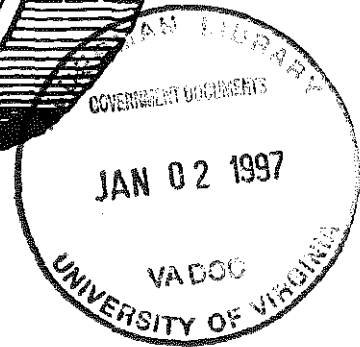
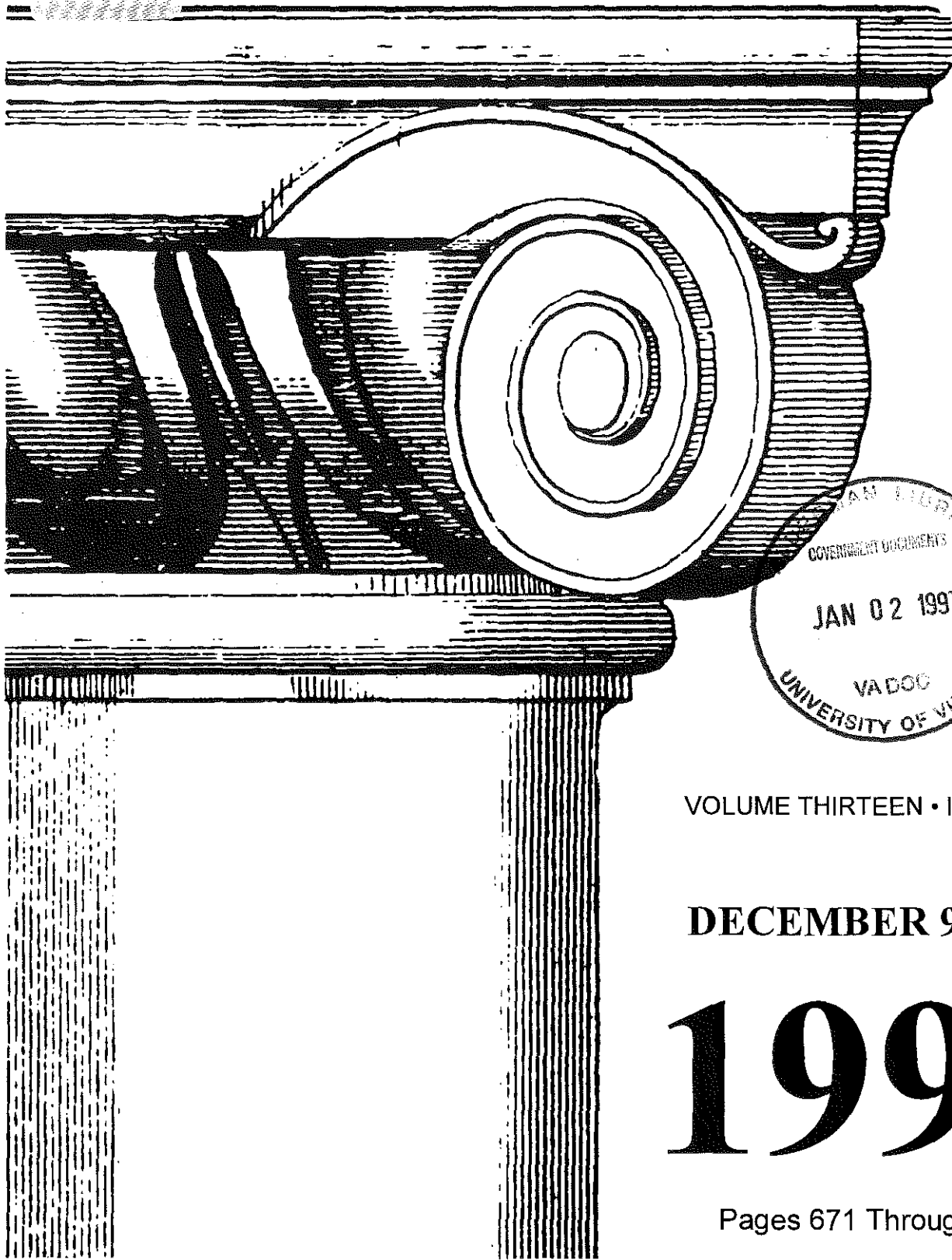


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# THE VIRGINIA REGISTER

OF REGULATIONS

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VOLUME THIRTEEN • ISSUE SIX

DECEMBER 9, 1996

# 1996

Pages 671 Through 740

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

#### **ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS**

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

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

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

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

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

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

A regulation becomes effective at the conclusion of the 30-day final adoption period, or at any other later date specified by the promulgating agency, unless (i) a legislative objection has been filed, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the 21-day extension period; (ii) the Governor exercises his authority to require the agency to provide for additional public comment, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the period for which the Governor has provided for additional public comment; (iii) the

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

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

#### **EMERGENCY REGULATIONS**

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

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

#### **STATEMENT**

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

#### **CITATION TO THE VIRGINIA REGISTER**

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

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*The Virginia Register of Regulations* is published pursuant to Article 7 (§ 9-6.14:22 et seq.) of Chapter 1.1:1 of the Code of Virginia. Individual copies, if available, may be purchased for \$4.00 each from the Registrar of Regulations.

Members of the Virginia Code Commission: **Joseph V. Gartlan, Jr.**, Chairman; **W. Tayloe Murphy, Jr.**, Vice Chairman; **Robert L. Calhoun**; **Russell M. Carneal**; **Bernard S. Cohen**; **Jay W. DeBoer**; **Frank S. Ferguson**; **E. M. Miller, Jr.**; **Jackson E. Reasor, Jr.**; **James B. Wilkinson.**

Staff of the Virginia Register: **E. M. Miller, Jr.**, Acting Registrar of Regulations; **Jane D. Chaffin**, Deputy Registrar of Regulations.

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# PUBLICATION DEADLINES AND SCHEDULES

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## December 1996 through September 1997

<u>Material Submitted By Noon Wednesday</u>	<u>Volume 13</u>	<u>Will Be Published On</u>
November 19, 1996 (Tuesday)		December 9, 1996
December 4, 1996		December 23, 1996
<b>INDEX 1 - Volume 13</b>		<b>January 1997</b>
December 17, 1996 (Tuesday)		January 6, 1997
December 31, 1996 (Tuesday)		January 20, 1997
January 15, 1997		February 3, 1997
January 29, 1997		February 17, 1997
February 12, 1997		March 3, 1997
February 26, 1997		March 17, 1997
March 12, 1997		March 31, 1997
<b>INDEX 2 - Volume 13</b>		<b>April 1997</b>
March 26, 1997		April 14, 1997
April 9, 1997		April 28, 1997
April 23, 1997		May 12, 1997
May 7, 1997		May 26, 1997
May 21, 1997		June 9, 1997
June 4, 1997		June 23, 1997
<b>INDEX 3 - Volume 13</b>		<b>July 1997</b>
June 18, 1997		July 7, 1997
July 2, 1997		July 21, 1997
July 16, 1997		August 4, 1997
July 30, 1997		August 18, 1997
August 13, 1997		September 1, 1997
August 27, 1997		September 15, 1997
<b>FINAL INDEX - Volume 13</b>		<b>October 1997</b>

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# NOTICES OF INTENDED REGULATORY ACTION

## Symbol Key

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

## DEPARTMENT OF EDUCATION (STATE BOARD OF)

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Education intends to consider promulgating regulations entitled: **8 VAC 20-630-10 et seq. Technology Standards for Instructional Personnel**. The purpose of the proposed action is to promulgate technology standards that will set forth those competencies required of instructional personnel in Virginia schools. The agency intends to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until December 26, 1996.

**Contact:** Thomas A. Elliott, Division Chief for Compliance, Department of Education, P. O. Box 2120, Richmond, VA 23218-2120, telephone (804) 371-2522 or FAX (804) 225-2381.

VA.R. Doc. No. R97-413; Filed November 6, 1996, 11:26 a.m.

## STATE MILK COMMISSION

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Milk Commission intends to consider amending regulations entitled: **2 VAC 15-10-10 et seq. Public Participation Guidelines**. The purpose of the proposed action is to more appropriately define the process of regulatory development and to standardize the style, form and format of the regulations to provide consistency and uniformity with other state agencies. Major provisions of the existing regulations will remain essentially the same. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 3.1-430 and 9-6.14:7.1 of the Code of Virginia.

Public comments may be submitted until January 8, 1997.

**Contact:** Edward C. Wilson, Jr., Deputy Administrator, State Milk Commission, 200-202 N. Ninth St., Suite 1015, Richmond, VA 23219, telephone (804) 786-2013 or FAX (804) 786-3779.

VA.R. Doc. No. R97-137; Filed November 7, 1996, 9:16 a.m.

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Milk Commission intends to consider amending regulations entitled: **2 VAC 15-20-10 et**

**seq. Rules and Regulations for the Control, Regulation and Supervision of the Milk Industry in Virginia**. The purpose of the proposed action is to amend the regulations to conform to established guidelines of the Virginia Registrar and the Virginia Code Commission. The proposed amendments will reflect substantive changes to improve, reduce, or eliminate certain regulatory requirements on the Virginia milk industry. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 3.1-430 of the Code of Virginia.

Public comments may be submitted until January 8, 1997.

**Contact:** Edward C. Wilson, Jr., Deputy Administrator, State Milk Commission, 200-202 N. Ninth St., Suite 1015, Richmond, VA 23219, telephone (804) 786-2013 or FAX (804) 786-3779.

VA.R. Doc. No. R97-138; Filed November 7, 1996, 9:16 a.m.

## BOARD OF NURSING

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Nursing intends to consider promulgating regulations entitled: **18 VAC 90-50-10 et seq. Regulations Governing the Certification of Massage Therapists**. The purpose of the proposed action is to establish qualifications for licensure, sufficient fees, and standards of professional conduct for massage therapists. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 54.1-3005 and 54.1-3029 of the Code of Virginia.

Public comments may be submitted until December 11, 1996.

**Contact:** Nancy Durrett, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909, FAX (804) 662-9943, or (804) 662-7197/TDD ☎

VA.R. Doc. No. R97-84; Filed October 17, 1996, 1 p.m.

## VIRGINIA RACING COMMISSION

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Racing Commission intends to consider amending regulations entitled: **11 VAC 10-130-10 et seq. Virginia Breeders Fund**. The purpose of the proposed action is to establish more efficient procedures for the registration of racehorses and payment of awards from

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## Notices of Intended Regulatory Action

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

Statutory Authority: §§ 59.1-369 and 59.1-372 of the Code of Virginia.

Public comments may be submitted until December 26, 1996.

Contact: William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23218, telephone (804) 371-7363 or FAX (804) 371-6127.

VA.R. Doc. No. R97-124; Filed November 6, 1996, 2:07 p.m.

### DEPARTMENT FOR THE VISUALLY HANDICAPPED

#### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department for the Visually Handicapped intends to consider repealing regulations entitled: **22 VAC 45-60-10 et seq. Regulations Governing Provision of Services for the Infants, Children and Youth Program**. The purpose of the proposed action is to repeal this regulation as the Office of the Attorney General has reported that the Department for the Visually Handicapped does not have the authority to promulgate such a regulation.

Statutory Authority: § 63.1-85 of the Code of Virginia.

Public comments may be submitted until January 8, 1997.

Contact: William J. Pega, Special Assistant to the Commissioner, Department for the Visually Handicapped, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3140, FAX (804) 371-3351, toll-free 1-800-662-2155, or (804) 371-3140/TDD ☎

VA.R. Doc. No. R97-139; Filed November 19, 1996, 9:57 a.m.

# PUBLIC COMMENT PERIODS - PROPOSED REGULATIONS



## PUBLIC COMMENT PERIODS REGARDING STATE AGENCY REGULATIONS

Effective July 1, 1995, publication of notices of public comment periods in a newspaper of general circulation in the state capital is no longer required by the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia). Chapter 717 of the 1995 Acts of Assembly eliminated the newspaper publication requirement from the Administrative Process Act. In *The Virginia Register of Regulations*, the Registrar of Regulations has developed this section entitled "Public Comment Periods - Proposed Regulations" to give notice of public comment periods and public hearings to be held on proposed regulations. The notice will be published once at the same time the proposed regulation is published in the Proposed Regulations section of the *Virginia Register*. The notice will continue to be carried in the Calendar of Events section of the *Virginia Register* until the public comment period and public hearing date have passed.

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

### STATE WATER CONTROL BOARD

**January 21, 1997 - 11 a.m. -- Public Hearing**  
City of Lexington Municipal Building, 300 East Washington Street, 2nd Floor Conference Room, Lexington, Virginia.

**January 22, 1997 - 11 a.m. -- Public Hearing**  
Prince William County Administration Center, 1 County Complex, McCoart Building, Board Chambers, Prince William, Virginia.

**January 23, 1997 - 11 a.m. -- Public Hearing**  
James City County Board of Supervisors Room, 101 C. Mounts Bay Road, Building C, Williamsburg, Virginia.

**February 10, 1997 -- Public comments may be submitted until this date.**

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to adopt regulations entitled: **9 VAC 25-193-10 et seq. General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Ready-Mixed Concrete Plants.** The proposed regulation establishes a general permit for the ready-mixed concrete plant category of wastewater discharges under the Virginia Pollutant Discharge Elimination System.

**Question and Answer Period:** A question and answer period will be held one half hour prior to the public hearing at the same location. Interested citizens will have an opportunity to ask questions pertaining to the proposal at that time.

**Accessibility to Persons with Disabilities:** The public hearing will be held at facilities believed to be accessible to persons with disabilities. Any person with questions should contact Ms. Lily Choi at the address given below. Persons needing interpreter services for the deaf should notify Ms. Choi no later than January 10, 1997.

**Request for Comments:** The board is seeking written comments from interested persons on both the proposed regulatory action and the draft permit, as well as comments regarding the costs and benefits of the proposal or any other alternatives. Written comments on the proposed issuance of the permit and on the proposed regulation must be received no later than 4 p.m. on February 10, 1997, and should be

submitted to Ms. Choi. Comments shall include the name, address, and telephone number of the writer, and shall contain a complete, concise statement of the factual basis for comments. Only those comments received within this period will be considered by the board.

**Other Information:** The department has conducted analyses on the proposed regulation related to the basis, purpose, substance, issues and estimated impacts. These are available upon request from Ms. Choi at the address below.

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

**Contact:** Lily Choi, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4054.



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# PROPOSED REGULATIONS

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For information concerning Proposed Regulations, see Information Page.

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## Symbol Key

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

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### STATE WATER CONTROL BOARD

**Title of Regulation:** 9 VAC 25-193-10 et seq. General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Ready-Mixed Concrete Plants.

**Statutory Authority:** § 62.1-44.15(10) of the Code of Virginia.

**Public Hearing Date:**

January 21, 1997 - 11 a.m. (Lexington)  
January 22, 1997 - 11 a.m. (Prince William)  
January 23, 1997 - 11 a.m. (Williamsburg)

Public comments may be submitted until February 7, 1997.

(See Calendar of Events section for additional information)

**Basis:** The basis for this regulation is § 62.1-44.2 et seq. of the Code of Virginia. Specifically, § 62.1-44.15(5) authorizes the board to issue permits for the discharge of treated sewage, industrial wastes or other waste into or adjacent to state waters and § 62.1-44.15(7) authorizes the board to adopt rules governing the procedures of the board with respect to the issuance of permits. Further, § 62.1-44.15(10) authorizes the board to adopt such regulations as it deems necessary to enforce the general water quality management program, § 62.1-44.15(14) authorizes the board to establish requirements for the treatment of sewage, industrial wastes and other wastes, § 62.1-44.20 provides that agents of the board may have the right of entry to public or private property for the purpose of obtaining information or conducting necessary surveys or investigations, and § 62.1-44.21 authorizes the board to require owners to furnish information necessary to determine the effect of the wastes from a discharge on the quality of state waters.

Section 402 of the Clean Water Act (33 USC § 1251 et seq.) authorizes states to administer the NPDES permit program under state law. The Commonwealth of Virginia received such authorization in 1975 under the terms of a Memorandum of Understanding with the U.S. EPA. This Memorandum of Understanding was modified on May 20, 1991, to authorize the Commonwealth to administer a General VPDES Permit Program.

**Purpose:** This proposed action is necessary to provide for a more efficient and economical permitting process for both the regulated community and the department. It will provide for the protection of the health, safety and welfare of the citizens of the Commonwealth by allowing the department to devote more resources to permitting of facilities with discharges of greater potential for adverse water quality impacts. The purpose of this proposed regulatory action is to establish standard language for the limitations and monitoring requirements necessary to regulate this category of discharges under the VPDES permit program. This proposed general permit will cover the category of storm water and

process wastewater from industrial activities associated with the manufacture of ready-mixed concrete.

**Substance:** A VPDES general permit is issued by the state for a category of discharges instead of to an individual discharge. Anyone who fits into the category covered by the general permit and who agrees to abide by its conditions may apply for coverage under it instead of applying for an individual VPDES permit. This general permit will cover discharges of storm water runoff and process wastewaters associated with the operation of ready-mixed concrete plants where the primary industrial activity is classified as Standard Industrial Classification (SIC) Code 3273.

The proposed general permit consists of limitations and monitoring requirements on discharges of process wastewater to surface waters for the following parameters: flow, no limit, report avg and max; pH, 6.0 min, 9.0 max; total suspended solids, 30 mg/l avg, 60 mg/l max; total residual chlorine, nondetectable max; oil and grease, 15 mg/l max; and temperature, max (per Water Quality Standards). Monitoring requirements for storm water discharge to surface water include the following parameters: flow, oil and grease, chemical oxygen demand, total suspended solids, and pH. The regulation also sets forth the minimum information requirements for all requests for coverage under the general permit.

**Issues:** Public comments received following the publication of the Notice of Intended Regulatory Action include elimination of inconsistencies existing among individual permits issued to the ready-mixed concrete plant owners, coverage of facilities currently operating without a permit, and consolidation of permitting requirements for discharge and nondischarging pollutant management activities. Adoption of this general permit will address these concerns. By regulating and consolidating all operations in one permit, it reduces the application costs, the administrative time and burden for the department in processing multiple permits for one facility. The department does not believe there are any disadvantages associated with the adoption of this regulation.

**Estimated Impacts:** There are approximately 45 establishments currently holding individual VPDES permits in this industrial classification which may qualify for this proposed general permit. There may be other facilities which are currently operating without a permit which would be covered by this general permit. Adoption of this regulation will allow for the streamlining of the permit process as it relates to the covered category of discharges. Coverage under the general permit would reduce the paper work, time and expense of obtaining a permit for the owners in this category. Additionally, adoption of this proposed regulation would allow the department to redirect staff resources to those discharges which, due to size or complexity, would not appropriately be covered by a general permit.

**Impact on Family Formation, Stability and Autonomy:** In the formation of this regulation, the department has considered

its impact on family formation, stability and autonomy. It is anticipated that the regulation will not have any adverse impacts on families.

Affected Locality: The regulation will be applicable statewide and will not affect any one locality disproportionately.

Department of Planning and Budget's Economic Impact Analysis: The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 9-6.14:7.1 G of the Administrative Process Act and Executive Order Number 13 (94). Section 9-6.14:7.1 G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the proposed regulation. Under § 402 of the federal Clean Water Act and § 62.1-44.2 et seq. of the Code of Virginia, Virginia is authorized to administer the National Pollutant Discharge Elimination System (NPDES) permit program for discharges into or adjacent to state waters. The Virginia Pollutant Discharge Elimination System (VPDES) permit program is administered under a memorandum of understanding with the U.S. Environmental Protection Agency (EPA).

In many circumstances, federal and state laws require the issuance of an individual VPDES permit to each establishment discharging wastes into state waters. However, the memorandum of understanding with EPA allows for the issuance, under certain conditions, of a generic VPDES permit to cover a category of discharger. Once the generic permit is issued, then qualifying facilities do not need to apply for a separate VPDES permit. Rather, they only need to certify that they meet the conditions set out in the general permit. The specific and general permits are the only alternatives available under the federal Clean Water Act.

It is the purpose of these regulations to replace the current, establishment-specific permit system for the ready-mixed concrete industry with a general permit system. The Department of Environmental Quality (DEQ) suggests that the change will result in lower administrative and compliance costs without causing any material changes in water quality.

Estimated Economic Impact. This proposal will greatly reduce the firms' costs of obtaining a VPDES permit and DEQ's costs of granting the permits. DEQ estimates that there are 45 firms currently holding VPDES permits in this industry. These firms pay a \$2,200 permit fee every five years. At the current rates, the fees only cover about 10% of DEQ's cost of processing the permit.<sup>1</sup> The taxpayers must pay for the remainder. Given the five year life of the permits, the individual permits would cost this industry a total of

\$19,800 per year on average and taxpayers would cover \$178,200. Under the general permit, fees would only add up to \$1,800 per year for the industry, and DEQ indicates that this is a reasonable estimate of the costs of processing applications for coverage under general permits.

Firms will also save some money on the costs of developing the information necessary for the permit application. While reliable estimates of application costs were not available, DEQ indicates that firms will realize some savings.

At the same time, this regulation is not expected to have any significant impact on water quality. The idea behind general permits is that a group of firms are all subject to the same standards and conditions under individual permits and, hence, there is no loss to water quality in establishing the permit standards one time and then automatically applying them to all firms that meet the requirements for the standard set of permit conditions. Such is the case for the 45 sources covered under this general permit. Thus, we would expect no change in water quality resulting from the shift towards a general permit for the ready-mixed concrete industry.

We conclude, then, that this regulation is likely to save the ready-mixed concrete industry something in excess of \$18,000 per year. Taxpayers will save approximately \$178,000 per year. Since there is not expected to be any impact on water quality, this \$196,000 in annual savings is a net gain to Virginia's economy.

Businesses and entities affected. The businesses affected are the 45 sources that will be covered by the general permit.

Localities particularly affected. No localities will be particularly affected by this regulation.

Projected impact on employment. There will be no measurable change in employment due to this regulation. There is no reason to believe that the resources freed up by this proposal will result in any net change in the level of employment.

Effects on the use and value of private property. Any possible increase in the value of affected firms due to these cost savings would be too small to measure.

## Agency's Response to Department of Planning and Budget's Economic Impact Analysis:

DEPARTMENT OF ENVIRONMENTAL QUALITY  
WATER DIVISION  
OFFICE OF WATER PERMIT SUPPORT  
MEMORANDUM

P.O. Box 10009 Richmond, VA 23240-0009

SUBJECT: 9 VAC 25-193-10 et seq. - General VPDES Permit for Ready-Mixed Concrete Plants

TO: File

FROM: Lily Choi

DATE: November 8, 1996

COPIES:

On November 7, 1997, I received the attached Economic Impact Analysis prepared by the Department of Planning and

<sup>1</sup> Personal conversation with Richard Ayers, DEQ.

# Proposed Regulations

Budget (DPB) for the subject proposed general permit regulation.

After reviewing this document, I believe DPB has made a fair and accurate assessment for the economic impact of the proposed regulation. I agree with their analysis and have no further comments.

## Summary:

This proposed regulation sets forth guidelines for the permitting, through a general Virginia pollution discharge elimination system permit, of discharges of storm water and process wastewater from industrial activities associated with the manufacture of ready-mixed concrete.

### CHAPTER 193.

#### GENERAL VIRGINIA POLLUTANT DISCHARGE ELIMINATION SYSTEM (VPDES) PERMIT FOR READY-MIXED CONCRETE PLANTS.

##### 9 VAC 25-193-10. Definitions.

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

"Department" means the Virginia Department of Environmental Quality.

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

"Industrial activity" means facilities where the primary purpose is classified as Standard Industrial Classification (SIC) Code 3273 (Office of Management and Budget (OMB) SIC Manual, 1987).

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

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

"Significant materials" includes, but is not limited to: raw materials; fuels; materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; raw materials used in food processing or production; hazardous substances designated under § 101(14) of the

Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA); any chemical the owner is required to report pursuant to the Emergency Planning and Community Right to Know Act (EPCRA) § 313; fertilizers; pesticides; and waste products such as ashes, slag and sludge that have the potential to be released with storm water discharges.

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

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

##### 9 VAC 25-193-20. Purpose.

This general permit regulation governs the discharge of process waste water and storm water associated with industrial activity from ready-mixed concrete plants classified as Standard Industrial Classification Code 3273, provided that the discharge is through a point source to surface waters.

##### 9 VAC 25-193-30. Delegation of authority.

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

##### 9 VAC 25-193-40. Effective date of the permit.

This general permit will become effective on \_\_\_\_\_. This general permit will expire five years from the effective date. This general permit is effective as to any covered owner upon compliance with all the provisions of 9 VAC 25-193-50 and the receipt of this general permit.

# Proposed Regulations

## 9 VAC 25-193-50. Authorization to discharge.

A. Any owner governed by this general permit is hereby authorized to discharge to surface waters of the Commonwealth of Virginia provided that the owner files and receives acceptance by the board of the registration statement of 9 VAC 25-193-60, files the required permit fee, complies with the effluent limitations and other requirements of 9 VAC 25-193-70, and provided that:

1. The owner shall not have been required to obtain an individual permit as may be required in the VPDES Permit Regulation (9 VAC 25-31-10 et seq.).

2. The owner shall not be authorized by this general permit to discharge to state waters specifically named in other board regulations or policies which prohibit such discharges.

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

## 9 VAC 25-193-60. Registration statement.

The owner shall file a complete registration statement which shall serve as a notice of intent to be covered under the general VPDES permit for ready-mixed concrete plants. Any owner proposing a new discharge shall file the registration statement at least 30 days prior to the date planned for commencing construction or operation of the concrete plant. Any owner of an existing concrete plant covered by an individual VPDES permit who is proposing to be covered by this general permit shall file the registration statement at least 180 days prior to the expiration date of the individual VPDES permit. Any owner of an existing concrete plant not currently covered by a VPDES permit who is proposing to be covered by this general permit shall file this registration statement. The required registration statement shall contain the following information:

### VIRGINIA POLLUTANT DISCHARGE ELIMINATION SYSTEM GENERAL PERMIT REGISTRATION STATEMENT FOR READY-MIXED CONCRETE PLANTS

#### 1. APPLICANT INFORMATION

A. Name of facility: \_\_\_\_\_

B. Facility owner: \_\_\_\_\_

C. Owner's mailing address

a. Street or P.O. Box \_\_\_\_\_

b. City or town \_\_\_\_\_ c. State \_\_\_ d. Zip code \_\_\_\_\_

e. Phone number \_\_\_\_\_

D. Facility location: \_\_\_\_\_

Street no., route no., or other identifier

E. Is the operator of the facility also the owner? Yes \_\_\_  
No \_\_\_

If No, complete F. & G.

F. Name of operator: \_\_\_\_\_

G. Operator's mailing address

a. Street or P.O. Box \_\_\_\_\_

b. City or town \_\_\_\_\_ c. State \_\_\_ d. Zip code \_\_\_\_\_

e. Phone number \_\_\_\_\_

#### 2. FACILITY INFORMATION

A. Primary standard industrial classification (SIC) code: \_\_\_\_\_

Secondary SIC codes: \_\_\_\_\_

B. Nature of business: (provide a brief description)  
\_\_\_\_\_  
\_\_\_\_\_

C. Does this facility currently have a VPDES permit? Yes \_\_\_  
No \_\_\_

If yes, give permit number. \_\_\_\_\_

Does this facility currently have a No-Discharge Certificate

or a VPA permit? Yes \_\_\_ No \_\_\_

If yes, give permit number. \_\_\_\_\_

D. Describe any type of wastewater treatment or reuse/recycle system(s); identify any system(s) which operates only in a "no discharge" mode:  
\_\_\_\_\_  
\_\_\_\_\_

E. Are there vehicle/equipment maintenance activities on site?

Yes \_\_\_ No \_\_\_

If yes, is there any process wastewater generated from these activities? Yes \_\_\_ No \_\_\_

F. Will this facility discharge noncontact cooling water from a geothermal unit or other system? Yes \_\_\_ No \_\_\_

If yes, describe the source of noncontact cooling water.  
\_\_\_\_\_  
\_\_\_\_\_

G. If any chemical additives are used in the geothermal or other system which discharges noncontact cooling water,

a. List the chemical additive to be employed and its purpose;

b. Give the proposed schedule and quantity of chemical usage, and the estimated concentration in the discharge;

c. Describe any wastewater treatment or retention (if any) to be provided during the use of the additives; and

d. Attach a Material Safety Data Sheet (MSDS) and available aquatic toxicity information for each additive proposed for use.

# Proposed Regulations

H. Describe any measures employed to reclaim, reuse or dispose of the waste concrete materials.

\_\_\_\_\_

\_\_\_\_\_

### 3. FACILITY DRAWING

Attach a schematic drawing showing the source(s) of water used on the property, the industrial operations contributing to or using water, and the conceptual design of the methods of treatment and disposal of wastewater and solids.

### 4. MAP

Attach a topographic map extending to at least one mile beyond property boundary. The map must show the outline of the facility, and the location of each of its existing and proposed intake and discharge points. Include all springs, rivers and other surface water bodies.

### 5. DISCHARGE INFORMATION

A. List all discharge outfalls by a number that is the same as on the map required in Question 4. Identify the processes which discharge through each outfall. Estimate the flow in gallons per day (gpd). Give the name of the waterbody receiving the discharge.

Outfall No.	Operation	Max. Daily Flow (gpd)	Receiving Stream
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

B. Identify the duration and frequency of the discharge for each separate discharge point:

Outfall No.	hour/day	day/week
_____	_____	_____
_____	_____	_____
_____	_____	_____

### 6. CERTIFICATION

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

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name of person signing above: \_\_\_\_\_  
(printed or typed)

Title: \_\_\_\_\_

### REQUIRED ATTACHMENTS

- MSDS and available aquatic toxicity information for chemical additives (if applicable)
- Facility drawing
- Topographic map

For department use only:

Accepted/Not Accepted by: \_\_\_\_\_

Date: \_\_\_\_\_

Basin \_\_\_\_\_ Stream Class \_\_\_\_\_ Section \_\_\_\_\_

Special Standards \_\_\_\_\_

### 9 VAC 25-193-70. General permit.

Any owner whose registration statement is accepted by the board will receive the following permit and shall comply with the requirements therein and be subject to all requirements of the VPDES Permit Regulation (9 VAC 25-31-10 et seq.).

General Permit No.: VAG11

Effective Date: \_\_\_\_\_

Expiration Date: \_\_\_\_\_

### GENERAL PERMIT FOR READY-MIXED CONCRETE PLANTS

AUTHORIZATION TO DISCHARGE UNDER THE VIRGINIA POLLUTANT DISCHARGE ELIMINATION SYSTEM

AND

THE VIRGINIA STATE WATER CONTROL LAW

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

The authorized discharge shall be in accordance with this cover page, Part I - Effluent Limitations and Monitoring Requirements, Part II - Storm Water Management, Part III - Monitoring and Reporting, and Part IV - Management Requirements, as set forth herein.

### Part I. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS.

#### A. Effluent limitations and monitoring requirements.

- During the period beginning on the permit's effective date and lasting until the permit's expiration date, the permittee is authorized to discharge process wastewater which may contain input from vehicle/equipment maintenance activities, and may be commingled with noncontact cooling water or storm water associated with industrial activity. Samples taken in compliance with the monitoring requirements specified below shall be taken at the following location(s): outfall(s) serial number: \_\_\_\_\_

# Proposed Regulations

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

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS			MONITORING REQUIREMENTS	
	Average	Maximum	Minimum	Frequency	Sample Type
Flow (MGD)	NL	NL	NA	1/3 Months	Estimate
Total Suspended Solids (mg/l)	30	60	NA	1/3 Months	Grab
pH (standard units)	NA	9.0 <sup>(1)</sup>	6.0 <sup>(1)</sup>	1/3 Months	Grab
Oil & Grease <sup>(2)</sup> (mg/l)	NA	15	NA	1/3 Months	Grab
Total Residual Chlorine (mg/l) <sup>(3)(4)</sup>	NA	Non-detectable	NA	1/3 Months	Grab
Temperature <sup>(3)</sup> (°C)	NA	(5)	NA	1/3 Months	Immersion Stabilization

NL = No limitation, monitoring required

NA = Not applicable

(1) Where the Water Quality Standards (9 VAC 25-260-10 et seq.) establish alternate standards for pH in the waters receiving the discharge, those standards shall be the maximum and minimum effluent limitations.

(2) Oil & Grease limitation and monitoring are only required where a discharge contains process wastewater generated from the vehicle/equipment maintenance activities.

(3) Chlorine and temperature limitation and monitoring are only required where a discharge contains noncontact cooling water.

(4) Chlorine limitation and monitoring are only required where the source water is chlorinated or where chlorine is added.

(5) The effluent temperature shall not exceed a maximum 32°C for discharges to nontidal coastal and piedmont waters, 31°C for mountain and upper piedmont waters, 21°C for put and take trout waters, or 20°C for natural trout waters. No maximum temperature limit applies to discharges to estuarine waters.

For estuarine waters, nontidal coastal and piedmont waters, mountain and upper piedmont waters, and put and take trout waters, the effluent shall not cause an increase in temperature of the receiving stream of more than 3°C above the natural water temperature. For natural trout waters, the temperature of the effluent shall not cause an increase of 1°C above natural water temperature. The effluent shall not cause the temperature in the receiving stream to change more than 2°C per hour, except in the case of natural trout waters where the hourly temperature change shall not exceed 0.5°C.

Natural temperature is defined as that temperature of a body of water (measured as the arithmetic average over one hour) due solely to natural conditions without the influence of any point-source discharge.

## Part I. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS.

### A. Effluent limitations and monitoring requirements.

2. During the period beginning on the permit's effective date and lasting until the permit's expiration date, the permittee is authorized to discharge noncontact cooling water. Samples taken in compliance with the monitoring requirements specified below shall be taken at the following location(s): outfall(s) serial number \_\_\_\_\_.

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

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS			MONITORING REQUIREMENTS	
	Average	Maximum	Minimum	Frequency	Sample Type
Flow (MGD)	NL	NL	NA	1/3 Months	Estimate
pH (standard units)	NA	9.0 <sup>(1)</sup>	6.0 <sup>(1)</sup>	1/3 Months	Grab
Total Residual Chlorine (mg/l) <sup>(2)</sup>	NA	Non-detectable	NA	1/3 Months	Grab
Temperature (°C)	NA	(3)	NA	1/3 Months	Immersion Stabilization

NL = No limitation, monitoring required

NA = Not applicable

(1) Where the Water Quality Standards (9 VAC 25-260-10 et seq.) establish alternate standards for pH in the waters receiving the discharge, those standards shall be the maximum and minimum effluent limitations.

(2) Chlorine limitation and monitoring are only required where the source water is chlorinated or where chlorine is added.

(3) The effluent temperature shall not exceed a maximum 32°C for discharges to nontidal coastal and piedmont waters, 31°C for mountain and upper piedmont waters, 21°C for put and take trout waters, or 20°C for natural trout waters. No maximum temperature limit applies to discharges to estuarine waters.

For estuarine waters, nontidal coastal and piedmont waters, mountain and upper piedmont waters, and put and take trout waters, the effluent shall not cause an increase in temperature of the receiving stream of more than 3°C above the natural water temperature. For natural trout waters, the temperature of the effluent shall not cause an increase of 1°C above natural water temperature. The effluent shall not cause the temperature in the receiving stream to change more than 2°C per hour, except in the case of natural trout waters where the hourly temperature change shall not exceed 0.5°C.

Natural temperature is defined as that temperature of a body of water (measured as the arithmetic average over one hour) due solely to natural conditions without the influence of any point-source discharge.

# Proposed Regulations

## Part I. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS - STORM EVENT MONITORING.

### A. Effluent limitations and monitoring requirements - storm event monitoring.

3. During the period beginning on the permit's effective date and lasting until the permit's expiration date, the permittee is authorized to discharge storm water associated with industrial activity which does not combine with other process wastewaters or noncontact cooling water prior to discharge. Samples taken in compliance with the monitoring requirements specified below shall be taken at the following location(s): outfall(s) serial number \_\_\_\_\_.

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

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS	
	Maximum	Minimum	Frequency	Sample Type
Flow (MG)	NL	NA	1/Year	Estimate <sup>(1)</sup>
Oil and Grease (mg/l)	NL	NA	1/Year	Grab <sup>(2)</sup>
Chemical Oxygen Demand (mg/l)	NL	NA	1/Year	Grab <sup>(2)</sup>
Total Suspended Solids (mg/l)	NL	NA	1/Year	Grab <sup>(2)</sup>
pH (standard units)	NL	NL	1/Year	Grab <sup>(2)</sup>

NL = No limitation, monitoring required

NA = Not applicable

(1) Estimate of the total volume of the discharge during the storm event.

(2) The grab sample shall be taken during the first 30 minutes of the discharge. If during the first 30 minutes it was impracticable, then a grab sample shall be taken during the first hour of discharge.

4. All storm water samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event.

### B. Special conditions.

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

2. Except as expressly authorized by this permit, no product, materials, industrial wastes, or other wastes resulting from the purchase, sale, mining, extraction, transport, preparation, or storage of raw or intermediate materials, final product, byproduct or wastes, shall be handled, disposed of, or stored so as to permit a discharge of such product, materials, industrial wastes, or other wastes to surface waters.

3. Vehicles and equipment utilized during the industrial activity on a site must be operated and maintained in

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

4. There shall be no product mixing unit washout or truck washing activities conducted outside of the designated washdown and washout areas. All washout water shall be collected for recycle or treated prior to discharge. Any waste concrete dumped at the plant site shall be within a designated area and it shall be contained to prevent a discharge of pollutants to surface waters.

5. No sewage discharges to surface waters are permitted under this general permit.

6. For geothermal or other system which discharges noncontact cooling water, the use of any chemical additives, except chlorine, without prior approval is prohibited under this general permit. Prior approval shall be obtained from the DEQ Regional Office before any changes are made to the chemical usage in the geothermal or other system. Requests for approval of chemical use shall be made in writing and shall include the following information:

- The chemical additive to be employed and its purpose;
- The proposed schedule and quantity of chemical usage, and the estimated concentration in the discharge;
- The wastewater treatment or retention (if any) to be provided during the use of the additive; and
- A Material Safety Data Sheet (MSDS) and available aquatic toxicity information for each additive proposed for use.

7. Within six months after the date of coverage under this general permit, the permittee shall develop an Operations and Maintenance (O&M) Manual for the permitted facility. The O&M Manual shall include procedures and practices for the mitigation of pollutant discharges and for the protection of state waters from the facility's operations. The manual shall address, at a minimum, operations and maintenance practices for the wastewater treatment process units and chemical and material storage areas, solids management and disposal procedures, temporary and long-term facility closure plans, testing requirements and procedures, recordkeeping and reporting requirements and the duties and roles of responsible officials.

The permittee shall implement the O&M Manual procedures and practices as soon as possible but no



later than 12 months after the date of coverage under this general permit. The manual shall be kept on site at the permitted facility and shall be made available to the department upon request.

8. If the ready-mixed concrete plant discharges through a municipal separate storm sewer system to surface waters, the permittee shall, within 30 days of coverage under this general permit, notify the owner of the municipal separate storm sewer system of the existence of the discharge and provide the following information: the name of the facility; a contact person and phone number; and the location of the discharge.

9. This permit shall be modified, or alternatively revoked and reissued, to comply with any applicable effluent standard, limitation or prohibition for a pollutant which is promulgated or approved under § 307 (a) (2) of the Clean Water Act, if the effluent standard, limitation or prohibition so promulgated or approved:

- a. Is more stringent than any effluent limitation on the pollutant already in the permit; or
- b. Controls any pollutant not limited in the permit.

10. The permittee shall ensure that all basins and lagoons maintain a minimum freeboard of one foot at all times. Should the one-foot freeboard not be maintained, the permittee shall immediately notify the DEQ Regional Office, describe the problem and corrective measures taken to correct the problem. Within five days of notification, the permittee shall submit a written statement to the regional office of explanation and corrective measures taken.

11. For treatment systems which operate only in a "no discharge" mode, there shall be no discharge of pollutants to surface waters from these systems except in the case of a storm event which is greater than a 25 year-24 hour storm event. The operation of these systems shall not contravene the Water Quality Standards (9 VAC 25-260-10 et seq.), as adopted and amended by the board, or any provision of the State Water Control Law.

## Part II. STORM WATER MANAGEMENT.

A. Recording of results. For each discharge measurement or sample taken pursuant to the storm event monitoring requirements of this permit, the permittee shall record and report with the Discharge Monitoring Report the following information, in addition to any applicable reporting requirements of Part III:

1. The date and duration (in hours) of the storm event(s) sampled;
2. The rainfall measurements or estimates (in inches) of the storm event which generated the sampled discharge; and
3. The duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event.

B. Representative discharge. When a facility has two or more exclusively storm water outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluent, the permittee may test the effluent of one of such outfalls and include with the Discharge Monitoring Report an explanation that the quantitative data also applies to the substantially identical outfalls provided that the permittee includes a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluent. In addition, for each exclusively storm water outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area (e.g. low (under 40%), medium (40% to 65%) or high (above 65%)) shall be provided.

C. Sampling waiver. When a permittee is unable to collect samples for the storm event monitoring requirements due to adverse climatic conditions, the permittee must submit with the Discharge Monitoring Report a description of why samples could not be collected, including available documentation of the event. Adverse weather conditions which may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.). Permittees are precluded from exercising this waiver more than once for each outfall during the permit term.

D. Storm water pollution prevention plans. A storm water pollution prevention plan shall be developed for each facility covered by this permit. Storm water pollution prevention plans shall be prepared in accordance with good engineering practices. The plan shall identify potential sources of pollution which may reasonably be expected to affect the quality of storm water discharges associated with industrial activity from the facility. In addition, the plan shall describe and ensure the implementation of practices which are to be used to reduce the pollutants in storm water discharges associated with industrial activity at the facility and to assure compliance with the terms and conditions of this permit. Facilities must implement the provisions of the storm water pollution prevention plan required under this part as a condition of this permit.

E. Deadlines for plan preparation and compliance.

1. For a storm water discharge associated with industrial activity that is existing on or before the effective date of this permit, the storm water pollution prevention plan:
  - a. Shall be prepared within 180 days after the date of coverage under this permit; and
  - b. Shall provide for implementation and compliance with the terms of the plan within 365 days after the date of coverage under this permit.
2. The plan for any facility where industrial activity commences on or after the date of coverage under this permit, and except as provided elsewhere in this permit, shall be prepared and provide for compliance with the



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## Proposed Regulations

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terms of the plan and this permit on or before the date of submission of a registration statement to be covered under this permit.

3. Upon a showing of good cause, the board may establish a later date in writing for preparing and compliance with a plan for a storm water discharge associated with industrial activity that submits a registration statement in accordance with the registration requirements.

### F. Signature and plan review.

1. The plan shall be signed in accordance with Part III G (signatory requirements), and be retained on-site at the facility covered by this permit in accordance with Part III C (retention of records) of this permit. When there are no on-site buildings or offices in which to store the plan, it shall be kept at the nearest company office.

2. The permittee shall make plans available to the department upon request.

3. The board may notify the permittee at any time that the plan does not meet one or more of the minimum requirements of this part. Such notification shall identify those provisions of the permit which are not being met by the plan, and identify which provisions of the plan require modifications in order to meet the minimum requirements of this part. Within 30 days of such notification from the board, or as otherwise provided by the board, the permittee shall make the required changes to the plan and shall submit to the department a written certification that the requested changes have been made.

G. Keeping plans current. The permittee shall amend the plan whenever there is a change in design, construction, operation, or maintenance, which has a significant effect on the potential for the discharge of pollutants to surface waters of the state or if the storm water pollution prevention plan proves to be ineffective in eliminating or significantly minimizing pollutants from sources identified under Part II H 2 (description of potential pollutant sources) of this permit, or in otherwise achieving the general objectives of controlling pollutants in storm water discharges associated with industrial activity.

H. Contents of plan. The plan shall include, at a minimum, the following items:

1. Pollution prevention team. Each plan shall identify a specific individual or individuals within the facility organization as members of a storm water pollution prevention team that are responsible for developing the storm water pollution prevention plan and assisting the facility or plant manager in its implementation, maintenance, and revision. The plan shall clearly identify the responsibilities of each team member. The activities and responsibilities of the team shall address all aspects of the facility's storm water pollution prevention plan.

2. Description of potential pollutant sources. Each plan shall provide a description of potential sources which may reasonably be expected to add significant amounts of pollutants to storm water discharges or which may

result in the discharge of pollutants during dry weather from separate storm sewers draining the facility. Each plan shall identify all activities and significant materials which may potentially be significant pollutant sources. Each plan shall include, at a minimum:

#### a. Drainage.

(1) A site map indicating an outline of the portions of the drainage area of each storm water outfall that are within the facility boundaries, each existing structural control measure to reduce pollutants in storm water runoff, surface water bodies, locations where significant materials are exposed to precipitation, locations where major spills or leaks identified under Part II H 2 c (spills and leaks) of this permit have occurred, and the locations of the following activities: fueling stations; vehicle and equipment maintenance and/or cleaning areas; loading/unloading areas; locations used for the treatment, storage or disposal of wastes; liquid storage tanks; processing areas; and storage areas.

(2) For each area of the facility that generates storm water discharges associated with industrial activity with a reasonable potential for containing significant amounts of pollutants, a prediction of the direction of flow, and an identification of the types of pollutants which are likely to be present in storm water discharges associated with industrial activity. Factors to consider include the toxicity of the chemicals; quantity of chemicals used, produced or discharged; the likelihood of contact with storm water; and history of significant leaks or spills of toxic or hazardous pollutants. Flows with a significant potential for causing erosion shall be identified.

b. Inventory of exposed materials. An inventory of the types of materials handled at the site that potentially may be exposed to precipitation. Such inventory shall include a narrative description of significant materials that have been handled, treated, stored or disposed in a manner to allow exposure to storm water between the time of three years prior to the date of coverage under this general permit and the present; method and location of on-site storage or disposal; materials management practices employed to minimize contact of materials with storm water runoff between the time of three years prior to the date of coverage under this general permit and the present; the location and a description of existing structural and nonstructural control measures to reduce pollutants in storm water runoff; and a description of any treatment the storm water receives.

c. Spills and leaks. A list of significant spills and significant leaks of toxic or hazardous pollutants that occurred at areas that are exposed to precipitation or that otherwise drain to a storm water conveyance at the facility after the date of three years prior to the date of coverage under this general permit. Such list shall be updated as appropriate during the term of the permit.

d. *Sampling data.* A summary of existing discharge sampling data describing pollutants in storm water discharges from the facility, including a summary of sampling data collected during the term of this permit.

e. *Risk identification and summary of potential pollutant sources.* A narrative description of the potential pollutant sources from the following activities: loading and unloading operations; outdoor storage activities; outdoor manufacturing or processing activities; significant dust or particulate generating processes; and on-site waste disposal practices. The description shall specifically list any significant potential source of pollutants at the site and for each potential source, any pollutant or pollutant parameter (e.g. biochemical oxygen demand, etc.) of concern shall be identified.

3. *Measures and controls.* Each facility covered by this permit shall develop a description of storm water management controls appropriate for the facility, and implement such controls. The appropriateness and priorities of controls in a plan shall reflect identified potential sources of pollutants at the facility. The description of storm water management controls shall address the following minimum components, including a schedule for implementing such controls:

a. *Good housekeeping.* Good housekeeping requires the maintenance of areas which may contribute pollutants to storm waters discharges in a clean, orderly manner.

b. *Preventive maintenance.* A preventive maintenance program shall involve timely inspection and maintenance of storm water management devices (e.g., cleaning oil/water separators, catch basins) as well as inspecting and testing facility equipment and systems to uncover conditions that could cause breakdowns or failures resulting in discharges of pollutants to surface waters, and ensuring appropriate maintenance of such equipment and systems.

c. *Spill prevention and response procedures.* Areas where potential spills which can contribute pollutants to storm water discharges can occur, and their accompanying drainage points shall be identified clearly in the storm water pollution prevention plan. Where appropriate, specifying material handling procedures, storage requirements, and use of equipment such as diversion valves in the plan should be considered. Procedures for cleaning up spills shall be identified in the plan and made available to the appropriate personnel. The necessary equipment to implement a clean up should be available to personnel.

d. *Inspections.* In addition to or as part of the comprehensive site compliance evaluation required under Part II H 4 of this permit, qualified facility personnel shall be identified to inspect designated equipment and areas of the facility at appropriate intervals specified in the plan. A set of tracking or followup procedures shall be used to ensure that

appropriate actions are taken in response to the inspections. Records of inspections shall be maintained.

e. *Employee training.* Employee training programs shall inform personnel responsible for implementing activities identified in the storm water pollution prevention plan or otherwise responsible for storm water management at all levels of responsibility of the components and goals of the storm water pollution prevention plan. Training should address topics such as spill response, good housekeeping and material management practices. A pollution prevention plan shall identify periodic dates for such training.

f. *Recordkeeping and internal reporting procedures.* A description of incidents such as spills, or other discharges, along with other information describing the quality and quantity of storm water discharges shall be included in the plan required under this part. Inspections and maintenance activities shall be documented and records of such activities shall be incorporated into the plan.

g. *Sediment and erosion control.* The plan shall identify areas which, due to topography, activities, or other factors, have a high potential for significant soil erosion, and identify structural, vegetative, and/or stabilization measures to be used to limit erosion.

h. *Management of runoff.* The plan shall contain a narrative consideration of the appropriateness of traditional storm water management practices (practices other than those which control the generation or source(s) of pollutants) used to divert, infiltrate, reuse, or otherwise manage storm water runoff in a manner that reduces pollutants in storm water discharges from the site. The plan shall provide that measures that the permittee determines to be reasonable and appropriate shall be implemented and maintained. The potential of various sources at the facility to contribute pollutants to storm water discharges associated with industrial activity (see Part II H 2 (description of potential pollutant sources) of this permit) shall be considered when determining reasonable and appropriate measures. Appropriate measures may include: vegetative swales and practices, reuse of collected storm water (such as for a process or as an irrigation source), inlet controls (such as oil/water separators), snow management activities, infiltration devices, and wet detention/retention devices.

4. *Comprehensive site compliance evaluation.* Qualified personnel shall conduct site compliance evaluations at appropriate intervals specified in the plan, but, in no case less than once a year. Such evaluations shall provide:

a. *Areas contributing to a storm water discharge associated with industrial activity shall be visually inspected for evidence of, or the potential for, pollutants entering the drainage system. Measures to reduce pollutant loadings shall be evaluated to determine whether they are adequate and properly*

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# Proposed Regulations

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implemented in accordance with the terms of the permit or whether additional control measures are needed. Structural storm water management measures, sediment and erosion control measures, and other structural pollution prevention measures identified in the plan shall be observed to ensure that they are operating correctly. A visual inspection of equipment needed to implement the plan, such as spill response equipment, shall be made.

b. Based on the results of the inspection, the description of potential pollutant sources identified in the plan in accordance with Part II H 2 (description of potential pollutant sources) of this permit and pollution prevention measures and controls identified in the plan in accordance with Part II H 3 (measures and controls) of this permit shall be revised as appropriate within 14 days of such inspection and shall provide for implementation of any changes to the plan in a timely manner, but in no case more than 90 days after the inspection.

c. A report summarizing the scope of the inspection, personnel making the inspection, the date(s) of the inspection, major observations relating to the implementation of the storm water pollution prevention plan, and actions taken in accordance with Part II H 4 b of this permit shall be made and retained as part of the storm water pollution prevention plan as required in Part III C. The report shall identify any incidents of noncompliance. Where a report does not identify any incidents of noncompliance, the report shall contain a certification that the facility is in compliance with the storm water pollution prevention plan and this permit. The report shall be signed in accordance with Part III G (signatory requirements) of this permit and retained as required in Part III C.

5. Consistency with other plans. Storm water pollution prevention plans may reflect requirements for Spill Prevention Control and Countermeasure (SPCC) plans developed for the facility under § 311 of the Clean Water Act, Best Management Practices (BMP) Programs otherwise required by a VPDES permit for the facility or any other plans required by the board's regulations as long as such requirement is incorporated into the storm water pollution prevention plan.

## Part III. MONITORING AND REPORTING.

### A. Sampling and analysis methods.

1. Samples and measurements taken as required by this permit shall be representative of the volume and nature of the monitored activity.

2. Unless otherwise specified in this permit all sample preservation methods, maximum holding times and analysis methods for pollutants shall comply with requirements set forth in Guidelines Establishing Test Procedures for the Analysis of Pollutants promulgated at 40 CFR Part 136 (1995).

3. The sampling and analysis program to demonstrate compliance with the permit shall at a minimum, conform to Part I of this permit.

4. The permittee shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals that will ensure accuracy of measurements.

B. Recording of results. For each measurement or sample taken pursuant to the requirements of this permit, the permittee shall record the following information:

1. The date, exact place and time of sampling or measurements;

2. The person(s) who performed the sampling or measurements;

3. The dates analyses were performed;

4. The person(s) who performed each analysis;

5. The analytical techniques or methods used;

6. The results of such analyses and measurements;

C. Records retention. All records and information resulting from the monitoring activities required by this permit, including all records of analyses performed and calibration and maintenance of instrumentation and recording from continuous monitoring instrumentation, shall be retained for three years from the date of the sample, measurement or report or until at least one year after coverage under this general permit terminates, whichever is later. This period of retention shall be extended automatically during the course of any unresolved litigation regarding the regulated activity or regarding control standards applicable to the permittee, or as requested by the board.

D. Additional monitoring by permittee. If the permittee monitors any pollutant at the location(s) designated herein more frequently than required by this permit, using approved analytical methods as specified above, the results of such monitoring shall be included in the calculation and reporting of the values required in the monitoring report. Such increased frequency shall also be reported.

E. Water quality monitoring. The board may require every permittee to furnish such plans, specifications, or other pertinent information as may be necessary to determine the effect of the pollutant(s) on the water quality or to ensure pollution of state waters does not occur or such information as may be necessary to accomplish the purposes of the Virginia State Water Control Law, Clean Water Act or the board's regulations.

The permittee shall obtain and report such information if requested by the board. Such information shall be subject to inspection by authorized state and federal representatives and shall be submitted with such frequency and in such detail as requested by the board.

### F. Reporting requirements.

1. The permittee shall submit original monitoring reports of each quarter's performance to the department's regional office not later than the 10th day of April, July,

October, and January. Annual sampling report shall be submitted to the department's regional office not later than the 10th day of January.

2. If, for any reason, the permittee does not comply with one or more limitations, standards, monitoring or management requirements specified in this permit, the permittee shall submit to the department with the monitoring report at least the following information:

- a. A description and cause of noncompliance;
- b. The period of noncompliance, including exact dates and times and/or the anticipated time when the noncompliance will cease; and
- c. Actions taken or to be taken to reduce, eliminate, and prevent recurrence of the noncompliance.

Whenever such noncompliance may adversely affect state waters or may endanger public health, the permittee shall submit the above required information by oral report within 24 hours from the time the permittee becomes aware of the circumstances and by written report within five days. The board may waive the written report requirement on a case by case basis if the oral report has been received within 24 hours and no adverse impact on state waters has been reported.

3. The permittee shall report any unpermitted, unusual or extraordinary discharge which enters or could be expected to enter state waters. The permittee shall provide information specified in Part III F 2 a-c regarding each such discharge immediately, that is as quickly as possible upon discovery, however, in no case later than 24 hours. A written submission covering these points shall be provided within five days of the time the permittee becomes aware of the circumstances covered by this paragraph.

Unusual or extraordinary discharge would include but not be limited to (i) unplanned bypasses, (ii) upsets, (iii) spillage of materials resulting directly or indirectly from processing operations, (iv) breakdown of processing or accessory equipment, (v) failure of or taking out of service, sewage or industrial waste treatment facilities, auxiliary facilities, or (vi) flooding or other acts of nature.

The report shall be made to the regional office at (XXX) XXX-XXXX. For reports outside normal working hours, leave a message and this shall fulfill the reporting requirements. For emergencies, the Virginia Department of Emergency Services maintains a 24-hour telephone service at 1-800-468-8892.

G. Signatory requirements. Any registration statement, report, or certification required by this permit shall be signed as follows:

1. Registration statement.

a. For a corporation: by a responsible corporate official. For purposes of this section, a responsible corporate official means (i) a president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making

functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25,000,000 (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

b. For a municipality, state, federal or other public agency by either a principal executive officer or ranking elected official. (A principal executive officer of a federal, municipal, or state agency includes the chief executive officer of the agency or head executive officer having responsibility for the overall operation of a principal geographic unit of the agency).

c. For a partnership or sole proprietorship, by a general partner or proprietor respectively.

2. Reports. All reports required by permits and other information requested by the board shall be signed by:

a. One of the persons described in subdivision 1 a, b, or c of this subsection; or

b. A duly authorized representative of that person. A person is a duly authorized representative only if:

(1) The authorization is made in writing by a person described in subdivision 1 a, b, or c of this subsection; and

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

(3) If an authorization is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization must be submitted to the department prior to or together with any separate information, or registration statement to be signed by an authorized representative.

3. Certification. Any person signing a document under subdivision 1 or 2 of this subsection shall make the following certification: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations."

H. Releases in excess of reportable quantities.

# Proposed Regulations

1. This permit does not relieve the permittee of the reporting requirements of 40 CFR Part 117 (1992) and 40 CFR Part 302 (1992). The discharge of hazardous substances or oil in the storm water discharge(s) from a facility shall be prevented or minimized in accordance with the applicable storm water pollution prevention plan for the facility. Where a release containing a hazardous substance in an amount equal to or in excess of a reporting quantity established under either 40 CFR Part 117 (1992) or 40 CFR Part 302 (1992) occurs during a 24-hour period, the storm water pollution prevention plan must be modified within 14 calendar days of knowledge of the release. The modification shall provide a description of the release, the circumstances leading to the release, and the date of the release. In addition, the plan must be reviewed to identify measures to prevent the reoccurrence of such releases and to respond to such releases, and the plan must be modified where appropriate.

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

## Part IV. MANAGEMENT REQUIREMENTS.

### A. Change in discharge of pollutants.

1. Any permittee proposing a new discharge shall submit a registration statement at least 30 days prior to commencing erection, construction, or expansion or employment of new processes at any facility. There shall be no construction or operation of said facilities prior to the issuance of a permit.

2. The permittee shall submit a new registration statement at least 30 days prior to any planned changes, including proposed facility alterations or additions, production increases, or process modifications when:

a. The planned change to a permitted facility may meet one of the criteria for determining whether a facility is a new source; or

b. The planned change could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are not limited in the permit and to pollutants which are not subject to the notification level requirements in Part IV A 3; or

c. The planned change may result in noncompliance with permit requirements.

3. The permittee shall promptly provide written notice of the following:

a. Any reason to believe that any activity has occurred or will occur which would result in the discharge on a routine or frequent basis of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

(1) One hundred micrograms per liter (100 ug/l);

(2) Two hundred micrograms per liter (200 ug/l) for acrolein and acrylonitrile; five hundred micrograms

per liter (500 ug/l) for 2, 4-dinitrophenol and for 2-methyl-4, 6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony; or

(3) The level established in accordance with regulation under § 307(a) of the Clean Water Act and accepted by the board;

b. Any activity has occurred or will occur which would result in any discharge on a nonroutine or infrequent basis of a toxic pollutant which is not limited in the permit if that discharge will exceed the highest of the following "notification levels":

(1) Five hundred micrograms per liter (500 ug/l);

(2) One milligram per liter (1 mg/l) for antimony; or

(3) The level established by the board.

Such notice shall include information on: (i) the characteristics and quantity of pollutants to be introduced into or from such treatment works; (ii) any anticipated impact of such change in the quantity and characteristics of the pollutants to be discharged from such treatment works; and (iii) any additional information that may be required by the board.

### B. Treatment works operation and quality control.

1. Design and operation of facilities and/or treatment works and disposal of all wastes shall be in accordance with the registration statement filed with the department and in conformity with the conceptual design, or the plans, specifications, and/or other supporting data accepted by the board. The acceptance of the treatment works conceptual design or the plans and specifications does not relieve the permittee of the responsibility of designing and operating the facility in a reliable and consistent manner to meet the facility performance requirements in the permit. If facility deficiencies, design and/or operational, are identified in the future which could affect the facility performance or reliability, it is the responsibility of the permittee to correct such deficiencies.

2. All waste collection, control, treatment, and disposal facilities shall be operated in a manner consistent with the following:

a. At all times, all facilities shall be operated in a prudent and workmanlike manner so as to minimize upsets and discharges of excessive pollutants to state waters;

b. The permittee shall provide an adequate operating staff which is duly qualified to carry out the operation, maintenance and testing functions required to insure compliance with the conditions of this permit;

c. Maintenance of treatment facilities shall be carried out in such a manner that the monitoring and limitation requirements are not violated; and

d. Collected solids shall be stored and disposed of in such a manner as to prevent entry of those wastes (or runoff from the wastes) into state waters.

## C. Adverse impact.

The permittee shall take all feasible steps to minimize any adverse impact to state waters resulting from noncompliance with any limitation(s) or conditions specified in this permit, and shall perform and report such accelerated or additional monitoring as is necessary to determine the nature and impact of the noncomplying limitation(s) or conditions.

## D. Duty to halt, reduce activity or to mitigate.

1. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.
2. The permittee shall take all reasonable steps to minimize, correct or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

E. Structural stability. The structural stability of any of the units or parts of the facilities herein permitted is the sole responsibility of the permittee and the failure of such structural units or parts shall not relieve the permittee of the responsibility of complying with all terms and conditions of this permit.

F. Bypassing. Any bypass ("bypass" means intentional diversion of waste streams from any portion of a treatment works) of the treatment works herein permitted is prohibited unless:

1. Anticipated bypass. If the permittee knows in advance of the need for a bypass, the permittee shall notify the department promptly at least 10 days prior to the bypass. After considering its adverse effects the board may approve an anticipated bypass if:

- a. The bypass is unavoidable to prevent a loss of life, personal injury, or severe property damage ("severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.); and

- b. There are no feasible alternatives to bypass, such as the use of auxiliary treatment facilities, retention of untreated waste, or maintenance during normal periods of equipment downtime. However, if a bypass occurs during normal periods of equipment downtime, or preventive maintenance and in the exercise of reasonable engineering judgment the permittee could have installed adequate backup equipment to prevent such bypass, this exclusion shall not apply as a defense.

2. Unplanned bypass. If an unplanned bypass occurs, the permittee shall notify the department as soon as possible, but in no case later than 24 hours, and shall take steps to halt the bypass as early as possible. This notification will be a condition for defense to an enforcement action that an unplanned bypass met the

conditions in Part IV F 1 above and in light of the information reasonably available to the permittee at the time of the bypass.

G. Conditions necessary to demonstrate an upset. A permittee may claim an upset as an affirmative defense to an action brought for noncompliance for only technology-based effluent limitations. In order to establish an affirmative defense of upset, the permittee shall present properly signed, contemporaneous operating logs or other relevant evidence that shows:

1. That an upset occurred and that the cause can be identified;
2. The facility permitted herein was at the time being operated efficiently and in compliance with proper operation and maintenance procedures;
3. The permittee submitted a notification of noncompliance as required by Part III F; and
4. The permittee took all reasonable steps to minimize or correct any adverse impact to state waters resulting from noncompliance with the permit.

H. Compliance with state and federal law. Compliance with this permit during its term constitutes compliance with the State Water Control Law and the Clean Water Act except for any toxic standard imposed under § 307(a) of the Clean Water Act.

Nothing in this permit shall be construed to preclude the institution of any legal action under, or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any other state law or regulation or under authority preserved by § 510 of the Clean Water Act.

I. Property rights. The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations.

J. Severability. The provisions of this permit are severable.

K. Duty to register. If the permittee wishes to continue to discharge under a general permit after the expiration date of this permit, the permittee must submit a new registration statement at least 120 days prior to the expiration date of this permit.

L. Right of entry. The permittee shall allow, or secure necessary authority to allow, authorized state and federal representatives, upon the presentation of credentials:

1. To enter upon the permittee's premises on which the establishment, treatment works, or discharge(s) is located or in which any records are required to be kept under the terms and conditions of this permit;
2. To have access to inspect and copy at reasonable times any records required to be kept under the terms and conditions of this permit;
3. To inspect at reasonable times any monitoring equipment or monitoring method required in this permit;

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## Proposed Regulations

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4. To sample at reasonable times any waste stream, discharge, process stream, raw material or byproduct; and

5. To inspect at reasonable times any collection, treatment, or discharge facilities required under this permit.

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

**M. Transferability of permits.** This permit may be transferred to another person by a permittee if:

1. The current permittee notifies the department 30 days in advance of the proposed transfer of the title to the facility or property;

2. The notice to the department includes a written agreement between the existing and proposed new permittee containing a specific date of transfer of permit responsibility, coverage and liability between them; and

3. The department does not within the 30-day time period notify the existing permittee and the proposed permittee of the board's intent to modify or revoke and reissue the permit.

Such a transferred permit shall, as of the date of the transfer, be as fully effective as if it had been issued directly to the new permittee.

**N. Public access to information.** Any secret formulae, secret processes, or secret methods other than effluent data submitted to the department may be claimed as confidential by the submitter pursuant to § 62.1-44.21 of the Code of Virginia. Any such claim must be asserted at the time of submission in the manner prescribed on the application form or instructions or, in the case of other submissions, by stamping the words "secret formulae, secret processes or secret methods" on each page containing such information. If no claim is made at the time of submission, the department may make the information available to the public without further notice. If a claim is asserted, the information will be treated in accordance with the procedures in the Virginia Freedom of Information Act (§ 2.1-340 et seq. of the Code of Virginia) and § 62.1-44.21 of the Code of Virginia.

Claims of confidentiality for the following information will be denied:

1. The name and address of any permit applicant or permittee; and

2. Registration statements, permits, and effluent data.

Information required by the registration statement may not be claimed confidential. This includes information submitted on the forms themselves and any attachments used to supply information required by the forms.

**O. Permit modification.** The permit may be modified when any of the following developments occur:

1. When a change is made in the promulgated standards or regulations on which the permit was based;

2. When an effluent standard or prohibition for a toxic pollutant must be incorporated in the permit in accordance with provisions of § 307(a) of the Clean Water Act (USC 33 § 1251 et seq.); or

3. When the level of discharge of a pollutant not limited in the permit exceeds applicable Water Quality Standards or the level which can be achieved by technology-based treatment requirements appropriate to the permittee.

**P. Permit termination.** After public notice and opportunity for a hearing, the general permit may be terminated for cause.

**Q. When an individual permit may be required.** The board may require any permittee authorized to discharge under this permit to apply for and obtain an individual permit. Cases where an individual permit may be required include, but are not limited to, the following:

1. The discharger(s) is a significant contributor of pollution;

2. Conditions at the operating facility change altering the constituents or characteristics of the discharge such that the discharge no longer qualifies for a general permit;

3. The discharge violates the terms or conditions of this permit;

4. A change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the point source;

5. Effluent limitation guidelines are promulgated for the point sources covered by this permit; or

6. A water quality management plan containing requirements applicable to such point sources is approved after the issuance of this permit.

This permit may be terminated as to an individual permittee for any of the reasons set forth above after appropriate notice and an opportunity for a hearing.

**R. When an individual permit may be requested.** Any permittee operating under this permit may request to be excluded from the coverage of this permit by applying for an individual permit. When an individual permit is issued to a permittee the applicability of this general permit to the individual permittee is automatically terminated on the effective date of the individual permit. When a general permit is issued which applies to a permittee already covered by an individual permit, such permittee may request exclusion from the provisions of the general permit and subsequent coverage under an individual permit.

**S. Civil and criminal liability.** Except as provided in permit conditions on "bypassing" (Part IV F) and "upset" (Part IV G), nothing in this permit shall be construed to relieve the permittee from civil and criminal penalties for noncompliance with the terms of this permit.

*T. Oil and hazardous substance liability. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under § 311 of the Clean Water Act or §§ 62.1-44.34:14 through 62.1-44.34:23 of the Code of Virginia.*

*U. Unauthorized discharge of pollutants. Except in compliance with this permit, it shall be unlawful for any permittee to:*

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

VA.R. Doc. No. R97-141; Filed November 19, 1996, 11:43 a.m.

**Document Incorporated by Reference**

Standard Industrial Classification Manual, 1987, Office of Management and Budget.



DEPARTMENT OF ENVIRONMENTAL QUALITY  
WATER DIVISION  
PERMIT APPLICATION FEE

INSTRUCTIONS

Applicants for individual Virginia Pollutant Discharge Elimination System (VPDES), Virginia Pollution Abatement (VPA), Virginia Water Protection (VWP), Surface Water Withdrawal (SWW), and Ground Water Withdrawal (GWW) Permits are required to pay permit application fees except farming operations engaged in production for market. Fees are also required for registration for coverage under General Permits except for the general permits for sewage treatment systems with discharges of 1,000 gallons per day (GPD) or less and for Corrective Action Plans for leaking underground storage tanks. Except for VWP permits, fees must be paid when applications for permit issuance, reissuance or modification are submitted. Applicants for VWP permits will be notified by the DEQ of the fee due. Applications will be considered incomplete if the proper fee is not paid and will not be processed until the fee is received.

The permit fee schedule can be found on the back of this form. Fees for permit issuance or reissuance and for permit modification are included. Once you have determined the fee for the type of application you are submitting, complete this form. The white and yellow copies of the form and your check or money order payable to "Commonwealth of Virginia-DEQ" should be mailed to the Department of Environmental Quality, Receipts Control, P.O. Box 10150, Richmond, VA 23240. The pink copy of the form and a copy of your check or money order should accompany the permit application. The gold copy is for your records. Please direct any questions regarding this form or fee payment to the DEQ Office to which you are submitting your application.

APPLICANT NAME: \_\_\_\_\_ SSN/FIN: \_\_\_\_\_

ADDRESS: \_\_\_\_\_ DAYTIME PHONE: ( ) \_\_\_\_\_  
Area Code

FACILITY/ACTIVITY NAME: \_\_\_\_\_

LOCATION: \_\_\_\_\_

TYPE OF PERMIT APPLIED FOR  
(from Fee Schedule): \_\_\_\_\_

TYPE OF ACTION: \_\_\_\_\_ New Issuance \_\_\_\_\_ Reissuance \_\_\_\_\_ Modification

AMOUNT OF FEE SUBMITTED  
(from Fee Schedule): \_\_\_\_\_

EXISTING PERMIT NUMBER (if applicable): \_\_\_\_\_

DEQ OFFICE TO WHICH APPLICATION SUBMITTED (check one)

- Abingdon/SWRO     Bridgewater/VRO     Kilmarnock/KO     Prince William/NRO  
 Richmond/PRO     Richmond/Headquarters     Roanoke/WCRO     Virginia Beach/TRO

FOR DEQ USE ONLY

Date: \_\_\_\_\_  
DC #: \_\_\_\_\_

White and Yellow Copies - DEQ Accounting Office  
Pink Copy - DEQ Regional or Permit Program Office  
Gold Copy - Applicant

FEE SCHEDULE--APPLICATIONS FOR INDIVIDUAL PERMITS  
EXCEPT FOR VIRGINIA WATER PROTECTION PERMITS  
(DUE WITH SUBMISSION OF APPLICATION)

TYPE OF PERMIT	ISSUANCE/ REISSUANCE	MODIFICATION
VPDES Industrial Major	\$8,000	\$4,000
VPDES Municipal Major	\$7,100	\$3,550
VPDES Municipal Storm Water	\$7,100	\$3,550
VPDES Industrial Minor, No Standard Limits	\$3,400	\$1,700
VPDES Industrial Minor, Standard Limits	\$2,200	\$1,100
VPDES Industrial Storm Water	\$2,400	\$1,200
VPDES Municipal Minor, 100,000 GPD or More	\$2,500	\$1,250
VPDES Municipal Minor, More than 10,000 GPD but Less than 100,000 GPD	\$2,000	\$1,000
VPDES Municipal Minor, More than 1,000 GPD but 10,000 GPD or Less	\$1,800	\$ 900
VPDES Municipal Minor, 1,000 GPD or Less	\$1,400	\$ 700
VPA Industrial Wastewater Operation	\$3,500	\$1,750
VPA Industrial Sludge Operation	\$2,500	\$1,250
VPA Municipal Wastewater Operation	\$4,500	\$2,250
VPA Municipal Sludge Operation	\$2,500	\$1,250
GWW Initial Permit for an Existing Withdrawal	\$ 400	\$ 200
GWW Permit for a New or Expanded Withdrawal	\$2,000	\$1,000
SWW Certificate for an Existing Withdrawal	\$2,000	\$1,000
SWW Permit for a New or Expanded Withdrawal	\$3,000	\$1,500

FEE SCHEDULE--APPLICATIONS FOR INDIVIDUAL VIRGINIA WATER PROTECTION PERMITS  
(APPLICANT WILL BE NOTIFIED OF FEE DUE BY DEQ)

TYPE OF PERMIT	ISSUANCE/ REISSUANCE	MODIFICATION
VWP Category I Project	\$3,000	\$1,500
VWP Category II Project	\$2,100	\$1,050
VWP Category III Project	\$ 800	\$ 400
VWP Waiver	\$ 300	\$ 150

FEE SCHEDULE--REGISTRATION FOR GENERAL PERMIT COVERAGE

The maximum fee for registration for general permit coverage is \$200. The specific amount of the fee depends on the amount of time the general permit will remain in effect. Please contact the DEQ Office to which registration materials are to be submitted for assistance in determining the amount of the fee due.

VIRGINIA POLLUTANT DISCHARGE ELIMINATION SYSTEM  
GENERAL PERMIT REGISTRATION STATEMENT  
FOR READY-MIXED CONCRETE PLANTS

1. APPLICANT INFORMATION

- A. Name of Facility: \_\_\_\_\_
- B. Facility Owner: \_\_\_\_\_
- C. Owner's Mailing Address
  - a. Street or P.O. Box \_\_\_\_\_
  - b. City or Town \_\_\_\_\_ c. State \_\_ d. Zip Code \_\_\_\_\_
  - e. Phone Number \_\_\_\_\_
- D. Facility Location: \_\_\_\_\_  
Street No., Route No., or Other Identifier
- E. Is the operator of the facility also the owner? \_\_\_ Yes \_\_\_ No  
If No, complete F. & G.
- F. Name of Operator: \_\_\_\_\_
- G. Operator's Mailing Address
  - a. Street or P.O. Box \_\_\_\_\_
  - b. City or Town \_\_\_\_\_ c. State \_\_ d. Zip Code \_\_\_\_\_
  - e. Phone Number \_\_\_\_\_

2. FACILITY INFORMATION

- A. Primary Standard Industrial Classification (SIC) Code: \_\_\_\_\_  
Secondary SIC Codes: \_\_\_\_\_
- B. Nature of business: (provide a brief description)  
\_\_\_\_\_  
\_\_\_\_\_
- C. Does this facility currently have a VPDES permit? Yes \_\_\_ No \_\_\_  
If yes, give permit number. \_\_\_\_\_  
Does this facility currently have a No-Discharge Certificate  
or a VPA permit? Yes \_\_\_ No \_\_\_  
If yes, give permit number. \_\_\_\_\_
- D. Describe any type of wastewater treatment or reuse/recycle  
system(s); identify any system(s) which operates only in a "no  
discharge" mode: \_\_\_\_\_  
\_\_\_\_\_

Registration Statement  
VAG11  
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- E. Are there vehicle/equipment maintenance activities on site?  
Yes \_\_\_ No \_\_\_  
If yes, is there any process wastewater generated from these  
activities? Yes \_\_\_ No \_\_\_
- F. Will this facility discharge non-contact cooling water from a  
geothermal unit or other system? Yes \_\_\_ No \_\_\_  
If Yes, describe the source of non-contact cooling water.  
\_\_\_\_\_
- G. If any chemical additives are used in the geothermal or other  
system which discharges non-contact cooling water,
  - a. List the chemical additive to be employed and its  
purpose;  
\_\_\_\_\_
  - b. Give the proposed schedule and quantity of chemical  
usage, and the estimated concentration in the  
discharge;  
\_\_\_\_\_
  - c. Describe any wastewater treatment or retention (if any)  
to be provided during the use of the additives; and  
\_\_\_\_\_
  - d. Attach a Material Safety Data Sheet (MSDS) and  
available aquatic toxicity information for each  
additive proposed for use.
- H. Describe any measures employed to reclaim, reuse or  
dispose of the waste concrete materials.  
\_\_\_\_\_  
\_\_\_\_\_

3. FACILITY DRAWING

Attach a schematic drawing showing the source(s) of water used on  
the property, the industrial operations contributing to or using  
water, and the conceptual design of the methods of treatment and  
disposal of wastewater and solids.

4. MAP

Attach a topographic map extending to at least one mile beyond  
property boundary. The map must show the outline of the  
facility, and the location of each of its existing and proposed

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intake and discharge points. Include all springs, rivers and other surface water bodies.

5. DISCHARGE INFORMATION

A. List all discharge outfalls by a number that is the same as on the map required in Question 4. Identify the processes which discharge through each outfall. Estimate the flow in gallons per day (gpd). Give the name of the waterbody receiving the discharge.

Outfall No.	Operation	Max. Daily Flow (gpd)	Receiving Stream

B. Identify the duration and frequency of the discharge for each separate discharge point:

Outfall No.	hour/day	day/week

6. CERTIFICATION

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

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name of person signing above: \_\_\_\_\_  
(printed or typed)

Title: \_\_\_\_\_

REQUIRED ATTACHMENTS

1. MSDS and available aquatic toxicity information for Chemical Additives (if applicable)
2. Facility Drawing
3. Topographic Map

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For Department use only:

Accepted/Not Accepted by: \_\_\_\_\_ Date: \_\_\_\_\_  
Basin \_\_\_\_\_ Stream Class \_\_\_\_\_ Section \_\_\_\_\_  
Special Standards \_\_\_\_\_

# FINAL REGULATIONS

For information concerning Final Regulations, see Information Page.

## Symbol Key

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

## MOTOR VEHICLE DEALER BOARD

**Title of Regulation:** 24 VAC 22-20-10 et seq. Motor Vehicle Dealer Fees.

**Statutory Authority:** §§ 46.2-1503.4, 46.2-1506, 46.2-1519, and 46.2-1546 of the Code of Virginia.

**Effective Date:** January 8, 1997.

### Summary:

The Motor Vehicle Dealer Board is a self-sustaining entity. All expenses for the board must be paid through fees assessed by the board. At the current fee level the board will not be able to meet its expenses. It is projected that the board will have a negative cash balance by the end of March 1997 if the fees are not adjusted. The regulations increase certain fees for motor vehicle dealers and salespersons and enable the board to continue its function. The fee for Certificates of Dealer Registration will not be affected by this regulation. This fee is set at \$100 by the Code of Virginia and, therefore, cannot be adjusted through regulation.

Dealers are given a two-week notice prior to the month in which their licenses are due for renewal. In order to continue this practice, the regulation will be effective on January 8, 1997, and the increased fee structure will apply to all new applications and renewals occurring or due to occur starting in February. The increased fee would be applied in February and for all renewals due in February, even if the dealer should decide to renew earlier.

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

**Agency Contact:** Copies of the regulation may be obtained from Daniel B. Wilkins, Executive Director, Motor Vehicle Dealer Board, 2201 West Broad Street, Suite 104, Richmond, VA 23220, telephone (804) 367-1100.

## CHAPTER 20. MOTOR VEHICLE DEALER FEES.

### 24 VAC 22-20-10. Definitions.

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

"Dealer license plates" means license plates bearing a distinctive number, and the name of the Commonwealth, which may be abbreviated, together with the word "dealer" or a distinguishing symbol, indicating that the plate is issued to a manufacturer, distributor, or dealer, and further distinguishes franchised or independent dealers.

"Motor vehicle dealer" or "dealer" means any person who:

1. For commission, money, or other thing of value, buys, sells, exchanges, either outright or on conditional sale, bailment lease, chattel mortgage, or otherwise or arranges or offers or attempts to solicit or negotiate on behalf of others a sale, purchase, or exchange of an interest in new motor vehicles, new and used motor vehicles, or used motor vehicles alone, whether or not the motor vehicles are owned by him; or the same as provided in § 46.2-1500 of the Code of Virginia;
2. Is wholly or partly engaged in the business of selling new motor vehicles, new and used motor vehicles, or used motor vehicles only, whether or not the motor vehicles are owned by him; or
3. Offers to sell, sells, displays, or permits the display for sale of, five or more motor vehicles within any 12 consecutive months.

The term "motor vehicle dealer" does not include:

1. Receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under judgment or order of any court or their employees when engaged in the specific performance of their duties as employees.
2. Public officers, their deputies, assistants, or employees, while performing their official duties.
3. Persons other than business entities primarily engaged in the leasing or renting of motor vehicles to others when selling or offering such vehicles for sale at retail, disposing of motor vehicles acquired for their own use and actually so used, when the vehicles have been so acquired and used in good faith and not for the purpose of avoiding the provisions of this chapter.
4. Persons dealing solely in the sale and distribution of fire-fighting equipment, ambulances, and funeral vehicles, including motor vehicles adapted therefor; however, this exemption shall not exempt any person from the provisions of §§ 46.2-1519, 46.2-1520 and 46.2-1548 of the Code of Virginia.
5. Any financial institution chartered or authorized to do business under the laws of the Commonwealth or the United States which may have received title to a motor vehicle in the normal course of its business by reason of a foreclosure, other taking, repossession, or voluntary reconveyance to that institution occurring as a result of any loan secured by a lien on the vehicle.
6. An employee of an organization arranging for the purchase or lease by the organization of vehicles for use in the organization's business.

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# Final Regulations

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7. Any person licensed to sell real estate who sells a mobile home or similar vehicle in conjunction with the sale of the parcel of land on which the mobile home or similar vehicle is located.

8. Any person who permits the operation of a motor vehicle show or permits the display of motor vehicles for sale by any motor vehicle dealer licensed under Chapter 15 (§ 46.2-1500 et seq.) of Title 46.2 of the Code of Virginia.

9. An insurance company authorized to do business in the Commonwealth that sells or disposes of vehicles under a contract with its insured in the regular course of business.

10. Any publication, broadcast, or other communications media when engaged in the business of advertising, but not otherwise arranging for the sale of vehicles owned by others.

11. Any person dealing solely in the sale or lease of vehicles designed exclusively for off-road use.

12. Any credit union authorized to do business in Virginia, provided the credit union does not receive a commission, money, or other thing of value directly from a motor vehicle dealer.

13. Any person licensed as a manufactured home dealer, broker, manufacturer, or salesperson under Chapter 4.2 (§ 36-85.16 et seq.) of Title 36 of the Code of Virginia.

"Motor vehicle salesperson" means any person who is licensed and employed as a salesperson by a motor vehicle dealer to sell or exchange motor vehicles. It shall also mean any person who is licensed as a motor vehicle dealer and who sells or exchanges motor vehicles.

"Supplemental license" means a license issued by the Motor Vehicle Dealer Board for a licensed motor vehicle dealer to display for sale or sell vehicles at locations other than his established place of business, subject to compliance with local ordinances and requirements.

## 24 VAC 22-20-20. Fees.

~~[ A. Certificate fees. All applications for certificates are nonrefundable. Fees for application of certificates are as follows:~~

~~Certificate of Dealer Registration \_\_\_\_\_ \$200~~

~~B. A. ] License fees. All license fees, except initial license fees, are nonrefundable. Annual fees for licenses are as follows:~~

~~Motor Vehicle Dealer License \$200~~

~~Permanent Supplemental License \$40~~

~~Temporary Supplemental License (Valid for 7 days)  
\$40 (per 7-day license)~~

~~Motor Vehicle Dealer Salesperson License \$20~~

[ C. B. ] Dealer license plate fees. Fees for dealer license plates are nonrefundable. Annual fees for dealer license [ plate plates ] are as follows:

First two plates \$20 each

Third and subsequent plates \$15

All renewal fees are due to the Motor Vehicle Dealer Board on the last day of the expiration month and shall be considered filed on time if postmarked prior to the expiration date.

VA.R. Doc. No. R97-140; Filed November 19, 1996, 10:22 a.m.

# STATE LOTTERY DEPARTMENT

## DIRECTOR'S ORDER NUMBER TWENTY (96)

VIRGINIA'S SIXTIETH INSTANT GAME LOTTERY; "\$10,000 CASH REWARD," FINAL RULES FOR GAME OPERATION.

In accordance with the authority granted by Sections 9-6.14:4.1B(15) and 58.1-4006A of the Code of Virginia, I hereby promulgate the final rules for game operation in Virginia's sixtieth instant game lottery, "\$10,000 Cash Reward." These rules amplify and conform to the duly adopted State Lottery Board regulations for the conduct of instant game lotteries.

The rules are available for inspection and copying during normal business hours at the State Lottery Department headquarters, 900 East Main Street, Richmond, Virginia, and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Public Affairs Division, State Lottery Department, 900 East Main Street, Richmond, Virginia 23219.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further Director's Order.

/s/ Penelope W. Kyle  
Director  
Date: July 23, 1996

VA.R. Doc. No. R97-129; Filed November 12, 1996, 11:23 a.m.

## DIRECTOR'S ORDER NUMBER TWENTY-ONE (96)

VIRGINIA'S INSTANT GAME LOTTERY 406; "BLACKJACK," FINAL RULES FOR GAME OPERATION.

In accordance with the authority granted by Sections 9-6.14:4.1B(15) and 58.1-4006A of the Code of Virginia, I hereby promulgate the final rules for game operation in Virginia's instant game lottery (Number 0406), "Blackjack." These rules amplify and conform to the duly adopted State Lottery Board regulations for the conduct of instant game lotteries.

The rules are available for inspection and copying during normal business hours at the State Lottery Department headquarters, 900 East Main Street, Richmond, Virginia, and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Public Affairs Division, State Lottery Department, 900 East Main Street, Richmond, Virginia 23219.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further Director's Order.

/s/ Penelope W. Kyle  
Director  
Date: July 23, 1996

VA.R. Doc. No. R97-130; Filed November 12, 1996, 11:23 a.m.

## DIRECTOR'S ORDER NUMBER TWENTY-FIVE (96)

VIRGINIA LOTTERY RETAILER "THE BIG GAME" JACKPOT BONUS PROGRAM AND RULES.

In accordance with the authority granted by Sections 9-6.14:4.1B(15) and 58.1-4006A of the Code of Virginia, I hereby promulgate the Virginia Lottery Retailer "The Big Game" Jackpot Bonus Program and Rules for the lottery retailer incentive program which begins on August 31, 1996. These rules amplify and conform to the duly adopted State Lottery Department regulations and are as follows:

When the outcome of a drawing for "The Big Game" results in either a single jackpot winning ticket or multiple jackpot winning tickets, the Virginia Lottery retailer(s) selling the jackpot winning tickets (5 of 50 plus 1 of 25) are entitled to bonus compensation, payable by the State Lottery Department according to the following terms:

(1) For any "The Big Game" drawing which results in a single jackpot winning ticket sold by a Virginia Lottery retailer, the retailer selling that jackpot winning ticket will receive bonus compensation of \$10,000.

(2) For any "The Big Game" drawing which results in two or three jackpot winning tickets, the Virginia Lottery retailer(s) selling the jackpot winning tickets will receive bonus compensation of \$10,000 for each jackpot winning ticket sold for that drawing.

(3) For any "The Big Game" drawing which results in four (4) through twenty-nine (29) jackpot winning tickets, the Virginia retailer(s) selling the jackpot winning tickets will receive bonus compensation representing a pro rata share of \$30,000 divided equally among each Virginia retailer selling a jackpot winning ticket according to the number of jackpot winning tickets each Virginia retailer sold. The total bonus compensation for this category shall not exceed \$30,000.

(4) For any "The Big Game" drawing which results in thirty (30) or more jackpot winning tickets, no bonus compensation will be paid to any Virginia Lottery retailer.

If a change of business ownership occurs for any Virginia Lottery retailer(s) selling "The Big Game" jackpot winning ticket(s) after the jackpot winning ticket(s) were purchased but prior to the drawing which determines the winning ticket(s), the bonus compensation will be paid to the Virginia Lottery retailer(s) owning the business at the time of that drawing.

Virginia Lottery retailers are responsible for all federal and state taxes associated with bonus compensation, as with other earned income. The Virginia Lottery retailer jackpot bonus maximum payment for any "The Big Game" drawing is \$30,000. All Virginia Lottery retailer bonus compensation associated with this program will be made by the State Lottery Department in a single payment to the retailer(s). This program is applicable only to "The Big Game" tickets sold in Virginia and is payable only to active Virginia licensed lottery retailers.

These rules are available for inspection and copying during normal business hours at the State Lottery Department

# State Lottery Department

headquarters, 900 East Main Street, Richmond, Virginia, and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Public Affairs Division, State Lottery Department, 900 East Main Street, Richmond, Virginia 23219.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further Director's Order.

/s/ Penelope W. Kyle  
Director  
Date: October 9, 1996

VA.R. Doc. No. R97-131; Filed November 12, 1996, 11:23 a.m.

## DIRECTOR'S ORDER NUMBER THIRTY-ONE (96)

VIRGINIA'S SIXTY-THIRD INSTANT GAME LOTTERY; "LUCKY 7'S," FINAL RULES FOR GAME OPERATION.

In accordance with the authority granted by Sections 9-6.14:4.1B(15) and 58.1-4006A of the Code of Virginia, I hereby promulgate the final rules for game operation in Virginia's sixty-third instant game lottery, "Lucky 7's." These rules amplify and conform to the duly adopted State Lottery Board regulations for the conduct of instant game lotteries.

The rules are available for inspection and copying during normal business hours at the State Lottery Department headquarters, 900 East Main Street, Richmond, Virginia, and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Public Affairs Division, State Lottery Department, 900 East Main Street, Richmond, Virginia 23219.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further Director's Order.

/s/ Penelope W. Kyle  
Director  
Date: October 6, 1996

VA.R. Doc. No. R97-132; Filed November 12, 1996, 11:23 a.m.

## DIRECTOR'S ORDER NUMBER THIRTY-TWO (96)

VIRGINIA'S SIXTY-FOURTH INSTANT GAME LOTTERY; "MONSTER CASH," FINAL RULES FOR GAME OPERATION.

In accordance with the authority granted by Sections 9-6.14:4.1B(15) and 58.1-4006A of the Code of Virginia, I hereby promulgate the final rules for game operation in Virginia's sixty-fourth instant game lottery, "Monster Cash." These rules amplify and conform to the duly adopted State Lottery Board regulations for the conduct of instant game lotteries.

The rules are available for inspection and copying during normal business hours at the State Lottery Department headquarters, 900 East Main Street, Richmond, Virginia, and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Public Affairs

Division, State Lottery Department, 900 East Main Street, Richmond, Virginia 23219.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further Director's Order.

/s/ Penelope W. Kyle  
Director  
Date: October 6, 1996

VA.R. Doc. No. R97-133; Filed November 12, 1996, 11:23 a.m.

## DIRECTOR'S ORDER NUMBER THIRTY-THREE (96)

VIRGINIA'S FORTIETH INSTANT GAME LOTTERY, "INSTANT JACKPOT"; AND FORTY-THIRD INSTANT GAME LOTTERY, "GOLD RUSH"; END OF GAME.

In accordance with the authority granted by Sections 58.1-4006A and 9-6.14:4.1B(15) of the Code of Virginia, I hereby give notice that Virginia's Fortieth Instant Game, "Instant Jackpot," and Forty-Third Instant Game, "Gold Rush," will officially end at midnight on Friday, November 1, 1996. The last day for lottery retailers to return for credit unsold tickets from "Instant Jackpot" or "Gold Rush" will be Friday, December 6, 1996. The last day to redeem winning tickets for "Instant Jackpot" or "Gold Rush" will be Wednesday, April 30, 1997, 180 days from the declared official end of the game. Claims for winning tickets from "Instant Jackpot" and "Gold Rush" will not be accepted after that date. Claims which are mailed and received in an envelope bearing a United States Postal Service postmark of April 30, 1997, will be deemed to have been received on time. This notice amplifies and conforms to the duly adopted State Lottery Board regulations for the conduct of instant game lotteries.

This order is available for inspection and copying during normal business hours at the State Lottery Department headquarters, 900 East Main Street, Richmond, Virginia; and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Public Affairs Office, State Lottery Department, 900 East Main Street, Richmond, Virginia 23219.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further Director's Order.

/s/ Penelope W. Kyle  
Director  
Date: October 17, 1996

VA.R. Doc. No. R97-134; Filed November 12, 1996, 11:23 a.m.

## DIRECTOR'S ORDER NUMBER THIRTY-FOUR (96)

VIRGINIA'S SIXTY-FIFTH INSTANT GAME LOTTERY; "EASY CASH," FINAL RULES FOR GAME OPERATION.

In accordance with the authority granted by Sections 9-6.14:4.1B(15) and 58.1-4006A of the Code of Virginia, I hereby promulgate the final rules for game operation in Virginia's sixty-fifth instant game lottery, "Easy Cash." These rules amplify and conform to the duly adopted State Lottery Board regulations for the conduct of instant game lotteries.

The rules are available for inspection and copying during normal business hours at the State Lottery Department headquarters, 900 East Main Street, Richmond, Virginia, and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Public Affairs Division, State Lottery Department, 900 East Main Street, Richmond, Virginia 23219.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further Director's Order.

/s/ Penelope W. Kyle

Director

Date: October 25, 1996

VA.R. Doc. No. R97-135; Filed November 12, 1996, 11:23 a.m.

DIRECTOR'S ORDER NUMBER THIRTY-FIVE (96)

VIRGINIA'S SIXTY-SIXTH INSTANT GAME LOTTERY;  
"FIRST & 10," FINAL RULES FOR GAME OPERATION.

In accordance with the authority granted by Sections 9-6.14:4.1B(15) and 58.1-4006A of the Code of Virginia, I hereby promulgate the final rules for game operation in Virginia's sixty-sixth instant game lottery, "First & 10." These rules amplify and conform to the duly adopted State Lottery Board regulations for the conduct of instant game lotteries.

The rules are available for inspection and copying during normal business hours at the State Lottery Department headquarters, 900 East Main Street, Richmond, Virginia, and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Public Affairs Division, State Lottery Department, 900 East Main Street, Richmond, Virginia 23219.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further Director's Order.

/s/ Penelope W. Kyle

Director

Date: October 25, 1996

VA.R. Doc. No. R97-136; Filed November 12, 1996, 11:24 a.m.



# The Legislative Record

Volume 6 No. 6

November 1996

## **HJR 210**

### **Joint Subcommittee Studying Real Estate Practices**

*July 24, 1996, Richmond*

HJR 210 directed this joint subcommittee to examine the real estate settlement market to determine whether the current mix of participants and regulatory oversight provide sufficient protection for the general public. The joint subcommittee convened its first meeting on July 24 to receive testimony from settlement attorneys, title insurance companies, banking institutions, and independent settlement agents concerning the participation of nonlawyers in the settlement of real estate transactions. The joint subcommittee was also briefed on the particulars of a recent Virginia State Bar Unauthorized Practice of Law opinion stating that conducting real estate settlements constituted the practice of law.

### **Real Estate Attorneys**

The Commonwealth's real estate market is big business. According to the Virginia Association of Realtors, approximately \$7.1 billion in real estate settlements took place in 1995. Representatives of the Virginia Real Estate Attorneys League (Va.REAL), an association of real estate settlement attorneys, told the joint subcommittee that unlicensed title and escrow companies handle a substantial portion of these funds without regulation or accountability and that this situation presents a risk to the public. Furthermore, they said, it is impossible for a real estate settlement to be conducted without legal advice being offered. Consequently, nonattorneys conducting real estate closings may find themselves responding to legal questions that are properly answered only by a licensed attorney who is (i) answerable to the Virginia State Bar and (ii) covered by legal malpractice insurance. Moreover, Va.REAL noted, a practicing attorney stands in a fiduciary relationship with the buyer/borrower and is legally and ethically obligated to protect the interest of the buyer/borrower.

## **INSIDE:**

- 3** SJR 12: State Government Procurement
- 5** HJR 108: Taxing Authority
- 6** SJR 118: Electric Utility Restructuring
- 8** SJR 86/HJR 198: Handicapped Parking
- 9** HJR 174: Arts Funding
- 10** SJR 84: Block Grants
- 12** HJR 168: Educational Excellence
- 13** HJR 55/SJR 36: Insurance Fraud
- 14** Joint Rules Committee
- 15** HJR 81: Dental Hygienists

### **Coalition for Choice**

The Coalition for Choice in Real Estate Closings, an association of Virginia banks, Realtors, title insurers, mortgage bankers, and home builders, told the joint subcommittee that the buyer/borrower is legally and practically protected by the general regulatory oversight of banks and title insurance companies. Coalition representatives also noted that attorney licensure is no guarantee of public protection, citing the recent guilty plea of a Northern Virginia attorney to bank fraud and other related criminal charges stemming from his misuse of thousands of dollars in real estate escrow funds. Insofar as the practice of law is concerned, a Virginia Association of Realtors representative pointed out that standardized forms and the use of clerks and paralegals to accomplish most of the work suggest that the actual amount of lawyering in a typical real estate transaction is very limited. Lawyers are required to supervise their employees' activities but do not need to be present at the closing.

**VIRGINIA DIVISION OF LEGISLATIVE SERVICES**

*Virginia Register of Regulations*

A representative of the Virginia Bankers Association reminded the joint subcommittee that banks have been closing real estate loans for 15 years without major incident, suggesting that the practice poses no threat of harm to the public. He cited a recent search of Division of Consumer Affairs files for complaints about real estate closings by banks and said the division's staff had uncovered no such complaints. The issue, he stated, was one of market share and not of public protection. Representatives of title insurance companies and settlement agents echoed the sentiments expressed by the Realtors and bankers. A representative of a major Virginia title company suggested that ideally, both lawyers and nonlawyers would continue to participate in the business of settling real estate transactions. He suggested that, if anything, a "truth in settlement" bill might be useful to ensure that parties to these transactions are adequately informed of the capacities and limitations of persons involved.

### **Virginia State Bar Subcommittee Action**

The joint subcommittee was briefed on a recent opinion of the Virginia State Bar's Unauthorized Practice of Law (UPL) committee. UPL Opinion 183, issued in response to a formal inquiry, states that conducting real estate closings constitutes the practice of law. The UPL committee's opinion is subject to further review by bar counsel and must be endorsed by Virginia State Bar Council and subsequently made a rule of the Virginia Supreme Court before it has any binding effect. The joint subcommittee concluded that the Bar Council's review of and vote on UPL 183 would assist the joint subcommittee's deliberations. Accordingly, the joint subcommittee requested that its chairman contact the Virginia State Bar and urge prompt Bar Council action on UPL 183.

*October 31, 1996, Richmond*

The joint subcommittee's second meeting focused principally on the action by the Bar Council of the Virginia State Bar approving UPL Opinion 183. The State Bar's president briefed the subcommittee on the Bar Council's action and the rationale for the vote. The Coalition for Choice in Real Estate Closings responded to the bar president's statements and presented an outline of proposed legislation it plans to present to the joint subcommittee at its next meeting. Finally, a real estate settlement demonstration and panel discussion was presented and coordinated by the Virginia Real Estate Attorneys League (Va. REAL).

### **Bar Council Action on UPL 183**

As requested by the joint subcommittee, the Bar Council of the Virginia State Bar expedited its action on Unauthorized Practice of Law Opinion 183, bringing the matter to a vote at an October 17 meeting in Roanoke. The bar regulates approximately 21,000 attorneys licensed to practice law in the Commonwealth. The Virginia State Bar's president briefed the joint subcommittee on the Bar Council's activities leading up to the

50-to-12 vote approving the UPL committee's opinion. The approved opinion, while modified, retained its original thrust: the settlement of a real estate transaction is the practice of law. The opinion did, however, clarify the authority of Virginia's lending institutions to conduct the settlements of their own loans—although a Virginia Bankers Association representative advised the subcommittee that this authority was limited to refinancing and home equity loans and did not apply to original purchases. The opinion currently has no legal effect and will have none unless the Virginia Supreme Court approves it by court rule. The court is under no specific deadline to act, but must, under its own rules, solicit public comment before any final action.

Responding to the bar president's comments, a Coalition for Choice in Real Estate Closings representative challenged the propriety of attorneys determining the scope of the practice of law. UPL 183 was opposed by Virginia's Attorney General, the Federal Trade Commission, and the U.S. Department of Justice, he said. The initial vote on the opinion by the bar's UPL committee was 7 to 2, with the two dissenting votes cast by the committee's nonlawyer members. Emphasizing that the Bar Council's membership includes some attorneys with real estate practices or interests in title insurance agencies, the coalition representative expressed surprise that only two of the council's 64 members abstained from voting on the opinion. He also expressed concern that the Supreme Court may not act on this opinion until after the 1997 legislative session, suggesting that a rule incorporating UPL Opinion 183 could put lay settlement companies and their employees out of business while the General Assembly is out of session.

The Real Estate Section of the Virginia Bar Association, a voluntary lawyers' professional association, was represented by its chairman at the meeting. In January 1996, the Real Estate Section originated the inquiry that prompted UPL committee action on real estate settlement—the action that resulted in UPL Opinion 183. The section presently favors regulation of all individuals and companies involved in the real estate settlement process, but not to the exclusion of nonlawyers. The subcommittee was furnished with a copy of a model settlement-agent act prepared by the National Association of Insurance Commissioners (NAIC). This NAIC model act was, however, criticized by the president of Va.REAL as furnishing no protection to the public.

### **Settlement Demonstration**

Va.REAL coordinated a real estate settlement demonstration and discussion, reviewing with the joint subcommittee an array of documents that embody the typical real estate transaction. These documents included a sales contract, a deed of trust, the HUD-1 settlement statement, a property survey, and lender closing instructions. A Va.REAL spokesman identified the potential legal issues that can arise at each stage of a transaction, beginning with deed issues generated by the typical sales contract and continuing through the effect of certain provisions in the mortgage note and deed of trust.

## Coalition for Choice Response

Representatives of the Coalition for Choice in Real Estate Closings responded to assertions made by Va.REAL representatives during the settlement demonstration by emphasizing that nonlawyer settlement agents understand the difference between nonlawyers' furnishing general legal information on one hand and giving legal advice on the other. The joint subcommittee was told by a coalition member representing lay settlement agents that the former is permitted in real estate closings under UPL Opinion 177.

Another coalition member representing a major title insurance company told the joint subcommittee that his industry prefers to use both lawyer and nonlawyer settlement agents. Title insurers are the so-called "deep pocket" in real estate transactions, he added, stating that if the use of nonlawyer closers had resulted in significant liabilities for his company or the title insurance industry as a whole, title insurers would not be using them at present. If protecting the public is nevertheless an issue, he noted, legislation establishing a regulatory scheme for settlement agents could be beneficial if it focused on (i) disclosing nonlawyer status where appropriate, (ii) settlement agent certification, (iii) regulatory agency oversight, (iv) financial requirements, and (v) requiring that settlement funds be placed in separate escrow accounts. The coalition announced plans to present legislation conforming to this outline at the joint subcommittee's next meeting.

## Future Activities

The subcommittee will convene its next meeting in December to examine the coalition's legislative proposal, to receive information about the Realtor's role and that industry's views of the study issues, and to continue its discussion about possible legislative responses to the HJR 210 issues.

The Honorable William K. Barlow, *Chairman*  
Legislative Services contact: Arlen K. Bolstad



## SJR 12

### Joint Subcommittee Studying State Government Procurement Practices and Procedures

October 31, 1996, Richmond

## Minority Participation

Focusing specifically on minority participation in state procurement, the joint subcommittee held its organizational meeting to consider its charge under SJR 12. The Joint Legislative

Audit and Review Commission (JLARC) briefed the joint subcommittee on the findings of its 1995 study, *Minority-Owned Business Participation in State Business* (House Document No. 53, 1996). It was noted that in FY 1995, the state expended \$2.78 billion in the procurement of goods, services, and construction. Of that amount, \$108 million, or 3.9 percent, went to minority business enterprises (see Table 1).

**Table 1: State Expenditures to Minority Business Enterprises, by Branch**

Branch	Total Spending	Minority Spending	Percent
Executive	\$2,700,000,000	\$100,199,773	3.76
Legislative	\$5,371,012	\$894,977	16.66
Judicial	\$45,230,696	\$845,254	1.86
Independent	\$69,291,144	\$6,316,485	9.11
<b>Total</b>	<b>\$2,780,000,000</b>	<b>\$108,256,489</b>	<b>3.88</b>

Under § 2.1-64.32 of the Code of Virginia, "minority business enterprise" is defined as an enterprise that is owned and controlled by one or more socially and economically disadvantaged persons. Such disadvantage may arise from cultural, racial, or chronic economic circumstances or background or other similar cause. Such persons include, but are not limited to African Americans, Hispanic Americans, Asian Americans, American Indians, Eskimos, and Aleuts.

## JLARC

JLARC reported that discrimination and the use of preferences are prohibited by Virginia law. Specifically, set-asides, quotas, or firm goals for minority business enterprises (MBEs) do not exist in the Commonwealth. Virginia, however, does have policies that encourage the development of small businesses and businesses owned by women and minorities. These policies are overseen primarily by the Department of Minority Business Enterprise and the Department of General Services.

## Agencies

The Department of Minority Business Enterprise was established to "foster and promote the development and growth of the Commonwealth's minority section" through a program that certifies minority businesses. The department distributes its list of certified minority enterprises to all state agencies on an annual basis.

The Department of General Services is the state's lead agency on public procurement practices and policies and provides assistance and training to state agencies. In addition, the department publishes *Virginia Business Opportunities*, the *Agency Procurement and Surplus Property Manual*, and other like publications related to public procurement.

## Public Procurement Act

The Virginia Public Procurement Act (VPPA) establishes the procedure for the award of public contracts based on competitive principles. Section 11-35 of the VPPA expresses the intent of the General Assembly:

To the end that public bodies in the Commonwealth obtain high quality goods and services at reasonable cost, that all procurement procedures be conducted in a fair and impartial manner with avoidance of any impropriety or appearance of impropriety, that all qualified vendors have access to public business and that no offeror be arbitrarily or capriciously excluded, it is the intent of the General Assembly that competition be sought to the maximum feasible degree, that individual public bodies enjoy broad flexibility in fashioning details of such competition, that the rules governing contract awards be made clear in advance of the competition, that specifications reflect the procurement needs of the purchasing body rather than being drawn to favor a particular vendor, and that purchaser and vendor freely exchange information concerning what is sought to be procured and what is offered.

## JLARC Findings

As reported in House Document No. 53, JLARC found that minority participation in agency procurement ranged from less than one percent to 42 percent. Of the 126 state agencies surveyed, only 52 indicated that they had established written programs regarding minority business solicitation, as required by state law. Other JLARC findings include:

- ▶ State agency compliance with applicable Code provisions is inconsistent.
- ▶ Many agencies do not have minority business lists and report problems identifying minority businesses.
- ▶ The Interdepartment Board, created to foster and promote the development of minority businesses in Virginia, has been relatively inactive.
- ▶ The Department of General Services does not review compliance with requirements of the Code or the Procurement Manual relating to minority procurement.

## Recent Supreme Court Cases

The joint subcommittee was also briefed by staff counsel concerning two recent U.S. Supreme Court cases relating to the legality of preferences and set-asides.

### Croson

In the *City of Richmond v. J.A. Croson Co.*, decided by the U.S. Supreme Court in 1989, the city required prime contractors to whom the city awarded construction contracts to subcontract at least 30 percent of the dollar amount of the contract to one or more MBEs. The Croson Company, in its bid, did not meet the required 30 percent set-aside, was not awarded the

city's construction contract, and brought suit alleging that the city's ordinance violated the equal protection clause of the Constitution.

The *Croson* case marked the first time that a majority of the Supreme Court held that race-based affirmative action measures are subject to strict scrutiny. The Court held that the city had not ascertained how many minority enterprises were present in the local construction market nor the level of their participation in city construction projects. The city pointed to no evidence that qualified minority contractors had been passed over for city contracts or subcontracts. Under such circumstances, the court held, "it is simply impossible to say that the city had demonstrated a strong basis in evidence for its conclusion that remedial action was necessary." Because the city failed to identify the need for remedial action in the awarding of its public construction contracts, its treatment of its citizens on a racial basis violated the dictates of the equal protection clause. Notably, the Court said that significant statistical disparities between the level of minority participation in a particular field and the percentage of qualified minorities in the applicable pool *could permit* an inference of discrimination and would support the use of racial and ethnic classifications intended to correct those disparities.

### Adarand

In the second case, *Adarand Constructors v. Federico Pena*, decided by the U.S. Supreme Court on June 12, 1995, the federal government awarded the prime contract for a highway construction project in Colorado to Mountain Gravel Company. As required by federal law, the primary contract stated that Mountain Gravel would receive additional compensation if it hired subcontractors certified by the Small Business Administration (SBA) as small businesses controlled by "socially and economically disadvantaged individuals." As is also required by federal law, the contract directed Mountain Gravel to presume that socially and economically disadvantaged individuals included Black, Hispanic, Native, and Asian-Pacific Americans, other minorities, and individuals found by the SBA to be disadvantaged.

Mountain Gravel let a subcontract for the guardrail portion of the prime contract. Adarand Company, which is not an SBA-certified business, submitted the low bid. The contract was awarded, however, to Gonzales Company, an SBA-certified business. Mountain Gravel testified that it would have accepted Adarand's bid had it not been for the additional payment it received by hiring Gonzales instead. Adarand filed suit in federal district court, alleging that the presumption set forth in the SBA-certification statute (and, consequently, in the prime contract) discriminated on the basis of race in violation of the federal government's obligation to provide equal protection under the law.

In a divided 5-4 opinion, the Supreme Court, following the earlier *Croson* case, held that "all racial classifications, imposed by whatever federal, state, or local actor, must be ana-

lyzed under strict scrutiny. In other words, such classifications are constitutional only if they are narrowly tailored measures that further compelling governmental interests.”

## Discussion

Discussion among the joint subcommittee members centered around the need to conduct a *Croson* disparity study as directed by SJR 12. In addition, the joint subcommittee endeavored to identify other avenues that could be explored to increase minority participation in state procurement. These include: linking bonding requirements to the size of a business, mandating state agencies to have a minority business program in place, encouraging joint ventures and strategic alliances between majority and minority business firms, increasing the purview of the Department of Minority Business Enterprise with a concomitant increase in its power and responsibility for oversight of state agencies, and fostering increased leadership at state agencies to ensure the state's commitment to minority participation.

The next meeting of the joint subcommittee has tentatively been set for the first week in December.

The Honorable L. Louise Lucas, *Chair*  
Legislative Services contact: Maria J.K. Everett



## HJR 108

### Commission on State and Local Government Responsibility and Taxing Authority

October 30, 1996, Richmond

Commission members were given an overview of the Commonwealth's budget from the staff directors of the Senate Finance and House Appropriations Committees as well as a preliminary report from the chairman of a special subcommittee of the commission charged with examining how services and revenues might be realigned to be more efficient and effective.

### The Budget: Revenue and Spending Drivers

Virginia's budget is comprised of general fund revenues and non-general fund revenues, the latter produced by earmarked taxes and fees and used for specific purposes. There is very little, if any, discretion involved in the use of these funds. General fund revenues come from general taxes and are used for a variety of purposes.

For 1996-98, general fund operating appropriations total a little more than \$16.5 billion. Of that amount, about two-thirds comprise aid to localities and aid to individuals. Medicaid alone accounts for three-fourths of all aid to individuals. State employee payroll costs comprise about 25 percent of the general fund budget. Non-general fund operating appropriations for that same period equal a little more than \$17.8 billion. Transportation, college operations, and health-related programs comprise two-thirds of the non-general fund budget.

The Commonwealth's general fund revenues are driven by growth in employment, income, and inflation. Growth in non-agricultural employment averaged 4.5 percent annually during the 1980s, but is expected to average only 2.2 percent during the 1990s. The same trend applies to personal income growth—much higher in the 1980s than the 1990s.

For the past decade and longer, Virginia's budget growth has been driven largely by Medicaid, adult and juvenile corrections, and public education. Between 1985 and 1990, higher education, public education, mental health/retardation, corrections, and Medicaid accounted for 76 percent of the general fund growth. Medicaid alone grew 109 percent. Between 1990 and 1998, public education, adult and juvenile corrections, and Medicaid account for 75 percent of the general fund budget growth, partially due to their removal from the budget-cutting table for a variety of reasons.

Clearly, revenue drivers (employment and income) have not grown during the 1990s as rapidly as budget drivers (Medicaid, education costs, and the number of adult inmates and juvenile offenders). A continuing budget squeeze results, because existing revenues have been insufficient to cover both non-discretionary spending increases and programs typically seen as high-priority commitments. Therefore, each biennium three basic options have existed for closing the gap between revenues and spending requirements: (i) reduce agency budgets, on a targeted basis or across-the-board; (ii) generate non-recurring revenues or savings; and (iii) increase available revenues. All three options have been used to meet budget requirements. How much more can be done is always the question.

### Special Subcommittee Report

The special subcommittee's chairman presented its preliminary report, which contained a number of recommendations for the commission to consider. The subcommittee's purpose was to suggest ways to reassign services and revenue sources to improve the effectiveness and efficiency of state and local service delivery. In working towards this goal, the subcommittee defined its mission by establishing guiding principles and setting priorities for which services and revenues should be realigned.

#### Guiding Principles

- ▶ A number of problems currently exist in the assignment of service responsibilities and taxing authority among the federal, state, and local governments. These issues are likely to

be of more importance as federal "devolution" (the passing down of responsibility for programs to the states or localities) continues. States and localities will face increasing service and financing responsibilities as devolution is implemented.

- ▶ All services should be examined to decide which level of government can provide them in the most efficient and effective manner possible, even if such an agreement represents a significant change from the status quo. Once this is accomplished, the necessary revenues must be reallocated to the appropriate level of government; however, any shifts in funding responsibilities should not result in tax increases.
- ▶ The committee should recommend the assignment of services to the level of government that would be the most effective. The implementation of any transfer of service responsibility may be accomplished incrementally.
- ▶ If the state assumes some of the services currently provided by the localities for which the localities receive fee payments, then those payments should be transferred to the state. The same principle should apply if localities assume services currently provided by the state for which fees are paid.
- ▶ Of the six service areas (education, health, jails, community services boards, social services, and transportation), education has the most direct effect and the largest impact and, therefore, should be given highest priority.
- ▶ Because responsibility for education constitutionally rests with the state, full funding of the Standards of Quality (SOQ) should rest with the state. However, administrative control of education should remain with the local school boards.
- ▶ The state should establish appropriate standards of quality, determine the costs to implement them, and fully fund them. Funding for local educational programs exceeding the SOQ would not be the responsibility of the state.
- ▶ When determining what the SOQ should be, attention should be given to future needs as well as current ones.

### **Preliminary Recommendations**

The subcommittee made the following preliminary recommendations to the commission:

1. Adopt the Guiding Principles.
2. By July 1, 1998, the state shall assume responsibility for funding 60 percent of the SOQ, with a goal of funding 100 percent of instructional costs in the future.
3. By July 1, 1998, the state shall assume responsibility for funding 100 percent of the state-mandated costs for health, social services, and jails.
4. By July 1, 1998, the state shall assume responsibility for funding 100 percent of the costs for clerks of the court, sheriffs, and Commonwealth's Attorneys.

5. By July 1, 1998, the localities shall assume responsibility for funding 100 percent of the costs for commissioners of the revenue and treasurers.
6. By July 1, 1998, sources of revenues necessary to offset the increased costs to the state for changes in service responsibility also would be transferred. (The decision regarding which of the revenue sources to transfer will be made by the commission.)

It was the consensus of the subcommittee that in transferring services and revenues, one goal should be to produce a revenue-neutral effect or one as close to it as possible. Also, following some discussion, commission members tentatively decided to delete Items 4 and 5 from the recommendations list because of concern on the part of constitutional officers.

Further discussion during the meeting indicated that the recommendations need to be refined and a public hearing held in December regarding them. Following the hearing, the commission will meet and decide which, if any, of the recommendations it will adopt.

The Honorable Donald S. Beyer, Jr., *Chairman*  
Legislative Services contact: Joan E. Putney



## **SJR 118**

### **Joint Subcommittee Examining the Restructuring of the Electric Utility Industry**

*October 2, 1996, Richmond*

The joint subcommittee met to receive the Virginia State Corporation Commission's (SCC) staff report on electric utility industry restructuring and to receive related presentations about electrical retail competition from representatives of industrial and residential electric utility customers.

### **SCC Staff Report**

An important issue currently before federal and state public utility regulators is whether and to what extent retail competition should be permitted in the sale of electricity. According to SCC staff representatives, the reasons for national interest in retail competition include the development of low-cost, natural-gas-fired units, an excess of base-load capacity resulting in low-cost power availability in the spot market, and sharp regional price differences. Federal energy regulatory policies have contributed as well, they said, citing Federal Energy Regulatory Commission (FERC) Order 888, which requires electric utilities to offer transmission services for the transport of electricity. Members of Congress have added momentum by introducing retail competition bills, including a recent measure calling for retail customer choice by the year 2000.

SCC staff recommended a cautious, go-slow approach to retail competition in Virginia, because residential power customers' rates are, on average, the 27th lowest in the U.S.; industrial customers are currently paying the 15th lowest rates. Consequently, Virginia is unlike states such as California and New York, where utility rates are high, and thus the SCC staff sees no immediate need to begin retail competition—on an experimental basis or otherwise. However, the staff has recommended that the SCC follow closely retail competition experiments in other states to help answer some of the questions that concern them, including the following: (i) will all customers benefit from retail competition? (ii) will price volatility be acceptable to all customers? (iii) what will become of the excess capacity currently driving the market toward retail competition? and (iv) how should retail competition be structured to minimize stranded costs and benefits?

In sum, the SCC staff believes that because Virginia is a low-cost state, the Commonwealth has little to gain by becoming a leader in electricity retail restructuring. The staff recommended, however, several steps Virginia can take in the meantime—some of which are contingent upon whether a decision is made to begin a transition to retail competition. Included were the following: (i) prices for all utility services should be unbundled for informational purposes; (ii) reserve margins for utilities should be scrutinized and studied; (iii) the range of energy services to be provided by utilities should be examined; (iv) utilities and high-cost, non-utility generators should be expected to renegotiate contracts at lower prices; and (v) policies on conservation and load management programs should be reviewed.

## Electricity Customers' View

Representatives of energy customers appeared before the joint subcommittee to furnish their views on electrical market restructuring, with particular emphasis on retail competition. The Alliance for Lower Electricity Rates Today (ALERT) is a coalition of industrial, business, and residential customers that favors moving forward expeditiously to retail competition. ALERT representatives advocated doing more in Virginia than merely monitoring and asserted that retail competition will result in significant electric customer savings.

The Committee for Fair Utility Rates, an association of 20 large industrial Virginia Power customers, told the joint subcommittee that the paramount issue is whether the Commonwealth will embrace retail competition or passively wait for Congress to enact federal legislation providing such choice. The committee favors a planned and measured transition to customer choice, including "hands on" experience with retail competition, study and development of rules for customer choice, and the implementation of customer choice when feasible.

The Virginia Citizens Consumer Council (VCCC) advocates residential rates that are as low as possible and that assure the reliable, safe delivery of electricity. However, a VCCC representative cautioned, residential customers are at great risk if electric utility restructuring is done poorly without safeguards

and protections. The VCCC suggested that goals for a restructured electric industry should include (i) restructuring and not cost shifting among customer classes, (ii) real price benefits for consumers, including affordable electricity bills for low-income customers, (iii) retaining price regulation of transmission and distribution to avoid anticompetitive behavior, and (iv) maximum public participation.

## Environmental Impacts

According to the Southern Environmental Law Center, the potential environmental impacts of restructuring are significant. If the electric utility industry is deregulated improperly, a center representative told the joint subcommittee, deregulation will increase the environmental damage caused by power production. Retail competition could, for example, create additional markets for older power plants, which enjoy an economic advantage because of depreciation and relaxed environmental standards.

Exemptions in the federal Clean Air Act for older plants allow those built prior to 1977 to emit two to ten times the level of key pollutants as similar new plants. If plants of this age are kept in service longer and run more frequently, there could be dramatic increases in air pollution. The center also advocates continued emphasis on utility investment in energy conservation and load management and expressed concerns that retail competition will result in utilities' focusing exclusively on short-term prices with less emphasis on energy efficiency.

## Natural Gas Industry

A representative of Washington Gas, a major natural gas distributor, told the subcommittee that competition will bring the benefits of greater choice and lower rates to electricity consumers in Virginia. However, he said, if electric utilities sell natural gas—as they are doing now—gas companies must be permitted to sell electricity. Washington Gas expressed its concern that the SCC staff's go-slow recommendations do not go far enough. Specifically, it is not enough to merely develop unbundled prices for generation, transmission, and distribution for informational purposes. Instead the company proposes that the General Assembly encourage the opening of the electricity market, at least on a pilot basis. Since electric utilities are already selling natural gas to end users, natural gas utilities should be afforded a reciprocal opportunity.

## Future Activities

The subcommittee decided to seek the General Assembly's approval to continue this study in 1997. In the meantime, it will convene its next meeting on November 15 in Charlottesville in conjunction with the Virginia State Corporation Commission's Electricity Forum examining electric utility restructuring.

The Honorable Jackson E. Reasor, Jr., *Chairman*  
Legislative Services contact: Arlen K. Bolstad





## **SJR 86/HJR 198**

### **Joint Subcommittee Studying Handicapped Parking**

*October 29, 1996, Richmond*

In its fourth meeting, the joint subcommittee considered the merits of extending handicapped parking privileges to the deaf and hard of hearing and to the visually handicapped. Following presentations on these topics, the subcommittee conducted a work session to consider legislative options to enhance enforcement and decrease abuse of handicapped parking laws.

#### **Visually Handicapped**

The commissioner of the Department for the Visually Handicapped testified that the majority of Virginians who are visually impaired are not interested in acquiring handicapped parking privileges. Currently, there are approximately 35,600 visually impaired citizens in Virginia, 13,395 of whom are legally blind, and 4,018 of whom are totally blind. Of this group, most feel that their visual impairment is unrelated to their ability to walk and that special parking privileges are therefore unnecessary. The commissioner further noted that most visually handicapped persons who are able to drive can adequately negotiate their way through parking lots and that those persons who are blind and cannot drive typically use their sighted driver to guide them through parking lots.

#### **Deaf and Hard of Hearing**

The director of the Department for the Deaf and Hard of Hearing testified that there are approximately 600,000 Virginians who are either deaf or hard of hearing and that no consensus has been reached on the issue of handicapped parking privileges. Generally, younger persons who are deaf or hard of hearing are opposed to handicapped parking privileges, stating that one's ability to hear in no way relates to one's ability to walk. Most older hearing-impaired persons are interested in obtaining handicapped parking privileges for safety reasons.

#### **Work Session**

##### **Penalties**

During its work session, the subcommittee began by addressing the penalty for illegally parking in a handicapped parking space. Several study members and citizens voiced support for a minimum fine of \$100 and a maximum fine of \$500. Others advocated a system of escalating fines similar to that currently used in Texas: first offense, \$100; second offense, \$200; third offense, \$300; and fourth and subsequent offense, \$400. Law-enforcement officers in attendance did point out, however, that difficulties in identifying the driver and tracking prior tickets could render an escalating fine system impractical.

The subcommittee also considered community service as a form of punishment for illegal handicapped parking, primarily as a means of educating the violator regarding the needs and obstacles faced by the disabled community. A representative of the Chesterfield Disability Services Board suggested that offenders be required to watch a videotape concerning the rights of the disabled, while others suggested the violator serve at a non-profit organization serving disabled persons. Although most members commented that community service would be effective an educational tool, many raised concerns about the manpower and costs associated with such a program.

While no final recommendation regarding the handicapped parking penalty was made, representatives from the disabled community, law enforcement, and study members all urged that a separate sign stating the penalty be attached to all handicapped parking signs for deterrent purposes. The chairman noted that one year would be a reasonable amount of time during which property owners would be required to comply with new sign requirements.

##### **Four Hour Law**

Much of the discussion during the work session focused on the "four hour law," which authorizes persons with vehicles bearing a disabled parking placard or license plate to park up to four hours in a time-restricted or metered space free of charge. Because concerns over this law have primarily been raised by representatives from urban areas, substantial support was voiced in favor of allowing local governments to modify or repeal the four hour law on a local-option basis. However, a representative of the Peninsula Disability Services Board urged members to increase the free parking period for the disabled to eight hours.

##### **Fraudulent Use**

Study members also considered the invalidation and re-issuance of disabled parking placards and plates to eliminate unauthorized users from the system as well as redesigning the placards and plates to prevent the alteration and fraudulent use of such indicia. No consensus was reached on these issues, but numerous speakers from the disabled community urged the subcommittee to recommend legislation invalidating all placards and license plates and requiring all persons to be re-certified as disabled by a physician before a new placard or plate is issued. They noted that re-certification by a physician rather than an administrative re-issuance would be the most effective method of weeding out unauthorized users.

##### **Next Meeting**

The subcommittee plans to meet again in late November and will continue its work session on legislative options to enhance enforcement and decrease abuse of handicapped parking laws. An opportunity for public comment will be provided to interested parties.

The Honorable Mary Margaret Whipple, *Chair*  
Legislative Services contact: Kenneth W. Gibson





**HJR 174****Commission Studying Creative Solutions for Funding for the Arts in the Commonwealth***October 8, 1996, November 7, 1996, Richmond*

Upon concluding its survey of potential revenue sources for funding the arts in Virginia, the commission examined legislation to establish a state arts endowment fund. An initial draft, circulated during October for public comment, provided funding for the endowment through discretionary direct appropriations, proceeds from revenue-sharing special license plates, and private donations. Local arts organizations, fearing that competition with the state endowment would jeopardize their survival, urged the commission to fund the endowment through public initiatives only. To address these concerns, the commission proposed a compromise to clarify that the endowment would not actively solicit private contributions.

**Lottery Proceeds for the Arts**

The commission concluded its examination of direct public funding initiatives for the arts by exploring the feasibility of earmarking lottery proceeds from a special arts scratch game. At the October meeting, the director of the Virginia State Lottery Department testified that adding another instant game for the arts would not automatically guarantee millions in additional revenue. She stated that the market for instant games had probably reached saturation, because the department had recently begun a new marketing strategy for those types of games in order to meet current revenue expectations. In September the department began adding two new scratch games per month, a substantial increase from the 6 to 8 games introduced last year. According to the Lottery Department, the only way to generate additional revenue is to reach a new market of players by either offering a different on-line game or operating a lottery game show. Aware that earmarking lottery proceeds in Virginia for noneducational purposes would be an unprecedented change in policy, the commission eliminated using lottery proceeds as a source of revenue for the arts.

**Arts Tax Credit**

For its November meeting, the commission requested the Virginia Tax Department to determine the fiscal impact of a proposal to create a tax credit for Virginia taxpayers who contribute to the arts, similar to a credit allowed by Idaho for charitable contributions to education. The Idaho statute allows a tax credit equal to 50 percent of the aggregate amount of educational charitable contributions. For individuals, the credit is limited to the lesser of 20 percent of the total tax liability or \$50. For corporations, the credit is limited to 10 percent of the total tax liability.

In preparing its analysis, the department assumed that the number of persons and corporations who would take advantage of the Virginia credit would be the same as those currently taking a similar tax deduction. Based on these figures, the department concluded that the Commonwealth could expect a \$3.5 million loss in revenue each year and incur first year administrative costs totaling \$120,000. A further unknown loss in revenue could be expected if additional taxpayers began to take advantage of the credit. In Idaho, officials could not verify whether the tax credit for education had increased the pool of contributors. Considering all these factors, the commission decided that this type of tax incentive did not offer any foreseeable advantages.

**Virginia Arts Endowment Fund**

Establishing an endowment has been a popular and creative solution for states eager to raise additional funds for the arts. As of September 1996, 12 states had authorized public endowments, including Arizona, Delaware, Missouri, Texas, and Utah. Aware that direct appropriations for the arts in Virginia often fluctuate according to the current economic conditions, the commission recommended two stabilizing courses of action. First, the commission recommended introducing a resolution to proclaim the General Assembly's commitment to funding the Virginia Commission of the Arts at a consistent \$1-per-capita level. Second, the commission recommended investing in the future of the arts by establishing a state endowment fund. An initial draft prepared and circulated during October contained provisions to:

- ▶ Fund the endowment through discretionary direct appropriations, proceeds from revenue-sharing special license plates, and private donations;
- ▶ Designate the Virginia Commission for the Arts as the beneficiary and administrator of the fund; and
- ▶ Prohibit the Virginia Commission for the Arts from using the annual interest and income for three years to enable the endowment to grow.

In response to comments and suggestions received on the initial draft, the commission will review a revised draft at its December 18th meeting that will:

- ▶ Revise the endowment proposal to provide protection against "raiding" of segregated funds by creating a foundation similar to the Virginia Historic Preservation Foundation;
- ▶ Designate the members of the Virginia Commission for the Arts to serve on the governing body of the foundation;
- ▶ Provide explicit prohibition against the foundation's soliciting funds in competition with nonprofit arts organizations in Virginia;
- ▶ Include as a revenue source an income tax checkoff; and
- ▶ Authorize the foundation to continue to explore possible dedicated revenue sources.

The Honorable Marian Van Landingham, *Chairman*  
Legislative Services contact: Ginny Edwards



**SJR 84****Commission on Federal Block Grant Programs***October 3, 1996, Herndon*

The Commission on Federal Block Grant Programs was established by the 1996 General Assembly to develop specific plans for implementing federal block grants, because Congress is considering the consolidation of various federal categorical programs into block grants to be administered by the states. The amount of block grant funding is likely to be less than the amount currently available under the categorical programs, and the roles of state and local governments are almost certain to change if benefits to program recipients are reduced.

**Virginia's Block Grants**

Staff from the Senate Finance and House Appropriations Committees noted that Virginia depends heavily on federal funding. Federal funds support one fifth (\$3 billion) of the annual state budget and two percent of local budgets. Federal funds for Virginia grew by \$1 billion in the last five years, largely due to federal mandates and the recession pressures of the early 1990s. Sixty-percent of the federal funds in the Virginia budget are concentrated in the health and human resources area in such programs as Medicaid, Aid to Families with Dependent Children (AFDC), rehabilitative services, job training, social services, mental health, mental retardation and substance abuse, and nutritional services.

Because block grants are seen with increasing frequency as a way of consolidating and reducing federal funding to the states, the current discussion is important to states and localities. Block grants are typically broader in scope and offer greater state flexibility than categorical grants, which tend to target specific areas. Block grants fix federal allocations, and, in contrast to open-ended reimbursement grants, funding is not tied to changes in beneficiary numbers. Perhaps most importantly, states are theoretically able to design programs that meet their needs and are required to spend less effort reporting to the federal government.

**History**

Block grants are not new. The first, an anti-crime measure, was enacted under President Lyndon Johnson, and President Nixon made block grants a major initiative. Most of his proposals were rejected by Congress, but two new block grants were ultimately created: manpower training and community development.

Congress enacted nine of President Reagan's 1981 block grant proposals, consolidating 50 categorical programs and imposing cuts amounting to 12 percent from the previous year. The

largest of the block grants enacted that year was the Social Services Block Grant, which did not consolidate programs but converted a categorical program into a block grant with a 25 percent reduction. Several more block grants have been created since 1981 for child care and development, job training, and transportation. Block grants now total 15, worth \$37 billion, a relatively small percentage of the nearly 600 categorical programs and \$229 billion in federal aid to state and local governments in 1995. Of the \$3.6 billion in federal aid that Virginia and its localities received in 1995, nearly \$700 million was in the form of block grants.

**Pros and Cons**

Block grants generally produce at least three potential benefits to state and local governments: (i) the ability to design and administer programs to meet local needs; (ii) streamlined processes for agency personnel and program recipients; and (iii) reduced administrative expenditures. States and localities have the opportunity to decide how they want the programs to look, and because state and local officials decide how to spend the money, they, not the federal government, are held accountable for results.

But block grants can also have potentially negative effects: the possibility of reduced flexibility and funding over time, penalties for failing to meet mandated requirements, and the possible shortage of funds during recessions. In addition, taking over management responsibilities from the federal government requires administrative changes in state and local systems. To determine if programs are effective, states need information; as a result, investment may be required in new automation systems and training for employees to track individual progress and outcomes.

The effects of creating block grants depend in part on what they replace. For example, inclusion of individual entitlements, such as AFDC, represents a new step. Expenditures for entitlement programs tend to track changes in the economy, growing rapidly during periods of recession or economic downturns. Historically, block grants have not kept pace with inflation. Only two of the nine 1981 block grants had real spending increases between 1983 and 1993; six fell 17 percent or more in real dollars. Moreover, block grants stimulate less state spending than uncapped matching grants because federal aid does not depend on the amount that the state spends. Matching grants, on the other hand, encourage states to spend, because one dollar of state money will leverage one dollar of federal money.

The effects also depend on how block grants are designed. Important considerations include:

1. Do they eliminate restrictions, add flexibility, and lower administrative costs through the consolidation of similar programs?
2. How much funding is initially reduced? and
3. What provisions are made to accommodate changes in the economy and population growth?

Many arguments have been made for and against block grants:

- ▶ **Flexibility.** States can shift funds according to local priorities, incur less paperwork, and presumably increase innovation and efficiency.
- ▶ **Effect on the federal budget.** Block grants reduce federal spending immediately and over the long term.
- ▶ **Effect on state budgets.** States receive less federal aid. If the federal reductions are large, even the increased flexibility is not likely to make up the difference. In addition, new information and system changes will almost certainly be required, and block grant funding tends to remain flat over time. Funding for nine block grants initiated in Virginia grew by 10 percent over a 10-year period, while inflation grew 44 percent.
- ▶ **Effect on meeting social needs.** There are fewer dollars, and if the reductions are large, administrative savings will not be enough to offset the difference.
- ▶ **Redistribution of federal funds.** Block grants may be distributed among states differently from existing programs. Federal funds now often depend on the level of spending by the state. Under one scenario, states that have expended relatively high levels of effort to provide services could lose significantly more than other states. Under another scenario, states such as Virginia that have spent conservatively could lose if a formula locks in current funding patterns.

## Public Law 104-193 (Welfare Reform)

On August 22, 1996, President Clinton signed into law HR 3734, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193). The director of the Human Services Committee for the National Conference of State Legislatures explained that the bill eliminates the individual entitlement program, AFDC, and creates a block grant (Temporary Assistance for Needy Families—TANF) for states to provide cash assistance to needy families. TANF replaces AFDC, state and local administration of AFDC and related programs, Emergency Assistance Act (EA), and the Job Opportunities and Basic Skills (JOBS) programs with capped federal funding through FY 2002. States must begin TANF by July 1, 1997, but can opt to begin sooner.

The executive director of Federal Funds Information for States (FFIS) noted that Virginia's basic family assistance grant (\$158 million) will actually be greater in the early years of implementation than if welfare reform had not been passed. Although the basic grant is capped and frozen for six years, Virginia will be eligible for supplemental and contingency fund grants, loans, and bonus awards under certain conditions.

The law also consolidates all federal funding for child care under the Child Care and Development Block Grant (CCDBG). Again, Virginia will receive more federal funding (\$57.3 million), than it would have received without welfare reform. Other changes are made to the food stamp program, Supplemental

Security Income (SSI) for children, benefits for legal immigrants and the Child Support Enforcement program. It also modifies the child nutrition programs and reduces the Social Services Block Grant. Congress estimates that the law will save approximately \$54.5 billion over six years, principally due to changes in the food stamp program and reductions in benefits for legal immigrants.

### Food Stamps

The food stamp program continues as an open-ended individual entitlement, but able-bodied recipients age 18-50 with no dependents are ineligible for food stamps unless they meet a new work requirement. These individuals may receive food stamp benefits for only three months in every 36-month period unless they are participating in work or work programs.

### Immigrants

Current and future legal immigrants are barred from receiving SSI and food stamps until they become citizens. Virginia will have the option to determine eligibility of current legal immigrants for federal cash assistance under TANF and Medicaid and for services under the Social Services Block Grant. Current recipients may receive benefits until January 1, 1997; Virginia may opt to provide or deny services thereafter. Immigrants who arrive after enactment are first subject to a five-year bar on federal benefits, after which Virginia may provide or deny services.

### Decisions

Passage of this legislation limits the federal budgetary exposure but leaves Virginia with some fundamental decisions about its programs. TANF eliminates the state matching requirements and, therefore, changes the financial incentives built into the current system. Under the open-ended matching grant structure of the former AFDC, Virginia had an incentive to expand programs because the federal government picked up a large share of the additional costs. Under the block grant, federal payments are fixed and Virginia will retain 100 percent of any savings generated.

Over the long term, Virginia and the other states will need to focus on designing a system that will meet the needs of families in the context of less federal funding. Because case loads have been generally declining, Virginia will have a small cushion at the beginning of implementation relative to what would have been received without welfare reform.

### State Plans

The Secretary of Health and Human Resources told the commission that the administration plans to continue the Virginia welfare reform program (Virginia Independence Program and the Virginia Initiative for Employment Not Welfare, VIP-VIEW), making only those changes that are required by the TANF block grant. The secretary also plans to establish an

advisory group to recommend amendments and regulation and policy changes.

The commission also heard from local government representatives, who agreed that Virginia should continue the VIP-VIEW programs and should include local officials and other constituents in planning, because localities will be particularly affected by changes in benefits for legal immigrants and the food stamp program. Among their specific recommendations:

- ▶ The state should ensure adequate funding at the local level for the new administrative responsibilities;
- ▶ Virginia should maintain its effort to support child care for low income persons; and
- ▶ Legal immigrants should continue to receive TANF, Social Services Block Grant, and Medicaid benefits where permitted.

## Next Meeting

The commission will next meet in December, when the Secretary of Health and Human Resources will list the specific actions that will be required in the 1997 Session of the General Assembly.

The Honorable Joseph V. Gartlan, Jr., *Chief Patron*  
Legislative Services contact: Nancy L. Roberts



## HJR 168

### Commission Studying Accountability for Educational Excellence

*October 16, 1996, Richmond*

Education reform and the adoption of accountability initiatives received primary focus at the commission's second meeting. A former member of the State Board of Education and current member of the HJR 196 Commission on the Future of Public Education cited Virginia's educational standards as among the best in the country. New assessments, geared to the new standards, will be used in spring 1997, with full implementation expected in spring 1998.

### Incentives

Incentives for improved educational performance were cited as the "missing ingredient" in the Commonwealth's education reform efforts. As with any other profit or nonprofit organization, in addition to standards and assessments, rewards or consequences (incentives) are necessary to "align the interests of

the organization with the interests of the persons working there." Despite the imposition of standards and assessment, decreased class size, more stringent teacher qualifications and increased spending to address technology and disparities, student outcome scores have shown little improvement in recent years.

### Students

The introduction of the Literacy Passport Test (LPT) as a potential barrier to graduation in 1996, however, may have prompted improved test performance, as only 100 of the 1,105 rising seniors who had previously failed to pass all three parts of the LPT were denied graduation. The imposition of similar barriers at the fifth and eighth grade levels—to coincide with proposed scheduled assessments—was noted as a way to eliminate "social promotions."

Other incentives for improved educational performance might include mandatory remediation for at-risk elementary and middle school children, alternative schools for pupils who have been held back, additional instruction for slower pupils or those who lack a strong supportive environment, "no pass, no play" initiatives, and driver's license revocation for poor academic performance. More positive incentives might include scholarships for postsecondary education; early graduation; and recognition of high academic achievement through summer jobs or scholarships.

### Teachers and Administrators

School incentive programs might be implemented to reward teachers and administrators in high-performing schools with meaningful bonuses, provide technical or financial assistance to low-performing schools, and, ultimately, re-accreditation or certification of those schools that consistently fail to improve. Objective criteria, such as dropout rates and test scores, might be used to create individual "benchmarks" for each school; a school would compete only with itself, rather than with other schools in the division or in the state. Teacher bonuses would encourage cooperation among staff. Principals might receive larger bonuses, possibly scaled to reflect school size. While a designated portion of any cash award would fund staff bonuses, the balance would support improvements to the school. Over 20 states have some sort of incentive program for teachers.

### Consequences

Negative incentives or consequences for schools and staff might include state takeovers of poor-performing schools. Consequences for poor performance might incorporate an interim step of creating a school improvement plan, supplemented by state technical assistance. Continued failure to show improvement would result in removal of the principal and possible re-assignment of teachers by a new principal. Also noted was requiring all currently licensed teachers to meet the standards required of new teachers.

## Accountability

Recognizing an increasing gap between what students are learning in school and what is necessary to succeed in the current work place, some states have explored accountability programs incorporating declarations of "academic bankruptcy," "earned" charter schools, and the WorkKeys model, an initiative that matches required job skills with curriculum needs. In Colorado, new academic standards are being matched to the WorkKeys model to help ensure that the new curriculum will effectively prepare students for the work place.

If employability is the "ultimate" accountability measure for public education, the business community should be involved in the development of educational standards to enhance the link between learning and practical, work place application. Various curriculum specialists have noted that American schools teach students effectively in analysis, synthesis, and evaluation in certain high-level instructional areas; however, Asian and European educational models focus more on practical application of knowledge. Although the United States has more content requirements in its educational system than any other industrialized nation, its students function much lower in the ability to apply that content outside the classroom.

## SOL Testing

A representative from the Department of Education reported on the creation of tests reflecting the new Standards of Learning (SOL) and for the norm-referenced part of the new testing program, which will compare the academic performance of Virginia students to national norms. The SOL tests will be administered in spring 1997 and will be operational in spring 1998, with public reporting of test results following this second test administration. The norm-referenced tests will also be administered in spring 1997.

Contingent upon available funding, the testing may ultimately include separate tests for world history and geography; a direct writing assessment for grade five; separate tests for U.S. history, Algebra II, and chemistry at grade 11; norm-referenced tests in science and history at the four grade levels; and additional public information materials and other test security and technical options. Briefly noted was the need to accommodate earlier testing for those students taking algebra at an earlier grade level.

As part of its ongoing review of the Standards of Accreditation, the Board of Education conducted seven public hearings across the Commonwealth in August 1996. The results of 320 surveys collected from these preliminary hearings were reported in the October 1996 issue of the *Legislative Record* (pages 3-4).

## Remedial Programs

Accountability for remediation and the data collected on behalf of the Joint Subcommittee Studying Remedial Summer

School (HJR 84) was reviewed. Standard 1 of the Standards of Quality (SOQ) requires school divisions to "develop and implement programs of prevention, intervention, and remediation" for students whose scores are in the bottom quartile on the Virginia State Assessment Program tests or who do not pass the LPT. The SOQ also indicate that state funding is to be provided to support certain full-time equivalent instructional positions for remedial programs. In 1996-97, a state appropriation of \$9.5 million will support remedial summer school. The number of students participating in remedial summer school has increased 64 percent since 1990, an average annual rate of 10.7 percent. These remedial summer school programs are tuition-free and non-credit bearing; they do not include, for example, programs for high school seniors repeating a class needed for graduation credit or summer enrichment programs.

Remediation during the school year is also cited in the SOQ; \$32.3 million in state funding is earmarked for this initiative in 1996-97. The state payment is based on nine instructional positions per 1,000 students scoring in the bottom quartile on the Virginia State Assessment Program or failing the LPT. The 121 school divisions operating remedial summer school programs in summer 1995 served 51,568 students, 85 percent of whom were in grades K through seven.

## Next Meeting

The commission will meet in Richmond on December 9, 1996.

The Honorable Donald S. Beyer, Jr., *Chairman*  
Legislative Services contact: Kathleen G. Harris



## HJR 55/SJR 36

### Joint Subcommittee Studying the Creation of an Insurance Fraud Bureau

October 22, 1996 Richmond

The subcommittee continued studying in detail the proposed creation of an insurance fraud division and the definition of insurance fraud. Interested parties, including the Bureau of Insurance, the Virginia Trial Lawyers Association, and insurance industry representatives, submitted comments in response to a proposal presented at the second meeting. While many questions remain, there was consensus that future proposals should include insurance fraud as a defined crime. All interested parties also agreed to define the crime of insurance fraud in a manner that is applicable to fraudulent insurance acts committed by insurance companies and their agents as well as to acts committed by policyholders and others defrauding insurance companies.

Questions remain about the details associated with forming a fraud division within the Bureau of Insurance. The State Corporation Commission (SCC), in a letter to the subcommittee, opposed the creation of a fraud division, stating that such a unit is duplicative of existing law enforcement and that the SCC lacks the resources to design, train, and operate a police force. Other parties questioned the extent of the police powers that the proposal would grant investigators. Provisions describing immunity, subpoena powers, and confidentiality also remain contested issues.

While the insurance industry supports the creation of a statute that specifically defines insurance fraud as a crime, there is no consensus surrounding responsibility for funding the insurance fraud division. To date, all proposals for operating a fraud division require the collection of assessments against insurance companies that write policies in the Commonwealth. Representatives of life and health insurance companies have expressed concern about paying assessments for the fraud division, because they feel a majority of the investigations will focus on fraud involving property and casualty insurance. Despite the lack of agreement regarding funding, property and casualty insurance representatives continue to assert support for a fraud division, even if property and casualty companies ultimately fund the division by themselves.

The chairman instructed staff to consult with interested parties and to prepare and circulate a draft before the final meeting of the subcommittee, to be held November 26 in Richmond.

The Honorable George H. Heilig, Jr., *Chairman*  
Legislative Services contact: Robert Omberg



## Joint Rules Committee

*October 28, 1996, Richmond*

What do members of the General Assembly really think about the legislative process? The results of a recent survey presented to the Joint Rules Committee showed that members are generally satisfied with the way the legislative process is working but would like to improve certain procedures to help them manage their time and informational needs. A closer examination of these procedures is now on the agenda of the Joint Rules Committee, and changes affecting the 1997 Session could be adopted at the committee's next meeting on December 10th.

### Background

During the 1996 session, the Joint Rules Committee agreed to undertake a comprehensive study of the legislative process. The first phase of the study was conducted during the spring by the management team of the Division of Legislative Services,

who interviewed approximately 50 legislators, legislative and executive staff, lobbyists, and representatives from the media to record their thoughts on the legislative process and to identify improvements to strengthen the operations of the legislative branch. Information obtained from these interviews was used to develop a survey, which was sent to all the members of the General Assembly last summer. Questions on the survey were designed to determine the level of interest in modifying certain procedures and practices regarding the use of technology, the introduction of legislation, committee and subcommittee activities, floor activities, conference committees, interim studies, the reconvened session, and facilities. Ninety-four responses were received and tabulated, and these results are currently available from the division.

The purpose of the October meeting was two-fold. First, the committee reviewed the results of the survey to see which questions and topics generated the greatest interest among the members. Second, the committee used the survey results to develop a short-term plan for recommending changes for the 1997 and 1998 Sessions and a long-term agenda for recommending changes after the 1998 Session. For the December 10th meeting, the committee asked staff to determine which items could be addressed for the 1997 Session and to develop options for implementing changes to the current procedures.

### Short-Term Agenda

- ▶ Explore ways to increase the number of prefiled bills without placing restrictions on the number of bills a member may introduce.
- ▶ Examine the feasibility of decreasing the number of printed substitutes by using line amendments to incorporate less complicated bill changes.
- ▶ Assess the advantages and disadvantages of including a summary on each printed bill for informational purposes only. Legislation would probably be necessary to clarify that the summary could not be used to infer legislative intent.
- ▶ Review the current process of reporting identical bills by some standing committees and determine how to deter the practice or provide for the recognition of multiple chief patrons on the merged bill.
- ▶ Determine whether bill summaries on the Legislative Information System (LIS) can be updated at certain intervals. Beginning in 1997, summaries can be updated following cross-over.
- ▶ Determine whether the first-day-introduction categories should be expanded to include bills from permanent legislative commissions, judicial agencies, independent agencies, and legislative agencies.
- ▶ Explore ways of reducing the ever-increasing numbers of routine, "form-type" bills. This category of bills could include real property tax exemptions, retail sales tax exemptions, and possibly special automobile license plate and "certificate of need" legislation.
- ▶ Examine current policies used to avoid the duplication of legislation, at the introduction stage, and determine whether those policies need to be modified.

- ▶ Determine whether additional information and time can be made available to members, for consideration of conference committee reports, prior to a final vote.

## Long-Term Agenda

- ▶ Explore increasing the use of technology and electronic forms of communication in the legislative process (for example, adding computers on the chamber desks and expanding uses of e-mail).
- ▶ Explore ways of communicating to a member the Governor's amendments to his/her bill prior to the Reconvened Session.
- ▶ Determine if there are too many studies and whether reserving studies for complex issues and involving standing committees in the study process are appropriate ways to reduce their number.
- ▶ Review the present system for preparing fiscal impact statements and determine whether the process is addressing its intended purposes.
- ▶ Examine the first two weeks of the legislative session and determine whether this time could be used more effectively.
- ▶ Examine the various permanent study commissions not subject to sunset to determine if they are needed.

The Honorable Thomas W. Moss, Jr., *Chairman*  
Legislative Services contact: Ginny Edwards



## HJR 81

### Joint Subcommittee Studying the Availability of Dental Hygienists

November 18, 1996, Richmond

The second meeting of the joint subcommittee followed by about a month a series of four public hearings convened to solicit comment from dentists, dental hygienists, and other interested individuals concerning the real or perceived shortage of dental hygienists in Virginia. The November meeting was devoted primarily to the outcome of those public hearings and to consideration of a draft report prepared and distributed to subcommittee members in advance of the meeting.

### Public Hearings

The four public hearings, in Annandale, Norfolk, Danville, and Harrisonburg, were well attended. Dentists and dental hygienists took advantage of the opportunity to speak to subcommittee members in impressive numbers, with the Annandale hearing drawing over 80 people and two dozen speakers and the Harrisonburg hearing drawing over 100 individuals and a like number of speakers.

Although speakers addressed many ancillary issues, some of them outside the purview of the joint subcommittee, most commentary was addressed to whether or not a shortage of dental hygienists exists and, if so, what to do about it. Unsurprisingly, dentists and hygienists had somewhat differing views on the issue, with dentists nearly universal in their opinions that a shortage exists and that it is critical in some areas of the Commonwealth. Dental hygienists, on the other hand, were dubious, suggesting that market forces (supply and demand) are at work and that the dentists' desire to see more hygienists was at least partially due to their unwillingness to pay the going rate.

Regional differences, while not marked, were present. In some areas (e.g., the Valley and Southside), testimony suggested strongly that a shortage exists. In more urban areas (e.g., Northern Virginia and Tidewater), the shortage seems more acute on the fringes, in Fredericksburg and Suffolk, for example. This situation may be partially explained by the willingness of hygienists to commute a relatively short distance to command the higher salaries available in Northern Virginia and Tidewater, leaving the fringe areas underserved.

### Draft Report

Subcommittee staff drafted and circulated a report in advance of the meeting. Following the reports on and discussion of the public hearings, members turned their attention to the report and made several revisions. Among the recommendations in the revised report:

- ▶ *Improve job-search networks.* The subcommittee encourages the Virginia Dental Association and the Virginia Dental Hygienists Association to work together to improve communication concerning job openings and qualified applicants.
- ▶ *Provide educational opportunities where the need is greatest.* The subcommittee recommends the establishing and funding of community-college-based "distance learning" pilot programs to provide dental hygiene training in areas not currently served (e.g., Danville), with the important caveat that any expansion of dental hygiene training not come at the expense of educational standards.
- ▶ *Encourage non-working hygienists to resume their careers.* The subcommittee recommends that a survey of non-working hygienists be undertaken to determine what incentives might be offered to induce them to re-enter the work force.
- ▶ *Expand existing training programs to "non-traditional" students.* The subcommittee urges the current training programs in Virginia to consider "non-traditional" programs (evening hours, for example) to provide more training capacity at minimal additional expense.

The subcommittee decided that, absent any objection following further individual consideration of the report, the draft report would become final and be submitted to the Governor and 1997 General Assembly.

The Honorable John J. Davies III, *Chairman*  
Legislative Services contact: Lyn Hammond





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**E.M. Miller, Jr.: Director**  
**R.J. Austin: Manager, Special Projects**  
**K.C. Patterson: Editor**  
**James A. Hall: Designer**

FOR SUBSCRIPTION INFORMATION, CONTACT:  
**Special Projects**  
**Division of Legislative Services**  
**910 Capitol Street, 2nd Floor**  
**Richmond, Virginia 23219**  
**(804) 786-3591**





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# GENERAL NOTICES/ERRATA

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## Symbol Key

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

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## GOVERNOR'S COMMISSION ON ENVIRONMENTAL STEWARDSHIP

### † Notice

The Governor's Commission on Environmental Stewardship will meet to present its final report on December 18, 1996, at 10 a.m. in House Room C, General Assembly Building, Capitol Square, Richmond, Virginia.

The commission is charged with examining Virginia's environmental programs and policies and making recommendations to improve the stewardship of Virginia's rich natural heritage. The commission is also specially charged by the Governor to study ways to foster growth of the environmental technologies industry in Virginia.

The commission is specifically directed to:

Examine Virginia's laws and policies related to pollution prevention, compliance and enforcement, and make appropriate findings and recommendations regarding strategies for improvement;

Evaluate and provide recommendations for enhancing the awareness, understanding, commitment, and active involvement of Virginia citizens in ensuring wise stewardship of the Commonwealth's natural resources, now and in the future, through education, volunteerism, public/private partnerships, and incentive programs;

Evaluate Virginia's laws, programs, and policies relating to conservation, recreation, parks, natural areas, open spaces, private property protection, and wildlife management, and make appropriate findings and recommendations for improvement;

Examine the development of advanced environmental technologies in Virginia, and make recommendations for fostering growth of the environmental technologies industry in Virginia, including development of markets and promotion of the use of such advanced environmental technologies in Virginia and regionally, nationally, and internationally;

Evaluate the laws, programs, and policies of the Commonwealth regarding waste management, litter control and recycling, and make appropriate findings and recommendations regarding strategies for improvement; and

Examine the role of citizen boards in the development, implementation and oversight of policies affecting natural resource conservation, environmental quality, and economic development, and make appropriate findings and recommendations for improvement.

The distinguished Virginians who comprise the commission have been selected broadly to represent the many constituencies, disciplines, interests and outlooks on

environmental matters, and to provide expertise to assist the commission in evaluating proposals and reaching consensus on environmental goals and strategies for the 21st century. The commission has also conducted public meetings and site visits throughout the Commonwealth, including Richmond, Salem, Hopewell, Gloucester, Augusta County, Fauquier County, Arlington, Abingdon, Herndon, and Virginia Beach. The commission has received presentations and comment, oral and written, from persons in the business and academic communities, environmental and civic organizations, volunteer groups, federal, state and local governments, and concerned citizens.

The commission's activities are reported on its Internet homepage at [www.state.va.us/~greenva/gces.htm](http://www.state.va.us/~greenva/gces.htm).

**Contacts:** David Nutter, Staff Director, Office of the Secretary of Natural Resources, 202 N. Ninth St., 7th Floor, Richmond, VA 23219, telephone (804) 786-0044, FAX (804) 371-8333, or Carl Josephson, Assistant Attorney General, Office of the Attorney General, 900 E. Main St., Richmond, VA 23219, telephone (804) 786-2444 or FAX (804) 786-0034.

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

### Public Notice of Changes in Statewide Methods and Standards for Setting Payment Rates

In accordance with the public notice requirements of 42 CFR 447.205, the Department of Medical Assistance Services hereby gives notice of an upcoming change in the methodology for establishing reimbursement rates for specialized care services.

Chapter 916 of the 1996 Virginia Acts of Assembly, in Item 332(D)(2), requires DMAS to conduct a study of the Specialized Care program and develop rates for specialized care services. Upon conclusion of the study, DMAS is directed to implement the rates as determined in the study. The General Assembly adjusted DMAS' appropriations for the 1996-1998 biennium to account for the savings anticipated from the implementation of the new rate methodology.

The report presents DMAS' recommendations for a collection of changes in the Specialized Care program. These recommendations include changes in specialized care categories and payment methodologies, and clarifications and changes in specialized care resident and provider criteria. These emergency regulations only address the recommendations for changes in specialized care categories and payment methodologies. Recommendations for changes in specialized care resident and provider criteria will be proposed through a separate policy and regulatory package.

Two recommended changes in the Specialized Care program are addressed by these emergency regulations.

First, DMAS recommends the elimination of the AIDS Care category. During site visits with specialized care providers, administrators and staff noted that their facilities serve very few people with AIDS (PWAs). The small number of PWAs who are served by specialized care providers typically qualify for the Complex Health Care category rather than for the AIDS Care category. In all of Virginia's nursing facilities that provide specialized care services, less than one percent of specialized care stays for both Fiscal Years 1995 and 1996 were for the AIDS Care category. In accordance with this recommendation, PWAs that qualify will be served within the Complex Health Care Category.

Second, DMAS recommends the elimination of the current fixed per diem rate reimbursement structure for all categories of specialized care. The existing structure will be replaced by a prospective reimbursement system with final cost settlement. This methodology is similar to that applied to regular nursing facility services under the current nursing home payment system. The new reimbursement system will determine a specific rate for each specialized care provider. Prospective ceilings will be the weighted average (weighted by days) of specialized care rates presently in effect, net of a statewide average amount based on audited 1994 cost data for capital and ancillary costs that have been adjusted for inflation. A separate ceiling and separate rates would be used for qualifying distinct part pediatric units.

The proposed payment methodology will have the following major differences from the current Nursing Home Payment System (NHPS) for regular nursing facility services. First, ancillary costs will be paid on a pass-through basis. Second, the operating ceiling will be adjusted by nine geographical areas, instead of the three areas used in the current NHPS. Third, the nursing cost component will be adjusted using the Resource Utilization Groups, Version III (RUGS-III) nursing-only index score, instead of the existing Patient Intensity Rating System (PIRS) scoring system.

During FY 1996, specialized care services were provided by 41 nursing facilities to 579 Medicaid recipients, and accounted for approximately \$21.6 million in expenditures. Most recipients are served under the Complex Health Care category, which accounted for 67% of all specialized care stays during FY 1996. The program demonstrated sharp growth in recipient utilization, provider participation, and expenditures between Fiscal Years 1993 and 1995, although the rate of growth slowed considerably in FY 1996.

Expenditures for the program are unevenly distributed among the participating facilities. For FY 1996, three of the 41 participating facilities accounted for one-third of the program expenditures. Specialized care also represents one of the most expensive services provided by Medicaid on a per-individual basis. Residents with continuous specialized care stays account for annual expenditures of nearly \$150,000 per resident.

It is estimated that implementation of the reimbursement changes will result in \$5 to \$6 million (total funds) savings in calendar year 1997 (the first full year of implementation). This estimate is very approximate because the case mix and service volume data necessary for an accurate estimate is not yet available. Changes in provider billing practices that are necessary to bring the program into compliance with

federal requirements were implemented August 1, 1996. It is estimated that these changes may yield another \$2 to \$3 million (total funds) savings per year. Therefore, the combined estimated savings, based on data currently available, is \$7 to \$9 million per year (total funds). This estimate is very tentative and will be verified before January 1997.

Copies of the emergency regulation may be obtained from Victoria P. Simmons or Roberta J. Jonas at the Department of Medical Assistance Services, 600 E. Broad Street, Suite 1300., Richmond, Virginia 23219, telephone (804) 371-8850. Public comments regarding this notice may be submitted to George Stukenborg. No public hearings are planned at this time.

### STATE WATER CONTROL BOARD

#### Enforcement Action

#### Proposed Special Consent Order Amendment South Central Wastewater Authority

The State Water Control Board proposes to issue a Consent Special Order Amendment to the South Central Wastewater Authority located in Petersburg, Virginia. The proposed amendment addresses the completion of the upgrade and expansion of the wastewater treatment plant. The order provides for the schedule for completion of the upgrade and expansion to be extended from September 1, 1996, to December 31, 1996, due to contract delays.

On behalf of the State Water Control Board, the Department of Environmental Quality will receive written comments until December 26, 1996, relating to the proposed Consent Special Order Amendment. Comments should be addressed to Cynthia Akers, Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia 23060-6295. A copy of the Order may be obtained in person or by mail from the above office.

### VIRGINIA CODE COMMISSION

#### Notice to State Agencies

**Mailing Address:** Our mailing address is: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219. You may FAX in your notice; however, we ask that you FAX two copies and do not follow up with a mailed copy. Our FAX number is: (804) 692-0625.

#### Forms for Filing Material on Dates for Publication in *The Virginia Register of Regulations*

All agencies are required to use the appropriate forms when furnishing material and dates for publication in *The Virginia Register of Regulations*. The forms are supplied by the office of the Registrar of Regulations. If you do not have any forms or you need additional forms, please contact: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.

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## General Notices/Errata

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### FORMS:

NOTICE of INTENDED REGULATORY ACTION - RR01  
NOTICE of COMMENT PERIOD - RR02  
PROPOSED (Transmittal Sheet) - RR03  
FINAL (Transmittal Sheet) - RR04  
EMERGENCY (Transmittal Sheet) - RR05  
NOTICE of MEETING - RR06  
AGENCY RESPONSE TO LEGISLATIVE OBJECTIONS  
- RR08

## ERRATA

### BOARD FOR ASBESTOS LICENSING AND LEAD CERTIFICATION

Title of Regulation: 18 VAC 15-30-10 et seq. Virginia Lead-Based Paint Activities Regulations.

Publication: 13:2 VA.R. 109-136 October 14, 1996

Corrections to Final Regulation:

Page 109, 18 VAC 15-30-20, definition of "Abatement," line 2 after "with" insert "standards proposed by"

Page 109, 18 VAC 15-30-20, definition of "Abatement," line 3 after "Agency" delete "standards"

Page 110, 18 VAC 15-30-20, definition of "Component or building component," lines 5 through 11, change semicolons to commas

Page 110, 18 VAC 15-30-20, definition of "Component or building component," line 9, change "windows and trim, including sashes, window heads, jambs, sills, and stools" to "windows and trim (including sashes, window heads, jambs, sills, and stools)"

Page 115, 18 VAC 15-30-170 B 2, line 2 after "EPA" insert "proposed"

Page 115, 18 VAC 15-30-190 B 2, line 2 after "EPA" insert "proposed"

Page 115, 18 VAC 15-30-210 B 2, line 3 after "EPA" insert "proposed"

Page 116, 18 VAC 15-30-230 B 2, line 3 after "EPA" insert "proposed"

Page 121, 18 VAC 15-30-560, subdivision 1, line 2 after "unit" insert "or within every unit"

Page 124, 18 VAC 15-30-660, subdivision 3a, line 4 change "redemption" to "remediation"

Page 124, 18 VAC 15-30-680 A 5, line 3 after "components" insert "or both"

### STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

Title of Regulation: 8 VAC 40-120-10 et seq. Guidelines for Determining Domicile and Eligibility for In-State Tuition.

Publication: 12:24 VA.R. 3218-3233 August 19, 1996.

Corrections to Final Regulation:

Page 3223, column 2, 8 VAC 40-120-70 B 2, line 7, change "(i) through (vi)" to "(a) through (f)"; line 9 change "(vii)" to "(g)"

# CALENDAR OF EVENTS

## Symbol Key

- † Indicates entries since last publication of the *Virginia Register*
- ♿ Location accessible to handicapped
- ☎ Telecommunications Device for Deaf (TDD)/Voice Designation

## NOTICE

Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and the *Virginia Register* deadline may preclude a notice of such cancellation.

For additional information on open meetings and public hearings held by the Standing Committees of the Legislature during the interim, please call Legislative Information at (804) 786-6530.

VIRGINIA CODE COMMISSION

## EXECUTIVE

### BOARD FOR ACCOUNTANCY

**December 12, 1996 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, 4th Floor, Richmond, Virginia.♿  
(Interpreter for the deaf provided upon request)

A work session of the three-member Regulatory Review Committee to conduct regulatory review. No other business will be discussed at this meeting. All meetings are subject to cancellation. Call the board office 24 hours in advance of the scheduled meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

**Contact:** Nancy Taylor Feldman, Assistant Director, Board for Accountancy, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-2474 or (804) 367-9753/TDD ☎

**January 6, 1997 - 10 a.m.** -- Open Meeting  
Germanna Community College, 2130 Germanna Highway,  
Room 100, Locust Grove, Virginia.♿ (Interpreter for the deaf provided upon request)

A meeting of the board's Executive Committee to discuss (i) RFP Specifications (Executive Session); (ii) Regulatory Review Committee report; (iii) 1997 legislation preparation; and (iv) other business needing action by the committee. This is a work session for the committee which consists of two board members and staff. All meetings are subject to cancellation. Call the board office 24 hours in advance of the scheduled meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

**Contact:** Nancy Taylor Feldman, Assistant Director, Board for Accountancy, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-2474 or (804) 367-9753/TDD ☎

† **January 21, 1997 - 10 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, 4th Floor, Richmond, Virginia.♿  
(Interpreter for the deaf provided upon request)

A meeting to discuss regulatory review, committee reports, disciplinary cases, and other matters requiring board action. A public comment period will be held at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the board at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

**Contact:** Nancy Taylor Feldman, Assistant Director, Board for Accountancy, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-2474 or (804) 367-9753/TDD ☎

### GOVERNOR'S ADVISORY BOARD ON AGING

† **January 20, 1997 - 6 p.m.** -- Open Meeting  
† **January 21, 1997 - 8 a.m.** -- Open Meeting  
Department for the Aging, 700 East Franklin Street, 10th  
Floor, Richmond, Virginia.♿ (Interpreter for the deaf provided upon request)

A meeting to conduct board business.

**Contact:** Kimlah Hyatt, Staff to the Board, Department for the Aging, 700 E. Franklin St., 10th Floor, Richmond, VA 23219-2327, telephone (804) 225-2801, FAX (804) 371-8381, toll-free 1-800-552-3402, or (804) 225-2271/TDD ☎

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# Calendar of Events

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## DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

**December 11, 1996 - 9 a.m. -- Open Meeting**

Department of Agriculture and Consumer Services, Washington Building, 1100 Bank Street, 2nd Floor Board Room, Richmond, Virginia.

A regular 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 accommodations 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, Secretary, Board of Agriculture and Consumer Services, P.O. Box 1163, Suite 211, Richmond, VA 23218, telephone (804) 786-3535.

## Virginia Corn Board

**December 11, 1996 - 9 a.m. -- Open Meeting**

Sheraton Inn, 4700 South Laburnum Avenue, Richmond, Virginia.

The board will conduct business in the areas of research, education and promotion of the Virginia corn industries. 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 accommodations in order to participate at the meeting should contact Phil Hickman at least five days before the meeting date so that suitable arrangements can be made.

**Contact:** Phil Hickman, Program Director, Virginia Corn Board, 1100 Bank St., Room 1005, Richmond, VA 23231, telephone (804) 371-6157 or FAX (804) 371-7786.

## Virginia Irish Potato Board

**December 9, 1996 -1 p.m. -- Open Meeting**

Captain's Deck Restaurant, 7120 Lankford Highway, Nassawadox, Virginia.

A meeting to discuss programs (promotion, research and education), the annual budget, and 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 accommodations in order to participate at the meeting should contact J. William Mapp at least five days before the meeting date so that suitable arrangements can be made.

**Contact:** J. William Mapp, Program Director, P.O. Box 26, Onley, VA 23418, telephone (804) 787-5867 or FAX (804) 787-1041.

## Pesticide Control Board

**† January 15, 1997 - 1 p.m. -- Open Meeting**

**† January 16, 1997 - 9 a.m. -- Open Meeting**

Washington Building, 1100 Bank Street, Board Room, Room 204, Richmond, Virginia.

Committee meetings and a general business meeting. Portions of the meetings may be held in closed session pursuant to § 2.1-344 of the Code of Virginia. The public will have an opportunity to comment on any matter not on the board's agenda beginning at 1 p.m. on January 15. Any person who needs any accommodations in order to participate at the meeting should contact Dr. Marvin A. Lawson at least 10 days before the meeting date so that suitable arrangements can be made.

**Contact:** Dr. Marvin A. Lawson, Program Manager, Office of Pesticide Services, Department of Agriculture and Consumer Services, 1100 Bank St., Room 401, P.O. Box 1163, Richmond, VA 23218, telephone (804) 371-6558.

## Virginia Soybean Board

**December 9, 1996 - 10 a.m. -- Open Meeting**

Hotel Colonial America, 6483 Richmond Road, Williamsburg, Virginia.

A meeting to discuss the progress of the board's research, education and promotion projects. The board will review nominations for both internal and external positions. 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 accommodations in order to participate at the meeting should contact Phil Hickman at least five days before the meeting date so that suitable arrangements can be made.

**Contact:** Phil Hickman, Program Director, Virginia Soybean Board, 1100 Bank St., Suite 1005, Richmond, VA 23219, telephone (804) 371-6157 or FAX (804) 371-7786.

## Virginia Sweet Potato Board

**† December 19, 1996 - 6 p.m. -- Open Meeting**

Little Italy Restaurant, 10227 Rogers Drive, Nassawadox, Virginia.

A meeting to include discussion of (i) programs regarding promotion, research and education, (ii) the annual budget, and (iii) 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 accommodations in order to participate at the meeting should contact J. William Mapp at least five days before the meeting date so that suitable arrangements can be made.

**Contact:** J. William Mapp, Program Director, Virginia Sweet Potato Board, P.O. Box 26, Onley, VA 23418, telephone (757) 787-5867.

## STATE AIR POLLUTION CONTROL BOARD

**December 31, 1996** -- Public comments may be submitted until 4:30 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Air Pollution Control Board intends to amend regulations entitled: **9 VAC 5-20-10 et seq. Regulations for the Control and Abatement of Air Pollution: General Provisions.** 9 VAC 5-20-21 lists documents that are incorporated by reference into the Regulations for the Control and Abatement of Air Pollution. In addition to federal documents (which include portions of the Code of Federal Regulations as listed in Rules 5-5 and 6-1), a number of technical documents are listed. These documents include materials from the American Society for Testing and Materials, the American Petroleum Institute, and the National Fire Prevention Association. The regulation amendments update the documents to include the most current version available.

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

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

Location of Proposal: The proposal, an analysis conducted by the department (including a statement of purpose, a statement of estimated impact and benefits of the proposed regulation, an explanation of need for the proposed regulation, an estimate of the impact of the proposed regulation upon small businesses, identification of and comparison with federal requirements, and a discussion of alternative approaches) and any other supporting documents may be examined by the public at the department's Office of Air Program Development (Eighth Floor), 629 East Main Street, Richmond, Virginia, and the department's regional offices (listed below) between 8:30 a.m. and 4:30 p.m. of each business day until the close of the public comment period.

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

West Central Regional Office  
Department of Environmental Quality  
Executive Office Park  
3019 Peters Creek Road  
Roanoke, Virginia  
Ph: (540) 562-6700

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

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

Fredericksburg Satellite Office  
Department of Environmental Quality  
300 Central Road, Suite B  
Fredericksburg, Virginia  
Ph: (540) 899-4600

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

Tidewater Regional Office  
Department of Environmental Quality  
5636 Southern Boulevard  
Virginia Beach, Virginia  
Ph: (757) 518-2000

Springfield Satellite Office  
Department of Environmental Quality  
Springfield Corporate Center, Suite 310  
6225 Brandon Avenue  
Springfield, Virginia  
Ph: (703) 644-0311

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

Public comments may be submitted until 4:30 p.m. December 31, 1996, to the Director, Office of Air Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240.

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

## ALCOHOLIC BEVERAGE CONTROL BOARD

† **December 16, 1996 - 9:30 a.m.** -- Open Meeting  
Department of Alcoholic Beverage Control, 2901 Hermitage Road, Richmond, Virginia. ☎

A meeting to receive and discuss reports from and activities of staff members.

**Contact:** W. Curtis Coleburn, Secretary to the Board, Department of Alcoholic Beverage Control, 2901 Hermitage Rd., P.O. Box 27491, Richmond, VA 23261, telephone (804) 367-0712 or FAX (804) 367-1802.

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## Calendar of Events

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### **BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS AND LANDSCAPE ARCHITECTS**

**December 20, 1996 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Richmond, Virginia. ☎

A meeting to conduct board business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so that suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act.

**Contact:** Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514 or (804) 367-9753/TDD ☎

### **Board for Branch Pilots**

**December 10, 1996 - 9:30 a.m.** -- Open Meeting  
Virginia Port Authority, 600 World Trade Center, Norfolk, Virginia. ☎

A meeting to conduct board business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so that suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act.

**Contact:** Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514 or (804) 367-9753/TDD ☎

### **Board for Interior Designers**

**December 13, 1996 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Richmond, Virginia. ☎

A meeting to conduct board business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so that suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act.

**Contact:** Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514 or (804) 367-9753/TDD ☎

### **Board for Landscape Architects**

**December 12, 1996 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Richmond, Virginia. ☎

A meeting to conduct board business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so that suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act.

**Contact:** Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514 or (804) 367-9753/TDD ☎

### **VIRGINIA BOARD FOR ASBESTOS LICENSING AND LEAD CERTIFICATION**

**December 11, 1996 - 10 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, 4th Floor, Conference Room 3,  
Richmond, Virginia. ☎

A meeting to (i) consider amending current language contained in the Virginia Lead-Based Paint Activities Regulations and adopting a set of proposed changes to these regulations, and (ii) conduct other general business as needed. Public comment will be heard at the beginning of the meeting.

**Contact:** David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 367-8507, FAX (804) 367-2475, or (804) 367-9753/TDD ☎

### **VIRGINIA AVIATION BOARD**

**December 18, 1996 - 9 a.m.** -- Open Meeting  
Department of Motor Vehicles, 2300 West Broad Street,  
Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A regular bi-monthly meeting of the board. Applications for state funding will be presented to the board, and other matters of interest to the Virginia aviation community will be discussed. Persons requiring special accommodations or interpreter services should contact Cindy Waddell 10 days prior to the meeting if assistance is needed.

**Contact:** Cindy Waddell, Department of Aviation, 5702 Gulfstream Rd., Sandston, VA 23150, telephone (804) 236-3630, FAX (804) 236-3625, or (804) 236-3624/TDD ☎

### **CHESAPEAKE BAY LOCAL ASSISTANCE BOARD**

**† December 16, 1996 - 10 a.m.** -- Open Meeting  
Department of Social Services, 730 East Broad Street,  
Conference Room 3, Lower Level, Richmond, Virginia. ☎  
(Interpreter for the deaf provided upon request)

A meeting to conduct general business, including review of local Chesapeake Bay Preservation Area programs. Public comment will be taken early in the meeting. A

tentative agenda is available from the Chesapeake Bay Local Assistance Department.

**Contact:** Carolyn J. Elliott, Executive Secretary, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440, FAX (804) 225-3447 or toll-free 1-800-243-7229/TDD ☎

## Northern Area Review Committee

† January 14, 1997 - 10 a.m. -- Open Meeting  
 † February 11, 1997 - 10 a.m. -- Open Meeting  
 Chesapeake Bay Local Assistance Department, 805 East Broad Street, Suite 701, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to review Chesapeake Bay Preservation Area programs for the Northern Area. Persons interested in observing should call the Chesapeake Bay Local Assistance Department to verify meeting time, location and schedule. No comments from the public will be entertained at the meeting; however, written comments are welcome.

**Contact:** Carolyn J. Elliott, Executive Secretary, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440, FAX (804) 225-3447 or toll-free 1-800-243-7229/TDD ☎

## Regulatory Committee and Regulation Advisory Committee

† December 12, 1996 - 10 a.m. -- Open Meeting  
 Department of Social Services, 730 East Broad Street, Lower Level, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A joint meeting of the Chesapeake Bay Local Assistance Board Regulatory Committee and the board's Regulation Advisory Committee, composed of stakeholders, to discuss amendments to the Chesapeake Bay Preservation Area Designation and Management Regulations (9 VAC 10-20-10 et seq.)

**Contact:** Scott Crafton, Regulatory Coordinator, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440, FAX (804) 225-3447 or toll-free 1-800-243-7229/TDD ☎

## Southern Area Review Committee

† January 14, 1997 - 2 p.m. -- Open Meeting  
 † February 11, 1997 - 2 p.m. -- Open Meeting  
 Chesapeake Bay Local Assistance Department, 805 East Broad Street, Suite 701, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to review Chesapeake Bay Preservation Area programs for the Southern Area. Persons interested in observing should call the Chesapeake Bay Local

Assistance Department to verify meeting time, location and schedule. No comments from the public will be entertained at the meeting; however, written comments are welcome.

**Contact:** Carolyn J. Elliott, Executive Secretary, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440, FAX (804) 225-3447 or toll-free 1-800-243-7229/TDD ☎

## CHILD DAY-CARE COUNCIL

December 12, 1996 - 9 a.m. -- CANCELLED  
 Theater Row Building, 730 East Broad Street, Lower Level, Conference Room 1, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

The meeting to discuss issues and concerns that impact child day centers, camps, school age programs, and preschool/nursery schools has been cancelled.

**Contact:** Rhonda Harrell, Division of Licensing Programs, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1775.

## DEPARTMENT OF CONSERVATION AND RECREATION

† December 20, 1996 - 9:30 a.m. -- Open Meeting  
 Freelance Star, 615 Amelia Street, Community Room, Fredericksburg, Virginia. ☎

A meeting of the ad hoc committee on a \$50,000 grant to Rappahannock River organizations. The committee will review competitive project proposals which were solicited by the department. The proposals are for projects on the Rappahannock River which support education, restoration or watershed planning activities. Eligible recipients are planning district commissions, soil and water conservation districts, and nonprofit conservation organizations.

**Contact:** Leon E. App, Agency Regulatory Coordinator, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-4570, FAX (804) 786-6141 or (804) 786-2121/TDD ☎

## Appomattox Scenic River Advisory Board

January 14, 1997 - 7 p.m. -- Open Meeting  
 1801 Ramblewood Road, Petersburg, Virginia.

A meeting to discuss river issues.

**Contact:** Richard G. Gibbons, Environmental Program Manager, Department of Conservation and Recreation, Division of Planning and Recreation Resources, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-4132, FAX (804) 371-7899 or (804) 786-2121/TDD ☎



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# Calendar of Events

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## Board of Conservation and Recreation

**December 17, 1996 - 10 a.m.** -- Open Meeting  
Department of Conservation and Recreation, 203 Governor Street, Suite 302, Richmond, Virginia.

A regular business meeting of the board.

**Contact:** Leon E. App, Agency Regulatory Coordinator, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-4570 or FAX (804) 786-6141.

## BOARD FOR CONTRACTORS

† **December 16, 1996 - 10 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 2, Richmond, Virginia.

A working meeting of the Backflow Prevention Device Worker Advisory Committee. Public comments will not be received.

**Contact:** Steven L. Arthur, Administrator, Tradesman Certification Program, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-6166.

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**January 7, 1997 - 5 p.m.** -- Public Hearing  
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Conference Room 4, Richmond, Virginia.

**January 30, 1997** -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Contractors intends to adopt regulations entitled: **18 VAC 50-30-10 et seq. Tradesman Certification Program Regulations**. The purpose of the proposed regulation is to provide for the certification of tradesmen by establishing fees, entry requirements, standards of practice and conduct, and other administrative procedures.

Statutory Authority: §§ 54.1-201 and 54.1-1102 of the Code of Virginia.

**Contact:** Steven L. Arthur, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2945.

## Tradesman Certification Committee

† **December 11, 1996 - 10 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 3, Richmond, Virginia.☎

A regular quarterly meeting of the committee to consider items of interest relating to the tradesmen section of the Board for Contractors.

**Contact:** Steven L. Arthur, Administrator, Tradesman Certification Program, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-6166 or FAX (804) 367-2474.

## DEPARTMENT OF CORRECTIONAL EDUCATION

**December 20, 1996 - 10 a.m.** -- Open Meeting  
**January 17, 1997 - 10 a.m.** -- Open Meeting  
Department of Correctional Education, James Monroe Building, 101 North 14th Street, 7th Floor, Richmond, Virginia.☎ (Interpreter for the deaf provided upon request)

A monthly meeting to discuss general business.

**Contact:** Patty Ennis, Board Clerk, Department of Correctional Education, James Monroe Bldg., 101 N. 14th St., 7th Floor, Richmond, VA 23219-3678, telephone (804) 225-3314.

## BOARD FOR COSMETOLOGY

† **December 9, 1996 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.☎

The board and other subject matter experts will meet to conduct an examination workshop.

**Contact:** George O. Bridewell, Examination Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8572, FAX (804) 367-2475 or (804) 367-9753/TDD ☎

## BOARD OF DENTISTRY

**December 13, 1996 - 8 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia.☎ (Interpreter for the deaf provided upon request)

A meeting of a panel of the board to conduct formal hearings to hear disciplinary cases. This is a public meeting; however, no public comment will be taken.

**Contact:** Marcia J. Miller, Executive Director, Board of Dentistry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9906 or (804) 662-7197/TDD ☎

**December 13, 1996 - 1:30 p.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia.☎ (Interpreter for the deaf provided upon request)

A meeting of the informal conference committee to hear disciplinary cases. This is a public meeting; however, no public comment will be taken.

**Contact:** Marcia J. Miller, Executive Director, Board of Dentistry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9906 or (804) 662-7197/TDD ☎

## Advertising Committee

**December 13, 1996 - 2:30 p.m. -- Open Meeting**  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to discuss disciplinary actions and forming an advertising task force. This is a public meeting; however, no public comment will be taken.

**Contact:** Marcia J. Miller, Executive Director, Board of Dentistry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9906 or (804) 662-7197/TDD ☎

## LOCAL EMERGENCY PLANNING COMMITTEE - ARLINGTON COUNTY/CITY OF FALLS CHURCH/WASHINGTON NATIONAL AIRPORT

**December 10, 1996 - 5:30 p.m. -- Open Meeting**  
Washington National Airport, Fire Station, Arlington, Virginia. ☎ (Interpreter for the deaf provided upon request)

A regular meeting of the planning committee to conduct general business. For more information contact Captain Michael Kilby.

**Contact:** Captain Michael Kilby, Arlington County Hazardous Materials Coordinator, 1020 N. Hudson St., Arlington, VA 22201, telephone (703) 358-4652, (703) 358-4644 or (703) 358-4610/TDD ☎

## DEPARTMENT OF ENVIRONMENTAL QUALITY

**December 9, 1996 - 10 a.m. -- Open Meeting**  
Department of Environmental Quality, 629 East Main Street, First Floor Training Room, Richmond, Virginia. ☎

The Technical Advisory Committee for the development of the proposed Vegetative Waste Management and Yard Waste Composting Regulations (9 VAC 20-101-10 et seq.), will convene to discuss the suggested changes from the public received during the public hearings and public comment period on the proposed regulations.

**Contact:** Robert G. Wickline, P.E., OTA, Waste Division, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4213, FAX (804) 698-4327, toll-free 1-800-592-5482, or (804) 698-4021/TDD ☎

## Virginia Coastal Resources Management Program

**December 11, 1996 - 7 p.m. -- Public Hearing**

General Assembly Building, 910 Capitol Square, Senate Room A, Richmond, Virginia. ☎

A public hearing to discuss the intent to incorporate the Chesapeake Bay Preservation Act into the Virginia Coastal Program. The Department of Environmental Quality will be requesting federal approval of this program amendment from the National Oceanic and Atmospheric Administration's Office of Ocean and Coastal Resource Management. For copies of the proposed amendment to the Virginia Coastal Program or to submit written comments (no later than December 11, 1996), please write or call Laura McKay. Copies of the proposed amendment are also available from Scott Kudlas, Chesapeake Bay Local Assistance Department, 805 East Broad Street, Richmond, VA 23219, telephone (804) 371-7500.

**Contact:** Laura McKay, Virginia Coastal Program Manager, Department of Environmental Quality, 629 E. Main St., Richmond, VA 23219, telephone (804) 698-4323 or FAX (804) 698-4319.

**December 19, 1996 - 4 p.m. -- Open Meeting**  
Hampton Roads Planning District Commission, 723 Woodlake Boulevard, Chesapeake, Virginia. ☎

The Coastal Program is updating its coastal needs assessment and strategy under § 309 of the Coastal Zone Management Act. Section 309 is a voluntary coastal zone enhancement grants program which encourages states to develop program changes in one or more of nine coastal zone enhancement areas, including wetlands, public access, coastal hazards, cumulative and secondary impacts, energy and government facility siting, marine debris, ocean resources, special area management plans and aquaculture. The coastal needs assessment and strategy will evaluate the Commonwealth of Virginia's priority needs for improvement in the above areas, and develop a strategy for addressing these top priority needs. The public is invited to attend an open house, review documents, and provide comments or suggestions. A draft assessment and strategy outline will be available for review after December 4. For copies of this draft outline, or to submit written comments, please write Laura McKay. Comments must be received by January 6, 1997.

**Contact:** Laura McKay, Virginia Coastal Program Manager, Department of Environmental Quality, 629 E. Main St., Richmond, VA 23219, telephone (804) 698-4323 or FAX (804) 698-4319.

## DEPARTMENT OF GAME AND INLAND FISHERIES

### Finance Planning Committee

**December 13, 1996 - 8 a.m. -- Open Meeting**  
Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

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## Calendar of Events

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A meeting to receive staff's presentation of the agency's projected long-range fish hatchery needs. The committee will conduct a mid-year review of the agency budget and may take any actions deemed appropriate. Other additional items, including general and administrative matters, may be discussed.

**Contact:** Phil Smith, Policy Analyst Senior, Department of Game and Inland Fisheries, 4010 W. Broad St., Richmond, VA 23230, telephone (804) 367-8341 or FAX (804) 367-2427.

### DEPARTMENT OF GENERAL SERVICES

#### Design/Build Construction Management Review Board

**December 20, 1996 - 10 a.m.** -- Open Meeting

**January 17, 1997 - 10 a.m.** -- Open Meeting

**February 21, 1997 - 10 a.m.** -- Open Meeting

Department of General Services, 805 East Broad Street, Room 116, Richmond, Virginia. ☎

A meeting of the board to conduct general business and review any submissions by local governing bodies for proposed use of design/build construction management for specific construction projects. The board meets the third Friday of each month.

**Contact:** Nathan I. Broocke, Director, Division of Engineering and Buildings, Department of General Services, 805 E. Broad St., Room 101, Richmond, VA 23219, telephone (804) 786-3263 or (804) 786-6152/TDD ☎

### DEPARTMENT OF HEALTH

#### Radiation Advisory Board

† **December 18, 1996 - 9 a.m.** -- Open Meeting

Department of Health, Main Street Station, 1500 East Main Street, Conference Room 121, Richmond, Virginia. ☎

The board will conduct its annual meeting to discuss radiological health issues.

**Contact:** Leslie P. Foldesi, Director, Radiological Health Programs, Department of Health, 1500 E. Main St., Room 104A, Richmond, VA 23219, telephone (804) 786-5932, FAX (804) 786-6979, toll-free 1-800-468-0138, or toll-free 1-800-828-1120/TDD ☎

### BOARD FOR HEARING AID SPECIALISTS

**January 13, 1997 - 8:30 a.m.** -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 3, Richmond, Virginia. ☎

A routine business meeting. A public comment period will be held at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should

contact David Dick 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, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8507, FAX (804) 367-2475 or (804) 367-9753/TDD ☎

### STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

**December 16, 1996 - 8 a.m.** -- Open Meeting

College of William and Mary, Williamsburg, Virginia.

The council's executive, planning, outreach, and resources committees will meet consecutively between 8 a.m. and noon. Please call the council for the order of the committee meetings and meeting agenda. A general business meeting of the council will begin at 1 p.m.

**Contact:** Michael McDowell, Public Information Director, State Council of Higher Education, James Monroe Bldg., 101 N. 14th St., 9th Floor, Richmond, VA 23219, telephone (804) 225-2637 or FAX (804) 786-0572.

### HOPEWELL INDUSTRIAL SAFETY COUNCIL

**January 7, 1997 - 9 a.m.** -- Open Meeting

Hopewell Community Center, Second and City Point Road, Hopewell, Virginia. ☎ (Interpreter for the deaf provided upon request)

Local Emergency Preparedness Committee Meeting on emergency preparedness as required by SARA Title III.

**Contact:** Robert Brown, Emergency Services Coordinator, 300 N. Main St., Hopewell, VA 23860, telephone (804) 541-2298.

### BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

**December 9, 1996 - 9 a.m.** -- Public Hearing

Department of Housing and Community Development, The Jackson Center, 501 North 2nd Street, Richmond, Virginia.

**January 10, 1997** -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to repeal regulations entitled: **13 VAC 5-20-10 et seq., Virginia Certification Standards/1993** and adopt regulations entitled: **13 VAC 5-21-10 et seq. Virginia Certification Standards**. The purpose of this proposal is (i) to delete the tradesmen requirements since regulatory authority for tradesmen certification was transferred to the Department of Professional and Occupational Regulation, and (ii) to transfer the blaster certification

requirements from this regulation to the Virginia Statewide Fire Prevention Code.

Statutory Authority: §§ 36-98.3 and 36-137 of the Code of Virginia.

Contact: Norman R. Crumpton, Associate Director, Department of Housing and Community Development, The Jackson Center, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7170 or FAX (804) 371-7092.

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December 9, 1996 - 9 a.m. -- Public Hearing  
Department of Housing and Community Development, The Jackson Center, 501 North 2nd Street, Richmond, Virginia.

January 10, 1997 -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to repeal regulations entitled: 13 VAC 5-30-10 et seq., Virginia Amusement Device Regulations/1993 and adopt regulations entitled: 13 VAC 5-31-10 et seq. Virginia Amusement Device Regulations. The Virginia Amusement Device Regulations provide statewide standards for the construction, maintenance, inspection and operation of amusement devices. The proposed changes update this regulation to reflect current nationally approved standards.

Statutory Authority: § 36-98.3 of the Code of Virginia.

Contact: Norman R. Crumpton, Associate Director, Department of Housing and Community Development, The Jackson Center, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7170 or FAX (804) 371-7092.

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December 9, 1996 - 9 a.m. -- Public Hearing  
Department of Housing and Community Development, The Jackson Center, 501 North 2nd Street, Richmond, Virginia.

January 10, 1997 -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to repeal regulations entitled: 13 VAC 5-50-10 et seq., Virginia Statewide Fire Prevention Code/1993 and adopt regulations entitled: 13 VAC 5-51-10 et seq. Virginia Statewide Fire Prevention Code. The proposed regulation sets forth performance requirements for the use of explosives, and the maintenance and use of structures with regard to fire safety. The proposed regulation has been updated to reflect current nationally approved safety standards, blaster certification requirements have been deleted from the Virginia Certification Standards and incorporated into this regulation, and the format of

the regulation has been changed to make it more understandable to the regulated community

Statutory Authority: § 27-97 of the Code of Virginia.

Contact: Norman R. Crumpton, Associate Director, Department of Housing and Community Development, The Jackson Center, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7170 or FAX (804) 371-7092.

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December 9, 1996 - 9 a.m. -- Public Hearing  
Department of Housing and Community Development, The Jackson Center, 501 North 2nd Street, Richmond, Virginia.

January 10, 1997 -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to repeal regulations entitled: 13 VAC 5-60-10 et seq., Virginia Uniform Statewide Building Code, Volume I - New Construction Code/1993, and 13 VAC 5-70-10 et seq., Virginia Uniform Statewide Building Code, Volume II - New Construction Code/1993, and adopt regulations entitled: 13 VAC 5-61-10 et seq., Virginia Uniform Statewide Building Code. The Building Code prescribes standards for construction, maintenance and use of buildings and structures and their equipment. This proposal consolidates Volumes I and II of the USBC into a single regulation and updates the latest construction and maintenance model codes and standards.

Statutory Authority: § 36-98 of the Code of Virginia.

Contact: Norman R. Crumpton, Associate Director, Department of Housing and Community Development, The Jackson Center, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7170 or FAX (804) 371-7092.

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December 9, 1996 - 9 a.m. -- Public Hearing  
Department of Housing and Community Development, The Jackson Center, 501 North 2nd Street, Richmond, Virginia.

January 10, 1997 -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to repeal regulations entitled: 13 VAC 5-90-10 et seq., Virginia Industrialized Building and Manufactured Home and Safety Regulations/1993, and adopt regulations entitled: 13 VAC 5-91-10 et seq., Virginia Industrialized Building Safety Regulations. The proposed amendments update documents incorporated by reference to reflect current nationally approved safety standards and transfer requirements regarding manufactured home safety standards from this regulation

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## Calendar of Events

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to the Virginia Manufactured Home Safety Regulations (13 VAC 5-95-10 et seq.).

Statutory Authority: § 36-73 of the Code of Virginia.

**Contact:** Norman R. Crumpton, Associate Director, Department of Housing and Community Development, The Jackson Center, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7170 or FAX (804) 371-7092.

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**December 9, 1996 - 9 a.m. -- Public Hearing**  
Department of Housing and Community Development, The Jackson Center, 501 North 2nd Street, Richmond, Virginia.

**January 10, 1997 -- Public comments may be submitted until this date.**

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to **adopt** regulations entitled: **13 VAC 5-95-10 et seq., Virginia Manufactured Home Safety Regulations.** The Virginia Manufactured Home Safety Regulations provide for the administration and enforcement of uniform, statewide, and safety standards for manufactured homes, wherever produced.

Statutory Authority: §§ 36-85.7 of the Code of Virginia.

**Contact:** Norman R. Crumpton, Associate Director, Department of Housing and Community Development, The Jackson Center, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7170 or FAX (804) 371-7092.

**NOTE: CHANGE IN MEETING DATE**

**December 9, 1996 - 9 a.m. -- Public Hearing**  
Department of Housing and Community Development, The Jackson Center, 501 North 2nd Street, Richmond, Virginia. ☎

A public hearing to receive comments on the following proposed regulations: Certification Standards (13 VAC 5-21-10 through 13 VAC 5-21-60); Statewide Fire Prevention Code (13 VAC 5-51-10 through 13 VAC 5-51-180); Amusement Device Regulations (13 VAC 5-31-10 through 5-31-170); Uniform Statewide Building Code (13 VAC 5-61-10 through 13 VAC 5-61-410); Industrialized Building Safety Regulations (13 VAC 5-91-10 through 13 VAC 5-91-400); and Manufactured Housing Safety Regulations (13 VAC 5-95-10 through 13 VAC 5-95-250).

**Contact:** Norman R. Crumpton, Associate Director, Department of Housing and Community Development, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7170 or (804) 371-7089/TDD ☎

**December 9, 1996 - 9 a.m. -- Open Meeting**  
The Jackson Center, 501 North 2nd Street, First Floor Board Room, Richmond, Virginia. ☎

A regular business meeting of the board. Public comment will be received.

**Contact:** Stephen W. Calhoun, CPA, Manager, Department of Housing and Community Development, 501 N. 2nd St.,

Richmond, VA 23219-1321, telephone (804) 371-7015, FAX (804) 371-7092, or (804) 371-7089/TDD ☎

### VIRGINIA HOUSING DEVELOPMENT AUTHORITY

† **December 17, 1996 - 11 a.m. -- Open Meeting**  
Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, Virginia. ☎

A regular meeting of the Board of Commissioners to (i) review and, if appropriate, approve the minutes from the prior monthly meeting; (ii) consider for approval and ratification mortgage loan commitments under its various programs; (iii) review the authority's operations for the prior month; (iv) consider approval of amendments to the authority's Rules and Regulations for Multi-Family Housing Developments and amendments to the authority's Rules and Regulations for Allocation of Low-Income Tax Credits; and (v) consider such other matters and take such other actions as it may deem appropriate. Various committees of the Board of Commissioners may also meet before or after the regular meeting and 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 Street, Richmond, VA 23220, telephone (804) 782-1986.

### VIRGINIA INTERAGENCY COORDINATING COUNCIL

**December 11, 1996 - 9:30 a.m. -- Open Meeting**  
Henrico Area Mental Health and Mental Retardation Services, 10299 Woodman Road, Glen Allen, Virginia. ☎ (Interpreter for the deaf provided upon request)

A quarterly meeting to advise and assist the Department of Mental Health, Mental Retardation and Substance Abuse Services as lead agency for Part H (of IDEA), Early Intervention for Infants and Toddlers with Disabilities and their families. Discussion focuses on issues related to Virginia's implementation of the Part H program. A public comment period will begin at 11 a.m.

**Contact:** Richard B. Corbett, Part H Program Support, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218, telephone (804) 786-3710 or FAX (804) 371-7959.

### STATE BOARD OF JUVENILE JUSTICE

**December 11, 1996 - 10 a.m. -- Open Meeting**  
Fredericksburg City Hall, 715 Princess Anne Street, Council Chambers, Fredericksburg, Virginia.

A meeting to receive public comments regarding the promulgation of (i) consolidated standards for juvenile residential facilities; (ii) new standards for nonresidential services available to the juvenile and domestic relations district court; and (iii) the concurrent termination of

existing regulations governing juvenile detention facilities, juvenile correctional centers, family group homes, pre- and post-dispositional group homes, post-dispositional detention, court service units and holdovers.

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

## LIBRARY BOARD

**January 6, 1997 - 10:30 a.m. -- Open Meeting**  
The Library of Virginia, 11th Street at Capitol Square, 3rd Floor, Supreme Court Room, Richmond, Virginia. ☒

A meeting to discuss matters related to the Library of Virginia and its board.

**Contact:** Jean H. Taylor, Secretary to the State Librarian, The Library of Virginia, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

## Automation and Networking Committee

**January 6, 1997 - 9 a.m. -- Open Meeting**  
The Library of Virginia, 11th Street at Capitol Square, Office of the Division Director, Richmond, Virginia. ☒

A meeting to discuss automation and networking matters.

**Contact:** Jean H. Taylor, Secretary to the State Librarian, The Library of Virginia, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

## Facilities Committee

**January 5, 1997 - 5 p.m. -- Open Meeting**  
Omni Richmond Hotel, 100 South 12th Street, Richmond, Virginia. ☒

A meeting to discuss matters pertaining to the new Library of Virginia building, the status of the Records Center, and the current Library of Virginia facilities.

**Contact:** Jean H. Taylor, Secretary to the State Librarian, The Library of Virginia, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

## Legislative and Finance Committee

**January 5, 1997 - 4 p.m. -- Open Meeting**  
Omni Richmond Hotel, 100 South 12th Street, Richmond, Virginia. ☒

A meeting to discuss legislative and financial matters.

**Contact:** Jean H. Taylor, Secretary to the State Librarian, The Library of Virginia, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

## Publications and Cultural Affairs Committee

**January 6, 1997 - 8 a.m. -- Open Meeting**  
The Library of Virginia, 11th Street at Capitol Square, Office of the Division Director, Richmond, Virginia. ☒

A meeting to discuss matters related to the Publications and Cultural Affairs Division and The Library of Virginia.

**Contact:** Jean H. Taylor, Secretary to the State Librarian, The Library of Virginia, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

## Public Library Development Committee

**January 5, 1997 - 5 p.m. -- Open Meeting**  
Omni Richmond Hotel, 100 South 12th Street, Richmond, Virginia. ☒

A meeting to discuss matters pertaining to public library development and The Library of Virginia.

**Contact:** Jean H. Taylor, Secretary to the State Librarian, The Library of Virginia, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

## Records Management Committee

**January 6, 1997 - 9 a.m. -- Open Meeting**  
The Library of Virginia, 11th Street at Capitol Square, Conference Room B, Richmond, Virginia. ☒

A meeting to discuss matters pertaining to records management.

**Contact:** Jean H. Taylor, Secretary to the State Librarian, The Library of Virginia, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

## Research and Information Services Committee

**January 6, 1997 - 8 a.m. -- Open Meeting**  
The Library of Virginia, 11th Street at Capitol Square, Conference Room B, Richmond, Virginia. ☒

A meeting to discuss research and information services.

**Contact:** Jean H. Taylor, Secretary to the State Librarian, The Library of Virginia, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

## LITTER CONTROL AND RECYCLING FUND ADVISORY BOARD

† **January 10, 1997 - 1:30 p.m. -- Open Meeting**  
Plantation House, 1108 East Main Street, 2nd Floor Conference Center, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A meeting to (i) promote the control, prevention, and elimination of litter from the Commonwealth and encourage recycling; and (ii) advise the Director of the Department of Environmental Quality on other litter

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## Calendar of Events

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control and recycling matters. For details call Paddy Katzen or e-mail pmkatzen@deq.state.va.us.

**Contact:** Paddy Katzen, Special Assistant to the Secretary of Natural Resources, Department of Environmental Quality, 629 E. Main St., Richmond, VA 23219, telephone (804) 698-4488 or FAX (804) 698-4453.

### LONGWOOD COLLEGE

#### Board of Visitors

† **December 18, 1996 - 2 p.m.** -- Open Meeting  
Longwood College, Lancaster Building, Room 215, Farmville, Virginia. ☎

A meeting to conduct routine business.

**Contact:** Patricia P. Cormier, President, Longwood College, 201 High St., Farmville, VA 23909, telephone (804) 395-2004 or FAX (804) 395-2821.

### MARINE RESOURCES COMMISSION

**December 17, 1996 - 9:30 a.m.** -- Open Meeting  
Marine Resources Commission, 2600 Washington Avenue, 4th Floor, Newport News, Virginia. ☎ (Interpreter for the deaf provided upon request)

The commission will hear and decide marine environmental matters at 9:30 a.m.; permit applications for projects in wetlands, bottom lands, coastal primary sand dunes and beaches; appeals of local wetland board decisions; policy and regulatory issues. The commission will hear and decide fishery management items at approximately noon. Items to be heard are as follows: regulatory proposals, fishery management plans; fishery conservation issues; licensing; shellfish leasing. Meetings are open to the public. Testimony will be taken under oath from parties addressing agenda items on permits and licensing. Public comments will be taken on resource matters, regulatory issues and items scheduled for public hearing. The commission is empowered to promulgate regulations in the areas of marine environmental management and marine fishery management.

**Contact:** LaVerne Lewis, Secretary to the Commission, Marine Resources Commission, P.O. Box 756, Newport News, VA 23607-0756, telephone (757) 247-2261, toll-free 1-800-541-4646 or (757) 247-2292/TDD ☎

### MATERNAL AND CHILD HEALTH COUNCIL

#### School Health Subcommittee

**December 17, 1996 - 10 a.m.** -- Open Meeting  
Virginia PTA Building, 3810 Augusta Avenue, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to focus on improving the health of the Commonwealth's children and adolescents by promoting and improving programs and service delivery systems related to school health programs.

**Contact:** Nancy Ford, School Health Nurse Consultant, Department of Health, Division of Child and Adolescent Health, 1500 E. Main St., Suite 137, Richmond, VA 23219, telephone (804) 786-7367.

### DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

**December 17, 1996 - 10 a.m.** -- Open Meeting  
Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Board Room, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

An open meeting to discuss medical assistance service and take action on issues pertinent to the board.

**Contact:** Cynthia Klisz, Board Liaison, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-8099.

### BOARD OF MEDICINE

**December 13, 1996 - 1 p.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia.

A panel of the board will convene, pursuant to §§ 54.1-2400 and 9-6.14:12 of the Code of Virginia, to inquire into allegations that a practitioner may have violated laws governing the practice of medicine. The panel will meet in open and closed sessions pursuant to § 2.1-344 A 7 and A 15 of the Code of Virginia. Public comment will not be received.

**Contact:** Lorraine McGehee, Acting Deputy Executive Director, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-7693, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

### Informal Conference Committee

**December 10, 1996 - 8:30 a.m.** -- Open Meeting  
Sheraton Inn, 2801 Flank Road, Fredericksburg, Virginia.

**December 19, 1996 - 8:30 a.m.** -- Open Meeting  
Fort Magruder Inn and Conference Center, Route 60, Williamsburg, Virginia.

† **January 8, 1997 - 9 a.m.** -- Open Meeting  
Roanoke Airport Marriott, 2801 Hershberger Road, Roanoke, Virginia.

† **January 24, 1997 - 9 a.m.** -- Open Meeting  
Marriott Hotel, 50 Kingsmill Road, Williamsburg, Virginia.

The Informal Conference Committee, composed of three members of the board, will inquire into allegations that certain practitioners may have violated laws and

regulations governing the practice of medicine and other healing arts in Virginia. The committee will meet in open and closed sessions pursuant to § 2.1-344 A 7 and A 15 of the Code of Virginia. Public comment will not be received.

**Contact:** Lorraine McGehee, Acting Deputy Executive Director, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-7693, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

## Credentials Committee

**December 14, 1996 - 8 a.m. -- Open Meeting**  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Rooms 3 and 4, Richmond, Virginia. ♿  
(Interpreter for the deaf provided upon request)

The committee will meet in open and closed session to conduct general business, interview and review medical credentials of applicants applying for licensure in Virginia, and to discuss any other items which may come before the committee. The committee will receive public comments of those persons appearing on behalf of candidates.

**Contact:** Warren W. Koontz, M.D., Executive Director, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9960, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

## Executive Committee

**December 13, 1996 - 8 a.m. -- Open Meeting**  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Rooms 2 and 3, Richmond, Virginia. ♿  
(Interpreter for the deaf provided upon request)

The committee will meet in open and closed session to (i) review disciplinary files requiring administrative action; (ii) adopt amendments for approval of promulgation of regulations as presented; and (iii) act on other issues that come before the board. The chairman will not entertain public comments.

**Contact:** Warren W. Koontz, M.D., Executive Director, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9960, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

## DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

### Pilot Leadership Team

**December 13, 1996 - 10:30 a.m. -- Open Meeting**  
† **January 9, 1997 - 10:30 a.m. -- Open Meeting**  
Locations to be announced.

A meeting to continue the development of plans for mental health, mental retardation and substance abuse

system reform pilot projects. The team will hear the reports of the Priority Populations/Case Rate Funding Subcommittee; the Consumer and Family Involvement Subcommittee; and the POMS Subcommittee.

**Contact:** Marion Greenfield, Policy Analyst, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-6431 or FAX (804) 786-0092.

## Prevention and Promotion Advisory Council

† **December 13, 1996 - 10 a.m. -- Open Meeting**  
Department of Social Services Regional Office, 1604 Santa Rosa Road, Richmond, Virginia. ♿

A quarterly meeting to advise the board in the formulation of policies and goals with respect to the initiation, funding and delivery of mental health, mental retardation and substance abuse prevention and promotion services in the Commonwealth.

**Contact:** Paige Robinson, Office Services Supervisor, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-1530 or FAX (804) 371-6179.

## GOVERNOR'S MINED LAND RECLAMATION ADVISORY BOARD

† **January 16, 1997 - 10 a.m. -- Open Meeting**  
Department of Mines, Minerals and Energy, Buchanan-Smith Building, Route 23, Big Stone Gap, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting to review and discuss recent Interstate Mining Compact Commission issues associated with the coal industry.

**Contact:** Danny Brown, Division Director, Department of Mines, Minerals and Energy, Division of Mined Land Reclamation, P.O. Drawer 900, Big Stone Gap, VA 24219, telephone (540) 523-8152, FAX (540) 523-8163 or toll-free 1-800-828-1120 (VA Relay Center).

## VIRGINIA MUSEUM OF FINE ARTS

**December 17, 1996 - 11 a.m. -- Open Meeting**  
Virginia Museum of Fine Arts, 2800 Grove Avenue, Auditorium, Richmond, Virginia. ♿

A meeting to consider gifts, purchases and loans of works of art. Public comment will not be received at the meeting.

**Contact:** Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221-2466, telephone (804) 367-0553.

## Executive Committee

**December 19, 1996 - Noon -- Open Meeting**  
Virginia Museum of Fine Arts, 2800 Grove Avenue, Auditorium, Richmond, Virginia. ♿



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## Calendar of Events

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A meeting to receive committee and staff reports and to consider art acquisitions recommended by the Collections Committee. Public comment will not be received.

**Contact:** Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221-2466, telephone (804) 367-0553.

### Nominating Committee

**December 19, 1996 - 11 a.m.** -- Open Meeting  
Virginia Museum of Fine Arts, 2800 Grove Avenue, Conference Room, Richmond, Virginia. ♿

A meeting to consider candidates for next year's Board of Trustees. Public comment will not be received.

**Contact:** Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221-2466, telephone (804) 367-0553.

### Board of Trustees

NOTE: CHANGE IN MEETING DATE

**December 10, 1996 - 8 a.m.** -- Open Meeting  
Virginia Museum of Fine Arts, 2800 Grove Avenue, Conference Room, Richmond, Virginia. ♿

A monthly briefing of museum officers with the Director and Deputy Director for Administration. Public comment will not be received.

**Contact:** Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221-2466, telephone (804) 367-0553.

## BOARD OF NURSING

### Special Conference Committee

**December 9, 1996 - 9 a.m.** -- Open Meeting

† **December 12, 1996 - 9 a.m.** -- Open Meeting

† **December 18, 1996 - 9 a.m.** -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A Special Conference Committee will conduct informal conferences with licensees and certificate holders to determine what, if any, action should be recommended to the Board of Nursing. Public comment will not be received.

**Contact:** Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909, FAX (804) 662-9943 or (804) 662-7197/TDD ♿

## BOARD FOR OPTICIANS

† **January 10, 1997 - 10 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting to discuss regulatory review and other matters requiring board action, including disciplinary cases. A public comment period will be held at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the board at least 10 days prior to the meeting so that suitable arrangements can be made for appropriate accommodations. The department fully complies with the Americans with Disabilities Act.

**Contact:** Nancy Taylor Feldman, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-2474 or (804) 367-9753/TDD ♿

## BOARD OF OPTOMETRY

### Endorsement Committee

† **December 18, 1996 - 10 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting of the Endorsement Committee to review applications. Public comment will be received at the beginning of the meeting.

**Contact:** Carol Stamey, Administrative Assistant, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9910 or (804) 662-7197/TDD ♿

## BOARD OF PHARMACY

† **December 12, 1996 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia.

A general business meeting of the board. The board may consider adoption of proposed regulations relating to automated dispensing devices. Please call the board office prior to the meeting to confirm that proposed regulations will be considered at the meeting. There will be a 15-minute public comment period beginning at 9:15 a.m.

**Contact:** Elizabeth Scott Russell, Executive Director, Board of Pharmacy, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9911 or FAX (804) 662-9313.

**POLYGRAPH EXAMINERS ADVISORY BOARD**

**December 17, 1996 - 10 a.m.** -- Open Meeting  
 Department of Professional and Occupational Regulation,  
 3600 West Broad Street, Richmond, Virginia. ♿ (Interpreter  
 for the deaf provided upon request)

A meeting to discuss regulatory review and other matters requiring board action. In addition, the Polygraph Examiners Licensing Examination will be administered to eligible polygraph examiner interns. A public comment period will be held at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so that suitable arrangements can be made for appropriate accommodations. The department fully complies with the Americans with Disabilities Act. Please call the board 24 hours in advance to confirm that the meeting will take place.

**Contact:** Nancy Taylor Feldman, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-2474 or (804) 367-9753/TDD ♿

**BOARD OF PROFESSIONAL COUNSELORS AND MARRIAGE AND FAMILY THERAPISTS**

† **December 17, 1996 - 9 a.m.** -- Open Meeting  
 Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ♿

An informal conference will be held pursuant § 9-6.14:11 of the Code of Virginia to hear disciplinary cases. Public comment will not be heard.

**Contact:** Evelyn B. Brown, Executive Director, or Joyce Williams, Administrative Assistant, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9912 or FAX (804) 662-9943.

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**December 17, 1996 - 9 a.m.** -- Public Hearing  
 Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia.

**January 24, 1997** -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Professional Counselors and Marriage and Family Therapists intends to amend regulations entitled: **18 VAC 115-40-10 et seq. Regulations Governing the Certification of Rehabilitation Providers.** The purpose of the proposed amendment is to establish educational and experience requirements for certification.

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

**Contact:** Janet Delorme, Deputy Executive Director, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9575 or FAX (804) 662-9943.

† **December 20, 1996 - 9 a.m.** -- Open Meeting  
 Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ♿

A formal hearing will be held pursuant § 9-6.14:11 of the Code of Virginia to hear disciplinary cases. Public comment will not be heard.

**Contact:** Evelyn B. Brown, Executive Director, or Joyce Williams, Administrative Assistant, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9912 or FAX (804) 662-9943.

**Examination Committee**

† **December 13, 1996 - 10 a.m.** -- Closed Meeting  
 Department of Health Professions, 6606 West Broad Street, 4th Floor, Richmond, Virginia. ♿

A meeting to review proposals for professional counselor licensure and substance abuse certification examinations. This will be a closed meeting held in executive session to discuss proprietary information.

**Contact:** Janet Delorme, Deputy Executive Director, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9575, FAX (804) 662-9943, or (804) 662-7197/TDD ♿

**BOARD FOR PROFESSIONAL SOIL SCIENTISTS**

† **December 12, 1996 - 10 a.m.** -- Closed Meeting  
 Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ♿

An examination workshop of the board to complete the revision of their examination. This workshop is not open to the public.

**Contact:** George O. Bridewell, Examination Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8572 or (804) 367-9753/TDD ♿

**BOARD OF PSYCHOLOGY**

**December 10, 1996 - 10 a.m.** -- Open Meeting  
 Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia. ♿

A meeting to conduct general board business. Public comment will be received.

**Contact:** LaDonna Duncan, Administrative Assistant, Board of Psychology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9913 or FAX (804) 662-9943.

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# Calendar of Events

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## REAL ESTATE BOARD

† December 19, 1996 - 9 a.m. -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Richmond, Virginia. ☎

A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least two weeks prior to the meeting. The department fully complies with the Americans with Disabilities Act.

Contact: Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-2475, or (804) 367-9753/TDD ☎

## Education Committee

† December 19, 1996 - 8 a.m.-- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Richmond, Virginia. ☎

A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least two weeks prior to the meeting. The department fully complies with the Americans with Disabilities Act.

Contact: Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-2475, or (804) 367-9753/TDD ☎

## Fair Housing Subcommittee

† December 19, 1996 - 8 a.m.-- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Richmond, Virginia. ☎

A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least two weeks prior to the meeting. The department fully complies with the Americans with Disabilities Act.

Contact: Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-2475, or (804) 367-9753/TDD ☎

## VIRGINIA RECYCLING MARKETS DEVELOPMENT COUNCIL

† December 12, 1996 - 10 a.m. -- Open Meeting  
Omni Richmond Hotel, 100 South 12th Street, Richmond,  
Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to continue work on developing and monitoring a plan to strengthen Virginia's recycling infrastructure and markets; setting forth strategies

primarily designed to improve the supply, quantity, and quality of recyclables; and providing strategies for increasing the demand for recycled products and expanding the capacity of collectors, processors, and manufacturers to handle and use specified recyclable materials. The meeting will be dependent on a quorum of 10. Subcommittee meetings may be held prior to or after the general council meeting. Call Paddy Katzen for details, or e-mail pmkatzen@deq.state.va.us.

Contact: Paddy Katzen, Assistant to the Secretary of Natural Resources, Department of Environmental Quality, 629 E. Main St., Richmond, VA 23219, telephone (804) 698-4488 or FAX (804) 698-4319.

## DEPARTMENT OF REHABILITATIVE SERVICES (BOARD OF)

December 27, 1996 -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Rehabilitative Services intends to amend regulations entitled: **22 VAC 30-10-10 et seq. Public Participation Guidelines**. The purpose of the proposed amendment is to make the department's regulations more representative of public needs and views through greater public participation in the regulatory process and make changes mandated by 1993 amendments to the Administrative Process Act.

Statutory Authority: §§ 9-6.14:7.1 and 51.5-14 of the Code of Virginia.

Contact: Mary C. Lutkenhaus, Policy Analyst, Department of Rehabilitative Services, 8004 Franklin Farms Dr., Richmond, VA 23288-0300, telephone (804) 662-7610, FAX (804) 662-7696, toll-free 1-800-552-5019, or toll-free 1-800-464-9950/TDD ☎

## Assistive Technology Loan Fund Authority

December 12, 1996 - 1 p.m. -- Open Meeting  
Department of Social Services, 730 East Broad Street,  
Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A business meeting of the board.

Contact: Michael Scione, ATLFA Staff, 8004 Franklin Farms Dr., Richmond, VA 23230, telephone (804) 662-7606, toll-free 1-800-552-5019/TDD and Voice, or (804) 662-9040/TDD ☎

## VIRGINIA RESOURCES AUTHORITY

December 10, 1996 - 9:30 a.m. -- Open Meeting  
January 14, 1997 - 9:30 a.m. -- Open Meeting  
The Mutual Building, 909 East Main Street, Suite 607, Board Room, Richmond, Virginia.

The board will meet to approve minutes of the meeting of the prior month, to review the authority's operations for the prior months, and to consider other matters and take

other actions as it may deem appropriate. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting. Public comments will be received at the beginning of the meeting.

**Contact:** Shockley D. Gardner, Jr., Virginia Resources Authority, 909 E. Main St., Suite 607, Mutual Building, Richmond, VA 23219, telephone (804) 644-3100 or FAX (804) 644-3109.

## BOARD OF SOCIAL WORK

**December 12, 1996 - 10:30 a.m. -- Open Meeting**  
Family Resource Center, 1701 Will-O-Wisp Drive, Virginia Beach, Virginia. ☎

The Ad Hoc Committee on Bylaws will meet to develop bylaws for the board. Public comment will be received at 10:45 a.m.

**Contact:** Evelyn B. Brown, Executive Director, Board of Social Work, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9914, FAX (804) 662-9943, or (804) 662-7197/TDD ☎

## VIRGINIA SOIL AND WATER CONSERVATION BOARD

**December 10, 1996 - 3 p.m. -- Open Meeting**  
Roanoke Airport Marriott, 2801 Hershberger Road, N.W., Roanoke, Virginia.

A joint meeting with the Virginia Association of Soil and Water Conservation Districts and a regular bimonthly business meeting of the Virginia Soil and Water Conservation Board.

**Contact:** Linda J. Cox, Administrative Staff Assistant, Virginia Soil and Water Conservation Board, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-2123 or FAX (804) 786-6141.

## COMMONWEALTH TRANSPORTATION BOARD

**December 18, 1996 - 2 p.m. -- Open Meeting**  
Department of Transportation, 1401 East Broad Street, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A work session of the board and the Department of Transportation staff.

**Contact:** Robert E. Martinez, Secretary of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-8032.

**December 19, 1996 - 10 a.m. -- Open Meeting**  
Department of Transportation, 1401 East Broad Street, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A monthly meeting of the board to vote on proposals presented regarding bids, permits, additions and deletions to the highway system, and any other matters requiring board approval. Public comment will be received at the outset of the meeting on items on the meeting agenda for which the opportunity for public comment has not been afforded the public in another forum. Remarks will be limited to five minutes. Large groups are asked to select one individual to speak for the group. The board reserves the right to amend these conditions. Separate committee meetings may be held on call of the chairman. Contact Department of Transportation Public Affairs at (804) 786-2715 for schedule.

**Contact:** Robert E. Martinez, Secretary of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-8032.

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**December 10, 1996 - 7 p.m. -- Public Hearing**  
Department of Transportation, 1221 East Broad Street, Main Auditorium, Richmond, Virginia.

**December 27, 1996 -- Public comments may be submitted until this date.**

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Commonwealth Transportation Board intends to repeal regulations entitled: **24 VAC 30-70-10 et seq. Minimum Standards of Entrances to State Highways;** and adopt regulations entitled: **24 VAC 30-71-10 et seq. Minimum Standards of Entrances to State Highways.** The purpose of the proposed action is to repeal the existing regulation and promulgate a new regulation concerning state highway entrances. The proposal is intended to make the regulation less restrictive to all users.

Statutory Authority: §§ 33.1-12, 33.1-197, and 33.1-198 of the Code of Virginia.

**Contact:** Steve Edwards, Transportation Engineer, Department of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-0121 or Virginia Relay Center 1-800-828-1120/TDD

## TREASURY BOARD

**December 18, 1996 - 9 a.m. -- Open Meeting**  
James Monroe Building, 101 North 14th Street, Treasury Board Room, 3rd Floor, Richmond, Virginia. ☎

A regular meeting.

**Contact:** Gloria Hatchel, Administrative Assistant, Department of the Treasury, James Monroe Bldg., 101 N. 14th St., Richmond, VA 23219, telephone (804) 371-6011.

† **January 16, 1997 - 9 a.m. -- Open Meeting**

† **February 20, 1997 - 9 a.m. -- Open Meeting**

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## Calendar of Events

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James Monroe Building, 101 North 14th Street, Treasury Board Room, 3rd Floor, Richmond, Virginia. ♿

In January and February, 1997, the board will meet on the third Thursday rather than the third Wednesday.

**Contact:** Gloria J. Hatchel, Administrative Assistant, Department of the Treasury, James Monroe Bldg., 101 N. 14th St., Richmond, VA 23219, telephone (804) 371-6011.

### VIRGINIA VETERANS CARE CENTER

#### Board of Trustees

† **December 13, 1996 - 2 p.m.** -- Open Meeting  
Virginia Veterans Care Center, 4550 Shenandoah Avenue, Roanoke, Virginia. ♿

The second quarterly meeting of the board to review the operations of the Virginia Veterans Care Center.

**Contact:** Andrew J. Vinson, Executive Director, P.O. Box 6334, Roanoke, VA 24017-0334, telephone (540) 857-6974, toll-free 1-800-220-8387, or (540) 342-8810/TDD ♿

### DEPARTMENT FOR THE VISUALLY HANDICAPPED (BOARD OF)

**January 22, 1997 - 1:30 p.m.** -- Open Meeting  
Department for the Visually Handicapped, Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. ♿  
(Interpreter for the deaf provided upon request)

The board is responsible for advising the Governor, the Secretary of Health and Human Resources, the Commissioner, and the General Assembly on the delivery of public services to the blind and the protection of their rights. The board also reviews and comments on policies, budgets and requests for appropriations for the department. At this regular quarterly meeting, the board members will receive information regarding department activities and operations, review expenditures from the board's institutional fund, and discuss other issues raised by board members.

**Contact:** Katherine C. Proffitt, Executive Secretary Senior, Department for the Visually Handicapped, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3140, toll-free 1-800-622-2155, or (804) 371-3140/TDD ♿

### Vocational Rehabilitation Advisory Council

**December 14, 1996 - 10 a.m.** -- Open Meeting  
Department for the Visually Handicapped, Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. ♿  
(Interpreter for the deaf provided upon request)

The council meets quarterly to advise the Department for the Visually Handicapped on matters related to vocational rehabilitation services for blind and visually impaired citizens of the Commonwealth.

**Contact:** James G. Taylor, Vocational Rehabilitation Program Director, Department for the Visually Handicapped, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3140, toll-free 1-800-622-2155, or (804) 371-3140/TDD ♿

### VIRGINIA VOLUNTARY FORMULARY BOARD

**December 12, 1996 - 2 p.m.** -- Public Hearing  
Washington Building, 1100 Bank Street, 2nd Floor, Board Room, Richmond, Virginia. ♿

A public hearing to consider the proposed adoption and issuance of revisions to the Virginia Voluntary Formulary. The proposed revisions to the formulary add and delete drugs and drug products to the formulary that became effective on January 15, 1996, and its most recent supplement. Copies of the proposed revisions to the formulary are available for inspection at the Virginia Department of Health, Bureau of Pharmacy Services, James Monroe Building, 101 North 14th Street, Room S-45, P.O. Box 2448, Richmond, VA 23218. Written comments sent to the above address and received prior to 5 p.m. on December 12, 1996, will be made a part of the hearing record.

**Contact:** James K. Thomson, Director, Bureau of Pharmacy Services, Virginia Voluntary Formulary, James Monroe Bldg., 101 N. 14th St., Room S-45, Richmond, VA 23219, telephone (804) 786-4325.

### STATE WATER CONTROL BOARD

**December 12, 1996 - 9 a.m.** -- Open Meeting  
State Capitol, Capitol Square, House Room 4, Richmond, Virginia.

A regular meeting.

**Contact:** Cindy M. Berndt, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4378.

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† **January 21, 1997 - 11 a.m.** -- Public Hearing  
City of Lexington Municipal Building, 300 East Washington Street, 2nd Floor Conference Room, Lexington, Virginia.

† **January 22, 1997 - 11 a.m.** -- Public Hearing  
Prince William County Administration Center, 1 County Complex, McCoart Building, Board Chambers, Prince William, Virginia.

† **January 23, 1997 - 11 a.m.** -- Public Hearing  
James City County Board of Supervisors Room, 101 C. Mounts Bay Road, Building C, Williamsburg, Virginia.

† **February 10, 1997** -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to adopt regulations entitled: **9 VAC 25-193-10**

et seq. **General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Ready-Mixed Concrete Plants.** The proposed regulation establishes a general permit for the ready-mixed concrete plant category of wastewater discharges under the Virginia Pollutant Discharge Elimination System.

**Question and Answer Period:** A question and answer period will be held one half hour prior to the public hearing at the same location. Interested citizens will have an opportunity to ask questions pertaining to the proposal at that time.

**Accessibility to Persons with Disabilities:** The public hearing will be held at facilities believed to be accessible to persons with disabilities. Any person with questions should contact Ms. Lily Choi at the address given below. Persons needing interpreter services for the deaf should notify Ms. Choi no later than January 10, 1997.

**Request for Comments:** The board is seeking written comments from interested persons on both the proposed regulatory action and the draft permit, as well as comments regarding the costs and benefits of the proposal or any other alternatives. Written comments on the proposed issuance of the permit and on the proposed regulation must be received no later than 4 p.m. on February 10, 1997, and should be submitted to Ms. Choi. Comments shall include the name, address, and telephone number of the writer, and shall contain a complete, concise statement of the factual basis for comments. Only those comments received within this period will be considered by the board.

**Other Information:** The department has conducted analyses on the proposed regulation related to the basis, purpose, substance, issues and estimated impacts. These are available upon request from Ms. Choi at the address below.

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

**Contact:** Lily Choi, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4054.

**BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS**

† **January 9, 1997 - 8:30 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to discuss regulatory review, disciplinary cases, and other matters requiring board action. A public comment period will be held at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

**Contact:** Nancy Taylor Feldman, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone

(804) 367-8590, FAX (804) 367-2474 or (804) 367-9753/TDD

**INDEPENDENT**

**STATE LOTTERY BOARD**

† **December 18, 1996 - 9:30 a.m.** -- Open Meeting  
State Lottery Department, 900 East Main Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular meeting of the board. Business will be conducted according to items listed on the agenda which has not yet been determined. One period for public comment is scheduled.

**Contact:** Barbara L. Robertson, Legislative, Regulatory and Board Administrator, State Lottery Department, 900 E. Main St., Richmond, VA 23219, telephone (804) 692-7774 or FAX (804) 692-7775.

**LEGISLATIVE**

**JOINT LEGISLATIVE AUDIT AND REVIEW COMMISSION**

**December 9, 1996 - 9:30 a.m.** -- Open Meeting  
General Assembly Building, 910 Capitol Square, Senate Room A, Richmond, Virginia.

Staff briefings on review of the Department of Environmental Quality.

**Contact:** Philip A. Leone, Director, Joint Legislative Audit and Review Commission, General Assembly Building, 910 Capitol St., Suite 1100, Richmond, VA 23219, telephone (804) 786-1258.

**December 18, 1996 - 9:30 a.m.** -- Open Meeting  
General Assembly Building, 910 Capitol Square, Senate Room A, Richmond, Virginia.

Staff briefings on review of inmate telephone system and recordation of land records titles.

**Contact:** Philip A. Leone, Director, Joint Legislative Audit and Review Commission, General Assembly Building, 910 Capitol St., Suite 1100, Richmond, VA 23219, telephone (804) 786-1258.

**COMMISSION ON YOUTH**

**December 9, 1996 - 10 a.m.** -- Open Meeting  
General Assembly Building, 910 Capitol Square, House Room C, Richmond, Virginia.

A meeting to review the 1997 legislative package.

**Contact:** Joyce Huey, Virginia Commission on Youth, General Assembly Building, 910 Capitol Square, Suite 517 B, Richmond, VA 23219-0406, telephone (804) 371-2481.

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# Calendar of Events

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## CHRONOLOGICAL LIST

### OPEN MEETINGS

#### December 9

Agriculture and Consumer Services, Department of  
- Virginia Irish Potato Board  
- Virginia Soybean Board  
† Cosmetology, Board for  
Environmental Quality, Department of  
Housing and Community Development, Board of  
Legislative Audit and Review Commission, Joint  
Nursing, Board of  
Youth, Virginia Commission on

#### December 10

Architects, Professional Engineers, Land Surveyors and  
Landscape Architects, Board for  
- Board for Branch Pilots  
Emergency Planning Committee, Local - Arlington  
County/City of Falls Church/Washington National Airport  
Medicine, Board of  
Museum of Fine Arts, Virginia  
Psychology, Board of  
Resources Authority, Virginia  
Soil and Water Conservation Board, Virginia

#### December 11

Agriculture and Consumer Services, Department of  
- Board of Agriculture and Consumer Services  
- Virginia Corn Board  
Asbestos and Licensing and Lead Certification, Board for  
† Contractors, Board for  
- Tradesman Certification Committee  
Interagency Coordinating Council, Virginia  
Juvenile Justice, State Board of

#### December 12

Accountancy, Board for  
Architects, Professional Engineers, Land Surveyors and  
Landscape Architects, Board for  
- Board for Landscape Architects  
Chesapeake Bay Local Assistance Board  
- Regulatory Committee and Regulation Advisory  
Committee  
† Nursing, Board of  
† Pharmacy, Board of  
† Recycling Markets Development Council, Virginia  
Rehabilitative Services, Department of  
- Assistive Technology Loan Fund Authority Board  
Social Work, Board of  
Water Control Board, State

#### December 13

Architects, Professional Engineers, Land Surveyors and  
Landscape Architects, Board for  
- Board for Interior Designers  
Dentistry, Board of  
Game and Inland Fisheries, Department of  
- Finance and Planning Committee  
Medicine, Board of  
- Executive Committee

Mental Health, Mental Retardation and Substance Abuse  
Services, Department of  
- Pilot Leadership Team  
- Prevention and Promotion Advisory Council  
† Veterans Care Center, Virginia  
- Board of Trustees

#### December 14

Medicine, Board of  
- Credentials Committee  
Visually Handicapped, Department for the  
- Vocational Rehabilitation Council

#### December 16

† Alcoholic Beverage Control Board  
† Chesapeake Bay Local Assistance Board  
† Contractors, Board for  
Higher Education for Virginia, State Council of

#### December 17

Conservation and Recreation, Board of  
† Housing Development Authority, Virginia  
Marine Resources Commission  
Maternal and Child Health Council  
- School Health Subcommittee  
Medical Assistance Services, Board of  
Museum of Fine Arts, Virginia  
- Collections Committee  
Polygraph Examiners Advisory Board  
† Professional Counselors and Marriage and Family  
Therapists, Board of

#### December 18

Aviation Board, Virginia  
† Health, Department of  
- Radiation Advisory Board  
Legislation and Audit Review Commission, Joint  
† Longwood College  
- Board of Visitors  
† Lottery Board, State  
† Nursing, Board of  
† Optometry, Board of  
- Endorsement Committee  
Transportation Board, Commonwealth  
Treasury Board

#### December 19

† Agriculture and Consumer Services, Department of  
- Virginia Sweet Potato Board  
† Environmental Quality, Department of  
- Virginia Coastal Resources Management Program  
Medicine, Board of  
Museum of Fine Arts, Virginia  
- Executive Committee  
- Nominating Committee  
† Real Estate Board  
- Education Committee  
- Fair Housing Subcommittee  
Transportation Board, Commonwealth

#### December 20

Architects, Professional Engineers, Land Surveyors and  
Landscape Architects, Board for  
† Conservation and Recreation, Department of  
Correctional Education, Board of

# Calendar of Events

General Services, Department of  
- Design-Build/ Construction Management Review Board  
† Professional Counselors and Marriage and Family Therapists, Board of

## January 5, 1997

Library Board  
- Facilities Committee  
- Legislative and Finance Committee  
- Public Library Development Committee

## January 6

Accountancy, Board for  
Library Board  
- Automation and Networking Committee  
- Publications and Cultural Affairs Committee  
- Records Management Committee  
- Research and Information Services Committee

## January 7

Hopewell Industrial Safety Council

## January 8

† Medicine, Board of

## January 9

† Mental Health, Mental Retardation and Substance Abuse Services, Department of  
- Pilot Leadership Team  
† Waterworks and Wastewater Works Operators, Board for

## January 10

† Litter Control and Recycling Fund Advisory Board  
† Opticians, Board for

## January 13

Hearing Aid Specialists, Board for

## January 14

† Chesapeake Bay Local Assistance Board  
- Northern Area Review Committee  
- Southern Area Review Committee  
Conservation and Recreation, Department of  
- Appomattox Scenic River Advisory Board  
Resources Authority, Virginia

## January 15

† Agriculture and Consumer Services, Department of  
- Pesticide Control Board

## January 16

† Agriculture and Consumer Services, Department of  
- Pesticide Control Board  
† Mined Land Reclamation Advisory Board, Governor's  
† Treasury Board

## January 17

Correctional Education, Board of  
General Services, Department of  
- Design/Build Construction Management Review Board

## January 20

† Aging, Governor's Advisory Board on

## January 21

† Aging, Governor's Advisory Board on  
† Accountancy, Board for

## January 22

Visually Handicapped, Board for the

## January 24

† Medicine, Board of

## February 11

† Chesapeake Bay Local Assistance Board  
- Northern Area Review Committee  
- Southern Area Review Committee

## February 20

† Treasury Board

## February 21

General Services, Department of  
- Design/Build Construction Management Review Board

## PUBLIC HEARINGS

## December 9

Housing and Community Development, Board of

## December 10

Transportation Board, Commonwealth

## December 11

Environmental Quality, Department of  
- Virginia Coastal Resources Management Program

## December 12

Voluntary Formulary Board, Virginia

## December 17

Professional Counselors and Marriage and Family Therapists, Board of

## January 7, 1997

Contractors, Board for

## January 21

† Water Control Board, State

## January 22

† Water Control Board, State

## January 23

† Water Control Board, State



