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## SENATE BILL NO. 674

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Agriculture, Conservation and Natural Resources  
on February 7, 2000)

(Patron Prior to Substitute—Senator Hanger)

A *BILL to amend and reenact §§ 3.1-530.1, 3.1-530.2, 3.1-530.9, 3.1-533, 3.1-540, 3.1-544, and 9-6.14:4.1 of the Code of Virginia and to amend the Code of Virginia by adding in Article 3.1 of Chapter 21 of Title 3.1 sections numbered 3.1-530.10 and 3.1-530.11 and in Article 4 of Chapter 21 of Title 3.1 sections numbered 3.1-545.1 and 3.1-545.2, relating to milk and milk products; penalty.*

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 3.1-530.1, 3.1-530.2, 3.1-530.9, 3.1-533, 3.1-540, 3.1-544, and 9-6.14:4.1 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding in Article 3.1 of Chapter 21 of Title 3.1 sections numbered 3.1-530.10 and 3.1-530.11 and in Article 4 of Chapter 21 of Title 3.1 sections numbered 3.1-545.1 and 3.1-545.2, as follows:**

§ 3.1-530.1. Board authorized to establish standards, adopt regulations, etc.; advice and guidance of State Health Commissioner.

A. The State Board of Agriculture and Consumer Services is authorized to establish definitions, standards of quality and identity and to adopt and enforce regulations dealing with the issuance of permits, production, importation, processing, grading, labeling and sanitary standards for milk, milk products, market milk, market milk products and those products manufactured or sold in semblance to or as substitutes therefor. Regulations concerning the processing and distributing of Grade A market milk and Grade A market milk products shall be adopted with the advice and guidance of the State Health Commissioner or his authorized representative. Regulations concerning the conditions under which the permits referred to in § 3.1-530.4 shall be issued will be promulgated by the Board. The Board may require permits in addition to those prescribed by the terms of this article, and shall promulgate regulations concerning the conditions under which such additional permits shall be issued.

B. In adopting any regulation pursuant to this section, the Board may (i) adopt by reference any regulation under federal law or model regulation that pertains to this chapter, amending it as necessary for intrastate applicability; (ii) adopt by reference any standards or references utilized or generally recognized by the milk, milk products, and milk production industries; (iii) adopt by reference any method of analysis relating to milk or milk products recognized by the milk, milk products, and milk production industries including, but not limited to, any method of analysis published by the United States Public Health Service, the Association of Official Analytical Chemists, or the American Public Health Association; and (iv) adopt any regulation containing provisions no less stringent than those contained in federal regulation.

C. The adoption, reconsideration, or revision of any regulation adopted pursuant to this section shall be exempt from the provisions of the Administrative Process Act (§ 9-6.14:1 et seq.). Prior to promulgating any regulation pursuant to this section, the Board shall publish a notice of opportunity to comment in the Virginia Register of Regulations. The notice of opportunity to comment shall contain (i) a summary of the proposed regulation; (ii) instructions on how to obtain the complete text of the proposed regulation; and (iii) the name, address, and telephone number of the agency contact person responsible for receiving public comments. The notice of opportunity to comment shall be made at least ninety days in advance of the last date prescribed in the notice for submittals of public comment. The Board shall consider and keep on file all public comments received for any regulation adopted pursuant to this section. After the opportunity to comment has expired, any regulation adopted pursuant to this section shall, unless a later date is specified in the regulation, be effective upon filing with the Registrar of Regulations, who shall publish the regulation as a final regulation in the Virginia Register of Regulations.

§ 3.1-530.2. Conformity with recommendations, etc., of United States Department of Health, Education and Welfare and Department of Agriculture.

In adopting regulations for the purpose of sanitation and to prevent deception, the Board shall be guided by those regulations recommended from time to time by the United States Department of Health, Education and Welfare and the United States Department of Agriculture. The definitions and standards so promulgated may conform, so far as practical, to the definitions and standards promulgated or recommended by the Secretary of the United States Department of Health, Education and Welfare. The regulations authorized by ~~§ 3.1-530.1~~ and this section shall be adopted in accordance with the Administrative Process Act (~~§ 9-6.14:1 et seq.~~).

§ 3.1-530.9. Penalties.

Any violation of the provisions of this article, or the regulations adopted thereunder, or failure to

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60 comply with such provisions or regulations shall be a misdemeanor and punished as provided by law or  
61 may, in lieu thereof, be assessed as a civil penalty, as provided in § 3.1-530.10. Each day of such  
62 failure or violation shall be a separate offense and shall be punished as such.

63 § 3.1-530.10. Civil penalties.

64 A. Any person violating any provision of this article or regulation adopted pursuant to § 3.1-530.1  
65 may be assessed a civil penalty by the Board for each violation in an amount not to exceed the  
66 wholesale value of all milk and milk products involved in the violation, including the costs of disposing  
67 of the milk and milk products involved in the violation, or up to \$1,000. In determining whether to  
68 report the violation for criminal prosecution or to assess a civil penalty, the Board shall give due  
69 consideration to (i) previous violations committed by the person, (ii) the seriousness of the violation,  
70 and (iii) the demonstrated good faith of the person charged in attempting to achieve compliance with  
71 this article or any regulation adopted pursuant to § 3.1-530.1 after notification of the violation.

72 B. Civil penalties assessed under this section shall be paid into the Milk Safety Fund as established  
73 in § 3.1-530.11. The Board shall prescribe procedures for payment of civil penalties which are not  
74 contested by persons into the Milk Safety Fund. The procedures shall include provisions for a person to  
75 consent to abatement of the alleged violation and to pay a civil penalty or negotiated sum in lieu of a  
76 civil penalty without admission of civil liability arising from such alleged violation.

77 C. Final orders of the Board may be recorded, enforced and satisfied as orders or decrees of a  
78 circuit court upon certification of such orders by the secretary of the Board. Such orders may be  
79 appealed in accordance with the provisions of the Administrative Process Act (§ 9-6.14:1 et seq.).

80 D. Nothing in this article shall be construed as requiring the Board to report for prosecution or to  
81 institute proceedings for the imposition of civil penalties where the Board considers the violations of this  
82 article to be minor. In such cases, the Board may serve a suitable notice of warning in writing when it  
83 believes that the public interest will be best served by so doing.

84 § 3.1-530.11. Milk Safety Fund established.

85 There is hereby created in the state treasury a special nonreverting fund to be known as the "Milk  
86 Safety Fund," hereafter referred to as "the Fund." The Fund shall be established on the books of the  
87 Comptroller. All civil penalties assessed pursuant to Article 3.1 and Article 4 of this chapter and any  
88 gifts, grants, fees and contributions that are specifically designated for inclusion in the Fund shall be  
89 paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall  
90 remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon,  
91 at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys  
92 in the Fund shall be used solely for the purposes of administering and enforcing the provisions of  
93 Article 3.1 and Article 4 of this chapter. Expenditures and disbursements from the Fund shall be made  
94 by the State Treasurer on warrants issued by the Comptroller upon written request signed by the  
95 Commissioner.

96 § 3.1-533. Manipulators of machines to procure certificates; renewal of certificate; revocation by  
97 Commissioner.

98 No inspector of milk or cream, and no person in any milk inspection laboratory, shall manipulate the  
99 Babcock or other centrifugal machine for the purpose of determining the composition of milk or cream  
100 for purposes of inspection without first obtaining a certificate from the Commissioner that he is  
101 competent to perform such work. No person in any milk depot, ice cream factory, confectionery,  
102 creamery, cheese factory, condensed milk factory, or other place in this Commonwealth shall manipulate  
103 the Babcock or other centrifugal machine for the purpose of determining the composition or value of  
104 milk or cream, or shall take samples or weigh milk or cream, as a basis for payment in buying or  
105 selling, without first obtaining a certificate from the Commissioner that he is competent to perform such  
106 work. All such certificates shall be renewed annually without further examination at the discretion of the  
107 Commissioner upon application. Unless a person holding a valid tester's, weigher's and sampler's  
108 certificate renews said certificate within one year after its expiration date, he shall be required to pass  
109 the applicable examination before a new certificate shall be issued. If any holder of a certificate is  
110 notified by the Commissioner, his assistants or agents to correct his use of a Babcock or other  
111 centrifugal machine, or his method of sampling or weighing, and such person or holder of a certificate  
112 so notified fails to comply with the notice and correct his use of a Babcock or other centrifugal  
113 machine, or his methods of sampling or weighing, he shall be deemed guilty of a violation of the  
114 provisions of this article, and the Commissioner may forfeit his certificate or assess a civil penalty as  
115 provided in § 3.1-545.1. No holder of a certificate whose authority to manipulate a Babcock or other  
116 centrifugal machine or to sample or weigh milk or cream has been revoked by the Commissioner shall  
117 thereafter manipulate in this Commonwealth any centrifugal machine or sample or weigh milk or cream  
118 for the purposes herein specified until his certificate has been renewed.

119 § 3.1-540. False manipulation and reading of tests.

120 Any person who shall by himself or as the officer, servant, agent or employee of any person, firm or  
121 corporation, falsely manipulate or underread or overread the Babcock test or any other contrivance used

for the purpose of determining the amount of milk fat in milk or cream, or who shall make any false determination of any test or contrivance used for the purpose of determining the amount of milk fat in any dairy products, shall be guilty of a misdemeanor *or may, in lieu thereof, be assessed a civil penalty as provided in § 3.1-545.1.*

§ 3.1-544. Obstructing Commissioner; violations of article.

Any person who shall hinder or obstruct the Commissioner, his assistants or agents in the discharge of the authority or duty imposed upon him or them by this article, and any person, firm or corporation violating any of their provisions shall (i) be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than ten dollars nor more than fifty dollars, and costs of prosecution, or by imprisonment in the county or city jail not to exceed ninety days or until such fine and costs are paid, or both fine and imprisonment at the discretion of the court, *or (ii) be assessed, in lieu of criminal sanctions, a civil penalty as provided in § 3.1-545.1.*

§ 3.1-545.1. Civil penalties.

A. Any person violating any provision of this article or regulation adopted thereunder may be assessed a civil penalty by the Board for each violation in an amount not to exceed the wholesale value of all milk and milk products involved in the violation, including the costs of disposing of the milk or milk products involved in the violation, or up to \$15,000. In determining whether to report the violation for criminal prosecution or to assess a civil penalty, the Board shall give due consideration to (i) previous violations committed by the person, (ii) the seriousness of the violation, and (iii) the demonstrated good faith of the person charged in attempting to achieve compliance with this article or any regulation adopted pursuant to §§ 3.1-531.1, 3.1-535, or 3.1-535.1 after notification of the violation.

B. Civil penalties assessed under this section shall be paid into the Milk Safety Fund as established by § 3.1-530.11. The Board shall prescribe procedures for payment of uncontested civil penalties into the Milk Safety Fund that shall include provisions for a person to consent to abatement of the alleged violation and to pay a civil penalty, or in lieu of a civil penalty, to pay a negotiated sum without admission of civil liability arising from such alleged violation.

C. Final orders of the Board may be recorded, enforced and satisfied as orders or decrees of a circuit court upon certification of such orders by the secretary of the Board. Such orders may be appealed in accordance with the provisions of the Administrative Process Act (§ 9-6.14:1 et seq.).

D. Nothing in this article shall be construed as requiring the Board to report for prosecution or to institute proceedings for the imposition of civil penalties where the Board considers the violations of the article to be minor. In such cases, the Board may serve a suitable notice of warning in writing, when it believes that the public interest will be best served by so doing.

§ 3.1-545.2. Regulations exempt from provisions of Administrative Process Act.

The adoption, reconsideration, or revision of any regulation adopted pursuant to this article shall be exempt from the provisions of the Administrative Process Act (§ 9-6.14:1 et seq.). Prior to promulgating any regulation pursuant to this section, the Board shall publish a notice of opportunity to comment in the Virginia Register of Regulations. The notice of opportunity to comment shall contain (i) a summary of the proposed regulation; (ii) instructions on how to obtain the complete text of the proposed regulation; and (iii) the name, address, and telephone number of the agency contact person responsible for receiving public comments. The notice of opportunity to comment shall be made at least ninety days in advance of the last date prescribed in the notice for submittals of public comment. The Board shall consider and keep on file all public comments received for any regulation adopted pursuant to this section. After the opportunity to comment has expired, any regulation adopted pursuant to this section shall, unless a later date is specified in the regulation, be effective upon filing with the Registrar of Regulations, who shall publish the regulation as a final regulation in the Virginia Register of Regulations.

§ 9-6.14:4.1. Exemptions and exclusions.

A. Although required to comply with § 9-6.18 of the Virginia Register Act (§ 9-6.15 et seq.), the following agencies are exempted from the provisions of this chapter, except to the extent that they are specifically made subject to §§ 9-6.14:14.1, 9-6.14:21 and 9-6.14:22:

1. The General Assembly.

2. Courts, any agency of the Supreme Court, and any agency which by the Constitution is expressly granted any of the powers of a court of record.

3. The Department of Game and Inland Fisheries in promulgating regulations regarding the management of wildlife and for all case decisions rendered pursuant to any provisions of Chapters 2 (§ 29.1-200 et seq.), 3 (§ 29.1-300 et seq.), 4 (§ 29.1-400 et seq.), 5 (§ 29.1-500 et seq.), and 7 (§ 29.1-700 et seq.) of Title 29.1.

4. The Virginia Housing Development Authority.

5. Municipal corporations, counties, and all local, regional or multijurisdictional authorities created under this Code, including those with federal authorities.

183 6. Educational institutions operated by the Commonwealth, provided that, with respect to § 9-6.14:22,  
184 such educational institutions shall be exempt from the publication requirements only with respect to  
185 regulations which pertain to (i) their academic affairs; (ii) the selection, tenure, promotion and  
186 disciplining of faculty and employees; (iii) the selection of students; and (iv) rules of conduct and  
187 disciplining of students.

188 7. The Milk Commission in promulgating regulations regarding (i) producers' licenses and bases, (ii)  
189 classification and allocation of milk, computation of sales and shrinkage, and (iii) class prices for  
190 producers' milk, time and method of payment, butterfat testing and differential.

191 8. The Virginia Resources Authority.

192 9. Agencies expressly exempted by any other provision of this Code.

193 10. The Virginia Voluntary Formulary Board in formulating recommendations regarding amendments  
194 to the Formulary pursuant to § 32.1-81.

195 11. [Repealed.]

196 12. The Department of General Services in promulgating standards for the inspection of buildings for  
197 asbestos pursuant to § 2.1-526.14.

198 13., 14. [Repealed.]

199 15. The State Council of Higher Education for Virginia, in developing, issuing, and revising  
200 guidelines pursuant to § 23-9.6:2.

201 16. The Commissioner of Agriculture and Consumer Services in adopting regulations pursuant to  
202 subsection B of § 3.1-726.

203 17. The Commissioner of Agriculture and Consumer Services and the Board of Agriculture and  
204 Consumer Services in promulgating regulations pursuant to subsections B and C of § 3.1-106.4,  
205 subsection B of § 3.1-126.12:1, § 3.1-271.1, § 3.1-398, subsections B and C of § 3.1-828.4, and  
206 subsection A of § 3.1-884.21:1.

207 18. The Board of Optometry when specifying therapeutic pharmaceutical agents, treatment guidelines,  
208 and diseases and abnormal conditions of the human eye and its adnexa for TPA-certification of  
209 optometrists pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32 of Title 54.1.

210 19. The Board of Medicine, in consultation with the Board of Pharmacy, when promulgating  
211 amendments to the Physician Assistant Formulary established pursuant to § 54.1-2952.1.

212 20. The Boards of Medicine and Nursing in promulgating amendments to the Nurse Practitioner  
213 Formulary established pursuant to § 54.1-2957.01.

214 21. The Virginia War Memorial Foundation.

215 22. The Virginia Medicaid Prior Authorization Advisory Committee in making recommendations to  
216 the Board of Medical Assistance Services regarding prior authorization for prescription drug coverage  
217 pursuant to Article 4 (§ 32.1-331.12 et seq.) of Chapter 10 of Title 32.1.

218 23. The State Board of Education, in developing, issuing, and revising guidelines pursuant to  
219 § 22.1-280.3.

220 24. The Virginia Racing Commission, when acting by and through its duly appointed stewards or in  
221 matters related to any specific race meeting.

222 25. The Virginia Small Business Financing Authority.

223 26. The Virginia Economic Development Partnership Authority.

224 27. The Board of Agriculture and Consumer Services in adopting, amending or repealing regulations  
225 pursuant to §§ 3.1-530.1, 3.1-530.2, 3.1-531.1, 3.1-535, 3.1-535.1, and subsection A (ii) of § 59.1-156.

226 28. The Insurance Continuing Education Board pursuant to § 38.2-1867.

227 29. The Board of Health in promulgating the list of diseases that shall be reported to the Department  
228 of Health pursuant to § 32.1-35.

229 B. Agency action relating to the following subjects is exempted from the provisions of this chapter:

230 1. Money or damage claims against the Commonwealth or agencies thereof.

231 2. The award or denial of state contracts, as well as decisions regarding compliance therewith.

232 3. The location, design, specifications or construction of public buildings or other facilities.

233 4. Grants of state or federal funds or property.

234 5. The chartering of corporations.

235 6. Customary military, naval or police functions.

236 7. The selection, tenure, dismissal, direction or control of any officer or employee of an agency of  
237 the Commonwealth.

238 8. The conduct of elections or eligibility to vote.

239 9. Inmates of prisons or other such facilities or parolees therefrom.

240 10. The custody of persons in, or sought to be placed in, mental, penal or other state institutions as  
241 well as the treatment, supervision, or discharge of such persons.

242 11. Traffic signs, markers or control devices.

243 12. Instructions for application or renewal of a license, certificate, or registration required by law.

244 13. Content of, or rules for the conduct of, any examination required by law.

14. The administration of a pool or pools authorized by Article 7.1 (§ 2.1-234.9:1 et seq.) of Chapter 14 of Title 2.1.

15. Any rules for the conduct of specific lottery games, so long as such rules are not inconsistent with duly adopted regulations of the State Lottery Board, and provided that such regulations are published and posted.

16. Orders condemning or closing any shellfish, finfish, or crustacea growing area and the shellfish, finfish or crustacea located thereon pursuant to Article 2 (§ 28.2-803 et seq.) of Chapter 8 of Title 28.2.

17. Any operating procedures for review of child deaths developed by the State Child Fatality Review Team pursuant to § 32.1-283.1.

18. The regulations for the implementation of the Health Practitioners' Intervention Program and the activities of the Intervention Program Committee pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

19. The process of reviewing and ranking grant applications submitted to the Commonwealth Neurotrauma Initiative Advisory Board pursuant to Article 12 (§ 32.1-73.1 et seq.) of Chapter 2 of Title 32.1.

20. Loans from the Small Business Environmental Compliance Assistance Fund pursuant to Article 4 (§ 10.1-1197.1 et seq.) of Chapter 11.1 of Title 10.1.

21. The Virginia Breeders Fund created pursuant to § 59.1-372.

22. The types of pari-mutuel wagering pools available for live or simulcast horse racing.

23. The administration of medication or other substances foreign to the natural horse.

C. The following agency actions otherwise subject to this chapter and § 9-6.18 of the Virginia Register Act are excluded from the operation of Article 2 (§ 9-6.14:7.1 et seq.) of this chapter:

1. Agency orders or regulations fixing rates or prices.

2. Regulations which establish or prescribe agency organization, internal practice or procedures, including delegations of authority.

3. Regulations which consist only of changes in style or form or corrections of technical errors. Each promulgating agency shall review all references to sections of the Code of Virginia within their regulations each time a new supplement or replacement volume to the Code of Virginia is published to ensure the accuracy of each section or section subdivision identification listed.

4. Regulations which:

(a) Are necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved;

(b) Are required by order of any state or federal court of competent jurisdiction where no agency discretion is involved; or

(c) Are necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation, and the Registrar has so determined in writing; notice of the proposed adoption of these regulations and the Registrar's above determination shall be published in the Virginia Register not less than thirty days prior to the effective date thereof.

5. Regulations which an agency finds are necessitated by an emergency situation. For the purposes of this subdivision, "emergency situation" means (i) a situation involving an imminent threat to public health or safety or (ii) a situation in which Virginia statutory law or the appropriation act or federal law or federal regulation requires that a regulation shall be effective in 280 days or less from enactment of the law or the appropriation act or the effective date of the federal regulation, and the regulation is not exempt under the provisions of subdivision C 4 of this section. In such cases, the agency shall state in writing the nature of the emergency and of the necessity for such action and may adopt such regulations. Pursuant to § 9-6.14:9, such regulations shall become effective upon approval by the Governor and filing with the Registrar of Regulations. Such regulations shall be limited to no more than twelve months in duration. During the twelve-month period, an agency may issue additional emergency regulations as needed addressing the subject matter of the initial emergency regulation, but any such additional emergency regulations shall not be effective beyond the twelve-month period from the effective date of the initial emergency regulation. If the agency wishes to continue regulating the subject matter governed by the emergency regulation beyond the twelve-month limitation, a regulation to replace the emergency regulation shall be promulgated in accordance with Article 2 (§ 9-6.14:7.1 et seq.) of this chapter. The Notice of Intended Regulatory Action to promulgate a replacement regulation shall be filed with the Registrar within sixty days of the effective date of the emergency regulation and published as soon as practicable, and the proposed replacement regulation shall be filed with the Registrar within 180 days after the effective date of the emergency regulation and published as soon as practicable.

6. [Repealed.]

7. Preliminary program permit fees of the Department of Environmental Quality assessed pursuant to subsection C of § 10.1-1322.2.

8. Regulations of the Pesticide Control Board adopted pursuant to subsection B of § 3.1-249.51 or clause (v) or (vi) of subsection C of § 3.1-249.53 after having been considered at two or more Board meetings and one public hearing.

9. Regulations of the regulatory boards served by (i) the Department of Labor and Industry pursuant to Title 40.1 and (ii) the Department of Professional and Occupational Regulation or the Department of Health Professions pursuant to Title 54.1 which are limited to reducing fees charged to regulants and applicants.

10. The development and issuance of procedural policy relating to risk-based mine inspections by the Department of Mines, Minerals and Energy authorized pursuant to §§ 45.1-161.82 and 45.1-161.292:55.

11. General permits issued by the State Air Pollution Control Board pursuant to Chapter 13 (§ 10.1-1300 et seq.) of Title 10.1 if the Board: (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of subsection B of § 9-6.14:7.1, (ii) following the passage of thirty days from the publication of the Notice of Intended Regulatory Action forms a technical advisory committee composed of relevant stakeholders, including potentially affected citizens groups, to assist in the development of the general permit, (iii) provides notice and receives oral and written comment as provided in subsection F of § 9-6.14:7.1, and (iv) conducts at least one public hearing on the proposed general permit.

12. General permits issued by the State Water Control Board pursuant to the State Water Control Law (§ 62.1-44.2 et seq.), Chapter 24 (§ 62.1-242 et seq.) of Title 62.1 and Chapter 25 (§ 62.1-254 et seq.) of Title 62.1 if the Board: (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of subsection B of § 9-6.14:7.1, (ii) following the passage of thirty days from the publication of the Notice of Intended Regulatory Action forms a technical advisory committee composed of relevant stakeholders, including potentially affected citizens groups, to assist in the development of the general permit, (iii) provides notice and receives oral and written comment as provided in subsection F of § 9-6.14:7.1, and (iv) conducts at least one public hearing on the proposed general permit.

13. The development and issuance by the Board of Education of guidelines on constitutional rights and restrictions relating to the recitation of the pledge of allegiance to the American flag in public schools pursuant to § 22.1-202.

14. Regulations of the Board of the Virginia Higher Education Tuition Trust Fund promulgated pursuant to § 23-38.77.

15. The development and issuance of general wetlands permits by the Marine Resources Commission pursuant to subsection B of § 28.2-1307 if the Commission: (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of subsection B of § 9-6.14:7.1, (ii) following the passage of thirty days from publication of the Notice of Intended Regulatory Action forms a technical advisory committee composed of relevant stakeholders, including potentially affected citizens groups, to assist in the development of the general permit, (iii) provides notice and receives oral and written comment as provided in subsection F of § 9-6.14:7.1, and (iv) conducts at least one public hearing on the proposed general permit.

Whenever regulations are adopted under this subsection, the agency shall state as part thereof that it will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision. The effective date of regulations adopted under this subsection shall be in accordance with the provisions of § 9-6.14:9.3, except in the case of emergency regulations, which shall become effective as provided in subsection B of § 9-6.14:9.

D. The following agency actions otherwise subject to this chapter are excluded from the operation of Article 3 (§ 9-6.14:11 et seq.) of this chapter:

1. The assessment of taxes or penalties and other rulings in individual cases in connection with the administration of the tax laws.

2. The award or denial of claims for workers' compensation.

3. The grant or denial of public assistance.

4. Temporary injunctive or summary orders authorized by law.

5. The determination of claims for unemployment compensation or special unemployment.

6. The suspension of any license, certificate, registration or authority granted any person by the Department of Health Professions or the Department of Professional and Occupational Regulation for the dishonor, by a bank or financial institution named, of any check, money draft or similar instrument used in payment of a fee required by statute or regulation.

E. Appeals from decisions of the Governor's Employment and Training Department otherwise subject to this chapter are excluded from the operation of Article 4 (§ 9-6.14:15 et seq.) of this chapter.

F. The Marine Resources Commission, otherwise subject to this chapter and § 9-6.18 of the Virginia Register Act, is excluded from the operation of subdivision C 5 of this section and of Article 2 (§ 9-6.14:7.1 et seq.) of this chapter.

G. A regulation for which an exemption is claimed under this section and which is placed before a board or commission for consideration shall be provided at least two days in advance of the board or

368 commission meeting to members of the public that request a copy of that regulation. A copy of that  
369 regulation shall be made available to the public attending such meeting.

370 H. The Joint Legislative Audit and Review Commission shall conduct a review periodically of  
371 exemptions and exclusions authorized by this section. The purpose of this review shall be to assess  
372 whether there are any exemptions or exclusions which should be discontinued or modified.

373 I. Minor changes to regulations being published in the Virginia Administrative Code under the  
374 Virginia Register Act, Chapter 1.2 (§ 9-6.15 et seq.) of this title, made by the Virginia Code  
375 Commission pursuant to § 9-77.10:1 shall be exempt from the provisions of this chapter.