAIR NO_x Ozone Season opt-in unit's baseline heat input determined under subdivision 3 of 9 VAC 5-140-2840; or

b. The CAIR NO_x Ozone Season opt-in unit's heat input, as determined in accordance with Article 8 (9 VAC 5-140-2700 et seq.) of this part, for the immediately prior control period, except when the allocation is being calculated for the control period in which the CAIR NO_x Ozone Season opt-in unit enters the CAIR NO_x Ozone Season Trading Program under subdivision 7 of 9 VAC 5-140-2840.

2. The NO_x emission rate (in lb/mmBtu) used for calculating CAIR NO_x Ozone Season allowance allocations will be the lesser of:

a. The CAIR NO_x Ozone Season opt-in unit's baseline NO_x emissions rate (in lb/mmBtu) determined under subdivision 4 of 9 VAC 5-140-2840 and multiplied by 70.0%; or

b. The most stringent state or federal NO_x emissions limitation applicable to the CAIR NO_x Ozone Season opt-in unit at any time during the control period for which CAIR NO_x Ozone Season allowances are to be allocated.

3. The permitting authority will allocate CAIR NO_x Ozone Season allowances to the CAIR NO_x Ozone Season opt-in unit in an amount equaling the heat input under subdivision 1 of this subsection, multiplied by the NO_x emission rate under subdivision 2 of this subsection, divided by 2,000 lb/ton, and rounded to the nearest whole allowance as appropriate.

C. Notwithstanding subsection B of this section and if the CAIR-designated representative requests, and the permitting authority issues a CAIR opt-in permit [(based on a demonstration of the intent to repower stated under 9 VAC 5-140-2830 A 5)] providing for, allocation to a CAIR NO_x

Ozone Season opt-in unit of CAIR NO_x Ozone Season allowances under this subsection (subject to the conditions in subdivision 8 of 9 VAC 5-140-2840 and 9 VAC 5-140-2860 H), the permitting authority will allocate to the CAIR NO_x Ozone Season opt-in unit as follows:

1. For each control period in 2009 through 2014 for which the CAIR NO_x Ozone Season opt-in unit is to be allocated CAIR NO_x Ozone Season allowances.

a. The heat input (in mmBtu) used for calculating CAIR NO_x Ozone Season allowance allocations will be determined as described in subdivision B 1 of this section.

b. The NO_x emission rate (in lb/mmBtu) used for calculating CAIR NO_x Ozone Season allowance allocations will be the lesser of:

(1) The CAIR NO_x Ozone Season opt-in unit's baseline NO_x emissions rate (in lb/mmBtu) determined under subdivision 4 of 9 VAC 5-140-2840; or

(2) The most stringent state or federal NO_x emissions limitation applicable to the CAIR NO_x Ozone Season opt-in unit at any time during the control period in which the CAIR NO_x Ozone Season opt-in unit enters the CAIR NO_x Ozone Season Trading Program under subdivision 7 of 9 VAC 5-140-2840.

c. The permitting authority will allocate CAIR NO_x Ozone Season allowances to the CAIR NO_x Ozone Season opt-in unit in an amount equaling the heat input under subdivision a of this subsection, multiplied by the NO_x emission rate under subdivision b of this subsection, divided by 2,000 lb/ton, and rounded to the nearest whole allowance as appropriate.

2. For each control period in 2015 and thereafter for which the CAIR NO_x Ozone Season opt-in unit is to be allocated CAIR NO_x Ozone Season allowances,

a. The heat input (in mmBtu) used for calculating the CAIR NO_x Ozone Season allowance allocations will be determined as described in subdivision B 1 of this section.

b. The NO_x emission rate (in lb/mmBtu) used for calculating the CAIR NO_x Ozone Season allowance allocation will be the lesser of:

(1) 0.15 lb/mmBtu;

(2) The CAIR NO_x Ozone Season opt-in unit's baseline NO_x emissions rate (in lb/mmBtu) determined under subdivision 4 of 9 VAC 5-140-2840; or

(3) The most stringent state or federal NO_x emissions limitation applicable to the CAIR NO_x Ozone Season opt-in unit at any time during the control period for which CAIR NO_x Ozone Season allowances are to be allocated.

c. The permitting authority will allocate CAIR NO_x Ozone Season allowances to the CAIR NO_x Ozone Season opt-in

unit in an amount equaling the heat input under subdivision a of this subdivision, multiplied by the NO_x emission rate under subdivision b of this subdivision, divided by 2,000 lb/ton, and rounded to the nearest whole allowance as appropriate.

D. Recordation shall be performed as follows:

1. The administrator will record, in the compliance account of the source that includes the CAIR NO_x Ozone Season opt-in unit, the CAIR NO_x Ozone Season allowances allocated by the permitting authority to the CAIR NO_x Ozone Season opt-in unit under subdivision A 1 of this section.

2. By September 1 of the control period in which a CAIR [NO_x Ozone Season] opt-in unit enters the CAIR NO_x Ozone Season Trading Program under [subdivision 7 of] 9 VAC 5-140 2840 [~~G~~], and September 1 of each year thereafter, the administrator will record, in the compliance account of the source that includes the CAIR NO_x Ozone Season opt-in unit, the CAIR NO_x Ozone Season allowances allocated by the permitting authority to the CAIR NO_x Ozone Season opt-in unit under subdivision A 2 of this section.

PART IV.

SO₂ ANNUAL TRADING PROGRAM.

Article 1.

CAIR SO₂ Trading Program General Provisions.

9 VAC 5-140-3010. Purpose.

This part establishes general provisions and the designated representative, permitting, allowance, monitoring, and opt-in provisions for the State Clean Air Interstate Rule (CAIR) SO₂ Trading Program, under § 110 of the Clean Air Act and 40 CFR 51.124, as a means of mitigating interstate transport of fine particulates and sulfur dioxide. The board authorizes the administrator to assist the board in implementing the CAIR SO₂ Trading Program by carrying out the functions set forth for the administrator in this part.

9 VAC 5-140-3020. Definitions.

A. As used in this part, all words or terms not defined here shall have the meaning given them in 9 VAC 5 Chapter 10 (9 VAC 5-10), unless otherwise required by context.

B. For the purpose of this part and any related use, the words or terms shall have the meaning given them in this subsection.

"Account number" means the identification number given by the administrator to each CAIR SO₂ Allowance Tracking System account.

"Acid rain emissions limitation" means a limitation on emissions of sulfur dioxide or nitrogen oxides under the Acid Rain Program.

"Acid Rain Program" means a multistate sulfur dioxide and nitrogen oxides air pollution control and emission reduction program established by the administrator under Title IV of the CAA and 40 CFR Parts 72 through 78.

"Administrator" means the administrator of the United States Environmental Protection Agency or the administrator's duly authorized representative.

"Allocate" or "allocation" means, with regard to CAIR SO₂ allowances issued under the Acid Rain Program, the determination by the administrator of the amount of such CAIR SO₂ allowances to be initially credited to a CAIR SO₂ unit [or other entity] and, with regard to CAIR SO₂ allowances issued under [provisions of a state implementation plan that are approved under 40 CFR 51.124 (o) (1) or (2) or (r) or] 9 VAC 5-140-3880, the determination by [~~the a~~] permitting authority of the amount of such CAIR SO₂ allowances to be initially credited to a CAIR SO₂ unit [or other entity].

"Allowance transfer deadline" means, for a control period, midnight of March 1, [() if it is a business day ()], or [~~if March 1 is not a business day,~~] midnight of the first business day thereafter [(if March 1 is not a business day)] immediately following the control period and is the deadline by which a CAIR SO₂ allowance transfer must be submitted for recordation in a CAIR SO₂ source's compliance account in order to be used to meet the source's CAIR SO₂ emissions limitation for such control period in accordance with 9 VAC 5-140-3540.

"Alternate CAIR-designated representative" means, for a CAIR SO₂ source and each CAIR SO₂ unit at the source, the natural person who is authorized by the owners and operators of the source and all such units at the source [,] in accordance with Articles 2 (9 VAC 5-140-3100 et seq.) and 9 (9 VAC 5-140-3800 et seq.) of this part, to act on behalf of the CAIR-designated representative in matters pertaining to the CAIR SO₂ Trading Program. If the CAIR SO₂ source is also a CAIR NO_x source, then this natural person shall be the same person as the alternate CAIR-designated representative under the CAIR NO_x Annual Trading Program. If the CAIR SO₂ source is also a CAIR NO_x Ozone Season source, then this natural person shall be the same person as the alternate CAIR-designated representative under the CAIR NO_x Ozone Season Trading Program. If the CAIR SO₂ source is also subject to the Acid Rain Program, then this natural person shall be the same person as the alternate designated representative under the Acid Rain Program. [If the CAIR SO₂ source is also subject to the Hg Budget Trading Program, then this natural person shall be the same person as the alternate Hg designated representative under the Hg Budget Trading Program.]

"Automated data acquisition and handling system" or "DAHS" means that component of the continuous emission

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monitoring system, or other emissions monitoring system approved for use under Article 8 (9 VAC 5-140-3700 et seq.) of this part, designed to interpret and convert individual output signals from pollutant concentration monitors, flow monitors, diluent gas monitors, and other component parts of the monitoring system to produce a continuous record of the measured parameters in the measurement units required by Article 8 (9 VAC 5-140-3700 et seq.) of this part.

"Boiler" means an enclosed fossil- or other-fuel-fired combustion device used to produce heat and to transfer heat to recirculating water, steam, or other medium.

"Bottoming-cycle cogeneration unit" means a cogeneration unit in which the energy input to the unit is first used to produce useful thermal energy and at least some of the reject heat from the useful thermal energy application or process is then used for electricity production.

"CAIR-authorized account representative" means, with regard to a general account, a responsible natural person who is authorized, in accordance with Articles 2 (9 VAC 5-140-3100 et seq.) [, 6 (9 VAC 5-140-3500 et seq.)] and 9 (9 VAC 5-140-3800 et seq.) of this part, to transfer and otherwise dispose of CAIR SO₂ allowances held in the general account and, with regard to a compliance account, the CAIR-designated representative of the source.

"CAIR-designated representative" means, for a CAIR SO₂ source and each CAIR SO₂ unit at the source, the natural person who is authorized by the owners and operators of the source and all such units at the source, in accordance with Articles 2 (9 VAC 5-140-3100 et seq.) [, 6 (9 VAC 5-140-3500 et seq.)] and 9 (9 VAC 5-140-3800 et seq.) of this part, to represent and legally bind each owner and operator in matters pertaining to the CAIR SO₂ Trading Program. If the CAIR SO₂ source is also a CAIR NO_x source, then this natural person shall be the same person as the CAIR-designated representative under the CAIR NO_x Annual Trading Program. If the CAIR SO₂ source is also a CAIR NO_x Ozone Season source, then this natural person shall be the same person as the CAIR-designated representative under the CAIR NO_x Ozone Season Trading Program. If the CAIR SO₂ source is also subject to the Acid Rain Program, then this natural person shall be the same person as the designated representative under the Acid Rain Program. [If the CAIR SO₂ source is also subject to the Hg Budget Trading Program, then this natural person shall be the same person as the alternate Hg designated representative under the Hg Budget Trading Program.]

"CAIR NO_x Annual Trading Program" means a multistate nitrogen oxides air pollution control and emission reduction program approved and administered by the administrator in accordance with Part II [(9 VAC 5-140-1010 et seq.)] of this chapter and 40 CFR 51.123 [(o)(1) or (2)] or established by the administrator in accordance with subparts AA through II of 40 CFR Part 97 and 40 CFR 51.123(p) and 52.35], as a

means of mitigating interstate transport of fine particulates and nitrogen oxides.

"CAIR NO_x Ozone Season source" means a source that [~~includes one or more~~ is subject to the] CAIR NO_x Ozone Season [~~units~~ Trading Program].

"CAIR NO_x Ozone Season Trading Program" means a multistate nitrogen oxides air pollution control and emission reduction program approved and administered by the administrator in accordance with Part III [(9 VAC 5-140-2010 et seq.)] of this chapter and 40 CFR 51.123 [(aa)(1) or (2) and (bb)(1), (bb)(2), or (dd)] or established by the administrator in accordance with subparts AAAA through IIII of 40 CFR Part 97 and 40 CFR 51.123(ee) and 52.35], as a means of mitigating interstate transport of ozone and nitrogen oxides.

["~~CAIR NO_x Ozone Season unit~~" means a unit that is subject to the CAIR NO_x Ozone Season Trading Program under 9 VAC 5-140-2040 and a CAIR NO_x Ozone Season opt in unit under Article 9 (9 VAC 5-140-2800 et seq.) of Part III of this chapter.]

"CAIR NO_x source" means a source that [~~includes one or more~~ is subject to the] CAIR NO_x [~~units~~ Annual Trading Program].

["~~CAIR NO_x unit~~" means a unit that is subject to the CAIR NO_x Annual Trading Program under 9 VAC 5-140-1040 and a CAIR NO_x opt in unit under Article 9 (9 VAC 5-140-1800 et seq.) of Part II of this chapter.]

"CAIR permit" means the [terms and conditions in a] Title V operating permit or state operating permit, issued by the permitting authority under Article 3 (9 VAC 5-140-3200 et seq.) of this part, including any permit revisions, specifying the CAIR SO₂ Trading Program requirements applicable to a CAIR SO₂ source, to each CAIR SO₂ unit at the source, and to the owners and operators and the CAIR-designated representative of the source and each such unit.

"CAIR SO₂ allowance" means a limited authorization issued by the administrator under the Acid Rain Program, or by a permitting authority under 9 VAC 5-140-3880 [, provisions of an implementation plan that are approved under 40 CFR 51.124(o)(1) or (2) or (r), or 40 CFR 97.288], to emit sulfur dioxide during the control period of the specified calendar year for which the authorization is allocated or of any calendar year thereafter under the CAIR SO₂ Trading Program as specified in subdivisions 1 through 3 of this definition. No provision of the CAIR SO₂ Annual Trading Program, the CAIR permit application, the CAIR permit, or an exemption under [~~subdivision 2 of~~] 9 VAC 5-140-3040 [B] or 9 VAC 5-140-3050 and no provision of law shall be construed to limit the authority of the United States or the board to terminate or limit such authorization, which does not constitute a property right.

1. For one CAIR SO₂ allowance allocated for a control period in a year before 2010, one ton of sulfur dioxide, except as provided in 9 VAC 5-140-3540 B;

2. For one CAIR SO₂ allowance allocated for a control period in 2010 through 2014, 0.50 ton of sulfur dioxide, except as provided in 9 VAC 5-140-3540 B; and

3. For one CAIR SO₂ allowance allocated for a control period in 2015 or later, 0.35 ton of sulfur dioxide, except as provided in 9 VAC 5-140-3540 B.

4. An authorization to emit sulfur dioxide that is not issued under [9 VAC 5-140-3880, under] the Acid Rain Program [~~or~~] under the provisions of a state implementation plan that [~~is~~ are] approved under 40 CFR 51.124(o)(1) or (2) [or (r), or under 40 CFR 97.288] shall not be a CAIR SO₂ allowance.

"CAIR SO₂ allowance deduction" or "deduct CAIR SO₂ allowances" means the permanent withdrawal of CAIR SO₂ allowances by the administrator from a compliance account [, e.g.,] in order to account for a specified number of tons of total sulfur dioxide emissions from all CAIR SO₂ units at a CAIR SO₂ source for a control period, determined in accordance with Article 8 (9 VAC 5-140-3700 et seq.) of this part, or to account for excess emissions.

"CAIR SO₂ Allowance Tracking System" means the system by which the administrator records allocations, deductions, and transfers of CAIR SO₂ allowances under the CAIR SO₂ Trading Program. This is the same system as the Allowance Tracking System under 40 CFR 72.2 by which the administrator records allocations, deduction, and transfers of acid rain SO₂ allowances under the Acid Rain Program.

"CAIR SO₂ Allowance Tracking System account" means an account in the CAIR SO₂ Allowance Tracking System established by the administrator for purposes of recording the allocation, holding, transferring, or deducting of CAIR SO₂ allowances. Such allowances will be allocated, held, deducted, or transferred only as whole allowances.

"CAIR SO₂ allowances held" or "hold CAIR SO₂ allowances" means the CAIR SO₂ allowances recorded by the administrator, or submitted to the administrator for recordation, in accordance with Articles 6 (9 VAC 5-140-3500 et seq.), 7 (9 VAC 5-140-3600 et seq.), and 9 (9 VAC 5-140-3800 et seq.) of this part or 40 CFR Part 73, in a CAIR SO₂ Allowance Tracking System account.

"CAIR SO₂ emissions limitation" means, for a CAIR SO₂ source, the tonnage equivalent [, in SO₂ emissions in a control period,] of the CAIR SO₂ allowances available for deduction for the source under 9 VAC 5-140-3540 A and B for [a the] control period.

"CAIR SO₂ source" means a source that includes one or more CAIR SO₂ units.

"CAIR SO₂ Trading Program" means a multi-state sulfur dioxide air pollution control and emission reduction program approved and administered by the administrator in accordance with this part and 40 CFR 51.124 [(o)(1) or (2) or established by the administrator in accordance with subparts AAA through III of 40 CFR Part 97 and 40 CFR 51.124(r) and 52.36], as a means of mitigating interstate transport of fine particulates and sulfur dioxide.

"CAIR SO₂ unit" means a unit that is subject to the CAIR SO₂ Trading Program under 9 VAC 5-140-3040 and, except for purposes of 9 VAC 5-140-3050, a CAIR SO₂ opt-in unit under Article 9 (9 VAC 5-140-3800 et seq.) of this part.

"Clean Air Act" or "CAA" means the Clean Air Act, 42 USC § 7401 et seq.

"Coal" means any solid fuel classified as anthracite, bituminous, subbituminous, or lignite.

"Coal-derived fuel" means any fuel (whether in a solid, liquid, or gaseous state) produced by the mechanical, thermal, or chemical processing of coal.

"Coal-fired" means combusting any amount of coal or coal-derived fuel, alone, or in combination with any amount of any other fuel.

"Cogeneration unit" means a stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine:

1. Having equipment used to produce electricity and useful thermal energy for industrial, commercial, heating, or cooling purposes through the sequential use of energy; and

2. Producing during the 12-month period starting on the date the unit first produces electricity and during any calendar year after [the calendar year in] which the unit first produces electricity:

a. For a topping-cycle cogeneration unit,

(1) Useful thermal energy not less than 5.0% of total energy output; and

(2) Useful power that, when added to one-half of useful thermal energy produced, is not less than 42.5% of total energy input, if useful thermal energy produced is 15.0% or more of total energy output, or not less than 45.0% of total energy input, if useful thermal energy produced is less than 15.0% of total energy output.

b. For a bottoming-cycle cogeneration unit, useful power not less than 45.0% of total energy input.

"Combustion turbine" means:

1. An enclosed device comprising a compressor, a combustor, and a turbine and in which the flue gas resulting from the combustion of fuel in the combustor passes through the turbine, rotating the turbine; and

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2. If the enclosed device under subdivision 1 of this definition is combined cycle, any associated [duct burner,] heat recovery steam generator [,] and steam turbine.

"Commence commercial operation" means, with regard to a unit [~~servicing a generator~~]:

1. To have begun to produce steam, gas, or other heated medium used to generate electricity for sale or use, including test generation, except as provided in 9 VAC 5-140-3050 [and subdivision 8 of 9 VAC 5-140-3840].

a. For a unit that is a CAIR SO₂ unit under 9 VAC 5-140-3040 on [the later of November 15, 1990, or] the date the unit commences commercial operation as defined in subdivision 1 of this definition and that subsequently undergoes a physical change (other than replacement of the unit by a unit at the same source), such date shall remain the [~~unit's~~] date of commencement of commercial operation [of the unit, which shall continue to be treated as the same unit].

b. For a unit that is a CAIR SO₂ unit under 9 VAC 5-140-3040 on [the later of November 15, 1990, or] the date the unit commences commercial operation as defined in subdivision 1 of this definition and that is subsequently replaced by a unit at the same source (e.g., repowered), [such date shall remain the replaced unit's date of commencement of commercial operation, and] the replacement unit shall be treated as a separate unit with a separate date for commencement of commercial operation as defined in subdivision 1 [~~2~~] or [~~3~~ 2] of this definition as appropriate.

2. Notwithstanding subdivision 1 of this definition and except as provided in 9 VAC 5-140-3050, for a unit that is not a CAIR SO₂ unit under 9 VAC 5-140-3040 on [the later of November 15, 1990, or] the date the unit commences commercial operation as defined in subdivision 1 of this definition [~~and is not a unit under subdivision 3 of this definition~~], the unit's date for commencement of commercial operation shall be the date on which the unit becomes a CAIR SO₂ unit under 9 VAC 5-140-3040.

a. For a unit with a date for commencement of commercial operation as defined in subdivision 2 of this definition and that subsequently undergoes a physical change (other than replacement of the unit by a unit at the same source), such date shall remain the [~~unit's~~] date of commencement of commercial operation [of the unit, which shall continue to be treated as the same unit].

b. For a unit with a date for commencement of commercial operation as defined in subdivision 2 of this definition and that is subsequently replaced by a unit at the same source (e.g., repowered), [such date shall remain the replaced unit's date of commencement of commercial operation and] the replacement unit shall be treated as a separate unit with a separate date for commencement of commercial operation as defined in subdivision 1 [~~2~~] or [~~3~~ 2] of this definition as appropriate.

[~~3. Notwithstanding subdivision 1 of this definition and except as provided in subdivision 8 of 9 VAC 5-140-3840, for a CAIR SO₂ unit or a unit for which a CAIR opt in permit application is submitted and not withdrawn and a CAIR opt in permit is not yet issued or denied under Article 9 (9 VAC 5-140-3800 et seq.) of this part, the unit's date for commencement of commercial operation shall be the date on which the owner or operator is required to start monitoring and reporting the SO₂ emissions rate and the heat input of the unit under subdivision 2 a (1) of 9 VAC 5-140-3840.~~

a. For a unit with a date for commencement of commercial operation as defined in subdivision 3 of this definition and that subsequently undergoes a physical change (other than replacement of the unit by a unit at the same source), such date shall remain the unit's date of commencement of commercial operation.

b. For a unit with a date for commencement of commercial operation as defined in subdivision 3 of this definition and that is subsequently replaced by a unit at the same source (e.g., repowered), the replacement unit shall be treated as a separate unit with a separate date for commencement of commercial operation as defined in subdivision 1, 2, or 3 of this definition as appropriate.

4. Notwithstanding subdivisions 1 through 3 of this definition, for a unit not servicing a generator producing electricity for sale, the unit's date of commencement of operation shall also be the unit's date of commencement of commercial operation.]

"Commence operation" means:

1. To have begun any mechanical, chemical, or electronic process, including, with regard to a unit, start-up of a unit's combustion chamber, except as provided in [~~9 VAC 5-140-3050~~ subdivision 8 of 9 VAC 5-140-3840].

[~~a. 2.] For a unit that [is a CAIR SO₂ unit under 9 VAC 5-140-3040 on the date the unit commences operation as defined in subdivision 1 of this definition and that subsequently] undergoes a physical change (other than replacement of the unit by a unit at the same source) [after the date the unit commences operation as defined in subdivision 1 of this definition], such date shall remain the [~~unit's~~] date of commencement of operation [of the unit, which shall continue to be treated as the same unit].~~

[~~b. 3.] For a unit that is [a CAIR SO₂ unit under 9 VAC 5-140-3040 on the date the unit commences operation as defined in subdivision 1 of this definition and that is subsequently] replaced by a unit at the same source (e.g., repowered) [; after the date the unit commences operation as defined in subdivision 1 of this definition, such date shall remain the replaced unit's date of commencement of operation, and] the replacement unit shall be treated as a separate unit with a separate date for commencement of operation as defined in subdivision 1, 2, or 3 of this definition~~

as appropriate [, except as provided in subdivision 8 of 9 VAC 5-140-3840].

~~[2. Notwithstanding subdivision 1 of this definition and except as provided in 9 VAC 5-140-3050, for a unit that is not a CAIR SO₂ unit under 9 VAC 5-140-3040 on the date the unit commences operation as defined in subdivision 1 of this definition and is not a unit under subdivision 3) of this definition, the unit's date for commencement of operation shall be the date on which the unit becomes a CAIR SO₂ unit under 9 VAC 5-140-3040.~~

~~a. For a unit with a date for commencement of operation as defined in subdivision 2 of this definition and that subsequently undergoes a physical change (other than replacement of the unit by a unit at the same source), such date shall remain the unit's date of commencement of operation.~~

~~b. For a unit with a date for commencement of operation as defined in subdivision 2 of this definition and that is subsequently replaced by a unit at the same source (e.g., repowered), the replacement unit shall be treated as a separate unit with a separate date for commencement of operation as defined in subdivision 1, 2, or 3 of this definition as appropriate.~~

~~3. Notwithstanding subdivision 1 of this definition and except as provided in subdivision 8 of 9 VAC 5-140-3840, for a CAIR SO₂ opt in unit or a unit for which a CAIR opt in permit application is submitted and not withdrawn and a CAIR opt in permit is not yet issued or denied under Article 9 (9 VAC 5-140-3800 et seq.) of this part, the unit's date for commencement of operation shall be the date on which the owner or operator is required to start monitoring and reporting the SO₂ emissions rate and the heat input of the unit under subdivision 2 a (1) of 9 VAC 5-140-3840.~~

~~a. For a unit with a date for commencement of operation as defined in subdivision 3 of this definition and that subsequently undergoes a physical change (other than replacement of the unit by a unit at the same source), such date shall remain the unit's date of commencement of operation.~~

~~b. For a unit with a date for commencement of operation as defined in subdivision 3 of this definition and that is subsequently replaced by a unit at the same source (e.g., repowered), the replacement unit shall be treated as a separate unit with a separate date for commencement of operation as defined in subdivisions 1, 2, or 3 of this definition as appropriate.]~~

"Common stack" means a single flue through which emissions from two or more units are exhausted.

"Compliance account" means a CAIR SO₂ Allowance Tracking System account, established by the administrator for a CAIR SO₂ source subject to an acid rain emissions

limitations under 40 CFR 73.31(a) or (b) or for any other CAIR SO₂ source under Article 6 (9 VAC 5-140-3500 et seq.) or Article 9 (9 VAC 5-140-3800 et seq.) of this part, in which any CAIR SO₂ allowance allocations for the CAIR SO₂ units at the source are initially recorded and in which are held any CAIR SO₂ allowances available for use for a control period in order to meet the source's CAIR SO₂ emissions limitation in accordance with 9 VAC 5-140-3540.

"Continuous emission monitoring system" or "CEMS" means the equipment required under Article 8 (9 VAC 5-140-3700 et seq.) of this part to sample, analyze, measure, and provide, by means of readings recorded at least once every 15 minutes (using an automated data acquisition and handling system (DAHS)), a permanent record of sulfur dioxide emissions, stack gas volumetric flow rate, stack gas moisture content, and oxygen or carbon dioxide concentration (as applicable), in a manner consistent with 40 CFR Part 75. The following systems are the principal types of continuous emission monitoring systems required under Article 8 (9 VAC 5-140-3700 et seq.) of this part:

1. A flow monitoring system, consisting of a stack flow rate monitor and an automated data acquisition and handling system and providing a permanent, continuous record of stack gas volumetric flow rate, in standard cubic feet per hour (scfh);

2. A sulfur dioxide monitoring system, consisting of a SO₂ pollutant concentration monitor and an automated data acquisition [and] handling system and providing a permanent, continuous record of SO₂ emissions, in parts per million (ppm);

3. A moisture monitoring system, as defined in 40 CFR 75.11(b)(2) and providing a permanent, continuous record of the stack gas moisture content, in percent H₂O;

4. A carbon dioxide monitoring system, consisting of a CO₂ pollutant concentration monitor (or an oxygen monitor plus suitable mathematical equations from which the CO₂ concentration is derived) and an automated data acquisition and handling system and providing a permanent, continuous record of CO₂ emissions, in percent CO₂; and

5. An oxygen monitoring system, consisting of an O₂ concentration monitor and an automated data acquisition and handling system and providing a permanent, continuous record of O₂ in percent O₂.

"Control period" means the period beginning January 1 of a calendar year, except as provided in 9 VAC 5-140-3060 C 2, and ending on December 31 of the same year, inclusive.

"Emissions" means air pollutants exhausted from a unit or source into the atmosphere, as measured, recorded, and reported to the administrator by the CAIR-designated representative and as determined by the administrator in

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accordance with Article 8 (9 VAC 5-140-3700 et seq.) of this part.

"Excess emissions" means any ton, or portion of a ton, of sulfur dioxide emitted by the CAIR SO₂ units at a CAIR SO₂ source during a control period that exceeds the CAIR SO₂ emissions limitation for the source, provided that any portion of a ton of excess emissions shall be treated as one ton of excess emissions.

"Fossil fuel" means natural gas, petroleum, coal, or any form of solid, liquid, or gaseous fuel derived from such material.

"Fossil-fuel-fired" means, with regard to a unit, combusting any amount of fossil fuel in any calendar year.

"General account" means a CAIR SO₂ Allowance Tracking System account, established under Article 6 (9 VAC 5-140-3500 et seq.) of this part, that is not a compliance account.

"Generator" means a device that produces electricity.

"Heat input" means, with regard to a specified period of time, the product (in mmBtu/time) of the gross calorific value of the fuel (in Btu/lb) divided by 1,000,000 Btu/mmBtu and multiplied by the fuel feed rate into a combustion device (in lb of fuel/time), as measured, recorded, and reported to the administrator by the CAIR-designated representative and determined by the administrator in accordance with Article 8 (9 VAC 5-140-3700 et seq.) of this part and excluding the heat derived from preheated combustion air, recirculated flue gases, or exhaust from other sources.

"Heat input rate" means the amount of heat input (in mmBtu) divided by unit operating time (in hr) or, with regard to a specific fuel, the amount of heat input attributed to the fuel (in mmBtu) divided by the unit operating time (in hr) during which the unit combusts the fuel.

["Hg Budget Trading Program" means a multistate Hg air pollution control and emission reduction program approved and administered by the administrator in accordance with Part VI (9 VAC 5-140-5010 et seq.) of this chapter and 40 CFR 60.24(h)(6), or established by the administrator under § 111 of the Clean Air Act, as a means of reducing national Hg emissions.]

"Implementation plan" means the portion or portions of the state implementation plan, or the most recent revision thereof, which has been approved in subpart VV of 40 CFR Part 52 by the administrator under § 110 of the CAA, or promulgated under § 110(c) of the CAA, or promulgated or approved pursuant to regulations promulgated under § 301(d) of the CAA and which implements the relevant requirements of the CAA.

"Life of the unit, firm power contractual arrangement" means a unit participation power sales agreement under which a utility or industrial customer reserves, or is entitled to receive, a specified amount or percentage of nameplate capacity and

associated energy generated by any specified unit and pays its proportional amount of such unit's total costs, pursuant to a contract:

1. For the life of the unit;

2. For a cumulative term of no less than 30 years, including contracts that permit an election for early termination; or

3. For a period no less than 25 years or 70.0% of the economic useful life of the unit determined as of the time the unit is built, with option rights to purchase or release some portion of the nameplate capacity and associated energy generated by the unit at the end of the period.

"Maximum design heat input" means [~~starting from the initial installation of a unit,~~] the maximum amount of fuel per hour (in Btu/hr) that a unit is capable of combusting on a steady state basis as [~~of the initial installation of the unit as~~] specified by the manufacturer of the unit [~~or, starting from the completion of any subsequent physical change in the unit resulting in a decrease in the maximum amount of fuel per hour (in Btu/hr) that a unit is capable of combusting on a steady state basis, such decreased maximum amount as specified by the person conducting the physical change~~].

"Monitoring system" means any monitoring system that meets the requirements of Article [~~7 (9 VAC 5-140-3600 8~~ (9 VAC 5-140-3700) et seq.) of this part, including a continuous emissions monitoring system, an alternative monitoring system, or an excepted monitoring system under 40 CFR Part 75.

"Most stringent state or federal SO₂ emissions limitation" means, with regard to a unit, the lowest SO₂ emissions limitation (in terms of lb/mmBtu) that is applicable to the unit under the Virginia Air Pollution Control Law or federal law, regardless of the averaging period to which the emissions limitation applies.

"Nameplate capacity" means, starting from the initial installation of a generator, the maximum electrical generating output (in MWe) that the generator is capable of producing on a steady state basis and during continuous operation (when not restricted by seasonal or other deratings) as [of such installation as] specified by the manufacturer of the generator or, starting from the completion of any subsequent physical change in the generator resulting in an increase in the maximum electrical generating output (in MWe) that the generator is capable of producing on a steady state basis and during continuous operation (when not restricted by seasonal or other deratings), such increased maximum amount as [of such completion as] specified by the person conducting the physical change.

["Nonattainment condition" means a condition where any area is shown by air quality monitoring data or that is shown by an air quality impact analysis (using modeling or other methods determined by the board to be reliable) to exceed the

levels allowed by the ambient air quality standard for a given pollutant, regardless of whether such demonstration is based on current or projected emissions data.]

"Operator" means any person who operates, controls, or supervises a CAIR SO₂ unit or a CAIR SO₂ source and shall include, but not be limited to, any holding company, utility system, or plant manager of such a unit or source.

"Owner" means any of the following persons:

1. With regard to a CAIR SO₂ source or a CAIR SO₂ unit at a source, respectively:

a. Any holder of any portion of the legal or equitable title in a CAIR SO₂ unit at the source or the CAIR SO₂ unit;

b. Any holder of a leasehold interest in a CAIR SO₂ unit at the source or the CAIR SO₂ unit; or

c. Any purchaser of power from a CAIR SO₂ unit at the source or the CAIR SO₂ unit under a life of the unit, firm power contractual arrangement; provided that, unless expressly provided for in a leasehold agreement, owner shall not include a passive lessor, or a person who has an equitable interest through such lessor, whose rental payments are not based (either directly or indirectly) on the revenues or income from such CAIR SO₂ unit; or

2. With regard to any general account, any person who has an ownership interest with respect to the CAIR SO₂ allowances held in the general account and who is subject to the binding agreement for the CAIR-authorized account representative to represent the person's ownership interest with respect to CAIR SO₂ allowances.

"Permitting authority" means [the state air pollution control agency, local agency, other state agency, or other agency authorized by the administrator to issue or revise permits to meet the requirements of the CAIR SO₂ Trading Program in accordance with Article 3 (9 VAC 5-140-3200 et seq.) of this part or, if no such agency has been so authorized, the administrator. For the Commonwealth of Virginia, the permitting authority shall be] the State Air Pollution Control Board.

"Potential electrical output capacity" means 33.0% of a unit's maximum design heat input, divided by 3,413 Btu/kWh, divided by 1,000 kWh/MWh, and multiplied by 8,760 hr/yr.

"Receive or receipt of" means, when referring to the permitting authority or the administrator, to come into possession of a document, information, or correspondence (whether sent in hard copy or by authorized electronic transmission), as indicated in an official [~~correspondence~~] log, or by a notation made on the document, information, or correspondence, by the permitting authority or the administrator in the regular course of business.

"Recordation," "record," or "recorded" means, with regard to CAIR SO₂ allowances, the movement of CAIR SO₂ allowances by the administrator into or between CAIR SO₂ Allowance Tracking System accounts, for purposes of allocation, transfer, or deduction.

"Reference method" means any direct test method of sampling and analyzing for an air pollutant as specified in 40 CFR 75.22.

["Replacement," "replace," or "replaced" means, with regard to a unit, the demolishing of a unit, or the permanent shutdown and permanent disabling of a unit, and the construction of another unit (the replacement unit) to be used instead of the demolished or shutdown unit (the replaced unit).]

"Repowered" means, with regard to a unit, replacement of a coal-fired boiler with one of the following coal-fired technologies at the same source as the coal-fired boiler:

1. Atmospheric or pressurized fluidized bed combustion;

2. Integrated gasification combined cycle;

3. Magnetohydrodynamics;

4. Direct and indirect coal-fired turbines;

5. Integrated gasification fuel cells; or

6. As determined by the administrator in consultation with the Secretary of Energy, a derivative of one or more of the technologies under subdivisions 1 through 5 of this definition and any other coal-fired technology capable of controlling multiple combustion emissions simultaneously with improved boiler or generation efficiency and with significantly greater waste reduction relative to the performance of technology in widespread commercial use as of January 1, 2005.

["~~Serial number~~" means, for a CAIR SO₂ allowance, the ~~unique identification number assigned to each CAIR SO₂ allowance by the administrator.~~]

"Sequential use of energy" means:

1. For a topping-cycle cogeneration unit, the use of reject heat from electricity production in a useful thermal energy application or process; or

2. For a bottoming-cycle cogeneration unit, the use of reject heat from useful thermal energy application or process in electricity production.

["Serial number" means, for a CAIR SO₂ allowance, the unique identification number assigned to each CAIR SO₂ allowance by the administrator.

"Solid waste incineration unit" means a stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine that is a "solid waste incineration unit" as defined in § 129(g)(1) of the Clean Air Act.]

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"Source" means all buildings, structures, or installations located in one or more contiguous or adjacent properties under common control of the same person or persons. For purposes of § 502(c) of the Clean Air Act, a "source," including a "source" with multiple units, shall be considered a single "facility."

"State" means the Commonwealth of Virginia. The term "state" shall have its conventional meaning where such meaning is clear from the context.

"State operating permit" means a permit issued under Article 5 (9 VAC 5-80-800 et seq.) of Part II of 9 VAC 5 Chapter 80.

"State operating permit regulations" means the regulations codified in Article 5 (9 VAC 5-80-800 et seq.) of Part II of 9 VAC 5 Chapter 80.

"Submit or serve" means to send or transmit a document, information, or correspondence to the person specified in accordance with the applicable regulation:

1. In person;

2. By United States Postal Service; or

3. By other means of dispatch or transmission and delivery. Compliance with any "submission" or "service" deadline shall be determined by the date of dispatch, transmission, or mailing and not the date of receipt.

"Title V operating permit" means a permit issued under Article 1 (9 VAC 5-80-50 et seq.) or Article 3 (9 VAC 5-80-360 et seq.) of Part II of 9 VAC 5 Chapter 80.

"Title V operating permit regulations" means the regulations codified in Article 1 (9 VAC 5-80-50 et seq.), Article 2 (9 VAC 5-80-310 et seq.), Article 3 (9 VAC 5-80-360 et seq.), and Article 4 (9 VAC 5-80-710 et seq.) of Part II of 9 VAC 5 Chapter 80.

"Ton" means 2,000 pounds. For the purpose of determining compliance with the CAIR SO₂ emissions limitation, total tons of sulfur dioxide emissions for a control period shall be calculated as the sum of all recorded hourly emissions (or the mass equivalent of the recorded hourly emission rates) in accordance with Article 8 (9 VAC 5-140-3700 et seq.) of this part, but with any remaining fraction of a ton equal to or greater than 0.50 tons deemed to equal one ton and any remaining fraction of a ton less than 0.50 tons deemed to equal zero tons.

"Topping-cycle cogeneration unit" means a cogeneration unit in which the energy input to the unit is first used to produce useful power, including electricity, and at least some of the reject heat from the electricity production is then used to provide useful thermal energy.

"Total energy input" means, with regard to a cogeneration unit, total energy of all forms supplied to the cogeneration

unit, excluding energy produced by the cogeneration unit itself.

"Total energy output" means, with regard to a cogeneration unit, the sum of useful power and useful thermal energy produced by the cogeneration unit.

"Unit" means a stationary, fossil-fuel-fired boiler or combustion turbine or other stationary, fossil-fuel-fired combustion device.

"Unit operating day" means a calendar day in which a unit combusts any fuel.

"Unit operating hour" or "hour of unit operation" means an hour in which a unit combusts any fuel.

"Useful power" means, with regard to a cogeneration unit, electricity or mechanical energy made available for use, excluding any such energy used in the power production process (which process includes, but is not limited to, any on-site processing or treatment of fuel combusted at the unit and any on-site emission controls).

"Useful thermal energy" means, with regard to a cogeneration unit, thermal energy that is:

1. Made available to an industrial or commercial process (not a power production process), excluding any heat contained in condensate return or makeup water;

2. Used in a heating application (e.g., space heating or domestic hot water heating); or

3. Used in a space cooling application (i.e., thermal energy used by an absorption chiller).

"Utility power distribution system" means the portion of an electricity grid owned or operated by a utility and dedicated to delivering electricity to customers.

9 VAC 5-140-3030. Measurements, abbreviations, and acronyms.

Measurements, abbreviations, and acronyms used in this part are defined as follows:

Btu-British thermal unit.

CO₂-carbon dioxide.

[~~NO_x-nitrogen oxides.~~

H₂O-water.

Hg-mercury.]

hr-hour.

kW-kilowatt electrical.

kWh-kilowatt hour.

[lb-pound.]

mmBtu-million Btu.

MWe-megawatt electrical.

MWh-megawatt hour.

[NO_x-nitrogen oxides.]

O₂-oxygen.

ppm-parts per million.

[~~lb-pound.~~]

scfh-standard cubic feet per hour.

SO₂-sulfur dioxide.

[~~H₂O-water.~~]

yr-year.

9 VAC 5-140-3040. Applicability.

[A. Except as provided in subsection B of this section:

1.] The following units shall be CAIR SO₂ units, and any source that includes one or more such units shall be a CAIR SO₂ source, subject to the requirements of this article and Articles 2 (9 VAC 5-140-3100 et seq.) through 8 (9 VAC 5-140-3700 et seq.) of this part: [1. ~~Except as provided in subdivision 2 of this section, a any~~ stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine serving at any time, since [the later of November 15, 1990, or] the start-up of the unit's combustion chamber, a generator with nameplate capacity of more than 25 MWe producing electricity for sale.

[2. ~~For a unit that qualifies as a cogeneration unit during the 12 month period starting on the date the unit first produces electricity and continues to qualify as a cogeneration unit, a cogeneration unit serving at any time a generator with nameplate capacity of more than 25 MWe and supplying in any calendar year more than one third of the unit's potential electric output capacity or 219,000 MWh, whichever is greater, to any utility power distribution system for sale.~~

2. If a stationary boiler or stationary combustion turbine that, under subdivision 1 of this subsection, is not a CAIR SO₂ unit begins to combust fossil fuel or to serve a generator with nameplate capacity of more than 25 MWe producing electricity for sale, the unit shall become a CAIR SO₂ unit as provided in subdivision 1 of this subsection on the first date on which it both combusts fossil fuel and serves such generator.

B. The units that meet the requirements set forth in subdivision 1 a, 2 a, or 2 b of this subsection shall not be CAIR SO₂ units:

1. a. Any unit that is a CAIR SO₂ unit under subdivision A 1 or 2 of this section:

(1) Qualifying as a cogeneration unit during the 12-month period starting on the date the unit first produces electricity and continuing to qualify as a cogeneration unit; and

(2) Not serving at any time, since the later of November 15, 1990, or the start-up of the unit's combustion chamber, a generator with nameplate capacity of more than 25 MWe supplying in any calendar year more than one-third of the unit's potential electric output capacity or 219,000 MWh, whichever is greater, to any utility power distribution system for sale.

b.] If a unit qualifies as a cogeneration unit during the 12-month period starting on the date the unit first produces electricity [and meets the requirements of subdivision 1 a of this subsection for at least one calendar year,] but subsequently no longer [~~qualifies as a cogeneration unit meets all such requirements~~], the unit shall [~~be subject to subdivision 1 of this section~~ become a CAIR SO₂ unit] starting on the [~~day on~~ earlier of January 1 after the first calendar year during] which the unit first no longer qualifies as a cogeneration unit [or January 1 after the first calendar year during which the unit no longer meets the requirements of subdivision 1 a (2) of this subsection].

[2. a. Any unit that is a CAIR SO₂ unit under subdivision A 1 or 2 of this section commencing operation before January 1, 1985:

(1) Qualifying as a solid waste incineration unit; and

(2) With an average annual fuel consumption of nonfossil fuel for 1985-1987 exceeding 80% (on a Btu basis) and an average annual fuel consumption of nonfossil fuel for any three consecutive calendar years after 1990 exceeding 80% (on a Btu basis).

b. Any unit that is a CAIR SO₂ unit under subdivision A 1 or 2 of this section commencing operation on or after January 1, 1985:

(1) Qualifying as a solid waste incineration unit; and

(2) With an average annual fuel consumption of nonfossil fuel for the first three calendar years of operation exceeding 80% (on a Btu basis) and an average annual fuel consumption of nonfossil fuel for any three consecutive calendar years after 1990 exceeding 80% (on a Btu basis).

c. If a unit qualifies as a solid waste incineration unit and meets the requirements of subdivision 2 a or b of this subsection for at least three consecutive calendar years, but subsequently no longer meets all such requirements, the unit shall become a CAIR SO₂ unit starting on the earlier of January 1 after the first calendar year during which the unit first no longer qualifies as a solid waste incineration unit or January 1 after the first three consecutive calendar years after 1990 for which the unit has an average annual fuel consumption of fossil fuel of 20% or more.]

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9 VAC 5-140-3050. Retired unit exemption.

A. 1. Any CAIR SO₂ unit that is permanently retired and is not a CAIR SO₂ opt-in unit under Article 9 (9 VAC 5-140-3800 et seq.) of this part shall be exempt from the CAIR SO₂ Trading Program, except for the provisions of this section, 9 VAC 5-140-3020, 9 VAC 5-140-3030, 9 VAC 4-140-3040, 9 VAC 5-140-3060 C 4 through 7, 9 VAC 5-140-3070, [9 VAC 5-140-3080,] and Articles 2 (9 VAC 5-140-3100 et seq.), 6 (9 VAC 5-140-3500 et seq.), and 7 (9 VAC 5-140-3600 et seq.) of this part.

2. The exemption under subdivision A 1 of this section shall become effective the day on which the CAIR SO₂ unit is permanently retired. Within 30 days of the unit's permanent retirement, the CAIR-designated representative shall submit a statement to the permitting authority otherwise responsible for administering any CAIR permit for the unit and shall submit a copy of the statement to the administrator. The statement shall state, in a format acceptable to the permitting authority, that the unit was permanently retired on a specific date and will comply with the requirements of subsection B of this section.

3. After receipt of the statement under subdivision A 2 of this section, the permitting authority will amend any permit under Article 3 (9 VAC 5-140-3200 et seq.) of this part covering the source at which the unit is located to add the provisions and requirements of the exemption under subdivision A 1 and subsection B of this section.

B. Special provisions for exempt units shall be as follows:

1. A unit exempt under subsection A of this section shall not emit any sulfur dioxide, starting on the date that the exemption takes effect.

2. For a period of five years from the date the records are created, the owners and operators of a unit exempt under subsection A of this section shall retain, at the source that includes the unit, records demonstrating that the unit is permanently retired. The five-year period for keeping records may be extended for cause, at any time before the end of the period, in writing by the permitting authority or the administrator. The owners and operators bear the burden of proof that the unit is permanently retired.

3. The owners and operators and, to the extent applicable, the CAIR-designated representative of a unit exempt under subsection A of this section shall comply with the requirements of the CAIR SO₂ Trading Program concerning all periods for which the exemption is not in effect, even if such requirements arise, or shall be complied with, after the exemption takes effect.

4. A unit exempt under subsection A of this section and located at a source that is required, or but for this exemption would be required, to have a Title V operating permit shall not resume operation unless the CAIR-designated

representative of the source submits a complete CAIR permit application under 9 VAC 5-140-3220 for the unit not less than 18 months (or such lesser time provided by the permitting authority) before the later of January 1, 2010, or the date on which the unit resumes operation.

5. On the earlier of the following dates, a unit exempt under subsection A of this section shall lose its exemption:

a. The date on which the CAIR-designated representative submits a CAIR permit application for the unit under subdivision B 4 of this section;

b. The date on which the CAIR-designated representative is required under subdivision B 4 of this section to submit a CAIR permit application for the unit; or

c. The date on which the unit resumes operation, if the CAIR-designated representative is not required to submit a CAIR permit application for the unit.

6. For the purpose of applying monitoring, reporting, and recordkeeping requirements under Article 8 (9 VAC 5-140-3700 et seq.) of this part, a unit that loses its exemption under subsection A of this section shall be treated as a unit that commences [~~operation and~~] commercial operation on the first date on which the unit resumes operation.

9 VAC 5-140-3060. Standard requirements.

A. Permit requirements shall be as follows:

1. The CAIR-designated representative of each CAIR SO₂ source required to have a Title V operating permit and each CAIR SO₂ unit required to have a Title V operating permit at the source shall:

a. Submit to the permitting authority a complete CAIR permit application under 9 VAC 5-140-3220 in accordance with the deadlines specified in 9 VAC 5-140-3210; and

b. Submit in a timely manner any supplemental information that the permitting authority determines is necessary in order to review a CAIR permit application and issue or deny a CAIR permit.

2. The owners and operators of each CAIR SO₂ source required to have a Title V operating permit and each CAIR SO₂ unit required to have a Title V operating permit at the source shall have a CAIR permit issued by the permitting authority under Article 3 (9 VAC 5-140-3200 et seq.) of this part for the source and operate the source and the unit in compliance with such CAIR permit.

3. Except as provided in Article 9 (9 VAC 5-140-3800 et seq.) of this part, the owners and operators of a CAIR SO₂ source that is not otherwise required to have a Title V operating permit and each CAIR SO₂ unit that is not otherwise required to have a Title V operating permit are not required to submit a CAIR permit application, and to have a

CAIR permit, under Article 3 (9 VAC 5-140-3200 et seq.) of this part for such CAIR SO₂ source and such CAIR SO₂ unit.

B. Monitoring, reporting, and recordkeeping shall be performed as follows:

1. The owners and operators, and the CAIR-designated representative, of each CAIR SO₂ source and each CAIR SO₂ unit at the source shall comply with the monitoring, reporting, and recordkeeping requirements of Article 8 (9 VAC 5-140-3700 et seq.) of this part.

2. The emissions measurements recorded and reported in accordance with Article 8 (9 VAC 5-140-3700 et seq.) of this part shall be used to determine compliance by each CAIR SO₂ source with the CAIR SO₂ emissions limitation under subsection C of this section.

C. Sulfur dioxide emission requirements shall be as follows:

1. As of the allowance transfer deadline for a control period, the owners and operators of each CAIR SO₂ source and each CAIR SO₂ unit at the source shall hold, in the source's compliance account, a tonnage equivalent in CAIR SO₂ allowances available for compliance deductions for the control period, as determined in accordance with 9 VAC 5-140-3540 A and B, not less than the tons of total sulfur dioxide emissions for the control period from all CAIR SO₂ units at the source, as determined in accordance with Article 8 (9 VAC 5-140-3700 et seq.) of this part.

2. A CAIR SO₂ unit shall be subject to the requirements under subdivision C 1 of this section for the control period starting on the later of January 1, 2010, or the deadline for meeting the unit's monitor certification requirements under 9 VAC 5-140-3700 C 1, 2, or 5 and for each control period thereafter.

3. A CAIR SO₂ allowance shall not be deducted, for compliance with the requirements under subdivision C 1 of this section, for a control period in a calendar year before the year for which the CAIR SO₂ allowance was allocated.

4. CAIR SO₂ allowances shall be held in, deducted from, or transferred into or among CAIR SO₂ Allowance Tracking System accounts in accordance with Articles 6 (9 VAC 5-140-3500 et seq.) [and,] 7 (9 VAC 5-140-3600 et seq.) [and 9 (9 VAC 5-140-3800 et seq.)] of this part.

5. A CAIR SO₂ allowance is a limited authorization to emit sulfur dioxide in accordance with the CAIR SO₂ Trading Program. No provision of the CAIR SO₂ Trading Program, the CAIR permit application, the CAIR permit, or an exemption under 9 VAC 5-140-3050 and no provision of law shall be construed to limit the authority of the state or the United States to terminate or limit such authorization.

6. A CAIR SO₂ allowance does not constitute a property right.

7. Upon recordation by the administrator under Article 6 (9 VAC 5-140-3500 et seq.), 7 (9 VAC 5-140-3600 et seq.), or 9 (9 VAC 5-140-3800 et seq.) of this part, every allocation, transfer, or deduction of a CAIR SO₂ allowance to or from a CAIR SO₂ [unit's source's] compliance account is incorporated automatically in any CAIR permit of the source [that includes the CAIR SO₂ unit].

D. If a CAIR SO₂ source emits sulfur dioxide during any control period in excess of the CAIR SO₂ emissions limitation, then:

1. The owners and operators of the source and each CAIR SO₂ unit at the source shall surrender the CAIR SO₂ allowances required for deduction under 9 VAC 5-140-3540 D 1 and pay any fine, penalty, or assessment or comply with any other remedy imposed, for the same violations, under the Clean Air Act or the Virginia Air Pollution Control Law; and

2. Each ton of such excess emissions and each day of such control period shall constitute a separate violation of this article, the Clean Air Act, and the Virginia Air Pollution Control Law.

E. Recordkeeping and reporting shall be performed as follows:

1. Unless otherwise provided, the owners and operators of the CAIR SO₂ source and each CAIR SO₂ unit at the source shall keep on site at the source each of the following documents for a period of five years from the date the document is created. This period may be extended for cause, at any time before the end of five years, in writing by the permitting authority or the administrator.

a. The certificate of representation under 9 VAC 5-140-3130 for the CAIR-designated representative for the source and each CAIR SO₂ unit at the source and all documents that demonstrate the truth of the statements in the certificate of representation; provided that the certificate and documents shall be retained on site at the source beyond such five-year period until such documents are superseded because of the submission of a new certificate of representation under 9 VAC 5-140-3130 changing the CAIR-designated representative.

b. All emissions monitoring information, in accordance with Article 8 (9 VAC 5-140-3700 et seq.) of this part, provided that to the extent that Article 8 (9 VAC 5-140-3700 et seq.) of this part provides for a three-year period for recordkeeping, the three-year period shall apply.

c. Copies of all reports, compliance certifications, and other submissions and all records made or required under the CAIR SO₂ Trading Program.

d. Copies of all documents used to complete a CAIR permit application and any other submission under the CAIR SO₂

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Trading Program or to demonstrate compliance with the requirements of the CAIR SO₂ Trading Program.

2. The CAIR-designated representative of a CAIR SO₂ source and each CAIR SO₂ unit at the source shall submit the reports required under the CAIR SO₂ Trading Program, including those under Article 8 (9 VAC 5-140-3700 et seq.) of this part.

F. Liability shall be assigned as follows:

1. Each CAIR SO₂ source and each CAIR SO₂ unit shall meet the requirements of the CAIR SO₂ Trading Program.

2. Any provision of the CAIR SO₂ Trading Program that applies to a CAIR SO₂ source or the CAIR-designated representative of a CAIR SO₂ source shall also apply to the owners and operators of such source and of the CAIR SO₂ units at the source.

3. Any provision of the CAIR SO₂ Trading Program that applies to a CAIR SO₂ unit or the CAIR-designated representative of a CAIR SO₂ unit shall also apply to the owners and operators of such unit.

G. No provision of the CAIR SO₂ Trading Program, a CAIR permit application, a CAIR permit, or an exemption under 9 VAC 5-140-3050 shall be construed as exempting or excluding the owners and operators, and the CAIR-designated representative, of a CAIR SO₂ source or CAIR SO₂ unit from compliance with any other provision of the applicable state implementation plan, a state operating permit, the Virginia Air Pollution Control Law, or the Clean Air Act.

[9 VAC 5-140-3061. Nonattainment area requirements.

A. The following requirements apply to any CAIR SO₂ unit located in a nonattainment area designated in 9 VAC 5-20-204:

1. No owner, operator or other person shall cause or permit to be discharged into the atmosphere from any CAIR SO₂ unit any SO₂ emissions in excess of the SO₂ annual emissions cap. For each control period, the SO₂ annual emissions cap shall be equal to the number of SO₂ allowances (expressed in tons) allocated for the CAIR SO₂ unit for the control period in accordance with 9 VAC 5-140-3420.

2. A CAIR SO₂ unit shall be subject to the requirements under subdivision 1 of this subsection for the control period starting on the later of January 1, 2009, or the deadline for meeting the unit's monitor certification requirements under 9 VAC 5-140-3700 C 1, 2, or 5 and for each control period thereafter.

3. Compliance with the SO₂ annual emissions cap in subdivision 1 of this subsection shall be based on a comparison of (i) the total SO₂ emissions (expressed in tons) from each CAIR SO₂ unit during the control period, as determined in accordance with Article 8 (9 VAC 5-140-3700 et seq.) of this part, and (ii) the SO₂ annual emissions cap.

4. The owner or operator of a CAIR SO₂ unit subject to this section shall be in violation of this subsection if the owner or operator fails to submit by April 1 of each year for the preceding control period (i) documentation to verify compliance with the SO₂ annual emissions cap set forth in subdivision 1 of this subsection or (ii) an SO₂ emissions compliance demonstration in accordance with 9 VAC 5-140-3062.

B. Nothing in this part shall prevent the permitting authority from issuing a nonattainment area permit under the authority and procedures of the state operating permit program in order to:

1. Cap the emissions of a CAIR SO₂ unit or CAIR SO₂ source contributing to a violation of any air quality standard or a nonattainment condition;

2. Remedy a situation that may cause or contribute to nonattainment condition or the endangerment of human health or welfare; or

3. Establish a source-specific emission standard or other requirements necessary to implement the federal Clean Air Act or the Virginia Air Pollution Control Law.

C. Nothing in this part shall prevent the permitting authority from including in any nonattainment area permit issued to implement subdivision B 1 of this section any terms and conditions that would prohibit any CAIR SO₂ unit or CAIR SO₂ source subject to this part from engaging in any emissions trading activities or using any emissions credits obtained from emissions reductions external to the CAIR SO₂ unit or CAIR SO₂ source to comply with the requirements of subsection A of this section or any nonattainment area permit issued pursuant to subdivision B 1 of this section except that such terms and conditions may not prohibit any CAIR SO₂ unit or CAIR SO₂ source subject to this part from engaging in any emissions trading activities unrelated to compliance with the requirements of subsection A of this section or any nonattainment area permit issued pursuant to subdivision B 1 of this section.

D. Nothing in this section shall be construed to prohibit any CAIR SO₂ unit or CAIR SO₂ source from participating in the CAIR SO₂ Annual Trading Program. Notwithstanding any other provision of this section or any regulation of the board, the permitting authority may not include in any permit any terms and conditions that restrict any emissions trading activities under the CAIR SO₂ Annual Trading Program. Compliance with the CAIR SO₂ Annual Trading Program and this section (including any nonattainment area permits issued pursuant to this section) shall be determined separately and in accordance with the terms of the provisions of each.

E. The provisions of subsection A of this section shall not apply once an area is no longer listed in 9 VAC 5-20-204 as nonattainment for any pollutant; however, regardless of the attainment status of the area, any nonattainment area permits

issued to implement this section shall remain in effect until revoked by the permitting authority.

9 VAC 5-140-3062. SO₂ emissions compliance demonstration.

A. Compliance with the SO₂ annual emissions cap set forth in 9 VAC 5-140-3061 A 1 may also be achieved through an SO₂ emissions compliance demonstration meeting the requirements of this section.

B. The SO₂ emissions compliance demonstration submitted pursuant to this section may include one or more CAIR SO₂ units in a CAIR SO₂ source under common control and located in the nonattainment area.

C. SO₂ emissions compliance demonstrations shall be submitted to the permitting authority by April 1 of each year for the preceding control period.

D. A complete SO₂ emissions compliance demonstration shall include the following elements in a format acceptable to the permitting authority:

1. Identification of each CAIR SO₂ unit in the SO₂ emissions compliance demonstration.
2. The number of SO₂ allowances (expressed in tons) allocated for each CAIR SO₂ unit for the preceding control period.
3. The total SO₂ emissions (expressed in tons) from each CAIR SO₂ unit during the preceding control period.
4. The calculation for the equation in subsection E of this section.

E. Compliance with this section shall be demonstrated with the following equation:

$$\sum_{i=1}^n (ASDE_i) \leq \sum_{i=1}^n (X)$$

where:

n is the number of CAIR SO₂ units in the SO₂ emissions compliance demonstration (n may equal 1).

Σ is the sum of all i CAIR SO₂ units.

i is a CAIR SO₂ unit identified in subsection B of this section.

ASDE (Actual Sulfur Dioxide Emissions) are the total SO₂ emissions (expressed in tons) from each CAIR SO₂ unit during the preceding control period, as determined in accordance with Article 8 (9 VAC 5-140-3700 et seq.) of this part.

X is the number of SO₂ allowances (expressed in tons) allocated for the CAIR SO₂ unit for the preceding control period in accordance with 9 VAC 5-140-3420.

F. The emissions measurements recorded and reported in accordance with Article 8 (9 VAC 5-140-3700 et seq.) of this part shall be used to determine compliance by each CAIR SO₂ source with the SO₂ annual emissions cap set forth in 9 VAC 5-140-3061 A.]

9 VAC 5-140-3070. Computation of time.

A. Unless otherwise stated, any time period scheduled, under the CAIR SO₂ Trading Program, to begin on the occurrence of an act or event shall begin on the day the act or event occurs.

B. Unless otherwise stated, any time period scheduled, under the CAIR SO₂ Trading Program, to begin before the occurrence of an act or event shall be computed so that the period ends the day before the act or event occurs.

C. Unless otherwise stated, if the final day of any time period, under the CAIR SO₂ Trading Program, falls on a weekend or a state or federal holiday, the time period shall be extended to the next business day.

9 VAC 5-140-3080. Appeal procedures.

The appeal procedures for decisions of the administrator under the CAIR SO₂ Trading Program are set forth in 40 CFR Part 78.

Article 2.

CAIR-designated Representative for CAIR SO₂ Sources.

9 VAC 5-140-3100. Authorization and responsibilities of CAIR-designated representative.

A. Except as provided under 9 VAC 5-140-3110, each CAIR SO₂ source, including all CAIR SO₂ units at the source, shall have one and only one CAIR-designated representative, with regard to all matters under the CAIR SO₂ Trading Program concerning the source or any CAIR SO₂ unit at the source.

B. The CAIR-designated representative of the CAIR SO₂ source shall be selected by an agreement binding on the owners and operators of the source and all CAIR SO₂ units at the source and shall act in accordance with the certification statement in 9 VAC 5-140-3130 A 4 d.

C. Upon receipt by the administrator of a complete certificate of representation under 9 VAC 5-140-3130, the CAIR-designated representative of the source shall represent and, by the CAIR-designated representative's representations, actions, inactions, or submissions, legally bind each owner and operator of the CAIR SO₂ source represented and each CAIR SO₂ unit at the source in all matters pertaining to the CAIR SO₂ Trading Program, notwithstanding any agreement between the CAIR-designated representative and such owners and operators. The owners and operators shall be bound by any decision or order issued to the CAIR-designated representative by the permitting authority, the administrator, or a court regarding the source or unit.

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D. No CAIR permit will be issued, no emissions data reports will be accepted, and no CAIR SO₂ Allowance Tracking System account will be established for a CAIR SO₂ unit at a source, until the administrator has received a complete certificate of representation under 9 VAC 5-140-3130 for a CAIR-designated representative of the source and the CAIR SO₂ units at the source.

E. 1. Each submission under the CAIR SO₂ Trading Program shall be submitted, signed, and certified by the CAIR-designated representative for each CAIR SO₂ source on behalf of which the submission is made. Each such submission shall include the following certification statement by the CAIR-designated representative: "I am authorized to make this submission on behalf of the owners and operators of the source or units for which the submission is made. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment."

2. The permitting authority and the administrator will accept or act on a submission made on behalf of owner or operators of a CAIR SO₂ source or a CAIR SO₂ unit only if the submission has been made, signed, and certified in accordance with subdivision E 1 of this section.

9 VAC 5-140-3110. Alternate CAIR-designated representative.

A. A certificate of representation under 9 VAC 5-140-3130 may designate one and only one alternate CAIR-designated representative, who may act on behalf of the CAIR-designated representative. The agreement by which the alternate CAIR-designated representative is selected shall include a procedure for authorizing the alternate CAIR-designated representative to act in lieu of the CAIR-designated representative.

B. Upon receipt by the administrator of a complete certificate of representation under 9 VAC 5-140-3130, any representation, action, inaction, or submission by the alternate CAIR-designated representative shall be deemed to be a representation, action, inaction, or submission by the CAIR-designated representative.

C. Except in this section and 9 VAC 5-140-3020, 9 VAC 5-140-3100 A and D, 9 VAC 5-140-3120, 9 VAC 5-140-3130, [9 VAC 5-140-3150,] 9 VAC 5-140-3510, and 9 VAC 5-140-3820, whenever the term "CAIR-designated representative" is used in this part, the term shall be construed

to include the CAIR-designated representative or any alternate CAIR-designated representative.

9 VAC 5-140-3120. Changing CAIR-designated representative and alternate CAIR-designated representative; changes in owners and operators.

A. The CAIR-designated representative may be changed at any time upon receipt by the administrator of a superseding complete certificate of representation under 9 VAC 5-140-3130. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous CAIR-designated representative before the time and date when the administrator receives the superseding certificate of representation shall be binding on the new CAIR-designated representative and the owners and operators of the CAIR SO₂ source and the CAIR SO₂ units at the source.

B. The alternate CAIR-designated representative may be changed at any time upon receipt by the administrator of a superseding complete certificate of representation under 9 VAC 5-140-3130. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous alternate CAIR-designated representative before the time and date when the administrator receives the superseding certificate of representation shall be binding on the new alternate CAIR-designated representative and the owners and operators of the CAIR SO₂ source and the CAIR SO₂ units at the source.

C. Changes in owners and operators shall be established as follows:

1. In the event [~~a new~~ an] owner or operator of a CAIR SO₂ source or a CAIR SO₂ unit is not included in the list of owners and operators in the certificate of representation under 9 VAC 5-140-3130, such [~~new~~] owner or operator shall be deemed to be subject to and bound by the certificate of representation, the representations, actions, inactions, and submissions of the CAIR-designated representative and any alternate CAIR-designated representative of the source or unit, and the decisions and orders of the permitting authority, the administrator, or a court, as if the [~~new~~] owner or operator were included in such list.

2. Within 30 days following any change in the owners and operators of a CAIR SO₂ source or a CAIR SO₂ unit, including the addition of a new owner or operator, the CAIR-designated representative or any alternate CAIR-designated representative shall submit a revision to the certificate of representation under 9 VAC 5-140-3130 amending the list of owners and operators to include the change.

9 VAC 5-140-3130. Certificate of representation.

A. A complete certificate of representation for a CAIR-designated representative or an alternate CAIR-designated representative shall include the following elements in a format prescribed by the administrator:

1. Identification of the CAIR SO₂ source, and each CAIR SO₂ unit at the source, for which the certificate of representation is submitted [, including identification and nameplate capacity of each generator served by each such unit].

2. The name, address, email address (if any), telephone number, and facsimile transmission number (if any) of the CAIR-designated representative and any alternate CAIR-designated representative.

3. A list of the owners and operators of the CAIR SO₂ source and of each CAIR SO₂ unit at the source.

4. The following certification statements by the CAIR-designated representative and any alternate CAIR-designated representative:

a. "I certify that I was selected as the CAIR-designated representative or alternate CAIR-designated representative, as applicable, by an agreement binding on the owners and operators of the source and each CAIR SO₂ unit at the source."

b. "I certify that I have all the necessary authority to carry out my duties and responsibilities under the CAIR SO₂ Trading Program on behalf of the owners and operators of the source and of each CAIR SO₂ unit at the source and that each such owner and operator shall be fully bound by my representations, actions, inactions, or submissions."

c. "I certify that the owners and operators of the source and of each CAIR SO₂ unit at the source shall be bound by any order issued to me by the administrator, the permitting authority, or a court regarding the source or unit."

d. "Where there are multiple holders of a legal or equitable title to, or a leasehold interest in, a CAIR SO₂ unit, or where a [utility or industrial] customer purchases power from a CAIR SO₂ unit under a life-of-the-unit, firm power contractual arrangement, I certify that: I have given a written notice of my selection as the 'CAIR-designated representative' or 'alternate CAIR-designated representative,' as applicable, and of the agreement by which I was selected to each owner and operator of the source and of each CAIR SO₂ unit at the source; and CAIR SO₂ allowances and proceeds of transactions involving CAIR SO₂ allowances will be deemed to be held or distributed in proportion to each holder's legal, equitable, leasehold, or contractual reservation or entitlement, except that, if such multiple holders have expressly provided for a different distribution of CAIR SO₂ allowances by contract, CAIR SO₂ allowances and proceeds of transactions involving CAIR SO₂ allowances will be deemed to be held or distributed in accordance with the contract."

5. The signature of the CAIR-designated representative and any alternate CAIR-designated representative and the dates signed.

B. Unless otherwise required by the permitting authority or the administrator, documents of agreement referred to in the certificate of representation shall not be submitted to the permitting authority or the administrator. Neither the permitting authority nor the administrator shall be under any obligation to review or evaluate the sufficiency of such documents, if submitted.

9 VAC 5-140-3140. Objections concerning CAIR-designated representative.

A. Once a complete certificate of representation under 9 VAC 5-140-3130 has been submitted and received, the permitting authority and the administrator will rely on the certificate of representation unless and until a superseding complete certificate of representation under 9 VAC 5-140-3130 is received by the administrator.

B. Except as provided in 9 VAC 5-140-3120 A or B, no objection or other communication submitted to the permitting authority or the administrator concerning the authorization, or any representation, action, inaction, or submission, of the CAIR-designated representative shall affect any representation, action, inaction, or submission of the CAIR-designated representative or the finality of any decision or order by the permitting authority or the administrator under the CAIR SO₂ Trading Program.

C. Neither the permitting authority nor the administrator will adjudicate any private legal dispute concerning the authorization or any representation, action, inaction, or submission of any CAIR-designated representative, including private legal disputes concerning the proceeds of CAIR SO₂ allowance transfers.

[9 VAC 5-140-3150. Delegation by CAIR-designated representative and alternate CAIR-designated representative.

A. A CAIR-designated representative may delegate to one or more natural persons his authority to make an electronic submission to the administrator provided for or required under this part.

B. An alternate CAIR-designated representative may delegate to one or more natural persons his authority to make an electronic submission to the administrator provided for or required under this part.

C. In order to delegate authority to make an electronic submission to the administrator in accordance with subsection A or B of this section, the CAIR-designated representative or alternate CAIR-designated representative, as appropriate, must submit to the administrator a notice of delegation, in a format prescribed by the administrator, that includes the following elements:

1. The name, address, email address, telephone number, and facsimile transmission number (if any) of such CAIR-

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designated representative or alternate CAIR-designated representative;

2. The name, address, email address, telephone number, and facsimile transmission number (if any) of each such natural person (referred to as an “agent”);

3. For each such natural person, a list of the type or types of electronic submissions under subsection A or B of this section for which authority is delegated to him; and

4. The following certification statements by such CAIR-designated representative or alternate CAIR-designated representative:

a. “I agree that any electronic submission to the administrator that is by an agent identified in this notice of delegation and of a type listed for such agent in this notice of delegation and that is made when I am a CAIR-designated representative or alternate CAIR-designated representative, as appropriate, and before this notice of delegation is superseded by another notice of delegation under 9 VAC 5-140-3150 D shall be deemed to be an electronic submission by me.”

b. “Until this notice of delegation is superseded by another notice of delegation under 9 VAC 5-140-3150 D, I agree to maintain an email account and to notify the administrator immediately of any change in my email address unless all delegation of authority by me under 9 VAC 5-140-3150 is terminated.”

D. A notice of delegation submitted under subsection C of this section shall be effective, with regard to the CAIR-designated representative or alternate CAIR-designated representative identified in such notice, upon receipt of such notice by the administrator and until receipt by the administrator of a superseding notice of delegation submitted by such CAIR-designated representative or alternate CAIR-designated representative, as appropriate. The superseding notice of delegation may replace any previously identified agent, add a new agent, or eliminate entirely any delegation of authority.

E. Any electronic submission covered by the certification in subdivision C 4 a of this section and made in accordance with a notice of delegation effective under subsection D of this section shall be deemed to be an electronic submission by the CAIR-designated representative or alternate CAIR-designated representative submitting such notice of delegation.]

Article 3. Permits.

9 VAC 5-140-3200. General CAIR SO₂ Trading Program permit requirements.

A. For each CAIR SO₂ source required to have a Title V operating permit or required, under Article 9 (9 VAC 5-140-3800 et seq.) of this part, to have a Title V operating permit or state operating permit, such permit shall include a CAIR

permit administered by the permitting authority for the Title V operating permit or the state operating permit as applicable. The CAIR portion of the Title V permit or state operating permit as applicable shall be administered in accordance with the permitting authority’s Title V operating permit regulations or regulations for state operating permits as applicable, except as provided otherwise by [9 VAC 5-140-3050,] this article [,] and Article 9 (9 VAC 5-140-3800 et seq.) of this part.

B. Each CAIR permit shall contain, with regard to the CAIR SO₂ source and the CAIR SO₂ units at the source covered by the CAIR permit, all applicable CAIR SO₂ Trading Program, CAIR NO_x Annual Trading Program, and CAIR NO_x Ozone Season Trading Program requirements and shall be a complete and separable portion of the Title V operating permit or state operating permit under subsection A of this section.

9 VAC 5-140-3210. Submission of CAIR permit applications.

A. The CAIR-designated representative of any CAIR SO₂ source required to have a Title V operating permit shall submit to the permitting authority a complete CAIR permit application under 9 VAC 5-140-3220 for the source covering each CAIR SO₂ unit at the source at least 18 months (or such lesser time provided by the permitting authority) before the later of January 1, 2010, or the date on which the CAIR SO₂ unit commences [commercial] operation [, except as provided in 9 VAC 5-140-3830 A].

B. For a CAIR SO₂ source required to have a Title V operating permit, the CAIR-designated representative shall submit a complete CAIR permit application under 9 VAC 5-140-3220 for the source covering each CAIR SO₂ unit at the source to renew the CAIR permit in accordance with the permitting authority’s Title V operating permit regulations addressing permit renewal [, except as provided in 9 VAC 5-140-3830 B].

9 VAC 5-140-3220. Information requirements for CAIR permit applications.

A complete CAIR permit application shall include the following elements concerning the CAIR SO₂ source for which the application is submitted, in a format acceptable to the permitting authority:

1. Identification of the CAIR SO₂ source;
2. Identification of each CAIR SO₂ unit at the CAIR SO₂ source; and
3. The standard requirements under 9 VAC 5-140-3060.

9 VAC 5-140-3230. CAIR permit contents and term.

A. Each CAIR permit will contain, in a format acceptable to the permitting authority, all elements required for a complete CAIR permit application under 9 VAC 5-140-3220.

B. Each CAIR permit is deemed to incorporate automatically the definitions of terms under 9 VAC 5-140-3020 and, upon recordation by the administrator under Article 6 (9 VAC 5-140-3500 et seq.), 7 (9 VAC 5-140-3600 et seq.), or 9 (9 VAC 5-140-3800 et seq.) of this part, every allocation, transfer, or deduction of a CAIR SO₂ allowance to or from the compliance account of the CAIR SO₂ source covered by the permit.

C. The term of the CAIR permit will be set by the permitting authority, as necessary to facilitate coordination of the renewal of the CAIR permit with issuance, revision, or renewal of the CAIR SO₂ source's Title V operating permit or state operating permit as applicable.

9 VAC 5-140-3240. CAIR permit revisions.

Except as provided in 9 VAC 5-140-3230, the permitting authority will revise the CAIR permit, as necessary, in accordance with the permitting authority's Title V operating permit regulations or the permitting authority's regulations for state operating permits as applicable addressing permit revisions.

Article 4.
(Reserved).

9 VAC 5-140-3300. (Reserved.)

Article 5.
[(Reserved) CAIR SO₂ Allowance Allocations].

9 VAC 5-140-3400. [(Reserved) State trading budgets].

[The state trading budgets for annual allocations of CAIR SO₂ allowances for the control periods are as follows:

1. For use in each control period in 2009 through 2014, the total number of SO₂ tons apportioned to all CAIR SO₂ units is 63,478.

2. For use in each control period in 2015 and thereafter, the total number of SO₂ tons apportioned to all CAIR SO₂ units is 44,435.

9 VAC 5-140-3410. Timing requirements for CAIR SO₂ allowance allocations.

The timing requirements for the allocation of CAIR SO₂ allowances shall be in accordance with 40 CFR Part 73.

9 VAC 5-140-3420. CAIR SO₂ allowance allocations.

CAIR SO₂ allowances shall be allocated in accordance with 40 CFR Part 73.]

Article 6.
CAIR SO₂ Allowance Tracking System.

9 VAC 5-140-3500. (Reserved.)

9 VAC 5-140-3510. Establishment of accounts.

A. Except as provided in subdivision 5 of 9 VAC 5-140-3840, upon receipt of a complete certificate of representation under 9 VAC 5-140-3130, the administrator will establish a compliance account for the CAIR SO₂ source for which the certificate of representation was submitted, unless the source already has a compliance account.

B. General accounts shall be established as follows:

1. Applications for general accounts shall be submitted as follows:

a. Any person may apply to open a general account for the purpose of holding and transferring CAIR SO₂ allowances. An application for a general account may designate one and only one CAIR-authorized account representative and one and only one alternate CAIR-authorized account representative who may act on behalf of the CAIR-authorized account representative. The agreement by which the alternate CAIR-authorized account representative is selected shall include a procedure for authorizing the alternate CAIR-authorized account representative to act in lieu of the CAIR-authorized account representative.

b. A complete application for a general account shall be submitted to the administrator and shall include the following elements in a format prescribed by the administrator:

(1) Name, mailing address, email address (if any), telephone number, and facsimile transmission number (if any) of the CAIR-authorized account representative and any alternate CAIR-authorized account representative;

(2) Organization name and type of organization, if applicable;

(3) A list of all persons subject to a binding agreement for the CAIR-authorized account representative and any alternate CAIR-authorized account representative to represent their ownership interest with respect to the CAIR SO₂ allowances held in the general account;

(4) The following certification statement by the CAIR-authorized account representative and any alternate CAIR-authorized account representative: "I certify that I was selected as the CAIR-authorized account representative or the alternate CAIR-authorized account representative, as applicable, by an agreement that is binding on all persons who have an ownership interest with respect to CAIR SO₂ allowances held in the general account. I certify that I have all the necessary authority to carry out my duties and responsibilities under the CAIR SO₂ Trading Program on behalf of such persons and that each such person shall be fully bound by my representations, actions, inactions, or

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submissions and by any order or decision issued to me by the administrator or a court regarding the general account."

(5) The signature of the CAIR-authorized account representative and any alternate CAIR-authorized account representative and the dates signed.

c. Unless otherwise required by the permitting authority or the administrator, documents of agreement referred to in the application for a general account shall not be submitted to the permitting authority or the administrator. Neither the permitting authority nor the administrator shall be under any obligation to review or evaluate the sufficiency of such documents, if submitted.

2. Authorization of a CAIR-authorized account representative [and alternate CAIR-authorized account representative] shall be established as follows:

a. Upon receipt by the administrator of a complete application for a general account under subdivision B 1 of this section:

(1) The administrator will establish a general account for the person or persons for whom the application is submitted.

(2) The CAIR-authorized account representative and any alternate CAIR-authorized account representative for the general account shall represent and, by such persons' representations, actions, inactions, or submissions, legally bind each person who has an ownership interest with respect to CAIR SO₂ allowances held in the general account in all matters pertaining to the CAIR SO₂ Trading Program, notwithstanding any agreement between the CAIR-authorized account representative or any alternate CAIR-authorized account representative and such person. Any such person shall be bound by any order or decision issued to the CAIR-authorized account representative or any alternate CAIR-authorized account representative by the administrator or a court regarding the general account.

(3) Any representation, action, inaction, or submission by any alternate CAIR-authorized account representative shall be deemed to be a representation, action, inaction, or submission by the CAIR-authorized account representative.

b. Each submission concerning the general account shall be submitted, signed, and certified by the CAIR-authorized account representative or any alternate CAIR-authorized account representative for the persons having an ownership interest with respect to CAIR SO₂ allowances held in the general account. Each such submission shall include the following certification statement by the CAIR-authorized account representative or any alternate CAIR-authorized account representative: "I am authorized to make this submission on behalf of the persons having an ownership interest with respect to the CAIR SO₂ allowances held in the general account. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its

attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment."

c. The administrator will accept or act on a submission concerning the general account only if the submission has been made, signed, and certified in accordance with subdivision B 2 b of this section.

3. Changing the CAIR-authorized account representative and alternate CAIR-authorized account representative and changes in persons with ownership interest shall be accomplished as follows:

a. The CAIR-authorized account representative for a general account may be changed at any time upon receipt by the administrator of a superseding complete application for a general account under subdivision B 1 of this section. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous CAIR-authorized account representative before the time and date when the administrator receives the superseding application for a general account shall be binding on the new CAIR-authorized account representative and the persons with an ownership interest with respect to the CAIR SO₂ allowances in the general account.

b. The alternate CAIR-authorized account representative for a general account may be changed at any time upon receipt by the administrator of a superseding complete application for a general account under subdivision B 1 of this section. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous alternate CAIR-authorized account representative before the time and date when the administrator receives the superseding application for a general account shall be binding on the new alternate CAIR-authorized account representative and the persons with an ownership interest with respect to the CAIR SO₂ allowances in the general account.

c. (1) In the event a [~~new~~] person having an ownership interest with respect to CAIR SO₂ allowances in the general account is not included in the list of such persons in the application for a general account, such [~~new~~] person shall be deemed to be subject to and bound by the application for a general account, the representation, actions, inactions, and submissions of the CAIR-authorized account representative and any alternate CAIR-authorized account representative of the account, and the decisions and orders of the administrator or a court, as if the [~~new~~] person were included in such list.

(2) Within 30 days following any change in the persons having an ownership interest with respect to CAIR SO₂

allowances in the general account, including the addition of [persons a new person], the CAIR-authorized account representative or any alternate CAIR-authorized account representative shall submit a revision to the application for a general account amending the list of persons having an ownership interest with respect to the CAIR SO₂ allowances in the general account to include the change.

4. Objections concerning the CAIR-authorized account representative [and alternate CAIR-authorized account representative] shall be processed as follows:

a. Once a complete application for a general account under subdivision B 1 of this section has been submitted and received, the administrator will rely on the application unless and until a superseding complete application for a general account under subdivision B 1 of this section is received by the administrator.

b. Except as provided in subdivision B 3 a or b of this section, no objection or other communication submitted to the administrator concerning the authorization, or any representation, action, inaction, or submission of the CAIR-authorized account representative or any [alternative alternate] CAIR-authorized account representative for a general account shall affect any representation, action, inaction, or submission of the CAIR-authorized account representative or any [alternative alternate] CAIR-authorized account representative or the finality of any decision or order by the administrator under the CAIR SO₂ Trading Program.

c. The administrator will not adjudicate any private legal dispute concerning the authorization or any representation, action, inaction, or submission of the CAIR-authorized account representative or any [alternative alternate] CAIR-authorized account representative for a general account, including private legal disputes concerning the proceeds of CAIR SO₂ allowance transfers.

[5. Delegation by CAIR-authorized account representative and alternate CAIR-authorized account representative shall be as follows:

a. A CAIR-authorized account representative may delegate to one or more natural persons his authority to make an electronic submission to the administrator provided for or required under Article 6 (9 VAC 5-140-3500 et seq.) and Article 7 (9 VAC 5-140-3600 et seq.) of this part.

b. An alternate CAIR-authorized account representative may delegate to one or more natural persons his authority to make an electronic submission to the administrator provided for or required under Article 6 (9 VAC 5-140-3500 et seq.) and Article 7 (9 VAC 5-140-3600 et seq.) of this part.

c. In order to delegate authority to make an electronic submission to the administrator in accordance with subdivision a or b of this subdivision 5, the CAIR-authorized account representative or alternate CAIR-authorized account

representative, as appropriate, must submit to the administrator a notice of delegation, in a format prescribed by the administrator, that includes the following elements:

(1) The name, address, email address, telephone number, and facsimile transmission number (if any) of such CAIR-authorized account representative or alternate CAIR-authorized account representative;

(2) The name, address, email address, telephone number, and facsimile transmission number (if any) of each such natural person (referred to as an “agent”);

(3) For each such natural person, a list of the type or types of electronic submissions under subdivision a or b of this subdivision 5 for which authority is delegated to him;

(4) The following certification statement by such CAIR-authorized account representative or alternate CAIR-authorized account representative: “I agree that any electronic submission to the administrator that is by an agent identified in this notice of delegation and of a type listed for such agent in this notice of delegation and that is made when I am a CAIR-authorized account representative or alternate CAIR-authorized representative, as appropriate, and before this notice of delegation is superseded by another notice of delegation under 9 VAC 5-140-3510 B 5 d shall be deemed to be an electronic submission by me.”; and

(5) The following certification statement by such CAIR-authorized account representative or alternate CAIR-authorized account representative: “Until this notice of delegation is superseded by another notice of delegation under 9 VAC 5-140-3510 B 5 d, I agree to maintain an email account and to notify the administrator immediately of any change in my email address unless all delegation of authority by me under 9 VAC 5-140-3510 B 5 is terminated.”

d. A notice of delegation submitted under subdivision c of this subdivision 5 shall be effective, with regard to the CAIR-authorized account representative or alternate CAIR-authorized account representative identified in such notice, upon receipt of such notice by the administrator and until receipt by the administrator of a superseding notice of delegation submitted by such CAIR-authorized account representative or alternate CAIR-authorized account representative, as appropriate. The superseding notice of delegation may replace any previously identified agent, add a new agent, or eliminate entirely any delegation of authority.

e. Any electronic submission covered by the certification in subdivision c (4) of this subdivision 5 and made in accordance with a notice of delegation effective under subdivision d of this subdivision 5 shall be deemed to be an electronic submission by the CAIR-designated representative or alternate CAIR-designated representative submitting such notice of delegation.]

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C. The administrator will assign a unique identifying number to each account established under subsection A or B of this section.

9 VAC 5-140-3520. Responsibilities of CAIR-authorized account representative.

Following the establishment of a CAIR SO₂ Allowance Tracking System account, all submissions to the administrator pertaining to the account, including, but not limited to, submissions concerning the deduction or transfer of CAIR SO₂ allowances in the account, shall be made only by the CAIR-authorized account representative for the account.

9 VAC 5-140-3530. Recordation of CAIR SO₂ allowances.

A. 1. After a compliance account is established under 9 VAC 5-140-3510 A or 40 CFR 73.31(a) or (b), the administrator will record in the compliance account any CAIR SO₂ allowance allocated to any CAIR SO₂ unit at the source for each of the 30 years starting the later of 2010 or the year in which the compliance account is established and any CAIR SO₂ allowance allocated for each of the 30 years starting the later of 2010 or the year in which the compliance account is established and transferred to the source in accordance with Article 7 (9 VAC 5-140-3600 et seq.) of this part or subpart D of 40 CFR Part 73.

2. In 2011 and each year thereafter, after administrator has completed all deductions under 9 VAC 5-140-3540 B, the administrator will record in the compliance account any CAIR SO₂ allowance allocated to any CAIR SO₂ unit at the source for the new 30th year (i.e., the year that is 30 years after the calendar year for which such deductions are or could be made) and any CAIR SO₂ allowance allocated for the new 30th year and transferred to the source in accordance with Article 7 (9 VAC 5-140-3600 et seq.) of this part or subpart D of 40 CFR Part 73.

B. 1. After a general account is established under 9 VAC 5-140-3510 B or 40 CFR 73.31(c), the administrator will record in the general account any CAIR SO₂ allowance allocated for each of the 30 years starting the later of 2010 or the year in which the general account is established and transferred to the general account in accordance with Article 7 (9 VAC 5-140-3600 et seq.) of this part or subpart D of 40 CFR Part 73.

2. In 2011 and each year thereafter, after administrator has completed all deductions under 9 VAC 5-140-3540 B, the administrator will record in the general account any CAIR SO₂ allowance allocated for the new 30th year (i.e., the year that is 30 years after the calendar year for which such deductions are or could be made) and transferred to the general account in accordance with Article 7 (9 VAC 5-140-3600 et seq.) of this part or subpart D of 40 CFR Part 73.

C. When recording the allocation of CAIR SO₂ allowances issued by a permitting authority under 9 VAC 5-140-3880, the administrator will assign each such CAIR SO₂ allowance

a unique identification number that will include digits identifying the year of the control period for which the CAIR SO₂ allowance is allocated.

9 VAC 5-140-3540. Compliance with CAIR SO₂ emissions limitation.

A. The CAIR SO₂ allowances are available to be deducted for compliance with a source's CAIR SO₂ emissions limitation for a control period in a given calendar year only if the CAIR SO₂ allowances:

1. Were allocated for the control period in the year or a prior year; [and]

2. Are held in the compliance account as of the allowance transfer deadline for the control period or are transferred into the compliance account by a CAIR SO₂ allowance transfer correctly submitted for recordation under 9 VAC 5-140-3600 [and 9 VAC 5-140-3610] by the allowance transfer deadline for the control period [~~;~~ and.]

~~3. Are not necessary for deductions for excess emissions for a prior control period under subsection D of this section or for deduction under 40 CFR Part 77.]~~

B. Following the recordation, in accordance with 9 VAC 5-140-3610, of CAIR SO₂ allowance transfers submitted for recordation in a source's compliance account by the allowance transfer deadline for a control period, the administrator will deduct from the compliance account CAIR SO₂ allowances available under subsection A of this section in order to determine whether the source meets the CAIR SO₂ emissions limitation for the control period as follows:

1. For a CAIR SO₂ source subject to an acid rain emissions limitation, the administrator will, in the following order:

a. Deduct the amount of CAIR SO₂ allowances, available under subsection A of this section and not issued by a permitting authority under 9 VAC 5-140-3880, that is required under 40 CFR 73.35(b) and (c). If there are sufficient CAIR SO₂ allowances to complete this deduction, the deduction will be treated as satisfying the requirements of 40 CFR 73.35(b) and (c).

b. Deduct the amount of CAIR SO₂ allowances [~~available under subsection A of this section and~~] not issued by a permitting authority under 9 VAC 5-140-3880, that is required under 40 CFR 73.35 and 77.5. If there are sufficient CAIR SO₂ allowances to complete this deduction, the deduction will be treated as satisfying the requirements of 40 CFR 73.35(d) and 77.5.

c. Treating the CAIR SO₂ allowances deducted under subdivision B 1 a of this section as also being deducted under this subdivision, deduct CAIR SO₂ allowances available under subsection A of this section (including any issued by a permitting authority under 9 VAC 5-140-3880 in order to

determine whether the source meets the CAIR SO₂ emissions limitation for the control period, as follows:

(1) Until the tonnage equivalent of the CAIR SO₂ allowances deducted equals, or exceeds in accordance with subdivisions C 1 and 2 of this section, the number of tons of total sulfur dioxide emissions, determined in accordance with Article 8 (9 VAC 5-140-3700 et seq.) of this part, from all CAIR SO₂ units at the source for the control period; or

(2) If there are insufficient CAIR SO₂ allowances to complete the deductions in subdivision (1) of this subdivision, until no more CAIR SO₂ allowances available under subsection A of this section (including any issued by a permitting authority under 9 VAC 5-140-3880 remain in the compliance account.

2. For a CAIR SO₂ source not subject to an acid rain emissions limitation, the administrator will deduct CAIR SO₂ allowances available under subsection A of this section (including any issued by a permitting authority under 9 VAC 5-140-3880 in order to determine whether the source meets the CAIR SO₂ emissions limitation for the control period, as follows:

a. Until the tonnage equivalent of the CAIR SO₂ allowances deducted equals, or exceeds in accordance with subdivisions C 1 and 2 of this section, the number of tons of total sulfur dioxide emissions, determined in accordance with Article 8 (9 VAC 5-140-3700 et seq.) of this part, from all CAIR SO₂ units at the source for the control period; or

b. If there are insufficient CAIR SO₂ allowances to complete the deductions in subdivision a of this subdivision, until no more CAIR SO₂ allowances available under subsection A of this section (including any issued by a permitting authority under 9 VAC 5-140-3880) remain in the compliance account.

C. 1. The CAIR-authorized account representative for a source's compliance account may request that specific CAIR SO₂ allowances, identified by serial number, in the compliance account be deducted for emissions or excess emissions for a control period in accordance with subsection B or D of this section. Such request shall be submitted to the administrator by the allowance transfer deadline for the control period and include, in a format prescribed by the administrator, the identification of the CAIR SO₂ source and the appropriate serial numbers.

2. The administrator will deduct CAIR SO₂ allowances under subsection B or D of this section from the source's compliance account, in the absence of an identification or in the case of a partial identification of CAIR SO₂ allowances by serial number under subdivision 1 of this subsection, on a first in, first out accounting basis in the following order:

a. Any CAIR SO₂ allowances that were allocated to the units at the source for a control period before 2010, in the order of recordation;

b. Any CAIR SO₂ allowances that were allocated to any entity for a control period before 2010 and transferred and recorded in the compliance account pursuant to Article 7 (9 VAC 5-140-3600 et seq.) of this part or subpart D of 40 CFR Part 73, in the order of recordation;

c. Any CAIR SO₂ allowances that were allocated to the units at the source for a control period during 2010 through 2014, in the order of recordation;

d. Any CAIR SO₂ allowances that were allocated to any entity for a control period during 2010 through 2014 and transferred and recorded in the compliance account pursuant to Article 7 (9 VAC 5-140-3600 et seq.) of this part or subpart D of 40 CFR Part 73, in the order of recordation;

e. Any CAIR SO₂ allowances that were allocated to the units at the source for a control period in 2015 or later, in the order of recordation; and

f. Any CAIR SO₂ allowances that were allocated to any entity for a control period in 2015 or later and transferred and recorded in the compliance account pursuant to Article 7 (9 VAC 5-140-3600 et seq.) of this part or subpart D of 40 CFR Part 73, in the order of recordation.

D. Deductions for excess emissions shall be made as follows:

1. After making the deductions for compliance under subsection B of this section for a control period in a calendar year in which the CAIR SO₂ source has excess emissions, the administrator will deduct from the source's compliance account the tonnage equivalent in CAIR SO₂ allowances, allocated for the control period in the immediately following calendar year (including any issued by a permitting authority under 9 VAC 5-140-3880), equal to, or exceeding in accordance with subdivisions C 1 and 2 of this section [~~z~~] three times the [following amount: the] number of tons of the source's excess emissions [minus, if the source is subject to an Acid Rain emissions limitation, the amount of the CAIR SO₂ allowances required to be deducted under subdivision B 1 b of this section].

2. Any allowance deduction required under subdivision 1 of this subdivision shall not affect the liability of the owners and operators of the CAIR SO₂ source or the CAIR SO₂ units at the source for any fine, penalty, or assessment, or their obligation to comply with any other remedy, for the same violations, as ordered under the Clean Air Act or the Virginia Air Pollution Control Law.

E. The administrator will record in the appropriate compliance account all deductions from such an account under subsections B [~~or~~ and] D of this section [and Article 9 (9 VAC 5-140-3800 et seq.) of this part].

F. Administrator actions on submissions will occur as follows:

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1. The administrator may review and conduct independent audits concerning any submission under the CAIR SO₂ Trading Program and make appropriate adjustments of the information in the submissions.

2. The administrator may deduct CAIR SO₂ allowances from or transfer CAIR SO₂ allowances to a source's compliance account based on the information in the submissions, as adjusted under subdivision 1 of this [~~subdivision~~ subsection, and record such deductions and transfers].

9 VAC 5-140-3550. Banking.

A. CAIR SO₂ allowances may be banked for future use or transfer in a compliance account or a general account in accordance with subsection B of this section.

B. Any CAIR SO₂ allowance that is held in a compliance account or a general account will remain in such account unless and until the CAIR SO₂ allowance is deducted or transferred under 9 VAC 5-140-3540, 9 VAC 5-140-3560, or Article 7 (9 VAC 5-140-3600 et seq.) [or Article 9 (9 VAC 5-140-3800 et seq.)] of this part.

9 VAC 5-140-3560. Account error.

The administrator may, at the administrator's sole discretion and on the administrator's own motion, correct any error in any CAIR SO₂ Allowance Tracking System account. Within 10 business days of making such correction, the administrator will notify the CAIR-authorized account representative for the account.

9 VAC 5-140-3570. Closing of general accounts.

A. The CAIR-authorized account representative of a general account may submit to the administrator a request to close the account, which shall include a correctly submitted allowance transfer under 9 VAC 5-140-3600 [and 9 VAC 5-140-3610] for any CAIR SO₂ allowances in the account to one or more other CAIR SO₂ Allowance Tracking System accounts.

B. If a general account has no allowance transfers in or out of the account for a 12-month period or longer and does not contain any CAIR SO₂ allowances, the administrator may notify the CAIR-authorized account representative for the account that the account will be closed following 20 business days after the notice is sent. The account will be closed after the 20-day period unless, before the end of the 20-day period, the administrator receives a correctly submitted transfer of CAIR SO₂ allowances into the account under 9 VAC 5-140-3600 [and 9 VAC 5-140-3610] or a statement submitted by the CAIR-authorized account representative demonstrating to the satisfaction of the administrator good cause as to why the account should not be closed.

Article 7.

CAIR SO₂ Allowance Transfers.

9 VAC 5-140-3600. Submission of CAIR SO₂ allowance transfers.

A. A CAIR-authorized account representative seeking recordation of a CAIR SO₂ allowance transfer shall submit the transfer to the administrator. To be considered correctly submitted, the CAIR SO₂ allowance transfer shall include the following elements, in a format specified by the administrator:

1. The account numbers of both the transferor and transferee accounts;

2. The serial number of each CAIR SO₂ allowance that is in the transferor account and is to be transferred; and

3. The name and signature of the CAIR-authorized account representatives of the transferor and transferee accounts and the dates signed.

B. 1. The CAIR-authorized account representative for the transferee account can meet the requirements in subdivision A 3 of this section by submitting, in a format prescribed by the administrator, a statement signed by the CAIR-authorized account representative and identifying each account into which any transfer of allowances, submitted on or after the date on which the administrator receives such statement, is authorized. Such authorization shall be binding on any CAIR-authorized account representative for such account and shall apply to all transfers into the account that are submitted on or after such date of receipt, unless and until the administrator receives a statement signed by the CAIR-authorized account representative retracting the authorization for the account.

2. The statement under subdivision 1 of this subsection shall include the following: "By this signature I authorize any transfer of allowances into each account listed herein, except that I do not waive any remedies under state or federal law to obtain correction of any erroneous transfers into such accounts. This authorization shall be binding on any CAIR-authorized account representative for such account unless and until a statement signed by the CAIR-authorized account representative retracting this authorization for the account is received by the administrator."

9 VAC 5-140-3610. EPA recordation.

A. Within five business days (except as necessary to perform a transfer in perpetuity of CAIR SO₂ allowances allocated to a CAIR SO₂ unit or as provided in subsection B of this section) of receiving a CAIR SO₂ allowance transfer, the administrator will record a CAIR SO₂ allowance transfer by moving each CAIR SO₂ allowance from the transferor account to the transferee account as specified by the request, provided that:

1. The transfer is correctly submitted under 9 VAC 5-140-3600; ~~[and]~~

2. The transferor account includes each CAIR SO₂ allowance identified by serial number in the transfer ~~[; and]~~

3. The transfer is in accordance with the limitation on transfer under 40 CFR 74.42 and 74.47(c), as applicable.]

B. A CAIR SO₂ allowance transfer that is submitted for recordation after the allowance transfer deadline for a control period and that includes any CAIR SO₂ allowances allocated for any control period before such allowance transfer deadline will not be recorded until after the administrator completes the deductions under 9 VAC 5-140-3540 for the control period immediately before such allowance transfer deadline.

C. Where a CAIR SO₂ allowance transfer submitted for recordation fails to meet the requirements of subsection A of this section, the administrator will not record such transfer.

9 VAC 5-140-3620. Notification.

A. Within five business days of recordation of a CAIR SO₂ allowance transfer under 9 VAC 5-140-3610, the administrator will notify the CAIR-authorized account representatives of both the transferor and transferee accounts.

B. Within 10 business days of receipt of a CAIR SO₂ allowance transfer that fails to meet the requirements of 9 VAC 5-140-3610 A, the administrator will notify the CAIR-authorized account representatives of both accounts subject to the transfer of:

1. A decision not to record the transfer, and

2. The reasons for such nonrecordation.

C. Nothing in this section shall preclude the submission of a CAIR SO₂ allowance transfer for recordation following notification of nonrecordation.

Article 8.

Monitoring and Reporting.

9 VAC 5-140-3700. General requirements.

A. The owners and operators, and to the extent applicable, the CAIR-designated representative, of a CAIR SO₂ unit, shall comply with the monitoring, recordkeeping, and reporting requirements as provided in this article and in subparts F and G of 40 CFR Part 75. For purposes of complying with such requirements, the definitions in 9 VAC 5-140-3020 and in 40 CFR 72.2 shall apply, and the terms "affected unit," "designated representative," and "continuous emission monitoring system (CEMS)" in 40 CFR Part 75 shall be deemed to refer to the terms "CAIR SO₂ unit," "CAIR-designated representative," and "continuous emission monitoring system (CEMS)" respectively, as defined in 9 VAC 5-140-3020. The owner or operator of a unit that is not a CAIR SO₂ unit but that is monitored under 40 CFR

75.16(b)(2) shall comply with the same monitoring, recordkeeping, and reporting requirements as a CAIR SO₂ unit.

B. The owner or operator of each CAIR SO₂ unit shall:

1. Install all monitoring systems required under this article for monitoring SO₂ mass emissions and individual unit heat input (including all systems required to monitor SO₂ concentration, stack gas moisture content, stack gas flow rate, CO₂ or O₂ concentration, and fuel flow rate, as applicable, in accordance with 40 CFR 75.11 and 75.16):

2. Successfully complete all certification tests required under 9 VAC 5-140-3710 and meet all other requirements of this article and 40 CFR Part 75 applicable to the monitoring systems under subdivision 1 of this subsection; and

3. Record, report, and quality-assure the data from the monitoring systems under subdivision 1 of this subsection.

C. ~~[The]~~ Except as provided in subsection F of this section, the owner or operator shall meet the monitoring system certification and other requirements of subdivisions B 1 and 2 of this section on or before the following dates. The owner or operator shall record, report, and quality-assure the data from the monitoring systems under subdivision B 1 of this section on and after the following dates.

1. For the owner or operator of a CAIR SO₂ unit that commences commercial operation before July 1, 2008, by January 1, 2009.

2. For the owner or operator of a CAIR SO₂ unit that commences commercial operation on or after July 1, 2008, by the later of the following dates:

a. January 1, 2009; or

b. Ninety unit operating days or 180 calendar days, whichever occurs first, after the date on which the unit commences commercial operation.

3. For the owner or operator of a CAIR SO₂ unit for which construction of a new stack or flue or installation of add-on SO₂ emission controls is completed after the applicable deadline under subdivision 1, 2, 4, or 5 of this subsection, by 90 unit operating days or 180 calendar days, whichever occurs first, after the date on which emissions first exit to the atmosphere through the new stack or flue or add-on SO₂ emissions controls.

4. Notwithstanding the dates in subdivisions 1 and 2 of this subsection, for the owner or operator of a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under Article 9 (9 VAC 5-140-3800 et seq.) of this part, by the date specified in subdivision 2 of 9 VAC 5-140-3840.

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5. Notwithstanding the dates in subdivisions 1 and 2 of this subsection [~~and solely for purposes of 9 VAC 5-140-3060 C 2~~], for the owner or operator of a CAIR SO₂ opt-in unit under Article 9 (9 VAC 5-140-3800 et seq.) of this part, by the date on which the CAIR SO₂ opt-in unit enters the CAIR SO₂ Trading Program as provided in subdivision 7 of 9 VAC 5-140-3840.

[~~D. Data shall be reported as follows:~~

~~1. Except as provided in subdivision 2 of this subsection, the D. The] owner or operator of a CAIR SO₂ unit that does not meet the applicable compliance date set forth in subsection C of this section for any monitoring system under subdivision B 1 of this section shall, for each such monitoring system, determine, record, and report maximum potential (or, as appropriate, minimum potential) values for SO₂ concentration, [~~SO₂ emission rate,~~] stack gas flow rate, stack gas moisture content, fuel flow rate, and any other parameters required to determine SO₂ mass emissions and heat input in accordance with 40 CFR 75.31(b)(2) or (c)(3) or section 2.4 of appendix D to 40 CFR Part 75, as applicable.~~

~~[2. The owner or operator of a CAIR SO₂ unit that does not meet the applicable compliance date set forth in subdivision C 3 of this section for any monitoring system under subdivision B 1 of this section shall, for each such monitoring system, determine, record, and report substitute data using the applicable missing data procedures in subpart D of or appendix D to 40 CFR Part 75, in lieu of the maximum potential (or, as appropriate, minimum potential) values, for a parameter if the owner or operator demonstrates that there is continuity between the data streams for that parameter before and after the construction or installation under subdivision C 3 of this section.]~~

E. The following prohibitions shall apply.

1. No owner or operator of a CAIR SO₂ unit shall use any alternative monitoring system, alternative reference method, or any other alternative to any requirement of this article without having obtained prior written approval in accordance with 9 VAC 5-140-3750.

2. No owner or operator of a CAIR SO₂ unit shall operate the unit so as to discharge, or allow to be discharged, SO₂ emissions to the atmosphere without accounting for all such emissions in accordance with the applicable provisions of this article and 40 CFR Part 75.

3. No owner or operator of a CAIR SO₂ unit shall disrupt the continuous emission monitoring system, any portion thereof, or any other approved emission monitoring method, and thereby avoid monitoring and recording SO₂ mass emissions discharged into the atmosphere [or heat input], except for periods of recertification or periods when calibration, quality assurance testing, or maintenance is performed in accordance with the applicable provisions of this article and 40 CFR Part 75.

4. No owner or operator of a CAIR SO₂ unit shall retire or permanently discontinue use of the continuous emission monitoring system, any component thereof, or any other approved monitoring system under this article, except under any one of the following circumstances:

a. During the period that the unit is covered by an exemption under 9 VAC 5-140-3050 that is in effect;

b. The owner or operator is monitoring emissions from the unit with another certified monitoring system approved, in accordance with the applicable provisions of this article and 40 CFR Part 75, by the permitting authority for use at that unit that provides emission data for the same pollutant or parameter as the retired or discontinued monitoring system; or

c. The CAIR-designated representative submits notification of the date of certification testing of a replacement monitoring system for the retired or discontinued monitoring system in accordance with 9 VAC 5-140-3710 D 3 a.

[F. The owner or operator of a CAIR SO₂ unit is subject to the applicable provisions of 40 CFR Part 75 concerning units in long-term cold storage.]

9 VAC 5-140-3710. Initial certification and recertification procedures.

A. The owner or operator of a CAIR SO₂ unit shall be exempt from the initial certification requirements of this section for a monitoring system under 9 VAC 5-140-3700 B 1 if the following conditions are met:

1. The monitoring system has been previously certified in accordance with 40 CFR Part 75; and

2. The applicable quality-assurance and quality-control requirements of 40 CFR 75.21 and appendix B and appendix D to 40 CFR Part 75 are fully met for the certified monitoring system described in subdivision 1 of this subsection.

B. The recertification provisions of this section shall apply to a monitoring system under 9 VAC 5-140-3700 B 1 exempt from initial certification requirements under subsection A of this section.

C. [~~If the administrator has previously approved a petition under 40 CFR 75.16(b)(2)(ii) for apportioning the SO₂ mass emissions measured in a common stack or a petition under 40 CFR 75.66 for an alternative to a requirement in 40 CFR 75.11 or 75.16, the CAIR designated representative shall resubmit the petition to the administrator under 9 VAC 5-140-3750 A to determine whether the approval applies under the CAIR SO₂ Trading Program. (Reserved.)~~]

D. Except as provided in subsection A of this section, the owner or operator of a CAIR SO₂ unit shall comply with the following initial certification and recertification procedures, for a continuous monitoring system (i.e., a continuous emission monitoring system and an excepted monitoring

system under appendix D to 40 CFR Part 75) under 9 VAC 5-140-3700 B 1. The owner or operator of a unit that qualifies to use the low mass emissions excepted monitoring methodology under 40 CFR 75.19 or that qualifies to use an alternative monitoring system under subpart E of 40 CFR Part 75 shall comply with the procedures in subsection E or F of this section, respectively.

1. The owner or operator shall ensure that each continuous monitoring system under 9 VAC 5-140-3700 B 1 (including the automated data acquisition and handling system) successfully completes all of the initial certification testing required under 40 CFR 75.20 by the applicable deadline in 9 VAC 5-140-3700 C. In addition, whenever the owner or operator installs a monitoring system to meet the requirements of this article in a location where no such monitoring system was previously installed, initial certification in accordance with 40 CFR 75.20 is required.

2. Whenever the owner or operator makes a replacement, modification, or change in any certified continuous emission monitoring system under 9 VAC 5-140-3700 B 1 that may significantly affect the ability of the system to accurately measure or record SO₂ mass emissions or heat input rate or to meet the quality-assurance and quality-control requirements of 40 CFR 75.21 or appendix B to 40 CFR Part 75, the owner or operator shall recertify the monitoring system in accordance with 40 CFR 75.20(b). Furthermore, whenever the owner or operator makes a replacement, modification, or change to the flue gas handling system or the unit's operation that may significantly change the stack flow or concentration profile, the owner or operator shall recertify each continuous emission monitoring system whose accuracy is potentially affected by the change, in accordance with 40 CFR 75.20(b). Examples of changes to a continuous emission monitoring system that require recertification include: replacement of the analyzer, complete replacement of an existing continuous emission monitoring system, or change in location or orientation of the sampling probe or site. Any fuel flowmeter system under 9 VAC 5-140-3700 B 1 is subject to the recertification requirements in 40 CFR 75.20(g)(6).

3. Subdivisions a through d of this subdivision apply to both initial certification and recertification of a continuous monitoring system under 9 VAC 5-140-3700 B 1. For recertifications, replace the words "certification" and "initial certification" with the word "recertification," replace the word "certified" with the word "recertified," and follow the procedures in 40 CFR 75.20(b)(5) and (g)(7) in lieu of the procedures in subdivision e of this subdivision.

a. The CAIR-designated representative shall submit to the permitting authority, the EPA Region III Office, and the administrator written notice of the dates of certification testing, in accordance with 9 VAC 5-140-3730.

b. The CAIR-designated representative shall submit to the permitting authority a certification application for each monitoring system. A complete certification application shall include the information specified in 40 CFR 75.63.

c. The provisional certification date for a monitoring system shall be determined in accordance with 40 CFR 75.20(a)(3). A provisionally certified monitoring system may be used under the CAIR SO₂ Trading Program for a period not to exceed 120 days after receipt by the permitting authority of the complete certification application for the monitoring system under subdivision b of this subdivision. Data measured and recorded by the provisionally certified monitoring system, in accordance with the requirements of 40 CFR Part 75, will be considered valid quality-assured data (retroactive to the date and time of provisional certification), provided that the permitting authority does not invalidate the provisional certification by issuing a notice of disapproval within 120 days of the date of receipt of the complete certification application by the permitting authority.

d. The permitting authority will issue a written notice of approval or disapproval of the certification application to the owner or operator within 120 days of receipt of the complete certification application under subdivision b of this subdivision. In the event the permitting authority does not issue such a notice within such 120-day period, each monitoring system that meets the applicable performance requirements of 40 CFR Part 75 and is included in the certification application will be deemed certified for use under the CAIR SO₂ Trading Program.

(1) If the certification application is complete and shows that each monitoring system meets the applicable performance requirements of 40 CFR Part 75, then the permitting authority will issue a written notice of approval of the certification application within 120 days of receipt.

(2) If the certification application is not complete, then the permitting authority will issue a written notice of incompleteness that sets a reasonable date by which the CAIR-designated representative shall submit the additional information required to complete the certification application. If the CAIR-designated representative does not comply with the notice of incompleteness by the specified date, then the permitting authority may issue a notice of disapproval under subdivision (3) of this subdivision. The 120-day review period shall not begin before receipt of a complete certification application.

(3) If the certification application shows that any monitoring system does not meet the performance requirements of 40 CFR Part 75 or if the certification application is incomplete and the requirement for disapproval under subdivision (2) of this subdivision is met, then the permitting authority will issue a written notice of disapproval of the certification application. Upon issuance of such notice of disapproval, the

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provisional certification is invalidated by the permitting authority and the data measured and recorded by each uncertified monitoring system shall not be considered valid quality-assured data beginning with the date and hour of provisional certification (as defined under 40 CFR 75.20(a)(3)). The owner or operator shall follow the procedures for loss of certification in subdivision e of this subdivision for each monitoring system that is disapproved for initial certification.

(4) The permitting authority or, for a CAIR SO₂ opt-in unit or a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under Article 9 (9 VAC 5-140-3800 et seq.) of this part, the administrator may issue a notice of disapproval of the certification status of a monitor in accordance with 9 VAC 5-140-3720 B.

e. If the permitting authority or the administrator issues a notice of disapproval of a certification application under subdivision d (3) of this subdivision or a notice of disapproval of certification status under subdivision d (4) of this subdivision, then:

(1) The owner or operator shall substitute the following values, for each disapproved monitoring system, for each hour of unit operation during the period of invalid data specified under 40 CFR 75.20(a)(4)(iii), 40 CFR 75.20(g)(7), or 40 CFR 75.21(e) and continuing until the applicable date and hour specified under 40 CFR 75.20(a)(5)(i) or (g)(7):

(a) For a disapproved SO₂ pollutant concentration monitor and disapproved flow monitor, respectively, the maximum potential concentration of SO₂ and the maximum potential flow rate, as defined in sections 2.1.1.1 and 2.1.4.1 of appendix A to 40 CFR Part 75.

(b) For a disapproved moisture monitoring system and disapproved diluent gas monitoring system, respectively, the minimum potential moisture percentage and either the maximum potential CO₂ concentration or the minimum potential O₂ concentration (as applicable), as defined in sections 2.1.5, 2.1.3.1, and 2.1.3.2 of appendix A to 40 CFR Part 75.

(c) For a disapproved fuel flowmeter system, the maximum potential fuel flow rate, as defined in section 2.4.2.1 of appendix D to 40 CFR Part 75.

(2) The CAIR-designated representative shall submit a notification of certification retest dates and a new certification application in accordance with subdivisions a and b of this subdivision.

(3) The owner or operator shall repeat all certification tests or other requirements that were failed by the monitoring system, as indicated in the permitting authority's or the administrator's notice of disapproval, no later than 30 unit

operating days after the date of issuance of the notice of disapproval.

E. The owner or operator of a unit qualified to use the low mass emissions (LME) excepted methodology under 40 CFR 75.19 shall meet the applicable certification and recertification requirements in 40 CFR 75.19(a)(2) and 75.20(h). If the owner or operator of such a unit elects to certify a fuel flowmeter system for heat input determination, the owner or operator shall also meet the certification and recertification requirements in 40 CFR 75.20(g).

F. The CAIR-designated representative of each unit for which the owner or operator intends to use an alternative monitoring system approved by the administrator and, if applicable, the permitting authority under subpart E of 40 CFR Part 75 shall comply with the applicable notification and application procedures of 40 CFR 75.20(f).

9 VAC 5-140-3720. Out of control periods.

A. Whenever any monitoring system fails to meet the quality assurance and quality control requirements or data validation requirements of 40 CFR Part 75, data shall be substituted using the applicable missing data procedures in subpart D of or appendix D to 40 CFR Part 75.

B. Whenever both an audit of a monitoring system and a review of the initial certification or recertification application reveal that any monitoring system should not have been certified or recertified because it did not meet a particular performance specification or other requirement under 9 VAC 5-140-3710 or the applicable provisions of 40 CFR Part 75, both at the time of the initial certification or recertification application submission and at the time of the audit, the permitting authority or, for a CAIR SO₂ opt-in unit or a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under Article 9 (9 VAC 5-140-3800 et seq.) of this part, the administrator will issue a notice of disapproval of the certification status of such monitoring system. For the purposes of this subsection, an audit shall be either a field audit or an audit of any information submitted to the permitting authority or the administrator. By issuing the notice of disapproval, the permitting authority or the administrator revokes prospectively the certification status of the monitoring system. The data measured and recorded by the monitoring system shall not be considered valid quality-assured data from the date of issuance of the notification of the revoked certification status until the date and time that the owner or operator completes subsequently approved initial certification or recertification tests for the monitoring system. The owner or operator shall follow the applicable initial certification or recertification procedures in 9 VAC 5-140-3710 for each disapproved monitoring system.

9 VAC 5-140-3730. Notifications.

The CAIR-designated representative for a CAIR SO₂ unit shall submit written notice to the permitting authority and the administrator in accordance with 40 CFR 75.61 [~~except that if the unit is not subject to an acid rain emissions limitation, the notification is only required to be sent to the permitting authority~~].

9 VAC 5-140-3740. Recordkeeping and reporting.

A. The CAIR-designated representative shall comply with all recordkeeping and reporting requirements in this section, the applicable recordkeeping and reporting requirements in subparts F and G of 40 CFR Part 75, and the requirements of 9 VAC 5-140-3100 E 1.

B. The owner or operator of a CAIR SO₂ unit shall comply with requirements of 40 CFR 75.62 and, for a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under Article 9 (9 VAC 5-140-3800 et seq.) of this part, 9 VAC 5-140-3830 and subdivision 1 of 9 VAC 5-140-3840.

C. The CAIR-designated representative shall submit an application to the permitting authority within 45 days after completing all initial certification or recertification tests required under 9 VAC 5-140-3710, including the information required under 40 CFR 75.63.

D. The CAIR-designated representative shall submit quarterly reports, as follows:

1. The CAIR-designated representative shall report the SO₂ mass emissions data and heat input data for the CAIR SO₂ unit, in an electronic quarterly report in a format prescribed by the administrator, for each calendar quarter beginning with:

a. For a unit that commences commercial operation before July 1, 2008, the calendar quarter covering January 1, 2009, through March 31, 2009; [~~or~~]

b. For a unit that commences commercial operation on or after July 1, 2008, the calendar quarter corresponding to the earlier of the date of provisional certification or the applicable deadline for initial certification under 9 VAC 5-140-3700 C, unless that quarter is the third or fourth quarter of 2008, in which case reporting shall commence in the quarter covering January 1, 2009 through March 31, 2009 [;

c. Notwithstanding subdivisions a and b of this subdivision 1, for a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under Article 9 (9 VAC 5-140-3800 et seq.) of this part, the calendar quarter corresponding to the date specified in subdivision 2 of 9 VAC 5-140-3840; and

d. Notwithstanding subdivisions a and b of this subdivision 1, for a CAIR SO₂ opt-in unit under Article 9 (9 VAC 5-140-

3800 et seq.) of this part, the calendar quarter corresponding to the date on which the CAIR SO₂ opt-in unit enters the CAIR SO₂ Trading Program as provided in subdivision 7 of 9 VAC 5-140-3840].

2. The CAIR-designated representative shall submit each quarterly report to the administrator within 30 days following the end of the calendar quarter covered by the report. Quarterly reports shall be submitted in the manner specified in 40 CFR 75.64.

3. For CAIR SO₂ units that are also subject to an acid rain emissions limitation or the CAIR NO_x Annual Trading Program [~~or~~] CAIR NO_x Ozone Season Trading Program, [or Hg Trading Program,] quarterly reports shall include the applicable data and information required by subparts F through [~~H~~ I] of 40 CFR Part 75 as applicable, in addition to the SO₂ mass emission data, heat input data, and other information required by this article.

E. The CAIR-designated representative shall submit to the administrator a compliance certification (in a format prescribed by the administrator) in support of each quarterly report based on reasonable inquiry of those persons with primary responsibility for ensuring that all of the unit's emissions are correctly and fully monitored. The certification shall state that:

1. The monitoring data submitted were recorded in accordance with the applicable requirements of this article and 40 CFR Part 75, including the quality assurance procedures and specifications; and

2. For a unit with add-on SO₂ emission controls and for all hours where SO₂ data are substituted in accordance with 40 CFR 75.34 [~~A-1~~ (a) (1)], the add-on emission controls were operating within the range of parameters listed in the quality assurance/quality control program under appendix B to 40 CFR Part 75 and the substitute data values do not systematically underestimate SO₂ emissions.

9 VAC 5-140-3750. Petitions.

A. The CAIR-designated representative of a CAIR SO₂ unit that is subject to an acid rain emissions limitation may submit a petition under 40 CFR 75.66 to the administrator requesting approval to apply an alternative to any requirement of this article. Application of an alternative to any requirement of this article is in accordance with this article only to the extent that the petition is approved in writing by the administrator, in consultation with the permitting authority.

B. The CAIR-designated representative of a CAIR SO₂ unit that is not subject to an acid rain emissions limitation may submit a petition under 40 CFR 75.66 to the permitting authority and the administrator requesting approval to apply an alternative to any requirement of this article. Application of an alternative to any requirement of this article is in accordance with this article only to the extent that the petition

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is approved in writing by both the permitting authority and the administrator.

[9 VAC 5-140-3760. Additional requirements to provide heat input data.

The owner or operator of a CAIR SO₂ unit that monitors and reports SO₂ mass emissions using a SO₂ concentration system and a flow system shall also monitor and report heat input rate at the unit level using the procedures set forth in 40 CFR Part 75.]

Article 9.
CAIR SO₂ Opt-in Units.

9 VAC 5-140-3800. Applicability.

A CAIR SO₂ opt-in unit shall be a unit that:

1. Is located in the state;
2. Is not a CAIR SO₂ unit under 9 VAC 5-140-3040 and is not covered by a retired unit exemption under 9 VAC 5-140-3050 that is in effect;
3. Is not covered by a retired unit exemption under 40 CFR 72.8 that is in effect and is not an opt-in source under 40 CFR Part 74;
4. Has or is required or qualified to have a Title V operating permit or state operating permit; and
5. Vents all of its emissions to a stack and can meet the monitoring, recordkeeping, and reporting requirements of Article 8 (9 VAC 5-140-3700 et seq.) of this part.

9 VAC 5-140-3810. General.

A. Except as otherwise provided in 9 VAC 5-140-3010 through 9 VAC 5-140-3040, 9 VAC 5-140-3060 through 9 VAC 5-140-3080, and Articles 2 (9 VAC 5-140-3100 et seq.), 3 (9 VAC 5-140-3200 et seq.), 6 (9 VAC 5-140-3500 et seq.), 7 (9 VAC 5-140-3600 et seq.), and 8 (9 VAC 5-140-3700 et seq.) of this part, a CAIR SO₂ opt-in unit shall be treated as a CAIR SO₂ unit for purposes of applying such sections and articles of this part.

B. Solely for purposes of applying, as provided in this article, the requirements of Article 8 (9 VAC 5-140-3700 et seq.) of this part to a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under this article, such unit shall be treated as a CAIR SO₂ unit before issuance of a CAIR opt-in permit for such unit.

9 VAC 5-140-3820. CAIR-designated representative.

Any CAIR SO₂ opt-in unit, and any unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under this article, located at the same source as one or more CAIR SO₂ units shall have the same CAIR-designated representative and

alternate CAIR-designated representative as such CAIR SO₂ units.

9 VAC 5-140-3830. Applying for CAIR opt-in permit.

A. The CAIR-designated representative of a unit meeting the requirements for a CAIR SO₂ opt-in unit in 9 VAC 5-140-3800 may apply for an initial CAIR opt-in permit at any time, except as provided under 9 VAC 5-140-3860 G and H, and in order to apply, shall submit the following:

1. A complete CAIR permit application under 9 VAC 5-140-3220;
2. A certification, in a format acceptable to the permitting authority, that the unit:
 - a. Is not a CAIR SO₂ unit under 9 VAC 5-140-3040 and is not covered by a retired unit exemption under 9 VAC 5-140-3050 that is in effect;
 - b. Is not covered by a retired unit exemption under 40 CFR 72.8 that is in effect;
 - c. Is not and, so long as the unit is a CAIR SO₂ opt-in unit, will not become, an opt-in source under 40 CFR Part 74;
 - d. Vents all of its emissions to a stack; and
 - e. Has documented heat input for more than 876 hours during the six months immediately preceding submission of the CAIR permit application under 9 VAC 5-140-3220;

3. A monitoring plan in accordance with Article 8 (9 VAC 5-140-3700 et seq.) of this part;

4. A complete certificate of representation under 9 VAC 5-140-3130 consistent with 9 VAC 5-140-3820, if no CAIR-designated representative has been previously designated for the source that includes the unit; and

5. A statement, in a format acceptable to the permitting authority, whether the CAIR-designated representative requests that the unit be allocated CAIR SO₂ allowances under 9 VAC 5-140-3880 [~~D~~ B or C] (subject to the conditions in subdivision 8 of 9 VAC 5-140-3840 and 9 VAC 5-140-3860 H). [If allocation under 9 VAC 5-140-3880 C is requested, this statement shall include a statement that the owners and operators of the unit intend to repower the unit before January 1, 2015, and that they will provide, upon request, documentation demonstrating such intent.]

B. Opt-in permit renewal shall be required as follows:

1. The CAIR-designated representative of a CAIR SO₂ opt-in unit shall submit a complete CAIR permit application under 9 VAC 5-140-3220 to renew the CAIR opt-in unit permit in accordance with the permitting authority's regulations for Title V operating permits, or the permitting authority's regulations for state operating permits if applicable, addressing permit renewal.

2. Unless the permitting authority issues a notification of acceptance of withdrawal of the CAIR [SO₂] opt-in unit from the CAIR SO₂ Trading Program in accordance with 9 VAC 5-140-3860 or the unit becomes a CAIR SO₂ unit under 9 VAC 5-140-3040, the CAIR SO₂ opt-in unit shall remain subject to the requirements for a CAIR SO₂ opt-in unit, even if the CAIR-designated representative for the CAIR SO₂ opt-in unit fails to submit a CAIR permit application that is required for renewal of the CAIR opt-in permit under subdivision 1 of this subsection.

9 VAC 5-140-3840. Opt-in process.

The permitting authority will issue or deny a CAIR opt-in permit for a unit for which an initial application for a CAIR opt-in permit under 9 VAC 5-140-3830 is submitted in accordance with the following:

1. The permitting authority and the administrator will determine, on an interim basis, the sufficiency of the monitoring plan accompanying the initial application for a CAIR opt-in permit under 9 VAC 5-140-3830. A monitoring plan is sufficient, for purposes of interim review, if the plan appears to contain information demonstrating that the SO₂ emissions rate and heat input of the unit [and all other applicable parameters] are monitored and reported in accordance with Article 8 (9 VAC 5-140-3700 et seq.) of this part. A determination of sufficiency shall not be construed as acceptance or approval of the monitoring plan.

2. Monitoring and reporting shall be as follows:

a. (1) If the permitting authority and the administrator determine that the monitoring plan is sufficient under subdivision 1 of this section, the owner or operator shall monitor and report the SO₂ emissions rate and the heat input of the unit and all other applicable parameters, in accordance with Article 8 (9 VAC 5-140-3700 et seq.) of this part, starting on the date of certification of the appropriate monitoring systems under Article 8 (9 VAC 5-140-3700 et seq.) of this part and continuing until a CAIR opt-in permit is denied under subdivision 6 of this section or, if a CAIR opt-in permit is issued, the date and time when the unit is withdrawn from the CAIR SO₂ Trading Program in accordance with 9 VAC 5-140-3860.

(2) The monitoring and reporting under subdivision a 1 of this subdivision shall include the entire control period immediately before the date on which the unit enters the CAIR SO₂ Trading Program under subdivision 7 of this section, during which period monitoring system availability shall not be less than 90% under Article 8 (9 VAC 5-140-3700 et seq.) of this part and the unit shall be in full compliance with any applicable state or federal emissions or emissions-related requirements.

b. To the extent the SO₂ emissions rate and the heat input of the unit are monitored and reported in accordance with

Article 8 (9 VAC 5-140-3700 et seq.) of this part for one or more control periods, in addition to the control period under subdivision a (2) of this subsection, during which control periods monitoring system availability is not less than 90% under Article 8 (9 VAC 5-140-3700 et seq.) of this part and the unit is in full compliance with any applicable state or federal emissions or emissions-related requirements and which control periods begin not more than three years before the unit enters the CAIR SO₂ Trading Program under subdivision 7 of this section, such information shall be used as provided in subdivisions 3 and 4 of this section.

3. The unit's baseline heat [~~rate~~ input] shall equal:

a. If the unit's SO₂ emissions rate and heat input are monitored and reported for only one control period, in accordance with subdivision 2 a of this section, the unit's total heat input (in mmBtu) for the control period; or

b. If the unit's SO₂ emissions rate and heat input are monitored and reported for more than one control period, in accordance with subdivisions 2 a and b of this section, the average of the amounts of the unit's total heat input (in mmBtu) for the control periods under subdivisions 2 a (2) and 2 b of this section.

4. The unit's baseline SO₂ emission rate shall equal:

a. If the unit's SO₂ emissions rate and heat input are monitored and reported for only one control period, in accordance with subdivision 2 a of this section, the unit's SO₂ emissions rate (in lb/mmBtu) for the control period;

b. If the unit's SO₂ emissions rate and heat input are monitored and reported for more than one control period, in accordance with subdivisions 2 a and b of this section, and the unit does not have add-on SO₂ emission controls during any such control periods, the average of the amounts of the unit's SO₂ emissions rate (in lb/mmBtu) for the control periods under subdivisions 2 a (2) and 2 b of this section; or

c. If the unit's SO₂ emissions rate and heat input are monitored and reported for more than one control period, in accordance with subdivisions 2 a and b of this section, and the unit has add-on SO₂ emission controls during any such control periods, the average of the amounts of the unit's SO₂ emissions rate (in lb/mmBtu) for such control periods during which the unit has add-on SO₂ emission controls.

5. After calculating the baseline heat input and the baseline SO₂ emissions rate for the unit under subdivisions 3 and 4 of this section and if the permitting authority determines that the CAIR-designated representative shows that the unit meets the requirements for a CAIR SO₂ opt-in unit in 9 VAC 5-140-3800 and meets the elements certified in 9 VAC 5-140-3830 A 2, the permitting authority will issue a CAIR opt-in permit. The permitting authority will provide a copy of the CAIR opt-in permit to the administrator, who will then establish a compliance account for the source that includes the CAIR

Regulations

SO₂ opt-in unit unless the source already has a compliance account.

6. Notwithstanding subdivisions 1 through 5 of this section, if at any time before issuance of a CAIR opt-in permit for the unit, the permitting authority determines that the CAIR-designated representative fails to show that the unit meets the requirements for a CAIR SO₂ opt-in unit in 9 VAC 5-140-3800 or meets the elements certified in 9 VAC 5-140-3830 A 2, the permitting authority will issue a denial of a CAIR [SO₂] opt-in permit for the unit.

7. A unit for which an initial CAIR opt-in permit is issued by the permitting authority shall become a CAIR SO₂ opt-in unit, and a CAIR SO₂ unit, as of the later of January 1, 2010, or January 1 of the first control period during which such CAIR opt-in permit is issued.

8. Repowered CAIR SO₂ opt-in units shall meet the following requirements.

a. If the CAIR-designated representative requests, and the permitting authority issues a CAIR opt-in permit providing for, allocation to a CAIR SO₂ opt-in unit of CAIR SO₂ allowances under 9 VAC 5-140-3880 C and such unit is repowered after its date of entry into the CAIR SO₂ Trading Program under subdivision 7 of this section, the repowered unit shall be treated as a CAIR SO₂ opt-in unit replacing the original CAIR SO₂ opt-in unit, as of the date of start-up of the repowered unit's combustion chamber.

b. Notwithstanding subdivisions 3 and 4 of this section, as of the date of start-up under subdivision [~~1 of this subsection 8~~ a of this section], the repowered unit shall be deemed to have the same date of commencement of operation, date of commencement of commercial operation, baseline heat input, and baseline SO₂ emission rate as the original CAIR SO₂ opt-in unit, and the original CAIR SO₂ opt-in unit shall no longer be treated as a CAIR [SO₂] opt-in unit or a CAIR SO₂ unit.

9 VAC 5-140-3850. CAIR opt-in permit contents.

A. Each CAIR opt-in permit will contain:

1. All elements required for a complete CAIR permit application under 9 VAC 5-140-3220;

2. The certification in 9 VAC 5-140-3830 A 2;

3. The unit's baseline heat input under subdivision 3 of 9 VAC 5-140-3840;

4. The unit's baseline SO₂ emission rate under subdivision 4 of 9 VAC 5-140-3840;

5. A statement whether the unit is to be allocated CAIR SO₂ allowances under 9 VAC 5-140-3880 [B or] C (subject to the conditions in subdivision 8 of 9 VAC 5-140-3840 and 9 VAC 5-140-3860 H);

6. A statement that the unit may withdraw from the CAIR SO₂ Trading Program only in accordance with 9 VAC 5-140-3860; and

7. A statement that the unit is subject to, and the owners and operators of the unit shall comply with, the requirements of 9 VAC 5-140-3870.

B. Each CAIR opt-in permit is deemed to incorporate automatically the definitions of terms under 9 VAC 5-140-3020 and, upon recordation by the administrator under Article 6 (9 VAC 5-140-3500 et seq.) [~~or~~] 7 (9 VAC 5-140-3600 et seq.) [~~or 9 (9 VAC 5-140-3800 et seq.)~~] of this part or this [~~subpart~~ article], every allocation, transfer, or deduction of CAIR SO₂ allowances to or from the compliance account of the source that includes a CAIR SO₂ opt-in unit covered by the CAIR opt-in permit.

C. The CAIR opt-in permit shall be included, in a format acceptable to the permitting authority, in the CAIR permit for the source where the CAIR [SO₂] opt-in unit is located [and in a Title V operating permit or state operating permit for the source].

9 VAC 5-140-3860. Withdrawal from CAIR SO₂ Trading Program.

A. Except as provided under subsection H of this section, a CAIR SO₂ opt-in unit may withdraw from the CAIR SO₂ Trading Program, but only if the permitting authority issues a notification to the CAIR-designated representative of the CAIR SO₂ opt-in unit of the acceptance of the withdrawal of the CAIR SO₂ opt-in unit in accordance with subsection E of this section.

B. In order to withdraw a CAIR [SO₂] opt-in unit from the CAIR SO₂ Trading Program, the CAIR-designated representative of the CAIR SO₂ opt-in unit shall submit to the permitting authority a request to withdraw effective as of midnight of December 31 of a specified calendar year, which date must be at least four years after December 31 of the year of entry into the CAIR SO₂ Trading Program under subdivision 7 of 9 VAC 5-140-3840. The request shall be submitted no later than 90 days before the requested effective date of withdrawal.

C. Before a CAIR SO₂ opt-in unit covered by a request under subsection B of this section may withdraw from the CAIR SO₂ Trading Program and the CAIR opt-in permit may be terminated under subsection F of this section, the following conditions must be met:

1. For the control period ending on the date on which the withdrawal is to be effective, the source that includes the CAIR SO₂ opt-in unit must meet the requirement to hold CAIR SO₂ allowances under 9 VAC 5-140-3060 [C] and must not have any excess emissions.

2. After the requirement for withdrawal under subdivision 1 of this subsection is met, the administrator will deduct from

the compliance account of the source that includes the CAIR SO₂ opt-in unit CAIR SO₂ allowances equal in amount to and allocated for the same or a prior control period as any CAIR SO₂ allowances allocated to the CAIR SO₂ opt-in unit under 9 VAC 5-140-3880 for any control period for which the withdrawal is to be effective. If there are no remaining CAIR SO₂ units at the source, the administrator will close the compliance account, and the owners and operators of the CAIR SO₂ opt-in unit may submit a CAIR SO₂ allowance transfer for any remaining CAIR SO₂ allowances to another CAIR SO₂ Allowance Tracking System in accordance with Article 7 (9 VAC 5-140-3600 et seq.) of this part.

D. Notification shall be performed as follows:

1. After the requirements for withdrawal under subsections B and C of this section are met (including deduction of the full amount of CAIR SO₂ allowances required), the permitting authority will issue a notification to the CAIR-designated representative of the CAIR SO₂ opt-in unit of the acceptance of the withdrawal of the CAIR SO₂ opt-in unit as of midnight on December 31 of the calendar year for which the withdrawal was requested.

2. If the requirements for withdrawal under subsections B and C of this section are not met, the permitting authority will issue a notification to the CAIR-designated representative of the CAIR SO₂ opt-in unit that the CAIR SO₂ opt-in unit's request to withdraw is denied. Such CAIR SO₂ opt-in unit shall continue to be a CAIR SO₂ opt-in unit.

E. After the permitting authority issues a notification under subdivision D 1 of this subsection that the requirements for withdrawal have been met, the permitting authority will revise the CAIR permit covering the CAIR SO₂ opt-in unit to terminate the CAIR opt-in permit for such unit as of the effective date specified under subdivision D 1 of this section. The unit shall continue to be a CAIR SO₂ opt-in unit until the effective date of the termination and shall comply with all requirements under the CAIR SO₂ Trading Program concerning any control periods for which the unit is a CAIR SO₂ opt-in unit, even if such requirements arise or shall be complied with after the withdrawal takes effect.

F. If the permitting authority denies the CAIR SO₂ opt-in unit's request to withdraw, the CAIR-designated representative may submit another request to withdraw in accordance with subsections B and C of this section.

G. Once a CAIR SO₂ opt-in unit withdraws from the CAIR SO₂ Trading Program and its CAIR opt-in permit is terminated under this section, the CAIR-designated representative may not submit another application for a CAIR opt-in permit under 9 VAC 5-140-3830 for such CAIR SO₂ opt-in unit before the date that is four years after the date on which the withdrawal became effective. Such new application for a CAIR opt-in permit will be treated as an initial

application for a CAIR opt-in permit under 9 VAC 5-140-3840.

H. Notwithstanding subsections B through G of this section, a CAIR SO₂ opt-in unit shall not be eligible to withdraw from the CAIR SO₂ Trading Program if the CAIR-designated representative of the CAIR SO₂ opt-in unit requests, and the permitting authority issues a CAIR opt-in permit providing for, allocation to the CAIR SO₂ opt-in unit of CAIR SO₂ allowances under 9 VAC 5-140-3880 C.

9 VAC 5-140-3870. Change in regulatory status.

A. If a CAIR SO₂ opt-in unit becomes a CAIR SO₂ unit under 9 VAC 5-140-3040, then the CAIR-designated representative shall notify in writing the permitting authority and the administrator of such change in the CAIR SO₂ opt-in unit's regulatory status, within 30 days of such change.

B. The permitting authority and the administrator shall take the following actions.

1. If a CAIR SO₂ opt-in unit becomes a CAIR SO₂ unit under 9 VAC 5-140-3040, the permitting authority will revise the CAIR SO₂ opt-in unit's CAIR opt-in permit to meet the requirements of a CAIR permit under 9 VAC 5-140-3230 [, and remove the CAIR opt-in permit provisions,] as of the date on which the CAIR SO₂ opt-in unit becomes a CAIR SO₂ unit under 9 VAC 5-140-3040.

2. a. The administrator will deduct from the compliance account of the source that includes [~~a~~ the] CAIR SO₂ opt-in unit that becomes a CAIR SO₂ unit under 9 VAC 5-140-3040, CAIR SO₂ allowances equal in amount to and allocated for the same or a prior control period as:

(1) Any CAIR SO₂ allowances allocated to the CAIR SO₂ opt-in unit under 9 VAC 5-140-3880 for any control period after the date on which the CAIR SO₂ opt-in unit becomes a CAIR SO₂ unit under 9 VAC 5-140-3040; and

(2) If the date on which the CAIR SO₂ opt-in unit becomes a CAIR SO₂ unit under 9 VAC 5-140-3040 is not December 31, the CAIR SO₂ allowances allocated to the CAIR SO₂ opt-in unit under 9 VAC 5-140-3880 for the control period that includes the date on which the CAIR SO₂ opt-in unit becomes a CAIR SO₂ unit under 9 VAC 5-130-3040, multiplied by the ratio of the number of days, in the control period, starting with the date on which the CAIR SO₂ opt-in unit becomes a CAIR SO₂ unit under 9 VAC 5-140-3040 divided by the total number of days in the control period and rounded to the nearest whole allowance as appropriate.

b. The CAIR-designated representative shall ensure that the compliance account of the source that includes the CAIR SO₂ [opt-in] unit that becomes a CAIR SO₂ unit under 9 VAC 5-140-3040 contains the CAIR SO₂ allowances necessary for completion of the deduction under subdivision a of this subdivision.

Regulations

9 VAC 5-140-3880. [CAIR] SO₂ allowance allocations to CAIR SO₂ opt-in units.

A. Timing requirements shall be met as follows:

1. When the CAIR opt-in permit is issued under subdivision 5 of 9 VAC 5-140-3840, the permitting authority will allocate CAIR SO₂ allowances to the CAIR SO₂ opt-in unit, and submit to the administrator the allocation for the control period in which a CAIR SO₂ opt-in unit enters the CAIR SO₂ Trading Program under subdivision 7 of 9 VAC 5-140-3840, in accordance with subsection B or C of this section.

2. By no later than October 31 of the control period [after the control period] in which a CAIR [SO₂] opt-in unit enters the CAIR SO₂ Trading Program under subdivision 7 of 9 VAC 5-140-3840 and October 31 of each year thereafter, the permitting authority will allocate CAIR SO₂ allowances to the CAIR SO₂ opt-in unit, and submit to the administrator the allocation for the control period that includes such submission deadline and in which the unit is a CAIR SO₂ opt-in unit, in accordance with subsection B or C of this section.

B. For each control period for which a CAIR SO₂ opt-in unit is to be allocated CAIR SO₂ allowances, the permitting authority will allocate in accordance with the following procedures:

1. The heat input (in mmBtu) used for calculating the CAIR SO₂ allowance allocation will be the lesser of:

a. The CAIR SO₂ opt-in unit's baseline heat input determined under subdivision 3 of 9 VAC 5-140-3840; or

b. The CAIR SO₂ opt-in unit's heat input, as determined in accordance with Article 8 (9 VAC 5-140-3700 et seq.) of this part, for the immediately prior control period, except when the allocation is being calculated for the control period in which the CAIR SO₂ opt-in unit enters the CAIR SO₂ Trading Program under subdivision 7 of 9 VAC 5-140-3840.

2. The SO₂ emission rate (in lb/mmBtu) used for calculating CAIR SO₂ allowance allocations will be the lesser of:

a. The CAIR SO₂ opt-in unit's baseline SO₂ emissions rate (in lb/mmBtu) determined under subdivision 4 of 9 VAC 5-140-3840 and multiplied by 70%; or

b. The most stringent state or federal SO₂ emissions limitation applicable to the CAIR SO₂ opt-in unit at any time during the control period for which CAIR SO₂ allowances are to be allocated.

3. The permitting authority will allocate CAIR SO₂ allowances to the CAIR SO₂ opt-in unit with a tonnage equivalent equal to, or less than by the smallest possible amount, the heat input under subdivision 1 of this subsection, multiplied by the SO₂ emission rate under subdivision 2 of this subsection, and divided by 2,000 lb/ton.

C. Notwithstanding subsection B of this section and if the CAIR-designated representative requests, and the permitting authority issues a CAIR opt-in permit [(based on a demonstration of the intent to repower stated under 9 VAC 5-140-3830 A 5)] providing for, allocation to a CAIR SO₂ opt-in unit of CAIR SO₂ allowances under this subsection (subject to the conditions in subdivision 8 of 9 VAC 5-140-3840 and 9 VAC 5-140-3860 H), the permitting authority will allocate to the CAIR SO₂ opt-in unit as follows:

1. For each control period in 2010 through 2014 for which the CAIR SO₂ opt-in unit is to be allocated CAIR SO₂ allowances,

a. The heat input (in mmBtu) used for calculating CAIR SO₂ allowance allocations will be determined as described in subdivision B 1 of this section.

b. The SO₂ emission rate (in lb/mmBtu) used for calculating CAIR SO₂ allowance allocations will be the lesser of:

(1) The CAIR SO₂ opt-in unit's baseline SO₂ emissions rate (in lb/mmBtu) determined under subdivision 4 of 9 VAC 5-140-3840; or

(2) The most stringent state or federal SO₂ emissions limitation applicable to the CAIR SO₂ opt-in unit at any time during the control period in which the CAIR SO₂ opt-in unit enters the CAIR SO₂ Trading Program under subdivision 7 of 9 VAC 5-140-3840.

c. The permitting authority will allocate CAIR SO₂ allowances to the CAIR SO₂ opt-in unit with a tonnage equivalent equal to, or less than by the smallest possible amount, the heat input under subdivision a of this subsection, multiplied by the SO₂ emission rate under subdivision b of this subsection, and divided by 2,000 lb/ton.

2. For each control period in 2015 and thereafter for which the CAIR SO₂ opt-in unit is to be allocated CAIR SO₂ allowances,

a. The heat input (in mmBtu) used for calculating the CAIR SO₂ allowance allocations will be determined as described in subdivision B 1 of this section.

b. The SO₂ emission rate (in lb/mmBtu) used for calculating the CAIR SO₂ allowance allocation will be the lesser of:

(1) The CAIR SO₂ opt-in unit's baseline SO₂ emissions rate (in lb/mmBtu) determined under subdivision 4 of 9 VAC 5-140-3840 multiplied by 10%; or

(2) The most stringent state or federal SO₂ emissions limitation applicable to the CAIR SO₂ opt-in unit at any time during the control period for which CAIR SO₂ allowances are to be allocated.

c. The permitting authority will allocate CAIR SO₂ allowances to the CAIR SO₂ opt-in unit with a tonnage equivalent equal to, or less than by the smallest possible

amount, the heat input under subdivision a of this subdivision, multiplied by the SO₂ emission rate under subdivision b of this subdivision, and divided by 2,000 lb/ton.

D. Recordation shall be performed as follows:

1. The administrator will record, in the compliance account of the source that includes the CAIR SO₂ opt-in unit, the CAIR SO₂ allowances allocated by the permitting authority to the CAIR SO₂ opt-in unit under subdivision [2 A 1] of this [subsection section].

2. By December 1 of the control period in which a CAIR [SO₂] opt-in unit enters the CAIR SO₂ Trading Program under subdivision 7 of 9 VAC 5-140-3840, and December 1 of each year thereafter, the administrator will record, in the compliance account of the source that includes the CAIR SO₂ opt-in unit, the CAIR SO₂ allowances allocated by the permitting authority to the CAIR SO₂ opt-in unit under subdivision A 2 of this section.

VA.R. Doc. No. R05-230; Filed February 27, 2007, 2:03 p.m.

TITLE 10. FINANCE AND FINANCIAL INSTITUTIONS

STATE CORPORATION COMMISSION

Proposed Regulation

REGISTRAR'S NOTICE: The State Corporation Commission is exempt from the Administrative Process Act in accordance with § 2.2-4002 A 2 of the Code of Virginia, which exempts courts, any agency of the Supreme Court, and any agency that by the Constitution is expressly granted any of the powers of a court of record.

Title of Regulation: 10 VAC 5-40. Credit Unions (adding 10 VAC 5-40-50).

Statutory Authority: §§ 6.1-225.3:1, 6.1-225.22 and 12.1-13 of the Code of Virginia.

Public Hearing Date: N/A -- Public comments may be submitted until April 6, 2007.

Agency Contact: George Latham, Deputy Commissioner, Bureau of Financial Institutions, P.O. Box 640, Richmond, VA 23218, telephone (804) 371-9698, FAX (804) 371-9416, or email george.latham@scc.virginia.gov.

Summary:

The proposed regulation gives state-chartered credit unions parity with federal credit unions in relation to providing certain financial services to nonmembers within their fields of membership.

STATE CORPORATION COMMISSION

AT RICHMOND, FEBRUARY 27, 2007

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. BFI-2007-00015

Ex Parte: In re: services for nonmembers within the field of membership

ORDER TO TAKE NOTICE

WHEREAS, §§ 6.1-225.3:1 and 6.1-225.22 of the Code of Virginia authorize the State Corporation Commission ("Commission") to promulgate regulations permitting state-chartered credit unions to exercise powers comparable to federal credit unions;

WHEREAS, federal credit unions are authorized by 12 U.S.C. § 1757(12) and 12 C.F.R. § 701.30 to provide certain financial services to nonmembers within their fields of membership; and

WHEREAS, the Commission is informed that certain state-chartered credit unions wish to exercise this authority;

IT IS THEREFORE ORDERED THAT:

(1) The proposed regulation is appended hereto and made a part of the record herein.

(2) Comments or requests for hearing on the proposed regulation must be submitted in writing to Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218, on or before April 6, 2007. Requests for hearing shall state why a hearing is necessary and why the issues cannot be adequately addressed in written comments. All correspondence shall contain a reference to Case No. BFI-2007-00015.

(3) Interested persons desiring to submit comments electronically may do so by following the instructions available at the Commission's website: <http://www.scc.virginia.gov/caseinfo.htm>.

(4) The proposed regulation shall be posted on the Commission's website at <http://www.scc.virginia.gov/caseinfo.htm>.

AN ATTESTED COPY hereof, together with a copy of the proposed regulation, shall be sent to the Registrar of Regulations for publication in the Virginia Register.

AN ATTESTED COPY hereof shall be sent to the Commissioner of Financial Institutions, who shall forthwith mail a copy of this Order, together with the proposed regulation, to all state-chartered credit unions and such other interested parties as he may designate.

Regulations

10 VAC 5-40-50. Services for nonmembers within the field of membership.

A state-chartered credit union shall have the power to provide the following services to persons within its field of membership, regardless of such persons' membership status:

1. Selling negotiable checks (including travelers checks), money orders, and other similar money transfer instruments (including international and domestic electronic fund transfers); and

2. Cashing checks and money orders and receiving international and domestic electronic fund transfers for a fee.

VA.R. Doc. No. R07-158; Filed February 28, 2007, 12:50 p.m.

TITLE 12. HEALTH

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Fast-Track Regulation

Titles of Regulations: **12 VAC 30-10. State Plan under Title XIX of the Social Security Act Medical Assistance Program; General Provisions (amending 12 VAC 30-10-560).**

12 VAC 30-20. Administration of Medical Assistance Services (amending 12 VAC 30-20-140).

12 VAC 30-40. Eligibility Conditions and Requirements (amending 12 VAC 30-40-290).

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

Public Hearing Date: N/A -- Public comments may be submitted until May 18, 2007.

(See Calendar of Events section for additional information)

Effective Date: September 1, 2007.

Agency Contact: Suzanne Gore, Policy and Research Division, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 786-1609, FAX (804) 786-1680, or email suzanne.gore@dmas.virginia.gov.

Basis: Section 32.1-325 of the Code of Virginia grants to the Board of Medical Assistance Services the authority to administer and amend the Plan for Medical Assistance. Section 32.1-324 of the Code of Virginia authorizes the Director of DMAS to administer and amend the Plan for Medical Assistance according to the board's requirements. The Medicaid authority as established by § 1902 (a) of the Social Security Act (42 USC § 1396a) provides governing

authority for payments for services. This action was also mandated by Chapter 425 of the 2006 Acts of Assembly.

Purpose: Pursuant to § 32.1-324 A 24 of the Code of Virginia, "The purpose of the program shall be to reduce Medicaid costs for long-term care by delaying or eliminating dependence on Medicaid for such services through encouraging the purchase of private long-term care insurance policies that have been designated as qualified state long-term care insurance partnerships and may be used as the first source of benefits for the participant's long-term care." LTC partnership programs are public-private ventures to address the financing responsibility of LTC. Partnerships are designed to encourage individuals with moderate incomes to purchase private LTC insurance in order to fund their LTC needs, rather than relying on Medicaid to do so. LTC partnerships combine private LTC insurance with special access to Medicaid for individuals who utilize their LTC insurance benefits. The idea, essentially, is to encourage citizens to purchase a limited, and therefore more affordable, amount of LTC insurance coverage, with the assurance that they could receive additional LTC services through Medicaid without having to reduce their assets to the \$2,000 Medicaid asset limit (which is required in order to meet Medicaid eligibility) after their insurance coverage is exhausted.

This action helps protect health and welfare of the Commonwealth by encouraging citizens to anticipate their long-term medical care needs and to ensure that these needs will be met at minimal expense to taxpayers.

Rationale for Using Fast-Track Process: This change, directed by the 2006 General Assembly, is not controversial. The agency is using the fast-track process to complete the needed regulatory changes to give the citizens of the Commonwealth the ability to purchase long-term care partnership insurance, which ultimately saves the Medicaid program money and encourages consumer choice and control over their long-term care options. The fast-track process permits the agency to implement this new program as quickly as possible in conformity with the General Assembly mandate.

Substance: When an individual applies for Medicaid coverage, the agency reviews the individual's financial assets or resources. If the individual holds resources above a certain limit, that individual will not qualify for Medicaid coverage. Under this new long-term care partnership program, for individuals who have purchased and used a long-term care partnership insurance policy, DMAS will disregard the applicant's resources, dollar for dollar, up to the amount of benefits paid by the long-term care insurer on the applicant's behalf. This change is found in 12 VAC 30-40-290 G.

In addition, when a Medicaid enrollee dies, the agency reviews the enrollee's estate resources and may attempt to recover amounts paid by the agency for the individual's Medicaid covered medical services. Under this new long-

term care partnership insurance option, however, the state will not seek adjustment or recovery from the individual's estate for the amount of assets or resources disregarded at any time during an individual's initial eligibility determination or subsequent eligibility redeterminations. This change is found in 12 VAC 30-10-560 A 4, as well as in 12 VAC 30-20-140 E.

Issues: This regulatory action poses no disadvantages to the agency, public or the Commonwealth. The advantages are that private citizens are encouraged to take responsibility for their own long-term care, with Medicaid forming solely a safety net. This more efficient approach to long-term care saves the taxpayers money and helps to insure access to care for the most vulnerable citizens.

Department of Planning and Budget's Economic Impact Analysis:

Summary of the Proposed Regulation. Pursuant to § 32.1-325 A 24 of the Code of Virginia enacted by the 2006 General Assembly, the proposed regulations will implement a Medicaid long-term care (LTC) partnership insurance program in the Commonwealth.

Result of Analysis. There is insufficient data to accurately compare the magnitude of the benefits versus the costs. Detailed analysis of the benefits and costs can be found in the next section.

Estimated Economic Impact. LTC partnership insurance programs have surfaced in 1980s after a grant by the Robert Wood Johnson Foundation provided start up money for developing programs that would integrate public-private partnerships in LTC financing. California, Connecticut, Indiana, and Massachusetts were the recipients of this seed grant and all of them implemented LTC partnership programs that are still in effect today. After the initial four states obtained waivers from the Centers for Medicare and Medicaid (CMS) to implement different eligibility rules, 1993 Omnibus Budget and Reconciliation Act prohibited CMS to issue any more waivers. However, in 2005, a significant change occurred. The Deficit Reduction Act of 2005 allowed, but did not require states to implement a LTC partnership program. Following the removal of this federal legislative barrier, House Bill 759 from the 2006 Virginia General Assembly (now § 32.1-325 A 24 of the Code of Virginia) required the Department of Medical Assistance Services (DMAS) to implement a LTC partnership insurance program in accordance with federal guidelines.

The proposed regulations set out the criteria that LTC partnership insurance policies must contain to be eligible for benefits the regulations will provide. These benefits include: 1) being able to disregard assets equal to the pay out of a LTC partnership insurance policy while determining Medicaid eligibility and 2) being able to protect assets equal to the pay out of a LTC partnership insurance policy from estate

recoveries. For example, if an individual purchases a qualifying LTC partnership insurance for \$100,000 in payout benefits, gets LTC coverage for two years after which he applies for Medicaid eligibility, he would qualify if his assets are less than \$102,000.¹ Also, the \$100,000 in assets would be exempt from estate recoveries if the recovery process is initiated.

The economic literature² on LTC partnership insurance is limited. The financial effects of LTC partnership insurance on Medicaid are currently debated with a somewhat limited scope and there is no empirical research offering concrete findings due to lack of data that can be used to answer pertinent questions. The current research is useful however for providing demographics information from the experiences of a few states that have had an active LTC partnership insurance since 1980s. The table in the Appendix provides some relevant information from California and Connecticut experiences.³ This report discusses the potential and likely effects of the proposed regulations on the three entities that will be affected in an abstract setting.

The implementation of LTC partnership insurance will affect the individuals who are likely to receive LTC from Medicaid, the LTC insurance companies offering qualified policies, and the Medicaid program that is often the provider of last resort for those who cannot afford LTC by any other means (i.e. the safety net for LTC).

The proposed regulations will provide individuals an option to protect a portion of their assets should they need LTC later in their lives. Economic principles suggest that individuals who are most likely to gain from asset protection would have stronger incentives to purchase a LTC partnership insurance. At the least, individuals with significant assets, individuals with ability to afford monthly premiums, individuals with strong desire to pass on assets to their heirs are expected to have stronger incentives to take advantage of this option than those without. Additional factors that may affect individual's decision to participate include the private knowledge of individual's health status, perceived likelihood of needing LTC, and the individual's propensity to take compliance avoidance actions in order to protect his assets if this option were not available. The knowledge of most of these factors by the individual is asymmetric in the sense that it is not known by the LTC carrier or Medicaid. The information asymmetry gives the individual an opportunity take advantage of the new option if perceived benefits to him are greater than perceived costs.

The presence of individuals with stronger incentives to purchase LTC is likely to have a positive effect on the

¹ Currently, an individual must have assets less than \$2,000 to qualify for Medicaid.

² See References section for studies reviewed.

³ The data from New York and Indiana models are not provided as their programs offer total asset protection and a hybrid model providing dollar-for-dollar and total asset protection, respectively.

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demand for such policies. Increased demand will likely help insurance companies to sell more of these policies and help grow their businesses. Unlike Medicaid, private LTC companies have discretion over the premiums they can charge and the term of coverage they offer for a given premium level. With ability to change these factors, LTC insurance carriers are expected to offer policies that would maximize their profits or returns from their businesses. So, it is expected that the premiums would contain a mark-up for profits. Also, private carriers may be relatively more efficient in delivery of LTC services.

The net effect on Medicaid as the safety net depends on whether the asset protection will qualify additional individuals who would not otherwise qualify for LTC through Medicaid and whether the level of protected assets will be greater than the assets the individuals would have to spend down to qualify for LTC coverage through Medicaid. In addition, the Bureau of Insurance, the Department of Social Services, and DMAS are expected to incur approximately \$17,500 in on going administrative costs to develop and maintain reporting and tracking procedures to process applications. Moreover, DMAS and the Department of Social Services are expected to incur approximately \$187,500 in one time costs for programming expenses to develop, test, and implement changes to the eligibility file.

In the framework composed of individuals, private LTC insurance carriers, and Medicaid, likely net financial effect of the proposed regulations may be assessed under a few simplifying assumptions in an abstract model. In such a model, the first relevant question becomes whether the LTC partnership insurance would create additional net financial burden or benefit for the three entities combined. If there is no additional net financial gain or loss to the all entities combined, this situation in economics is referred to as a "zero-sum-game." In a zero-sum-game, there is no net combined gain or loss in that the economic effects are purely distributional among the parties involved. That means net gains and losses for all parties sum to zero.

It appears that with a few caveats, the interactions between the individuals, private LTC insurance carriers, and Medicaid resulting from the implementation of the LTC partnership insurance could be considered as a zero sum game. Once the program is implemented, the first action will be taken by the individual. He will decide whether to purchase private LTC insurance to protect his assets in the event he needs Medicaid coverage. However, the decision to purchase LTC coverage now has no impact on the actual LTC coverage he will actually need in the future. In other words, whether he will fall frail and need nursing home care ten years later has nothing to do whether he purchased LTC insurance today. However, purchase of LTC partnership coverage today will determine who provides and pays the care when he is frail.

The main differences between providing LTC insurance through Medicaid or private carrier would likely stem from the relative efficiency by which the service is provided and the presence of profits in private delivery model. The net of efficiency savings in private delivery model minus carrier profits would represent an addition or subtraction to the zero sum game described above. Given that private carriers would not be able to sustain their business if their profits are less than the efficiency gains, it is highly unlikely, at the aggregate, for them to incur a net economic loss as a result of the proposed regulations.

The consumers could also change the nature of this zero sum game if some would no longer devote resources for compliance avoidance actions in attempts to shift their assets to other individuals to protect them from Medicaid program as they will have an option to do this legally now. Financial resources that would have been otherwise devoted to illegally shifting assets should be considered as an addition to the zero sum game. Individuals could also be willing to pay a premium to be able to protect their assets. Equipped with the private knowledge of own propensity for compliance avoidance actions and the willingness to pay for such attempts and the private knowledge of own health status and the likelihood of needing LTC, individuals would not purchase LTC partnership insurance plans if the perceived benefits does not exceed the costs. Thus, it is highly unlikely, at the aggregate, for them to incur a net economic loss as a result of the proposed regulations.

In a zero sum game with three players, if two parties are unlikely to incur net losses, by definition, the third player would be unlikely to incur net gains. However, this conclusion would not hold true if there are injections into the game from outside as discussed. For example, private carries may be able to offer LTC insurance at very competitive rates by delivering services efficiently and taking minimum profits. For all parties to gain, however, the sum of efficiency gains from delivering LTC by private carriers minus the private carrier profits plus the savings from eliminating compliance avoidance actions plus the value of being able to legally pass on assets to heirs minus the additional resources need to cover individuals with significant assets who would not otherwise qualify minus the additional administrative costs, must be a positive number.

Another provision in the proposed regulations could also create economic effects. The federal guidelines require states to have a compound inflation protection in the LTC partnership plans, but do not dictate what the compound rate must be. The proposed regulations do not specify the rate of compound inflation protection as DMAS is currently evaluating what would be the best option. Currently, some states require five percent standard compound inflation protection in LTC partnership policies. Despite the popularity of a fixed compound inflation protection among the states

with partnership programs, a fixed compound inflation protection would not be economically optimal.

The optimal compound inflation protection rate would be the one that adjusts the pay out value of the policy as the cost of LTC changes in order to provide the same term coverage regardless of the changes in LTC inflation. If the rate is set too high, the cost of policy would increase and result in higher premiums than necessary. If the rate is set too low, the individuals face the risk of not being able to obtain the services for the term they are signed up for. It appears that the optimal compound inflation protection would be a variable rate indexed to the prices of goods and services that accurately reflects the LTC service delivery inflation.

Businesses and Entities Affected. These regulations will primarily affect the private insurance carriers selling LTC policies, individuals who would purchase these policies, and the state agencies that will be involved in the implementation of this program. Currently, there are approximately 36 companies offer LTC insurance policies for sale in Virginia. Also, approximately 3% of Virginians or approximately 219,000 individuals currently hold LTC insurance policies. However, the number private insurance carriers that may participate or the number of individuals who may purchase LTC insurance coverage as a result of the proposed changes are not known.

Localities Particularly Affected. The proposed regulations apply throughout the Commonwealth.

Projected Impact on Employment. The proposed regulations will encourage some individuals to purchase private LTC partnership insurance increasing the demand for such policies. Increased demand for LTC policies will likely positively affect labor demand by private carriers. Also, there will be a slight increase in labor demand for administration of the proposed program. However, the LTC services delivered by private carriers would also have an offsetting effect on the LTC providers contracted by Medicaid. In the presence of such balancing effects on labor demand, it is uncertain what the net impact on employment would be.

Effects on the Use and Value of Private Property. The proposed regulations will likely have a positive effect on the demand for private LTC insurance policies and may improve the profitability of the carriers. If this occurs, a positive effect on the asset value of private carriers would be expected. On the other hand, any decrease in the delivery of LTC services by Medicaid providers would have the opposite effect on the asset values of their businesses.

Small Businesses: Costs and Other Effects. The proposed regulations are not expected to affect small businesses. However, if approximately 26,193 resident agents and 42,537 non-resident agents are considered as small businesses, we would expect a positive impact on them as the demand for their services will likely increase.

Small Businesses: Alternative Method that Minimizes Adverse Impact. The proposed regulations are not expected to have any adverse impact on small businesses.

Legal Mandate. 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 36 (06). 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. Further, if the proposed regulation has an adverse effect on small businesses, § 2.2-4007 H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.

References

U.S. Government Accountability Office, 2005, "Long-Term Care Partnership Program."

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George Washington University School of Public Health and Services, Undated, "The Long-Term Care Partnership Program: Issues and Options."

State of Connecticut Office of Policy and Management, 2005, "Annual Report for the Connecticut Partnership for Long-Term Care."

Minnesota Department of Human Services, 2005, "Public and Private Long-Term Care Financing: Options for Minnesota."

U.S. Department of Health & Human Services, 2004, "What We Know about Buyers and Non-Buyers of Private Long-Term Care Insurance: A Review of Studies."

Centers for Medicare and Medicaid, 2005, "Policy Options for Addressing Medicaid Long-Term Care, Report of the Council on Medical Service."

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Table: Selected Statistics from Existing LTC Partnership Programs

	California	Connecticut
Year implemented	1994	1992
Policies in force in 2005	64,915	30,834
Number of participating insurance companies	5	8
Average policy holder age	60	58
Policy holder age range	18-92	20-89
Policy holder gender	59% female, 41% male	56% female, 44% male
First time purchasers	94%	92%
Percent of policy holders with reported assets greater than \$350,000	53%	54%
Percent of policy holders with reported income greater than \$5,000	61%	62%
Number of applications received	93,577	46,564
Percent of applications denied	17%	12%
Polices that remain active	84%	81%
Percent of comprehensive coverage polices	95%	99%
Percent of nursing home only coverage polices	5%	1%
Daily benefit amount	\$150 per day is most common	\$187.60 per day for nursing home care and \$166.91 per day for home and community based care
Benefit coverage period	Lifetime coverage is most common	2 to 3 years of coverage most common
Number of policy holders who ever	913 (1.2%)	351 (0.9%)

	California	Connecticut
received benefits		
Number of policy holders who are currently receiving benefits	343 (0.5%)	141 (0.5%)
Number of policy holder who exhausted benefits	89	35
Cumulative asset protection earned by policy holders who have exhausted benefits	\$4,958,421	\$4,200,808
Per capita asset protection earned by policy holders who have exhausted benefits	\$55,713	\$120,023
Number of policy holders who died while receiving benefits	339	123

Source: U.S. Government Accountability Office, 2005.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The agency has reviewed the economic impact analysis prepared by the Department of Planning and Budget regarding the fast-track regulation, Long-Term Care Partnership Insurance Program (12 VAC 30-10, 12 VAC 30-20 and 12 VAC 30-40). The agency raises no issues with the economic impact analysis prepared by the Department of Planning and Budget.

Summary:

The Deficit Reduction Act of 2005 allows states to implement "Long-Term Care Partnerships" in order to make the purchase of long-term care (LTC) insurance more attractive to consumers. Chapter 425 of the 2006 Acts of Assembly requires DMAS to implement a LTC partnership insurance program in accordance with federal guidelines. By coordinating public and private efforts, LTC partnerships attempt to delay or eliminate the need for individuals to access Medicaid for LTC services. Long-term care insurance policies protect assets in the amount equal to the amount that a LTC partnership insurance policy pays out in benefits. These assets are protected during the Medicaid eligibility determination and during estate recovery actions. This action encourages individuals to take steps to ensure their long-term care needs are met without relying upon the state for the cost of their care.

12 VAC 30-10-560. Liens and recoveries.

Liens are not imposed against an individual's property.

A. Adjustments or recoveries for Medicaid claims correctly paid are as follows: See 12 VAC 30-20-140.

1. For permanently institutionalized individuals, adjustments or recoveries are made from the individual's estate.

2. For any individual who received medical assistance at age 55 or older, recovery of payments are made for nursing facility services, home- and community-based services, and related hospital and prescription drug services.

Payments are recovered for all services covered under the plan which are provided to individuals at age 55.

3. For any individual with long-term care insurance policies, if assets or resources are disregarded, recovery is made for all Medicaid costs for nursing facility and other long-term care services from the estate of persons who have such policies.

4. If an individual covered under a long-term care partnership insurance policy received benefits for which assets or resources were disregarded as provided for in 12 VAC 30-40-290 G, the state does not seek adjustment or recovery from the individual's estate for the amount of assets or resources disregarded.

B. No money payments under another program are reduced as a means of recovering Medicaid claims incorrectly paid.

C. Liens. See 12 VAC 30-20-130.

1. Specifies the process for determining that an institutionalized individual cannot reasonably be expected to be discharged from the medical institution and return home; the description of the process meets the requirements of 42 CFR 433.36(d).

The Commonwealth does not impose liens therefore this subsection is not applicable.

2. Specifies the criteria by which a son or daughter can establish that he or she has been providing care under 42 CFR 433.36(f).

3. Definitions: individual's home; equity interest in home; residing in home for at least 1 or 2 years, on a continuing basis; discharge from the medical institution and return home; and lawfully residing.

The Commonwealth does not impose liens therefore this subsection is not applicable.

D. Estate recoveries.

1. Definitions.

"Applicable medical assistance payments" means the amount of any medical assistance payments made on behalf of an individual under Title XIX of the Social Security Act.

"Estate" means with respect to a deceased individual, (i) all real and personal property and other assets held by the individual at the time of death and (ii) any other real and personal property and other assets in which the individual had any legal title or interest (to the extent of such interest) at the time of death.

2. 12 VAC 30-20-140 further specifies the policy for estate recoveries.

12 VAC 30-20-140. Estate recoveries.

A. General. Under the authority and consistent with the requirements of the Social Security Act § 1917, the Commonwealth recovers certain Medicaid benefits when they have been correctly paid on behalf of certain individuals. The Commonwealth seeks recovery for all services which have been paid for consistent with the coverage and reimbursement policies in the State Plan for Medical Assistance.

B. Identification of deceased recipients' estates. The Medical Assistance Title XIX agency shall take all reasonable measures to determine the existence of deceased eligible individuals with recoverable estates.

C. Initiation of claim and recovery.

1. The Medical Assistance Title XIX agency's estate recovery unit will review and initiate recovery activities for all deceased eligible individual's estates identified which meet agency minimum criteria defined in subsection B of this section. A review of all deceased eligible individuals' applicable medical assistance payments paid correctly must be performed to determine the amount of the Commonwealth's claim against the estate. A "Notice of Claim" shall be sent to the deceased eligible individual's estate administrator or executor upon determination that estate recovery meets the minimum criteria. The "Notice of Claim" shall include, at minimum, (i) the deceased eligible individual's identification information, (ii) the claim amount, (iii) the agency contact, and (iv) the attached summary of applicable medical claims paid. The "Notice of Claim" shall also contain, but not necessarily be limited to, information regarding the exclusions identified below, the applicant's right to appeal, and the hardship rule.

2. The Medical Assistance Title XIX agency will, at a minimum, initiate recovery when the following conditions are met:

a. Legal estate administrator or executor has been verified.

b. Dollar amount of applicable medical assistance payments (claim amount) and estate meets agency cost effective threshold. The Title XIX agency will determine a cost effective threshold based on the administrative costs to pursue recovery from an estate. The Title XIX agency will adjust the cost effective threshold as the

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agency's administrative costs change. Recovery shall not be initiated unless both the amount of the claim and the value of the estate at least exceed the administrative cost of recovery.

c. Deceased eligible was single or surviving spouse is deceased.

d. Deceased eligible has no surviving children under 21 or children who are blind or disabled.

e. Deceased eligible was 55 years of age or older when the individual received such medical assistance.

f. Deceased eligible had no surviving sibling who had an equity interest in the deceased's home and such sibling resided in the property for at least one year prior to the deceased's entering a nursing facility.

3. Appeals related to the recovery of funds will be administered by the Medical Assistance Title XIX agency.

4. The Medical Assistance Title XIX agency will pursue recovery only to the extent that payments for applicable medical claims have been correctly made under the State Plan for Medical Assistance.

D. Hardship clause. The Medical Assistance Title XIX agency shall waive its claim if it determines that enforcement of the claim would result in substantial hardship to the devisees, legatees, and heirs or dependents of the individual against whose estate the claim exists. Special consideration shall be given to cases in which the estate subject to recovery is (i) the sole income-producing asset of survivors (where such income is limited), such as a family farm or other business, or (ii) a homestead of modest value, or (iii) other compelling circumstances. In cases where recovery is not waived and beneficiaries of the estate from which recovery is sought wish to satisfy the Commonwealth's claim without selling a nonliquid asset which is subject to recovery, alternative methods of recovery may be considered.

E. If an individual covered under a long-term care partnership insurance policy received benefits for which assets or resources were disregarded as provided for in 12 VAC 30-40-290 G, the state does not seek adjustment or recovery from the individual's estate for the amount of assets or resources disregarded.

12 VAC 30-40-290. More liberal methods of treating resources under § 1902(r)(2) of the Act: § 1902(f) states.

A. Resources to meet burial expenses. Resources set aside to meet the burial expenses of an applicant/recipient or that individual's spouse are excluded from countable assets. In determining eligibility for benefits for individuals, disregarded from countable resources is an amount not in excess of \$3,500 for the individual and an amount not in excess of \$3,500 for his spouse when such resources have

been set aside to meet the burial expenses of the individual or his spouse. The amount disregarded shall be reduced by:

1. The face value of life insurance on the life of an individual owned by the individual or his spouse if the cash surrender value of such policies has been excluded from countable resources; and

2. The amount of any other revocable or irrevocable trust, contract, or other arrangement specifically designated for the purpose of meeting the individual's or his spouse's burial expenses.

B. Cemetery plots. Cemetery plots are not counted as resources regardless of the number owned.

C. Life rights. Life rights to real property are not counted as a resource. The purchase of a life right in another individual's home is subject to transfer of asset rules. See 12 VAC 30-40-300.

D. Reasonable effort to sell.

1. For purposes of this section, "current market value" is defined as the current tax assessed value. If the property is listed by a realtor, then the realtor may list it at an amount higher than the tax assessed value. In no event, however, shall the realtor's list price exceed 150% of the assessed value.

2. A reasonable effort to sell is considered to have been made:

a. As of the date the property becomes subject to a realtor's listing agreement if:

(1) It is listed at a price at current market value; and

(2) The listing realtor verifies that it is unlikely to sell within 90 days of listing given the particular circumstances involved (e.g., owner's fractional interest; zoning restrictions; poor topography; absence of road frontage or access; absence of improvements; clouds on title, right of way or easement; local market conditions); or

b. When at least two realtors refuse to list the property. The reason for refusal must be that the property is unsaleable at current market value. Other reasons for refusal are not sufficient; or

c. When the applicant has personally advertised his property at or below current market value for 90 days by use of a "Sale By Owner" sign located on the property and by other reasonable efforts, such as newspaper advertisements, or reasonable inquiries with all adjoining landowners or other potential interested purchasers.

3. Notwithstanding the fact that the recipient made a reasonable effort to sell the property and failed to sell it, and although the recipient has become eligible, the

recipient must make a continuing reasonable effort to sell by:

a. Repeatedly renewing any initial listing agreement until the property is sold. If the list price was initially higher than the tax-assessed value, the listed sales price must be reduced after 12 months to no more than 100% of the tax-assessed value.

b. In the case where at least two realtors have refused to list the property, the recipient must personally try to sell the property by efforts described in subdivision 2 c of this subsection for 12 months.

c. In the case of a recipient who has personally advertised his property for a year without success (the newspaper advertisements and "for sale" sign do not have to be continuous; these efforts must be done for at least 90 days within a 12-month period), the recipient must then:

(1) Subject his property to a realtor's listing agreement at price or below current market value; or

(2) Meet the requirements of subdivision 2 b of this subsection which are that the recipient must try to list the property and at least two realtors refuse to list it because it is unsaleable at current market value; other reasons for refusal to list are not sufficient.

4. If the recipient has made a continuing effort to sell the property for 12 months, then the recipient may sell the property between 75% and 100% of its tax assessed value and such sale shall not result in disqualification under the transfer of property rules. If the recipient requests to sell his property at less than 75% of assessed value, he must submit documentation from the listing realtor, or knowledgeable source if the property is not listed with a realtor, that the requested sale price is the best price the recipient can expect to receive for the property at this time. Sale at such a documented price shall not result in disqualification under the transfer of property rules. The proceeds of the sale will be counted as a resource in determining continuing eligibility.

5. Once the applicant has demonstrated that his property is unsaleable by following the procedures in subdivision 2 of this subsection, the property is disregarded in determining eligibility starting the first day of the month in which the most recent application was filed, or up to three months prior to this month of application if retroactive coverage is requested and the applicant met all other eligibility requirements in the period. A recipient must continue his reasonable efforts to sell the property as required in subdivision 3 of this subsection.

E. Automobiles. Ownership of one motor vehicle does not affect eligibility. If more than one vehicle is owned, the individual's equity in the least valuable vehicle or vehicles must be counted. The value of the vehicles is the wholesale

value listed in the National Automobile Dealers Official Used Car Guide (NADA) Book, Eastern Edition (update monthly). In the event the vehicle is not listed, the value assessed by the locality for tax purposes may be used. The value of the additional motor vehicles is to be counted in relation to the amount of assets that could be liquidated that may be retained.

F. Life, retirement, and other related types of insurance policies. Life, retirement, and other related types of insurance policies with face values totaling \$1,500 or less on any one person 21 years old and over are not considered resources. When the face values of such policies of any one person exceeds \$1,500, the cash surrender value of the policies is counted as a resource.

G. Long-term care partnership insurance policy (partnership policy). Resources equal to the amount of benefits paid on the insured's behalf by the long-term care insurer through a Virginia issued long-term care partnership insurance policy shall be disregarded. A long-term care partnership insurance policy shall meet the following requirements:

1. The policy is a qualified long-term care partnership insurance policy as defined in § 7702B(b) of the Internal Revenue Code of 1986.

2. The policy meets the requirements of the National Association of Insurance Commissioners (NAIC) Long-Term Care Insurance Model Regulation and Long-Term Care Insurance Model Act as those requirements are set forth in § 1917(b)(5)(A) of the Social Security Act (42 USC § 1396p).

3. The policy was issued no earlier than May 1, 2007.

4. The insured individual was a resident of a partnership state when coverage first became effective under the policy. If the policy is later exchanged for a different long-term care policy, the individual was a resident of a partnership state when coverage under the earliest policy became effective.

5. The policy meets the inflation protection requirements set forth in § 1917(b)(1)(C)(iii)(IV) of the Social Security Act.

6. The Insurance Commissioner requires the issuer of the partnership policy to make regular reports to the federal Secretary of Health and Human Services that include notification of the date benefits provided under the policy were paid and the amount paid, the date the policy terminates, and such other information as the secretary determines may be appropriate to the administration of such partnerships. Such information shall also be made available to the Department of Medical Assistance Services upon request.

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7. The state does not impose any requirement affecting the terms or benefits of a partnership policy that the state does not also impose on nonpartnership policies.

8. The policy meets all the requirements of the Bureau of Insurance of the State Corporation Commission described in 14 VAC 5-200.

H. Reserved.

I. Resource exemption for Aid to Dependent Children categorically and medically needy (the Act §§ 1902(a)(10)(A)(i)(III), (IV), (VI), (VII); §§ 1902(a)(10)(A)(ii)(VIII), (IX); § 1902(a)(10)(C)(i)(III)). For ADC-related cases, both categorically and medically needy, any individual or family applying for or receiving assistance may have or establish one interest-bearing savings or investment account per assistance unit not to exceed \$5,000 if the applicant, applicants, recipient or recipients designate that the account is reserved for purposes related to self-sufficiency. Any funds deposited in the account shall be exempt when determining eligibility for medical assistance for so long as the funds and interest remain on deposit in the account. Any amounts withdrawn and used for purposes related to self-sufficiency shall be exempt. For purposes of this section, purposes related to self-sufficiency shall include, but are not limited to, (i) paying for tuition, books, and incidental expenses at any elementary, secondary, or vocational school, or any college or university; (ii) for making down payment on a primary residence; or (iii) for establishment of a commercial operation that is owned by a member of the medical assistance unit.

~~H. I.~~ J. Disregard of resources. The Commonwealth of Virginia will disregard all resources for qualified children covered under §§ 1902(a)(10)(A)(i)(I), 1902(a)(10)(A)(i)(III), 1902(a)(10)(A)(ii)(VIII), and 1905(n) of the Social Security Act.

~~I. K.~~ K. Household goods and personal effects. The Commonwealth of Virginia will disregard the value of household goods and personal effects. Household goods are items of personal property customarily found in the home and used in connection with the maintenance, use and occupancy of the premises as a home. Examples of household goods are furniture, appliances, televisions, carpets, cooking and eating utensils and dishes. Personal effects are items of personal property that are worn or carried by an individual or that have an intimate relation to the individual. Examples of personal property include clothing, jewelry, personal care items, prosthetic devices and educational or recreational items such as books, musical instruments, or hobby materials.

~~J. L.~~ L. Determining eligibility based on resources. When determining Medicaid eligibility, an individual shall be eligible in a month if his countable resources were at or below the resource standard on any day of such month.

VA.R. Doc. No. R07-155; Filed February 26, 2007, 1:13 p.m.

Final Regulation

Title of Regulation: **12 VAC 30-90. Methods and Standards for Establishing Payment Rates for Long-Term Care (amending 12 VAC 30-90-264).**

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

Effective Date: April 18, 2007.

Agency Contact: Diane Hankins, Project Manager, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 786-5379, FAX (804) 786-1680, or email diane.hankins@dmas.virginia.gov.

Summary:

The amendments place a ceiling on ancillary services reimbursement to no more than 150% of average specialized care ancillary costs. The ceiling will be adjusted annually for inflation.

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

12 VAC 30-90-264. Specialized care services.

Specialized care services provided in conformance with 12 VAC 30-60-40 E and H, 12 VAC 30-60-320 and 12 VAC 30-60-340 shall be reimbursed under the following methodology. The nursing facilities that provide adult specialized care for the categories of Ventilator Dependent Care, will be placed in one group for rate determination. The nursing facilities that provide pediatric specialized care in a dedicated pediatric unit of eight beds or more will be placed in a second group for rate determination.

1. Routine operating cost. Routine operating cost shall be defined as in 12 VAC 30-90-271 and 12 VAC 30-90-272. To calculate the routine operating cost reimbursement rate, routine operating cost shall be converted to a per diem amount by dividing it by actual patient days.

2. Allowable cost identification and cost reimbursement limitations. The provisions of Article 5 (12 VAC 30-90-50 et seq.) of Subpart II of Part II of this chapter and of Appendix III (12 VAC 30-90-290) of Part III of this chapter shall apply to specialized care cost and reimbursement.

3. Routine operating cost rates. Each facility shall be reimbursed a prospective rate for routine operating costs. This rate will be the lesser of the facility-specific prospective routine operating ceiling, or the facility-specific prospective routine operating cost per day plus an efficiency incentive. This efficiency incentive shall be calculated by the same method as in 12 VAC 30-90-41.

4. Facility-specific prospective routine operating ceiling. Each nursing facility's prospective routine operating ceiling shall be calculated as:

a. Statewide ceiling. The statewide routine operating ceiling shall be the weighted average (weighted by 1994 days) of specialized care rates in effect on July 1, 1996, reduced by statewide weighted average ancillary and capital cost per day amounts based on audited 1994 cost data from the 12 facilities whose 1994 FY specialized care costs were audited during 1996. This routine operating ceiling amount shall be adjusted for inflation by the percentage of change in the moving average of the Virginia specific Skilled Nursing Facility Market Basket of Routine Service Costs, as developed by DRI/McGraw-Hill, using the second quarter 1996 DRI table. The respective statewide operating ceilings will be adjusted each quarter in which the provider's most recent fiscal year ends, by adjusting the most recent interim ceiling by 100% of historical inflation and 50% of forecasted inflation to the end of the provider's next fiscal year.

b. The portion of the statewide routine operating ceiling relating to nursing salaries (as determined by the 1994 audited cost report data, or 67.22%) will be wage adjusted using a normalized wage index. The normalized wage index shall be the wage index applicable to the individual provider's geographic location under Medicare rules of reimbursement for skilled nursing facilities, divided by the statewide average of such wage indices across the state. This normalization of wage indices shall be updated January 1, after each time the Health Care Financing Administration (HCFA) publishes wage indices for skilled nursing facilities. Updated normalization shall be effective for fiscal years starting on and after the January 1 for which the normalization is calculated.

c. The percentage of the statewide routine operating ceiling relating to the nursing labor and nonlabor costs (as determined by the 1994 audited cost report data or 71.05%) will be adjusted by the nursing facility's specialized care average Resource Utilization Groups, Version III (RUG-III) Nursing-Only Normalized Case Mix Index (NCMI). The NCMI for each nursing facility will be based on all specialized care patient days rendered during the six-month period prior to that in which the ceiling applies (see subdivision 6 of this section).

5. Normalized case mix index (NCMI). Case mix shall be measured by RUG-III nursing-only index scores based on Minimum Data Set (MDS) data. The RUG-III nursing-only weights developed at the national level by the Health Care Financing Administration (HCFA) (see 12 VAC 30-90-320) shall be used to calculate a facility-specific case mix index (CMI). The facility-specific CMI, divided by the

statewide CMI shall be the facility's NCMI. The steps in the calculation are as follows:

a. The facility-specific CMI for purposes of this rate calculation shall be the average of the national RUG-III Nursing-Only weights calculated across all patient days in the facility during the six months prior to the six-month period to which the NCMI shall be applied to the facility's routine operating cost and ceiling.

b. The statewide CMI for purposes of this rate calculation shall be the average of the national RUG-III Nursing-Only weights calculated across all specialized care patient days in all Specialized Care Nursing facilities in the state during the six months prior to the six-month period to which the NCMI shall be applied. A new statewide CMI shall be calculated for each six-month period for which a provider-specific rate must be set.

c. The facility-specific NCMI for purposes of this rate calculation shall be the facility-specific CMI from subdivision 5 a of this section divided by the statewide CMI from subdivision 5 b of this section.

d. Each facility's NCMI shall be updated semiannually, at the start and the midpoint of the facility's fiscal year.

e. Patient days for which the lowest RUG-III weight is imputed, as provided in subdivision 14 c of this section, shall not be included in the calculation of the NCMI.

6. Facility-specific prospective routine operating base cost per day: The facility-specific routine operating cost per day to be used in the calculation of the routine operating rate and the efficiency incentive shall be the actual routine cost per day from the most recent fiscal year's cost report, adjusted (using DRI-Virginia inflation factors) by 50% of historical inflation and 50% of the forecasted inflation, and adjusted for case mix as described below:

a. An NCMI rate adjustment shall be applied to each facility's prospective routine nursing labor and nonlabor operating base cost per day for each semiannual period of the facility's fiscal year.

b. The NCMI calculated for the second semiannual period of the previous fiscal year shall be divided by the average of that (previous) fiscal year's two semiannual NCMI's to yield an "NCMI cost rate adjustment" to the prospective nursing labor and nonlabor operating cost base rate in the first semiannual period of the subsequent fiscal year.

c. The NCMI determined in the first semiannual period of the subsequent fiscal year shall be divided by the average of the previous fiscal year's two semiannual NCMI's to determine the NCMI cost rate adjustment to the prospective nursing labor and nonlabor operating

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base cost per day in the second semiannual period of the subsequent fiscal year.

See 12 VAC 30-90-310 for an illustration of how the NCMI is used to adjust routine operating cost ceilings and semiannual NCMI adjustments to the prospective routine operating base cost rates.

7. Interim rates. Interim rates, for processing claims during the year, shall be calculated from the most recent settled cost report and Minimum Data Set (MDS) data available at the time the interim rates must be set, except that failure to submit cost and MDS data timely may result in adjustment to interim rates as provided elsewhere.

8. Ancillary costs. Specialized care ancillary costs will be paid on a pass-through basis for those Medicaid specialized care patients who do not have Medicare or any other sufficient third-party insurance coverage. Ancillary costs will be reimbursed as follows:

a. All covered ancillary services, except kinetic therapy devices, will be reimbursed for reasonable costs as defined in the current NHPS. Effective for specialized care days on or after [July 1, 2006 January 15, 2007], reimbursement for reasonable costs shall be subject to a ceiling. The ceiling shall be \$238.81 per day for calendar year 2004 (150% of average costs) and shall be inflated to the appropriate provider fiscal year. For cost report years beginning in each calendar year, ancillary ceilings will be inflated using the moving average for the second quarter of the year, taken from the Virginia Specific Nursing Home Input Price Index published by Global Insight or its successor for the fourth quarter of the previous year. See 12 VAC 30-90-290 for the cost reimbursement limitations.

b. Kinetic therapy devices will have a limit per day (based on 1994 audited cost report data inflated to the rate period). See 12 VAC 30-90-290 for the cost reimbursement limitations.

c. Kinetic therapy devices will be reimbursed only if a resident is being treated for wounds that meet the following wound care criteria. Residents receiving this wound care must require kinetic bed therapy (that is, low air loss mattresses, fluidized beds, and/or rotating/turning beds) and require treatment for a grade (stage) IV decubitus, a large surgical wound that cannot be closed, or second to third degree burns covering more than 10% of the body.

9. Covered ancillary services are defined as follows: laboratory, X-ray, medical supplies (e.g., infusion pumps, incontinence supplies), physical therapy, occupational therapy, speech therapy, inhalation therapy, IV therapy, enteral feedings, and kinetic therapy. The following are not specialized care ancillary services and are excluded from specialized care reimbursement: physician services,

psychologist services, total parenteral nutrition (TPN), and drugs. These services must be separately billed to DMAS. An interim rate for the covered ancillary services will be determined (using data from the most recent settled cost report) by dividing allowable ancillary costs by the number of patient days for the same cost reporting period. The interim rate will be retroactively cost settled based on the specialized care nursing facility cost reporting period.

10. Capital costs. Effective July 1, 2001, capital cost reimbursement shall be in accordance with 12 VAC 30-90-35 through 12 VAC 30-90-37 inclusive, except that the 90% occupancy requirement shall not be separately applied to specialized care. Capital cost related to specialized care patients will be cost settled on the respective nursing facility's cost reporting period. In this cost settlement the 90% occupancy requirement shall be applied to all the nursing facility's licensed nursing facility beds inclusive of specialized care.

To apply this requirement, the following calculation shall be carried out.

a. Licensed beds, including specialized care beds, times days in the cost reporting period shall equal available days.

b. 90% of available days shall equal 90% occupancy days.

c. 90% occupancy days, minus actual resident days including specialized care days shall equal the shortfall of days if it is positive. It shall be set to zero if it is negative.

d. Actual resident days not including specialized care days, plus the shortfall of days shall equal the minimum number of days to be used to calculate the capital cost per day.

11. Nurse aide training and competency evaluation programs and competency evaluation programs (NATCEP) costs. NATCEPS costs will be paid on a pass-through basis in accordance with the current NHPS.

12. Pediatric routine operating cost rate. For pediatric specialized care in a distinct part pediatric specialized care unit, one routine operating cost ceiling will be developed. The routine operating cost ceiling will be computed as follows:

a. The Complex Health Care Payment Rate effective July 1, 1996, and updated for inflation, will be reduced by (i) the weighted average capital cost per day developed from the 1994 audit data and (ii) the weighted average ancillary cost per day from the 1994 audit data updated for inflation in the same manner as described in subdivision 4 a of this subsection.

b. The statewide operating ceiling shall be adjusted for each nursing facility in the same manner as described in subdivisions 4 and 5 of this section.

c. The final routine operating cost reimbursement rate shall be computed as described for other than pediatric units in subdivision 3 of this section.

13. Pediatric unit capital cost. Pediatric unit capital costs will be reimbursed in accordance with the current NHPS, except that the occupancy requirement shall be 70% rather than 90%.

14. MDS data submission. MDS data relating to specialized care patients must be submitted to the department in a submission separate from that which applies to all nursing facility patients.

a. Within 30 days of the end of each month, each specialized care nursing facility shall submit to the department, separately from its submission of MDS data for all patients, a copy of each MDS Version 2.0 which has been completed in the month for a Medicaid specialized care patient in the nursing facility. This shall include (i) the MDS required within 14 days of admission to the nursing facility (if the patient is admitted as a specialized care patient), (ii) the one required by the department upon admission to specialized care, (iii) the one required within 12 months of the most recent full assessment, and (iv) the one required whenever there is a significant change of status.

b. In addition to the monthly data submission required in subdivision 14 a of this section, the same categories of MDS data required in subdivision 14 a of this section shall be submitted for all patients receiving specialized care from January 1, 1996, through December 31, 1996, and shall be due February 28, 1997.

c. If a provider does not submit a complete MDS record for any patient within the required timeframe, the department shall assume that the RUG-III weight for that patient, for any time period for which a complete record is not provided, is the lowest RUG-III weight in use for specialized care patients. A complete MDS record is one that is complete for purposes of transmission and acceptance by the Health Care Financing Administration.

15. Case mix measures in the initial semiannual periods. In any semiannual periods for which calculations in 12 VAC 39-90-310 requires an NCMI from a semiannual period beginning before January 1996, the case mix used shall be the case mix applicable to the first semiannual period beginning after January 1, 1996, that is a semiannual period in the respective provider's fiscal period. For example, December year-end providers' rates applicable to the month of December 1996, would normally require (in Appendix I (12 VAC 30-90-270 et seq.) of Part III of this chapter) an

NCMI from July to December 1995, and one from January to June 1996, to calculate a rate for July to December 1996. However, because this calculation requires an NCMI from a period before January 1996, the NCMI that shall be used will be those applicable to the next semiannual period. The NCMI from January to June 1996, and from July to December 1996, shall be applied to December 1996, as well as to January to June 1997. Similarly, a provider with a March year end would have its rate in December 1996, through March 1997, calculated based on an NCMI from April through September 1996, and October 1996, through March 1997.

16. Cost reports of specialized care providers are due not later than 150 days after the end of the provider's fiscal year. Except for this provision, the requirements of 12 VAC 30-90-70 and 12 VAC 30-90-80 shall apply.

VA.R. Doc. No. R04-210; Filed February 22, 2007, 3:08 p.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARDS OF NURSING AND MEDICINE

Final Regulation

REGISTRAR'S NOTICE: The Boards of Nursing and Medicine are claiming an exemption 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 Boards of Nursing and Medicine will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 18 VAC 90-30. Regulations Governing the Licensure of Nurse Practitioners (amending 18 VAC 90-30-120).

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

Effective Date: April 18, 2007.

Agency Contact: Jay P. Douglas, R.N., Executive Director, Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9909, FAX (804) 662-9512, or email jay.douglas@dhp.virginia.gov.

Summary:

The amendments correct the title and date in a reference to the standards for practice of the American Association of Nurse Anesthetists.

Regulations

18 VAC 90-30-120. Practice of licensed nurse practitioners.

A. A licensed nurse practitioner shall be authorized to engage in practices constituting the practice of medicine in collaboration with and under the medical direction and supervision of a licensed physician.

B. The practice of licensed nurse practitioners shall be based on specialty education preparation as a nurse practitioner in accordance with standards of the applicable certifying organization and written protocols as defined in 18 VAC 90-30-10.

C. The written protocol shall include the nurse practitioner's authority for signatures, certifications, stamps, verifications, affidavits and endorsements provided it is:

1. In accordance with the specialty license of the nurse practitioner and with the scope of practice of the supervising physician;
2. Permitted by § 54.1-2957.02 or applicable sections of the Code of Virginia; and
3. Not in conflict with federal law or regulation.

D. A certified registered nurse anesthetist shall practice in accordance with the functions and standards defined by the American Association of Nurse Anesthetists (Guidelines Scope and Standards for Nurse Anesthesia Practice, Revised 1998 2005) and under the medical direction and supervision of a doctor of medicine or a doctor of osteopathy or the medical direction and supervision of a dentist in accordance with rules and regulations promulgated by the Board of Dentistry.

E. A certified nurse midwife shall practice in accordance with the Standards for the Practice of Nurse-Midwifery (Revised 1993) defined by the American College of Nurse-Midwives.

VA.R. Doc. No. R07-157; Filed February 27, 2007, 12:43 p.m.

BOARD OF COUNSELING

Final Regulation

REGISTRAR'S NOTICE: The following regulatory action is exempt from the Administrative Process Act in accordance with § 2.2-4006 A 7 of the Code of Virginia, which excludes regulations of the regulatory boards served by the Department of Health Professions pursuant to Title 54.1 that are limited to reducing fees charged to regulants and applicants. The Board of Counseling will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Titles of Regulations: **18 VAC 115-20. Regulations Governing the Practice of Professional Counseling (amending 18 VAC 115-20-20).**

18 VAC 115-30. Regulations Governing the Certification of Substance Abuse Counselors and Substance Abuse Counseling Assistants (amending 18 VAC 115-30-30).

18 VAC 115-40. Regulations Governing the Certification of Rehabilitation Providers (amending 18 VAC 115-40-20).

18 VAC 115-50. Regulations Governing the Practice of Marriage and Family Therapy (amending 115-50-20).

18 VAC 115-60. Regulations Governing the Licensure of Substance Abuse Treatment Practitioners (amending 18 VAC 115-60-20).

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

Effective Date: April 18, 2007.

Agency Contact: Evelyn B. Brown, Executive Director, Board of Counseling, 6603 West Broad Street, 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9133, FAX (804) 662-9943 or email evelyn.brown@dhp.virginia.gov.

Summary:

The amendments provide for a one-time reduction in renewal fees for licensed professional counselors, marriage and family therapists, and substance abuse treatment providers; and certified substance abuse counselors, rehabilitation providers, and substance abuse counseling assistants for the renewal due June 30, 2007.

18 VAC 115-20-20. Fees required by the board.

A. The board has established the following fees applicable to licensure as a professional counselor:

Active annual license renewal	\$105
Inactive annual license renewal	\$55
Initial licensure by examination:	
Application processing and initial licensure	\$140
Initial licensure by endorsement:	
Application processing and initial licensure	\$140
Registration of supervision	\$50
Add or change supervisor	\$25
Duplicate license	\$5
Verification of licensure to another jurisdiction	\$25
Late renewal	\$35
Reinstatement of a lapsed license	\$165
Replacement of or additional wall certificate	\$15
Returned check	\$35
Reinstatement following revocation or	\$500

suspension

One-time fee reduction for renewal of an active license due on June 30, ~~2006~~ 2007 \$52

One-time fee reduction for renewal of an inactive license due on June 30, ~~2006~~ 2007 \$27

B. All fees are nonrefundable.

C. Examination fees shall be determined and made payable as determined by the board.

18 VAC 115-30-30. Fees required by the board.

A. The board has established the following fees applicable to the certification of substance abuse counselors and substance abuse counseling assistants:

Substance abuse counselor annual certification renewal \$55

Substance abuse counseling assistant annual certification renewal \$40

Substance abuse counselor initial certification by examination: Application processing and initial certification \$90

Substance abuse counseling assistant initial certification by examination: Application processing and initial certification \$90

Initial certification by endorsement of substance abuse counselors: Application processing and initial certification \$90

Registration of supervision \$50

Add or change supervisor \$25

Duplicate certificate \$5

Late renewal \$20

Reinstatement of a lapsed certificate \$100

Replacement of or additional wall certificate \$15

Returned check \$35

Reinstatement following revocation or suspension \$500

One-time fee reduction for renewal of certification as a substance abuse counselor due on June 30, ~~2006~~ 2007 \$27

One-time fee reduction for renewal of certification as a substance abuse counseling assistant due on June 30, ~~2006~~ 2007 \$20

B. All fees are nonrefundable.

18 VAC 115-40-20. Fees required by the board.

A. The board has established the following fees applicable to the certification of rehabilitation providers:

Initial certification by examination: Processing and initial certification \$90

Initial certification by endorsement: Processing and initial certification \$90

Certification renewal \$55

Duplicate certificate \$5

Late renewal \$20

Reinstatement of a lapsed certificate \$100

Replacement of or additional wall certificate \$15

Returned check \$35

Reinstatement following revocation or suspension \$500

One-time fee reduction for renewal of certification as a rehabilitation provider due on June 30, ~~2006~~ 2007 \$27

B. Fees shall be paid to the board or its contractor or both in appropriate amounts as specified in the application instructions. All fees are nonrefundable.

C. Examination fees shall be determined and made payable as determined by the board.

18 VAC 115-50-20. Fees.

A. The board has established fees for the following:

Registration of supervision \$50

Add or change supervisor \$25

Initial licensure by examination: Processing and initial licensure \$140

Initial licensure by endorsement: Processing and initial licensure \$140

Active annual license renewal \$105

Inactive annual license renewal \$55

Penalty for late renewal \$35

Reinstatement of a lapsed license \$165

Verification of license to another jurisdiction \$25

Additional or replacement licenses \$5

Additional or replacement wall certificates \$15

Returned check \$35

Reinstatement following revocation or suspension \$500

Regulations

suspension

One-time reduction for renewal of an active license due on June 30, ~~2006~~ 2007 \$52

One-time reduction for renewal of an inactive license due on June 30, ~~2006~~ 2007 \$27

B. Fees shall be paid to the board or its contractor or both in appropriate amounts as specified in the application instructions. All fees are nonrefundable.

C. Examination fees shall be determined and made payable as determined by the board.

18 VAC 115-60-20. Fees required by the board.

A. The board has established the following fees applicable to licensure as a substance abuse treatment practitioner:

Registration of supervision (initial) \$50

Add/change supervisor \$25

Initial licensure by examination: Processing and initial licensure \$140

Initial licensure by endorsement: Processing and initial licensure \$140

Active annual license renewal \$105

Inactive annual license renewal \$55

Duplicate license \$5

Verification of license to another jurisdiction \$25

Late renewal \$35

Reinstatement of a lapsed license \$165

Replacement of or additional wall certificate \$15

Returned check \$35

Reinstatement following revocation or suspension \$500

One-time reduction for renewal of an active license due on June 30, ~~2006~~ 2007 \$52

One-time reduction for renewal of an inactive license due on June 30, ~~2006~~ 2007 \$27

B. Fees shall be paid directly to the board or its contractor, or both, in appropriate amounts as specified in the application instructions. All fees are nonrefundable.

C. Examination fees shall be determined and made payable as determined by the board.

VA.R. Doc. No. R07-156; Filed February 27, 2007, 12:44 p.m.



GENERAL NOTICES/ERRATA

DEPARTMENT OF EDUCATION

Revising Health Education, Physical Education, and Driver Education Standards of Learning

The Virginia Board of Education intends to review and revise the Health Education, Physical Education, and Driver Education Standards of Learning. It is anticipated that the draft text will be posted on the Department of Education's website for review and comment by the end of September 2007. Public hearings will be announced prior to final adoption. Contact Dr. Linda Wallinger, Assistant Superintendent for Instruction, telephone (804) 225-2034 or email linda.wallinger@doe.virginia.gov.

Revising History and Social Science Standards of Learning

The Virginia Board of Education intends to review and revise the History and Social Science Standards of Learning. It is anticipated that the draft text will be posted on the Department of Education's website for review and comment by the end of November 2007. Public hearings will be announced prior to final adoption. Contact Dr. Linda Wallinger, Assistant Superintendent for Instruction, telephone (804) 225-2034, or email linda.wallinger@doe.virginia.gov.

Promulgating Standards of Learning for a New Optional Mathematics Course

The Virginia Board of Education intends to promulgate Standards of Learning for a New, Optional High School Mathematics Course. It is anticipated that the draft text will be posted on the Department of Education's website for review and comment in the late spring of 2007. Public hearings will be announced prior to final adoption. Contact Dr. Linda Wallinger, Assistant Superintendent for Instruction, telephone (804) 225-2034, or email linda.wallinger@doe.virginia.gov.

DEPARTMENT OF ENVIRONMENTAL QUALITY

Total Maximum Daily Loads (TMDL) - Accomack County

The Department of Environmental Quality (DEQ), Virginia Department of Health (VDH) and the Department of Conservation and Recreation seek written and oral comments from interested persons on the development of total maximum daily loads (TMDL) for fecal coliform bacteria in three shellfish propagation waters located in Accomack County, Virginia.

The affected water body segments are identified in Virginia's 1998 303(d) TMDL Priority List and Report as impaired due to violations of the state's water quality standard for fecal

coliform bacteria in shellfish waters. The impaired segments are located in the following VDH Growing Areas:

Growing Area 100: Closure 032A, containing Little Mosquito Creek

Growing Area 99: Closure 135, containing Assawoman Creek

Growing Area 98: Closure 098A, containing Parker Creek

Sufficient exceedances of Virginia's water quality standards for fecal coliform bacteria assessed segments of Assawoman Creek, and Parker Creek as not supporting the recreation use, thus placing the segments on the 303(d) Impaired Waters List.

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.

This is the first public meeting to provide information and solicit comments from citizens and local government on preparation of the draft reports of the fecal coliform TMDL's studies and is to be held on March 27, 2007, from 6 to 9 p.m. in the Accomack-Northampton Planning District Commission building, 23372 Front Street, Accomack, Virginia.

The public comment period will begin on March 27, 2007, and end on April 26, 2007. Questions or information requests should be addressed to Jennifer Howell and should include the name, address, and telephone number of the person submitting the comments. Requests should be sent to Jennifer Howell, Department of Environmental Quality, 5636 Southern Blvd., Virginia Beach, VA 23262, telephone (757) 518-2111, FAX (757) 518-2003, or email jshowell@deq.virginia.gov.

Water Quality Improvement Study for Garden Creek in Buchanan County, Virginia

Public meeting: Twin Valley Elementary and Middle School Auditorium on Route 460 in Oakwood, Virginia, on March 22, 2007, from 7 p.m. to 9 p.m.

Purpose of notice: To seek public comment and announce a public meeting on a water quality improvement study by the Virginia Department of Environmental Quality, Department of Mines, Minerals and Energy, and the Department of Conservation and Recreation for Garden Creek in Buchanan County, Virginia.

Meeting description: Final public meeting on a study to restore water quality.

Description of study: DEQ is working to identify sources of pollutants affecting the aquatic organisms, sources of chlorides and sources of bacteria contamination in the waters

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of Garden Creek. Garden Creek is in Buchanan County and flows along Route 624 to Levisa Fork River near Oakwood, Virginia. The "impaired" stream segment was estimated to be approximately 1.81 miles long, from the confluence between Right Fork Garden Creek and Garden Creek to the confluence with Levisa Fork River. The stream is impaired for failing to meet the aquatic life use based on violations of the general standard for aquatic organisms and failure to meet the recreational use because of fecal coliform bacteria violations, additionally 2006 data indicates violation of the chloride standard.

During the study, the pollutants impairing the aquatic community will be identified and total maximum daily loads, or TMDLs, developed for the impaired waters. A TMDL is the total amount of a pollutant a water body can contain and still meet water quality standards. DEQ will also determine the sources of bacteria and chloride contamination, and develop a TMDL for bacteria. To restore water quality, contamination levels have to be reduced to the TMDL amount.

How a decision is made: The development of a TMDL includes public meetings and a public comment period once the study report is drafted. After public comments have been considered and addressed, DEQ will submit the TMDL report to the U.S. Environmental Protection Agency for approval.

How to comment: DEQ accepts written comments by email, fax or postal mail. Written comments should include the name, address and telephone number of the person commenting and be received by DEQ during the comment period, March 22, 2007, to April 23, 2007. DEQ also accepts written and oral comments at the public meeting announced in this notice.

To review draft TMDL report: The draft TMDL report on the impaired waters is available after March 22, 2007, from the contact below or on the DEQ website at www.deq.virginia.gov/tmdl.

Contact for additional information: Shelley D. Williams, Regional TMDL Coordinator, Virginia Department of Environmental Quality, Southwest Regional Office, 355 Deadmore Street, P. O. Box 1688, Abingdon, VA 24212-1688, telephone (276) 676-4845, FAX (276) 676-4899, or email sdwilliams@deq.virginia.gov.

Total Maximum Daily Loads (TMDL) - York County

The Department of Environmental Quality (DEQ), Virginia Department of Health (VDH) and the Department of Conservation and Recreation seek written and oral comments from interested persons on the development of total maximum daily loads (TMDL) for dissolved oxygen and fecal coliform bacteria in three shellfish propagation waters located in York County, Virginia.

The affected water body segments are identified in Virginia's 1998 303(d) TMDL Priority List and Report as impaired due to violations of the state's water quality standard for fecal coliform bacteria in shellfish waters. The impaired segments are located in the following VDH Growing Areas:

Growing Area 51: Closure 035, containing Queen Creek

Growing Area 51: Closure 134A, containing King Creek

Growing Area 51: Closure 134B, containing Felgates Creek

Sufficient exceedances of Virginia's water quality standards for fecal coliform bacteria and dissolved oxygen assessed segments of King Creek, Queen Creek, and Felgates Creek as not supporting the recreation use and aquatic life use goals, thus placing the segments on the 2002 303(d) Impaired Waters List.

All waters are tributaries to York River and the Chesapeake Bay.

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.

This is the first public meeting to provide information and solicit comments from citizens and local government on preparation of the draft reports of the fecal coliform TMDL's studies and is to be held on March 26, 2007, from 6 p.m. to 9 p.m. in the Meeting Room of the York County Public Library-Yorktown, 8500 George Washington Memorial Highway, Yorktown, Virginia.

The public comment period will begin on March 26, 2007, and end on April 25, 2007. Questions or information requests should be addressed to Jennifer Howell and should include the name, address, and telephone number of the person submitting the comments. Requests should be sent to Jennifer Howell, Department of Environmental Quality, 5636 Southern Blvd, Virginia Beach, VA 23262, telephone (757) 518-2111, FAX (757) 518-2003, or email jshowell@deq.virginia.gov.

DEPARTMENT OF HEALTH

Preventive Health and Health Service (PHHS) Block Grant

Commonwealth of Virginia, Virginia Health Department (VDH), Notice of Intent to hold a public hearing for the Fiscal Year 2007 Preventive Health and Health Service (PHHS) Block Grant. All interested individuals and groups are invited to participate at the public hearing on the PHHS Block Grant. In accordance with Title XIX, Section 1905 of the Public Health Service Act, the Commonwealth of Virginia hereby gives notice that VDH will apply for FY 2007 PHHS Block Grant funds and submit a state plan for

programs addressing Healthy People 2010 national health objectives. The public hearing will be held on Wednesday, March 21, 2007, from 10 a.m. to 11 a.m. The meeting will be held at the Virginia Health Department, 109 Governor Street, Room 715, Richmond, VA. The state plan will be available on the agency's website the week of February 19, 2007, at www.vahealth.org. Public comment on the plan can be made at the public hearing and written comments can be addressed to Robin Buskey, Office of Family Health Services, P.O. Box 2448, Room 721, Richmond, VA 23218.

Contact information: Robin Buskey, Grants Coordinator, Virginia Department of Health, 109 Governor Street, Richmond, VA, telephone (804) 864-7663, FAX (804) 864-7647, or email robin.buskey@vdh.virginia.gov.

STATE LOTTERY DEPARTMENT

Director's Orders

The following Director's Order of the State Lottery Department was filed with the Virginia Registrar of Regulations on February 15, 2007. The order 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.

Final Rules for Game Operation:

Director's Order Number Ten (07)

Virginia's 11th Online Game Lottery; "Fast Play Bingo" (effective 2/01/07)

BOARD OF MEDICINE

Notice of Periodic Review of Regulations

The Virginia Board of Medicine is conducting a periodic review and is requesting comment on the following regulations:

18 VAC 85-50 Regulations Governing the Practice of Physician Assistants

18 VAC 85-80 Regulations Governing the Licensure of Occupational Therapists

18 VAC 85-101 Regulations Governing the Licensure of Radiologic Technologists and Radiologic Technologists-Limited

18 VAC 85-110 Regulations Governing the Practice of Licensed Acupuncturists

18 VAC 85-120 Regulations Governing the Licensure of Athletic Trainers

The board will consider whether the existing regulations are essential to protect the health, safety and welfare of the public in providing assurance that licensed practitioners are competent to practice. Alternatives to the current regulations or suggestions for clarification of the regulation will also be received and considered.

Comment begins on March 19, 2007, and ends on April 18, 2007. If any member of the public would like to comment on these regulations, please send comments by the close of the comment period to Elaine J. Yeatts, Agency Regulatory Coordinator, Department of Health Professions, 6603 West Broad Street, Richmond, VA 23230, FAX (804) 662-9114, or email elaine.yeatts@dhp.virginia.gov.

Regulations may be viewed online on the Virginia Administrative Code website at leg1.state.va.us/000.reg/TOC18085.HTM, at www.townhall.virginia.gov, on the board's website at www.dhp.virginia.gov, or copies will be sent upon request.

STATE WATER CONTROL BOARD

Amendment of Water Quality Management Planning Regulation

Notice of action: The State Water Control Board (board) is considering the amendment of the regulation on water quality management planning in accordance with the Public Participation Procedures for Water Quality Management Planning. A regulation is a general rule governing people's rights or conduct that is upheld by a state agency.

Purpose of notice: The board is seeking comments through the Department of Environmental Quality on the proposed amendment. The purpose of the amendment to the state's Water Quality Management Planning Regulation (9 VAC 25-720) is to adopt two total maximum daily load (TMDL) waste load allocations.

Public comment period: March 19, 2007, to April 19, 2007.

Description of proposed action: DEQ staff will propose amendments of the state's Water Quality Management Planning regulation for the Potomac-Shenandoah River Basin (9 VAC 25-720-50 A). Statutory authority for promulgating these amendments can be found in § 62.1-44.15(10) of the Code of Virginia.

Staff intends to recommend that (i) the board approve two TMDL reports as the plans for the pollutant reductions necessary for attainment of water quality goals in the impaired segments, (ii) the board authorize inclusion of the TMDL reports in the appropriate Water Quality Management Plan, and (iii) the board adopt two TMDL waste load allocations as part of the state's Water Quality Management Planning Regulation in accordance with §§ 2.2-4006 A 4 c and 2.2-4006 B of the Code of Virginia.

General Notices/Errata

The two TMDL reports were developed in accordance with federal regulations (40 CFR § 130.7) and are exempt from the provisions of Article 2 of the Virginia Administrative Process Act. The reports were subject to the TMDL public participation process contained in DEQ's Public Participation Procedures for Water Quality Management Planning. The public comment process provides the affected stakeholders an opportunity for public appeal of the TMDLs. EPA approved all TMDLs presented under this public notice. The approved reports can be found at <http://www.deq.virginia.gov/tmdl>.

Affected Waterbodies and Localities:

In the Potomac - Shenandoah River Basin (9 VAC 25-720-50 A):

"Benthic TMDL Development for Bull Run, Virginia" - Bull Run benthic TMDL, located in Loudoun, Fairfax and Prince William Counties, and the Cities of Manassas and Manassas Park, proposes sediment reductions for portions of the watershed and provides a sediment wasteload allocation of 5,986.8 tons/year.

"Benthic TMDL Development for Popes Head Creek, Virginia" - Popes Head Creek benthic TMDL, located in Fairfax County, proposes sediment reductions for portions of the watershed and provides a sediment wasteload allocation of 1,594.2 tons/year.

How to comment: The DEQ accepts written comments by email, fax and postal mail. All written comments must include the full name, address and telephone number of the person commenting and be received by DEQ by 5 p.m. on the last day of the comment period.

How a decision is made: After comments have been considered, the board will make the final decision. Citizens that submit statements during the comment period may address the board members during the board meeting at which a final decision is made on the proposal.

To review documents: The TMDL reports and the proposed regulatory amendments are available on the DEQ website at <http://www.deq.virginia.gov/tmdl/> and by contacting the DEQ representative named below. The electronic copies are in PDF format and may be read online or downloaded.

Contact for public comments, document requests and additional information: Jutta Schneider, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4099, FAX (804) 698-4116, or email jschneider@deq.virginia.gov.

Notice of action: The State Water Control Board (board) is considering the amendment of the regulation on water quality management planning in accordance with the Public Participation Procedures for Water Quality Management

Planning. A regulation is a general rule governing people's rights or conduct that is upheld by a state agency.

Purpose of notice: The board is seeking comments through the Department of Environmental Quality on the proposed amendment. The purpose of the amendment to the state's Water Quality Management Planning Regulation (9 VAC 25-720) is to adopt one modification of a total maximum daily load (TMDL) waste load allocation.

Public comment period: March 19, 2007, to April 19, 2007.

Description of proposed action: DEQ staff will propose an amendment of the state's Water Quality Management Planning regulation for the Tennessee-Big Sandy River Basin (9 VAC 25-720-90 A). Statutory authority for promulgating this amendment can be found in § 62.1-44.15(10) of the Code of Virginia. The TMDL modification pertained only to the wasteload allocation and did not affect the load allocation. Public notice for the TMDL modification was provided concurrent with the public notice for permit modification. EPA has approved the TMDL modification presented under this public notice. The approval can be obtained at <http://www.deq.state.va.us/tmdl/> or by contacting the person listed below. Staff intends to recommend that (i) the board approve the TMDL modification, and (ii) the board adopt the modified TMDL waste load allocation as part of the state's Water Quality Management Planning Regulation in accordance with §§ 2.2-4006 A 4 c and 2.2-4006 B of the Code of Virginia.

Affected Waterbodies and Localities:

In the Tennessee-Big Sandy River Basin, 9 VAC 25-720-90:

"Guest River Total Maximum Daily Load Report" - modification of the Guest River sediment TMDL, located in Wise County, to expand the sediment wasteload allocation from 317.52 tons/year to 317.922 tons/year. The corresponding increase in the total maximum daily load is less than 0.01 percent.

How to comment: The DEQ accepts written comments by email, fax and postal mail. All written comments must include the full name, address and telephone number of the person commenting and be received by DEQ by 5 p.m. on the last day of the comment period.

How a decision is made: After comments have been considered, the board will make the final decision. Citizens that submit statements during the comment period may address the board members during the board meeting at which a final decision is made on the proposal.

To review documents: The TMDL reports and the proposed regulatory amendments are available on the DEQ website at <http://www.deq.virginia.gov/tmdl/> and by contacting the DEQ representative named below. The electronic copies are in PDF format and may be read online or downloaded.

Contact for public comments, document requests and additional information: Jutta Schneider, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4099, FAX (804) 698-4116, or email jschneider@deq.virginia.gov.

Notice of action: The State Water Control Board (board) is considering the approval of 13 total maximum daily load (TMDL) reports and granting authorization to include the TMDL reports in the appropriate Water Quality Management Plans (WQMPs).

Purpose of notice: The board is seeking comment on the proposed approvals and authorizations. The purpose of these actions is to approve 13 TMDL reports as Virginia's plans for the pollutant reductions necessary for attainment of water quality goals in several impaired waterbodies. These actions are taken in accordance with the Public Participation Procedures for Water Quality Management Planning.

Public comment period: March 19, 2007, to April 19, 2007.

Description of proposed action: DEQ staff intends to recommend that (i) the DEQ Director approve the TMDL reports listed below as Virginia's plans for the pollutant reductions necessary for attainment of water quality goals in the impaired segments, and (ii) the DEQ Director authorize inclusion of the TMDL reports in the appropriate WQMPs. No regulatory amendments are required for these TMDLs and their associated waste load allocations.

At previous meetings, the board voted unanimously to delegate to the DEQ Director the authority to approve TMDLs that do not include waste load allocations requiring regulatory adoption by the board, provided that a summary report of the action the Director plans to take is presented to the board prior to the Director approving the TMDL reports. The TMDLs included in this public notice will be approved using this delegation of authority.

The TMDLs listed below were developed in accordance with federal regulations (40 CFR § 130.7) and are exempt from the provisions of Article 2 of the Virginia Administrative Process Act. The TMDLs have been through the TMDL public participation process contained in DEQ's Public Participation Procedures for Water Quality Management Planning. The public comment process provides the affected stakeholders an opportunity for public appeal of the TMDLs. EPA approved all TMDL reports presented under this public notice. The approved reports can be found at http://gisweb.deq.virginia.gov/tmdlapp/tmdl_report_search.cfm.

Affected Waterbodies and Localities:

In the Rappahannock River Basin:

1. "Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacteria Contamination - Broad Creek and Jackson Creek"

- 3 bacteria TMDLs, located in Middlesex County, propose bacteria reductions for portions of the watershed to address VDH Shellfish Area Condemnations

2. "Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacteria Contamination - Locklies and Mill Creeks"

- 2 bacteria TMDLs, located in Middlesex County, propose bacteria reductions for portions of the watershed to address VDH Shellfish Area Condemnations

3. "Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacteria Contamination - Sturgeons and Bush Park Creeks"

- 2 bacteria TMDLs, located in Middlesex County, propose bacteria reductions for portions of the watershed to address VDH Shellfish Area Condemnations

4. "Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacteria Contamination - Farnham Creek"

- 1 bacteria TMDL, located in Richmond County, proposes bacteria reductions for portions of the watershed to address VDH Shellfish Area Condemnation

5. "Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacteria Contamination - Greenvale Creek and Beach Creek"

- 2 bacteria TMDLs, located in Lancaster County, propose bacteria reductions for portions of the watershed to address VDH Shellfish Area Condemnations

6. "Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacteria Contamination - Lancaster, Mulberry and Deep Creeks"

- 3 bacteria TMDLs, located in Lancaster County, propose bacteria reductions for portions of the watershed to address VDH Shellfish Area Condemnations

In the York River Basin:

7. "Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacteria Contamination - Sarah Creek and Upper Perrin River"

General Notices/Errata

- 2 bacteria TMDLs, located in Gloucester County, propose bacteria reductions for portions of the watershed to address VDH Shellfish Area Condemnations

8. "Bacteria Total Maximum Daily Load Development for the Pamunkey River Basin"

- 11 bacteria TMDLs, located in Louisa, Orange, Caroline, Hanover, King William, and New Kent Counties, propose bacteria reductions for portions of the watershed to address primary contact (swimming use) impairments

In the Roanoke River Basin:

9. "Bacteria TMDLs for the Cub Creek, Turnip Creek, Buffalo Creek, Buffalo Creek (UT), and Staunton River Watersheds, Virginia"

- 4 bacteria TMDLs, located in Halifax and Charlotte Counties, propose bacteria reductions for portions of the watershed to address primary contact (swimming use) impairments

10. "Bacteria TMDLs for Wilson Creek, Ore Branch and Roanoke River Watersheds, Virginia"

- 3 bacteria TMDLs, located in Montgomery, Bedford, Roanoke, Salem, and Franklin Counties, and in the City of Roanoke, propose bacteria reductions for portions of the watershed to address primary contact (swimming use) impairments

11. "Bacteria Total Maximum Daily Load Development for Pigg River, Snow Creek, Story Creek, and Old Womans Creek"

- 6 bacteria TMDLs, located in Bedford, Franklin, and Pittsylvania Counties, propose bacteria reductions for portions of the watershed to address primary contact (swimming use) impairments

12. "Bacteria TMDL for Beaverdam Creek Bedford County, Virginia"

- 1 bacteria TMDL, located in Bedford County, proposes bacteria reductions for portions of the watershed to address a primary contact (swimming use) impairment

In the Tennessee-Big Sandy River Basin:

13. "General Standard (Benthic) Total Maximum Daily Load Development for Upper North Fork Holston River"

- 1 chloride TMDL, located in Smyth and Washington Counties, proposes chloride reductions for portions of the watershed to address an aquatic life use (benthic) impairment

How to comment: The DEQ accepts written comments by email, fax and postal mail. All written comments must include the full name, address and telephone number of the person commenting and be received by DEQ by 5 p.m. on the last day of the comment period.

How a decision is made: After comments have been considered, the board will make the final decision.

To review documents: The TMDL reports and TMDL implementation plans are available on the DEQ website at <http://www.deq.virginia.gov/tmdl/> and by contacting the DEQ representative named below. The electronic copies are in PDF format and may be read online or downloaded.

Contact for public comments, document requests and additional information: Jutta Schneider, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4099, FAX (804) 698-4116, or email jschneider@deq.virginia.gov.

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Notice of action: The State Water Control Board (board) is considering the approval of two TMDL implementation plans (TMDL IPs) and granting authorization to include the TMDL implementation plans in the appropriate Water Quality Management Plans (WQMPs).

Purpose of notice: The board is seeking comment on the proposed approvals and authorizations. The purpose of these actions is to approve two TMDL IPs as Virginia's plans for the management actions necessary for attainment of water quality goals in several impaired waterbodies. These actions are taken in accordance with the Public Participation Procedures for Water Quality Management Planning.

Public comment period: March 19, 2007, to April 19, 2007.

Description of proposed action: DEQ staff intends to recommend (i) that the DEQ Director approve the TMDL IPs listed below as Virginia's plans for the management actions necessary for attainment of water quality goals in the impaired segments, and (ii) that the DEQ Director authorize inclusion of the TMDL IPs in the appropriate WQMPs. No regulatory amendments are required for these TMDL IPs.

At previous meetings, the board voted unanimously to delegate to the DEQ Director the authority to approve TMDL implementation plans, provided that a summary report of the action the Director plans to take is presented to the board prior to the Director approving the TMDL IPs. The TMDLs IPs included in this public notice will be approved using this delegation of authority.

The TMDL IPs listed below were developed in accordance with the 1997 Water Quality Monitoring, Information and Restoration Act (WQMIRA, §§ 62.1-44.19:4 through 62.1-44.19:8 of the Code of Virginia) and federal recommendations. The TMDL IPs were developed in

accordance with DEQ's Public Participation Procedures for Water Quality Management Planning. Extensive public participation was solicited during the development of the plans, and the public comment process provided the affected stakeholders with opportunities for comment on the proposed plans. The final TMDL IPs can be found at <http://www.deq.state.va.us/tmdl/iprpts.html>.

Affected Waterbodies and Localities:

In the New River Basin:

1. "Dodd Creek Watershed TMDL Implementation Plan" - proposes management actions needed to restore the primary contact (swimming) use in Dodd Creek, Floyd County
2. "Mill Creek Watershed TMDL Implementation Plan" - proposes management actions needed to restore the primary contact (swimming) use in Mill Creek, Montgomery County

How to comment: The DEQ accepts written comments by email, fax and postal mail. All written comments must include the full name, address and telephone number of the person commenting and be received by DEQ by 5 p.m. on the last day of the comment period.

How a decision is made: After comments have been considered, the board will make the final decision.

To review documents: The TMDL implementation plans are available on the DEQ website at <http://www.deq.virginia.gov/tmdl/> and by contacting the DEQ representative named below. The electronic copies are in PDF format and may be read online or downloaded.

Contact for public comments, document requests and additional information: Jutta Schneider, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4099, FAX (804) 698-4116, or email jschneider@deq.virginia.gov.

DEPARTMENT OF SOCIAL SERVICES

Periodic Review of Regulations

Pursuant to Executive Order Number 36 (2006), the Department of Social Services is currently reviewing 22 VAC 40-11, Public Participation Guidelines, to determine if it should be terminated, amended, or retained in current form. The review will be guided by the principles listed in Executive Order Number 36 (2006) and in the Department's Plan for Review of Existing Agency Regulations.

The Department seeks public comment regarding the regulation's interference in private enterprise and life, essential need of the regulation, less burdensome and intrusive alternative to the regulation, specific and measurable goals that the regulation is intended to achieve, and whether the regulation is clearly written and easily understandable.

Written comments may be submitted until April 9, 2007, in care of Karin Clark, Senior Policy Analyst, Office of Legislative and Regulatory Affairs, 7 North Eighth Street, Richmond, Virginia 23219, by facsimile to (804) 726-7906, or by email to karin.clark@dss.virginia.gov.

Pursuant to Executive Order Number 36 (2006), the Department of Social Services is currently reviewing 22 VAC 40-680, Virginia Energy Assistance Program-Low Income Home Energy Assistance Program (LIHEAP), to determine if it should be terminated, amended, or retained in current form. The review will be guided by the principles listed in Executive Order Number 36 (2006) and in the Department's Plan for Review of Existing Agency Regulations.

The Department seeks public comment regarding the regulation's interference in private enterprise and life, essential need of the regulation, less burdensome and intrusive alternative to the regulation, specific and measurable goals that the regulation is intended to achieve, and whether the regulation is clearly written and easily understandable.

Written comments may be submitted until March 12, 2007, in care of Sandy Graham, Energy Assistance Consultant, Division of Benefit Programs, 7 North Eighth Street, Richmond, Virginia 23219, by facsimile to (804) 726-7358, or by email to sandy.graham@dss.virginia.gov.

Pursuant to Executive Order Number 36 (2006), the Department of Social Services is currently reviewing 22 VAC 40-780, Elimination of Financial Eligibility Criteria for Direct Social Services, to determine if it should be terminated, amended, or retained in current form. The review will be guided by the principles listed in Executive Order Number 36 (2006) and in the Department's Plan for Review of Existing Agency Regulations.

The Department seeks public comment regarding the regulation's interference in private enterprise and life, essential need of the regulation, less burdensome and intrusive alternative to the regulation, specific and measurable goals that the regulation is intended to achieve, and whether the regulation is clearly written and easily understandable.

Written comments may be submitted until April 9, 2007, in care of Phyl Parrish, Acting Program Manager, Quality Review Unit, Division of Family Services, 7 North Eighth Street, Richmond, Virginia 23219, by facsimile to (804) 726-7895, or by email to phyl.parrish@dss.virginia.gov.

General Notices/Errata

VIRGINIA CODE COMMISSION

Notice to State Agencies

Mailing Address: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219.

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
AGENCY RESPONSE TO LEGISLATIVE
OBJECTIONS-RR08
RESPONSE TO PETITION FOR RULEMAKING-RR13
FAST-TRACK RULEMAKING ACTION-RR14

ERRATA

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

Titles of Regulations: **13 VAC 5-111. Enterprise Zone Program Regulation.**

Publication: 23:12 VA.R. 1971-1994 February 19, 2007.

Correction to Final Regulation:

In the Titles of Regulations, the sections being repealed in 13 VAC 5-111, should be corrected to read as follows:

13 VAC 5-111. Enterprise Zone Program Regulation (repealing 13 VAC 5-111-10 through 13 VAC 5-111-400).

VA.R. Doc. No. R06-81.

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.virginia.gov 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 website's Legislative Information System (<http://leg1.state.va.us/lis.htm>) and select "Meetings."

VIRGINIA CODE COMMISSION

EXECUTIVE

BOARD OF ACCOUNTANCY

April 6, 2007 - 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 Accountancy intends to consider amending regulations entitled **18 VAC 5-10, Public Participation Guidelines**. The purpose of the proposed action is to revise the regulation solely for the purpose of updating the statutory citations contained therein referencing the Administrative Process Act (APA), and bringing the language in line with the current APA requirements. Such changes are noncontroversial and are intended to increase the public's input into the regulation promulgation process in the most efficient and effective manner possible.

Statutory Authority: §§ 2.2-4007 and 54.1-4403 of the Code of Virginia.

Contact: Nancy Taylor Feldman, Executive Director, Board of Accountancy, 3600 W. Broad St., Suite 378, Richmond, VA 23230, telephone (804) 367-8505, FAX (804) 367-2174 or email boa@boa.virginia.gov.

† **April 26, 2007 - 9 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Suite 395, Richmond, Virginia.

A meeting of the Enforcement Committee to review open disciplinary cases.

Contact: Jean Grant, Enforcement Manager, Board of Accountancy, 3600 W. Broad St., Suite 378, Richmond, VA 23230-4923, telephone (804) 367-0725, FAX (804) 367-2174, (804) 367-9753/TTY☎, email jean.grant@boa.virginia.gov.

† **April 26, 2007 - 10 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Suite 378, Richmond, Virginia.

An informal conference to gather facts during a public hearing regarding disciplinary cases.

Contact: Jean Grant, Enforcement Manager, Board of Accountancy, 3600 W. Broad St., Suite 378, Richmond, VA 23230-4923, telephone (804) 367-0725, FAX (804) 367-2174, (804) 367-9753/TTY☎, email jean.grant@boa.virginia.gov.

BOARD OF AGRICULTURE AND CONSUMER SERVICES

March 22, 2007 - 9 a.m. -- Open Meeting
Oliver Hill Building, 102 Governor Street, 220 Board Room, 2nd Floor, Richmond, Virginia.♿

A meeting to discuss issues related to Virginia agriculture. 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, Oliver Hill Bldg., 102 Governor St., Suite 219, Richmond, VA 23219, telephone (804) 786-3538, FAX (804) 371-2945, email roy.seward@vdacs.virginia.gov.


Calendar of Events

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES


Virginia Agricultural Council

March 26, 2007 - 8:30 a.m. -- Open Meeting

March 27, 2007 - 8 a.m. -- Open Meeting

Courtyard by Marriott, 1201 West Main Street, Charlottesville, Virginia. 

A meeting to hear and act upon agricultural project proposals for financial assistance through the Virginia Agricultural Council. The council 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 Donald Ayers at least five days before the meeting date so that suitable arrangements can be made.

Contact: Donald Ayers, Executive Director, Virginia Agricultural Council, 7163 Ayersby Dr., New Kent, VA 23124, telephone (804) 779-3493, FAX (804) 779-2581, (800) 828-1120/TTY , email don.ayers@vdacs.virginia.gov.

April 8, 2007 - 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 Agriculture and Consumer Services intends to amend regulations entitled **2 VAC 5-490, Regulations Governing Grade "A" Milk**. The purpose of the proposed action is adopt the requirements contained in the 2005 revision of the Pasteurized Milk Ordinance (PMO). The PMO is a federal model regulation for adoption by the states to governing the production, processing, distribution and sale of milk and milk products in the United States. The current Regulations Governing Grade "A" Milk adopted the 1989 revision of the PMO.

Statutory Authority: § 3.1-530.1 of the Code of Virginia.

Contact: John A. Beers, Program Supervisor, 102 Governor St., Suite 349, Richmond, VA 23219, telephone (804) 786-1452, FAX (804) 371-7792 or email john.beers@vdacs.virginia.gov.

Virginia Dark-Fired Tobacco Board

† March 30, 2007 - 10 a.m. -- Open Meeting

Sheldon's Restaurant, Business Route 15 and 360, Keysville, Virginia. 


A meeting to (i) review and consider approval of minutes of the last meeting; (ii) review the board's financial statement and approve the budget for FY07-08; (iii) consider funding proposals for research, promotion, and

education projects pertaining to the Virginia dark-fired tobacco industry; and (iv) discuss other business that may come before the board. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact D. Stanley Duffer at least five days before the meeting date so that suitable arrangements can be made.

Contact: D. Stanley Duffer, Board Secretary, Virginia Dark-Fired Tobacco Board, P.O. Box 129, Halifax, VA 24558, telephone (434) 572-4568, FAX (434) 572-8234, email stan.duffer@vdacs.virginia.gov.

Virginia Marine Products Board

April 3, 2007 - 6 p.m. -- Open Meeting


Sunset Beach Resort, 32246 Lankford Highway, Cape Charles, Virginia. 

A meeting to (i) hear and approve the minutes of the previous board meeting; (ii) hear and evaluate the board's financial report; and (iii) hear reports on trade shows, industry tours, and cooperative programs with the Virginia Department of Agriculture and Consumer Services. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact 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 Boulevard, Suite B, Newport News, VA 23608, telephone (757) 874-3474, FAX (757) 886-0671, email shirley.estes@vdacs.virginia.gov.

Virginia Peanut Board

March 29, 2007 - 10:30 a.m. -- Open Meeting

Tidewater Agriculture Research and Extension Center, 6321 Holland Road, Suffolk, Virginia. 

A meeting to (i) hear and approve the minutes of the last meeting; (ii) receive research proposals by Virginia Tech researchers and approve projects for FY08; (iii) discuss availability of funds to be allocated for research for 2007; and (iv) review the financial status of the association. 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 Thomas R. Cotton, Jr., at least five days before the meeting date so that suitable arrangements can be made.

Contact: Thomas R. (Dell) Cotton, Jr., Program Director, Virginia Peanut Board, 1001 Campbell Ave., P.O. Box 59,

Franklin, VA 23851-0059, telephone (757) 569-0249, FAX (757) 562-0744.

Virginia Wine Board

† **March 20, 2007 - 11 a.m.** -- Open Meeting
Department of Agriculture and Consumer Services, 102 Governor Street, 2nd Floor, 220 Board Room, Richmond, Virginia. ☎

A meeting to (i) approve the minutes of the last meeting held on September 26, 2006, (ii) review the board's financial statement, and (iii) discuss old business arising from the last meeting and any new business to come before the board. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact David Robishaw at least one day before the meeting date so that suitable arrangements can be made.

Contact: David Robishaw, Secretary, Virginia Wine Board, 900 Natural Resources Dr., Suite 300, Charlottesville, VA 22903, telephone (434) 984-0573, FAX (434) 984-4156, email david.robishaw@vdacs.virginia.gov.

STATE AIR POLLUTION CONTROL BOARD

† **March 26, 2007 - 9:30 a.m.** -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room C, Richmond, Virginia. ☎

A regular meeting. The agenda will be posted at least 10 days before the meeting.

Contact: Cindy Berndt, Regulatory Coordinator, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4378, FAX (804) 698-4346, email cberndt@deq.virginia.gov.

† **April 10, 2007 - 1 p.m.** -- Open Meeting
Virginia Military Institute, Lexington, Virginia.

A joint meeting of representatives of the State Air Pollution Control Board, State Water Control Board and Virginia Waste Management Board.

Contact: Cindy Berndt, Regulatory Coordinator, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4378, FAX (804) 698-4346, email cberndt@deq.virginia.gov.

ALCOHOLIC BEVERAGE CONTROL BOARD

March 19, 2007 - 9 a.m. -- Open Meeting
April 2, 2007 - 9 a.m. -- Open Meeting
April 16, 2007 - 9 a.m. -- Open Meeting
May 7, 2007 - 9 a.m. -- Open Meeting
May 21, 2007 - 9 a.m. -- Open Meeting
June 4, 2007 - 9 a.m. -- Open Meeting
† **June 18, 2007 - 9 a.m.** -- Open Meeting
Department of Alcoholic Beverage Control, 2901 Hermitage Road, Richmond, Virginia. ☎

An executive staff meeting to receive and discuss reports and activities from staff members and to discuss other matters as necessary.

Contact: W. Curtis Coleburn, III, Secretary to the Board, Alcoholic Beverage Control Board, 2901 Hermitage Rd., Richmond, VA 23220, telephone (804) 213-4409, FAX (804) 213-4411, (804) 213-4687/TTY ☎, email curtis.coleburn@abc.virginia.gov.

May 4, 2007 - 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 Alcoholic Beverage Control Board intends to amend regulations entitled **3 VAC 5-10, Procedural Rules for the Conduct of Hearings Before the Board and Its Hearing Officers and the Adoption or Amendment of Regulations**. The purpose of the proposed action is to adopt several amendments to the regulation governing its procedures in hearings and public participation in the promulgation of regulations. Since the last action adopting or amending the regulation, various reorganizations within the agency have abolished positions referenced or reassigned certain duties. Several of the changes proposed involve correcting obsolete references to such eliminated or renamed positions. Other amendments eliminate unnecessary provisions that prohibit the chief hearing officer from presiding over cases in which a consent settlement offer was extended, and require the secretary to prescreen complaints arising under the Beer and Wine Franchise Acts. Amendments to the board's public participation guidelines eliminate the current requirement of annual rulemaking, and recognize advancing technology by providing for email notification of regulatory activities and posting notice of regulatory actions on the Virginia Regulatory Town Hall.

Statutory Authority: §§ 4.1-103 and 4.1-111 of the Code of Virginia.

Contact: W. Curtis Coleburn, III, Secretary to the Board, Alcoholic Beverage Control Board, 2901 Hermitage Rd., Richmond, VA 23220, telephone (804) 213-4409, FAX (804)

Calendar of Events

213-4411, (804) 213-4687/TTY☎, email
curtis.coleburn@abc.virginia.gov.

May 4, 2007 - 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 Alcoholic Beverage Control Board intends to amend regulations entitled **3 VAC 5-40, Requirements for Product Approval**. The purpose of the proposed action is to amend the board's regulation governing the approval of new wine and beer products for sale in the Commonwealth. It proposes to eliminate several existing restrictions on the content of wine and beer labels. These restrictions are either obsolete or unnecessary because of other state or federal regulations covering the same subject matter. In addition, new provisions allow the sale of wine or beer for which approval has been applied, if the board fails to approve or disapprove within 30 days of receipt of the application.

Statutory Authority: §§ 4.1-103 and 4.1-111 of the Code of Virginia.

Contact: W. Curtis Coleburn, III, Secretary to the Board, Alcoholic Beverage Control Board, 2901 Hermitage Rd., Richmond, VA 23220, telephone (804) 213-4409, FAX (804) 213-4411, (804) 213-4687/TTY☎, email curtis.coleburn@abc.virginia.gov.

May 4, 2007 - 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 Alcoholic Beverage Control Board intends to amend regulations entitled **3 VAC 5-60, Manufacturers and Wholesalers Operations**. The purpose of the proposed action is to amend three sections of the board's regulations governing wine wholesalers and solicitors for distilled spirits manufacturers. Changes to 3 VAC 5-60-20 are designed to make reporting of purchases and sales by wine wholesalers easier by allowing reports in lieu of the submission of actual copies of certain purchase orders and invoices currently required to be submitted to the board. It is proposed that 3 VAC 5-60-40 be amended to increase the penalty of the indemnifying bond required of wine wholesalers from \$1,000 to \$2,500. 3 VAC 5-60-80 is proposed to be amended by modifying language to conform to a statute enacted by the 2006 Session of the General Assembly, and to allow the display on licensed retail premises of advertising specialty items provided by solicitors for distilled spirits manufacturers. In addition, a new section 3 VAC 5-60-100 is added, providing a process for manufacturers, wholesalers, or

importers to seek approval from the board for the employment of persons with certain criminal convictions.

Statutory Authority: §§ 4.1-103 and 4.1-111 of the Code of Virginia.

Contact: W. Curtis Coleburn, III, Secretary to the Board, Alcoholic Beverage Control Board, 2901 Hermitage Rd., Richmond, VA 23220, telephone (804) 213-4409, FAX (804) 213-4411, (804) 213-4687/TTY☎, email curtis.coleburn@abc.virginia.gov.

May 4, 2007 - 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 Alcoholic Beverage Control Board intends to amend regulations entitled **3 VAC 5-70, Other Provisions**. The purpose of the proposed action is to (i) conform exceptions to the general prohibition against licensees giving away alcoholic beverages to recent actions of the General Assembly; (ii) remove the requirement that manufacturers give the board a copy of any price increase notice; (iii) provide that in situations where the same person is both the importer and wholesaler, no notice of price increase is required; (iv) increase the number of allowed farm winery remote locations from two to five as allowed by statute; and (v) set forth procedures for auction sales of designer or antique bottles containing distilled spirits.

Statutory Authority: §§ 4.1-103 and 4.1-111 of the Code of Virginia.

Contact: W. Curtis Coleburn, III, Secretary to the Board, Alcoholic Beverage Control Board, 2901 Hermitage Rd., Richmond, VA 23220, telephone (804) 213-4409, FAX (804) 213-4411, (804) 213-4687/TTY☎, email curtis.coleburn@abc.virginia.gov.

BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS, CERTIFIED INTERIOR DESIGNERS AND LANDSCAPE ARCHITECTS

April 3, 2007 - 9 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, 5th Floor, Richmond, Virginia. ♿

A meeting of the Continuing Education Committee to develop draft wording for the board's consideration for implementing the mandatory continuing education program.

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 ☎, email apelscidla@dpor.virginia.gov.

May 8, 2007 - 9 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ♿

A meeting of the Architects Section to conduct board business. A portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475 or email apelscidla@dpor.virginia.gov.

May 10, 2007 - 9 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, 5th Floor, Richmond, Virginia. ♿

A meeting of the Professional Engineers Section to conduct board business. A portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475 or email apelscidla@dpor.virginia.gov.

May 14, 2007 - 9 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, 5th Floor, Virginia. ♿

A meeting of the Landscape Architects Section to conduct board business. A portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475 or email apelscidla@dpor.virginia.gov.

May 22, 2007 - 9 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, 5th Floor, Richmond, Virginia. ♿

A meeting of the Interior Designers Section to conduct board business. A portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475 or email apelscidla@dpor.virginia.gov.

May 24, 2007 - 9 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, 5th Floor, Richmond, Virginia. ♿

A meeting of the Land Surveyors Section to conduct board business. A portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475 or email apelscidla@dpor.virginia.gov.

† June 14, 2007 - 9 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. ♿

A regular meeting to discuss board business. A portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475 or email apelscidla@dpor.virginia.gov.


Calendar of Events

ART AND ARCHITECTURAL REVIEW BOARD

April 6, 2007 - 10 a.m. -- Open Meeting

May 4, 2007 - 10 a.m. -- Open Meeting

June 1, 2007 - 10 a.m. -- Open Meeting

Science Museum of Virginia, 2500 West Broad Street, Forum Room, Richmond, Virginia.  (Interpreter for the deaf provided upon request)


A monthly meeting to review projects submitted by state agencies. Art and Architectural Review Board submittal forms and submittal instructions can be downloaded by visiting the DGS Forms Center at www.dgs.virginia.gov. Request form #DGS-30-905 or submittal instructions #DGS-30-906. The deadline for submitting project datasheets and other required information is two weeks prior to the meeting date.

Contact: Brian H. Ohlinger, Chairman, Art and Architectural Review Board, 700 W. Grace St., Suite 2200, Richmond, VA 23284, telephone (804) 827-9647, FAX (804) 827-1288 or email bjohlinger@vcu.edu.


VIRGINIA COMMISSION FOR THE ARTS

† **March 28, 2007 - 1 p.m.** -- Open Meeting


† **March 29, 2007 - 9 a.m.** -- Open Meeting

The Art League, 105 North Union Street, Alexandria, Virginia.  (Interpreter for the deaf provided upon request)


A quarterly meeting of the commissioners to discuss general policy issues.

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 , email peggy.baggett@arts.virginia.gov.


† **June 14, 2007 - 8 a.m.** -- Open Meeting

Museum of the Shenandoah Valley, Winchester, Virginia.  (Interpreter for the deaf provided upon request)

† **June 15, 2007 - 8 a.m.** -- Open Meeting


Shenandoah University, Board Room, Winchester, Virginia.  (Interpreter for the deaf provided upon request)

A quarterly meeting of the commissioners to review and approve the recommendations of the 07-08 grant panels.


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 , email peggy.baggett@arts.virginia.gov.

VIRGINIA BOARD FOR ASBESTOS, LEAD, AND HOME INSPECTORS

May 9, 2007 - 9 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Room 453, Richmond, Virginia. 


A general business meeting including consideration of regulatory issues as may be presented on the agenda. A portion of the board's business may be discussed in closed session. Public comment will be heard at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

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) 367-2475, (804) 367-9753/TTY , email alhi@dpor.virginia.gov.


AUCTIONEERS BOARD

NOTE: CHANGE IN MEETING DATE

April 19, 2007 - 10 a.m. -- Open Meeting


Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. 

A meeting to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Any person desiring to attend the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act.

Contact: Marian H. Brooks, Regulatory Board Administrator, Auctioneers Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-0795, (804) 367-9753/TTY , email auctioneers@dpor.virginia.gov.

BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

May 24, 2007 - 9:30 a.m. -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia. 

A meeting to discuss general business matters 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 interpretive services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Lisa R. Hahn, 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 ☎, email lisa.hahn@dhp.virginia.gov.

BOARD FOR BARBERS AND COSMETOLOGY

NOTE: CHANGE IN MEETING DATE

April 30, 2007 - 9 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. ♿

A general business meeting to include 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 interpretive services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: 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 ☎, email barbercosmo@dpor.virginia.gov.

BOARD FOR THE BLIND AND VISION IMPAIRED

April 17, 2007 - 1 p.m. -- Open Meeting

Department for the Blind and Vision Impaired, 397 Azalea Avenue, Richmond, Virginia. ♿

A meeting to review information regarding the Department for the Blind and Vision Impaired's activities and operations, review expenditures from board endowment funds, and discuss other issues raised by the board members.

Contact: Katherine C. Proffitt, Administrative Staff Assistant, Department for the Blind and Vision Impaired, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3145, FAX (804) 371-3157, toll-free (800) 622-2155, (804) 371-3140/TTY ☎, email kathy.proffitt@dbvi.virginia.gov.

BOARD FOR BRANCH PILOTS

May 1, 2007 - 8:30 a.m. -- Open Meeting

Virginia Port Authority, 600 World Trade Center, Norfolk, Virginia. ♿

A meeting of the Examination Administrators to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. All meetings are subject to cancellation. Any person desiring to attend the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Executive Director, Board for Branch Pilots, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY ☎, email branchpilots@dpor.virginia.gov.

May 2, 2007 - 9:30 a.m. -- Open Meeting

NOTE: CHANGE IN MEETING LOCATION

Hampton City Council Chambers, City Hall, 22 Lincoln Avenue, 8th Floor, Hampton, Virginia. ♿

A meeting to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. All meetings are subject to cancellation. Any person desiring to attend the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Executive Director, Board for Branch Pilots, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY ☎, email branchpilots@dpor.virginia.gov.

CEMETERY BOARD

† **June 6, 2007 - 9 a.m.** -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. ♿

A meeting to discuss board business.

Contact: Christine Martine, Executive Director, Cemetery Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-6946, (804) 367-9753/TTY ☎, email cemetery@dpor.virginia.gov.

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

March 26, 2007 - 10 a.m. -- Open Meeting

Location to be announced.

A Policy Committee meeting.

Calendar of Events

Contact: David C. Dowling, Policy, Planning, and Budget Director, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-2291, FAX (804) 786-6141, email david.dowling@dcr.virginia.gov.

NOTE: CHANGE IN MEETING TIME

March 26, 2007 - 1 p.m. -- Open Meeting

CHANGE IN MEETING LOCATION

Stratford Hall Plantation, Westmoreland County, Virginia. ☎

† **June 18, 2007 - 10 a.m.** -- Open Meeting

Location to be announced.

A regular business meeting to review local programs.

Contact: David C. Dowling, Policy, Planning, and Budget Director, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-2291, FAX (804) 786-6141, email david.dowling@dcr.virginia.gov.

May 8, 2007 - 10 a.m. -- Open Meeting

James Monroe Building, 101 North 14th Street, 17th Floor Conference Room, Richmond, Virginia.

A regular meeting of the Northern Area Review Committee to review local programs.

Contact: David C. Dowling, Policy, Planning, and Budget Director, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-2291, FAX (804) 786-6141, email david.dowling@dcr.virginia.gov.

May 8, 2006 - 2 p.m. -- Open Meeting

James Monroe Building, 101 North 14th Street, 17th Floor Conference Room, Richmond, Virginia.

A regular meeting of the Southern Area Review Committee to review local programs.

Contact: David C. Dowling, Policy, Planning, and Budget Director, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-2291, FAX (804) 786-6141, email david.dowling@dcr.virginia.gov.

STATE BOARD FOR COMMUNITY COLLEGES

March 21, 2007 - 1:30 p.m. -- Open Meeting

Lord Fairfax Community College, Middletown Campus, 173 Skirmisher Lane, Middletown, Virginia.

Meetings of the Academic Committee, Student Affairs and Workforce Development Committee, Budget and Finance Committee, Facilities Committee, Audit Committee, Personnel Committee, and Executive Committee. Beginning at 11:30 a.m. there will be a briefing on Capital Outlay Planning for members of the board and staff.

Contact: D. Susan Hayden, Director of Public Affairs, Virginia Community College System, 101 N. 14th St., 15th Floor, Richmond, VA 23219, telephone (804) 819-4961, FAX (804) 819-4768, (804) 371-8504/TTY ☎

March 22, 2007 - 9 a.m. -- Open Meeting

Lord Fairfax Community College, Middletown Campus, 173 Skirmisher Lane, Middletown, Virginia.

May 17, 2007 - 9 a.m. -- Open Meeting

James Monroe Building, 101 North 14th Street, 15th Floor, Room 315, Godwin-Hamel Board Room, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting of the full board. Public comment may be received upon written notification at least five working days prior to the meeting.

Contact: D. Susan Hayden, Director of Public Affairs, Virginia Community College System, 101 N. 14th St., 15th Floor, Richmond, VA 23219, telephone (804) 819-4961, FAX (804) 819-4768, (804) 371-8504/TTY ☎

COMPENSATION BOARD

March 28, 2007 - 11 a.m. -- Open Meeting

102 Governor Street, Lower Level, Room LL22, Richmond, Virginia. ☎

A monthly board meeting.

Contact: Cindy Waddell, Compensation Board, P.O. Box 710, Richmond, VA 23218, telephone (804) 225-3308, FAX (804) 371-0235, email cindy.waddell@scb.virginia.gov.

DEPARTMENT OF CONSERVATION AND RECREATION

† **June 13, 2007 - 10 a.m.** -- Open Meeting

Location to be announced.

A meeting of the Virginia Land Conservation Foundation.

Contact: David C. Dowling, Policy, Planning, and Budget Director, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-2291, FAX (804) 786-6141, email david.dowling@dcr.virginia.gov.

Virginia Cave Board


March 24, 2007 - 1 p.m. -- Open Meeting

The Stone Lodge Grand Caverns, Grottoes, Virginia.

A regular meeting. Committees will meet at 11 a.m.

Contact: David C. Dowling, Policy, Planning, and Budget Director, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-2291, FAX (804) 786-6141, email david.dowling@dcr.virginia.gov.

Virginia Scenic River Advisory Board

† **April 19, 2007 - 11 a.m.** -- Open Meeting
Appomattox Regional Library, Hopewell, Virginia. 

A regular business meeting.

Contact: David C. Dowling, Policy, Planning, and Budget Director, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-2291, FAX (804) 786-6141, email david.dowling@dcr.virginia.gov.


Virginia Soil and Water Conservation Board

May 17, 2007 - 9:30 a.m. -- Open Meeting
Location to be announced.


A regular board meeting.


Contact: David C. Dowling, Policy, Planning, and Budget Director, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-2291, FAX (804) 786-6141, email david.dowling@dcr.virginia.gov.

BOARD FOR CONTRACTORS


March 27, 2007 - 9 a.m. -- Open Meeting
April 24, 2007 - 9 a.m. -- Open Meeting
May 22, 2007 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulations,
3600 West Broad Street, 4th Floor, Richmond, Virginia. 

A meeting to address policy and procedural issues and review and render decisions on matured complaints against licensees. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Any person desiring to attend the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so suitable arrangements can be made. The board 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 , email contractors@dpor.virginia.gov.

March 20, 2007 - 9 a.m. -- Open Meeting - Canceled
March 29, 2007 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. 

An informal fact-finding conference.

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 , email contractors@dpor.virginia.gov.


April 17, 2007 - 1 p.m. -- Public Hearing
Noel C. Taylor Municipal Building, 215 Church Avenue,
S.W., Roanoke, Virginia.


April 18, 2007 - 1 p.m. -- Public Hearing
Department of Professional and Occupational Regulations,
3600 West Broad Street, 4th Floor, Richmond, Virginia. 

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board for Contractors intends to amend regulations entitled **18 VAC 50-30, Tradesman Rules and Regulations**. The purpose of the proposed action is to amend current regulations to add certified water well systems providers as a program within the Board for Contractors Tradesman Program.


Statutory Authority: §§ 54.1-201, 54.1-1129, 54.1-1129.1, and 54.1-1130 of the Code of Virginia.

Public comments may be submitted until May 5, 2007.


Contact: Kevin Hoelt, Regulatory Boards Administrator, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2785, FAX (804) 367-2474, (804) 367-9753/TTY , email contractors@dpor.virginia.gov.

May 22, 2007 - 1 p.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, 4th Floor, Richmond, Virginia. 

A quarterly meeting of the Board for Contractors Committee. The meeting starts at the conclusion of the Board for Contractors regular meeting.

Contact: Kevin Hoelt, Regulatory Boards Administrator, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2785, FAX (804) 367-2474, (804) 367-9753/TTY , email contractors@dpor.virginia.gov.

BOARD OF CORRECTIONS

March 20, 2007 - 10 a.m. -- Open Meeting
May 15, 2007 - 10 a.m. -- Open Meeting
Department of Corrections, 6900 Atmore Drive, 3rd Floor
Board Room, Richmond, Virginia. 


A meeting of the Liaison Committee to discuss correctional matters of interest to the board.

Contact: Barbara Woodhouse, Administrative Staff Assistant, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3124, FAX (804) 674-3236, email barbara.woodhouse@vadoc.virginia.gov.

Calendar of Events

March 20, 2007 - 11 a.m. -- Open Meeting

May 15, 2007 - 11 a.m. -- Open Meeting


Department of Corrections, 6900 Atmore Drive, 3rd Floor Board Room, Richmond, Virginia. 

A meeting of the Correctional Services/Policy and Regulations Committee to discuss correctional services and policy/regulation matters to be considered by the board.

Contact: Barbara Woodhouse, Administrative Staff Assistant, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3124, FAX (804) 674-3236, email barbara.woodhouse@vadoc.virginia.gov.

March 21, 2007 - 9:30 a.m. -- Open Meeting

May 16, 2007 - 9:30 a.m. -- Open Meeting


Department of Corrections, 6900 Atmore Drive, 3rd Floor, Room 3054, Richmond, Virginia. 

A meeting of the Administration Committee to discuss administrative matters to be considered by the board.

Contact: Barbara Woodhouse, Administrative Staff Assistant, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3124, FAX (804) 674-3236, email barbara.woodhouse@vadoc.virginia.gov.

March 21, 2007 - 10 a.m. -- Open Meeting

May 16, 2007 - 10 a.m. -- Open Meeting

Department of Corrections, 6900 Atmore Drive, 3rd Floor Board Room, Richmond, Virginia. 

A regular meeting of the full board to review and discuss all matters considered by board committees that require presentation to and action by the board.

Contact: Barbara Woodhouse, Administrative Staff Assistant, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3124, FAX (804) 674-3236, email barbara.woodhouse@vadoc.virginia.gov.


BOARD OF DENTISTRY

March 23, 2007 - 9 a.m. -- Open Meeting

† **June 7, 2007 - 9 a.m.** -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 

Formal hearings. There will not be a public comment period.

Contact: Sandra Reen, Executive Director, Board of Dentistry, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9906, FAX (804) 662-7246, (804) 662-7197/TTY , email sandra.reen@dhp.virginia.gov.


NOTE: CHANGE IN MEETING TIME

March 23, 2007 - 1 p.m. -- Open Meeting

May 11, 2007 - 9 a.m. -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 

Informal conferences of Special Conference Committee C. There will not be a public comment period.


Contact: Sandra Reen, Executive Director, Board of Dentistry, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9906, FAX (804) 662-7246, (804) 662-7197/TTY , email sandra.reen@dhp.virginia.gov.

March 30, 2007 - 9 a.m. -- Open Meeting

May 25, 2007 - 9 a.m. -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 


A meeting of the Special Conference Committee A to hold informal conferences. There will not be a public comment period.

Contact: Sandra Reen, Executive Director, Board of Dentistry, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9906, FAX (804) 662-7246, (804) 662-7197/TTY , email sandra.reen@dhp.virginia.gov.


April 20, 2007 - 9:30 a.m. -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 


A meeting of the Credentials Committee to hold informal conferences. There will not be a public comment period.

Contact: Sandra Reen, Executive Director, Board of Dentistry, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9906, FAX (804) 662-7246, (804) 662-7197/TTY , email sandra.reen@dhp.virginia.gov.


April 27, 2007 - 9 a.m. -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 

Informal conferences of Special Conference Committee B. There will not be a public comment period.

Contact: Sandra Reen, Executive Director, Board of Dentistry, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9906, FAX (804) 662-7246, (804) 662-7197/TTY , email sandra.reen@dhp.virginia.gov.

† **June 8, 2007 - 9 a.m.** -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 

A meeting to discuss board business. There will be a 15-minute public comment period at the beginning of the meeting.

Contact: Sandra Reen, Executive Director, Board of Dentistry, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9906, FAX (804) 662-7246, (804) 662-7197/TTY ☎, email sandra.reen@dhp.virginia.gov.

DESIGN BUILD/CONSTRUCTION MANAGEMENT REVIEW BOARD

April 19, 2007 - 11 a.m. -- Open Meeting

May 17, 2007 - 11 a.m. -- Open Meeting

Department of General Services, 202 North Ninth Street, Room 412, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A monthly meeting to review requests submitted by localities to use the design build or construction management type contracts. Contact the Division of Engineering and Buildings to confirm this meeting. Board rules and regulations can be obtained on-line at www.dgs.virginia.gov under DGS Forms, Form #DGS-30-904.

Contact: Kristy H. Martin, Administrative Assistant, Division of Engineering and Buildings, Department of General Services, 202 N. Ninth St., Richmond, VA 23219, telephone (804) 786-3263, FAX (804) 371-7934, (804) 786-6152/TTY ☎, email rhonda.bishton@dgs.virginia.gov.

VIRGINIA ECONOMIC DEVELOPMENT PARTNERSHIP

† March 22, 2007 - 2 p.m. -- Open Meeting

901 East Byrd Street, Riverfront Plaza, West Tower, 19th Floor Board Room, Richmond, Virginia. ♿

A meeting of the Personnel Committee to discuss personnel 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) 545-5610, FAX (804) 545-5611, email kellett@yesvirginia.org.

† May 16, 2007 - Noon -- Open Meeting

901 East Byrd Street, Riverfront Plaza, West Tower, 19th Floor Board Room ♿

A meeting of the Finance Committee to discuss financial matters 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) 545-5610, FAX (804) 545-5611, email kellett@yesvirginia.org.

BOARD OF EDUCATION

NOTE: CHANGE IN MEETING DATE

† March 29, 2007 - 9 a.m. -- Open Meeting

† April 27, 2007 - 9 a.m. -- Open Meeting

May 30, 2007 - 9 a.m. -- Open Meeting

James Monroe Building, 101 North 14th Street, 22nd Floor, Jefferson Conference Room, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular business meeting of the board. Public comment will be received. The agenda and the supporting materials will be posted on the Friday prior to the meeting on the following website:
http://www.doe.virginia.gov/VDOE/VA_Board/bd-sched.html

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, email margaret.roberts@doe.virginia.gov.

April 18, 2007 - 9 a.m. -- Open Meeting

April 19, 2007 - 9 a.m. -- Open Meeting

April 20, 2007 - 9 a.m. -- Open Meeting

Crossroad Inn and Conference Center, 911 East Atlantic Street, South Hill, Virginia.

A meeting of the State Special Education Advisory Committee. For more information on times and agendas go to <http://www.doe.virginia.gov/VDOE/Instruction/Sped/sseac.html> or call the Department of Education Special Education and Student Services office at 804-225-3252 or (TTY) 800-422-1098.

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, email margaret.roberts@doe.virginia.gov.

April 23, 2007 - 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 Education intends to repeal regulations entitled **8 VAC 20-350, Regulations Governing the Operation of Proprietary Schools and Issuing of Agent Permits**. The purpose of the proposed action is to repeal the regulation because it is no longer needed and is outdated. Oversight and legal authority for the two types of schools governed by this regulation are no longer under the Board of Education pursuant to recent legislative changes. The private career schools have been transferred to the State Council of Higher Education for


Calendar of Events

Virginia. That agency promulgated regulations to govern the private day schools and they became effective on July 26, 2006. The private day schools for students with disabilities remain under the purview of the Department of Education. New regulations were promulgated governing those schools and they became effective on September 10, 2004.

Statutory Authority: §§ 22.1-16, 22.1-321 and 22.1-327 of the Code of Virginia.

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, email margaret.roberts@doe.virginia.gov.

NOTE: CHANGE IN MEETING DATE

† **May 31, 2007 - 9 a.m.** -- Open Meeting
James Monroe Building, 101 North 14th Street, 22nd Floor, Jefferson Conference Room, Richmond, Virginia. 
(Interpreter for the deaf provided upon request)

An annual planning session of the board. This is a work session and public comment will not be received.

Contact: Dr. Margaret N. Roberts, Office of Policy and Communications, 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, email margaret.roberts@doe.virginia.gov.

Advisory Board on Teacher Education and Licensure

March 19, 2007 - 9 a.m. -- Open Meeting

April 23, 2007 - 9 a.m. -- Open Meeting
Richmond Marriott West Hotel, 4240 Dominion Boulevard, Glen Allen, Virginia.

A regular meeting. For additional information, contact Patty Pitts, Director of Teacher Licensure at the Department of Education, (804) 371-2471, email patty.pitts@doe.virginia.gov.

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, email margaret.roberts@doe.virginia.gov.

SECRETARY OF EDUCATION

† **March 21, 2007 - 10 a.m.** -- Open Meeting

† **May 16, 2007 - 10 a.m.** -- Open Meeting
Capital One West Creek Campus, 1500 Capital One Drive, Richmond, Virginia.

A meeting of the Start Strong Pre-K Council.

Contact: Kendall Tyree, Special Assistant to the Secretary of Education, Department of Education, 1111 E. Broad St., Richmond, VA 23219, telephone (804) 692-2550, email kendall.tyree@governor.virginia.gov.

† **April 18, 2007 - 10 a.m.** -- Open Meeting
Capital One West Creek Campus, 1500 Capital One Drive, Richmond, Virginia.

A meeting of the Start Strong Pre-K Task Force.


Contact: Kendall Tyree, Special Assistant to the Secretary of Education, Department of Education, 1111 E. Broad St., Richmond, VA 23219, telephone (804) 692-2550, email kendall.tyree@governor.virginia.gov.


† **May 3, 2007 - 11:30 a.m.** -- Open Meeting
Patrick Henry Building, 1111 East Broad Street, Richmond, Virginia.


A meeting of the Governor's P-16 Council.

Contact: Kendall Tyree, Special Assistant to the Secretary of Education, Department of Education, 1111 E. Broad St., Richmond, VA 23219, telephone (804) 692-2550, email kendall.tyree@governor.virginia.gov.

DEPARTMENT OF ENVIRONMENTAL QUALITY


March 19, 2007 - 7 p.m. -- Open Meeting
Culpeper Train Depot, 109 South Commerce Street, Culpeper, Virginia. 

March 22, 2007 - 7 p.m. -- Open Meeting
Rappahannock County Library, 4 Library Road, Washington, Virginia. 

March 27, 2007 - 7 p.m. -- Open Meeting
Mt. Nebo Church, 3890 Jacks Shop Road, Rochelle, Virginia. 

The second series of public meetings on the development of bacteria TMDLs for streams in the Upper Rappahannock River Basin. The public notice appears in the Virginia Register of Regulations on March 5, 2007. The public comment period begins on March 19, 2007, and ends on April 18, 2007.


Contact: Katie Conaway, Department of Environmental Quality, 13901 Crown Court, Woodbridge, VA 22193, telephone (703) 583-3804, email mkconaway@deq.virginia.gov.

March 20, 2007 - 9 a.m. -- Open Meeting
Department of Environmental Quality, 629 East Main Street, Richmond, Virginia. 

A regular meeting of the Ground Water Protection Steering Committee.

Contact: Mary Ann Massie, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4042, email mamassie@deq.virginia.gov.


March 20, 2007 - 7 p.m. -- Open Meeting

Chatham USDA Service Center, 1 Center Street, Chatham, Virginia. 

A public meeting to discuss the development of a bacteria TMDL for the Banister River watershed in Halifax and Pittsylvania Counties. The public notice appears in the Virginia Register of Regulations on March 5, 2007. The public comment period begins on March 20, 2007, and ends on April 20, 2007.

Contact: Lauren Theodore, Department of Environmental Quality, 7705 Timberlake Rd., Lynchburg, VA 24502, telephone (434) 582-6216, FAX (434) 582-5125, email lmtheodore@deq.virginia.gov.


March 20, 2007 - 7 p.m. -- Open Meeting

Johnson Recreation Center, 18849 Kings Highway, Montross, Virginia. 

The second public meeting on the development of fecal coliform TMDLs for shellfish propagation waters in Westmoreland County. The public notice appears in the Virginia Register of Regulations on March 5, 2007. The public comment period begins on March 20, 2007, and ends on April 20, 2007.

Contact: Chester Bigelow, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4554, FAX (804) 698-4116, email cbbigelow@deq.virginia.gov.


† March 22, 2007 - 7 p.m. -- Open Meeting

Twin Valley Elementary and Middle School Auditorium, Route 460, Oakwood, Virginia. 

The final public meeting on the development of TMDLs to address impairments in Garden Creek in Buchanan County. The public notice appears in the Virginia Register of Regulations on March 19, 2007. The public comment period begins on March 22, 2007, and ends on April 23, 2007.

Contact: Shelley D. Williams, Department of Environmental Quality, 355 Deadmore St., P.O. Box 1688, Abingdon, VA 24212, telephone (276) 676-4845, FAX (276) 676-4899, email sdwilliams@deq.virginia.gov.

† March 26, 2007 - 6 p.m. -- Open Meeting


York County Public Library-Yorktown, 8500 George Washington Memorial Highway, Meeting Room, Yorktown, Virginia. 

The first public meeting on the development of dissolved oxygen and fecal coliform bacteria in three shellfish propagation waters located in York County. The public

notice appears in the Virginia Register of Regulations on March 19, 2007. The public comment period begins on March 26, 2007, and ends on April 25, 2007.

Contact: Jennifer Howell, Department of Environmental Quality, 5636 Southern Boulevard, Virginia Beach, VA 23262, telephone (757) 518-2111, FAX (757) 518-2003, email jshowell@deq.virginia.gov.


† March 27, 2007 - 10 a.m. -- Open Meeting

Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. 

A regular meeting of the Virginia Recycling Markets Development Council.

Contact: Thomas J. Smith, PE, Prince William County, 5 County Complex Court, Suite 250, Prince William, VA 22192, telephone (703) 792-6252, email tsmith@pwcgov.org.


† March 27, 2007 - 6 p.m. -- Open Meeting

Accomack-Northampton Planning District Commission, 23372 Front Street, Accomac, Virginia. 

The first public meeting on the development of fecal coliform TMDLs for three shellfish propagation waters in Accomack County. The public notice appears in the Virginia Register on March 19, 2007. The public comment period begins on March 27, 2007, and ends on April 26, 2007.

Contact: Jennifer Howell, Department of Environmental Quality, 5636 Southern Boulevard, Virginia Beach, VA 23262, telephone (757) 518-2111, FAX (757) 518-2003, email jshowell@deq.virginia.gov.

† April 4, 2007 - 7 p.m. -- Public Hearing

Old General District Courthouse, 5 West Main Street, Board of Supervisors Room, Fincastle, Virginia. 

A public hearing on a permit amendment to eliminate cell 2B from the landfill design, modify the closure cap and incorporate operation changes at the Botetourt County Landfill. The public comment period began February 28, 2007, and ends on April 19, 2007. A question and answer period will begin at 6:30 p.m. the night of the public hearing.

Contact: Jenny Poland, Department of Environmental Quality, 3019 Peters Creek Rd., Roanoke, VA 24019, telephone (540) 562-6890, FAX (540) 562-6725, email jlpoland@deq.virginia.gov.

Calendar of Events


BOARD OF FUNERAL DIRECTORS AND EMBALMERS

March 22, 2007 - 9 a.m. -- Open Meeting

† **April 26, 2007 - 9 a.m.** -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 


A meeting of the Special Conference Committee to review and discuss discipline cases.

Contact: Elizabeth Young, Executive Director, Board of Funeral Directors and Embalmers, Alcoa Building, 6603 West Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9907, FAX (804) 662-9523, (804) 662-7197/TTY , email elizabeth.young@dhp.virginia.gov.

† **April 11, 2007 - 9 a.m.** -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 

A formal hearing to receive and act upon evidence that may indicate violations of certain laws and regulations governing the practice of funeral services.

Contact: Elizabeth Young, Executive Director, Board of Funeral Directors and Embalmers, Alcoa Building, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9907, FAX (804) 662-9523, (804) 662-7197/TTY , email elizabeth.young@dhp.virginia.gov.

COUNCIL ON VIRGINIA'S FUTURE

† **May 8, 2007 - 1 p.m.** -- Open Meeting


Location to be announced.

A full meeting of the council with Governor Timothy M. Kaine (Chair) presiding.


Contact: Gilbert M. An (Gigi), Executive Assistant to the Director, Council on Virginia's Future, 1001 E. Broad St., Suite 430, Richmond, VA 23219, telephone (804) 371-2346, FAX (804) 371-2347, email gma2n@virginia.edu.

BOARD FOR GEOLOGY

April 25, 2007 - 9 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 

A general business meeting to include 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 interpretive services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: David E. Dick, Executive Director, Board for Geology, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8507, (804) 367-9753/TTY , email geology@dpor.virginia.gov.

GEORGE MASON UNIVERSITY

May 9, 2007 - 9 a.m. -- Open Meeting

George Mason University, Mason Pond Drive, Mason Hall, Fairfax, Virginia. 

A meeting of the Board of Visitors. Agenda items will be posted 10 days prior to the meeting.

Contact: Mary Roper, Secretary Pro Tem, George Mason University, 4400 University Dr., Fairfax, VA 22030, telephone (703) 993-8703, toll-free (703) 993-8707, email mroper@gmu.edu.

OFFICE OF GOVERNOR

Community Integration Advisory Commission

March 20, 2007 - 1 p.m. -- Open Meeting


Department of Medical Assistance Services, 600 East Broad Street, Richmond, Virginia.

A business meeting. No public comment session will be held.


Contact: Julie A. Stanley, Director, Community Integration for People with Disabilities, Office of the Governor, 1111 E. Broad St., Richmond, VA 23219, telephone (804) 371-0828, FAX (804) 371-6984, email julie.stanley@governor.virginia.gov.

GOVERNOR'S HEALTHCARE REFORM COMMISSION


† **March 20, 2007 - 10 a.m.** -- Open Meeting

Department of Health Professions, Board Room 1, 6603 West Broad Street, Richmond. 

† **April 2, 2007 - 10 a.m.** -- Open Meeting

Sunnyside Retirement Communities, 3935 Sunnyside Drive, Harrisonburg, Virginia. 

† **April 18, 2007 - 10 a.m.** -- Open Meeting

Department of Medical Assistance Services, 600 East Broad Street, 7th Floor, Conference Room 7A, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting of the Long-Term Care Workgroup.

Contact: Heidi Dix, Assistant Secretary of Health and Human Resources, Office of the Governor, 1111 E. Broad St, 4th Floor, Richmond, VA 23219, telephone (804) 786-7765, email heidi.dix@governor.virginia.gov.

March 26, 2007 - 1 p.m. -- Open Meeting

Department of Medical Assistance Services, 600 East Broad Street, 7th Floor, Conference Room 7B, Richmond, Virginia.
♿ (Interpreter for the deaf provided upon request)

A meeting of the Quality, Transparency, and Prevention Workgroup to focus on quality, specifically pay for performance (P4P) initiatives in Medicaid and nursing homes. The goal of the meeting will be to develop ideas and solutions for how the Commonwealth can best implement P4P in Medicaid.

Contact: Aryana Khalid, Assistant Secretary of Health and Human Resources, Office of the Governor, 1111 E. Broad St., Richmond, VA 23219, telephone (804) 692-2575, email aryana.khalid@governor.virginia.gov.

March 29, 2007 - 10 a.m. -- Open Meeting

Department of Medical Assistance Services, 600 East Broad Street, Room 7 B, Richmond, Virginia.

A meeting of the Workforce Workgroup to focus on workforce issues for physicians. The goal of the meeting will be to develop ideas and solutions for how the Commonwealth can increase the workforce from both supply and demand perspectives as well as how to retain and reengage the workforce we already have in the Commonwealth.

Contact: Aryana Khalid, Assistant Secretary of Health and Human Resources, Office of the Governor, 1111 East Broad St., Richmond, VA 23219, telephone (804) 692-2575, email aryana.khalid@governor.virginia.gov.

April 18, 2007 - 1 p.m. -- Open Meeting

Department of Medical Assistance Services, 600 East Broad Street, Room 7 B, Richmond, Virginia.

A meeting of the Workforce Workgroup to focus on final recommendations to the commission concerning the physician, nurse, and nurse aide workforce.

Contact: Aryana Khalid, Assistant Secretary of Health and Human Resources, Office of the Governor, 1111 East Broad St., Richmond, VA 23219, telephone (804) 692-2575, email aryana.khalid@governor.virginia.gov.

DEPARTMENT OF HEALTH

† March 21, 2007 - 10 a.m. -- Public Hearing

Department of Health, 109 Governor Street, Room 715, Richmond, Virginia.

A public hearing for the fiscal year 2007 Preventive Health and Health Service (PHHS) Block Grant. All interested individuals and groups are invited to participate at the public hearing on the PHHS Block Grant. In accordance with Title XIX, Section 1905 of the Public Health Service Act, the Commonwealth of Virginia hereby gives notice

that VDH will apply for FY 2007 PHHS Block Grant funds and submit a state plan for programs addressing Healthy People 2010 national health objectives. The state plan is available on the agency's website at www.vahealth.org. Public comment on the plan may be made at the public hearing and written comments may be addressed to Robin Buskey, Office of Family Health Services, P.O. Box 2448, Room 721, Richmond, VA 23218.

Contact: Robin Buskey, Grants Coordinator, Office of Family Health Services, Department of Health, 109 Governor St., Suite 721, Richmond, VA 23219, telephone (804) 864-7663, email robin.buskey@vdh.virginia.gov.

March 23, 2007 - 10 a.m. -- Open Meeting**April 24, 2007 - 10 a.m.** -- Open Meeting**May 18, 2007 - 10 a.m.** -- Open Meeting

Department of Health, 109 Governor Street, 5th Floor Conference Room, Richmond, Virginia.

A meeting of the Sewage Handling and Disposal Regulations Advisory Committee to make recommendations to the commissioner regarding sewage handling and disposal policies, procedures and programs of the department.

Contact: Donald Alexander, Division Director, Division of Onsite Sewage and Water Services, Department of Health, 109 Governor St., 5th Floor, Richmond, VA 23219, telephone (804) 864-7452, FAX (804) 864-7476, email donald.alexander@vdh.virginia.gov.

† April 4, 2007 - 10 a.m. -- Open Meeting**† May 16, 2007 - 10 a.m.** -- Open Meeting

James Madison Building, 109 Governor Street, Main Floor Conference Room, Richmond, Virginia.

A meeting of the Sewage Handling and Disposal Appeals Review Board to hear all administrative appeals of denials of onsite sewage disposal system permits and appeals of refusals of indemnification requests filed pursuant to § 32.1-164.1:01 and render its decision on any such appeal, which decision shall be the final administrative decision.

Contact: Donna Tiller, Executive Secretary, Department of Health, 109 Governor St. Richmond, VA 23219, telephone (804) 864-7470, FAX (804) 864-7476, email donna.tiller@vdh.virginia.gov.


April 17, 2007 - 9 a.m. -- Open Meeting**† June 12, 2007 - 9 a.m.** -- Open Meeting

Department of Health, 109 Governor Street, 5th Floor Conference Room, Richmond, Virginia.

A meeting of the Authorized Onsite Soil Evaluator Regulations Advisory Committee to make recommendations to the commissioner regarding AOSE/PE policies and programs. The meeting will also be scheduled in remote locations via video conference.

Calendar of Events

Contact: Dwayne Roadcap, Program Manager, Department of Health, 109 Governor St., Richmond, VA 23219, telephone (804) 864-7462, FAX (804) 864-7476, email dwayne.roadcap@vdh.virginia.gov.

April 17, 2007 - 10 a.m. -- Open Meeting
Division of Consolidated Laboratory Services, 600 North 5th Street, Training Room T-23, Richmond, Virginia. 

A meeting of the Genetics Advisory Committee to advise the Department of Health on coordinating access to clinical genetics services across the Commonwealth and assuring the provision of genetic awareness and quality services and education for consumers and providers taking into consideration issues of confidentiality, privacy and consent.


Contact: Nancy Ford, Director of Pediatric Screening and Genetics Services, Department of Health, 109 Governor St., 8th Floor, Richmond, VA 23219, telephone (804) 864-7691, email nancy.ford@vdh.virginia.gov.

May 11, 2007 - 10 a.m. -- Open Meeting
Virginia Hospital and Healthcare Association, 4200 Innslake Drive, Glen Allen, Virginia. 

A meeting of the Virginia Early Hearing Detection and Intervention Program Advisory Committee to assist the Department of Health in the implementation of the Virginia Early Hearing Detection and Intervention Program.


Contact: Pat Dewey, M.Ed, Program Manager, Department of Health, 109 Governor St., Richmond, VA 23219, telephone (804) 864-7713, email pat.dewey@vdh.virginia.gov.

Emergency Medical Services Advisory Board

May 17, 2007 - 1 p.m. -- Open Meeting
Richmond Marriott West, 4240 Dominion Boulevard, Glen Allen, Virginia. 


A quarterly meeting of the Financial Assistance Review Committee (FARC) to discuss upcoming grant cycle and initiatives, problems with past grants and Rescue Squad Assistance Fund (RSAF) finances. The FARC is responsible for recommending to the Commissioner of Health monetary awards as stipulated in the Code of Virginia.

Contact: Amanda Davis, Grants Administrator, Department of Health, 109 Governor St., Suite UB-55, Richmond, VA 23219, telephone (804) 864-7600, FAX (804) 864-7580, toll-free (800) 523-6019, email amanda.davis@vdh.virginia.gov.

† May 17, 2007 - 3 p.m. -- Open Meeting
Richmond Marriott West, 4240 Dominion Boulevard, Glen Allen, Virginia. 


A regular business meeting of the Regulation and Policy Committee.

Contact: Michael D. Berg, Manager, Regulation and Compliance, Department of Health, 109 Governor St., Suite UB-55 Richmond, VA 23219, telephone (804) 864-7600, FAX (804) 864-7580, toll-free (800) 523-6019, email michael.berg@vdh.virginia.gov.

May 18, 2007 - 9 a.m. -- Open Meeting
Richmond Marriott West, 4240 Dominion Boulevard, Glen Allen, Virginia. 

A quarterly meeting of the Communications Committee to review and recommend policies on EMS communications and coordinate the development and implementation of communications and associated technology that support EMS operations at the local, regional and state level.

Contact: Ken Crumpler, Communications Coordinator, Department of Health, 109 Governor St., Suite UB-55, Richmond, VA 23219, telephone (804) 864-7600, FAX (804) 864-7580, toll-free (800) 523-6019, email ken.crumpler@vdh.virginia.gov.

May 18, 2007 - 1 p.m. -- Open Meeting
Richmond Marriott West, 4240 Dominion Boulevard, Glen Allen, Virginia. 


A quarterly meeting to provide advice and counsel regarding methods and procedures for planning, developing and maintaining a statewide emergency medical services (EMS) systems to OEMS and the State Board of Health.

Contact: Gary R. Brown, Director, Office of Emergency Medical Services, 109 Governor St., Suite UB-55, Richmond, VA 23219, telephone (804) 864-7600, FAX (804) 864-7580, toll-free (800) 523-6019, email gary.brown@vdh.virginia.gov.

DEPARTMENT OF HEALTH PROFESSIONS

April 18, 2007 - 11 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 2, Richmond, Virginia. 

A meeting of the Prescription Monitoring Program Advisory Committee to review collected data for the program evaluation workplan and to receive a progress report on the enhancement and expansion of the program. The committee will discuss the development of criteria to provide these reports and the resource information that will be provided with them. Public comments will be received during the meeting.

Contact: Ralph A. Orr, Prescription Monitoring Program Manager, Department of Health Professions, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9133, FAX (804) 662-9240, (804) 662-7197/TTY , email ralph.orr@dhp.virginia.gov.

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

† **March 30, 2007 - 1 p.m.** -- Open Meeting

State Council of Higher Education for Virginia, James Monroe Building, 101 North 14th Street, Boardroom, Richmond, Virginia.

A meeting of the Career College Advisory Board to provide advisory services in academic and administrative matters and other issues related to private proprietary institutions of higher education and academic-vocational noncollege degree schools to the council.

Contact: Linda H. Woodley, Coordinator, Private and Out-of-State Postsecondary Education, State Council of Higher Education for Virginia, James Monroe Bldg., 101 N. 14th St., 9th Floor, Richmond, VA 23219, telephone (804) 371-2938, FAX (804) 786-2027, email lindawoodley@schev.edu.

May 8, 2007 - 8:30 a.m. -- Open Meeting

Location to be determined.

Meeting times are approximate and subject to change. Committee meetings will begin at approximately 8:30 a.m. The council meeting will begin at 11:30 a.m. Agenda materials will be available on the website approximately one week prior to the meeting at www.schev.edu. A public comment period will be allocated on the meeting agenda. To be scheduled, those interested in making public comment should contact the person listed below no later than 5 p.m. three business days prior to the meeting date. At the time of the request, the speaker's name, address and topic must be provided. Each speaker will be given up to three minutes to address SCHEV. Speakers are asked to submit a written copy of their remarks at the time of comment.

Contact: Lee Ann Rung, State Council of Higher Education for Virginia, James Monroe Bldg., 101 N. 14th St., 9th Floor, Richmond, VA 23219, telephone (804) 225-2602, FAX (804) 371-7911, email leeannrung@schev.edu.

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

March 26, 2007 - 10 a.m. -- Open Meeting

The Jackson Center, 501 North 2nd Street, 1st Floor Boardroom, Richmond, Virginia. ♿

A regular business meeting.

Contact: Stephen W. Calhoun, Regulatory Coordinator, Department of Housing and Community Development, The Jackson Center, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7000, FAX (804) 371-7090, (804) 371-7089/TTY ♿, email steve.calhoun@dhcd.virginia.gov.

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

March 20, 2007 - 11 a.m. -- Open Meeting

The Inn at Virginia Tech and Skelton Conference Center, 901 Prices Fork Road, Blacksburg, Virginia. ♿

A regular meeting of the Board of Commissioners to review and, if appropriate, approve the minutes from the prior meeting; possibly consider for approval and ratification mortgage loan commitments under its various programs; review the authority's operations; and consider such other matters and take such other actions as they may deem appropriate. The Board of Commissioners will hold a retreat meeting on March 18, 2007, commencing at 2 p.m. at the above address, and will continue such retreat meeting on March 19, 2007, commencing at 8:30 a.m., at the above address. The Board of Commissioners may also meet during meals that are scheduled on March 18-20, 2007. Various committees of the Board of Commissioners, including the Programs Committee, the Audit Committee, the Operations Committee, the Executive Committee, and the Committee of the Whole may meet at the above address during March 19, 2007, and before and after the regular meeting on March 20, 2007, and may consider matters within their purview. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting.

Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 S. Belvidere St., Richmond, VA 23220, telephone (804) 343-5540, FAX (804) 783-6701, toll-free (800) 968-7837, (804) 783-6705/TTY ♿

VIRGINIA COUNCIL ON HUMAN RESOURCES

March 22, 2007 - 9:30 a.m. -- Open Meeting

James Monroe Building, 101 North 14th Street, PDS #4, Richmond, Virginia.

A quarterly meeting.

Contact: Barbara Tanner, Executive Assistant, Department of Human Resource Management, James Monroe Bldg., 101 N. 14th St., 13th Floor, Richmond, VA 23219, telephone (804) 225-2237, FAX (804) 371-7401, email barbara.tanner@dhrm.virginia.gov.

INNOVATIVE TECHNOLOGY AUTHORITY

† **May 16, 2007 - 1 p.m.** -- Open Meeting

Center for Innovative Technology, 2214 Rock Hill Road, 7th Floor, Fairfax Room, Herndon, Virginia. ♿

An organizational meeting.


Contact: Sharon Kozar, Executive Assistant, Innovative Technology Authority, 2214 Rock Hill Rd., Herndon, VA 20170, telephone (703) 689-3065, email skozar@cit.org.

Calendar of Events


JAMESTOWN-YORKTOWN FOUNDATION

April 23, 2007 - 10 a.m. -- Open Meeting

April 24, 2007 - 8 a.m. -- Open Meeting

Williamsburg Hospitality House, Williamsburg, Virginia. 
(Interpreter for the deaf provided upon request)

A semiannual two-day Board of Trustees meeting. Public comment will be received on April 24. Contact the Foundation for schedule.

Contact: Laura W. Bailey, Executive Assistant to the Boards, Jamestown-Yorktown Foundation, P.O. Box 1607, Williamsburg, VA 23187, telephone (757) 253-4840, FAX (757) 253-5299, toll-free (888) 593-4682, (757) 253-7236/TTY , email laura.bailey@jyf.virginia.gov.

STATE BOARD OF JUVENILE JUSTICE

April 11, 2007 - 10 a.m. -- Open Meeting

Department of Juvenile Justice, 7th and Franklin Streets, Richmond, Virginia.

† **June 13, 2007 - 10 a.m.** -- Open Meeting

Northwestern Regional Juvenile Detention Center, 145 Fort Collier Road, Winchester, Virginia.


The Secure Services Committee and Nonsecure Services Committee meet at 9 a.m. to receive certification audit reports of several residential and nonresidential programs. The full board meets at 10 a.m. to take action on the certification reports and hear other such business as comes before the board. The board will receive public comment at each of its regular meetings. In order to allow the board sufficient time for its other business, the total time allotted to public comment will be limited to 30 minutes at the beginning of the meeting with additional time allotted at the end of the meeting for individuals who have not had a chance to be heard. Speakers will be limited to 10 minutes each with shorter time frames provided at the Chairman's discretion to accommodate large numbers of speakers. Those wishing to speak to the board are strongly encouraged to contact Deborah Hayes at 804-371-0704 three or more business days prior to the meeting. Persons not registered prior to the day of the board meeting will speak after those who have preregistered. Normally, speakers will be scheduled in the order that their requests are received. Where issues involving a variety of views are presented before the board, the board reserves the right to allocate the time available so as to insure that the board hears from different points of view on any particular issue. Groups wishing to address a single subject are urged to designate a spokesperson. Speakers are urged to confine their comments to topics relevant to the board's purview. In order to make the limited time available most effective, speakers are urged to provide multiple written copies of their comments or other material amplifying their views.

Please provide at least 15 written copies if you are able to do so.


Contact: Deborah C. Hayes, Administrative Assistant, Department of Juvenile Justice, 700 Centre, 700 E. Franklin St., 4th Floor, Richmond, VA 23219, telephone (804) 371-0704, FAX (804) 371-0725.

STATE LIBRARY BOARD


† **March 19, 2007 - 8:30 a.m.** -- Open Meeting

Library of Virginia, 800 East Broad Street, Richmond, Virginia. 


A meeting of the Nominating Committee to propose a slate of officers for 2007-2008 to be submitted to the Library Board for consideration.

Contact: Jean H. Taylor, Executive Secretary Senior, The Library of Virginia, 800 E. Broad St., Richmond, VA 23219-8000, telephone (804) 692-3535, FAX (804) 692-3594, (804) 692-3976/TTY , email jtaylor@lva.lib.va.us.

March 19, 2007 - 10:30 a.m. -- Open Meeting


† **June 11, 2007 - 10:30 a.m.** -- Open Meeting
The Library of Virginia, 800 East Broad Street, Richmond, Virginia. 

A meeting to discuss matters pertaining to the Library of Virginia and the Library Board.


Contact: Jean H. Taylor, Executive Secretary Senior, The Library of Virginia, 800 E. Broad St., Richmond, VA 23219-8000, telephone (804) 692-3525, FAX (804) 692-3594, (804) 692-3976/TTY , email jtaylor@lva.lib.va.us.

BOARD OF LONG-TERM CARE ADMINISTRATORS

April 17, 2007 - 9 a.m. -- CANCELED

Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 


A meeting to discuss board matters has been canceled.

Contact: Lisa Russell Hahn, Executive Director, Board of Long-Term Care Administrators, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9930, FAX (804) 662-9943, (804) 662-7197/TTY , email lisa.hahn@dhp.virginia.gov.

LONGWOOD UNIVERSITY


† **March 23, 2007 - 8:45 a.m.** -- Open Meeting

† **March 24, 2007 - 9 a.m.** -- Open Meeting


Longwood University, 201 High Street, Stallard Board Room, 102 Lancaster Hall, Farmville, Virginia. 

A meeting to conduct routine business of the Board of Visitors.


Contact: Jeanne S. Hayden, Administrative Staff Assistant, Longwood University, Office of the President, Longwood University, 201 High St., Farmville, VA, telephone (434) 395-2004.

Longwood University, 201 High Street, Stallard Board Room, 102 Lancaster Hall, Farmville, Virginia. 

MARINE RESOURCES COMMISSION

March 27, 2007 - 9:30 a.m. -- Open Meeting
Marine Resources Commission, 2600 Washington Avenue, 4th Floor, Newport News, Virginia.  (Interpreter for the deaf provided upon request)


A monthly meeting.


Contact: Jane McCroskey, Commission Secretary, Marine Resources Commission, 2600 Washington Ave., 3rd Floor, Newport News, VA 23607, telephone (757) 247-2215, FAX (757) 247-8101, toll-free (800) 541-4646, (757) 247-2292/TTY , email jane.mccroskey@mrc.virginia.gov.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES


March 21, 2007 - 1 p.m. -- Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, Richmond, Virginia. 

A meeting of the Medicaid Transportation Advisory Committee.

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 , email robert.knox@dmas.virginia.gov.

March 22, 2007 - 2 p.m. -- Open Meeting
May 10, 2007 - 2 p.m. -- Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, Richmond, Virginia. 


A meeting of the Drug Utilization Committee.


Contact: Rachel Cain, Pharmacist, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-0318, FAX (804) 786-1680, (800) 343-0634/TTY , email rachel.cain@dmas.virginia.gov.

April 17, 2007 - 9 a.m. -- Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, Richmond, Virginia. 


A meeting of the Pharmacy and Therapeutics Committee to review PDL Phase II and new drugs in PDL Phase I.

Contact: Katina Goodwyn, Pharmacy Contract Manager, Department of Medical Assistance Services, 600 E. Broad St.,

Suite 1300, Richmond, VA 23219, telephone (804) 371-0428, FAX (804) 786-0973, (800) 343-0634/TTY , email pdlinput@dmas.virginia.gov.

April 24, 2007 - 10 a.m. -- Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, Richmond, Virginia. 

A meeting of the Pharmacy Liaison Committee.

Contact: Rachel Cain, Pharmacist, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-0918, FAX (804) 786-1680, (800) 343-0634/TTY , email rachel.cain@dmas.virginia.gov.

† **May 18, 2007** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Medical Assistance Services intends to amend regulations entitled **12 VAC 30-10, State Plan Under Title XIX of the Social Security Act Medical Assistance Program; General Provisions.**

12 VAC 30-20, Administration of Medical Assistance Services.


12 VAC 30-40, Eligibility Conditions and Requirements.


The purpose of the proposed action is to implement a new program providing for the sale and Medicaid recognition of long-term care partnership insurance policies.

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

Contact: Suzanne Gore, Policy and Research Division, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-1609, FAX (804) 786-1680, or email suzanne.gore@dmas.virginia.gov.

BOARD OF MEDICINE

March 20, 2007 - 9 a.m. -- Open Meeting
Holiday Inn Select, 2801 Plank Road, Fredericksburg, Virginia. 

March 29, 2007 - 9:30 a.m. -- Open Meeting
Courtyard Marriott, 3301 Ordway Drive, Roanoke, Virginia. 

April 4, 2007 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 

A special conference committee will convene informal conferences to inquire into allegations that certain

Calendar of Events

practitioners of medicine or other healing arts may have violated certain laws and regulations governing the practice of medicine. Further, the committee may review cases with board staff for case disposition, including consideration of consent orders for settlement. The committee will meet in open and closed sessions pursuant to the Code of Virginia. Public comment will not be received.

Contact: Renee S. Dixon, Discipline Case Manager, Department of Health Professions, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-7009, FAX (804) 662-9517, (804) 662-7197/TTY ☎, email renee.dixon@dhp.virginia.gov.

April 6, 2007 - 8:30 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 2, Richmond, Virginia. ♿

A meeting of the Executive Committee to consider regulatory and disciplinary matters as may be presented on the agenda. Public comment on agenda items 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 ☎, email william.harp@dhp.virginia.gov.

† **April 6, 2007 - 1:30 p.m.** -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. ♿

A formal hearing to inquire into allegations that a certain practitioner may have violated certain laws and regulations governing the practice of medicine and other healing arts. Further, the board may review cases with staff for case disposition, including consideration of consent orders for settlement of matters pending before the board. The board will meet in open and closed sessions pursuant to § 2.2-3711 A 7, 15, and/or 28 of the Code of Virginia. Public comment will not be received.

Contact: Renee S. Dixon, Discipline Case Manager, Board of Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-7009, FAX (804) 662-9517, (804) 662-7197/TTY ☎, email renee.dixon@dhp.virginia.gov.

April 6, 2007 - Public comment may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Medicine intends to amend regulations entitled **18 VAC 85-20, Regulations Governing the Practice of Medicine, Osteopathic Medicine, Podiatry, and Chiropractic**. The purpose of the proposed action is to set requirements for mixing,

diluting or reconstituting sterile drug products by physicians or persons under their supervision.

Statutory Authority: §§ 54.1-2400 and 54.1-3401 of the Code of Virginia.

Public comments may be submitted until April 6, 2007, to William L. Harp, M.D., Executive Director, Board of Medicine, 6603 West Broad Street, Richmond, VA 23230.

Contact: Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6603 W. Broad St., Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or email elaine.yeatts@dhp.virginia.gov.

April 6, 2007 - Public comment may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Medicine intends to amend regulations entitled **18 VAC 85-20, Regulations Governing the Practice of Medicine, Osteopathic Medicine, Podiatry, and Chiropractic**. The purpose of the proposed action is to eliminate the requirement that 15 of the 30 hours of Type I continuing education be face-to-face.

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

Public comments may be submitted until April 6, 2007, to William L. Harp, M.D., Executive Director, Board of Medicine, 6603 West Broad Street, Richmond, VA 23230.

Contact: Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6603 W. Broad St., Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or email elaine.yeatts@dhp.virginia.gov.

April 6, 2007 - Public comment may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Medicine intends to amend regulations entitled **18 VAC 85-20, Regulations Governing the Practice of Medicine, Osteopathic Medicine, Podiatry, and Chiropractic**. The purpose of the proposed action is to waive the board's continuing education requirements for persons practicing solely as medical examiners.

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

Public comments may be submitted until April 6, 2007, to William L. Harp, M.D., Executive Director, Board of Medicine, Department of Health Professions, 6603 West Broad Street, Richmond, VA 23230.

Contact: Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6603 W. Broad St., Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or email elaine.yeatts@dhp.virginia.gov.

April 6, 2007 - Public comment may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Medicine intends to amend regulations entitled **18 VAC 85-20, Regulations Governing the Practice of Medicine, Osteopathic Medicine, Podiatry, and Chiropractic**. The purpose of the proposed action is to require that applicants who sat for the United States Medical Licensing Examination (USMLE) must pass Steps 1, 2, and 3 within a 10-year period, unless the applicant is board certified in a specialty. The current requirement is passage within a seven-year period except for "good cause shown."

Statutory Authority: §§ 54.1-2400 and 54.1-2930 of the Code of Virginia.

Public comments may be submitted until April 6, 2007, to William L. Harp, M.D., Executive Director, Board of Medicine, 6603 West Broad Street, Richmond, VA 23230.

Contact: Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6603 W. Broad St., Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or email elaine.yeatts@dhp.virginia.gov.

April 6, 2007 - Public comment may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Medicine intends to amend regulations entitled **18 VAC 85-20, Regulations Governing the Practice of Medicine, Osteopathic Medicine, Podiatry, and Chiropractic**. The purpose of the proposed action is to clarify that the Type 1 (verifiable) hours of chiropractic continuing education must be clinical hours that are approved by a college or university accredited by the Council on Chiropractic Education or any other organization approved by the board.

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

Public comments may be submitted until April 6, 2007, to William L. Harp, M.D., Executive Director, Board of Medicine, 6603 West Broad Street, Richmond, VA 23230.

Contact: Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6603 W. Broad St.,

Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or email elaine.yeatts@dhp.virginia.gov.

April 6, 2007 - Public comment may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Medicine intends to amend regulations entitled **18 VAC 85-40, Regulations Governing the Practice of Respiratory Care Practitioners**. The purpose of the proposed action is to clarify requirements for evidence of competency to return to active practice for applicants for reinstatement or reactivation.

Statutory Authority: §§ 54.1-2400 and 54.1-2954.1 of the Code of Virginia.

Public comments may be submitted until April 6, 2007, to William L. Harp, M.D., Executive Director, Board of Medicine, 6603 West Broad Street, Richmond, VA 23230.

Contact: Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6603 W. Broad St., Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or email elaine.yeatts@dhp.virginia.gov.


April 6, 2007 - Public comment may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Medicine intends to amend regulations entitled **18 VAC 85-120, Regulations Governing the Licensure of Athletic Trainers**. The purpose of the proposed action is to specify the supervisory responsibility for a provisional licensee should be daily and on site.

Statutory Authority: §§ 54.1-2400 and 54.1-2957.4 of the Code of Virginia.

Public comments may be submitted until April 6, 2007, to William L. Harp, M.D., Executive Director, Board of Medicine, 6603 West Broad Street, Richmond, VA 23230.

Contact: Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6603 W. Broad St., Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or email elaine.yeatts@dhp.virginia.gov.

May 18, 2007 - 8:30 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room, Richmond, Virginia. 

A meeting of the Legislative Committee to consider regulatory matters as presented on the agenda. Public comment on agenda items will be received at the beginning of the meeting.

Calendar of Events

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY ☎, email william.harp@dhp.virginia.gov.

May 18, 2007 - 1:30 p.m. -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 2, Richmond, Virginia. 📍

The Credentials Committee will meet to consider applicants for licensure and other matters of the board. Public comment on agenda items 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 ☎, email william.harp@dhp.virginia.gov.

Advisory Board on Athletic Training

† June 7, 2007 - 9 a.m. -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 4, Richmond, Virginia. 📍

A meeting to consider issues related to the regulations of athletic training. Public comment on agenda items 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 ☎, email william.harp@dhp.virginia.gov.

Advisory Board on Midwifery

† June 8, 2007 - 10 a.m. -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 4, Richmond, Virginia. 📍

A meeting to consider issues related to the regulations of midwifery. Public comment on agenda items 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 ☎, email william.harp@dhp.virginia.gov.

Advisory Board on Occupational Therapy

June 5, 2007 - 10 a.m. -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 4, Richmond, Virginia. 📍

A meeting to consider issues related to the regulations of occupational therapy. Public comment on agenda items 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 ☎, email william.harp@dhp.virginia.gov.

Advisory Board on Physician Assistants

† June 7, 2007 - 1 p.m. -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 4, Richmond, Virginia. 📍

A meeting to consider issues related to the regulations of physician assistants. Public comment on agenda items 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 ☎, email william.harp@dhp.virginia.gov.

Advisory Board on Radiologic Technology

† June 6, 2007 - 1 p.m. -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 4, Richmond, Virginia. 📍

A meeting to consider issues related to the regulations of radiologic technologists and radiologic technologists-limited. Public comment on agenda items 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 ☎, email william.harp@dhp.virginia.gov.

Advisory Board on Respiratory Care

June 5, 2007 - 1 p.m. -- Open Meeting


Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 4, Richmond, Virginia. 📍

A meeting to consider issues related to the regulations of respiratory care. Public comment on agenda items 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 ☎, email william.harp@dhp.virginia.gov.

STATE MILK COMMISSION

† **April 25, 2007 - 10 a.m.** -- Open Meeting

Department of Agriculture and Consumer Services, Oliver Hill Building, Room 232, Richmond, Virginia. 


A regular meeting to consider industry issues, distributor licensing, base transfers and reports from staff. The commission offers anyone in attendance an opportunity to speak at the conclusion of the agenda. Those persons requiring special accommodations should notify Rodney L. Phillips at least five working days prior to the meeting date so that suitable arrangements can be made.

Contact: Rodney L. Phillips, Administrator, State Milk Commission, Oliver Hill Bldg., 102 Governor St., Room 205, Richmond, VA 23218, telephone (804) 786-2013, FAX (804) 786-3779, email rodney.phillips@vdacs.virginia.gov.


DEPARTMENT OF MINES, MINERALS AND ENERGY

Virginia Gas and Oil Board

† **March 20, 2007 - 9 a.m.** -- Open Meeting

Southwest Virginia Higher Education Center, Virginia Highlands Community College, Abingdon, Virginia. 
(Interpreter for the deaf provided upon request)


A meeting to conduct general board business and consider petitions for pooling. The board will hear public comments regarding board matters immediately following the final docket item. Special accommodations for the disabled will be made available at the hearing on request. Anyone needing special accommodations should contact the Department of Mines, Minerals and Energy, Division of Gas and Oil at 276-676-5423, or call the Virginia Relay Center TTY/TDD 1-800-828-1120 or 1-800-828-1140 by March 14, 2007.

Contact: Bob Wilson, Division Director, Department of Mines, Minerals and Energy, Division of Gas and Oil, 230 Charwood Dr., Abingdon, VA 24210, telephone (276) 676-5426, FAX (276) 676-5459, (800) 828-1120/TTY , email bob.wilson@dmme.virginia.gov.

VIRGINIA MUSEUM OF FINE ARTS


April 5, 2007 - 8 a.m. -- Open Meeting

May 1, 2007 - 8 a.m. -- Open Meeting

Virginia Museum of Fine Arts, 200 North Boulevard, The Pauley Center, Dining Room, Richmond, Virginia. 


A meeting for staff to update the Executive Committee. Public comment will not be received.

Contact: Suzanne Broyles, Secretary of the Museum, Virginia Museum of Fine Arts, 200 N. Boulevard, Richmond, VA 23220, telephone (804) 340-1503, FAX (804) 340-1502,

(804) 340-1401/TTY , email suzanne.broyles@vmfa.museum.

May 9, 2007 - 2 p.m. -- Open Meeting


† **June 14, 2007 - 1 p.m.** -- Open Meeting

Virginia Museum of Fine Arts, Pauley Center 2, 200 North Boulevard, Richmond, Virginia. 

A meeting of the Marketing and Branding Committee for staff to update the trustees. Public comment will not be received.

Contact: Suzanne Broyles, Secretary of the Museum, Virginia Museum of Fine Arts, 200 N. Boulevard, Richmond, VA 23220, telephone (804) 340-1503, email suzanne.broyles@vmfa.museum.

† **May 17, 2007 - 2:30 p.m.** -- Open Meeting

Virginia Museum of Fine Arts, Pauley Center 2, 200 North Boulevard, Richmond, Virginia. 

A meeting of the Statewide Task Force for staff to update the committee. Public comment will not be received.


Contact: Suzanne Broyles, Secretary of the Museum, Virginia Museum of Fine Arts, 200 N. Boulevard, Richmond, VA 23220, telephone (804) 340-1503, email suzanne.broyles@vmfa.museum.

VIRGINIA COMMISSION FOR NATIONAL AND COMMUNITY SERVICE

April 11, 2007 - 3 p.m. -- Open Meeting

Holiday Inn Select Koger South, 1021 Koger Center Boulevard, Richmond, Virginia.


A regular business meeting of the commission.

Contact: Susan Patton, Virginia Commission for National and Community Service, 7 N. 8th St., Richmond, VA 23219, telephone (804) 726-7065, FAX (804) 726-7024, toll-free (800) 638-3839, (804) 828-1120/TTY , email susan.c.patton@dss.virginia.gov.


BOARD OF NURSING

March 19, 2007 - 9 a.m. -- Open Meeting

May 14, 2007 - 9 a.m. -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 2, Richmond, Virginia. 

A panel will conduct informal conferences with licensees and/or certificate holders. A formal hearing may also be held. Public comment will not be received.

Contact: Jay P. Douglas, RN, MSM, CSAS, 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 , email nursebd@dhp.virginia.gov.

Calendar of Events

March 20, 2007 - 9 a.m. -- Open Meeting

May 15, 2007 - 9 a.m. -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. ☎

A general business meeting to include receipt of committee reports, consideration of regulatory action and discipline 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) 662-9949, FAX (804) 662-9512, (804) 662-7197/TTY ☎, email jay.douglas@dhp.virginia.gov.

March 20, 2007 - 11:30 a.m. -- Public Hearing

Department of Health Professions, 6603 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. ☎

April 6, 2007 - Public comment may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Nursing intends to amend regulations entitled **18 VAC 90-20, Regulations Governing the Practice of Nursing**. The purpose of the proposed action is to implement provisions for issuance of an inactive license or reactivation of such a license.

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

Public comments may be submitted until April 6, 2007, to Jay P. Douglas, R.N., Executive Director, Board of Nursing, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9949, FAX (804) 662-9512, (804) 662-7197/TTY ☎, email jay.douglas@dhp.virginia.gov.

Contact: Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6603 W. Broad St., Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or email elaine.yeatts@dhp.virginia.gov.

March 20, 2007 - 11:30 a.m. -- Public Hearing

Department of Health Professions, 6603 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. ☎

April 6, 2007 - Public comment may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Nursing intends to amend regulations entitled **18 VAC 90-20, Regulations Governing the Practice of Nursing**. The purpose of the proposed action is to revise the regulation relating to nursing education to provide more specificity to the requirements for nursing education programs, add an

application fee for program approval, set a minimum NCLEX passage rate for approved programs and a minimum number of clinical hours, and clarify the responsibilities in the clinical practice of students. Additional grounds for disciplinary action are proposed to address issues relating to unprofessional conduct for nurses. The amendments also increase the number of hours for an approved medication administration program from 24 to 32.

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

Public comments may be submitted until April 6, 2007, to Jay P. Douglas, R.N., Executive Director, Board of Nursing, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9949, FAX (804) 662-9512, (804) 662-7197/TTY ☎, email jay.douglas@dhp.virginia.gov.

Contact: Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6603 W. Broad St., Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or email elaine.yeatts@dhp.virginia.gov.

March 21, 2007 - 9 a.m. -- Open Meeting

March 22, 2007 - 9 a.m. - CANCELED

May 16, 2007 - 9 a.m. -- Open Meeting

May 17, 2007 - 9 a.m. -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 2, Richmond, Virginia. ☎

A panel of the Board of Nursing will conduct formal hearings with licensees and/or certificate holders. Public comment will not be received.

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) 662-9949, FAX (804) 662-9512, (804) 662-7197/TTY ☎, email jay.douglas@dhp.virginia.gov.

March 28, 2007 - 9 a.m. -- Open Meeting

March 30, 2007 - 9 a.m. -- Open Meeting

April 10, 2007 - 9 a.m. -- Open Meeting

April 13, 2007 - 9 a.m. -- Open Meeting

April 17, 2007 - 9 a.m. -- Open Meeting

April 19, 2007 - 9 a.m. -- Open Meeting

April 24, 2007 - 9 a.m. -- Open Meeting

April 26, 2007 - 9 a.m. -- Open Meeting

May 8, 2007 - 9 a.m. -- CANCELED

May 11, 2007 - 9 a.m. -- CANCELED

May 31, 2007 - 9 a.m. -- Open Meeting

June 4, 2007 - 9 a.m. -- Open Meeting

† **June 6, 2007 - 9 a.m.** -- Open Meeting


† **June 12, 2007 - 9 a.m.** -- Open Meeting

† **June 14, 2007 - 9 a.m.** -- Open Meeting

† **June 19, 2007 - 9 a.m.** -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 


A Special Conference Committee comprised of two or three members of the Virginia Board of Nursing or agency subordinate 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 , email nursebd@dhp.virginia.gov.

OLD DOMINION UNIVERSITY

March 19, 2007 - Noon -- Open Meeting

May 21, 2007 - Noon -- Open Meeting


Old Dominion University, Webb University Center, Norfolk, Virginia. 

A regular meeting of the Executive Committee of the Board of Visitors to discuss business of the board and the institution as determined by the rector and the president. Public comment will not be received by the board.

Contact: Donna Meeks, Executive Secretary to the Board of Visitors, Old Dominion University, 204 Koch Hall, Norfolk, VA 23529, telephone (757) 683-3072, FAX (757) 683-5679, email dmeeks@odu.edu.

April 6, 2007 - 1:30 p.m. -- Open Meeting

† June 15, 2007 - 1:30 p.m. -- Open Meeting


Webb University Center, Old Dominion University, Norfolk, Virginia. 

A regular meeting of the Board of Visitors to discuss business of the board and the institution as determined by the rector and the president. Public comment will not be received by the board.

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, email dmeeks@odu.edu.


BOARD FOR OPTICIANS

April 6, 2007 - 9:30 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, 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. Person desiring to participate in the meeting and requiring


special accommodations or interpretive services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: 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 , email opticians@dpor.virginia.gov.

VIRGINIA OUTDOORS FOUNDATION

† June 6, 2007 - 1 p.m. -- Open Meeting

† June 7, 2007 - 9 a.m. -- Open Meeting


Department of Forestry, 900 Natural Resources Drive, 2nd Floor, Board Room, Charlottesville, Virginia. 

A meeting for policy and easement consideration. Public comment will be received.


Contact: Trisha Cleary, Administrative Assistant, Department of Conservation and Recreation, 101 N. 14th St., 17th Floor, Richmond, VA 23219, telephone (804) 225-2147, FAX (804) 371-4810, email tcleary@vofonline.org.

VIRGINIA BOARD FOR PEOPLE WITH DISABILITIES

† June 6, 2007 - 11 a.m. -- Open Meeting

Location to be announced.  (Interpreter for the deaf provided upon request)


A meeting of the Executive Committee.

Contact: Sandra Smalls, Executive Assistant, Virginia Board for People with Disabilities, 202 N. 9th Street, 9th Floor, Richmond, VA 23219, telephone (804) 786-9368, FAX (804) 786-1118, toll-free (800) 846-4464, (804) 786-0016/TTY , email sandra.smalls@vbpd.virginia.gov.

† June 7, 2007 - 8:30 a.m. -- Open Meeting


Location to be announced.  (Interpreter for the deaf provided upon request)

A quarterly board meeting.

Contact: Sandra Smalls, Executive Assistant, Virginia Board for People with Disabilities, 202 N. 9th Street, 9th Floor, Richmond, VA 23219, telephone (804) 786-9368, FAX (804) 786-1118, toll-free (800) 846-4464, (804) 786-0016/TTY , email sandra.smalls@vbpd.virginia.gov.

PESTICIDE CONTROL BOARD

† April 19, 2007 - 9 a.m. -- Open Meeting

Oliver Hill Building, 102 Governor Street, 2nd Floor, Room 220, Board Room, Richmond, Virginia. 

A meeting open to the public to discuss general business matters requiring board action. However, portions of the meeting may be held in closed session, pursuant to § 2.2-

Calendar of Events

3711 of the Code of Virginia. The board will entertain public comment at the beginning of the meeting on 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 Dr. W. Wayne Surles at least five days before the meeting date so that suitable arrangements can be made.

Contact: Dr. W. Wayne Surles, Program Manager, Office of Pesticide Services, 102 Governor St., 1st Floor, Richmond, VA 23219, telephone (804) 371-6559, FAX (804) 786-9149, toll-free (800) 552-9963, email wayne.surles@vdacs.virginia.gov.

BOARDS OF PHARMACY AND MEDICINE

April 6, 2007 - Public comment may be submitted until this date.


Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Medicine intends to amend regulations entitled **18 VAC 110-40, Regulations Governing Collaborative Practice Agreements**. The purpose of the proposed action is to amend requirements for collaborative practice agreements between doctors of medicine, osteopathy or podiatry and pharmacists directly involved in patient care in order to clarify certain provisions and modify others that are unnecessarily cumbersome or burdensome.

Statutory Authority: §§ 54.1-2400 and 54.1-3300.1 of the Code of Virginia.

Public comments may be submitted until April 6, 2007, to Elizabeth Scott Russell, Executive Director, Board of Pharmacy, 6603 West Broad Street, Richmond, VA 23230.


Contact: Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6603 W. Broad St., Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or email elaine.yeatts@dhp.virginia.gov.

BOARD OF PHYSICAL THERAPY

April 27, 2007 - 9 a.m. -- Open Meeting
Department of Health Professions, Alcoa Building, 6603 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia. 


A meeting to discuss general business matters 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. Person desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at (804) 662-9924 at least 10 days prior to this meeting so that suitable

arrangements can be made. The department fully complies with the Americans with Disabilities Act.


Contact: Lisa R. Hahn, Executive Director, Board of Physical Therapy, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9924, FAX (804) 662-9523, (804) 662-7197/TTY , email lisa.hahn@dhp.virginia.gov.

April 27, 2007 - 1 p.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia. 


A formal hearing to inquire into allegations that a licensee may have violated certain laws and regulations governing the practice of physical therapy. The board will meet in open and closed sessions pursuant to § 2.2-3711 A (7), (15), and/or (28) of the Code of Virginia. Public comment will not be received.

Contact: Lisa R. Hahn, Executive Director, Board of Physical Therapy, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9924, FAX (804) 662-9523, (804) 662-7197/TTY , email lisa.hahn@dhp.virginia.gov.


POLYGRAPH EXAMINERS ADVISORY BOARD

April 5, 2007 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. 

A meeting to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Kevin Hoeft, Regulatory Boards Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2785, FAX (804) 367-0674, (804) 367-9753/TTY , email kevin.hoeft@dpor.virginia.gov.

BOARD FOR PROFESSIONAL AND OCCUPATIONAL REGULATION

June 4, 2007 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 5th Floor, Richmond, Virginia. 

A regular board meeting.

Contact: Mark N. Courtney, Executive Director, Board for Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, email mark.courtney@dpor.virginia.gov.

BOARD OF PSYCHOLOGY

April 10, 2007 - 9:30 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street,
5th Floor, Richmond, Virginia ☎

A business meeting to include reports from standing committees and any regulatory and disciplinary matters as may be presented on the agenda. Public comment will be received at the beginning of the meeting.

Contact: Evelyn B. Brown, Executive Director, Board of Psychology, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9913, FAX (804) 662-9943, (804) 662-7197/TTY ☎, email evelyn.brown@dhp.virginia.gov.

VIRGINIA PUBLIC GUARDIAN AND CONSERVATOR ADVISORY BOARD

† March 22, 2007 - 10 a.m. -- Open Meeting
Department for the Aging, 1610 Forest Avenue, Suite 100,
Richmond, Virginia ☎

A meeting of the full board.

Contact: Faye D. Cates, MSSW, Guardianship Program Specialist, Department for the Aging, 1610 Forest Ave., Suite 100, Richmond, VA 23229, telephone (804) 662-9310, FAX (804) 662-9354, toll-free (800) 552-3402, (804) 662-9333/TTY ☎, email faye.cates@vda.virginia.gov.

REAL ESTATE APPRAISER BOARD

May 1, 2007 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, 4th Floor, Richmond, Virginia.

A meeting to discuss board business.

Contact: Christine Martine, Executive Director, Real Estate Appraiser Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-6946, (804) 367-9753/TTY ☎, email reboard@dpor.virginia.gov.

REAL ESTATE BOARD

March 21, 2007 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, 4th Floor, Room 453, Richmond,
Virginia ☎

Informal fact-finding conferences.

Contact: Christine Martine, Executive Director, Real Estate Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-6946, (804) 367-9753/TTY ☎, email reboard@dpor.virginia.gov.

† March 21, 2007 - 1 p.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, 4th Floor, Richmond, Virginia ☎

A meeting of the RFP Committee to review proposals in response to the RFP concerning CIC Awards.

Contact: Christine Martine, Executive Director, Real Estate Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-6946, (804) 367-9753/TTY ☎, email reboard@dpor.virginia.gov.

March 21, 2007 - 3 p.m. -- Open Meeting

May 9, 2007 - 3 p.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, 5th Floor, Richmond, Virginia.

A meeting of the Education Committee to discuss education issues.

Contact: Christine Martine, Executive Director, Real Estate Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-6946, (804) 367-9753/TTY ☎, email reboard@dpor.virginia.gov.

March 22, 2007 - 9 a.m. -- Open Meeting

May 10, 2007 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, 4th Floor, Richmond, Virginia.

A meeting to discuss board business.

Contact: Christine Martine, Executive Director, Real Estate Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-6946, (804) 367-9753/TTY ☎, email reboard@dpor.virginia.gov.

REFORESTATION OF TIMBERLANDS BOARD

March 22, 2007 - 9:30 a.m. -- Open Meeting
Holiday Lake 4-H Center, Appomattox, Virginia.

A general business meeting and budget discussion.

Contact: Todd Groh, Assistant Director, Forest Management, Department of Forestry, 900 Natural Resources Dr., #800, Charlottesville, VA 22903, telephone (434) 220-9044, FAX (434) 296-2369, email todd.groh@dof.virginia.gov.

DEPARTMENT OF REHABILITATIVE SERVICES

Virginia Assistive Technology System Advisory Council

† March 21, 2007 - 10 a.m. -- Open Meeting
Virginia Department of Forestry, 900 Natural Resources Drive (Fountain Research Park Office Complex) Charlottesville, Virginia ☎ (Interpreter for the deaf provided upon request)

Calendar of Events

A quarterly meeting of the Virginia Assistive Technology System Advisory Council. Materials in alternate formats will be provided upon prior request. Public comments will be received at approximately 10:15 a.m.

Contact: Jane Lively, Program Administrative Specialist, Department of Rehabilitative Services, 8004 Franklin Farms Dr., Richmond, VA 23229, telephone (804) 726-1904, FAX (804) 662-9478, toll-free (800) 552-5019, (800) 464-9950/TTY ☎, email jane.lively@drs.virginia.gov.

Virginia Brain Injury Council

April 27, 2007 - 1 p.m. -- Open Meeting
8004 Franklin Farms Drive, Conference Room 101/103/105, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A quarterly meeting. Materials provided in alternate format upon request. Public comment will be received at approximately 1:15 p.m.

Contact: Kristie Chamberlain, BI/SCI Services Unit, Department of Rehabilitative Services, 8004 Franklin Farms Dr., P.O. Box K-300, Richmond, VA 23229, telephone (804) 662-7154, FAX (804) 662-7663, toll-free (800) 552-5019, (800) 464-9950/TTY ☎, email kristie.chamberlain@drs.virginia.gov.

VIRGINIA RESEARCH AND TECHNOLOGY ADVISORY COMMISSION

March 20, 2007 - 1 p.m. -- Open Meeting
Freedom Fitness and Aquatic Center, George Mason University, Multipurpose Room, Manassas, Virginia.

May 22, 2007 - 1 p.m. -- Open Meeting
Blacksburg, Virginia.

A quarterly meeting. Specific time and location to be determined.

Contact: Nancy Vorona, VP Research Investment, Center for Innovative Technology, Virginia Research and Technology Advisory Commission, 2214 Rock Hill Rd., Suite 600, Herndon, VA 20170, telephone (703) 689-3043, FAX (703) 464-1720, email nvorona@cit.org.

VIRGINIA SMALL BUSINESS FINANCING AUTHORITY

March 21, 2007 - Noon -- Open Meeting
Department of Business Assistance, 707 East Main Street, 3rd Floor Board Room, Richmond, Virginia. ♿

A meeting to review applications for loans submitted to the authority for approval and to conduct general business of the board. The meeting time is subject to change depending upon the board's agenda.

Contact: Scott E. Parsons, Executive Director, Virginia Small Business Financing Authority, P.O. Box 446, Richmond, VA 23218-0446, telephone (804) 371-8256, FAX (804) 225-3384, toll-free (866) 248-8814, email scott.parsons@dba.virginia.gov.

STATE BOARD OF SOCIAL SERVICES

April 18, 2007 - 9 a.m. -- Open Meeting

April 19, 2007 - 9 a.m. -- Open Meeting
Pittsylvania County Community Action One Stop Center, 707 Piney Forest Road Shopping Center, Route 29, Danville, Virginia. ♿

A regular meeting.

Contact: Pat Rengnerth, Board Liaison, Office of Legislative and Regulatory Affairs, Department of Social Services, 7 N. 8th St., Room 5214, Richmond, VA 23219, telephone (804) 726-7905, FAX (804) 726-7906, (800) 828-1120/TTY ☎, email patricia.rengnerth@dss.virginia.gov.

BOARD OF SOCIAL WORK

† **April 4, 2007 - 1:30 p.m.** -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. ♿

An informal conference to hear possible violations of the laws and regulations governing the practice of social work.

Contact: Evelyn B. Brown, Executive Director, Board of Social Work, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9914, FAX (804) 662-7250, (804) 662-7197/TTY ☎, email evelyn.brown@dhp.virginia.gov.

† **April 19, 2007 - 2 p.m.** -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. ♿

A meeting of the Regulatory Committee to review current regulations regarding supervision and standards of practice.

Contact: Evelyn B. Brown, Executive Director, Board of Social Work, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9914, FAX (804) 662-7250, (804) 662-7197/TTY ☎, email evelyn.brown@dhp.virginia.gov.

April 20, 2006 - 9:30 a.m. -- CANCELED

Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. ♿

The regular business meeting has been canceled.

Contact: Evelyn B. Brown, Executive Director, Board of Social Work, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9914, FAX (804) 662-7250, (804) 662-7197/TTY ☎, email evelyn.brown@dhp.virginia.gov.

BOARD FOR PROFESSIONAL SOIL SCIENTISTS AND WETLAND PROFESSIONALS

April 17, 2007 - 10 a.m. -- Open Meeting

Department of Professional and Occupational Regulation,
3600 West Broad Street, 4th Floor, Richmond, Virginia. ☎

A meeting to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Executive Director, Board for Professional Soil Scientists and Wetland Professionals, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-0795, (804) 367-9753/TTY ☎, email soilscientist@dpor.virginia.gov.

BOARD OF TOWING AND RECOVERY OPERATORS

† **April 3, 2007 - 9:30 a.m.** -- Open Meeting

Department of Motor Vehicles, 2300 West Broad Street,
Conference Room 702, Richmond, Virginia. ☎

A regular meeting.

Contact: Benjamin Foster, Executive Director, Board of Towing and Recovery Operators, 2300 W. Broad St., Richmond, VA 23220, telephone (804) 367-0226, FAX (804) 367-6631, (800) 272-9268/TTY ☎, email benjamin.foster@dmv.virginia.gov.

COMMONWEALTH TRANSPORTATION BOARD

March 21, 2007 - 5 p.m. -- Open Meeting

Prince George County Administration Bldg., 6602 Court Drive, Board of Supervisor's Meeting Room, Prince George, Virginia. ☎

A meeting to evaluate the Route 460 Public-Private Transportation Act (PPTA) proposal. In September 2006, three firms submitted proposals to build a new Route 460 using private investments, user fees, including tolls and other innovative financing methods. The firms were Cintra, Itinere and 460 Virginia Corridor Partners (VCP). An independent review panel made up of citizens, Commonwealth Transportation Board (CTB) members, state government officials and representatives from planning organizations along the Route 460 corridor will make recommendations to the Commissioner and Commonwealth Transportation Board on the feasibility of these proposals. Proposals will be evaluated according to criteria established in the Code of Virginia and guidelines approved by the CTB. All meetings will be open to the

public and held in the corridor. For more information on the PPTA process and guidelines, and to read the proposals, visit www.VirginiaDOT.org/projects/ppta-US-Route460.asp.

Contact: Donna Purcell Mayes, Acting Chief of Communications/Assistant Director for Outreach, Department of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-2717, FAX (804) 786-6250, email donna.mayes@vdot.virginia.gov.

TREASURY BOARD

March 21, 2007 - 9 a.m. -- Open Meeting

April 18, 2007 - 9 a.m. -- Open Meeting

May 16, 2007 - 9 a.m. -- Open Meeting

James Monroe Building, 101 North 14th Street, 3rd Floor,
Richmond, Virginia.

A regular meeting.

Contact: Kathi B. Scearce, Secretary to the Board, Treasury Board, James Monroe Bldg., 101 N. 14th St., 3rd Floor, Richmond, VA 23219, telephone (804) 371-6011, email kathi.scearce@trs.virginia.gov.

DEPARTMENT OF VETERANS SERVICES

† **March 30, 2007 - Noon** -- Open Meeting

American Legion, 1708 Commonwealth Avenue, Richmond,
Virginia. ☎

A meeting of the Veterans Care Center Advisory Committee. Public comment will be heard at the conclusion of the meeting.

Contact: Roz J. Trent, Coordinator, JLC, VVCAC and VSF Program Operations, Department of Veterans Services, 900 E. Main St., Richmond, VA 23219, telephone (804) 786-0220, FAX (804) 786-0302, email roz.trent@dvs.virginia.gov.

Veterans Services Foundation

† **April 4, 2007 - 1 p.m.** -- Open Meeting

American Legion Department of Virginia Building, 1708 Commonwealth Avenue, Richmond, Virginia. ☎

A meeting of the Board of Trustees. Public comment will be heard at the conclusion of the meeting.

Contact: Roz J. Trent, Coordinator of Board Operations, Department of Veterans Services, 900 E. Main St., Richmond, VA 23219, telephone (804) 786-0220, FAX (804) 786-0302, email roz.trent@dvs.virginia.gov.

Calendar of Events

Board of Veterans Services

March 19, 2007 - 11:30 a.m. -- Open Meeting
American Legion, 1708 Commonwealth Avenue, Richmond, Virginia. ♿

A regular meeting. Pre-registered public comments for the first public comment period may be made through Rhonda Earman.

Contact: Rhonda Earman, Special Assistant to the Commissioner, Department of Veterans Services, 900 E. Main St., Richmond, VA 23219, telephone (804) 786-0286, email rhonda.earman@dvs.virginia.gov.

VIRGINIA WASTE MANAGEMENT BOARD

† **April 10, 2007 - 1 p.m.** -- Open Meeting
Virginia Military Institute, Lexington, Virginia. ♿

A joint meeting of representatives of the Virginia Waste Management Board, State Air Pollution Control Board and State Water Control Board.

Contact: Cindy Berndt, Regulatory Coordinator, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4378, FAX (804) 698-4346, email cberndt@deq.virginia.gov.

STATE WATER CONTROL BOARD

March 21, 2007 - 10 a.m. -- Open Meeting
April 18, 2007 - 10 a.m. -- Open Meeting
May 9, 2007 - 10 a.m. -- Open Meeting
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. ♿

A meeting of the advisory committee to be established to assist in the development of amendments to the water quality standards for the triennial review. The notice of intent appeared in the Virginia Register of Regulations on September 18, 2006.

Contact: Eleanore M. Daub, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4111, FAX (804) 698-4116, email emdaub@deq.virginia.gov.

† **March 21, 2007 - 10 a.m.** -- Open Meeting
† **April 11, 2007 - 10 a.m.** -- Open Meeting
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. ♿

A meeting of the advisory committee assisting reissuance and necessary amendments of the general VPDES permit for cooling water discharges.

Contact: Burt Tuxford, Storm Water Coordinator, State Water Control Board, P.O. Box 1105, Richmond, VA 23218,

telephone (804) 698-4086, FAX (804) 698-4032, email brtuxford@deq.virginia.gov.

March 27, 2007 - 5 p.m. -- Open Meeting
Culpeper County Board of Supervisors Meeting Room, 302 North Main Street, Culpeper, Virginia. ♿

A public meeting to receive comments on the notice of intended regulatory action to amend the Water Quality Standards regulation (9 VAC 25-260) to designate portions of the Hazel River as exceptional state resource waters (Tier III). The notice of intent will be published in the Virginia Register of Regulations on February 19, 2007. The public comment period begins on February 19, 2007, and ends on April 2, 2007.

Contact: David C. Whitehurst, Department of Environmental Quality, 629 E. Main St., P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4121, FAX (804) 698-4116, email dcwhitehurst@deq.virginia.gov.

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April 3, 2007 - 1:30 p.m. -- Public Hearing
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. ♿

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 25-720, Water Quality Management Planning Regulation**. The purpose of the proposed action is to amend the total phosphorus allocation for Tyson Foods - Glen Allen facility.

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

Public comments may be submitted until April 20, 2007.

Contact: John M. Kennedy, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4312, FAX (804) 698-4116, email jmkennedy@deq.virginia.gov.


† **April 10, 2007 - 1 p.m.** -- Open Meeting
Virginia Military Institute, Lexington, Virginia. ♿

A joint meeting of representatives of the Virginia Waste Management Board, State Air Pollution Control Board and State Water Control Board.

Contact: Cindy Berndt, Regulatory Coordinator, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4378, FAX (804) 698-4346, email cberndt@deq.virginia.gov.

INDEPENDENT

STATE LOTTERY BOARD

† **April 4, 2007 - 9 a.m.** -- Open Meeting
 State Lottery Department, 900 East Main Street, 13th Floor,
 Richmond, Virginia. 


A regular meeting. 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, email fferguson@valottery.com.


VIRGINIA OFFICE FOR PROTECTION AND ADVOCACY

April 24, 2007 - 9 a.m. -- Open Meeting
 Location to be determined.  (Interpreter for the deaf provided upon request)


A meeting of the Board of Directors. Updated information will be posted as soon as it is available.

Contact: Lisa Shehi, Executive Assistant, Virginia Office for Protection and Advocacy, 1910 Byrd Ave., Suite 5, Richmond, VA 23230, telephone (804) 225-2042, FAX (804) 662-7431, toll-free (800) 552-3962, (804) 225-2042/TTY , email lisa.shehi@vopa.virginia.gov.


Disability Advisory Council

March 21, 2007 - 10 a.m. -- Open Meeting
 1910 Byrd Avenue, Suite 5, Richmond, Virginia. 
 (Interpreter for the deaf provided upon request)


A regular meeting. Public comment is welcome and will be received shortly after 10 a.m. Public comment will also be accepted by telephone. If you wish to provide public comments via telephone call Tracy Manley, Administrative Assistant at 1-800-552-3962 (Voice/TTY) or via email at tracy.manley@vopa.virginia.gov no later than March 7, 2007. Ms. Manley will take your name and phone number and you will be telephoned during the public comment period. For further information, directions to the meeting, or interpreter services or other accommodations, please contact Ms. Manley no later than March 7, 2007.

Contact: Tracy Manley, Administrative Assistant, Virginia Office for Protection and Advocacy, 1910 Byrd Ave., Richmond, VA 23230, telephone (804) 225-2042, FAX (804) 662-7431, toll-free (800) 552-3962, (804) 225-2042/TTY , email tracy.manley@vopa.virginia.gov.

VIRGINIA RETIREMENT SYSTEM


April 10, 2007 - Noon -- Open Meeting
 † **June 19, 2007 - Noon** -- Open Meeting
 Location to be determined. 


A meeting of the Optional Retirement Plan for Higher Education Advisory Committee. No public comment will be received at the meeting.

Contact: Patty Atkins-Smith, Legislative Liaison and Policy Analyst, Virginia Retirement System, 1200 E. Main St., Richmond, VA 23219, telephone (804) 344-3123, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY , email psmith@varetire.org.


April 11, 2007 - 1:30 p.m. -- Open Meeting
 Virginia Retirement System Headquarters, 1200 East Main Street, Richmond, Virginia. 


A regular meeting of the Benefits and Actuarial Committee. No public comment will be received at the meeting.

Contact: LaShaunda King, Executive Assistant, Virginia Retirement System, 1200 E. Main St., Richmond, VA 23219, telephone (804) 344-3119, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY , email lking@varetire.org.


April 12, 2007 - 1 p.m. -- Open Meeting
 Virginia Retirement System, 1111 East Main Street, 3rd Floor Conference Room, Richmond, Virginia. 

A regular meeting of the Board of Trustees. No public comment will be received at the meeting.

Contact: LaShaunda King, Executive Assistant, Virginia Retirement System, 1200 E. Main St., Richmond, VA 23219, telephone (804) 344-3119, FAX (804) 786-1541, (804) 344-3190/TTY , email lking@varetire.org.

May 9, 2007 - 10 a.m. -- Open Meeting
 Virginia Retirement System, 1111 East Main Street, 3rd Floor Conference Room, Richmond, Virginia. 

A regular meeting of the Investment Advisory Committee. No public comment will be received at the meeting.

Contact: Linda Ritchey, Executive Assistant, Virginia Retirement System, 1111 E. Main St., Richmond, VA 23219, telephone (804) 697-6673, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY , email lritchey@varetire.org.

Calendar of Events

LEGISLATIVE

VIRGINIA HOUSING COMMISSION

† **April 3, 2007 - 10 a.m.** -- Open Meeting
General Assembly Building, 9th and Broad Streets, House
Room C, Richmond, Virginia.

A full commission meeting.

Contact: Lisa Gilmer, Division of Legislative Services, 910
Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804)
786-3591, email lgilmer@leg.state.va.us.

CHRONOLOGICAL LIST

OPEN MEETINGS

March 19

Alcoholic Beverage Control Board
Education, Board of
- Advisory Board on Teacher Education and Licensure
Environmental Quality, Department of
Library Board, State
Nursing, Board of
Old Dominion University
Veterans Services, Department of
- Board of Veterans Services

March 20

† Agriculture and Consumer Services, Department of
- Virginia Wine Board
Corrections, Board of
Environmental Quality, Department of
† Governor, Office of the
- Community Integration Advisory Commission
- Long-Term Care Workgroup of Healthcare Reform
Commission
Housing Development Authority, Virginia
Medicine, Board of
† Mines, Minerals and Energy, Department of
- Virginia Gas and Oil Board
Nursing, Board of
Research and Technology Advisory Commission, Virginia

March 21

Community Colleges, State Board for
Corrections, Board of
† Education, Secretary of
Medical Assistance Services, Department of
Nursing, Board of
Protection and Advocacy, Virginia Office for
- Disability Advisory Council
† Real Estate Board
† Rehabilitative Services, Department of
Small Business Financing Authority, Virginia
Transportation Board, Commonwealth
Treasury Board

† Water Control Board, State

March 22

Agriculture and Consumer Services, Board of
Community Colleges, State Board for
† Economic Development Partnership, Virginia
† Environmental Quality, Department of
Funeral Directors and Embalmers, Board of
Human Resources, Virginia Council on
Medical Assistance Services, Department of
Public Guardian and Conservator Advisory Board, Virginia
Real Estate Board
Reforestation Timberlands Board

March 23

Dentistry, Board of
Health, Department of
† Longwood University

March 24

Conservation and Recreation, Department of
- Virginia Cave Board
† Longwood University

March 26

Agriculture and Consumer Services, Department of
- Virginia Agricultural Council
† Air Pollution Control Board, State
Chesapeake Bay Local Assistance Board
† Environmental Quality, Department of
Governor's Healthcare Reform Commission
Housing and Community Development, Board of

March 27

Agriculture and Consumer Services, Department of
- Virginia Agricultural Council
Contractors, Board for
† Environmental Quality, Department of
Marine Resources Commission
Water Control Board, State

March 28

† Arts, Virginia Commission for the
Compensation Board
Nursing, Board of

March 29

Agriculture and Consumer Services, Department of
- Virginia Peanut Board
† Arts, Virginia Commission for the
Contractors, Board for
† Education, Board of
Governor's Healthcare Reform Commission
Medicine, Board of

March 30

† Agriculture and Consumer Services, Department of
- Virginia Dark-Fired Tobacco Board
Dentistry, Board of
† Higher Education for Virginia, State Council of
Nursing, Board of
† Veterans Services, Department of

April 2

Alcoholic Beverage Control Board
 † Governor's Healthcare Reform Commission

April 3

Agriculture and Consumer Services, Department of
 - Virginia Marine Products Board
 Architects, Professional Engineers, Land Surveyors,
 Certified Interior Designers and Landscape Architects,
 Board for
 † Housing Commission, Virginia
 † Towing and Recovery Operators, Board of

April 4

† Health, Department of
 - Sewage Handling and Disposal Appeals Review Board
 † Lottery Board, State
 Medicine, Board of
 † Social Work, Board of
 † Veterans Services, Department of
 - Veterans Services Foundation

April 5

Museum of Fine Arts, Virginia
 Polygraph Examiners Advisory Board

April 6

Art and Architectural Review Board
 † Medicine, Board of
 Old Dominion University
 Opticians, Board for

April 10

† Air Pollution Control Board, State
 Nursing, Board of
 Psychology, Board of
 Retirement System, Virginia
 † Waste Management Board, Virginia
 † Water Control Board, State

April 11

† Funeral Directors and Embalmers, Board of
 Juvenile Justice, State Board of
 National and Community Service, Governor's Commission
 for
 Retirement System, Virginia
 † Water Control Board, State

April 12

Retirement System, Virginia

April 13

Nursing, Board of

April 16

Alcoholic Beverage Control Board

April 17

Blind and Vision Impaired, Board for the'
 Health, Department of
 Medical Assistance Services, Department of
 Nursing, Board of
 Soil Scientists and Wetland Professionals, Board for

April 18

Education, Board of

† Education, Secretary of
 Governor's Healthcare Reform Commission
 Health Professions, Department of
 Social Services, State Board of
 Treasury Board
 Water Control Board, State

April 19

Auctioneers Board
 † Conservation and Recreation, Department of
 - Virginia Scenic River Advisory Board
 Design-Build/Construction Management Review Board
 Education, Board of
 Nursing, Board of
 † Pesticide Control Board
 Social Services, State Board of
 † Social Work, Board of

April 20

Dentistry, Board of
 Education, Board of

April 23

Education, Board of
 Jamestown-Yorktown Foundation

April 24

Contractors, Board for
 Health, Department of
 Jamestown-Yorktown Foundation
 Medical Assistance Services, Department of
 Nursing, Board of
 Protection and Advocacy, Virginia Office for

April 25

Geology, Board for
 † Milk Commission, State

April 26

† Accountancy, Board of
 † Funeral Directors and Embalmers, Board of
 Nursing, Board of

April 27

Dentistry, Board of
 † Education, Board of
 Rehabilitative Services, Department of
 - Virginia Brain Injury Council
 Physical Therapy, Board of

April 30

Barbers and Cosmetology, Board for

May 1

Branch Pilots, Board for
 Museum of Fine Arts, Virginia
 Real Estate Appraiser Board

May 2

Branch Pilots, Board for

May 3

† Education, Secretary of

May 4

Art and Architectural Review Board

Calendar of Events

May 7

Alcoholic Beverage Control Board

May 8

Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers and Landscape Architects,
Board for
Chesapeake Bay Local Assistance Board
† Future, Council on Virginia's
Higher Education for Virginia, State Council of

May 9

Asbestos, Lead, and Home Inspectors, Virginia Board for
George Mason University
Museum of Fine Arts, Virginia
Real Estate Board
Retirement System, Virginia
Water Control Board, State

May 10

Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers and Landscape Architects,
Board for
Medical Assistance Services, Department of
Real Estate Board

May 11

Dentistry, Board of
Health, Department of

May 14

Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers and Landscape Architects,
Board for
Nursing, Board of

May 15

Corrections, Board of
Nursing, Board of

May 16

Corrections, Board of
† Economic Development Partnership, Virginia
† Education, Secretary of
† Health, Department of
- Sewage Handling and Disposal Appeals Review Board
† Innovative Technology Authority
Nursing, Board of
Treasury Board

May 17

Community Colleges, State Board for
Conservation and Recreation, Department of
- Virginia Soil and Water Conservation Board
Design-Build/Construction Management Review Board
† Health, Department of
- State Emergency Medical Services Advisory Board
† Museum of Fine Arts, Virginia
Nursing, Board of

May 18

Health, Department of
- State Emergency Medical Services Advisory Board
Medicine, Board of

May 21

Alcoholic Beverage Control Board
Old Dominion University

May 22

Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers and Landscape Architects,
Board for
Contractors, Board for
Research and Technology Advisory Commission, Virginia

May 24

Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers and Landscape Architects,
Board for
Audiology and Speech Language Pathology, Board of

May 25

Dentistry, Board of

May 30

Education, Board of

May 31

Nursing, Board of

June 1

Art and Architectural Review Board

June 4

Alcoholic Beverage Control Board
Nursing, Board of
Professional and Occupational Regulation, Board of

June 5

Medicine, Board of
- Advisory Board on Occupational Therapy
- Advisory Board on Respiratory Care

June 6

† Cemetery Board
† Medicine, Board of
- Advisory Board on Radiologic Technology
† Nursing, Board of
† Outdoors Foundation, Virginia
† People with Disabilities, Board for

June 7

† Conservation and Recreation, Department of
† Dentistry, Board of
† Medicine, Board of
- Advisory Board on Athletic Training
- Advisory Board on Physicians Assistants
† Outdoors Foundation, Virginia
† People with Disabilities, Board for

June 8

† Dentistry, Board of
† Medicine, Board of
- Advisory Board on Midwifery

June 11

† Library Board, State

June 12

† Health, Department of
† Nursing, Board of

June 13

- † Conservation and Recreation, Department of
- † Juvenile Justice, State Board of

June 14

- † Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers and Landscape Architects,
Board for
- † Arts, Virginia Commission for the
- † Museum of Fine Arts, Virginia
- † Nursing, Board of

June 15

- † Arts, Virginia Commission for the
- † Old Dominion University

June 18

- † Alcoholic Beverage Control Board
- † Chesapeake Bay Local Assistance Board

June 19

- † Nursing, Board of
- † Retirement System, Virginia

PUBLIC HEARINGS

March 20

- Nursing, Board of

March 21

- † Health, Department of

April 3

- Water Control Board, State

April 4

- † Environmental Quality, Department of

April 17

- Contractors, Board for

April 18

- Contractors, Board for

Calendar of Events
