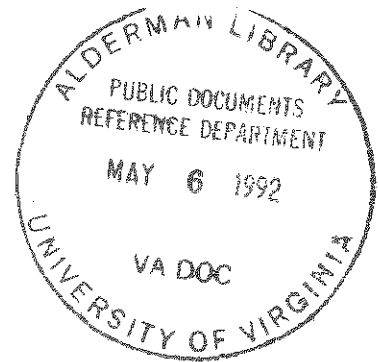


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THE VIRGINIA REGISTER

OF REGULATIONS

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VIRGINIA REGISTER

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 full text of all regulations, both as proposed and as finally adopted or changed by amendment 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 issued by the Governor, and Executive Orders, the *Virginia Tax Bulletin* issued periodically by the Department of Taxation, and notices of all 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 proposed action; a basis, purpose, impact and summary statement; a notice giving the public an opportunity to comment on the proposal, and the text of the proposed regulations.

Under the provisions of the Administrative Process Act, the Registrar has the right to publish a summary, rather than the full text, of a regulation which is considered to be too lengthy. In such case, the full text of the regulation will be available for public inspection at the office of the Registrar and at the office of the promulgating agency.

Following publication of the proposal in the *Virginia Register*, sixty days must elapse before the agency may take action on the proposal.

During this time, the Governor and the General Assembly will review the proposed regulations. The Governor will transmit his comments on the regulations to the Registrar and the agency and such comments will be published in the *Virginia Register*.

Upon receipt of the Governor's comment on a proposed regulation, the agency (i) may adopt the proposed regulation, if the Governor has no objection to the regulation; (ii) may modify and adopt the proposed regulation after considering and incorporating the Governor's suggestions, or (iii) may adopt the regulation without changes despite the Governor's recommendations for change.

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 *Virginia Registrar* and the promulgating agency. The objection will be published in the *Virginia Register*. Within twenty-one 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 promulgating agency must again publish the text of the regulation, as adopted, highlighting and explaining any substantial changes in the final regulation. A thirty-day final adoption period will commence upon publication in the *Virginia Register*.

The Governor will review the final regulation during this time and if he objects, forward his objection to the Registrar and the agency. His objection will be published in the *Virginia Register*. If the Governor finds that changes made to the proposed regulation are substantial, he may suspend the regulatory process for thirty days and require the agency to solicit additional public comment on the substantial changes.

A regulation becomes effective at the conclusion of this thirty-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 twenty-one day extension period; or (ii) the Governor exercises his authority to suspend the regulatory process for solicitation of additional public comment, in which event the regulation, unless withdrawn, becomes effective on the date specified which date shall be after the expiration of the period for which the Governor has suspended the regulatory process.

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

EMERGENCY REGULATIONS

If an agency determines that an emergency situation exists, it then requests the Governor to issue 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 in time and cannot exceed a twelve-months duration. The emergency regulations will be published as quickly as possible in the *Virginia Register*.

During the time the emergency status is in effect, the agency may proceed with the adoption of permanent regulations through the usual procedures (See "Adoption, Amendment, and Repeal of Regulations," above). If the agency does not choose 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 of Chapter 1.1:1 (§§ 9-6.14:6 through 9-6.14:9) of the Code of Virginia be examined carefully.

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Volume 8 - 1992

Mar. 18	Apr. 6
Apr. 1	Apr. 20
Apr. 15	May 4
Apr. 29	May 18
May 13	June 1
May 27	June 15
June 10	June 29
Index 3 - Volume 8	

June 24	July 13
July 8	July 27
July 22	Aug. 10
Aug. 6	Aug. 24
Aug. 19	Sept. 7
Sept. 2	Sept. 21
Final Index - Volume 8	

Volume 9 - 1992-93

Sept. 16	Oct. 5
Sept. 30	Oct. 19
Oct. 14	Nov. 2
Oct. 28	Nov. 16
Nov. 11	Nov. 30
Nov. 25	Dec. 14
Dec. 9	Dec. 28
Index 1 - Volume 9	

Dec. 23	Jan. 11, 1993
Jan. 6	Jan 25
Jan. 20	Feb. 8
Feb. 3	Feb. 22
Feb. 17	Mar. 1
Mar. 3	Mar. 15
Mar. 17	Mar. 29
Index 2 - Volume 9	

Mar. 31	Apr. 12
Apr. 14	Apr. 26
Apr. 28	May 10
May 12	May 24
May 26	June 7
June 9	June 21
June 16	June 28
Index 3 - Volume 9	

TABLE OF CONTENTS

NOTICES OF INTENDED REGULATORY ACTION

Notices of Intent 2529

PROPOSED REGULATIONS

DEPARTMENT OF LABOR AND INDUSTRY

Apprenticeship Council

Regulations Governing the Administration of Apprenticeship Programs in the Commonwealth of Virginia. (VR 425-01-26) 2545

BOARD OF MEDICINE

Regulations Governing the Practice of Respiratory Therapy Practitioners. (VR 465-04-01) 2552

BOARD OF NURSING HOME ADMINISTRATORS

Regulations of the Board of Nursing Home Administrators. (VR 500-01-2:1) 2559

FINAL REGULATIONS

DEPARTMENT OF CRIMINAL JUSTICE SERVICES (BOARD OF)

Rules Relating to Compulsory In-Service Training Standards for Law-Enforcement Officers, Jailors or Custodial Officers, Courtroom Security Officers, Process Service Officers and Officers of the Department of Corrections, Division of Institutional Services. (VR 240-01-2) 2569

Rules Relating to Certification of Criminal Justice Instructors. (VR 240-01-12) 2576

DEPARTMENT OF HEALTH (STATE BOARD OF)

Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations. (VR 355-30-000-06) 2582

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

State Plan for Medical Assistance Relating to Specialized Care Services.

Standards Established and Methods Used to Assure High Quality Care. (VR 460-02-3.1300) 2607

Methods and Standards for Establishing Payment Rates - Long-Term Care. (VR 460-02-4.1940) 2621

Class Resource Cost Assignment, Computation of Service Intensity Index and Ceiling and Rate Adjustments to the Prospective Direct Patient Care Operating Cost Rate - Allowance for Inflation Methodology Base "Current" Operating Rate (Appendix IV to Nursing Home Payment System). (VR 460-03-4.1944) 2623

BOARD OF MEDICINE

Regulations Governing the Practice of Physical Therapy. (VR 465-03-01) 2626

Certification for Optometrists to Prescribe for and Treat Certain Diseases, Including Abnormal Conditions, of the Human Eye and Its Adnexa with Certain Therapeutic Pharmaceutical Agents. (VR 465-09-01) 2632

STATE WATER CONTROL BOARD

Surface Water Management Area Regulation. (VR 680-15-03) 2641

DEPARTMENT OF WASTE MANAGEMENT (VIRGINIA WASTE MANAGEMENT BOARD)

Solid Waste Management Facility Permit Application Fees. (VR 672-20-11) 2652

Regulations Governing the Transportation of Hazardous Materials. (VR 672-30-1) 2658

STATE CORPORATION COMMISSION

ADMINISTRATIVE LETTERS

Refund of Unearned Interest. (1992-7) 2662

ORDERS

Investigation of Conservation and Load Management Programs. (PUE900070) 2662

Rules Governing Utility Promotional Allowances. 2668

STATE LOTTERY DEPARTMENT

DIRECTOR'S ORDERS

"Cash Vault" Instant Ticket Giveaway; Final Rules for Game Operation. (1992-10) 2670

Certain Director's Orders Rescinded. (1992-11) 2670

"Cash Vault"; Promotional Game and Drawing Rules. (1992-12) 2670

Table of Contents

Virginia's Twenty-sixth Instant Game Lottery; "Cash Vault,"
Final Rules for Game Operation. (1992-13) 2670

MARINE RESOURCES COMMISSION

FINAL REGULATIONS

Unloading Point for Relaying Shellfish.
(VR 450-01-9202) 2671

GOVERNOR

EXECUTIVE ORDERS

Creating the Governor's Commission on Defense
Conversion and Economic Adjustment. (1992-43) 2672

GOVERNOR'S COMMENTS

DEPARTMENT OF HEALTH (BOARD OF)

Virginia Medical Care Facilities Certificate of Public
Need Rules and Regulations. (VR 355-30-000-06) 2673

BOARD OF MEDICINE

Regulations Governing the Practice of Physical
Therapy. (VR 465-03-01) 2673

Certification of Optometrists to Prescribe for and
Treat Certain Diseases or Abnormal Conditions of
the Human Eye and Its Adnexa with Certain
Therapeutic Pharmaceutical Agents. (VR 465-09-01) . 2673

DEPARTMENT OF STATE POLICE

Motor Vehicle Safety Inspection Rules and
Regulations. (VR 545-05-07) 2673

GENERAL NOTICES/ERRATA

GENERAL NOTICES

DEPARTMENT OF GENERAL SERVICES

Division of Forensic Science

Notice Regarding Regulations for the Approval of
Field Tests for Detection of Drugs. (VR 330-05-01) .. 2674

DEPARTMENT OF HEALTH

Requesting Public Comments Regarding Minimum
Standard to Which Effluent Discharges to a Dry
Ditch or Intermittent Streams Must be Treated. 2677

DEPARTMENT OF LABOR AND INDUSTRY

Notice Regarding Revisions to the Procedures to be
Followed by Labor Law Division Staff for Investigation,
Collection of Wages, and Assessment of Civil Monetary
Penalties Under the Virginia Payment of Wage Law. 2677

NOTICE TO STATE AGENCIES

Notice of change of address. 2683

Forms for filing material on dates for publication. .. 2683

ERRATA

DEPARTMENT OF COMMERCE

Private Security Services Businesses Regulations.
(VR 190-04-1:1) 2684

DEPARTMENT OF LABOR AND INDUSTRY

Virginia Occupational Safety and Health Standards
for the General Industry - Occupational Exposure to
Bloodborne Pathogens (1910.1030) 2684

CALENDAR OF EVENTS

EXECUTIVE

Open Meetings and Public Hearings 2685

LEGISLATIVE

Open Meetings and Public Hearings

CHRONOLOGICAL LIST

Open Meetings 2707

Public Hearings 2710

NOTICES OF INTENDED REGULATORY ACTION

Symbol Key †

† Indicates entries since last publication of the Virginia Register

STATE AIR POLLUTION CONTROL BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Air Pollution Control Board intends to consider amending regulations entitled: **VR 120-01. Regulations for the Control and Abatement of Air Pollution.** The purpose of the proposed action is to amend the Public Participation Guidelines (Appendix E) to: (i) establish, in regulation, various provisions to ensure interested parties have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process and (ii) establish guidelines which are consistent with those of the other agencies within the Natural Resources Secretariat. Specifically, the board is considering adoption of public participation guidelines which would require an expanded notice of intended regulatory action (NOIRA) to include a statement as to the need for the regulatory action; a description, if possible, of alternatives available to meet the need; and a request for comments on the intended regulatory action, comments on the costs and benefits of the alternatives, and suggestions; and require a summary of the NOIRA comments be submitted to the board. In addition, certain analyses would be required to be performed to form the basis for the regulatory action, and the notice of public comment would state that the analyses had been performed and are available for viewing by the public upon request.

A public meeting will be held by the department in House Room 1, State Capitol Building, Richmond, Virginia, at 10 a.m. on May 27, 1992, to discuss the intended action. Unlike a public hearing, which is intended only to receive testimony, this meeting is being held to discuss and exchange ideas and information relative to regulation development.

Location of documents: The legal and technical basis for the intended regulatory action and any supporting documents may be examined by the public on the Eighth Floor, Ninth Street Office Building, 200-202 North Ninth Street, Richmond, Virginia, between 8:30 a.m. and 4:30 p.m. of each business day until the day of the meeting.

Need and issues involved: The provisions of § 120-02-02 and Appendix E which prescribe the procedures for public participation in the regulatory adoption process are in need of revision to provide better information to the public and regulated community in order to facilitate more meaningful participation by interested parties. They are

also in need of update to conform to recent changes in the process under the Administrative Process Act. The issue is whether the regulation should be amended to meet the needs identified above or remain as is.

Regulatory alternatives: The alternatives are to either (i) amend the regulation to meet the needs identified above and improve the procedure to gain more meaningful input into the regulatory adoption process or (ii) not amend the regulation and leave the provisions cited outdated and ineffective with regard to meaningful public input.

Basis and statutory authority: Section 10.1-1308 of the Code of Virginia authorized the State Air Pollution Control Board to promulgate regulations abating, controlling and prohibiting air pollution. Section 9-6.14:7.1 requires each agency to develop, adopt and utilize public participation guidelines for soliciting the input of interested parties in the formation and development of its regulations.

Estimated impacts: No financial impact on regulated entities or the public is expected from the proposed regulatory action since the guidelines only impose requirements on the agency. Regulated entities and the public should benefit from the intended regulatory action in that the guidelines used by the different environmental agencies will be consistent and the amount and types of information made available to regulated entities and the public for their use in participating in the regulatory process will increase and be required by regulation.

Applicable statutory provisions: The legal basis for the regulation are as follows:

1. § 10.1-1308 of the Virginia Air Pollution Control Law (Title 10.1, Chapter 13 of the Code of Virginia).
2. § 9-6.14:7.1 of the Administrative Process Act (Title 9, Chapter 1.1:1 of the Code of Virginia).
3. § 120-02-02 and Appendix E of the Regulations for the Control and Abatement of Air Pollution (VR 120-01)

Statutory Authority: §§ 9-6.14:7.1 and 10.1-1308 of the Code of Virginia.

Written comments may be submitted until 4 p.m., May 27, 1992, to Director of Program Development, Department of Air Pollution Control, P.O. Box 10089, Richmond, VA 23240.

Contact: Robert A. Mann, Director, Division of Program Development, Department of Air Pollution Control, P.O.

Notices of Intended Regulatory Action

Box 10089, Richmond, VA 23240, telephone (804) 786-5789.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Air Pollution Control Board intends to consider amending regulations entitled: **VR 120-01. Regulations for the Control and Abatement of Air Pollution.** The purpose of the regulation is to limit or prohibit open burning in some instances and to establish requirements to allow the agency to monitor and issue permits for open burning in order to restrict particulate (smoke) emissions from open burning to the levels necessary for the protection of public health and welfare.

A public meeting will be held by the department in House Room 1, State Capitol Building, Richmond, Virginia, at 9 a.m. on June 24, 1992, to discuss the intended action. Unlike a public hearing, which is intended only to receive testimony, this meeting is being held to discuss and exchange ideas and information relative to regulation development.

Ad hoc advisory group: The department will form an ad hoc advisory group to assist in the development of the regulation. Persons desiring to be in the group should notify the agency contact in writing by close of business on May 21, 1992, providing the name, address, phone number, and the organization to be represented (if any). Notification of the composition of the ad hoc advisory group will be sent to all applicants by June 4, 1992. Person selected to be on the group are encouraged to attend the public meeting mentioned above and any subsequent meetings that may be needed to develop the draft regulation.

Location of documents: The legal and technical basis for the intended regulatory action and any supporting documents may be examined by the public on the Eighth Floor, Ninth Street Office Building, 200-202 North Ninth Street, Richmond, Virginia, between 8:30 a.m. and 4:30 p.m. of each business day until the day of the meeting.

Need and issues involved: The basic elements of Rule 4-40 are as follows. Section 120-04-4003 generally prohibits the burning of refuse (except as allowed by § 120-04-4004). Section 120-04-4003 also specifies conditions under which open burning is never allowed, such as the burning of rubber, asphaltic or oily materials, or toxic materials. Section 120-04-4004 contains the list of circumstances under which burning is allowed. In two of these circumstances, the burning of land clearing refuse and burning at local landfills, a permit is required in order to burn. Section 120-04-4005 covers the permitting of special open pit incinerators often used as an alternative to open burning. Essentially, Rule 4-40 does not prevent open burning but does impose restrictions designed to minimize the adverse effects of this activity.

Open burning produces a form of air pollution that is

readily visible to the public and is therefore a very sensitive issue. Also, open burning presents an immediate and real health hazard to the public, especially to those with asthma, bronchitis, or other respiratory diseases. Moreover, control of open burning can sometimes involve a conflict between two public policy issues: the enjoyment of life and property and the promotion of economic development. For instance, a large open burn in a heavily populated area may cause a nuisance and hinder the enjoyment of private property, but at the same time it may reduce the expense of disposal.

On the other hand, emissions from open burning represent less than 1.0% of the total emissions statewide, but the time spent in dealing with the problem may range as high as 25% for some of the department's enforcement staff. This allocation of resources seems disproportionate in light of the department's responsibility to control other types of emissions which contribute far more to the degradation of air quality, like those from industry and motor vehicles. Therefore, the regulation of open burning on a statewide basis may not be cost effective.

Alternatives: The department is requesting comments on the costs and benefits of the following alternatives as well as on any others which address the need. The department's assessment of the following alternatives is presented below.

1. Take no action. This alternative would be inappropriate from the point of view of both public and department. Scarce resources prevent the department from devoting the necessary time and staff to the enforcement of the current rule. Local governments and the public, however, assume the existence of adequate enforcement efforts on the part of the state because of the language of the current rule.

2. Remove all state air quality restrictions on open burning except for those governing the burning of hazardous materials. This alternative would probably be unacceptable to the public. Since open burning is one of the most visible forms of air pollution, citizens file complaints about this activity with great readiness. Furthermore, the department's abolition of the open burning restrictions might be perceived by the public as irrational and inconsistent in light of the fact that the department has worked to obtain several convictions for violation of the current open burning rule over the past years.

3. Prohibit all open burning. This alternative would be impossible to enforce. Department staff have already significantly reduced the amount of time spent investigating open burning complaints and issuing open burning permits because more important legal mandates demand that they spend their time enforcing rules that have a greater environmental and health impact than does the open burning rule. Open burning has no measurable effect on ambient air quality;

Notices of Intended Regulatory Action

therefore, statewide regulation contributes very little to Virginia's legal health and welfare goals. A more stringent rule (like one involving a prohibition of all open burning) would further widen the discrepancy between law and practice since sufficient resources could not possibly be allocated to enforce it.

4. Prohibit all open burning except where there is a valid local ordinance meeting criteria specified by the state. Since local waste collection and disposal policies significantly affect the practice of open burning, it is appropriate for the local governing bodies responsible for those policies to assume the authority for dealing with open burning within their jurisdictions. Such assumption of authority is realistic since little technical expertise is needed to enforce a local open burning ordinance. Furthermore, a local government could more consistently and efficiently enforce an open burning ordinance through its fire and police departments than the state could through nonlocal staff. The major caveat with this alternative is that local governments vary considerably in their capability and willingness to assume responsibility for open burning. Any attempt to force local control could result in strained relations with both the localities and the public.

Regulatory constraints: Section 10.1-1308 of the Virginia Air Pollution Control Law prohibits the board from regulating "the burning of leaves from trees by persons on property where they reside if the local governing body of the county, city or town has enacted an otherwise valid ordinance regulating such burning."

Applicable statutory provisions: The legal basis for the regulation is § 10.1-1308 of the Virginia Air Pollution Control Law (Chapter 13 of Title 10.1 of the Code of Virginia).

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

Written comments may be submitted until 4 p.m., June 24, 1992, to Director of Program Development, Department of Air Pollution Control, P.O. Box 10089, Richmond, VA 23240.

Contact: Kathleen Sands, Policy Analyst, Division of Program Development, Department of Air Pollution Control, P.O. Box 10089, Richmond, VA 23240, telephone (804) 225-2722.

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Chesapeake Bay Local Assistance Board intends to consider repealing regulations entitled: **VR 173-01-00. Public Participation Procedures for the Formation and Promulgation of**

Regulations. The purpose of the proposed action is to repeal the agency's existing Public Participation Procedures. Concurrently with this action, the agency is proposing to adopt new Public Participation Guidelines (VR 173-01-01).

Section 9-6.14:7.1 of the Code of Virginia requires each agency to develop, adopt and utilize public participation guidelines for soliciting the input of interested parties in the formation and development of its regulations. Section 10.1-2102 authorizes the Chesapeake Bay Local Assistance Board (board) to adopt rules and procedures for the conduct of its business.

Concurrently with this action, the board is considering adoption of Public Participation Guidelines which would require an expanded notice of intended regulatory action (NOIRA) to include a statement as to the need for the regulatory action; a description, if possible, of alternatives available to meet the need; and a request for comments on the intended regulatory action, comments on the costs and benefits of the alternatives, and suggestions; and require a summary of the NOIRA comments be submitted to the board. In addition, the board would be required to perform certain analyses and state in the notice of public comment period that the analyses had been performed and are available to the public upon request.

No financial impact on regulated entities or the public is expected from the intended regulatory action since the guidelines impose requirements only on the board. Regulated entities and the public should benefit from the repeal and concurrent adoption of revised guidelines in that the newly adopted guidelines used by the different environmental agencies will be consistent and the amount and types of information made available to regulated entities and the public for their use in participating in the regulatory process will increase and be required by regulation.

The board will hold a public meeting at 8 a.m., Wednesday, May 6, 1992, in the conference room of the Anchor Motel, Route 13, Nassawadox, Virginia, to receive views and comments and to answer questions of the public.

Applicable laws and regulations include the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia), the Chesapeake Bay Preservation Act (§§ 10.1-2100-10.1-2115), and the board's current Public Participation Procedures (VR 173-01-00).

Statutory Authority: §§ 9-6.14:7.1 and 10.1-2102 of the Code of Virginia.

Written comments may be submitted until 4 p.m. on May 22, 1992.

Contact: C. Scott Crafton, Regulatory Coordinator, Chesapeake Bay Local Assistance Department, 805 E. Broad Street, Suite 701, Richmond, VA 23219, telephone

Notices of Intended Regulatory Action

(804) 225-3440 or 1-800-243-7229/TDD ☎

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Chesapeake Bay Local Assistance Board intends to consider promulgating regulations entitled: **VR 173-01-01. Public Participation Guidelines**. The purpose of the proposed action is to adopt Public Participation Guidelines for the agency which establish, in regulation, various provisions to ensure interested parties have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process and establish guidelines which are consistent with those of the other agencies within the Natural Resources Secretariat. Specifically, the board is considering adoption of Public Participation Guidelines which would require an expanded notice of intended regulatory action (NOIRA) to include a statement as to the need for the regulatory action; a description, if possible, of alternatives available to meet the need; and a request for comments on the intended regulatory action, comments on the costs and benefits of the alternatives, and suggestions; and require a summary of the NOIRA comments be submitted to the board. In addition, the board would be required to perform certain analyses and state in the notice of public comment period that the analyses had been performed and are available to the public upon request.

Section 9-6.14:7.1 of the Code of Virginia requires each agency to develop, adopt and utilize public participation guidelines for soliciting the input of interested parties in the formation and development of its regulations. Section 10.1-2102 authorizes the Chesapeake Bay Local Assistance Board (board) to adopt rules and procedures for the conduct of its business. Section 10.1-2107 requires the board to consider economic and social costs and benefits that can be expected to result from its regulatory actions.

No financial impact on regulated entities or the public is expected from the intended regulatory action since the guidelines impose requirements only on the board. Regulated entities and the public should benefit from the repeal and concurrent adoption of revised guidelines in that the newly adopted guidelines used by the different environmental agencies will be consistent and the amount and types of information made available to regulated entities and the public for their use in participating in the regulatory process will increase and be required by regulation.

The board will hold a public meeting at 8 a.m., Wednesday, May 6, 1992, in the conference room of the Anchor Motel, Route 13, Nassawadox, Virginia, to receive views and comments and to answer questions of the public.

Applicable laws and regulations include the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia), the Chesapeake Bay Preservation Act (§§ 10.1-2100-

10.1-2115), and the board's current Public Participation Procedures (VR 173-01-00).

Statutory Authority: §§ 9-6.14:7.1 and 10.1-2102 of the Code of Virginia.

Written comments may be submitted until 4 p.m. on May 22, 1992.

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

DEPARTMENT OF COMMERCE

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Commerce intends to consider repealing regulations entitled: **VR 190-01-1. Rules and Regulations Governing Employment Agencies**. The purpose of the proposed action is to repeal current regulations which are not consistent with the new requirements of House Bill 911 which was passed by the 1992 General Assembly. The department will hold an informational meeting at the Department of Commerce, 3600 W. Broad Street, Richmond, VA 23230 on May 1, 1992, at 10 a.m. in Room 395 to allow the public to ask questions and make suggestions relevant to the regulation of employment agencies.

Statutory Authority: § 54.1-1302.1 of the Code of Virginia.

Written comments may be submitted until May 20, 1992.

Contact: David E. Dick, Regulatory Programs Management Analyst, Department of Commerce, 3600 W. Broad Street, Richmond, VA 23230, telephone (804) 367-8588.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Commerce intends to consider promulgating new regulations entitled: **VR 190-01-1.1. Rules and Regulations Governing Employment Agencies**. The purpose of the proposed action is to promulgate regulations governing employment agencies to implement House Bill No. 911, passed by the 1992 Session of the General Assembly, and seeks public comment concerning all aspects of employment agency regulations. Specific comment is sought concerning requirements for the:

- Initial and renewal licensure, registration and approval as a controlling person;
- Minimum elements of initial contracts, position acceptance agreements and written job descriptions;

Notices of Intended Regulatory Action

- Manner in which fees are to be earned and paid;
- Standards of practice;
- Grounds for disciplinary actions;
- Records to be kept and maintained by employment agencies; and
- Amount of bond.

The department will hold an informational meeting at the Department of Commerce, 3600 W. Broad Street, Richmond, VA 23230 on May 1, 1992, at 10 a.m. in Room 395 to allow the public to ask questions and make suggestions relevant to the regulation of employment agencies.

Statutory Authority: § 54.1-1302.1 of the Code of Virginia.

Written comments may be submitted until May 20, 1992.

Contact: David E. Dick, Regulatory Programs Management Analyst, Department of Commerce, 3600 W. Broad Street, Richmond, VA 23230, telephone (804) 367-8588.

DEPARTMENT OF CONSERVATION AND RECREATION (BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Conservation and Recreation intends to consider promulgating regulations entitled: **VR 215-00-00. Regulatory Public Participation Guidelines.** The purpose of the proposed action is to adopt Regulatory Public Participation Guidelines for the board which establish, in regulation, various provisions to ensure interested parties have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process, and establish regulations which are consistent with those of the other agencies within the Natural Resources Secretariat. Specifically, the board is considering adoption of Regulatory Public Participation Guidelines which would require an expanded notice of intended regulatory action (NOIRA) to include a statement as to the need for the regulatory action; a description, if possible, of alternatives available to meet the need; and a request for comments on the intended regulatory action, comments on the costs and benefits of the alternatives, and suggestions; and require a summary of the NOIRA comments be developed by the Department of Conservation and Recreation and submitted to the board. In addition, the department would be required to perform certain analyses and state in the notice of public comment period that the analyses had been performed and are available to the public upon request.

Section 9-6.14:7.1 of the Code of Virginia requires each

agency with regulatory powers to develop, adopt and utilize public participation guidelines for soliciting the input of interested parties in the formation and development of its regulations. Section 10.1-107 of the Code of Virginia authorizes the Board of Conservation and Recreation to promulgate regulations necessary for the execution of the Virginia Stormwater Management Act, Article 1.1 (§ 10.1-603.1 et seq.) of Chapter 6 of Title 10.1 of the Code of Virginia.

No financial impact on regulated entities or the public is expected from the proposed regulatory action since the regulations only impose requirements on the Board and the Department of Conservation and Recreation. Regulated entities and the public should benefit from the repeal and concurrent adoption of revised regulations by the board in that the newly adopted regulations will be similar to those public participation regulations used by the different environmental agencies in the Natural Resources Secretariat. Public participation regulations will be consistent throughout the Secretariat and the amount and types of information made available to regulated entities and the public process will increase and be required by regulation.

The board and department will hold a public meeting to receive views and comments and to answer questions of the public at 9 a.m., Friday, May 22, 1992, in Conference Room B, 1st Floor, James Monroe Building, 101 North 14th Street, Richmond, Virginia 23219.

Applicable laws and regulations include the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia); § 10.1-107 and the Virginia Stormwater Management Act, Article 1.1 (§ 10.1-603.1 et seq.) of Chapter 6 of Title 10.1 of the Code of Virginia; and all other Acts of Assembly and Code of Virginia references conferring powers, duties, and responsibilities on the board.

Statutory Authority: §§ 9-6.14:7.1 and 10.1-107 of the Code of Virginia.

Written comments may be submitted until 5 p.m. on May 27, 1992.

Contact: Leon E. App, Executive Assistant, Virginia Department of Conservation and Recreation, 203 Governor Street, Suite 302, Richmond, VA 23219, telephone (804) 786-4570 or Fax (804) 786-6141.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Conservation and Recreation intends to consider repealing regulations entitled: **VR 215-01-00. Public Participation Guidelines.** The purpose of the proposed action is to repeal the agency's existing public participation guidelines. Concurrently with this action, the agency is proposing to adopt Regulatory Public Participation Guidelines for the department which establish, in regulation, various

Notices of Intended Regulatory Action

provisions to ensure interested parties have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process and establish regulations which are consistent with those of the other agencies within the Natural Resources Secretariat.

Section 9-6.14:7.1 of the Code of Virginia requires each agency to develop, adopt and utilize public participation guidelines for soliciting the input of interested parties in the formation and development of its regulations. Section 10.1-104 of the Code of Virginia authorizes the Department of Conservation and Recreation (department) to prescribe rules and regulations necessary and incidental to the performance of duties or execution of powers conferred by law, and to promulgate regulations pursuant to the Administrative Process Act to carry out the provisions of Subtitle I of Title 10.1 of the Code of Virginia.

Concurrently with this action to repeal the existing VR 215-01-00, Public Participation Guidelines, the department is considering adoption of VR 217-00-00, Regulatory Public Participation Guidelines, which would require an expanded notice of intended regulatory action (NOIRA) to include a statement as to the need for the regulatory action; a description, if possible, of alternatives available to meet the need; and a request for comments on the intended regulatory action, comments on the costs and benefits of the alternatives, and suggestions; and require a summary of the NOIRA comments be developed by the department and submitted to the DCR Director. In addition, the department would be required to perform certain analyses and state in the notice of public comment period that the analyses had been performed and are available to the public upon request.

No financial impact on regulated entities or the public is expected from the proposed regulatory action since the regulations impose requirements on the department. Regulated entities and the public should benefit from the repeal and concurrent adoption of revised regulations in that the newly adopted regulations will be similar to those public participation regulations used by the different environmental agencies in the Natural Resources Secretariat. Public participation regulations will be consistent throughout the Secretariat and the amount and types of information made available to regulated entities and the public for their use in participating in the regulatory process will increase and be required by regulation.

The department will hold a public meeting to receive views and comments and to answer questions of the public at 9 a.m., Friday May 22, 1992, in Conference Room B, 1st Floor, James Monroe Building, 101 N. 14th Street, Richmond, Virginia 23219.

Applicable laws and regulations include the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia), Subtitle I of Title 10.1 of the Code of Virginia; all other Acts of Assembly and Code of Virginia references

conferring powers, duties and responsibilities on the department, and the department's existing Public Participation Guidelines.

Statutory Authority: §§ 9-6.14:7.1 and 10.1-104 of the Code of Virginia.

Written comments may be submitted until 5 p.m., May 27, 1992.

Contact: Leon E. App, Executive Assistant, Virginia Department of Conservation and Recreation, 203 Governor Street, Suite 302, Richmond, VA 23219, telephone (804) 786-4570 or Fax (804) 786-6141.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Conservation and Recreation intends to consider promulgating regulations entitled: **VR 217-00-00, Regulatory Public Participation Guidelines**. The purpose of the proposed action is to adopt Regulatory Public Participation Guidelines for the department which establish, in regulation, various provisions to ensure interested parties have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process, and establish regulations which are consistent with those of the other agencies within the Natural Resources Secretariat. Specifically, the department is considering adoption of Regulatory Public Participation Guidelines which would require an expanded notice of intended regulatory action (NOIRA) to include a statement as to the need for the regulatory action; a description, if possible, of alternatives available to meet the need; and a request for comments on the intended regulatory action, comments on the costs and benefits of the alternatives, and suggestions; and require a summary of the NOIRA comments be developed by the department and submitted to the DCR Director. In addition, the department would be required to perform certain analyses and state in the notice of public comment period that the analyses had been performed and are available to the public upon request.

Section 9-6.14:7.1 of the Code of Virginia requires each agency with regulatory powers to develop, adopt and utilize public participation guidelines for soliciting the input of interested parties in the formation and development of its regulations. Section 10.1-104 of the Code of Virginia authorizes the Department of Conservation and Recreation (department) to prescribe rules and regulations necessary and incidental to the performance of duties or execution of powers conferred by law, and to promulgate regulations pursuant to the Administrative Process Act to carry out the provisions of Subtitle I of Title 10.1 of the Code of Virginia.

Concurrently with this action to promulgate VR 217-00-00, Regulatory Public Participation Guidelines, the department is considering the repeal of the existing VR 215-01-00,

Notices of Intended Regulatory Action

Public Participation Guidelines. The existing regulations were written prior to the current adoption of the Virginia Code Commission's Virginia Register Form, Style and Procedures Manual.

No financial impact on regulated entities or the public is expected from the proposed regulatory action since the regulations impose requirements on the department. Regulated entities and the public should benefit from the repeal and concurrent adoption of revised regulations by the department in that the newly adopted regulations will be similar to those public participation regulations used by the different environmental agencies in the Natural Resources Secretariat. Public participation regulations will be consistent throughout the Secretariat and the amount and types of information made available to regulated entities and the public for their use in participating in the regulatory process will increase and be required by regulation.

The department will hold a public meeting to receive views and comments and to answer questions of the public at 9 a.m., Friday May 22, 1992, in Conference Room B, 1st Floor, James Monroe Building, 101 N. 14th Street, Richmond, Virginia 23219.

Applicable laws and regulations include the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia), Subtitle I of Title 10.1 of the Code of Virginia; all other Acts of Assembly and Code of Virginia references conferring powers, duties and responsibilities on the department, and the department's existing Public Participation Guidelines.

Statutory Authority: §§ 9-6.14:7.1 and 10.1-104 of the Code of Virginia.

Written comments may be submitted until 5 p.m., May 27, 1992.

Contact: Leon E. App, Executive Assistant, Virginia Department of Conservation and Recreation, 203 Governor Street, Suite 302, Richmond, VA 23219, telephone (804) 786-4570 or Fax (804) 786-6141.

STATE BOARD OF CORRECTIONS

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Corrections intends to consider amending regulations entitled: **VR 230-01-003. Rules and Regulations Governing the Certification Process.** The purpose of the proposed action is to update the rules and regulations used in the evaluation and certification of state and local correctional facilities.

Statutory Authority: §§ 53.1-5, 53.1-69, 53.1-144 and 53.1-178

of the Code of Virginia.

Written comments may be submitted until June 15, 1992.

Contact: James S. Jones, Jr., Manager, 6900 Atmore Drive, Richmond, VA 23225, telephone (804) 674-3262.

DEPARTMENT OF EDUCATION (STATE BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Education intends to consider repealing regulations entitled: **VR 270-01-0052. Standards for Approval of Teacher Preparation Programs in Virginia (1979).** The purpose of the proposed action is to repeal the outdated regulations which were incorporated into the Certification Regulations for Teachers in 1982 and revised in 1986. New regulations governing teacher preparation programs will be promulgated by the Board of Education.

Statutory Authority: §§ 22.1-16 and 22.1-298 of the Code of Virginia.

Written comments may be submitted until May 20, 1992.

Contact: Dr. Thomas A. Elliott, Division Chief, Compliance Coordination, Virginia Department of Education, P.O. Box 6-Q, Richmond, VA 23216, telephone (804) 371-2522 or toll-free 1-800-292-3820.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Education intends to consider promulgating regulations entitled: **VR 270-01-0052:1. Regulations Governing Approved Programs for Virginia Institutions of Higher Education.** The purpose of the proposed action is to upgrade the standards for approval of teacher education programs offered at Virginia colleges and universities.

Statutory Authority: §§ 22.1-298 and 22.1-299 of the Code of Virginia.

Written comments may be submitted until May 20, 1992.

Contact: Dr. Thomas A. Elliott, Division Chief, Compliance Coordination, Virginia Department of Education, P.O. Box 6-Q, Richmond, VA 23216, telephone (804) 371-2522 or toll-free 1-800-292-3820.

COUNCIL ON THE ENVIRONMENT

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Council on the

Notices of Intended Regulatory Action

Environment intends to consider repealing regulations entitled: **VR 305-01-001. Public Participation Guidelines.** The purpose of the proposed action is to repeal the council's existing Public Participation Guidelines. Concurrently with this action, the council is proposing to adopt new Public Participation Guidelines (VR 305-01-001:1).

Section 9-6.14:7.1 of the Code of Virginia requires each agency to develop, adopt and utilize public participation guidelines for soliciting the input of interested parties in the formation and development of its regulations. Section 10.1-1206 authorizes the Council on the Environment to adopt rules governing the procedures of the council.

Concurrently with this action, the council is considering adoption of public participation guidelines which would require an expanded notice of intended regulatory action (NOIRA) to include a statement as to the need for the regulatory action; a description, if possible, of alternatives available to meet the need; and a request for comments on the intended regulatory action, comments on the costs and benefits of the alternatives, and suggestions; and require a summary of the NOIRA comments be submitted by the council. In addition, the council would be required to perform certain analyses and state in the notice of public comment period that the analyses had been performed and are available to the public upon request.

No financial impact on regulated entities or the public is expected from the proposed regulatory action since the guidelines only impose requirements on the council. Regulated entities and the public should benefit from the repeal and concurrent adoption of revised guidelines in that the guidelines used by the different environmental agencies will be consistent and the amount and types of information made available to regulated entities and the public for their use in participating in the regulatory process will increase and be required by regulation.

The council does not propose to hold a public meeting on the proposal.

Applicable laws and regulations include the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia), the Virginia Environmental Quality Act (§ 10.1-1200 et seq. of the Code of Virginia), and the council's Public Participation Guidelines (VR 305-01-001.)

Statutory Authority: §§ 9-6.14:7.1 and 10.1-1206 of the Code of Virginia.

Written comments may be submitted until 4 p.m., May 22, 1992, to Keith J. Buttlerman, 202 N. Ninth Street, Suite 900, Richmond, Virginia.

Contact: Jay Roberts, Environmental Planner, 202 N. Ninth Street, Suite 900, Richmond, VA 23219, telephone (804) 786-4500.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Council on the Environment intends to consider promulgating regulations entitled: **VR 305-01-001:1. Public Participation Guidelines.** The purpose of the proposed action is to adopt Public Participation Guidelines for the council which establish, in regulation, various provisions to ensure interested parties have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process and establish regulations which are consistent with those of the other agencies within the Natural Resources Secretariat.

Specifically, the council is considering adoption of public participation guidelines which would require an expanded notice of intended regulatory action (NOIRA) to include a statement as to the need for the regulatory action; a description, if possible, of alternatives available to meet the need; and a request for comments on the intended regulatory action, comments on the costs and benefits of the alternatives, and suggestions; and require a summary of the NOIRA comments be submitted to the council. In addition, the council would be required to perform certain analyses and state in the notice of public comment period that the analyses had been performed and are available to the public upon request.

Section 9-6.14:7.1 of the Code of Virginia requires each agency to develop, adopt and utilize public participation guidelines for soliciting the input of interested parties in the formation and development of its regulations. Section 10.1-1206 of the Code of Virginia authorizes the Council on the Environment to adopt rules governing the procedures of the council.

No financial impact on regulated entities or the public is expected from the proposed regulatory action since the guidelines only impose requirements on the council. Regulated entities and the public should benefit from the repeal and concurrent adoption of revised guidelines in that the guidelines used by the different environmental agencies will be consistent and the amount and types of information made available to regulated entities and the public for their use in participating in the regulatory process will increase and be required by regulation.

The council does not propose to hold a public meeting on the proposal.

Applicable laws and regulations include the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia), the Virginia Environmental Quality Act (§ 10.1-1200 et seq. of the Code of Virginia), and the council's Public Participation Guidelines (VR 305-01-001.)

Statutory Authority: §§ 9-6.14:7.1 and 10.1-1206 of the Code of Virginia.

Written comments may be submitted until 4 p.m., May 22, 1992, to Keith J. Buttlerman, 202 N. Ninth Street, Suite 900, Richmond, Virginia.

Notices of Intended Regulatory Action

Contact: Jay Roberts, Environmental Planner, 202 N. Ninth Street, Suite 900, Richmond, VA 23219, telephone (804) 786-4500.

DEPARTMENT OF HEALTH (BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Health intends to consider promulgating regulations entitled: **Waterworks Technical Assistance Program/Operation Fee**. The purpose of the proposed action is to make appropriate state regulations to set fee schedules for operation permit fees and their applicability to waterworks.

Statutory Authority: §§ 32.1-170, 32.1-171.1 and 32.1-174 of the Code of Virginia pursuant to House Bill 236 effective July 1, 1992.

Written comments may be submitted until May 6, 1992.

Contact: Thomas B. Gray, P.E., Projects Manager, Virginia Department of Health, Division of Water Supply Engineering, P.O. Box 2448, Richmond, VA 23218, telephone (804) 786-5566.

BOARD OF HISTORIC RESOURCES

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Historic Resources intends to consider promulgating regulations entitled: **VR 390-01-01. Public Participation Guidelines**. The purpose of the proposed action is to adopt Public Participation Guidelines for the board which establish, in regulation, various provisions to ensure interested parties have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process and establish regulations which are consistent with those of the other agencies within the Natural Resources Secretariat. Specifically, the board is considering adoption of Public Participation Guidelines which would require an expanded notice of intended regulatory action (NOIRA) to include a statement as to the need for the regulatory action; a description, if possible, of alternatives available to meet the need; and a request for comments on the intended regulatory action, comments on the costs and benefits of the alternatives, and suggestions; and require a summary of the NOIRA comments be submitted to the board. In addition, the board would be required to perform certain analyses and state in the notice of public comment period that the analyses had been performed and are available to the public upon request.

Section 9-6.14:7.1 of the Code of Virginia requires each

agency to develop, adopt and utilize public participation guidelines for soliciting the input of interested parties in the formation and development of its regulations. Sections 10.1-2205 and 10.1-2305 of the Code of Virginia authorize the Virginia Board of Historic Resources to promulgate regulations necessary for (i) the designation of historic properties, (ii) the establishment of appropriate preservation practices, (iii) approval and authorization of highway historical markers, (iv) acquisition of property, and (v) issuance of permits for archaeological excavation of human remains.

No financial impact on regulated entities or the public is expected from the proposed regulatory action since the guidelines only impose requirements on the board. Regulated entities and the public should benefit from the intended regulatory action in that the guidelines used by the different environmental agencies will be consistent and the amount and types of information made available to regulated entities and the public for their use in participating in the regulatory process will increase and be required by regulation.

The board will hold a public meeting at 10 a.m., Wednesday, May 27, 1992, in the board room, Department of Historic Resources, 221 Governor Street, Richmond, Virginia, to receive views and comments and to answer questions of the public.

Applicable laws and regulations include the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia), and §§ 10.1-2205 and 10.1-2305 of the Code of Virginia.

Statutory Authority: §§ 9-6.14:7.1, 10.1-2205 and 10.1-2305 of the Code of Virginia.

Written comments may be submitted until 4 p.m., May 29, 1992.

Contact: H. Bryan Mitchell, Deputy Director, 221 Governor Street, Richmond, VA 23219, telephone (804) 786-3143.

MARINE RESOURCES COMMISSION

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Marine Resources Commission intends to consider amending regulations entitled: **VR 450-01-0045. Public Participation Guidelines**. The purpose of the proposed action is to amend the commission's Public Participation Guidelines to (i) establish, in regulation, various provisions to ensure interested parties have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process, and (ii) establish guidelines which are consistent with those of the other agencies within the Natural Resources Secretariat.

The intended amendments require an expanded NOIRA to

Notices of Intended Regulatory Action

include (i) a statement as to the need for the regulatory action; (ii) a description of alternatives available to meet the need; (iii) a request for comments on the intended regulatory action and benefits of the alternatives and suggestions; and (iv) require a summary of the NOIRA comments be submitted to the commission. In addition, the commission would be required to perform certain analyses and state in the notice of public comment period that the analyses had been performed and are available to the public upon request.

No financial impact on regulated entities or the public is expected from the intended regulatory action since the guidelines only impose requirements on the commission.

The commission will hold a public hearing at 9:30 a.m., Tuesday, May 26, 1992, at the commission headquarters located at 2600 Washington Avenue, Newport News, to review the comments received and answer questions of the public.

Basis and statutory authority: Section 9-6.14:7.1 of the Code of Virginia requires each agency to develop, adopt and utilize public participation guidelines for soliciting the input of interested parties in the formation and development of its regulations. Section 62.1-13.4 authorizes the Marine Resources Commission to promulgate regulations necessary to carry out its powers and duties under the provisions of Title 62.1.

Purpose and Substance: The purpose of this intended regulatory action is to amend the commission's Public Participation Guidelines to (i) establish, in regulation, various provisions to ensure interested parties have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process, and (ii) establish guidelines which are consistent with those of the other agencies within the Natural Resources Secretariat. Specifically, the intended regulatory action would require an expanded notice of intended regulatory action (NOIRA) to include a statement as to the need for the regulatory action; a description, if possible, of alternatives available to meet the need; and a request for comments on the intended regulatory action, comments on the costs and benefits of the alternatives, and suggestions; and require a summary of the NOIRA comments be submitted to the commission. In addition, the commission would be required to perform certain analyses and state in the notice of public comment period that the analyses had been performed and are available to the public upon request.

Estimated impacts: No financial impact on regulated entities or the public is expected from the intended regulatory action since the guidelines impose requirements only on the commission. Regulated entities and the public should benefit from the intended regulatory action in that the guidelines used by the different environmental agencies will be consistent and the amount and types of information made available to regulated entities and the public for their use in participating in the regulatory

process will increase and be required by regulation.

Public meeting: The commission will hold a public meeting at the commission headquarters at 2600 Washington Avenue, Newport News, at 9:30 a.m., April 28, 1992, to receive views and comments and to answer questions of the public.

Comments: The commission seeks written comments from interested persons. To be considered, comments should be submitted no later than May 22, 1992.

Applicable laws and regulations: Applicable laws and regulations include the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia) and Title 62.1 of the Code of Virginia.

Statutory Authority: §§ 9-6.14:7.1 and 62.1-13.4 of the Code of Virginia.

Written comments may be submitted until May 22, 1992, to Marine Resources Commission, P.O. Box 756, Newport News, Virginia.

Contact: Robert W. Grabb, Chief, Habitat Management, P.O. Box 756, Newport News, VA 23607-0756, telephone (804) 247-2252.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Medical Assistance Services intends to consider amending regulations entitled: **Standards Established and Methods Used to Assure High Quality of Care: Nursing Facility Criteria (Attachment 3.1C, Supplement 1)**. The purpose of the proposed action is to amend the State Plan for Medical Assistance to include criteria for nursing facility admission and continued stay based on the resident assessment instrument approved by the state (the Minimum Data Set).

Statutory Authority: § 32.1-325 of the Code of Virginia and 42 CFR 483.20 (Omnibus Budget Reconciliation Act of 1987).

Written comments may be submitted until May 18, 1992, to Victoria Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia.

Contact: Mary Chiles, Manager, Long Term Care, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219, telephone (804) 225-4220.

Notices of Intended Regulatory Action

BOARD OF MEDICINE

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Medicine intends to consider amending regulations entitled: **VR 465-01-1. Public Participation Guidelines.** The purpose of the proposed action is to establish a clear and concise process for receiving public written comments on proposed regulations.

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

Written comments may be submitted until May 7, 1992, to Hilary H. Connor, M.D., Executive Director, Board of Medicine, 1601 Rolling Hills Drive, Richmond, Virginia.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9923.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Medicine intends to consider amending regulations entitled: **VR 465-02-1. Regulations Governing the Practice of Medicine, Osteopathy, Podiatry, Chiropractic, Clinical Psychology, and Acupuncture.** The purpose of the proposed action is to develop regulations relating to chelation therapy.

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

Written comments may be submitted until June 3, 1992, to Hilary H. Connor, M.D., Executive Director, Board of Medicine, 1601 Rolling Hills Drive, Richmond, Virginia.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9923.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Medicine intends to consider amending regulations entitled: **VR 465-02-1. Regulations Governing the Practice of Medicine, Osteopathy, Podiatry, Chiropractic, Clinical Psychology, and Acupuncture.** The purpose of the proposed action is to establish regulations governing the use of pharmacotherapy for weight loss, and add examinations for licensure and endorsement licensure for doctors of medicine and osteopathy.

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

Written comments may be submitted until May 7, 1992, to Hilary H. Connor, M.D., Executive Director, Board of Medicine, 1601 Rolling Hills Drive, Richmond, Virginia.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9923.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Medicine intends to consider amending regulations entitled: **VR 465-05-1. Regulations Governing the Practice of Physician's Assistants.** The purpose of the proposed action is to establish the required curriculum of academic study to be a licensed physician's assistant in Virginia shall be for physician's assistants accredited by the Committee on Allied Health Education and American Academy of Physicians Assistants.

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

Written comments may be submitted until May 7, 1992, to Hilary H. Connor, M.D., Executive Director, Board of Medicine, 1601 Rolling Hills Drive, Richmond, Virginia.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9923.

BOARD OF PSYCHOLOGY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Psychology intends to consider amending regulations entitled: **VR 565-01-2. Regulations Governing the Practice of Psychology.** The purpose of the proposed action is to review the requirements for licensure for clinical psychologists, psychologists, and school psychologists to include educational requirements and requirements for examination in light of action taken by the 1992 General Assembly.

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

Written comments may be submitted until May 20, 1992.

Contact: Evelyn B. Brown, Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229-5005, telephone (804) 662-9913.

BOARD OF SOCIAL WORK

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Social Work intends to consider amending regulations entitled: **VR 620-01-2. Regulations Governing the Practice of Social Work.** The purpose of the proposed action is to

Notices of Intended Regulatory Action

review requirements for licensure including required examinations in light of action taken by the 1992 General Assembly.

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

Written comments may be submitted until May 20, 1992.

Contact: Evelyn B. Brown, Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229-5005, telephone (804) 662-9913.

BOARD FOR PROFESSIONAL SOIL SCIENTISTS

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Professional Soil Scientists intends to consider amending regulations entitled: **VR 627-02-1. Board for Professional Soil Scientists Regulations.** The purpose of the proposed action is to conduct a biennial review of the regulations and to adjust fees.

Statutory Authority: §§ 54.1-201 and 54.1-2200 et seq. of the Code of Virginia.

Written comments may be submitted until June 4, 1992.

Contact: Nelle P. Hotchkiss, Assistant Director, Virginia Department of Commerce, 3600 W. Broad Street, Richmond, VA 23230, telephone (804) 367-8595.

VIRGINIA SOIL AND WATER CONSERVATION BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Soil and Water Conservation Board intends to consider repealing regulations entitled: **VR 625-00-00. Public Participation Guidelines.** The purpose of the proposed action is to repeal the board's existing public participation guidelines. Concurrently with this action the board is proposing to adopt Regulatory Public Participation Guidelines for the board which establish, in regulation, various provisions to ensure interested parties have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process, and establish regulations which are consistent with those of the other agencies within the Natural Resources Secretariat.

Section 9-6.14:7.1 of the Code of Virginia requires each agency with regulatory powers to develop, adopt and utilize public participation guidelines for soliciting the input of interested parties in the formation and development of its regulations. Section 10.1-502 of the Code of Virginia authorizes the Virginia Soil and Water Conservation Board to promulgate regulations necessary for

the execution of Chapter 5 (§ 10.1-500 et seq.) of Title 10.1 of the Code of Virginia. This authorization covers the Erosion and Sediment Control Law and its attendant regulations. Section 10.1-603.18 of the Code of Virginia authorizes the board to promulgate regulations for the proper administration of the Flood Prevention and Protection Assistance Fund which is to include, but not limited to, the establishment of amounts, interest rates, repayment terms, consideration of the financial stability of the particular local public body applying and all other criteria for awarding of grants or loans under the Flood Prevention and Protection Assistance Fund Act (§ 10.1-603.16 et seq.). The Dam Safety Act under § 10.1-605 of the Code of Virginia requires the board to promulgate regulations to ensure that impounding structures in the Commonwealth are properly and safely constructed, maintained and operated (§ 10.1-604 et seq.). The Conservation, Small Watersheds Flood Control and Area Development Fund Act (§ 10.1-636 et seq.) authorizes the board to establish guidelines for the proper administration of the fund and the provisions of Article 4 of Chapter 6 of Title 10.1 of the Code of Virginia.

Concurrently with this action to repeal the existing VR 625-00-00, Public Participation Guidelines, the board is considering adoption of VR 625-00-00.1, Regulatory Public Participation Guidelines, which would require an expanded notice of intended regulatory action (NOIRA) to include a statement as to the need for the regulatory action; a description, if possible, of alternatives available to meet the need; and a request for comments on the intended regulatory action, comments on the costs and benefits of the alternatives, and suggestions; and require a summary of the NOIRA comments to be developed by the Department of Conservation and Recreation and submitted to the board. In addition, the department would be required to perform certain analyses and state in the notice of public comment period that the analyses had been performed and are available to the public upon request.

No financial impact on regulated entities or the public is expected from the proposed regulatory action since the regulations only impose requirements on the Department of Conservation and Recreation and the board. Regulated entities and the public should benefit from the repeal and concurrent adoption of revised regulations by the board in that the newly adopted regulations will be similar to those public participation regulations used by the different environmental agencies in the Natural Resources Secretariat. Public participation regulations will be consistent throughout the Secretariat and the amount and types of information made available to regulated entities and the public process will increase and be required by regulation.

The board and department will hold a public meeting to receive views and comments and to answer questions of the public at 9 a.m., Friday, May 22, 1992, in Conference Room B, 1st Floor, James Monroe Building, 101 North 14th Street, Richmond, Virginia 23219.

Notices of Intended Regulatory Action

Applicable laws and regulations include the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia); Chapter 5 of Subtitle I of Title 10.1 Soil and Water Conservation (§ 10.1-500 et seq.); the Flood Prevention and Protection Assistance Fund Act (§ 10.1-603.16 et seq.); the Dam Safety Act (§ 10.1-604 et seq.); and the Conservation, Small Watersheds Flood Control and Area Development Fund Act (§ 10.1-636 et seq.); all other Acts of Assembly and Code of Virginia references conferring powers, duties, and responsibilities on the board; and the board's existing VR 625-00-00, Public Participation Guidelines.

Statutory Authority: §§ 9-6.14:7.1, 10.1-502, 10.1-561, 10.1-603.18, 10.1-605 and 10.1-636 of the Code of Virginia.

Written comments may be submitted until 5 p.m. on May 27, 1992.

Contact: Leon E. App, Executive Assistant, Virginia Department of Conservation and Recreation, 203 Governor Street, Suite 302, Richmond, VA 23219, telephone (804) 786-4570 or Fax (804) 786-6141.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Soil and Water Conservation Board intends to consider promulgating regulations entitled: **VR 625-00-00:1. Regulatory Public Participation Guidelines.** The purpose of the proposed action is to adopt Regulatory Public Participation Guidelines for the board which establish, in regulation, various provisions to ensure interested parties have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process, and establish regulations which are consistent with those of the other agencies within the Natural Resources Secretariat. Specifically, the board is considering adoption of Regulatory Public Participation Guidelines which would require an expanded notice of intended regulatory action (NOIRA) to include a statement as to the need for the regulatory action; a description, if possible, of alternatives available to meet the need; and a request for comments on the intended regulatory action, comments on the costs and benefits of the alternatives, and suggestions; and require a summary of the NOIRA comments be developed by the Department of Conservation and Recreation and submitted to the board. In addition, the department would be required to perform certain analyses and state in the notice of public comment period that the analyses had been performed and are available to the public upon request.

Section 9-6.14:7.1 of the Code of Virginia requires each agency with regulatory powers to develop, adopt and utilize public participation guidelines for soliciting the input of interested parties in the formation and development of its regulations. Section 10.1-502 of the Code of Virginia authorizes the Virginia Soil and Water Conservation Board to promulgate regulations necessary for the execution of Chapter 5 (§ 10.1-500 et seq.) of Title

10.1 of the Code of Virginia. This authorization covers the Erosion and Sediment Control Law and its attendant regulations. Section 10.1-603.18 of the Code of Virginia authorizes the board to promulgate regulations for the proper administration of the Flood Prevention and Protection Assistance Fund which is to include, but not limited to, the establishment of amounts, interest rates, repayment terms, consideration of the financial stability of the particular local public body applying and all other criteria for awarding of grants or loans under the Flood Prevention and Protection Assistance Fund Act (§ 10.1-603.16 et seq.). The Dam Safety Act under § 10.1-605 of the Code of Virginia requires the board to promulgate regulations to ensure that impounding structures in the Commonwealth are properly and safely constructed, maintained and operated (§ 10.1-604 et seq.). The Conservation, Small Watersheds Flood Control and Area Development Fund Act (§ 10.1-636 et seq.) authorizes the board to establish guidelines for the proper administration of the fund and the provisions of Article 4 of Chapter 6 of Title 10.1 of the Code of Virginia.

Concurrently with this action to repeal the existing VR 625-00-00:1, Regulatory Public Participation Guidelines, the board is considering the repeal of existing VR 625-00-00, Public Participation Guidelines. The existing regulations were written prior to the current adoption of the Virginia Code Commission's Virginia Register Form, Style and Procedures Manual.

No financial impact on regulated entities or the public is expected from the proposed regulatory action since the regulations only impose requirements on the Board and the Department of Conservation and Recreation. Regulated entities and the public should benefit from the repeal and concurrent adoption of revised regulations by the board in that the newly adopted regulations will be similar to those public participation regulations used by the different environmental agencies in the Natural Resources Secretariat. Public participation regulations will be consistent throughout the Secretariat and the amount and types of information made available to regulated entities and the public process will increase and be required by regulation.

The board and department will hold a public meeting to receive views and comments and to answer questions of the public at 9 a.m., Friday, May 22, 1992, in Conference Room B, 1st Floor, James Monroe Building, 101 North 14th Street, Richmond, Virginia 23219.

Applicable laws and regulations include the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia); Chapter 5 of Subtitle I of Title 10.1 Soil and Water Conservation (§ 10.1-500 et seq.); the Flood Prevention and Protection Assistance Fund Act (§ 10.1-603.16 et seq.); the Dam Safety Act (§ 10.1-604 et seq.); and the Conservation, Small Watersheds Flood Control and Area Development Fund Act (§ 10.1-636 et seq.); all other Acts of Assembly and Code of Virginia references conferring powers, duties, and responsibilities on the board; and the board's existing

Notices of Intended Regulatory Action

VR 625-00-00, Public Participation Guidelines.

Statutory Authority: §§ 9-6.14:7.1, 10.1-502, 10.1-561, 10.1-603.18, 10.1-605 and 10.1-636 of the Code of Virginia.

Written comments may be submitted until 5 p.m. on May 27, 1992.

Contact: Leon E. App, Executive Assistant, Virginia Department of Conservation and Recreation, 203 Governor Street, Suite 302, Richmond, VA 23219, telephone (804) 786-4570 or Fax (804) 786-6141.

DEPARTMENT OF TRANSPORTATION (COMMONWEALTH TRANSPORTATION BOARD)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Commonwealth Transportation Board intends to consider amending regulations entitled: **VR 385-01-5. Hazardous Materials Transportation Rules and Regulations at Bridge-Tunnel Facilities.** The purpose of the proposed action is to amend the manual to address the use of natural gas as a motor fuel, and the transportation of low-pressure oxygen.

Statutory Authority: §§ 33.1-12 and 33.1-49 of the Code of Virginia.

Written comments may be submitted until May 6, 1992, to Mr. J. L. Butner, Traffic Engineering Division, Virginia Department of Transportation, 1401 E. Broad Street, Richmond, VA 23219.

Contact: Mr. C. A. Abernathy, Transportation Engineer, Traffic Engineering Division, Virginia Department of Transportation, 1401 E. Broad Street, Room 206 Highway Annex, Richmond, VA 23219, telephone (804) 786-2889.

BOARD FOR WASTE MANAGEMENT FACILITY OPERATORS

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Waste Management Facility Operators intends to consider promulgating regulations entitled: **Regulations Governing Waste Management Facility Operators.** The purpose of the proposed action is to establish a certification program to regulate the activities of waste management facility operators in Virginia to conform to Senate Bill 877.

Statutory Authority: § 54.1-2211 of the Code of Virginia.

Written comments may be submitted until May 20, 1992.

Contact: Nelle P. Hotchkiss, Assistant Director, 3600 W.

Broad Street, Richmond, VA 23230, telephone (804) 367-8595.

DEPARTMENT OF WASTE MANAGEMENT (VIRGINIA WASTE MANAGEMENT BOARD)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Waste Management Board intends to consider repealing regulations entitled: **VR 672-01-1. Public Participation Procedures for Formation and Promulgation of Regulations.** The purpose of the proposed action is to repeal the agency's existing Public Participation Guidelines. Concurrent with this action, the agency is proposing to adopt new Public Participation Guidelines (VR 672-01-1:1.)

Section 9-6.14:7.1 of the Code of Virginia requires each agency to develop, adopt and utilize public participation guidelines for soliciting input of interested parties in the formation and development of its regulations. Section 10.1-1402(11) authorizes the board to promulgate and enforce regulations, and provide reasonable variances and exemptions necessary to carry out its own powers and duties and the intent of Chapter 14 of Title 10.1 of the Code of Virginia and the federal acts.

Concurrently with this action, the board is considering adoption of Public Participation Guidelines which would require an expanded notice of intended regulatory action (NOIRA) to include a statement as to the need for the regulatory action; a description, if possible, of alternatives available to meet the need; and a request for comments on the intended regulatory action, comments on the costs and benefits of the alternatives, and suggestions; and require a summary of the NOIRA comments to be submitted to the board. In addition, the board would be required to perform certain analyses and state in the notice of public comment period that the analyses had been performed and are available to the public upon request.

No financial impact on regulated entities or the public is expected from the intended regulatory action since the guidelines only impose requirements on the board. Regulated entities and the public should benefit from the intended regulatory action in that the guidelines used by the different environmental agencies will be consistent and the amount and types of information made available to regulated entities and the public for their use in participating in the regulatory process will increase and be required by regulation.

The department will hold a public meeting at 2 p.m., Wednesday, May 20, 1992, in the Board Room, State Water Control Board Offices, Innsbrook Corporate Center, 4900 Cox Road, Glen Allen, Virginia, to receive views and comments and to answer questions of the public.

Notices of Intended Regulatory Action

Applicable laws and regulations include the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia, the Waste Management Act (§ 10.1-1400 et seq. of the Code of Virginia), and the board's Public Participation Guidelines VR (672-01-1).

Statutory Authority: §§ 9-6.14:7.1 and 10.1-1402(11) of the Code of Virginia.

Written comments may be submitted until 4 p.m. on May 22, 1992.

Contact: Karol A. Akers, Policy and Planning Manager, Department of Waste Management, 101 N. 14th Street, 11th Floor Monroe Building, Richmond, VA 23219, telephone (804) 225-2966.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Waste Management Board intends to consider promulgating regulations entitled: **VR 672-01-1:1. Public Participation Guidelines.** The purpose of the proposed action is to adopt Public Participation Guidelines for the agency which establish, in regulation, various provisions to ensure interested parties have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process and establish guidelines which are consistent with those of the other agencies within the Natural Resources Secretariat. Specifically, the board is considering adoption of Public Participation Guidelines which would require an expanded notice of intended regulatory action (NOIRA) to include a statement as to the need for the regulatory action; a description, if possible, of alternatives available to meet the need; and a request for comments on the intended regulatory action, comments on the costs and benefits of the alternatives, and suggestions; and require a summary of the NOIRA comments be submitted to the board. In addition, the board would be required to perform certain analyses and state in the notice of public comment period that the analyses had been performed and are available to the public upon request.

Section 9-6.14:7.1 of the Code of Virginia requires each agency to develop, adopt and utilize public participation guidelines for soliciting input of interested parties in the formation and development of its regulations. Section 10.1-1402(11) authorizes the board to promulgate and enforce regulations, and provide for reasonable variances and exemptions necessary to carry out its own powers and duties and the intent of Chapter 14 of Title 10.1 of the Code of Virginia and the federal acts.

No financial impact on regulated entities or the public is expected from the intended regulatory action since the guidelines only impose requirements on the board. Regulated entities and the public should benefit from the intended regulatory action in that the guidelines used by the different environmental agencies will be consistent and

the amount and types of information made available to regulated entities and the public for their use in participating in the regulatory process will increase and be required by regulation.

The department will hold a public meeting at 2 p.m., Wednesday, May 20, 1992, in the Board Room, State Water Control Board Offices, Innsbrook Corporate Center, 4900 Cox Road, Glen Allen, Virginia, to receive views and comments and to answer questions of the public.

Applicable laws and regulations include the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia), the Waste Management Act (§ 10.1-1400 et seq. of the Code of Virginia), and the board's Public Participation Guidelines VR (672-01-1).

Statutory Authority: §§ 9-6.14:7.1 and 10.1-1402(11) of the Code of Virginia.

Written comments may be submitted until 4 p.m. on May 22, 1992.

Contact: Karol A. Akers, Policy and Planning Manager, Department of Waste Management, 101 N. 14th Street, 11th Floor Monroe Building, Richmond, VA 23219, telephone (804) 225-2966.

STATE WATER CONTROL BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider repealing regulations entitled: **VR 680-41-01. Public Participation Guidelines.** The purpose of the proposed action is to repeal the agency's existing Public Participation Guidelines. Concurrently with this action, the agency is proposing to adopt new Public Participation Guidelines (VR 680-41-01:1).

Section 9-6.14:7.1 of the Code of Virginia requires each agency to develop, adopt and utilize public participation guidelines for soliciting input of interested parties in the formation and development of its regulations. Section 62.1-44.15(7) authorizes the State Water Control Board to adopt rules governing the procedure of the board with respect to (i) hearings; (ii) the filing of reports; (iii) the issuance of certificates and special orders; and (iv) all other matters relating to procedure; and to amend or cancel any rule adopted.

Concurrently with this action, the board is considering adoption of Public Participation Guidelines which would require an expanded notice of intended regulatory action (NOIRA) to include a statement as to the need for the regulatory action; a description, if possible, of alternatives available to meet the need; and a request for comments on the intended regulatory action, comments on the costs and benefits of the alternatives, and suggestions; and

Notices of Intended Regulatory Action

require a summary of the NOIRA comments to be submitted to the board. In addition, the board would be required to perform certain analyses and state in the notice of public comment period that the analyses had been performed and are available to the public upon request.

No financial impact on regulated entities or the public is expected from the intended regulatory action since the guidelines only impose requirements on the board. Regulated entities and the public should benefit from the intended regulatory action in that the guidelines used by the different environmental agencies will be consistent and the amount and types of information made available to regulated entities and the public for their use in participating in the regulatory process will increase and be required by regulation.

The board will hold a public meeting at 2 p.m., Wednesday, May 20, 1992, in the Board Room, State Water Control Board Offices, Innsbrook Corporate Center, 4900 Cox Road, Glen Allen, Virginia, to receive views and comments and to answer questions of the public.

Applicable laws and regulations include the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia), the State Water Control Law, and the board's Public Participation Guidelines.

Statutory Authority: §§ 9-6.14:7.1 and 62.1-44.15(7) of the Code of Virginia.

Written comments may be submitted until 4 p.m. on May 22, 1992, to Ms. Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia.

Contact: Ms. Cindy M. Berndt, Policy and Planning Supervisor, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5158.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider promulgating regulations entitled: **VR 680-41-01:1. Public Participation Guidelines.** The purpose of the proposed action is to adopt Public Participation Guidelines for the agency which establish, in regulation, various provisions to ensure interested parties have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process and establish guidelines which are consistent with those of the other agencies within the Natural Resources Secretariat. Specifically, the board is considering adoption of Public Participation Guidelines which would require an expanded notice of intended regulatory action (NOIRA) to include a statement as to the need for the regulatory action; a description, if possible, of alternatives available to meet the need; and a request for comments on the intended regulatory action, comments on the costs and benefits of the alternatives, and suggestions;

and require a summary of the NOIRA comments be submitted to the board. In addition, the board would be required to perform certain analyses and state in the notice of public comment period that the analyses had been performed and are available to the public upon request.

Section 9-6.14:7.1 of the Code of Virginia requires each agency to develop, adopt and utilize public participation guidelines for soliciting input of interested parties in the formation and development of its regulations. Section 62.1-44.15(7) authorizes the State Water Control Board to adopt rules governing the procedure of the board with respect to (i) hearings; (ii) the filing of reports; (iii) the issuance of certificates and special orders; and (iv) all other matters relating to procedure; and to amend or cancel any rule adopted.

No financial impact on regulated entities or the public is expected from the intended regulatory action since the guidelines only impose requirements on the board. Regulated entities and the public should benefit from the intended regulatory action in that the guidelines used by the different environmental agencies will be consistent and the amount and types of information made available to regulated entities and the public for their use in participating in the regulatory process will increase and be required by regulation.

The board will hold a public meeting at 2 p.m., Wednesday, May 20, 1992, in the Board Room, State Water Control Board Offices, Innsbrook Corporate Center, 4900 Cox Road, Glen Allen, Virginia, to receive views and comments and to answer questions of the public.

Applicable laws and regulations include the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia), the State Water Control Law, and the board's Public Participation Guidelines.

Statutory Authority: §§ 9-6.14:7.1 and 62.1-44.15(7) of the Code of Virginia.

Written comments may be submitted until 4 p.m. on May 22, 1992, to Ms. Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia.

Contact: Ms. Cindy M. Berndt, Policy and Planning Supervisor, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5158.

PROPOSED REGULATIONS

For information concerning Proposed Regulations, see information page.

Symbol Key

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

DEPARTMENT OF LABOR AND INDUSTRY

Apprenticeship Council

Title of Regulations: VR 425-01-26. Regulations Governing the Administration of Apprenticeship Programs in the Commonwealth of Virginia.

Statutory Authority: § 40.1-118 of the Code of Virginia.

Public Hearing Date: July 16, 1992 - 10 a.m.
(See Calendar of Events section for additional information)

Summary:

This amendment will allow the Virginia Apprenticeship Council to deregister an apprenticeship program which is not conducted, operated and administered in accordance with the regulations governing apprenticeship. Council will notify the sponsor in writing of deregistration for one year after receiving evidence of either (i) exposing apprentices to imminent danger in violation of state occupational safety and health standards; (ii) failure to provide adequate supervision of apprentices on the job; or (iii) failure to train apprentices in all aspects of the trade and knowingly or fraudulently certifying completion of training. Council may delay the deregistration for six months to afford presently registered apprentices the opportunity to complete their training. No additional apprentices will be registered during this period.

Council may also award credit to apprentices in deregistered programs sufficient to complete their apprenticeship program. In cases where apprentices choose to change employers because deregistration will prevent them from completing their apprenticeship, the council, through the Department of Labor and Industry, will use all appropriate means to assist them in securing employment with a registered apprenticeship sponsor.

VR 425-01-26. Regulations Governing the Administration of Apprenticeship Programs in the Commonwealth of Virginia.

§ 1. Purpose of regulation.

This regulation establishes procedures and standards for the approval and registration of apprenticeship programs and agreements in accordance with Chapter 6, Title 40.1 of the Code of Virginia. This regulation is intended to insure that apprenticeship training programs developed and registered with the Virginia Apprenticeship Council are of

the highest possible quality in all aspects of on-the-job training and related instruction and that all apprenticeship programs provide meaningful employment and relevant training for all apprentices.

§ 2. Definitions.

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

"Apprentice" means a person as defined by § 40.1-120 of the Code of Virginia.

"Apprenticeable occupation" means an occupation as defined by § 40.1-120 of the Code of Virginia.

"Apprenticeship agreement" means a written agreement between an apprentice and a program sponsor, which agreement shall meet the criteria outlined in § 5 of these regulations.

"Apprenticeship council" or "council" means the Virginia Apprenticeship Council established pursuant to § 40.1-117 of the Code of Virginia.

"Apprenticeship program" means a written plan conducted or sponsored by an employer, an association of employers, a joint apprenticeship committee or an organization of employees, which contains all terms and conditions as outlined in this regulation.

"Commissioner" means the Commissioner of the Virginia Department of Labor and Industry.

"Sponsor" means an employer, an association of employers, a joint apprenticeship committee or an organization of employees that has an approved apprenticeship program registered with the council.

"Supervisor of apprentices" means the person designated by the sponsor to perform the duties outlined in the standards of apprenticeship.

§ 3. Eligibility for registration of programs and agreements.

A. Proposed apprenticeship programs conforming to § 4 of these regulations may be submitted to the council for approval and registration by any of the following potential program sponsors:

1. A Joint Apprenticeship Committee (Commonwealth, area or in plant).

Proposed Regulations

2. An individual employer having no bargaining agreement with those of his employees engaged in the trade to which the standards apply.

3. An association of employers whose members participating under the standards have no bargaining agreement with their employees.

4. An individual employer or an association of employers where there is a collective bargaining agreement or other instrument that provides for union participation in any manner in the proposed program, and such participation is exercised. The sponsor shall obtain from the collective bargaining agent written acknowledgement of the union agreement or a statement of no objection to the registration of the proposed program.

(NOTE: Where no such participation is evidenced and practiced, the employer or association of employers shall simultaneously furnish to the union, which is the collective bargaining agent of the employees to be trained, a copy of the apprenticeship program. The council will allow 60 days for receipt of union comments, if any, before final action is taken on the application for approval and registration.)

5. An organization of employees when the employer or employer association waives participation in the standards.

6. Apprenticeship programs and standards to employers and unions in other than the building and construction industry, which jointly form a sponsoring entity on a multistate basis and are registered, pursuant to all requirements of Title 29, Part 29 of the Code of Federal Regulations, by any recognized State Apprenticeship Agency/Council or the Bureau of Apprenticeship and Training, U.S. Department of Labor, shall be accorded registration upon request by the sponsoring entity.

B. Apprentices shall be individually registered under a registered program. Such registration may be effected:

1. By program sponsors filing copies of each apprenticeship agreement; or

2. By program sponsors filing a master copy of such agreement followed by a listing of the name and other required data of each individual when apprenticed.

C. The council may refuse to accept a program proposed for registration if, in its judgment, the program, the sponsor or any participants are unable to conduct the program in accordance with this regulation.

D. Approved apprenticeship programs shall be accorded registration, evidenced by written notification of registration.

§ 4. Standards for apprenticeship programs.

An apprenticeship program to be eligible for registration with the Virginia Apprenticeship Council shall conform to the following standards:

A. The program is an organized written plan embodying the terms and conditions of employment, training and supervision of one or more apprentices in an apprenticeable occupation and subscribed to by a sponsor who has undertaken to carry out the apprentice training program.

B. The program standards contain the equal opportunity pledge and, when applicable, conform with all other requirements in accordance with the Virginia State Plan for Equal Employment Opportunity in Apprenticeship and provisions concerning the following:

1. The employment and training of the apprentice in an apprenticeable occupation.

2. A statement that on or after the date the standards of apprenticeship are duly executed, it shall be the policy of the sponsor that all apprentices employed in the occupation covered herein shall be governed by the terms and conditions of the standards of apprenticeship, a copy of which will be provided for the sponsor who will make it available to the apprentice for review, upon request.

3. The minimum qualifications required by a sponsor for persons entering the apprenticeship program, with an eligible starting age of not less than 16 years.

4. A provision for the granting of advanced standing or credit on the term of apprenticeship for previously acquired experience, training or skills for all applicants equally, with commensurate wages for any progression step so granted. Credit will be granted only after the record of the apprentice has been reviewed by the sponsor's supervisor of apprentices.

5. The placement of an apprentice under a written apprenticeship agreement, which agreement shall conform to the standards for apprenticeship agreements as stated in § 5 of this regulation.

6. A term of apprenticeship not less than 2,000 hours of work experience, consistent with training requirements as established by industry practice and a statement that overtime hours worked by the apprentice will or will not be credited to the term of apprenticeship.

7. Provisions for an initial probationary period of not less than 500 clock hours and no more than 2,000 clock hours of employment and training, during which time termination of the apprenticeship agreement may be effected by the council upon written notification from either party. Full credit will be given for the

initial probationary period toward completion of the apprenticeship program.

8. The designation of the supervisor of apprentices whose duties shall include.

a. Maintaining adequate records of the progress of each apprentice;

b. Assurance of qualified training personnel and adequate supervision on the job;

c. Making reports as required at specified intervals regarding the aptitude, skill and progress of each apprentice;

d. Assurance the apprentice is given instruction in safe working methods in each operation as it is encountered throughout the term of apprenticeship;

e. Making arrangements with the local vocational education authorities for the required related instruction;

f. Such other duties as may be necessary in developing and maintaining an effective apprenticeship program.

9. An outline of the work processes in which the apprentice will receive supervised work experience on the job and the allocation of the approximate time to be spent in each major process.

10. Provision for organized, related and supplemental instruction in technical subjects related to the trade. Such instruction may be given in a classroom through trade industrial courses or correspondence courses of equivalent value, or other forms of self-study. All related and supplemental instruction will be approved by the director of vocational education. A minimum of 144 hours is recommended for each year of apprenticeship.

11. Provision for a periodic evaluation of each apprentice's progress in job performance and related instruction prior to the expiration of each wage period. Should such a review reveal a lack of interest or ability on the part of the apprentice, the apprentice will be informed of the deficiency and may be placed on probation for a sufficient period of time to determine improvement or failure. At the end of the probationary period, if the apprentice has not shown acceptable improvement, the apprentice agreement may be suspended or revoked. The sponsor will provide written notice of the final action taken to the apprentice and the Virginia Apprenticeship Council.

12. A statement that hours of work for apprentices shall be the same as for other employees in the trade and whether time spent at related instruction will or will not be considered as hours of work.

13. A progressively increasing schedule of wages to be paid the apprentice consistent with the skill acquired and established in accordance with federal and state wage laws.

14. Effective January 8, 1988, the minimum numeric ratio of apprentices to journeymen shall be 1:2. Effective June 1, 1989, the minimum numeric ratio of apprentices to journeymen shall be 1:1; these provisions are nonseverable. Individual program sponsors shall propose, as part of their apprenticeship standards, a ratio of apprentices to journeymen consistent with proper supervision, training, safety and continuity of employment, applicable provisions in collective bargaining agreements, and applicable requirements of recognized licensing boards or authorities.

The Department of Labor and Industry, Division of Apprenticeship Training, will review and approve all ratio proposals based on the explanation and justification provided by each program sponsor. Consideration will be given, but not limited to, the following factors:

a. Evidence of ability to assure proper supervision, training, safety, and continuity of employment under the proposed ratio;

b. The specific nature of the industry and occupation involved;

c. Proposed hiring or upgrading of minorities, females, older workers, dislocated workers, exoffenders, the handicapped, and veterans;

d. Evidence of ability to train under the proposed ratio.

If a ratio proposal is disapproved by the division, the sponsor may appeal, in writing, the decision to the commissioner. If the commissioner upholds the decision of the Apprenticeship Training Division, the sponsor may appeal to the State Apprenticeship Council. The decision of the council shall be final.

Program sponsors presently operating under emergency ratios may continue to do so until their emergency ratios expire. During the period January 8, 1988 to June 1, 1989, the director of the Apprenticeship Training Division may approve interim emergency ratio requests. The factors enumerated above for approval of all ratio proposals as well as the appeals process governing apprenticeship standards ratio requests shall apply to interim emergency ratio requests.

The effectiveness of the numeric ratio approved for individual program sponsors will be examined every two years during the program sponsor evaluation process.

Proposed Regulations

15. A procedure for lay-off suspension, cancellation and reinstatement of apprentices. Apprentices may be laid off in the commensurate ratio of apprentices to journeymen. Provided, however, any apprentice laid off shall be offered reinstatement in the seniority standing before any new apprentices shall be registered. Where there is a collective bargaining agreement providing for lay-off procedures for apprentices, it shall prevail over the above stated procedures. The council will be notified in writing of all lay-offs, suspensions, cancellations and reinstatements. The notice will state the reason for the specific action.

16. A statement that if and when the sponsor is no longer able to fulfill his obligations for the training of an apprentice, the apprentice may be transferred or registered with credit for previous training to another sponsor.

17. A statement that the sponsor will notify the council of persons who have successfully completed the apprenticeship program and request the council to prepare a Certificate of Completion for issuance to each person.

18. A statement that the sponsor shall instruct the apprentice in safe and healthful work practices and shall insure that the apprentice is trained in facilities and other environments that meet the Virginia Occupational Safety and Health Standards for General Industry and the Construction Industry, developed pursuant to the Federal Occupational Safety and Health Act.

19. A statement that in the event a difference of opinion should arise as to any provision of the apprenticeship agreement, either party to the apprenticeship agreement may consult with the council for clarification of the matter in question.

20. The sponsor's assurance that any modification or amendment of the apprenticeship program will be promptly submitted to the council. Any such modification shall be approved by the council and such modification shall not alter or affect apprenticeship agreements in effect without the consent of all parties affected.

21. A statement that the sponsor may have the program cancelled by submitting a written request to the council.

22. A statement that the apprenticeship program may be cancelled by the council if the program is not conducted in accordance with these regulations.

23. A statement identifying the Virginia Apprenticeship Council as the registration agency which agency is recognized by the Bureau of Apprenticeship and Training, United States Department of Labor.

24. A statement identifying the apprentice's responsibilities as an employee.

§ 5. Standards for apprenticeship agreements.

The apprenticeship agreement shall contain explicitly or by reference:

1. Names and signatures of the contracting parties (apprentice and sponsor) and the signature of a parent or guardian if the apprentice is a minor.

2. The date of birth, sex, race, social security number and veteran status of the apprentice.

3. Name and address of the sponsor, apprentice and the Virginia Apprenticeship Council.

4. The trade or craft in which the apprentice is to be trained, and the beginning date and duration of the apprenticeship.

5. The number of hours to be spent by the apprentice in work on the job and the number of hours to be spent in related or supplemental instruction.

6. A schedule of the work processes in the trade or industry divisions in which the apprentice is to be trained and the approximate time to be spent at each process.

7. A graduated scale of wages to be paid the apprentice contingent upon satisfactory performance and whether or not the apprentice will be paid for attendance at related or supplemental instruction.

8. Statements providing:

a. For a specific initial probationary period conforming to ~~subsection subdivision B~~ ; ~~paragraph~~ 7 of § 4 of these regulations;

b. That after the initial probationary period, the apprenticeship agreement and as it may be amended or modified during the period of the agreement.

9. A reference incorporating as part of the agreement the standards of the apprenticeship program as it exists on the date of the agreement and as it may be amended or modified during the period of the agreement.

10. A statement that the employment and training of apprentices during their apprenticeship, shall be without discrimination because of race, color, religion, national origin, sex or physical handicap which is unrelated to the person's qualification and ability to perform the job.

11. The educational level of the apprentice.

12. Credit for previous experience granted the apprentice.

13. A provision that a sponsor who is unable to fulfill his obligation under the apprentice agreement may, with the approval of the council, transfer such contract to any other sponsor, provided the apprentice consents and such other sponsor agrees to assume the obligations of the apprentice agreement.

§ 6. Deregistration procedure.

Deregistration of a program may be effected upon the voluntary action of the sponsor by a written request for cancellation of the registration or by the council instituting formal deregistration proceedings in accordance with the provisions of this section.

A. Voluntary deregistration.

The council may cancel the registration of an apprenticeship program by a written acknowledgement of a request stating, but not limited to, the following matters:

1. The registration is cancelled at the sponsor's request, and the effective date thereof.
2. That within 15 days of the date of the acknowledgement, the sponsor shall:
 - a. Notify all apprentices of such cancellation and the effective date;
 - b. Inform each apprentice that such cancellation automatically deprives the apprentice of individual registration; and
 - c. That the cancellation of the program removes the apprentice from coverage for federal and state purposes which require approval of an apprenticeship program.

B. Involuntary deregistration.

Deregistration proceedings may be undertaken by the council when an apprenticeship program is not conducted, operated and administered in accordance with these regulations, except that deregistration proceedings for violation of equal opportunity requirements shall be processed in accordance with the provisions of the Virginia State Plan for Equal Employment Opportunity in Apprenticeship.

1. Where it appears a program is not being operated in accordance with these regulations, the council will notify the sponsor in writing.

2. The notice shall:

- a. Be sent by registered or certified mail, with return receipt requested;

b. State the violation(s) and the remedial action required; and

c. State that deregistration proceedings will be initiated unless corrective action is effected within 30 days of the receipt of the notice.

3. Upon request by the sponsor and for good cause, the 30-day term may be extended for another 30 days. During the period of correction, the sponsor shall be assisted by the council in every reasonable way to achieve conformity.

4. If the council determines that the required correction is not effected within the allotted time, a notice will be sent to the sponsor, by certified or registered mail, return receipt requested, stating the following:

a. The notice is sent pursuant to this subsection;

b. Certain deficiencies or violations (stating them) were called to the sponsor's attention and remedial measures requested, with dates of such occasions and letters, and that the sponsor has failed to effect correction;

c. Based upon the stated deficiencies and failure of remedy, the program will be deregistered, unless within 15 days of the receipt of this notice, the sponsor requests a hearing before the council;

d. If a request for a hearing is not made, the program will be deregistered.

1. Council will notify the sponsor in writing of deregistration for one year after receiving evidence of either:

a. Exposing apprentices to imminent danger in violation of state occupational safety and health standards:

b. Failure to provide adequate supervision of apprentices on the job; or

c. Failure to train apprentices in all aspects of the trade and knowingly or fraudulently certifying completion of training.

2. Implementation of involuntary deregistration. Council may delay the deregistration for six months to afford presently registered apprentices the opportunity to complete their training. No additional apprentices will be registered during this period.

Council may also award credit to apprentices in deregistered programs sufficient to complete their apprenticeship program.

In cases where apprentices choose to change

Proposed Regulations

employers, because deregistration will prevent them from completing their apprenticeship, the council, through the Department of Labor and Industry, will use all appropriate means to assist them in securing employment with a registered apprenticeship sponsor.

§ 7. Reinstatement of program registration.

Any apprenticeship program deregistered pursuant to these regulations may be reinstated upon presentation of adequate evidence that the program is operating in accordance with these regulations. Such evidence shall be presented to the council.

§ 8. Hearings.

All hearings will be held in accordance with the provisions of the Administrative Process Act, Chapter 1.1:1, § 9-6.14:11 of Title 9, of the Code of Virginia.

§ 9. Limitations.

Nothing in these regulations or in any apprenticeship agreement shall operate to invalidate:

1. Any apprenticeship provision in any collective bargaining agreement between employers and employees establishing higher apprenticeship standards; or
2. Any special provisions for veterans, minority persons or females in the standard apprentice qualifications or operation of the program, or in the apprenticeship agreement, which is not otherwise prohibited by state or federal law, executive order or other regulation adopted pursuant thereto.

§ 10. Complaints.

A. This section is not applicable to any complaint concerning discrimination or equal opportunity matters; all such complaints will be processed in accordance with the provisions in the Virginia State Plan for Equal Employment Opportunity in Apprenticeship.

B. Except for matters described in subsection A of this section, any controversy or difference arising under an apprenticeship agreement which cannot be adjusted locally and which is not covered by a collective bargaining agreement, may be submitted by an apprentice or his authorized representative within 60 days after the local decision to the council for review. Matters covered by a collective bargaining agreement are not subject to review.

C. The complaint shall be in writing and signed by the complainant or his authorized representative. It shall state the specific matter(s) complained of, together with all relevant facts and circumstances. Copies of all pertinent documents and correspondence shall accompany the complaint.

D. The council shall render an opinion within 90 days after receipt of the complaint. During such 90 day period, the council shall make reasonable efforts to effect a satisfactory resolution between the parties involved.

E. If so resolved, the parties shall be notified that the case is closed. Where an opinion is rendered, copies of same shall be sent to all interested parties.

§ 11. Program sponsor evaluation procedure.

Program sponsors will be evaluated once every two years to determine adequate compliance with the goal of training apprentices under proper supervision, in a safe environment, in such a manner as to acquire the skills of the trade, with fair compensation based on individual progress consistent with average like compensation of similar industries in the area. Such evaluations will be conducted by the Apprenticeship Division staff pursuant to procedures and criteria established by the Virginia Apprenticeship Council. The council may cancel apprenticeship programs where preexisting criteria are not met.

PROGRAM SPONSOR EVALUATION PROCEDURE

A. Statement of Purpose.

Program sponsors will be evaluated once every two years to determine adequate compliance with the goal of training apprentices under proper supervision, in a safe environment, in such a manner as to acquire the skills of the trade, with fair compensation based on individual progress consistent with average like compensation of similar industries in the area. Such evaluations will be conducted by the Apprenticeship Division staff pursuant to the below procedures and criteria established by the Virginia Apprenticeship Council. The council may cancel apprenticeship programs where preexisting criteria are not met.

B. General Program Information.

Sponsor Name:

Address:

Apprenticeship Supervisor:

Craft(s)/Trade(s):

Number of Apprentices:

Training Ratio Requested:

Is there a collective bargaining agreement in place?

DLI Apprenticeship Representative:

C. Compliance with Standards of Apprenticeship.

1. Date of adoption:
 2. Has the program sponsor adhered to the Equal Opportunity Pledge, and when applicable, conformed to the Virginia State Plan for Equal Employment Opportunity in Apprenticeship?
 3. Does the program sponsor award proper credit for previous experience?
 4. Have apprenticeship agreements been properly executed? What recurring problems were found, if any?
 5. Are the terms of the apprenticeship, in practice, in accordance with the Virginia Voluntary Apprenticeship Act?
 6. Have the apprentices been:
 - b. proper in conduct?
 - c. working diligently toward learning the craft?
 7. Has the Supervisor of Apprentices:
 - a. kept adequate records of the progress of each apprentice?
 - b. monitored the apprentice's experience in the work processes outlined in the Training Program?
 - c. submitted/received the periodic reports concerning the aptitude, skill, and progress of each apprentice?
 - d. ensured that the apprentice is given instruction in safe and healthful working methods in each operation as it is encountered throughout the term of apprenticeship? How many and what type of accidents have occurred since instruction was given?
 - e. made arrangements with the Local Vocational Education authorities for the required related instruction?
 8. Has a schedule of work processes necessary to develop a skilled journeyman in the trade been updated as necessary and adhered to?
 9. Have the apprentices enrolled and received the required amount of related instruction? If so, have they submitted or the school provided, to their supervisor, evidence of satisfactory participation and progress in the required related instruction?
 10. Has the apprentice supervisor conducted periodic evaluations of each apprentice's job performance and related instruction?
 11. Are the regular hours of work the same for apprentices as for other employees in the craft or trade?
 12. Are the apprentice wages progressively increased as the apprentice progresses in skill and productivity?
 13. Are apprentices that are laid off entitled to seniority privileges and reinstated in the seniority standing before any new apprentices are registered?
 14. Have certificates of completion of apprenticeship been requested by the program sponsor in a timely fashion?
 15. Have any provisions of the standards of apprenticeship been submitted to the Apprenticeship Council for interpretation? If so, explain.
 16. How many apprentices been transferred or reregistered with credit for previous training to a different program sponsor?
 17. Has the sponsor complied with the qualifications set for apprenticeship?
 18. Has the sponsor complied with the initial probationary period?
 19. What ratio of apprentices to journeymen did the program sponsor request? What ratio did the program operate under?
 20. Has the program sponsor promptly notified the Apprenticeship Council of modifications to their apprenticeship programs?
- D. Qualitative Measures.
1. Complaint Resolution.
 - Have any complaints been lodged against the program sponsor? If so,
 - a. How many?
 - b. What was the nature of these complaints?
 - c. How were they resolved?
 2. Program Results (During the past two years).
 - a. How many apprentices were enrolled in the program?
 - b. How many apprentices completed the sponsor's program in the past two years?
 - c. How many of the sponsor's apprenticeship graduates are still employed by the program sponsor?
 - d. How many apprentices voluntarily terminated the program?

Proposed Regulations

e. How many apprentices were dismissed due to:

- (a) failure to attend related instruction?
- (b) poor job performance?
- (c) other (specify)?

f. Is there a pattern to the dismissals? If so, explain.

3. Apprentice Interviews (Randomly Selected/Sliding Scale).

Do interviews with randomly selected apprentices indicate general satisfaction or dissatisfaction with the training program?

Cite the specific areas of satisfaction and dissatisfaction and how many apprentices so indicated.

1. Summary of Interviews:

E. Apprenticeship Representative's Comments Summarized.

F. Recommendations.

G. Commendations.

H. Sponsor's Comments.

BOARD OF MEDICINE

Title of Regulation: VR 465-04-01. Regulations Governing the Practice of Respiratory Therapy Practitioners.

Statutory Authority: § 54.1-2400 and 54.1-2954 of the Code of Virginia.

Public Hearing Date: N/A – Written comments may be submitted until July 6, 1992.

(See Calendar of Events section for additional information)

Summary:

The proposed amendments to the current regulations establish biennial certification renewal to occur in the therapists' birth month each odd-numbered year, and makes grammatical corrections in the definitions to be consistent with the language of the Code of Virginia.

PART I. GENERAL PROVISIONS.

§ 1.1. Definitions.

The following words and terms, when used in these regulations, shall have the following meanings, unless the context clearly indicates otherwise:

"Advisory Board" means the advisory board on respiratory therapy to the board.

"Board" means the Virginia State Board of Medicine.

"Certified respiratory therapy practitioner" means a person who has passed the certification examination for the entry level practice of respiratory therapy administered by the National Board of Respiratory Care, Inc., or other examination approved by the board, who has complied with such rules and regulations pertaining to certification as shall be prescribed by the board, and who has been issued a certificate by the board.

"Committee" means the Advisory Committee on Respiratory Therapy to the board.

"NBRC" means the National Board of for Respiratory Care, Inc.

"Referral and direction" means the referral of a patient by a licensed doctor of medicine, osteopathy, podiatry or dental surgery to a certified respiratory therapy practitioner for a specific purpose and for consequent treatment that will be performed under the direction of and in continuing communication with the referring doctor.

§ 1.2. A separate board regulation, VR 465-01-01, short title: Public Participation Guidelines, which provides for involvement of the public in the development of all regulations of the Virginia Board of Medicine, is incorporated by reference in these regulations.

§ 1.3. Any violation of Chapter 29 of Title 54.1 shall be subject to the statutory sanctions as set forth in the Act.

PART II. REQUIREMENTS FOR PRACTICE AS A CERTIFIED RESPIRATORY THERAPY PRACTITIONER.

§ 2.1. Requirements, general.

A. No person shall practice as a certified respiratory therapy practitioner in the Commonwealth of Virginia except as provided in these regulations.

B. All services rendered by a certified respiratory therapy practitioner shall be performed only upon referral and direction of a doctor of medicine, osteopathy, podiatry or dental surgery licensed to practice in the Commonwealth of Virginia.

§ 2.2. Certification.

An applicant for a certificate to practice as a certified respiratory therapy practitioner shall:

- 1. Submit to the board written evidence, verified by affidavit, that the applicant has passed the NBRC entry level examination for respiratory therapy, or its equivalent;

2. Make application on forms supplied by the board and completed in every detail; and

3. Pay at the time of filing the application, the application fee prescribed in § 4.1 of these regulations.

§ 2.3. Renewal of certificate.

Every certified respiratory therapy practitioner intending to continue his certification shall ~~annually on or before July 1~~ *biennially in each odd-numbered year in his birth month* :

1. Register with the board for renewal of his certificate; and

2. Pay the prescribed renewal fee at the time he files for renewal.

PART III. SCOPE OF PRACTICE.

§ 3.1. Individual responsibilities.

Practice as a certified respiratory therapy practitioner means, upon medical referral and direction, the evaluation, care and treatment of patients with deficiencies and abnormalities associated with the cardiopulmonary system. This practice shall include, but not be limited to, ventilatory assistance and support; the insertion of artificial airways without cutting tissue and the maintenance of such airways; the administration of medical gases exclusive of general anesthesia; topical administration of pharmacological agents to the respiratory tract; humidification; and administration of aerosols. The practice of respiratory therapy shall include such functions shared with other health professionals as cardiopulmonary resuscitation; bronchopulmonary hygiene; respiratory rehabilitation; specific testing techniques required to assist in diagnosis, therapy and research; and invasive and noninvasive cardiopulmonary monitoring.

PART IV. FEES.

§ 4.1. Fees.

The following fees are required:

~~A.~~ 1. The application fee, payable at the time the application is filed, shall be \$100.

~~B.~~ 2. The ~~annual~~ *biennial* fee for renewal of registration ~~shall be \$50~~, payable ~~on or before July 1,~~ *shall be \$25 in each odd-numbered year in the certificate holder's birth month*.

C. 3. An additional fee to cover administrative costs for processing a late application may be imposed by the board. The additional fee for late renewal of licensure shall be \$10 for each renewal cycle.

~~D.~~ 4. Lapsed license. The fee for reinstatement of a license issued by the Board of Medicine pursuant to § 54.1-2904, which has expired for a period of two years or more, shall be \$100 and must be submitted with an application for licensure reinstatement.

Please print full name _____ (FIRST) _____ (MIDDLE) _____ (LAST)

2. List in chronological order all professional activities since graduation, including hospital affiliations and absences from work. Also list all periods of non-professional activity or employment for more than three months. Please account for all time.

FROM	TO	LOCATION AND COMPLETE ADDRESS	POSITION HELD

ALL QUESTIONS MUST BE ANSWERED. If any of the following questions is answered YES, explain and substantiate with available documentation. Letters must be submitted by your attorney regarding malpractice suits. Letters must be submitted by any treating professionals regarding treatment. These shall include diagnosis, treatment, and prognosis.

3. I hereby certify that I studied respiratory therapy and received the degree of _____ (TYPE OF DEGREE) on _____ (DATE) from _____ (SCHOOL) _____

4. Do you intend to engage in the active practice of respiratory therapy care in the Commonwealth of Virginia?
 (a) If YES, give location _____

5. Specify type of practice: Hospital Home Care Education Research Other, specify _____

6. List all jurisdictions in which you have been issued a certificate or license to practice respiratory therapy, active or inactive. Indicate number and date issued. _____

7. Have you ever been denied the privilege of taking a respiratory therapy examination? Yes No

8. Have you ever taken an NBRC, Inc. credentialing examination? Yes No

9. What professional credentials do you presently hold with the NBRC, Inc.? _____

10. Have you ever been denied a certificate or the privilege of taking an examination before any state, territory, or country? Yes No

11. Have you ever been convicted of a violation of or Pled Nolo Contendere to any federal, state, or local statute, regulation or ordinance, or entered into any plea bargaining relating to a felony or misdemeanor? (Excluding traffic violations, except convictions for driving under the influence.) Yes No

12. Have you ever been censured, warned, or requested to withdraw from any licensed hospital, nursing home, or other health care facility? Yes No

13. Have you ever had any of the following disciplinary actions taken against your credentials to practice respiratory therapy, or are any such actions pending?
 (a) suspension/revocation (b) probation (c) reprimand/cease and desist (d) have your practice monitored. If YES, please send complete details. Yes No

14. Have you ever had any membership in a state or local professional society revoked, suspended, withdrawn or denied? Yes No

15. Have you had any malpractice suits brought against you in the last ten years? If so, how many, and provide a letter from your attorney explaining each case. _____

16. Have you ever been physically or emotionally dependent upon the use of alcohol/drugs or treated by, consulted with, or been under the care of a professional for substance abuse? If so, please provide a letter from the treating professional. _____

17. Have you ever received treatment for a nervous, emotional or mental disorder? If so, please provide a letter from your treating professional summarizing diagnosis, treatment, and prognosis. _____

(a) Do you have a physical disease or diagnosis which could affect your performance of professional duties? If so, please provide a letter from the treating professional. _____

(b) Have you ever been refused mental commitment or been voluntarily committed to a mental hospital? _____

18. AFFIDAVIT OF APPLICANT:

I, _____, being first duly sworn, depose and say that I am the person referred to in the foregoing application and supporting documents.

I hereby authorize all hospitals, institutions, or organizations, including the NBRC, Inc., my references, personal physicians, employers (past and present), business and professional associates (past and present) and all governmental agencies and instrumentalities (local, state, federal, or foreign) to release to the Virginia Board of Medicine any information, files, or records requested by the Board in connection with the processing of individuals and groups listed above, any information which is material to me and my application.

I have carefully read the questions in the foregoing application and have answered them completely, without reservations of any kind, and I declare under penalty of perjury that my answers and all statements made by me herein are true and correct. Should I furnish any false information in this application, I hereby agree that such act shall constitute cause for the denial, suspension or revocation of my certificate to practice respiratory therapy in the Commonwealth of Virginia.

RIGHT THUMB PRINT

IF RIGHT THUMB IS MISSING, USE LEFT AND SO INDICATE.

SIGNATURE OF APPLICANT

*** - THIS MUST BE NOTARIZED - ***

NOTARY: City/County of _____ State of _____ Subscribed and Sworn to before me this _____ day of _____ 19__

My Commission Expires _____ NOTARY PUBLIC

NOTARY SEAL

CERTIFICATE OF PROFESSIONAL EDUCATION

It is hereby certified that _____ of _____ matriculated in _____ at _____ date _____ attended _____ courses of lectures of _____ months each, and received a diploma from _____ conferring the degree of _____

DATE

SCHOOL SEAL

President, Society of Chiropractors

Respiratory Therapy

PLEASE COMPLETE THE TOP PORTION OF THIS FORM AND FORWARD IT AND THE CHECK OR MONEY ORDER, PAYABLE TO NBRC, INC. TO THE ADDRESS BELOW: A \$2.00 FEE FOR ACTIVE MEMBERS AND A \$15.00 FEE FOR NON-ACTIVE MEMBERS

The National Board for Respiratory Therapy Care, Inc. 8310 Nieman Road Lenexa, Kansas 66214 (903) 599-4200

I am applying for a certificate to practice respiratory therapy in the Commonwealth of Virginia. The Board of Medicine requires that this form be completed by the NBRC. Please complete the form and return it to the address below: Thank you.

Virginia Board of Medicine 1601 Rolling Hills Drive Richmond, Virginia 23229-5005

Applicant please complete:

Name _____

Social Security Number: _____

Name Credentialed by if different from above: _____

Complete all that apply:

Date Certified: (CRTT): _____

Date Registered: (RRT): _____

Registry Number: _____

Applicants Signature

To Be Completed by the NBRC:

This is to verify that the individual named above has obtained the following credentials from the National Board for Respiratory Care, Inc.:

____ Certified Respiratory Therapy Technician: Date: _____

____ Registered Respiratory Therapist: Number: _____

SEAL

Authorized Signature

Respiratory Therapy

Virginia Board of Medicine
1601 Rolling Hills Drive
Richmond, Virginia 23229-5005
92 APR 15 AM 11:50

EXAM

Please complete top portion and forward one form to each State Board where you hold or have held a respiratory therapy license. Extra copies may be xeroxed if needed.

NOTE: Some states require a fee, paid in advance, for providing clearance information. To expedite, you may wish to contact the applicable state/s.

CLEARANCE FROM OTHER STATE BOARD

I was granted license # _____ on _____ by the state of _____ The Virginia Board of Medicine request that I submit evidence that my license in the state of _____ is in good standing. You are hereby authorized to release any information in your files, favorable, or otherwise, directly to the Virginia Board of Medicine, 1601 Rolling Hills Drive, Richmond, Virginia 23229-5005. Your earliest attention is appreciated.

Signature _____
(Please print or type name) _____
Executive Office of State Board: _____

Please complete and return this form to the Virginia Board of Medicine, 1601 Rolling Hills Drive, Richmond, VA 23229-5005.

State of _____ Name of Licensee _____ Date issued _____
License/Certificate No. _____
Licensed/Certified through (Check one)

_____ NBRC Examination _____ State Board Examination
_____ Reciprocity from _____ Name of State _____

License/Certified is Current _____ Lapsed _____

Has applicants License/Certificate ever been suspended or revoked? _____

_____, If so, for what reason? _____
Derogatory Information, if any _____

Signature _____
Title _____
State Board _____
(BOARD SEAL)

Print-Name of Applicant _____
The Virginia Board of Medicine receives a great number of applications for certificates. Since we cannot personally interview these applicants we are forced to depend on information from the businesses/institutions in which the applicant has been employed. Please complete this form to the best of your ability and return it to Board so the information you provide can be given consideration in the processing of the candidate's application.

I hereby authorize all hospital, institutions, or organizations, my references, personal physicians, employer (past and present), business and professional (past and present) and governmental agencies to release to the Virginia Board of Medicine any information, files or records requested by the Board in connection with the processing of my application.

Signature of Applicant _____
1. Date and type of services: This therapist served with us as _____ from _____ to _____

2. Please evaluate _____
(Please indicate with check mark)

	Poor	Fair	Good	Superior
Professional knowledge				
Relationship with patients				
Ethical/professional conduct				
Interest in work				
Ability to communicate				

3. Recommendation: _____
(Please indicate with check mark)

1. Recommended fully and without reservation
2. Recommended as qualified and competent
3. Recommended with some reservation (explain) _____
4. Do not recommend (explain) _____

4. The above report is based on: _____
1. Close personal observation
2. General impression
3. A composite of evaluations
4. Other _____

Date _____ Signed _____
Please print or type name _____
Title _____

(This report will become a part of the applicant's file and may be reviewed by the applicant upon demand)

Mandatory Certification for Respiratory Therapy Practitioners
Effective July 1, 1990

54.1-2954.1. Powers of Board concerning respiratory therapy.--The Board shall be empowered to take such actions as may be necessary to ensure the competence and integrity of any person who claims to be a respiratory therapy practitioner or who holds himself out to the public as a respiratory therapy practitioner and to that end it may certify persons as respiratory therapy practitioners.

54.1-2955. Restriction of titles.--It shall be unlawful for any person not holding a current and valid certificate from the State Board of Medicine to claim to be a respiratory therapy practitioner or to assume the title "Respiratory Therapist," "Respiratory Therapist, Registered," "Certified Respiratory Therapist," "Respiratory Therapist Practitioner," "Respiratory Practitioner," or "Certified Respiratory Therapy Practitioner," or any similar term or to assume designations "R.T.," "R.T.R.," "R.T.P.," "R.P.," or "C.R.T.P." However, a person who has graduated from a duly accredited educational program in respiratory therapy shall be exempt from the preceding prohibition until he has taken and received the results of an examination required by the Board or until one year from the date of graduation, whichever occurs sooner. This section shall not be construed to prohibit any person from claiming to practice respiratory therapy using the title "Respiratory Therapy Assistant, R.T.A." or other titles licensed or certified by the Commonwealth.

54.1-2956. Advisory Board on Respiratory Therapy; appointment; terms; duties; etc.-- A. The Advisory Board on Respiratory Therapy shall assist the Board in carrying out the provisions of this chapter regarding the qualifications, examination, registration and regulation of certified respiratory therapy practitioners.

The Advisory Board shall consist of five members appointed by the Governor for four-year terms. Three members shall be at the time of appointment respiratory therapy practitioners who have practiced for not less than three years, one member shall be a physician licensed to practice medicine in the Commonwealth, and one member shall be appointed by the Governor from the Commonwealth at large.

Vacancies occurring other than by expiration of term shall be filled for the unexpired term. No person shall be eligible to serve on the Advisory Board for more than two consecutive terms.

5. The Advisory Board shall, under the authority of the Board, recommend to the Board for its enactment into regulation the criteria for certification as a respiratory therapy practitioner and the standards of professional conduct for holders of certificates.

The Advisory Board shall also assist in such other matters dealing with respiratory therapy as the Board may in its discretion direct.

Respiratory Therapy

CERTIFICATION REGISTRATION

CERTIFICATE NUMBER _____

DATE ISSUED _____

Top Portion to be Completed by Board office

When my Virginia certification is issued I would like to have my Certificate of Registration engrossed with my name as follows:

NAME: _____

Upon issuance of a certification, a wall certificate will be mailed as soon as engrossing is complete. Certificates of Registration are renewed annual on or before July 1. The renewal fee is \$25.00. Renewal notices are mailed sixty (60) days prior to the expiration date to the address on record in this office.

Commonwealth of Virginia
Department of Health Professions
Board of Medicine
1601 Rolling Hills Drive
Richmond, Virginia 23222-5011

Proposed Regulations

BOARD OF NURSING HOME ADMINISTRATORS

Title of Regulation: VR 500-01-2:1. Regulations of the Board of Nursing Home Administrators.

Statutory Authority: §§ 54.1-2400 and 54.1-3101 of the Code of Virginia.

Public Hearing Date: N/A – Written comments may be submitted until July 3, 1992.

Summary:

The Board of Nursing Home Administrators is amending its regulations in order to delete outdated requirements, clarify continuing education requirements, provide an additional route to licensure, and revise reinstatement requirements which were overly stringent.

VR 500-01-2:1. Regulations of the Board of Nursing Home Administrators.

PART I. GENERAL PROVISIONS.

Article 1. Definitions.

§ 1.1. The following words and terms, when used in these regulations, shall have the following meanings, unless the content indicates otherwise:

"Applicant" means a person applying to sit for an examination or applying for licensure by the board.

"Administrator-in-training program (A.I.T.)" means the apprenticeship program which consists of 2,080 hours of continuous training in nursing home administration in a licensed nursing home.

"Administrator-of-record" means the licensed nursing home administrator designated in charge of the general administration of the facility and identified as such to the facility's licensing agency.

"Administrator-in-training applicant" means a person applying for approval to enter the administrator-in-training (A.I.T.) program.

"Continuing education" means the educational activities which serve to maintain, develop, or increase the knowledge, skills, and performance generally recognized as relevant to the nursing home administrator's professional responsibilities.

"Department" means the Department of Health Professions.

"Direct supervision" means directing the activities and course of a subordinate's performance.

"Executive director" means the board administrator for the Board of Nursing Home Administrators.

"Full-time employment" means employment of at least 37 1/2 hours per week.

"N.A.B." means the National Association of Boards of Examiners for Nursing Home Administrators.

"National examination" means a test used by the board to determine competency of candidates for licensure.

"Nursing home administrator" means any individual licensed by the Board of Nursing Home Administrators.

"Nursing home" means any public or private facility required to be licensed as a nursing home under the provisions of Chapter 5 (§ 32.1-123 et seq.) of Title 32.1 of the Code of Virginia and the regulations of the Board of Health.

"Practicum" means a course of study as part of a degree or post-degree program designed especially for the preparation of candidates for licensure as nursing home administrators that involves supervision by an accredited college or university of the practical application of previously studied theory. The practicum shall be served under a preceptor registered with the board.

"Preceptor" means a nursing home administrator currently licensed in Virginia approved by the board to conduct an administrator-in-training (A.I.T.) program.

"State examination" means a test used by the Board of Nursing Home Administrators to determine competency of a candidate relevant to regulations and laws in Virginia for purposes of licensure.

Article 2. Legal Base.

§ 1.2. The following legal base describes the authority of the Board of Nursing Home Administrators to prescribe regulations governing nursing home administrators in the Commonwealth of Virginia:

Title 54.1:

Chapter 1 (§ 54.1-100 through 54.1-114);

Chapter 24 (§ 54.1-2400 through 54.1-2403);

Chapter 25 (§ 54.1-2500 through 54.1-2510); and

Chapter 31 (§ 54.1-3100 through 54.1-3103)

of the Code of Virginia.

Article 3. Purpose.

Proposed Regulations

§ 1.3. These regulations establish the standards for qualifications, training, examination, licensure, and practice of persons as administrators-in-training; nursing home administrators; and preceptors in the Commonwealth of Virginia.

Article 4. Applicability.

§ 1.4. Individuals subject to these regulations are (i) nursing home administrators, (ii) applicants, (iii) administrators-in-training, and (iv) preceptors.

Article 5. Public Participation Guidelines.

§ 1.5. Mailing list.

The executive director of the board shall maintain a list of persons and organizations who will be mailed the following documents as they become available:

1. Notice of intent to promulgate regulations:
2. Notice of public hearings or informational proceedings, the subject of which is proposed or existing regulations; and
3. Final regulations when adopted.

§ 1.6. Additions and deletions to mailing list.

A. Any person wishing to be placed on the mailing list shall have his name added by writing to the board.

B. The board may, in its discretion, add to the list any person, organization, or publication it believes will serve the purpose of responsible participation in the formation or promulgation of regulations.

C. Those on the list may be periodically requested to indicate their desire to continue to receive documents or to be deleted from the list.

D. When mail is returned as undeliverable, persons shall be deleted from the list.

§ 1.7. Notice of intent.

A. At least 30 days prior to publication of the notice to conduct an informational proceeding as required by § 9-6.14:7.1 of the Code of Virginia, the board shall publish a notice of intent.

B. The notice shall contain a brief and concise statement of the possible regulation or the problem the regulation would address and invite any persons to provide written comment on the subject matter.

C. The notice shall be transmitted to the Registrar of Regulations for inclusion in the Virginia Register of

Regulations.

§ 1.8. Informational proceedings or public hearings for existing rules.

A. At least once each biennium, the board shall conduct an informational proceeding, which may take the form of a public hearing, to receive public comment on existing regulations. The purpose of the proceeding will be to solicit public comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance.

B. Notice of such proceeding shall be transmitted to the Registrar of Regulations for inclusion in the Virginia Register of Regulations.

C. The proceeding may be held separately or in conjunction with other informational proceedings.

§ 1.9. Petition for rulemaking.

A. Any person may petition the board to adopt, amend, or delete any regulation.

B. Any petition received within 10 days prior to a board meeting shall appear on the agenda of that meeting of the board.

C. The board shall have sole authority to dispose of the petition.

§ 1.10. Notice of formulation and adoption.

Prior to any meeting of the board or subcommittee of the board at which the formulation or adoption of regulations is to occur, the subject matter shall be transmitted to the Registrar of Regulations for inclusion in the Virginia Register of Regulations.

§ 1.11. Advisory committees.

The board may appoint advisory committees as it may deem necessary to provide for citizen and professional participation in the formation, promulgation, adoption, and review of regulations.

PART II. OPERATIONAL RESPONSIBILITIES.

Article 1. Posting of License and Licensure.

§ 2.1. An individual shall have a valid nursing home administrator's license issued by the Board of Nursing Home Administrators in order to engage in the general administration of a nursing home.

§ 2.2. Each licensee shall post his license in a main entrance or place conspicuous to the public in the facility in which the licensee is administrator-of-record.

Proposed Regulations

Article 2. Records.

§ 2.3. Accuracy of information.

A. All changes of mailing address or name shall be furnished to the board within five days after the change occurs.

B. All notices required by law and by these regulations to be mailed by the board to any registrant or licensee shall be validly given when mailed to the latest address on file with the board and shall not relieve the licensee, trainee, or preceptor of the obligation to comply.

PART III. FEES.

Article 1. Initial Fees.

§ 3.1. The applicant shall submit ALL fees below which apply:

1. Application for A.I.T. program \$150
2. Preceptor application fee \$100
3. Application fee for license to practice nursing home administration \$125
4. Fee to sit for state examination \$100
5. Fee to sit for national examination \$150
6. Verification of licensure requests from other states \$ 50

Article 2. Renewal Fees.

§ 3.2. *Renewal fees received by the board no later than the expiration date (see § 4.1).*

The following annual fees shall be paid as applicable and received by the board no later than the expiration date for license and preceptor registration renewal (see § 4.4) :

- Nursing home administrator license renewal \$100
- Preceptor registration renewal \$ 50

§ 3.3. *Late renewal fees.*

The following late fees shall be paid as applicable and received by the board within six months following the initial expiration date (see § 4.4):

1. *Nursing home administrator late license renewal* \$150

(\$100 renewal and \$50 penalty fee)

2. *Preceptor late registration renewal* \$75.
(\$50 renewal and \$25 penalty fee)

Article 3. Reinstatement Fees.

~~§ 3.3.~~ § 3.4. *The board, in its discretion, may reinstate a license that was not renewed within six months of the initial expiration date provided certain conditions are met (see § 4.5).*

NOTE: There may be additional fees for nursing home administrator license reinstatement depending upon the conditions approved by the board for reinstatement (see § 4.5).

The board, in its discretion, may reinstate a preceptor registration that was not renewed within six months of the initial expiration date.

If the board approves reinstatement the following applicable reinstatement fees shall be paid in addition to annual renewal fees for reinstatement of license or preceptorship up to three years following expiration .

Nursing home administrator reinstatement (See NOTE under § 3.4) \$200

Preceptor reinstatement \$ 50 \$100

Article 4. Other Fees.

§ 3.4. § 3.5. Duplicates.

Duplicate licenses or wall certificates shall be issued by the board after the licensee submits to the board a signed affidavit that a document has been lost, destroyed, or the applicant has had a name change.

Duplicate license \$ 25

Duplicate wall certificates \$ 50

§ 3.5. § 3.6 Other.

There shall be a fee of \$25 for returned checks.

Fees shall not be refunded once submitted.

PART IV. RENEWALS.

Article 1. Expiration Dates.

§ 4.1. ~~The following shall expire on December 31, 1991. The license will be renewed until March 31, 1993. Each such license or approval renewed by December 31, 1991,~~

Proposed Regulations

shall expire on March 31, 1993. Effective March 31, 1993, licenses shall be renewed on March 31 of each calendar year:

1. Nursing home administrator license; and
2. Preceptor approval registration .

§ 4.2. A licensee who fails to renew his license by the expiration date shall have an invalid license. See §§ 4.5 and 4.6.

§ 4.3. A preceptor who fails to renew his approval registration by the expiration date shall not serve as a preceptor. See §§ 4.5 and 4.6.

Article 2. Renewal and Reinstatement.

§ 4.4. Renewal received by the board no later than the expiration date .

A. A person who desires to renew his license or preceptor approval registration for the next year shall, not later than the expiration date:

1. Return the renewal notice;
2. Submit the applicable fee(s) prescribed in § 3.2;
3. Notify the board of any changes in name and address; and
4. Submit the continuing education documentation prescribed in §§ 8.1 through 8.10 8.8 of these regulations.

B. The requirements in subsection A above shall be received in the board office or the bank lock box no later than the expiration date. Postmarks shall not be considered.

§ 4.5. Reinstatement.

A. Reinstatement up to three years following expiration:

The board in its discretion may reinstate a nursing home administrator license or preceptor approval within three years of its expiration date. The licensee or preceptor shall do the following:

1. Apply for reinstatement (licensee and preceptor);
2. Submit the applicable fee prescribed in § 3.2 (licensee and preceptor);
3. Submit the annual renewal fee prescribed in § 3.2 for each year of expiration (licensee and preceptor);
4. Present evidence of attendance at 20 classroom hours per year of continuing education for each year

of expiration OR take and pass the national examination (licensee only); and

5. Take and pass the state examination (licensee only);

B. Reinstatement after three years following expiration:

When a license or approval as a preceptor is not reinstated within three years of its expiration date, an applicant for licensure or approval as a preceptor shall:

1. Reapply as a new candidate for licensure or preceptor approval;
2. Take and pass the national examination (licensee only);
3. Take and pass the state examination (licensee only); and
4. Meet all qualifications of the regulations at the time of reapplication.

§ 4.5. Late renewal.

A. A person who fails to renew his license by the expiration date shall, within six months of the initial expiration date:

1. Return the renewal notice or request renewal in writing to the board;
2. Submit the applicable fee prescribed in § 3.3;
3. Notify the board of any changes in name and address; and
4. Submit the continuing education documentation prescribed in §§ 8.1 through 8.8 for the previous calendar year.

B. The requirements in subsection A above shall be received in the board office within six months of the initial expiration date. Postmarks shall not be considered.

§ 4.6. Reinstatement.

The board, in its discretion, may reinstate a license or preceptor registration that was not renewed within six months of the initial expiration date under certain conditions.

A. An applicant for nursing home administrator license reinstatement shall:

1. Apply as a new applicant on forms provided by the board; and
2. Submit the applicable reinstatement fee prescribed in § 3.4; and

3. Meet one or more of the following requirements as determined by the board at the time of application for reinstatement. All applications for reinstatement shall be reviewed by the Credentials Committee and the applicant shall be notified of which of the following requirements must be met:

a. Submit evidence of attendance at 20 classroom hours of continuing education for each year of expiration and for the year preceding expiration if continuing education requirements were not met for that year.

(NOTE: See § 8.3 B and C for possible exception to the 20 hour requirement);

b. Requalify for licensure under the requirements for initial licensure in effect at the time of application for reinstatement (see § 5.1).

NOTE: Such requalification does not include retaking of the state and national examinations but may include more stringent qualifications than were in effect at the time of original application for licensure);

c. Retake and pass the state and national examinations (see fees under § 3.1).

B. An applicant for preceptor registration reinstatement shall:

1. Apply as a new applicant on forms provided by the board;

2. Meet the current requirements for preceptor approval in effect at the time of application for reinstatement (see §§ 6.8 through 6.9); and

3. Submit the applicable reinstatement fee prescribed in § 3.4.

PART V. REQUIREMENTS FOR LICENSURE.

Article 1. Qualifications.

§ 5.1. One of the following sets of qualifications is required for licensure:

1. Degree and practicum experience.

a. Applicant holds a baccalaureate or higher degree in nursing home administration or a health administration field from an accredited college or university; and

b. Applicant has completed a 400-hour practicum ~~experience~~ (see § 1.1) in nursing home administration as part of the degree program under

the supervision of a licensed ~~nursing home administrator~~ preceptor registered by the board ; and

c. Applicant has received a passing grade on the state examination and the national examination.

OR

2. Certificate program.

a. Applicant holds a baccalaureate or higher degree from an accredited college or university; and

b. Applicant has completed successfully a program with a minimum of 21 semester hours study in long-term care administration from an accredited college or university. The program shall be one that has been recognized by the board and shall include a minimum of 15 semester hours of academic courses related to long-term care administration; and

c. Applicant has completed successfully a 400-hour practicum (see § 1.1) as part of the certificate program under the supervision of a preceptor registered by the board; and

d. Applicant has received a passing grade on the state examination and the national examination.

OR

~~2.~~ 3. Administrator-in-training program.

a. Applicant has successfully completed 2,080 hours, or the approved equivalent thereof (see § 6.3), of continuous training in an A.I.T. program; and

b. Applicant has received a passing grade on the state examination and the national examination.

OR

~~3.~~ 4. Endorsement. The board may issue a Virginia license to any person by endorsement when the person:

a. Holds a current unencumbered license from any state or the District of Columbia;

b. Meets one of the following:

(1) Has practiced nursing home administration for one year ; or

(2) Complies with all regulations of the Board of Nursing Home Administrators governing nursing home administration licensure in Virginia ; or

(3) Has education and experience equivalent to qualifications required by these regulations and has

Proposed Regulations

provided written evidence of those qualifications at the time of application for licensure; and

c. Has successfully completed the state examination.

Article 2. Application Process.

§ 5.2. An individual seeking licensure as a nursing home administrator, approval as a preceptor, or seeking examination/reexamination shall submit simultaneously:

1. ~~Completed and signed application~~ *Application provided by the board* ;
2. Additional documentation as may be required by the board to determine eligibility of the applicant; and
3. The applicable fee(s) prescribed in § 3.1.

§ 5.3. All required parts of the application package shall be submitted at the same time. An incomplete package shall be returned.

EXCEPTION: Some schools require that certified transcripts be sent directly to the licensing authority. That policy is acceptable to the board.

National examination scores will also be accepted from the examining authority.

§ 5.4. An applicant for examination shall submit the application package not less than 45 days prior to an examination date. *The application package shall be received in the board office on the examination application deadline date. Postmarks will not be considered.*

§ 5.5. Waiver of time limits.

The board may, for good cause, waive the time requirement in § 5.4 for the filing of any application. The burden of proof which demonstrates good cause rests with the applicant.

Article 3. General Examination Requirements.

§ 5.6. Failure to appear.

The applicant shall forfeit the examination fee if unable to sit for the examination for any reason.

§ 5.7. Reexamination.

Any person failing an examination may reapply for a subsequent examination, and shall pay the examination fee prescribed in § 3.1 with each application filed.

§ 5.8. Scheduling early examinations.

A. An applicant may request to take the scheduled examination most closely preceding the expected completion of the required formal education requirement or the A.I.T. program.

B. All such requests shall be in writing.

C. Approval of the written request by the board shall be required prior to submitting the application and fee for examination (see §§ 5.2, 5.4 and 3.1).

D. Application for licensure shall be submitted after the applicant completes the qualifications for licensure.

PART VI. ADMINISTRATOR-IN-TRAINING PROGRAM.

Article 1. Trainee Requirements and Application Process.

§ 6.1. To be approved as an administrator-in-training, a person shall:

1. Have received a passing grade on a total of 60 semester hours of education from an accredited college or university;
2. Obtain a preceptor currently approved by *and registered with* the board to provide training;
3. Submit the fee prescribed in ~~subdivision 1~~ of § 3.1;
4. Submit the ~~completed and signed~~ *application provided by the board* ; and
5. Submit additional documentation as may be required by the board to determine eligibility of the applicant.

All required parts of the application package shall be submitted at the same time. An incomplete package shall be returned.

EXCEPTION: *Some schools require that certified transcripts be sent directly to the licensing authority. That policy is acceptable to the board.*

Article 2. Training Program.

§ 6.2. The A.I.T. program shall consist of 2,080 hours or its approved equivalent (see § 6.3) of continuous training to be completed within 24 months. Extension may be granted by the board on an individual case basis.

§ 6.3. An A.I.T. applicant with prior health care work experience may request approval to receive a maximum 1,000 hours of credit toward the total 2,080 hours as follows:

1. Applicant shall have been employed full-time for

four of the past five consecutive years immediately prior to application as an assistant administrator or director of nursing.

2. The employment described above shall have been in a facility as prescribed in § 6.4.

3. Applicants with experience as a hospital administrator shall have been employed full-time for three of the past five years immediately prior to application as a hospital administrator-of-record or an assistant hospital administrator in a hospital setting having responsibilities in all of the following areas:

- a. Regulatory;
- b. Fiscal;
- c. Supervisory;
- d. Personnel; and
- e. Management.

§ 6.4. Training shall be conducted only in:

1. A nursing home, licensed by the Department of Health, Commonwealth of Virginia; or
2. An institution licensed by the Virginia Mental Health, Mental Retardation and Substance Abuse Services Board in which long-term care is provided; or
3. A certified nursing home owned or operated by an agency of any city, county, or the Commonwealth or of the United States government; or
4. A certified nursing home unit located in and operated by a general or special hospital licensed under procedures of Rules and Regulations for Licensure of General and Special Hospitals of the Virginia Department of Health.

§ 6.5. Training shall be under the direct supervision of a certified preceptor (see §§ 6.8 and 6.9).

§ 6.6. Not more than two A.I.T.'s may be supervised per approved *and registered* preceptor at any time.

§ 6.7. An A.I.T. shall be required to serve full time weekday, evening, and weekend shifts to receive training in all areas of nursing home operation.

Article 3. Qualifications and Application Process to Train: Preceptors.

§ 6.8. An individual shall be approved by *and registered with* the board prior to serving as a preceptor.

§ 6.9. The board shall approve *and register* only

preceptors to give training who:

1. Have a full, unrestricted, and current Virginia nursing home administrator license;
2. Are employed full-time in the facility where training occurs (see § 6.4);
3. Have served for a minimum of two of the past three years immediately prior to the preceptorship as a full-time administrator in accordance with § 6.4 or as an approved preceptor in another state;
4. Submitted the fee prescribed in subdivision 2 of § 3.1;
5. Submitted the ~~completed and signed~~ applications *provided by the board*; and
6. Submitted additional documentation as may be required by the board to determine eligibility of the applicant.

All required parts of the application package shall be submitted at the same time. An incomplete package shall be returned.

EXCEPTION: Preceptors submitting information which documents preceptorship served in another state, may have the other state send information directly to the licensing authority. That policy is acceptable to the board.

Article 4. Administration of A.I.T. program.

§ 6.10. Prior to the beginning of the A.I.T. program, the preceptor shall develop and submit to the board for approval, a training plan which shall include and be designed around the specific training needs of the administrator-in-training. The training plan shall include the Core of Knowledge as defined by Title XVIII and Title XIX of the Social Security Act and published in the Federal Register on February 2, 1989, and the Domains of Practice as appended to these regulations. (See Appendices I and II.) The training plan developed by the board or an alternate plan may be used.

§ 6.11. The preceptor shall maintain progress reports on forms prescribed by the board for each month of training.

§ 6.12. The A.I.T.'s certificate of completion plus the accumulated original monthly reports shall be submitted by the preceptor to the board within 30 days following the completion of the A.I.T. program.

§ 6.13. If the preceptor fails to submit the reports required in § 6.12, the A.I.T. shall forfeit all credit for training. The board may waive such forfeiture.

§ 6.14. If the A.I.T. program is terminated prior to

Proposed Regulations

completion, the trainee and the preceptor shall submit the following information to the board within five working days:

1. Preceptor.

- a. All required monthly progress reports prescribed in § 6.11; and
- b. Written explanation of the causes of program termination.

2. A.I.T. The A.I.T. shall submit written explanation of the causes of program termination.

§ 6.15. If the program is interrupted because the approved *and registered* preceptor is unable to serve, the A.I.T. shall notify the board within five working days and shall obtain a new preceptor *who is registered with the board*.

§ 6.16. Credit for training shall resume when a new preceptor is obtained and approved *and registered* by the board.

§ 6.17. If an alternate training plan or set of goals is developed, it shall be submitted to the board for approval before A.I.T. resumes training.

PART VII.
REFUSAL, SUSPENSION, REVOCATION, AND
DISCIPLINARY ACTION.

Article 1.
Unprofessional Conduct.

§ 7.1. The board may refuse to admit a candidate to any examination; refuse to issue or renew a license or approval to any applicant; and may suspend for a stated period of time or indefinitely, or revoke any license or approval, or reprimand any person, or place his license on probation with such terms and conditions and for such time as it may designate, or impose a monetary penalty for any of the following causes:

1. Conducting the practice of nursing home administration in such a manner as to constitute a danger to the health, safety, and well-being of the residents, staff, or public;
2. Demonstrated inability or unwillingness to maintain a facility in accordance with the Virginia Department of Health Rules and Regulations for the Licensure of Nursing Homes in Virginia;
3. Failure to comply with federal, state, or local laws and regulations governing the operation of a nursing home;
4. Conviction of a felony related to the practice for which the license was granted;

5. Failure to comply with any regulations of the board;

6. Failure to comply with continuing education requirements;

7. Inability to practice with skill or safety because of physical, mental, or emotional illness, or substance abuse ; ;

8. Failure to comply with board's regulations on preceptorship while serving as a preceptor.

PART VIII.
CONTINUING EDUCATION.

§ 8.1. As a prerequisite to renewal of a license or reinstatement of a license, each licensee shall be required to take continuing education related to health care administration.

§ 8.2. Continuing education shall consist of training programs, seminars, and workshops directly related to the following:

1. Nursing home administration;
2. Long term care;
3. Resident care;
4. Physical resource management;
5. Laws, regulatory codes, and governing boards;
6. Courses to gain knowledge in departmental areas;
7. Core of Knowledge in Appendix I; and
8. Domains of Practice in Appendix II.

~~§ 8.3. Requirements for the licensure period beginning January 1, 1990, and ending December 31, 1991.~~

~~Section 8.3 expires and will be deleted from the regulations effective December 31, 1991.~~

~~A. An administrator whose initial date of licensure was on or before May 31, 1990, shall attend 35 classroom hours of continuing education for the licensure period ending December 31, 1991.~~

~~B. An administrator whose initial date of licensure was between June 1, 1990, and March 31, 1991, shall attend 20 classroom hours of continuing education for the licensure period ending December 31, 1991.~~

~~C. An administrator whose initial date of licensure was between April 1, 1991, and July 31, 1991, shall attend 10 classroom hours of continuing education for the licensure period ending December 31, 1991.~~

~~D. An administrator whose initial date of licensure was between August 1, 1991, and December 31, 1991, shall not be required to attend classroom hours of continuing education for the licensure period ending December 31, 1991.~~

~~§ 8.4. § 8.3 Requirements for licensure periods beginning January 1, 1992, and each annual licensure period thereafter. Continuing education requirements for each calendar year.~~

A. An administrator who holds a license on January 1 of any calendar year shall attend 20 classroom hours of continuing education for that calendar year.

B. An administrator whose initial date of licensure is between April 1 and July 31 of any calendar year shall attend 10 classroom hours of continuing education for the calendar year in which initial licensure takes place.

C. An administrator whose initial date of licensure is between August 1 and December 31 of any calendar year shall not be required to attend continuing education for the calendar year in which initial licensure takes place.

~~§ 8.5. § 8.4. Continuing education hours, documentation, and signed completed affidavit of completion shall be submitted to the as one package and received in the board office no later than January 15 of the calendar year following the December 31 deadline requirement year in which the courses were required to be taken. Postmarks will not be considered.~~

~~§ 8.6. § 8.5. Administrators shall submit evidence of having obtained continuing education credit by:~~

- ~~1. Forwarding copies of certificates or transcripts issued, signed, and dated by the course provider showing the classroom hours attended; and~~
- ~~2. Forwarding an affidavit of completion signed by the administrator on forms provided by the board.~~

~~§ 8.7. § 8.6. Only classroom hours shall be accepted.~~

~~§ 8.8. § 8.7. Credit shall only be given for 30-minute increments.~~

~~§ 8.9. § 8.8. The continuing education hours shall be current to the calendar year in which they were required.~~

APPENDIX I. CORE OF KNOWLEDGE.

The Core of Knowledge referred to in this program consists of the disciplines under the federal guidelines:

A. Applicable standards of environmental health and safety.

1. Knowledge of local, state and federal regulations

applicable to nursing homes.

2. Resources: Local and state health departments, local state regulatory agencies, and federal regulatory agencies.

B. Local and state health and safety regulations.

C. General administration.

D. Psychology of patient care.

Resources: Staff, patient, and advisory physicians; social worker and patient's social history; principles and techniques of long term care nursing (director of nursing, nursing supervisors).

E. Principles of medical care.

1. Resources: Medical director, staff, patient, and advisory physicians/medical colleges, especially those offering degree programs in health care administration or long-term health care.

F. Personal and social care.

G. Therapeutics and supportive care and services in long term care.

1. Resources: Dietary, physical therapy, occupational therapy, clinic, social services, volunteers, family, and pharmacist.

H. Departmental organization and management administrator, advisor physicians, director of nursing, food service manager, laundry and housekeeping supervisor, and maintenance supervisor.

I. Community Interrelationships.

1. Hospitals
2. Hospice programs
3. Other nursing homes
4. Home for adults
5. Retirement or life care communities
6. Home health care
7. Health Department
8. Social service agencies
9. Department for the Aging
10. Area Agencies on Aging
11. Clinics

Proposed Regulations

12. Physicians	20.80	Health and Safety
13. Medical societies	30.00	FINANCIAL MANAGEMENT
14. Regulatory agencies	30.10	Budgeting
15. Long term care professional associations	30.20	Financial Planning
16. Advocates for the aged	30.30	Asset Management
17. Ombudsman	30.40	Accounting
18. Volunteers	40.00	MARKETING AND PUBLIC RELATIONS
19. Educators	40.10	Public Relations Activities
20. Schools	40.20	Marketing Program
21. Religious communities	50.00	PHYSICAL RESOURCE MANAGEMENT

APPENDIX II.
DOMAINS OF PRACTICE.

CODE	SUBJECT CATEGORY	
10.00	PATIENT CARE	50.10
10.10	Nursing Services	50.20
10.20	Social Services	50.30
10.30	Food Services	50.40
10.40	Physician Services	60.00
10.50	Social and Therapeutic Recreational Activities	60.10
10.60	Medical Records	60.20
10.70	Pharmaceutical Services	
10.80	Rehabilitation Services	
20.00	PERSONNEL MANAGEMENT	
20.10	Maintaining positive atmosphere	
20.20	Evaluation Procedures	
20.30	Recruitment of Staff	
20.40	Interviewing Candidates	
20.50	Selecting Future Candidates	
20.60	Selecting Future Employees	
20.70	Providing Staff Development & Training Activities	

NOTICE: The forms used in administering the Regulations of the Board of Nursing Home Administrators are not being published due to the large number; however, the name of each form is listed below. The forms are available for public inspection at the Department of Health Professions, 1601 Rolling Hills Drive, Surry Building, Richmond, Virginia, or at the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Room 262, Richmond, Virginia.

Application for Administrator-in-Training (DHP-14-0102)
 Application for Preceptor Certification (DHP-14-0104)
 Application for Nursing Home Administrators (DHP-14-0101)
 Endorsement Certification Form (DHP-14-0103)
 Application for Administrator-in-Training Program Forms

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 regulations.

DEPARTMENT OF CRIMINAL JUSTICE SERVICES (BOARD OF)

Title of Regulation: VR 240-01-2. Rules Relating to Compulsory In-Service Training Standards for Law-Enforcement Officers, Jailors or Custodial Officers, Courtroom Security Officers, Process Service Officers and Officers of the Department of Corrections, ~~Division of Adult Institutions~~ [*Division of*] *Institutional Services* .

Statutory Authority: § 9-170 of the Code of Virginia.

Effective Date: July 1, 1992.

Summary:

The amendments to these regulations allow certified criminal justice academies an alternative training session approval mechanism which will allow for approval of training sessions submitted in a minimum of four-hour blocks of instruction. Additional time will be allowed to address tactical firearms related issues. An additional extension provision has been recommended to address needs expressed by chiefs of police and sheriffs. An amendment was adopted which will require all officers possessing or having immediate access to special weapons to qualify with such weapons annually. Finally, officers will be allowed to attend approved training any time during the two-year cycle.

In response to public comment, the board added a new reason for which a valid extension may be requested for the time required for completion of training and removed all references to familiarization with special weapons for officers who carry such weapons in the performance of duty. Any officer carrying such weapon will be required to qualify with any special weapons annually.

VR 240-01-2. Rules Relating to Compulsory In-Service Training Standards for Law-Enforcement Officers, Jailors or Custodial Officers, Courtroom Security Officers, Process Service Officers and Officers of the Department of Corrections, Division of Institutional Services.

§ 1. Definitions.

The following words and terms, when used in these regulations, shall have the following meaning, unless the context clearly indicates otherwise.

"Academy director" means the chief administrative officer of a certified training academy.

"Agency administrator" means any chief of police, sheriff or agency head of a state or local law-enforcement agency, or [~~correctional institution~~ corrections agency] .

"Board" means the Criminal Justice Services Board.

"Certified training academy" means a training school which provides instruction of at least the minimum training standards as mandated by the board and has been approved by the department for the specific purpose of training criminal justice personnel.

*"Criminal justice officer" means a law-enforcement officer, jailor or custodial officer, courtroom security officer, process service officer and officers of the Department of Corrections, ~~Division of Adult Institutions~~ [*Division of*] *Institutional Services* . Officers of the Department of Corrections, ~~Division of Adult Institutions~~ [*Division of*] *Institutional Services* , means a correctional officer, sergeant, lieutenant, captain, major, ~~facility manager, and facility director assistant superintendent, superintendent, assistant [warden, warden, deputy warden, and chief deputy warden~~ warden and warden] .*

"Department" means the Department of Criminal Justice Services.

"Director" means the chief administrative officer of the department.

"School director" means the chief administrative officer of an approved training school.

§ 2. Applicability.

A. Every person employed as a law-enforcement officer, as defined by § 9-169(9) of the Code of Virginia, ~~must~~ shall meet compulsory in-service training standards as set forth in subsection A of § 3 of these regulations.

B. Every person employed as a jailor or custodial officer under the provisions of Title 53.1 of the Code of Virginia, ~~must~~ shall meet compulsory in-service training standards as set forth in subsection B of § 3 of these regulations.

C. Every person employed as a courtroom security or process service officer under the provisions of Title 53.1 of the Code of Virginia ~~must~~ shall meet compulsory in-service training standards as set forth in subsection C of § 3 of these regulations.

D. Every person employed as an officer of the

Final Regulations

Department of Corrections, Division of Adult Institutions [Division of] Institutional Services , as defined herein must shall meet compulsory in-service training standards as set forth in subsection D of § 3 of these regulations.

§ 3. Compulsory in-service training standards.

Pursuant to the provisions of subdivisions (1), (3), (5), (6) and (7) of §§ 9-170 of the Code of Virginia, the board establishes the following as the compulsory in-service training standards for law-enforcement officers, jailors or custodial officers, courtroom security officers, process service officers and officers of the Department of Corrections, Division of Adult Institutions [Division of] Institutional Services .

A. Law-enforcement officers (Testing optional, but strongly encouraged) .

1. Mandatory (testing as set forth in § 7 is optional but strongly encouraged and recommended):

..... Hours

a. 1. Legal training. 4

The subjects selected *Subjects to be provided* are at the discretion of the approved training school agency administrator or the board of a certified training academy and shall be designated as legal training totaling four hours .

b. Career development. 16

The subjects shall enhance the officer's career in law enforcement and shall total 16 hours.

2. Elective Career development/elective training (testing optional): 20 36

(May include subjects provided in subsections B and C of § 3 of these regulations.

a. Subjects designated as elective training to be provided are at the discretion of the agency administrator or the board of an approved a certified training school academy . No more than four eight hours of firearms training will shall be permitted approved as elective subjects. Firearms training shall be applied as follows:

(1) No more than four hours applied to firearms qualification as provided in § 8 of these rules; and

(2) Remaining hours eligible for situational or decision making training.

b. Mandatory subjects listed in subsections B and C of § 3 may be substituted in lieu of the electives for law-enforcement officers in-service training.

TOTAL 40

B. Jailors or custodial officers. (Testing optional, but strongly encouraged.)

1. Mandatory (testing as set forth in § 7 is optional but strongly encouraged and recommended):

a. 1. Legal training. 4

The subjects selected *Subjects to be provided* are at the discretion of the approved training school agency administrator or the board of a certified training academy and shall be designated as legal training totaling four hours .

b. Career development. 8

The subjects shall enhance the officer's career as a jailor or custodial officer and shall total eight hours.

2. Elective (testing optional): 12

2. Career development/elective training 20

(May include subjects provided in subsections A and C of § 3 of these regulations.)

a. Subjects designated as elective training to be provided are at the discretion of the agency administrator or the board of an approved a certified training school academy. No more than four eight hours of firearms training will shall be permitted approved as elective subjects. Firearms training shall be applied as follows:

(1) No more than four hours applied to firearms qualification as provided in § 8 of these rules; and

(2) Remaining hours eligible for situational or decision making training.

TOTAL 24

C. Courtroom security officers and process service officers. (Testing is optional, but strongly encouraged.)

1. Mandatory (testing as set forth in § 7 is optional but strongly encouraged and recommended):

a. 1. Legal training. 4

The subjects selected, which should pertain to courtroom security and process service, *Subjects to be provided* are at the discretion of the approved training school agency administrator or the board of a certified training academy and shall be designated as legal training totaling four hours .

b. Career development:

Final Regulations

(1) The subjects shall enhance the officers' career as a courtroom security officer and shall total two hours: 2

(2) The subjects shall enhance the officers' career as a process service officer and shall total two hours: 2

2. Elective (testing optional): Career development/elective training 8

(May include subjects provided in subsections A and B of § 3 of these regulations.)

a. Subjects designated as elective training to be provided are at the discretion of the agency administrator or the board of an approved a certified training school academy. No more than four eight hours of firearms training will shall be permitted approved as elective subjects. Firearms training shall be applied as follows:

(1) No more than four hours applied to firearms qualification as provided in § 8 of these rules; and

(2) Remaining hours eligible for situational and/or decision making training.

..... 8

TOTAL 16

D. Officers of the Department of Corrections, Division of Adult Institutions [Division of] Institutional Services. (Testing is optional, but strongly encouraged) .

1. Mandatory (testing as set forth in § 7 is optional but strongly encouraged and recommended):

a. 1. Legal training. 4

The subjects selected to be provided are at the discretion of the approved training school Director of the Department of Corrections or his designee and shall be designated as legal training totaling four hours .

b. Career development:

The subjects shall enhance the career of the officers of the Department of Corrections, Division of Adult Institutions. The hours shall be allocated as follows:

a. Correctional officers and sergeants 8

b. Lieutenants through

facility director 16

2. Elective (testing optional): Career development/elective training.

Correctional officers and sergeants 20

Lieutenants through [chief deputy warden wardens] . 36

a. Subjects designated as elective training to be provided are at the discretion of the director of the Department of Corrections or his designee , [Division of] Institutional Services . The hours shall be allocated as follows: No more than eight hours of firearms training shall be approved as elective subjects. Firearms training shall be applied as follows:

- (1) No more than four hours applied to firearms qualification as provided in § 8 of these rules; and
- (2) Remaining hours eligible for situational or decision making training.
- (1) Correctional officers and sergeants 12
- (2) Lieutenants through facility director 20

No more than four hours of firearms training shall be permitted as elective subjects:

TOTAL HOURS FOR CORRECTIONAL OFFICERS AND SERGEANTS 24

TOTAL HOURS FOR LIEUTENANTS THROUGH FACILITY DIRECTOR [CHIEF DEPUTY WARDEN WARDENS] 40

§ 4. Time requirement for completion of training.

A. Every law-enforcement officer, jailor or custodial officer , court security officer, process service officer, and officers of the Department of Corrections must complete compulsory in-service training by December 31 of the second calendar year following satisfactory completion of the entry-level compulsory minimum training standards , and must complete compulsory in-service training by December 31 of every other calendar year thereafter. In-service training hours may be carried over from the first calendar year to the second calendar year of the two-year period. However, should the required training be completed within the first calendar year of the two-year period, such training shall be reported to the department and a new due date for completion of in-service training shall be established for December 31 of the second calendar year following the completion date of such training.

Final Regulations

The mandatory training must be completed between the period of January 1 and December 31 of the calendar year in which the officer is required to comply, unless provided otherwise in accordance with § 4, subsection D, of these regulations.

Upon written request of the Director of the Department of Corrections or his designee, in-service training requirements may be completed by attending approved course offerings in each calendar year. The provisions of this section shall be applicable to the positions of Captain through Facility Director within the Department of Corrections. All such written requests shall be approved by the Department of Criminal Justice Services prior to such credit being authorized.

B. Every courtroom security officer and process service officer who has satisfactorily completed the entry-level compulsory minimum training standards by December 31, 1988, must complete compulsory in-service training by no later than December 31, 1990, and every other calendar year thereafter.

Every courtroom security officer and process service officer who satisfactorily completes the entry-level compulsory minimum training standards on or after January 1, 1989, must complete compulsory in-service training standards by December 31 of the second calendar year following satisfactory completion of the entry-level compulsory minimum training standards and every other calendar year thereafter.

C. B. In-service Approved in-service training schools shall be conducted in no less than four-hour sessions.

D. C. The director may grant an extension of the time limit for completion of the in-service training. The chief of police, sheriff or agency administrator shall present evidence that the officer was unable to complete the required training within the specified time limit due to illness, injury, military service, special duty assignment required and performed in the public interest or leave without pay or suspension pending investigation or adjudication of a crime. Requests for extension of the time limit must be received prior to the expiration of the normal in-service time limit, under the following conditions:

1. The chief of police, sheriff or agency administrator shall present written notification that the officer was unable to complete the required training within the specified time limit due to:

- a. Illness;
- b. Injury;
- c. Military service;
- d. Special duty assignment required and performed in the public interest;

e. Administrative leave involving the determination of worker's compensation or disability retirement issues, [full-time educational leave] or suspension pending investigation or adjudication of a crime; or

f. [Nonavailability or cancellation of an approved in-service training program for which the officer was previously scheduled to attend. This provision may only be approved one time during any in-service reporting period and must be supported with written verification by the academy director. Any such extension granted shall not exceed 90 days; Any other reason documented by the agency administrator. Such reason must be specified and any approval granted shall not exceed 90 days.]

2. Any extension granted under subdivision C 1 e of § 4 of these regulations shall require the officer to complete in-service training prior to resuming job duties. Request may be granted for periods not to exceed 12 months.

3. Requests for extension of the time limit shall be received prior to the expiration of the normal in-service time limit.

§ 5. How compulsory minimum in-service training standards may be attained.

A. In-service training school /sessions .

1. The in-service In-service training must shall be obtained by attending and completing an approved in-service training school at an approved or a series of approved in-service training sessions which combined comply with the compulsory in-service training standards. Such training must be attended at a certified training academy unless provided otherwise in accordance with § 5, subsection subsections B and C , of these regulations.

2. Criminal justice officers attending an approved in-service training school are required to attend all classes and should shall not be placed on duty or on call except in cases of emergency.

3. Individuals who maintain training certification in secondary functions may comply with the compulsory in-service training standards by attending 40 hours of approved in-service training, provided that all legal training requirements are included for the designated secondary function(s) and that the career development/elective training is job related.

B. Partial in-service credit.

1. Individual. Upon written request of the chief of police, sheriff or agency administrator, the director may authorize attendance and successful completion of job-related courses for partial in-service credit. Such request shall be submitted no later than 60 days

following the last day of the course. Whenever possible, such request should be submitted prior to the beginning date of the course. Any request for partial in-service credit shall include the name of the sponsoring agency, name and location of the course, and a curriculum which shall include at a minimum the date, time and instructor for each subject included in the course. Attendance shall be documented and records maintained as required by the records retention policy of the department.

All such requests from the Department of Corrections shall be reviewed and endorsed by the training manager prior to being forwarded to the department for consideration.

2. Course. The director may also approve job-related training courses offered by agencies, institutions, or private firms as meeting the requirements to receive partial in-service credit. Requests for such ~~certification~~ approval shall be submitted 60 days in advance of the ~~conduct of~~ prior to the commencement of the course on forms provided by the department. Courses meeting the minimum criteria may be approved for one year or until the course content is revised, whichever occurs first. The sponsoring agency shall document attendance and maintain records as required by the records retention policy of the department. The sponsoring agency shall also certify to the agency administrator that the officer successfully completed the course. The department ~~will~~ shall only consider for approval requests from agencies, institutions, or private firms where there is an indication that criminal justice officers from Virginia have attended or will attend the course for which approval is requested.

Courses submitted for approval shall meet the minimum number of hours of either the mandatory or elective training sections of the applicable standards. Section 5 B 2 shall not apply to any criminal justice agency or certified training academy in this Commonwealth.

C. In-service credit for electronically transmitted criminal justice programming.

1. The department may establish guidelines to approve job-related electronically transmitted programs. Any such policy shall provide for no more than eight hours training credit annually and shall establish all administrative requirements.

§ 6. Requirements for in-service training schools .

A. In-service training schools shall be approved by the department prior to the first scheduled class. Approval is requested by making application to the director on forms provided by the department. The director may approve those schools which, on the basis of curricula, lesson plans, instructors, facilities, and examinations, provide the

required minimum training. A curriculum listing the subjects ~~subject(s)~~ , instructors ~~instructor(s)~~ , dates ~~date(s)~~ and times for the entire proposed training session shall be submitted to the department 30 days prior to the beginning of each such proposed session. An exemption to the 30-day requirement may be granted for good cause shown by the ~~school~~ academy director.

B. In-service training schools which are approved shall be subject to inspection and reviewed by the department.

C. The department may suspend the approval of an approved in-service training school or session upon written notice, which shall contain the reason(s) upon which the suspension is based, to the ~~school's~~ academy's director. The ~~school's~~ academy's director may request a hearing before the director or his designee. The request shall be in writing and must be received by the department within 15 days of the date of the notice of suspension. The ~~school's~~ academy's director may appeal the director or designee's decision to the board or its designee.

D. The department may revoke the approval of any training school or session upon written notice, which shall contain the reason(s) upon which the revocation is based, to the ~~school's~~ academy's director. The ~~school's~~ academy's director may request a hearing before the director or his designee. The request shall be in writing and must be received by the department within 15 days of the date of the notice of revocation. The ~~school's~~ academy's director may appeal the director or designee's decision to the board or its designee.

§ 7. Testing and grading.

A. Testing of subjects designated as legal and career development as enumerated in subsections A, B, C and D of § 3 of these regulations In-service testing is optional , but strongly encouraged and recommended.

B. All sheriffs, chiefs of police, and agency administrators shall be exempted from in-service testing.

C. Any tests Tests for mandatory training should be developed in accordance with the approved lesson plan and objectives for each subject. Testing may be in the form of written or performance tests.

D. A minimum score of 70% should be attained on all written tests. Performance testing requires satisfactory completion of performance objectives.

E. Approved training schools Each certified training academy shall maintain accurate records of all attendance, tests, grades, and testing procedures , where applicable , utilized in in-service training schools. Training records shall be maintained in accordance with §§ 42.1-76 through 42.1-91 of the Code of Virginia.

F. All approved training schools Each certified training

Final Regulations

academy should establish and maintain a testing and retesting policy. Testing, retesting and remedial training, where applicable, may be provided as necessary within the time limit in which the officer is required to comply with in-service training requirements.

G. Any criminal justice officer who fails to attain a minimum passing score on any tested subjects and upon exhausting the provisions of academy's testing and retesting policy should be provided remedial training. Remedial training may be provided at the ~~approved~~ *certified* training school academy where the initial training was received by the officer or at the officer's employing agency. Upon completion of remedial training, the officer should be retested on the course material originally failed.

§ 8. Firearms training.

Every criminal justice officer required to carry a firearm in the performance of duty shall qualify annually using the applicable firearms course set forth below. *Annual range qualification shall include a review of issues/policy relating to weapons safety, nomenclature, maintenance and use of force.* With prior approval of the director, a reasonable modification of the firearms course may be approved to accommodate qualification on indoor ranges. No minimum number of hours is required ; ~~only~~ *qualification is required .*

A. Law-enforcement officers, jailors or custodial officers, courtroom security officers and process service officers : *shall qualify annually on one of the following courses:*

1. Handgun

a. 1. Virginia Modified Double Action Course For Revolvers.

Target - Silhouette (B21, B21X, B27 , Q)

60 rounds

Double action only

Minimum qualifying score - 70%

a. Phase 1 - 7 yards, hip shooting, crouch position, 24 rounds

Load 6 rounds, fire 1 round on whistle (2 seconds), repeat or fire 2 rounds on whistle (3 seconds), repeat

Load 6 rounds, fire 2 rounds on whistle (3 seconds), repeat

Load 6 rounds, fire 12 rounds on whistle (30 seconds)

b. Phase 2 - 15 yards, point shoulder position, 18 rounds

Load 6 rounds, fire 1 round on whistle (2 seconds), repeat or fire 2 rounds on whistle (3 seconds), repeat

Load 6 rounds, fire 2 rounds on whistle (3 seconds), repeat

Load 6 rounds, fire 6 rounds on whistle (12 seconds)

c. Phase 3 - 25 yards, 90 seconds, 18 rounds

Load 6 rounds, on whistle:

fire 6 rounds, kneeling, strong hand; reload

fire 6 rounds, standing behind barricade, weak hand;

reload fire 6 rounds, standing behind barricade, strong hand (kneeling position may be fired using barricade)

d. Scoring.

(1) B21, B21X targets: use indicated K value with a maximum 300 points; divide by 3 to obtain percentage.

(2) B27 target: 8, 9, 10, x rings - value 5 points; 7 ring - value 4 points; other hits on silhouette - value 3 points; divide by 3 to obtain percentage.

(3) Q targets: any fired round striking the bottle area to its marked border - value 5 points, any fired round striking outside the bottle area - value 3 points.

b. 2. Virginia Modified Double Action Course For Semi-Automatic Pistols.

Target - Silhouette (B-21, B-21X, B-27 , Q)

Minimum Qualifying Score - 70%

~~(1)~~ a. Each officer is restricted to the number of magazines carried on duty. Magazines shall be loaded to their full capacity. The range instructor shall determine when magazines will be changed.

~~(2)~~ b. Phase 1 - 7 yards, hip shooting, crouch position, load magazine, fire 1 round double action on command (2 sec.), or fire 2 rounds (3 seconds), make weapon safe, holster, repeat until 6 rounds have been fired.

~~(a)~~ (1) On command, draw and fire 2 rounds (3 sec.), make weapon safe, holster, repeat until 6 rounds have been fired.

~~(b)~~ (2) On command, draw and fire 12 rounds in 20 seconds, make weapon safe, and holster.

Final Regulations

(3) c. Phase 2 - 15 years point shoulder position. On command, draw and fire 1 round (2 sec.), or draw and fire 2 rounds (3 sec.), make weapon safe, holster, repeat until 6 rounds have been fired.

(a) (1) On command, draw and fire 1 round (2 sec.), or 2 rounds (3 sec.), make weapon safe, holster, repeat until 6 rounds have been fired.

(b) (2) On command, draw and fire 6 rounds (12 sec.), make weapon safe, holster.

(4) d. Phase 3 - 25 yards, kneeling and standing position. On command, assume kneeling position, draw weapon and fire 6 rounds, then fire 6 rounds weak hand, standing, barricade position, then fire 6 rounds strong hand, standing, barricade position, until a total of 18 rounds have been fired. (70 seconds)

(a) (1) (Kneeling position may be fired using barricade.)

(b) (2) (Weapons which do not have a double action capability will require the first round be chambered manually.)

e. e. Scoring.

(1) B21, B21X targets: use indicated K value with a maximum 300 points; divide by 3 to obtain percentage.

(2) B27 target: 8, 9, 10, x rings - value 5 points ; 7 ring - value 4 points ; other hits on silhouette - value 3 points; divide by 3 to obtain percentage.

(3) Q targets: any fired round striking the bottle area to its marked border - value 5 points, any fired round striking outside the bottle area - value 3 points.

3. Virginia 50 round Tactical Qualification Course for Revolvers and Semi-automatic Pistols.

Target - silhouette (B21, B21X, B-27, Q) Minimum Qualifying Score 70%

a. Each officer is restricted to the number of magazines carried on duty. Magazines shall be loaded to full capacity. The range instructor shall determine when magazines will be changed.

b. Phase 1 - On 5 or 7 yard line or fraction thereof, point shoulder shooting, fire 2 rounds on command in 3 seconds for 12 rounds. Between each 2 rounds holster, repeat until all rounds have been fired.

(1) On command, draw and fire 6 rounds in 8 seconds from point shoulder positions.

(2) On command draw and fire 4 rounds strong hand only, point shoulder point in 8 seconds.

(3) On command, fire 4 rounds, weak hand only, point shoulder position in 10 seconds.

c. Phase 2 - 15 yard point shoulder position

(1) On command, draw and fire 2 rounds in 3 seconds for 6 (optional to reholster after each 2 rounds)

(2) On command, draw and fire 6 rounds in 12 seconds, holster.

d. Phase 3 - 25 yard, kneeling and standing position on command, assume a kneeling position, draw weapon and fire 6 rounds behind a barricade, than fire 6 rounds strong hand, standing barricade position, until a total of 12 rounds have been fired for a total of 45 seconds for semi-automatic pistols or 60 seconds for revolvers. A kneeling position may be fired using a barricade.)

e. Scoring:

(1) B21, B21x targets: use indicated K value with a minimum of 250 points: Multiply by .4 to obtain percentage.

(2) B27 target: 8, 9 and 10 X rings-value 5 points, 7 ring - value 4 points, other hits on silhouette - value 3 points; multiply by .4 to obtain percent.

(3) Q target: any fired round striking the bottle area to its marked border - value 5 points, any fired round striking outside the bottle area - value 3 points.

B. Officers of the Department of Corrections, Division of Adult Institutions [Division of] Institutional Services .

1. Handgun

a. Double Action Combat Course.

Target - Silhouette

60 rounds

Double action only

Minimum qualifying score - 70% (points per hit on silhouette - minimum 210 points out of a possible 300 points)

7 yards - two handed crouch - 6 rounds (one on whistle)

7 yards - two handed crouch - 6 rounds (two on whistle)

Final Regulations

7 yards - two handed crouch - 12 rounds (30 seconds from whistle)

15 yards - two handed point shoulder - 6 rounds (one on whistle)

15 yards - two handed point shoulder - 6 rounds (two on whistle)

15 yards - two handed point shoulder - 12 rounds (30 seconds from whistle)

25 yards - two handed point shoulder - 6 rounds (10 seconds/right hand)

25 yards - two handed point shoulder - 6 rounds (10 seconds/left hand)

C. Law-enforcement officers, jailors or custodial officers, courtroom security officers, civil process officers and officers of the Department of Corrections, ~~Division of Adult Institutions~~ [*Division of*] *Institutional Services*.

1. Special weapons.

a. All agencies whose personnel possess, or have available for immediate use, shotguns or other similar special weapons, shall design an appropriate [~~familiarization or~~] qualification weapons program and require all applicable personnel to complete annually.

b. The course, number of rounds to be fired and qualification score [~~if applicable~~] shall be determined by the agency or approved training school. Documentation of such [~~familiarization or~~] qualification programs shall be available for inspection by the director or staff.

§ 9. Failure to comply with rules and regulations.

Officers attending approved in-service training ~~schools~~ shall comply with the rules and regulations promulgated by the board and any other rules and regulations within the authority of the ~~school academy~~ director. The ~~school academy~~ director shall be responsible for enforcement of all rules and regulations established to govern the conduct of attendees. If the ~~school academy~~ director considers a violation of the rules and regulations detrimental to the welfare of the ~~school conduct of the academy~~, the ~~school academy~~ director may expel the officer ~~from the school~~. Notification of such action shall immediately be reported in writing to the agency administrator and the director.

§ 10. Administrative requirements.

Reports will be required from the agency administrator and ~~school academy~~ director on forms approved by the department and at such times as designated by the director.

§ 11. Effective date.

These rules shall be effective on and after July 5, ~~1989~~ 1, 1992, and until amended or rescinded.

§ 12. Adopted:

July 11, 1974

§ 13. Amended:

May 3, 1989

April 1, 1992

* * * * *

Title of Regulation: VR 240-01-12. Rules Relating to Certification of Criminal Justice Instructors.

Statutory Authority: §§ 9-170 1 and 9-170 12 of the Code of Virginia.

Effective Date: July 1, 1992.

Summary:

These amendments create an instructor certification for radar instruction for operators of radar speed measurement devices. Instructor apprenticeship is specifically defined within its original intent of being a process conducted after successful completion of an instructor development program, and a minimum of four hours will be required to complete the apprenticeship process, except firearms instructor apprenticeship which shall be eight hours. Amendments were made to create two designations of certified instructors upon completion of an instructor recertification training program, one for academy instructors and the other for agency instructors who could not complete the evaluated instruction requirement at an approved or mandated training program during their previous instructor certification period. Additionally, the extension provision for the instructor recertification training requirement was amended to provide an additional 90-day extension for administrators in circumstances which do not amount to the existing extension provisions.

VR 240-01-12. Rules Relating to Certification of Criminal Justice Instructors.

§ 1. Definitions.

The following words and terms, when used in these regulations, shall have the following meaning, unless the context clearly indicates otherwise.

"Academy director" means the chief administrative officer of an approved training school a certified training academy.

"Academy instructor" means an individual who has complied with all of the applicable standards for certification or recertification, whichever applies, contained herein and is eligible to instruct, teach or lecture for more than three hours of approved or mandated training at a certified training academy.

"Agency instructor" means any previously certified instructor who has complied with all of the applicable standards for instructor recertification contained herein, except § 7 A 5.

"Apprenticeship" means a period of supervised instruction [, occurring after satisfactory completion of an approved instructor development course,] wherein the instructor applicant is evaluated by a certified instructor during mandated or approved instruction.

"Approved training school" means a training school which provides instruction of at least the minimum training standards mandated by the board and has been approved by the department for the specific purpose of training criminal justice personnel.

"Certified training academy" means a certified training academy which provides instruction of at least the minimum training standards mandated by the board and has been approved by the department for the specific purpose of training criminal justice personnel.

"Criminal justice agency" means any government agency or identifiable subunit which has as its principal duty(s): the prevention, detection, and investigation of crime; the apprehension, detection, and prosecution of alleged offenders; the confinement or correctional supervision of accused or convicted persons; or the administrative or technical support of these functions.

"Department" means the Department of Criminal Justice Services.

"Director" means the chief administrative officer of the department.

"Instructional staff" means any individual employed in training on a full-time basis who shall instruct in approved training schools promulgated by the department .

"Instructor" means an individual who shall instruct, teach or lecture for more than three mandated hours in any approved training school.

§ 2. Minimum standards for instructors in approved training schools .

Instructors in Individuals instructing approved training schools shall possess one of the following certifications authorized by the department, excluding those enumerated in § 4 5 of these rules:

A. Provisional instructor certification.

For the individual who has not previously met the requirements for instructor certification, this certification:

1. Requires a high school diploma or high school equivalency certificate (GED);
2. Requires that the individual has met the compulsory minimum training standards for the primary function for which employed by a criminal justice agency, if applicable;
3. Does not authorize an individual to instruct or qualify others in mandated firearms, defensive tactics or , driver training , or radar courses; and
4. Is valid for not more than two years and is not renewable. An individual may apply for instructor certification upon meeting the requirements of §§ 2 and 5 6 of these rules.

B. General instructor certification.

For individuals who have professional or proficiency skills in a field directly related to criminal justice, this certification:

1. Requires a high school diploma or high school equivalency certificate (GED);
2. Requires the applicant to be instructional staff, an employee of a Virginia criminal justice agency, or an academy director;
3. Requires a minimum of two years' experience in a criminal justice agency;
4. Requires the applicant to have successfully completed an instructor development course which meets or exceeds the standards of the instructor development course enumerated in § 3 of these rules ;
5. Is valid for not more than three years, but may be renewed;
6. Requires the applicant to serve an apprenticeship , as specified in § 4 of these rules, with a certified instructor until the applicant can demonstrate the ability to successfully instruct without supervision. The certified instructor shall document this successful completion of the apprenticeship on the instructor application form; and
7. Does not authorize an individual to instruct or qualify others in mandated firearms, defensive tactics, or driver training , or radar operator courses.

C. Firearms instructor certification.

For the individual who has had extensive firearms training and experience, this certification:

Final Regulations

1. Requires a high school diploma or high school equivalency certificate (GED);
2. Requires the applicant to be instructional staff, an employee of a Virginia criminal justice agency, or an academy director;
3. Requires a minimum of two years' experience in a criminal justice agency;
4. Requires the applicant to have attended and successfully completed an instructor development course which meets or exceeds the standards of the instructor development course enumerated in § 3 of these rules;
5. Requires the applicant also to have successfully completed a firearms instructors course which meets or exceeds the standards of the firearms instructors course approved by the department;
6. Is valid for not more than three years, but may be renewed;
7. Requires prequalification on a department "Modified Double Action Course or Virginia Tactical Qualification Course" with a minimum score of 90%;
8. Requires the applicant to serve an apprenticeship , as specified in § 4 of these rules, with a certified instructor until the applicant can demonstrate the ability to successfully instruct without supervision. The certified instructor shall document this successful completion of the apprenticeship on the instructor application form; and
9. Authorizes an individual to instruct mandated firearms training courses and to conduct annual firearms qualifications only.

D. Defensive tactics instructor certification.

For the individual who has had extensive training and experience in the area of defensive tactics, this certification:

1. Requires a high school diploma or a high school equivalency certificate (GED);
2. Requires the applicant to be instructional staff, an employee of a Virginia criminal justice agency, or an academy director;
3. Requires a minimum of two years experience in a criminal justice agency;
4. Requires the applicant to have attended and successfully completed an instructor development course which meets or exceeds the standards of the instructor development course enumerated in § 3 of these rules.

5. Requires the applicant also to have successfully completed a defensive tactics instructors course which meets or exceeds the standards of the defensive tactics instructors course approved by the department;

6. Is valid for not more than three years, but may be renewed;

7. Requires the applicant to serve an apprenticeship , as specified in § 4 of these rules, with a certified instructor until the applicant can demonstrate the ability to successfully instruct without supervision. The certified instructor shall document this successful completion of the apprenticeship on the instructor application form; and

8. Authorizes the individual to instruct defensive tactics subjects only.

E. Driver training instructor certification.

For the individual who has had extensive training and experience in the area of driver training, this certification:

1. Requires a high school diploma or a high school equivalency certificate (GED);

2. Requires the applicant to be instructional staff, an employee of a Virginia criminal justice agency, or an academy director;

3. Requires a minimum of two years experience in a criminal justice agency;

4. Requires the applicant to have attended and successfully completed an instructor development course which meets or exceeds the standards of the instructor development course enumerated in § 3 of these rules;

5. Requires the applicant also to have successfully completed a driver training instructors course which meets or exceeds the standards of the driver training instructors course approved by the department;

6. Is valid for not more than three years, but may be renewed;

7. Requires the applicant to serve an apprenticeship , as specified in § 4 of these rules, with a certified instructor until they can demonstrate the ability to successfully instruct without supervision. The certified instructor shall document this successful completion of the apprenticeship on the instructor application form; and

8. Authorizes the individual to instruct driver training subjects only.

F. Radar instructor certification.

This certification:

1. Requires a high school diploma or high school equivalency certificate (GED);
2. Requires the applicant to be instructional staff, an employee of a Virginia criminal justice agency, or an academy director.
3. Requires a minimum of two years experience in a criminal justice agency, including two years experience in radar operation;
4. Requires the applicant to have attended and successfully completed an instructor development course which meets or exceeds the standards of the instructor development course enumerated in § 3 of these rules;
5. Requires the applicant to have attended and successfully completed a radar instructor school which meets or exceeds the standards established by the department;
6. Is valid for not more than three years, but may be renewed;
7. Requires the applicant to serve an apprenticeship, as specified in § 4 of these rules, with a certified instructor until the applicant can demonstrate the ability to successfully instruct without supervision. The certified instructor shall document this successful completion of the apprenticeship on the instructor application form; and
8. Authorizes an individual to instruct radar subjects only.

§ 3. Compulsory minimum training standards for instructor development and recertification courses.

A. The board establishes the following compulsory minimum training standards:

1. An instructor development course shall include a minimum of 40 hours of training and must address each of the following subjects:

Role of the Instructor/Adult Learner
Fundamentals of Communication
Liability and Ethics of Instructors
Research and Development
Instructional Performance Objectives
Preparation and Use of Lesson Plans
Methods of Instruction

Preparation and Use of Audio-Visual Material

Criteria Testing and Test Construction

Student Presentations

Optional Topics (subject(s) selected at the discretion of the academy director, if applicable, but must pertain to instructor development.)

2. A recertification course shall include a minimum of six hours of training and must address the following mandated subjects:

- a. Review of Instruction Techniques and Methods;
- b. Legal Review Including Liability;
- c. Review of Current Basic and In-Service Course Requirements (Skilled Areas to Emphasize and Review Current Mandates);
- d. Training Innovations and Technology;
- e. Testing and Measurements;
- f. Record Keeping and Documentation.
 - a. Curriculum.
 - (1) Core subjects (4 hours minimum).
 - (a) Review of Instructional Techniques and Methods
 - (b) Review of Liability and Ethics of Instructors
 - (c) Training Innovations and Technology
 - (d) Testing and Measurements
 - (e) Record Keeping and Documentation
 - (2) Skill specific subjects (2 hours minimum)
 - (a) Review of Current Basic and In-Service Course Requirements (Skills Areas to Emphasize and Review Current Mandates)
 - (b) Skill Specific Liability Issues

3. Application(s) to conduct approved instructor development and recertification courses shall be submitted on forms provided by the department and within the time limit prescribed by the department.

§ 4. Instructor apprenticeship requirements.

A. The apprenticeship shall:

1. Occur after the successful completion of a Virginia certified or other equivalent instructor development

Final Regulations

course which meets or exceeds the standards of the instructor development course established by the department;

2. Be conducted under the supervision and evaluation of a Virginia certified instructor, who possesses at least three years of experience as a certified instructor in the topic of apprenticeship instruction; and

3. ~~Consist of instructional delivery which shall be no less than one hour in duration, with the exception of firearms instructor certification which shall be no less than eight hours in duration and shall include classroom and range instruction. Consist of instructional presentation which shall total no less than four hours in duration. However, firearms instructor apprenticeship shall total no less than eight hours, four hours classroom and four hours range presentation.~~]

B. The certified instructor shall document the successful completion of the apprenticeship on the "Instructor Certification Application."

§ 4. 5. Exemptions to certification requirements.

The following individuals are exempted from the certification requirements set forth in § 2 of these rules:

1. Individuals who instruct three hours or less in any individual approved training ~~school~~ session in a certified training academy ;

2. An individual assigned by the academy director to instruct in emergency situations;

3. Individuals who possess professional or proficiency skills in a field of endeavor directly related to the subject matter in which they are instructing. This may include but not be limited to members of the bar, medical profession, public administrators, teachers, social service practitioners, etc. Documentation of skills may be requested and final approval, if necessary, rests with the department;

4. Subdivision 3 of § 4 5 may apply to employees of criminal justice agencies of this Commonwealth and its political subdivisions if approved by the department; ~~and~~

5. Certified emergency care and first aid instructors ; and

6. Individuals who serve as field training officers or on-the-job training officers for purposes of providing field training as required by minimum training standards. Such exemption shall not be construed to apply to training promulgated by the department other than field training or on-the-job training.

§ 5. 6. Application for instructor certification.

A. A properly completed "Instructor Certification Application" is required from each instructor prior to being considered for certification. The application must be received by the department within 12 months of completion of the instructor course for which certification is requested. The application shall be accompanied by a recommendation from the chief of police, sheriff, agency administrator or his designee, and endorsed by the academy director.

B. If a properly completed "Instructor Certification Application" is not received within the 12-month application period, the applicant must attend the applicable recertification course and ~~comply with~~ must be reevaluated in accordance with the apprenticeship requirements set forth in § 4 of these rules prior to consideration for certification.

§ 6. 7. Instructor recertification.

~~An Instructor certification~~ certifications , other than those issued to provisional instructors, will be valid for not more than three years. Individual instructors must meet all applicable recertification requirements by December 31 of the third calendar year following issuance of certification. Applications for recertification will be submitted on forms provided by the department.

1. Applicants for recertification shall be recommended by the chief of police, sheriff, agency administrator or his designee, and endorsed, where applicable, by the academy director.

2. A recertification application for departmental firearms instructors does not require endorsement by the academy director.

3. Applicants shall attend and successfully complete a recertification course which shall be approved by the department for each type of certification held. This requirement must be completed ~~between the period of January 1 and~~ prior to December 31 of the calendar year in which the instructor is required to be recertified unless provided otherwise in accordance with subdivision 6 of § 6 7 of these rules.

Completion of one or more of the skills recertification seminars (firearms, defensive tactics ~~or~~ , driver training , or radar training) will qualify an instructor for recertification in the general category.

4. Individuals whose certification expires shall comply with all requirements of § 5 6 of these rules and meet any certification requirements that are in effect at that time.

5. Individuals who instruct in a certified training academy shall have taught a minimum of eight hours of mandated or approved instruction during the

current period of certification, and shall have been evaluated by staff or students in order to be eligible for recertification as an academy instructor.

6. Individuals who have not taught a minimum of eight hours of mandated or approved instruction during the current period of certification and have not been evaluated by staff or students shall be designated as agency instructors. Agency instructors may become an academy instructor upon completion of the requirements set forth in § 5 above under the supervision of a certified instructor.

6. 7. The director may grant an extension of the time limit for completion of the recertification requirements. The chief of police, sheriff or agency administrator must present evidence that the applicant was unable to complete the required training within the specified time limit due to illness, injury, military service or special duty assignment required and performed in the public interest or leave without pay or suspension pending investigation or adjudication of a crime. Requests for extension of the time limit must be requested prior to certification expiration under the following conditions:

a. The chief of police, sheriff or agency administrator shall present written notification that the officer was unable to complete the required training [with within] the specified time limit due to:

- (1) Illness;
- (2) Injury;
- (3) Military service;
- (4) Special duty assignment required and performed in the public interest;
- (5) Leave without pay or suspension pending investigation or adjudication of a crime; or
- (6) [Nonavailability or cancellation of an approved in-service training program for which the officer was previously scheduled to attend. This provision may only be approved one time during the recertification reporting period and shall be supported with written verification by the academy director. Any such extension shall not exceed 90 days. Any other reason documented by the agency administrator. Such reason must be specified and any approval granted shall not exceed 90 days.]

b. Requests for extension of the time limit shall be requested prior to certification expiration.

§ 7. 8. Suspension and revocation of instructor certification.

A. The department may suspend or revoke any instructor certification issued under these rules if it is determined that an individual has falsified any department report, application, form or roster or has otherwise misused the authority granted herein. :

1. Falsified any department report, application, form or roster;
2. Demonstrated instructional incompetence based upon observation and assessment; or
3. Otherwise misused the authority granted herein.

B. An instructor's certification may be recommended for suspension or revocation for cause upon written request of the chief of police, sheriff, agency administrator, or academy director.

C. When a certified instructor terminates employment with the criminal justice agency which recommended certification, the instructor certification shall become null and void upon written request of the chief of police, sheriff, agency administrator, or academy director. Upon reemployment with a Virginia criminal justice agency, the instructor's certification may be reinstated upon the written request of the chief of police, sheriff or agency administrator. Such request Requests for reinstatement must shall be authorized by an academy director. Any reinstatement of certification shall not exceed the original date of expiration.

D. Any instructor whose certification is revoked as provided in § 7 8 A of these rules shall not be eligible to reapply for certification for a period of five three years from the date of revocation.

§ 8. 9. Administrative requirements.

Reports will be required from the school director, chief of police, sheriff, or agency administrator on forms provided by or approved by the director and at such times as designated by the director.

§ 9. 10. Effective date.

These rules shall be effective on and after July 1, 1990 1992, and until amended or rescinded.

§ 11. Adopted: July 6, 1983

Amended: April 1, 1992

Final Regulations



DEPARTMENT OF HEALTH (STATE BOARD OF)

Title of Regulation: ~~VR 355-30-01~~ 355-30-000-06 . Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations.

Statutory Authority: §§ 32.1-12 and 32.1-102.2 et seq. of the Code of Virginia.

Effective Date: June 6, 1992.

Summary:

The amendments to the Virginia Medical Care Facilities Certificate of Public Need (COPN) Rules and Regulations brings the current regulations into compliance with the recent amendment to the Virginia Medical Care Facilities COPN Law which became effective on July 1, 1991. The amendment (i) establishes fees for COPN applications to be applied to the expenses for administration and operation of the COPN program; (ii) imposes time limitations on the schedules for completion and provides maximum limits on capital cost increases for authorized projects; (iii) allows the commissioner to condition the approval of COPNs on an applicant's agreement to provide care to indigents or accept patients requiring specialized care and provides penalties for noncompliance with these conditions; (iv) requires registration of certain capital expenditures of \$1,000,000 or more by owners of medical care facilities, specialized centers or clinics, or physicians offices; (v) modifies the data reporting requirements for certain deregulated clinical health services and provides penalties for noncompliance with data reporting and registration requirements; and (vi) provides a structured application batching process and incorporates procedures for the commissioner to request proposals for certain types of projects.

With the exception of the application batching process and the procedures for requests for proposals, the amendments to the regulations were first promulgated as emergency regulations effective July 1, 1991.

VR 355-30-000-06. Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations.

PART I. DEFINITIONS.

§ 1.1. The following words and terms, when used in these regulations, shall have the following meanings, unless the context clearly indicates otherwise:

"Acquisition" means an expenditure of (i) \$700,000 or more that changes the ownership of a medical care facility or (ii) \$400,000 or more for the purchase of new major medical equipment. It shall also include the donation or lease of a medical care facility or new major medical equipment. An acquisition of a medical care facility shall not include a capital expenditure involving the purchase of stock.

"Amendment" means any modification to an application which is made following the public hearing and prior to the issuance of a certificate and includes those factors that constitute a significant change as defined in these regulations. An amendment shall not include a modification to an application which serves to reduce the scope of a project.

"Applicant" means the owner of an existing medical care facility or the sponsor of a proposed medical care facility project submitting an application for a certificate of public need.

"Application" means a prescribed format for the presentation of data and information deemed necessary by the board to determine a public need for a medical care facility project.

"Application fees" means fees required to be submitted with a project application and application for a significant change. Fees shall not exceed the lesser of 0.5% of the proposed capital expenditure or cost increase for the project or \$5,000.

"Board" means the State Board of Health.

"Capital expenditure" means any expenditure by or in behalf of a medical care facility which, under generally accepted accounting principles, is not properly chargeable as an expense of operation and maintenance. Capital expenditures need not be made by a medical care facility so long as they are made in behalf of a medical care facility by any person. See definition of person.

"Certificate of public need" means a document which legally authorizes a medical care facility project as defined herein and which is issued by the commissioner to the owner of such project.

"Clinical health service" means a single diagnostic, therapeutic, rehabilitative, preventive or palliative procedure or a series of such procedures that may be separately identified for billing and accounting purposes.

"Commissioner" means the State Health Commissioner who has authority to make a determination respecting the issuance or revocation of a certificate.

"Competing applications" means applications for the same or similar services and facilities which are proposed for the same planning district or medical service area and which are in the same review cycle. See §§ 5-8 and 6-5 §

5.6.)

"Completion" means conclusion of construction activities necessary for substantial performance of the contract.

"Construction" means the building of a new medical facility or the expansion, remodeling, or alteration of an existing medical care facility.

"Construction, initiation of" means project shall be considered under construction for the purpose of certificate extension determinations upon the presentation of evidence by the owner of: (i) a signed construction contract; (ii) the completion of short term financing and a commitment for long term (permanent) financing when applicable; (iii) the completion of predevelopment site work; and (iv) the completion of building foundations.

"Date of issuance" means the date of the commissioner's decision awarding a certificate of public need.

"Department" means the State Department of Health.

"Ex parte" means any meeting which takes place between (i) any person acting in behalf of the applicant or holder of a certificate of public need or any person opposed to the issuance or in favor of the revocation of a certificate of public need and (ii) any person who has authority in the department to make a decision respecting the issuance or revocation of a certificate of public need for which the department has not provided 10 days written notification to opposing parties of the time and place of such meeting. An ex parte contact shall not include a meeting between the persons identified in (i) and staff of the department.

"Health planning region" means a contiguous geographical area of the Commonwealth with a population base of at least 500,000 persons which is characterized by the availability of multiple levels of medical care services, reasonable travel time for tertiary care, and congruence with planning districts.

"Informal fact-finding conference" means a conference held pursuant to § 9-6.14:11 of the Code of Virginia.

"Inpatient beds" means accommodations within a medical care facility with continuous support services (such as food, laundry, housekeeping) and staff to provide health or health-related services to patients who generally remain in the medical care facility in excess of 24 hours. Such accommodations are known by varying nomenclatures including but not limited to: nursing beds, intensive care beds, minimal or self care beds, isolation beds, hospice beds, observation beds equipped and staffed for overnight use, and obstetric, medical, surgical, psychiatric, substance abuse, medical rehabilitation and pediatric beds, including pediatric bassinets and incubators. Bassinets and incubators in a maternity department and beds located in labor or birthing rooms, recovery rooms, emergency rooms, preparation or anesthesia inductor rooms, diagnostic or

treatment procedures rooms, or on-call staff rooms are excluded from this definition.

"Medical care facilities" means any institution, place, building, or agency, whether or not licensed or required to be licensed by the board or the State Mental Health, Mental Retardation and Substance Abuse Services Board, whether operated for profit or nonprofit and whether privately owned or operated or owned or operated by a local governmental unit, (i) by or in which facilities are maintained, furnished, conducted, operated, or offered for the prevention, diagnosis or treatment of human disease, pain, injury, deformity or physical condition, whether medical or surgical, of two or more nonrelated mentally or physically sick or injured persons, or for the care of two or more nonrelated persons requiring or receiving medical, surgical, or nursing attention or services as acute, chronic, convalescent, aged, physically disabled, or crippled or (ii) which is the recipient of reimbursements from third party health insurance programs or prepaid medical service plans. For purposes of these regulations, only the following medical care facility classifications shall be subject to review:

[~~A~~. 1.] *"Medical care facility classifications"* means the following:

- a. General hospitals.
- b. Sanitariums.
- c. Nursing homes.
- d. Intermediate care facilities.
- e. Extended care facilities.
- f. Mental hospitals.
- g. Mental retardation facilities.
- h. Psychiatric hospitals and intermediate care facilities established primarily for the medical, psychiatric or psychological treatment and rehabilitation of alcoholics or drug addicts.
- i. Specialized centers or clinics developed for the provision of out-patient or ambulatory surgery.
- j. Rehabilitation hospitals.

2. *"Exclusions"* means that the following shall not be included as a medical care facility classification subject to review:

- a. Any facility of the Department of Mental Health, Mental Retardation and Substance Abuse Services.
- b. Any nonhospital substance abuse residential treatment program operated by or contracted primarily for the use of a community services board

Final Regulations

under the Department of Mental Health, Mental Retardation and Substance Abuse Services Comprehensive Plan.

"Medical service area" means the geographic territory from which at least 75% of patients come or are expected to come to existing or proposed medical care facilities, the delineation of which is based on such factors as population characteristics, natural geographic boundaries, and transportation and trade patterns, and all parts of which are reasonably accessible to existing or proposed medical care facilities.

"Modernization" means the alteration, repair, remodeling, replacement or renovation of an existing medical care facility or any part thereto, including that which is incident to the initial and subsequent installation of equipment in a medical care facility. See definition of "construction."

"Operator" means any person having designated responsibility and legal authority from the owner to administer and manage a medical care facility. See definition of "owner."

"Operating expenditure" means any expenditure by or in behalf of a medical care facility which, under generally accepted accounting principles, is properly chargeable as an expense of operation and maintenance and is not a capital expenditure.

"Other plans" means any plan(s) which is formally adopted by an official state agency or regional health planning agency and which provides for the orderly planning and development of medical care facilities and services and which is not otherwise defined in these regulations.

"Owner" means any person which has legal responsibility and authority to construct, renovate or equip or otherwise control a medical care facility as defined herein.

"Person" means an individual, corporation, partnership, association or any other legal entity, whether governmental or private. Such person may also include the applicant for a certificate of public need; the regional health planning agency for the health planning region in which the proposed project is to be located; any resident of the geographic area served or to be served by the applicant; any person who regularly uses health care facilities within the geographic area served or to be served by the applicant; any facility or health maintenance organization (HMO) established under § 38.2-4300 et seq. which is located in the health planning region in which the project is proposed and which provides services similar to the services of the medical care facility project under review; third party payors who provide health care insurance or prepaid coverage to 5% or more patients in the health planning region in which the project is proposed to be located; and any agency which reviews or establishes rates

for health care facilities.

"Physician's office" means a place, owned or operated by a licensed physician or group of physicians practicing in any legal form whatsoever, which is designed and equipped solely for the provision of fundamental medical care whether diagnostic, therapeutic, rehabilitative, preventive or palliative to ambulatory patients and which does not participate in cost-based or facility reimbursement from third party health insurance programs or prepaid medical service plans excluding pharmaceuticals and other supplies administered in the office.

"Planning district" means a contiguous area within the boundaries established by the Department of Planning and Budget as set forth in § 15.1-1402 of the Code of Virginia.

"Predevelopment site work" means any preliminary activity directed towards preparation of the site prior to the completion of the building foundations. This includes, but is not limited to, soil testing, clearing, grading, extension of utilities and power lines to the site.

"Progress" means actions which are required in a given period of time to complete a project for which a certificate of public need has been issued. See § 7-3 § 6.3 on Progress.

"Project" means:

[A. 1.] The establishment of a medical care facility. See definition of medical care facility.

[B. 2.] An increase in the total number of beds in an existing *or authorized* medical care facility.

[C. 3.] Relocation of 10 beds or 10% of the beds, whichever is less, from one existing physical facility to another in any two-year period; however, a hospital shall not be required to obtain a certificate for the use of 10% of its beds as nursing home beds as provided in § 32.1-132 of the Code of Virginia.

[D. 4.] The introduction into any existing medical care facility of any new nursing home service such as intermediate care facility services, extended care facility services or skilled nursing facility services except when such medical care facility is an existing nursing home as defined in § 32.1-123 of the Code.

[E. 5.] The introduction into an existing medical care facility of any new open heart surgery, psychiatric, medical rehabilitation, or substance abuse treatment service which the facility has never provided or has not provided in the previous 12 months.

"Public hearing" means a proceeding conducted by a regional health planning agency at which an applicant for a certificate of public need and members of the public may present oral or written testimony in support or opposition to the application which is the subject of the

proceeding and for which a verbatim record is made. See subsection A of § 5-4 or subsection B of § 6-6: subsection A of § 5.7.

"Regional health plan" means the regional plan adopted by the regional health planning agency board.

"Regional health planning agency" means the regional agency, including the regional health planning board, its staff and any component thereof, designated by the Virginia Health Planning Board to perform health planning activities within a health planning region.

"Registration" means the recordation of the establishment of certain new or expansion of existing filing of information by the owner on affected new clinical health services, acquisition of certain established major medical equipment or initiation of certain capital expenditures as required by §§ 3.2 and 3.3. acquired with an expenditure or expenditure value of \$400,000 or more on or after July 1, 1980, in a format prescribed by the Commissioner to satisfy the requirements of these regulations. For purposes of registration, affected clinical health services and major medical equipment shall include only the following:

- (1) radiation therapy;
- (2) cardiac catheterization;
- (3) obstetrical;
- (4) neonatal special care unit;
- (5) lithotripsy;
- (6) magnetic resonance imaging;
- (7) position emission tomography (PET) scanning;
- (8) computed tomography (CT) scanning;
- (9) heart, lung and kidney transplants;
- (10) other specialized services or major medical equipment that evolves through changes in medical technology upon designation by the Commissioner.

"Schedule for completion" means a timetable which identifies the major activities required to complete a project as identified by the applicant and which is set forth on the certificate of public need. The timetable is used by the commissioner to evaluate the applicant's progress in completing an approved project.

"Significant change" means any alteration, modification or adjustment to a reviewable project for which a certificate of public need has been issued or requested following the public hearing which:

1. Changes the site;

2. Increases the capital expenditure amount approved for the project by 10% or more;

3. Changes the number or type of beds including the reclassification of beds from one medical care facility classification to another such as acute care to long term care except when such reclassification is allowable as provided for in these regulations. See definition of "medical care facility";

- [4. 3.] Changes the service(s) proposed to be offered;

- [5. 4.] Extends the schedule for completion of the project for more than a 12-month period of time beyond that originally approved by the Commissioner, beyond 3 years (36 months) from the date of certificate issuance or beyond the time period approved by the commissioner at the date of certificate issuance, whichever is greater. See § 3-4 under Mandatory Requirements §§ 6.2 and 6.3 .

"State health plan" means the document approved by the Virginia Health Planning Board which shall include, but not be limited to, analysis of priority health issues, policies, needs and methodologies for assessing statewide health care needs. The State Health Plan 1980-84 and all amendments thereto including all methodologies therein shall remain in force and effect until any such regulation is amended, modified or repealed by the Board of Health.

"State medical facilities plan" means the planning document adopted by the Board of Health which shall include, but not be limited to (i) methodologies for projecting need for medical care facility beds and services; (ii) statistical information on the availability of medical care facilities and services; and (iii) procedures, criteria and standards for review of applications for projects for medical care facilities and services. In developing the plan, the Board of Health shall take into consideration the policies and recommendations contained in the State Health Plan. The most recent applicable State Medical Facilities Plan shall remain in force until any such regulation is amended, modified or repealed by the Board of Health.

"Virginia Health Planning Board" means the statewide health planning body established pursuant to § 32.1-122.02 of the Code of Virginia which serves as the analytical and technical resource to the Secretary of Health and Human Resources in matters requiring health analysis and planning.

PART II. GENERAL INFORMATION.

§ 2.1. Authority for regulations.

The Virginia Medical Care Facilities Certificate of Public Need Law, which is codified as §§ 32.1-102.1 through 32.1-102.11 of the Code of Virginia, requires the owners or sponsors of medical care facility projects to secure a

Final Regulations

certificate of public need from the State Health Commissioner prior to initiating such projects. Sections 32.1-102.2 and 32.1-12 of the Code of Virginia direct the Board of Health to promulgate and prescribe such rules and regulations as are deemed necessary to effectuate the purposes of this statute.

§ 2.2. Purpose of rules and regulations.

The board has promulgated these rules and regulations to set forth an orderly administrative process for making public need decisions.

§ 2.3. Administration of rules and regulations.

These rules and regulations are administered by the following:

A. State Board of Health.

The Board of Health is the governing body of the State Department of Health. The Board of Health has the authority to promulgate and prescribe such rules and regulations as it deems necessary to effectuate the purposes of the Act.

B. State Health Commissioner.

The State Health Commissioner is the executive officer of the State Department of Health. The commissioner is the designated decision maker in the process of determining public need under the Act.

§ 2.4. Public meetings and public hearings.

All meetings and hearings convened to consider any certificate of public need application shall be open to the public in accordance with the provisions of the Virginia Freedom of Information Act (§ 2.1-340 et seq.) of the Code of Virginia.

§ 2.5. Official records.

Written information including staff evaluations and reports and correspondence developed or utilized or received by the commissioner during the review of a medical care facility project shall become part of the official project record maintained by the Department of Health and shall be made available to the applicant, competing applicant and review bodies. Other persons may obtain a copy of the project record upon request. All records are subject to the Virginia Freedom of Information Act.

Exclusions. Information submitted to the commissioner to comply with registration requirements set forth in §§ 3.2 and 3.3 of these regulations shall be excluded from the provisions of the Virginia Freedom of Information Act until such time as the registered service or equipment becomes operational.

§ 2.6. Application of rules and regulations.

These rules and regulations have general applicability throughout the Commonwealth. The requirements of the Virginia Administrative Process Act (§ 9-6.14:1, et seq.) of the Code of Virginia apply to their promulgation.

§ 2.7. Effective date of rules and regulations.

These rules and regulations shall become effective ~~December 6, 1990~~ [~~July 1, 1992~~ June 6, 1992].

§ 2.8. Powers and procedures of regulations not exclusive.

The commissioner and the board reserve the right to authorize any procedure for the enforcement of these regulations that is not inconsistent with the provisions set forth herein and the provisions of § 32.1-102.1 et seq. of the Code of Virginia.

§ 2.9. Annual report.

The department shall prepare and shall distribute upon request an annual report on all certificate of public need applications considered by the State Health Commissioner. Such report shall include a general statement of the findings made in the course of each review, the status of applications for which there is a pending determination, an analysis of the consistency of the decisions with the recommendation made by the regional health planning agency and an analysis of the costs of authorized projects.

PART III. MANDATORY REQUIREMENTS.

§ 3.1. Requirements for reviewable medical care facility projects.

Prior to initiating a reviewable medical care facility project the owner or sponsor shall obtain a certificate of public need from the commissioner. In the case of an acquisition of an existing medical care facility, the notification requirement set forth in ~~§ 3-3~~ § 3.7 of these regulations shall be met.

§ 3.2. Requirements for registration of affected clinical health services and major medical equipment.

Within 30 days following operation, the owner of a new clinical health service established or major medical equipment with an expenditure or expenditure value of \$400,000 or more acquired on or after July 1, 1989, that is not defined as a project under these regulations and that has not been previously authorized by the State Health Commissioner prior to July 1, 1989, shall in writing register such service or equipment with the commissioner and copy the regional health planning agency.

At least 30 days prior to (i) establishing a new or expanding an existing clinical health service or (ii) the date of contractual obligation or other commitment to

acquire any major medical equipment with an expenditure or expenditure value of \$400,000 or more which is not defined as a project under these regulations, and has not been previously authorized by the commissioner prior to July 1, 1989, the owner of any medical care facility listed in these regulations, physician's office, or specialized center or clinic shall register such services or acquisitions of equipment with the commissioner. The format for registration shall be prescribed by the commissioner and shall include information concerning the owner and operator, description, site, capital, financing and lease costs, beginning date and hours of operation of clinical health service and major medical equipment. For purposes of registration, (i) owner shall include any person offering affected clinical health services and major medical equipment and (ii) affected clinical health services and major medical equipment shall include only the following:

1. radiation therapy;
2. cardiac catheterization;
3. obstetrical;
4. neonatal special care unit ;
5. lithotripsy;
6. magnetic resonance imaging;
7. position emission tomography (PET) scanning;
8. computed tomography (CT) scanning;
- 9 heart, lung, and kidney , other major internal organ or tissue transplants
10. other specialized services or major medical equipment that evolves through changes in medical technology upon designation by the commissioner.

The commissioner shall acknowledge the registration within 15 days of receipt.

§ 3.3. Requirements for registration of capital expenditures.

At least 30 days prior to making a capital expenditure of \$1,000,000 or more which is not defined as a project under these regulations and has not been previously authorized by the commissioner, the owner of any medical care facility as defined in these regulations, physician's office, or specialized center or clinic, shall register in writing such expenditure with the commissioner. The format for registration shall be prescribed by the commissioner and shall include information concerning the purpose of such expenditure and projected impact that the expenditure will have upon the charges for services. For purposes of registration, the owner shall include any person making the affected capital expenditure.

§ 3.4. Reporting requirements for registered services and equipment.

Owners of services and equipment registered in accordance with § 3.2 of these regulations shall report to the commissioner on a quarterly basis information concerning patient volumes, morbidity and mortality, aggregate costs and charges, and other information which is designated by the commissioner about the services provided. Data reports shall be provided on a format prescribed by the commissioner and shall cover the periods of July 1 through September 30; October 1 through December 31; January 1 through March 31; and April 1 through June 30. Reports shall be submitted to the commissioner within 30 days following the last day of the quarter report period in which the registered service or equipment becomes operational and 30 days following the last day of every quarter report period thereafter.

§ 3.5. Penalties for noncompliance with registration and reporting requirements.

Any person willfully refusing, failing or neglecting to comply with registration or reporting requirements set forth in §§ 3.2, 3.3 and 3.4 of these regulations will be subject to a civil penalty of \$100 per violation per day from the date written notification is received from the department until the required registration or reporting forms are submitted to the department. Upon information and belief that a person has failed to comply with registration and reporting requirements in accordance with this provision, the department shall notify the person in writing, and 15 days shall be provided for a response in writing, including a plan for immediate correction. In the absence of adequate response or the necessary compliance or both, a judicial action shall be initiated in accordance with provisions of § 32.1-27 of the Code.

§ 3.6. Confidentiality of information.

Information provided to the department by persons to satisfy registration requirements set forth in §§ 3.2 and 3.3 of these regulations shall be excluded from the provisions of the Virginia Freedom of Information Act as provided in § 2.1-342 of the Code of Virginia until such time as the new or expanded clinical health service becomes operational. In accordance with this provision, the department shall not provide information it receives about registered services to any person until the new or expanded service becomes operational. Persons registering the new service or equipment or capital expenditure shall notify the department in writing of the date the service or equipment becomes operational or the expenditure is made and provide a copy of this notification to the appropriate regional health planning agency.

§ 3.3. § 3.7. Requirement for notification of proposed acquisition of medical care facilities.

At least 30 days before any person is contractually obligated to acquire an existing medical care facility, the

Final Regulations

cost of which is \$700,000 or more, that person shall provide written notification to the commissioner and the regional health planning agency that serves the area in which the facility is located. Such notification shall identify the name of the medical care facility, the current and proposed owner, the cost of the acquisition, the services to be added or deleted, the number of beds to be added or deleted, and the projected impact that the cost of the acquisition will have upon the charges of the services to be provided in the medical care facility. The commissioner shall provide written notification to the person who plans to acquire the medical care facility within 30 days of receipt of the required notification. If the commissioner finds that a reviewable clinical health service or beds are to be added as a result of the acquisition, the commissioner may require the proposed new owner to obtain a certificate prior to the acquisition. If such certificate is required, an application will be considered under an appropriate [review procedure batch group] which will be identified at the time of written notification by the commissioner to the applicant for such acquisition.

§ 3-4: § 3.8. Significant change limitation.

No significant change in a project for which a certificate of public need has been issued shall be made without prior written approval of the commissioner. Such request for a significant change shall be made in writing by the owner to the commissioner with a copy to the appropriate regional health planning agency. *The owner shall also submit the application fee to the department if applicable at the time the written request is made.* The written request shall identify the nature and purpose of the change. The regional health planning agency shall review the proposed change and notify the commissioner of its recommendation with respect to the change within 30 days from receipt of the request by both the department and the regional health planning agency. Failure of the regional health planning agency to notify the commissioner within the 30-day period shall constitute a recommendation of approval. The commissioner shall act on the significant change request within 35 days of receipt. A public hearing during the review of a proposed significant change request is not required unless determined necessary by the commissioner. *The commissioner shall not approve a significant change in cost for a project which exceeds the authorized capital expenditure by more than 20%. The commissioner shall not extend the schedule for completion of a project beyond three years from the date of issuance of the certificate or beyond the time period approved by the commissioner at the date of certificate issuance, whichever is greater, except when delays in completion of a project have been caused by events beyond the control of the owner and the owner has made substantial and continuing progress toward completion of the project.*

§ 3-5: § 3.9. Requirements for health maintenance organizations.

An HMO must obtain a certificate of public need prior to initiating a project. Such HMO must also adhere to the requirements for the acquisition of medical care facilities if appropriate. See definition of "project" and § 3-3 § 3.7.

PART IV. DETERMINATION OF PUBLIC NEED (REQUIRED CONSIDERATIONS).

§ 4.1. In determining whether a public need exists for a proposed project, the following factors shall be taken into account when applicable:

A. The recommendation and the reasons therefor of the appropriate regional health planning agency.

B. The relationship of the project to the applicable health plans of the regional health planning agency, and the Virginia Health Planning Board and the Board of Health.

C. The relationship of the project to the long-range development plan, if any, of the person applying for a certificate.

D. The need that the population served or to be served by the project has for the project.

E. The extent to which the project will be accessible to all residents of the area proposed to be served.

F. The area, population, topography, highway facilities and availability of the services to be provided by the project in the particular part of the health planning region in which the project is proposed.

G. Less costly or more effective alternate methods of reasonably meeting identified health service needs.

H. The immediate and long-term financial feasibility of the project.

I. The relationship of the project to the existing health care system of the area in which the project is proposed.

J. The availability of resources for the project.

K. The organizational relationship of the project to necessary ancillary and support services.

L. The relationship of the project to the clinical needs of health professional training programs in the area in which the project is proposed.

M. The special needs and circumstances of an applicant for a certificate, such as a medical school, hospital, multidisciplinary clinic, specialty center or regional health service provider, if a substantial portion of the applicant's services or resources or both is provided to individuals not residing in the health planning region in which the project is to be located.

N. The need and the availability in the health planning region for osteopathic and allopathic services and facilities and the impact on existing and proposed institutional training programs for doctors of osteopathy and medicine at the student, internship, and residency training levels.

O. The special needs and circumstances of health maintenance organizations. When considering the special needs and circumstances of health maintenance organizations, the commissioner may grant a certificate for a project if the commissioner finds that the project is needed by the enrolled or reasonably anticipated new members of the health maintenance organizations or the beds or services to be provided are not available from providers which are not health maintenance organizations or from other maintenance organizations in a reasonable and cost effective manner.

P. The special needs and circumstances for biomedical and behavioral research projects which are designed to meet a national need and for which local conditions offer special advantages.

Q. The costs and benefits of the construction associated with the proposed project.

R. The probable impact of the project on the costs of and charges for providing health services by the applicant for a certificate and on the costs and charges to the public for providing health services by other persons in the area.

S. Improvements or innovations in the financing and delivery of health services which foster competition and serve to promote quality assurance and cost effectiveness.

T. In the case of health services or facilities proposed to be provided, the efficiency and appropriateness of the use of existing services and facilities in the area similar to those proposed.

PART V. ADMINISTRATIVE REVIEW PROCESS.

§ 5-1. Applicability.

The administrative review procedure shall be applicable to projects involving (i) a capital expenditure of \$700,000 but not more than \$3 million which does not change bed capacity or replace existing beds or relocate 10 beds or 10% of the beds whichever is less from one physical facility to another in any two year period or add a clinical health service unless such service is determined to be exempt from review procedures by the Commissioner or these regulations (ii) a capital expenditure of less than \$700,000 and which does change bed capacity or replace existing beds or relocate 10 beds or 10% of the beds whichever is less from one physical facility to another in any two year period or add a new clinical health service unless such service is determined to be exempt from review procedures by the Commissioner and these

regulations.

§ 5-2. Preconsultation.

Each regional health planning agency, in consultation with the department shall provide upon request, advice and assistance concerning community health resources needs to potential applicants submitting projects under the administrative review process. Such advice and assistance shall be advisory only and shall not be a commitment on behalf of the regional health planning agency or the Commissioner.

§ 5-3. Application forms.

A. Obtaining application forms.

Application forms shall be available from the Commissioner upon written request by the applicant. The request shall identify the owner, the type of project for which forms are requested and the proposed scope (size) and location of the proposed project. A copy of the request should also be submitted by the applicant to the appropriate regional health planning agency. The department shall transmit application forms to the applicant within 15 days of receipt of request.

B. Filing application forms.

All applications including required data and information shall be prepared in triplicate; two copies to be submitted to the Department; one copy to be submitted to the appropriate regional health planning agency. No application shall be deemed to have been submitted until required copies have been received by the department and the appropriate regional health planning agency.

§ 5-4. Review of the application.

A. Review cycle.

The Department shall notify applicants(s) upon receipt of an application by the Department and the regional health planning agency of the review schedule including the date, time and place for any informal fact finding conference held. See §§ 5-9 and 6-6. The regional health planning agency shall within 30 days of the first day of the review cycle of the application and following the public hearing conducted in accordance with § 6-6 B of these regulations, notify the Commissioner of its recommendation. Failure of the regional health planning agency to notify the Commissioner within the 30 day time period shall constitute a recommendation of approval. The Department shall transmit its report and the information transmitted to the Commissioner by the regional health planning agency to the applicant(s) by the 30th day of the review cycle.

B. Ex parte contact.

After commencement of a public hearing and before a

Final Regulations

final decision is made, there shall be no ex parte contacts between the State Health Commissioner and any person acting on behalf of the applicant or holder of a certificate or any person opposed to the issuance or in favor of revocation of a certificate of public need, unless written notification has been provided. See Definition of Ex parte contact.

§ 5.5: Participation by other persons:

Any person affected by a proposed project under review may directly submit written opinions, data and other information to the appropriate regional health planning agency and the Commissioner at appropriate times for consideration prior to their final action.

§ 5.6: Amendment to an application:

The applicant shall have the right to amend an application at any time. Any amendment which is made to an application following the public hearing specified in § 6.4 A and prior to the issuance of a certificate unless otherwise specified in these regulations shall constitute a new application and shall be subject to the review requirements set forth in Part V of the regulations. If such amendment is made subsequent to the issuance of a certificate of public need, it shall be reviewed in accordance with § 3.4 of these regulations.

§ 5.7: Withdrawal of an application:

The applicant shall have the right to withdraw an application from consideration at any time, without prejudice, by written notification to the Commissioner.

§ 5.8: Consideration of applications:

All competing applications shall be considered at the same time by the regional health planning agency and the Commissioner. The Commissioner shall determine if an application is competing and shall provide written notification to the competing applicants and appropriate regional health planning agency.

§ 5.9: Action on an application:

A. Commissioner's responsibility:

Decisions as to approval or disapproval of applications or a portion thereof for certificate of public need shall be rendered by the Commissioner. Any decision to issue or approve the issuance of a certificate shall be consistent with the most recent applicable provisions of the State Health Plan and the State Medical Facilities Plan; provided, however, if the Commissioner finds, upon presentation of appropriate evidence, that the provisions of either such plan are inaccurate, outdated, inadequate or otherwise inapplicable, the Commissioner, consistent with such finding, may issue or approve the issuance of a certificate and shall initiate procedures to make appropriate amendments to such plan.

B. Notification process extension of review time:

The Commissioner shall make a final determination on an application for a certificate of public need and provide written notification detailing the reasons for such determination to the applicant with a copy to the regional health planning agency by the 35th day of the review cycle unless an extension is agreed to by the applicant or an informal, fact finding conference described in § 6.6 is held. When an informal, fact finding conference is necessary, the review cycle shall automatically be extended to not more than 120 days unless otherwise agreed to by the parties to the conference. Such written notification shall reference the factors and bases considered in making a decision on the application and, if applicable, the remedies available for appeal of such decision and the progress reporting requirements. The Commissioner may approve a portion of a project provided the portion to be approved is agreed to by the applicant following consultation, which may be subject to the Ex parte provision of these regulations, between the Commissioner and the applicant. See Definition of Ex parte.

PART VI V. STANDARD REVIEW PROCESS.

§ 6.1: § 5.1. Preconsultation.

Each regional health planning agency and the department shall provide upon request advice and assistance concerning community health resources needs to potential applicants. Such advice and assistance shall be advisory only and shall not be a commitment on behalf of the regional health planning agency or the commissioner.

§ 6.2: § 5.2. Application forms.

A. Obtaining application forms: *Letter of intent.*

Application forms shall be available from the commissioner upon written request by the applicant. The request *At least 30 days prior to submission of an application, an applicant shall file a letter of intent with the commissioner to request appropriate application forms. The letter shall identify the owner, the type of project for which forms are an application is requested, and the proposed scope (size) and location of the proposed project. Such letter must be directed to the commissioner prior to the submission of the application. A copy of the request should letter shall also be submitted by the applicant to the appropriate regional health planning agency. The department shall transmit application forms to the applicant within 15 seven days of the receipt of request the letter of intent.*

B. Application fees.

The department shall collect application fees for applications submitted requesting a certificate of public need. The fee required for an application is the lesser of

0.5% of the proposed capital expenditure for the project or \$5,000. No application will be deemed to be complete for review until the required application fee is paid.

B. C. Filing application forms.

Applications must be submitted at least 40 days prior to the first day of a scheduled review cycle to be considered for review in the same cycle. All applications including the required data and information shall be prepared in triplicate; two copies to be submitted to the department; one copy to be submitted to the appropriate regional health planning agency, and the application fee has been paid to the department. No application shall be deemed to have been submitted until required copies have been received by the department and the appropriate regional health planning agency.

§ 6-3. § 5.3. Review for completeness.

The applicant shall be notified by the department within 15 days following receipt of the application if additional information is required to complete the application or the application is complete as submitted. No application shall be reviewed until the department has determined that it is complete. To be complete, all questions on the application must be answered to the satisfaction of the commissioner and all requested documents supplied, when applicable and the application fee submitted. Additional information required to complete an application should shall be submitted to the department and the appropriate regional health planning agency five days prior to the beginning of a review cycle in order to ensure review in the same review cycle. The review cycle for completed applications begins on the 10th day of each month or in the event that the 10th day falls on the weekend, the next work day. See subsection A of § 6-6: first day of a review cycle to be considered complete for review in the same review cycle. In the event that the first day of a review cycle falls on the weekend, the review of the completed application will begin on the next work day.

§ 6-4. § 5.4. One hundred twenty-day review cycle.

The review of a completed application for a certificate of public need shall be accomplished within 120 days of the beginning of the review cycle. See subsection A of § 6-6.

The department shall review the following groups of completed applications in accordance with the following 120 day scheduled review cycles and the following descriptions of projects within each group, except as provided for in § 5.6.

BATCH GROUP	GENERAL DESCRIPTION	REVIEW CYCLE	
		Begins	Ends
A	General Hospital Beds/ Ambulatory Surgery Centers	Jan 10	May 9
		Jul 10	Nov 8
		Feb 10	Jun 10
		Aug 10	Dec 8

B	Psychiatric Facility Beds/ Services	Mar 10	Jul 7
		Sep 10	Jan 7
		Apr 10	Aug 8
		Oct 10	Feb 7
C	Medical Rehabilitation Beds/ Services	May 10	Sep 6
		Nov 10	Mar 9
		Jun 10	Oct 8
		Dec 10	Apr 9
D	Open Heart Surgery Services	Jan 10	May 9
		Jul 10	Nov 6
		Feb 10	Jun 10
		Aug 10	Dec 8
E	Substance Abuse Treatment Beds/Services [/Mental Retardation Facilities	Mar 10	Jul 7
		Sep 10	Jan 7
		Apr 10	Aug 8
		Oct 10	Feb 7
F	Nursing Home Beds/Services Planning Districts 6, 11 & 22	Jan 10	May 9
		Feb 10	Jun 10
		Mar 10	Jul 7
		Apr 10	Aug 8
		May 10	Sep 6
		Jun 10	Oct 8
		Jul 10	Nov 6
		Aug 10	Dec 8
		Sep 10	Jan 7
		Oct 10	Feb 7
		Nov 10	Mar 9
		Dec 10	Apr 9

Batch Group A includes:

1. The establishment of a new general hospital.
2. An increase in the total number of general acute care beds in an existing or authorized general hospital.
3. The relocation of 10 general hospital beds or 10% of the general hospital beds of a general hospital, whichever is less, from one existing physical facility to any other in any two-year period.
4. The establishment of a new ambulatory surgery center.

Batch Group B includes:

1. The establishment of a new mental hospital or psychiatric hospital.
2. An increase in the total number of beds in an existing or authorized mental hospital or psychiatric hospital.
3. An increase in the total number of mental hospital or psychiatric hospital beds in an existing or authorized medical care facility which is not a dedicated mental hospital or psychiatric hospital which increases the total number of beds in the existing or authorized medical care facility.
4. The relocation of 10 mental hospital or psychiatric

Final Regulations

hospital beds or 10% of the mental hospital or psychiatric hospital beds of a medical care facility, whichever is less, from one existing physical facility to another in any two-year period.

5. The introduction into an existing medical care facility of any new psychiatric service which the facility has never provided or has not provided in the previous 12 months.

Batch Group C includes:

1. The establishment of a new medical rehabilitation hospital.

2. An increase in the total number of beds in an existing or authorized medical rehabilitation hospital.

3. An increase in the total number of medical rehabilitation beds in an existing or authorized medical care facility which is not a dedicated medical rehabilitation hospital which increases the total number of beds in the existing or authorized medical care facility.

4. The relocation of 10 medical rehabilitation beds or 10% of the medical rehabilitation beds of a medical care facility, whichever is less, from one existing physical facility to another in any two-year period.

5. The introduction into an existing medical care facility of any new medical rehabilitation service which the facility has never provided or has not provided in the previous 12 months.

Batch Group D includes:

The introduction into an existing medical care facility of any new open heart surgery service which the facility has never provided or has not provided in the previous 12 months.

Batch Group E includes:

1. The establishment of an intermediate care facility established primarily for the medical, psychiatric or psychological treatment and rehabilitation of alcoholics or drug addicts [, or mental retardation facility] .

2. An increase in the total number of beds in an existing or authorized intermediate care facility established primarily for the medical, psychiatric or psychological treatment and rehabilitation of alcoholics or drug addicts [or a mental retardation facility] .

3. An increase in the total number of substance abuse treatment beds [or mental retardation beds] in an existing or authorized medical care facility which is not a dedicated intermediate care facility established

primarily for the medical, psychiatric or psychological treatment and rehabilitation of alcoholics or drug addicts [, or a mental retardation facility,] which increases the total number of beds in the existing or authorized medical care facility.

4. The relocation of 10 substance abuse treatment beds or 10% of the substance abuse treatment [or mental retardation] beds of a medical care facility, whichever is less, from one existing physical facility to another in any two-year period.

5. The introduction into an existing medical care facility of any new substance abuse treatment service which the facility has never provided or has not provided in the previous 12 months.

Batch Group F includes:

1. The establishment of a nursing home, intermediate care facility, or extended care facility.

2. An increase in the total number of beds in an existing or authorized nursing home, intermediate care facility, or extended care facility.

3. An increase in the total number of nursing home beds, intermediate care facility beds, or extended care facility beds in an existing or authorized medical care facility which is not a dedicated nursing home, intermediate care facility, or extended care facility [which increases the total number of beds in the existing or authorized medical care facility] .

4. The relocation of 10 nursing home, intermediate care facility, or extended care facility beds or 10% of the nursing home, intermediate care facility , or extended care facility beds of a medical care facility, whichever is less, from one physical facility to another in any two-year period.

5. The introduction into any existing medical care facility of any new nursing home service such as intermediate care facility services, extended care facility services or skilled nursing facility services except when such medical care facility is an existing nursing home as defined in § 32.1-123 of the Code.

§ 5.5. Requests for application (RFA).

The commissioner may request the submission of applications for his consideration which address a specific need for services and facilities as identified in the State Medical Facilities Plan. The department shall give notice of such RFA in a newspaper of general circulation in the locality or the planning district where the specific services or facility is requested. Such notice shall be published at least 120 days prior to the first day of the appropriate review cycle for the type of project being requested. A written copy of an RFA shall also be available upon request from the department and the regional health

planning agency in the appropriate geographic area. The process for adoption of an RFA by the commissioner shall be set forth in the State Medical Facilities Plan.

§ 6-5. § 5.6. Consideration of applications.

All competing applications shall be considered at the same time by the regional health planning agency and the commissioner. Applications for the same or similar services which are proposed for the same planning district or medical service area shall be considered as competing applications by the commissioner. The commissioner shall determine if an application is competing and shall provide written notification to the competing applicants and appropriate the regional health planning agency. The commissioner may, upon the request of an applicant, waive the review schedule requirements of § 5.4 in the case of a documented emergency.

§ 6-6. § 5.7. Review of complete application.

A. Review cycle.

At the close of the work day on the 10th day of the month, the department shall provide written notification to applicants specifying the acceptance date and review schedule of completed applications including a proposed date for any informal fact-finding conference that may be held. The regional health planning agency shall conduct no more than two meetings, one of which must be a public hearing conducted by the regional health planning agency board or a subcommittee of the board and provide applicants with an opportunity, prior to the vote, to respond to any comments made about the project by the regional health planning agency staff, any information in a staff report, or comments by those voting in completing its review and recommendation by the 60th day of the cycle. By the 70th day of the review cycle, the department shall complete its review and recommendation of an application and transmit the same to the applicant(s) and other appropriate persons. Such notification shall also include the proposed date, time and place of any informal fact-finding conference.

An informal fact-finding conference shall be held when (i) determined necessary by the department or (ii) requested by any person opposed to a project seeking to demonstrate good cause at the conference. Any person seeking to demonstrate good cause shall file, no later than seven days prior to the conference, written notification to the commissioner, applicant(s) and other competing applicants, and regional health planning agency stating the grounds for good cause.

For purposes of this section, "good cause" shall mean that (i) there is significant, relevant information not previously presented at and not available at the time of the public hearing, (ii) there have been significant changes in factors or circumstances relating to the application subsequent to the public hearing or (iii) there is a substantial material mistake of fact or law in the

department staff's report on the application or in the report submitted by the regional health planning agency. See § 9-6.14:11 of the Code of Virginia.

The commissioner shall render a final determination by the 120th day of the review cycle. Unless agreed to by the applicant and, when applicable, the parties to any informal fact-finding conference held, the review schedule shall not be extended.

B. Regional health planning agency required notifications.

Upon notification of the acceptance date of a complete application as set forth in subsection A of § 6.6 of these regulations, the regional health planning agency shall provide written notification of its review schedule to the applicant. The regional health planning agency shall notify health care providers and specifically identifiable consumer groups who may be affected by the proposed project directly by mail and shall also give notice of the public hearing in a newspaper of general circulation in such county or city wherein a project is proposed or a contiguous county or city at least nine days prior to such public hearing. Such notification by the regional health planning agency shall include: (i) the date and location of the public hearing which shall be conducted on the application except as otherwise provided in these rules and regulations, in the county or city wherein a project is proposed or a contiguous county or city and (ii) the date, time and place the final recommendation of the regional health planning agency shall be made. The regional health planning agency shall maintain a verbatim record which may be a tape recording of the public hearing. Such public hearing record shall be maintained for at least a one year time period following the final decision on a certificate of public need application. See definition of "public hearing."

C. Ex parte contact.

After commencement of a public hearing and before a final decision is made, there shall be no ex parte contacts between the State Health Commissioner and any person acting on behalf of the applicant or holder of a certificate or any person opposed to the issuance or in favor of revocation of a certificate of public need, unless written notification has been provided. See definition of "ex parte."

§ 6-7. § 5.8. Participation by other persons.

Any person affected by a proposed project under review may directly submit written opinions, data and other information to the appropriate regional health planning agency and the commissioner for consideration prior to their final action.

§ 6-8. § 5.9. Amendment to an application.

The applicant shall have the right to amend an

Final Regulations

application at any time. Any amendment which is made to an application following the public hearing and prior to the issuance of a certificate unless otherwise specified in these regulations shall constitute a new application and shall be subject to the review requirements set forth in Part ~~VI~~ V of the regulations. If such amendment is made subsequent to the issuance of a certificate of public need, it shall be reviewed in accordance with ~~§ 3.4~~ § 3.8 of the regulations.

~~§ 6.9.~~ § 5.10. Withdrawal of an application.

The applicant shall have the right to withdraw an application from consideration at any time, without prejudice by written notification to the commissioner.

~~§ 6.10.~~ § 5.11. Action on an application.

A. Commissioner's responsibility.

Decisions as to approval or disapproval of applications or a portion thereof for certificates of public need shall be rendered by the commissioner. Any decision to issue or approve the issuance of a certificate shall be consistent with the most recent applicable provisions of the State Health Plan ~~and the~~ or State Medical Facilities Plan ; ~~provided,~~ . However, if the commissioner finds, upon presentation of appropriate evidence, that the provisions of either such plan are inaccurate, outdated, inadequate or otherwise inapplicable, the commissioner, consistent with such finding, may issue or approve the issuance of a certificate and shall initiate procedures to make appropriate amendments to such plan.

Conditions of approval. The commissioner may condition the approval of an application for a project on the agreement by the applicant to provide an acceptable level of free care or care at a reduced rate to indigents or to provide care to persons with special needs. The terms of such agreements shall be specified in writing prior to the commissioner's decision to approve a project. Any person willfully refusing, failing or neglecting to honor such agreement shall be subject to a civil penalty of \$100 per violation per day from the date of receipt from the department of written notice of noncompliance until the date of compliance. Upon information and belief that a person has failed to honor such agreement in accordance with this provision, the department shall notify the person in writing and 15 days shall be provided for response in writing including a plan for immediate correction. In the absence of an adequate response or necessary compliance or both, a judicial action shall be initiated in accordance with the provisions of § 32.1-27 of the Code.

B. Notification process-extension of review time.

The commissioner shall make a final determination on an application for a certificate of public need and provide written notification detailing the reasons for such determination to the applicant with a copy to the regional health planning agency by the 120th day of the review

cycles unless an extension is agreed to by the applicant and an informal fact-finding conference described in [~~§ 6.6~~ § 5.7] is held. When an informal fact-finding conference is held, the 120 day review cycle shall not be extended unless agreed to by the parties to the conference. Such written notification shall also reference the factors and bases considered in making a decision on the application and, if applicable, the remedies available for appeal of such decision and the progress reporting requirements. The commissioner may approve a portion of a project provided the portion to be approved is agreed to by the applicant following consultation, which may be subject to the ex parte provision of these regulations, between the commissioner and the applicant.

PART ~~VI~~ VII.

DURATION/EXTENSION/REVOCAION OF CERTIFICATES.

~~§ 7.1.~~ § 6.1. Duration.

A certificate of public need shall be valid for a period of 12 months and shall not be transferrable from the certificate holder to any other legal entity regardless of the relationship, under any circumstances.

~~§ 7.2.~~ § 6.2. Extension.

A certificate of public need is valid for a 12-month period and may be extended by the commissioner for additional time periods which shall be specified at the time of the extension.

A. Basis for certificate extension within 24 months.

An extension of a certificate of public need beyond the expiration date may be granted by the commissioner by submission of evidence to demonstrate that progress is being made towards the completion of the authorized project as defined in ~~§ 7.3~~ § 6.3 of the regulations. Such request shall be submitted to the commissioner in writing with a copy to the appropriate regional health planning agency at least 30 days prior to the expiration date of the certificate or period of extension.

B. Basis for certificate extension beyond 24 months.

An extension of a certificate of public need beyond the two years following the date of issuance may be granted by the commissioner when substantial and continuing progress is being made towards the development of the authorized project. In making the determination, the commissioner shall consider whether: (i) *any* delays in development of the project have been caused by events beyond the control of the owner; (ii) substantial delays in development of the project may not be attributed to the owner; and (iii) a revised schedule of completion has been provided and determined to be reasonable. Such request shall be submitted in writing with a copy to the appropriate regional health planning agency at least 30 days prior to the expiration date of the certificate of

period of extension. *The commissioner shall not grant an extension to the schedule for completion of a project beyond three years (36 months) of the date of certificate issuance or beyond the time period approved at the date of certificate issuance, whichever is greater, unless such extension is authorized in accordance with the provisions for a significant change. (See § 3.8. Significant change limitation.)*

C. Basis for indefinite extension.

A certificate shall be considered for an indefinite extension by the commissioner when satisfactory completion of a project has been demonstrated as set forth in subsection C of § 7-3 and the definition of "Construction, initiation of." § 6.3.

D. Regional health planning agency review.

All requests for an extension of a certificate of public need shall be reviewed by the appropriate regional health planning agency within 30 days of receipt by the department and the regional health planning agency. The recommendations on the request by that agency shall be forwarded to the commissioner who shall act upon the progress report within 35 days of receipt by the department and the regional health planning agency. Failure of the regional health planning agency to notify the commissioner within the time frame prescribed shall constitute a recommendation of approval by such regional health planning agency.

E. Notification of decision.

Extension of a certificate of public need by the commissioner shall be made in the form of a letter from the commissioner with a copy to the appropriate regional health planning agency and shall become part of the official project file.

§ 7-3 § 6.3. Demonstration of progress.

The applicant shall provide reports to demonstrate progress made towards the implementation of an authorized project in accordance with the schedule of development which shall be included in the application. Such progress reports shall be filed in accordance with the following intervals and contain such evidence as prescribed at each interval:

A. Twelve months following issuance. Documentation that shows: (i) proof of ownership or control of site; (ii) the site meets all zoning and land use requirements; (iii) architectural planning has been initiated; (iv) preliminary architectural drawings and working drawings have been submitted to appropriate state reviewing agencies and the State Fire Marshal; (v) construction financing has been completed or will be completed within two months and (vi) purchase orders of lease agreements exist for equipment and new service projects.

B. Twenty-four months following issuance. Documentation that shows that (i) all required financing is completed; (ii) preconstruction site work has been initiated; (iii) construction bids have been advertised and the construction contractor has been selected; (iv) the construction contract has been awarded and (v) construction has been initiated.

C. Upon completion of a project. Any documentation not previously provided which: (i) shows the final costs of the project, including the method(s) of financing; and (ii) shows that the project has been completed as proposed in accordance with the application originally submitted, including any subsequent approved changes. (See "completion" in § 1.1.)

§ 7-4 § 6.4. Revocation of certificate.

A. Lack of progress.

Failure of any project to meet the progress requirements stated in § 7-3 § 6.3 shall be cause for certificate revocation, unless the commissioner determines sufficient justification exists to permit variance, considering factors enumerated in § 7-3 § 6.3.

B. Failure to report progress.

Failure of an applicant to file progress reports on an approved project in accordance with § 7-3 § 6.3 of these regulations shall be cause for revocation, unless, due to extenuating circumstances, the commissioner, in his sole discretion, extends the certificate, in accordance with subsection B of § 7-2 § 6.2 of these regulations.

C. Unapproved changes.

Exceeding a capital expenditure amount not authorized by the commissioner or not consistent with the schedule of completion [shall be cause for revocation]. See definition of "significant change" and "schedule of completion."

D. Failure to initiate construction.

Failure to initiate construction of the project within two years following the date of issuance of the certificate of public need shall be cause for revocation, unless due to extenuating circumstances the commissioner extends the certificate, in accordance with subsection B of § 7-2 § 6.2 of these regulations.

E. Misrepresentation.

Upon determination that an applicant has knowingly misrepresented or knowingly withheld relevant data or information prior to issuance of a certificate of public need, the commissioner may revoke said certificate.

F. Noncompliance with assurances.

Failure to comply with the assurances or intentions set

Final Regulations

forth in the application or written assurances provided at the time of issuance of a certificate of public need shall be cause for revocation.

PART VIII . APPEALS.

~~§ 8.1.~~ § 7.1. Court review.

A. Appeal to circuit court. Appeals to a circuit court shall be governed by applicable provisions of Virginia's Administrative Process Act, § 9-6.14:15 et seq. of the Code of Virginia .

Any applicant aggrieved by a final administrative decision on its application for a certificate, any third party payor providing health care insurance or prepaid coverage to 5.0% or more of the patients in the applicant's service area, a regional health planning agency operating in the applicant's service area or any person showing good cause or any person issued a certificate aggrieved by a final administrative decision to revoke said certificate, within 30 days after the decision, may obtain a review, as provided in § 9-6.14:17 of the Code of Virginia by the circuit court of the county or city where the project is intended to be or was constructed, located or undertaken. Notwithstanding the provisions of § 9-6.14:16 of the Administrative Process Act, no other person may obtain such review.

B. Designation of judge.

The judge of the court referred to in subsection A of § ~~8.1~~ § 7.1 of these regulations shall be designated by the Chief Justice of the Supreme Court from a circuit other than the circuit where the project is or will be under construction, located or undertaken.

C. Court review procedures.

Within five days after the receipt of notice of appeal, the department shall transmit to the appropriate court all of the original papers pertaining to the matter to be reviewed. The matter shall thereupon be reviewed by the court as promptly as circumstances will reasonably permit. The court review shall be upon the record so transmitted. The court may request and receive such additional evidence as it deems necessary in order to make a proper disposition of the appeal. The court shall take due account of the presumption of official regularity and the experience and specialized competence of the commissioner. The court may enter such orders pending the completion of the proceedings as are deemed necessary or proper. Upon conclusion of review, the court may affirm, vacate or modify the final administrative decision.

D. Further appeal.

Any party to the proceeding may appeal the decision of the circuit court in the same manner as appeals are taken and as provided by law.

PART IX VIII . SANCTIONS.

~~§ 9.1.~~ § 8.1. Violation of rules and regulations.

Commencing any project without a certificate required by this statute shall constitute grounds for refusing to issue a license for such project.

~~§ 9.2.~~ § 8.2. Injunctive relief.

On petition of the commissioner, the Board of Health or the Attorney General, the circuit court of the county or city where a project is under construction or is intended to be constructed, located or undertaken shall have jurisdiction to enjoin any project which is constructed, undertaken or commenced without a certificate or to enjoin the admission of patients to the project or to enjoin the provision of services through the project.

PART X IX . OTHER.

~~§ 10.1.~~ § 9.1. Certificate of public need moratorium.

Notwithstanding any law to the contrary, the Commissioner shall not approve, authorize or accept applications for the issuance of any certificate of public need pursuant to the regulations for a medical care facility project which would increase the number of nursing home beds from the effective date of the regulations through ~~January 1, 1991~~ *June 30, 1993* . However, the commissioner may approve or authorize the issuance of a certificate of public need for the following projects:

1. The renovation or replacement on site of a nursing home, intermediate care or extended care facility or any portion thereof or *replacement off-site of an existing facility at a location within the same city or county and within reasonable proximity to the current site when replacement on the current site is proven unfeasible*)when a capital expenditure is required to comply with life safety codes, licensure, certification or accreditation standards. *Under no circumstances shall the State Health Commissioner approve, authorize, or accept an application for the issuance of a certificate for any project which would result in the continued use of the facility replaced as a nursing home.*

2. The conversion on site of existing licensed beds of a medical care facility other than a nursing home, extended care, or intermediate care facility to beds certified for skilled nursing services (SNF) when (i) the total number of beds to be converted does not exceed the lesser of 20 beds or 10% of the beds in the facility; (ii) the facility has demonstrated that the SNF beds are needed specifically to serve as specialty heavy care patient population, such as ventilator-dependent and AIDS patients and that such

patients otherwise will not have reasonable access to such services in existing or approved facilities; and (iii) the facility further commits to admit such patients on a priority basis once the SNF unit is certified and operational.

3. *The conversion on site of existing beds in a home for adults facility licensed pursuant to Chapter 9 (§ 63.1-172 et seq.) of Title 63.1 as of March 1, 1990, to beds certified as nursing facility beds when (i) the total number of beds to be converted does not exceed the less of 30 beds or 25% of the beds in the home for adults facility; (ii) the home for adults facility has demonstrated that nursing facility beds are needed specifically to serve a patient population of AIDS, or ventilator-dependent, or head and spinal cord injured patients, or any combination of the three, and that such patients otherwise will not have reasonable access to such services in existing or approved nursing facilities; (iii) the home for adults facility further commits to admit such patients once the nursing facility beds are certified and operational; and (iv) the licensed home for adults facility otherwise meets the standards for nursing facility beds as set forth in the regulations of the Board of Health.*

4. *Any project for an increase in the number of beds in which nursing home or extended care services are provided, or the creation of new beds in which such services are to be provided, by a continuing care provider registered as of January 15, 1991, with the State Corporation Commission pursuant to Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2 of this Code, if (i) the total number of new or additional nursing home beds does not exceed 32 when the beds are to be added by new construction, or 25 when the beds are to be added by conversion on site of existing beds in a home for adults facility licensed pursuant to Chapter 9 (§ 63.1-172 et seq.) of Title 63.1 as of January 15, 1991, and (ii) such beds are necessary to meet existing or reasonably anticipated obligations to provide care to present or prospective residents of the continuing care facility pursuant to continuing care contracts meets the requirements of § 38.1-4905. No application for a certificate of public need for the creation or addition of nursing home beds pursuant to this section shall be accepted from a provider who, as of January 15, 1991, had an existing complement of beds, unless such provider agrees in writing not to seek certification for the use of such new or additional beds by persons eligible to receive medical assistance services pursuant to Title XIX of the United State Social Security Act. Further, if a certificate is approved, pursuant to this section, to increase the number of nursing home beds for a provider who has an existing complement of such beds, admissions to such beds shall, thereafter, be restricted to persons who have entered into continuing care contracts meeting the requirements of § 38.2-4905.*

5. *Notwithstanding the foregoing and other provisions of Article 1.1 (§ 32.1-102.2 et seq.) of Chapter 4 of Title 32.1, of the Code, the state home for aged and infirm veterans authorized by Chapter 668, 1989 Acts of Assembly, shall be exempt from all certificate of public need review requirements as a medical care facility.*

§ 10.2: § 9.2. Expiration of requirements for general hospitals an outpatient or ambulatory surgery centers or clinics.

Notwithstanding any law to the contrary, as of July 1, ~~1991~~ 1993, general hospitals and specialized centers or clinics developed for the provision of outpatient or ambulatory surgery shall no longer be medical care facilities subject to review pursuant to these Regulations except with respect to the establishment of nursing home beds in general hospitals.

§ 9.3. *Notwithstanding the authority of the commissioner to grant an extension of a schedule for completion of the project pursuant to Part VI of these regulations, no extension shall be granted beyond June 30, 1992, for any nursing home project approved prior to January 1, 1991. However, the commissioner may grant an extension of a schedule for completion for an additional six months upon determining that (i) substantial and continuing progress has been made toward completion of the project; and (ii) the project owner had agreed in writing prior to February 13, 1991, to delay the project to facilitate cost savings for the Commonwealth. The certificate for any such nursing home bed project approved prior to January 1, 1991, which has not been completed by June 30, 1992, or by the expiration date of any approved extension shall be revoked.*

REGISTRATION FORM FOR
 CAPITAL EXPENDITURES IN EXCESS OF \$1,000,000
 ON OR AFTER JULY 1, 1991
 PURSUANT TO SECTION 32.1-102.3:4, PART 1, OF THE CODE OF VIRGINIA

INSTRUCTIONS FOR COMPLETING REGISTRATION FORM FOR
 CAPITAL EXPENDITURES OF \$1,000,000 OR MORE

ALL QUESTIONS APPLY ONLY TO THE CAPITAL EXPENDITURE OF \$1,000,000 OR MORE
 BEING REGISTERED

GENERAL INSTRUCTIONS

Sections A and B (pages 1 - 5) of the registration form must be completed for each capital expenditure in excess of \$1,000,000 on or after July 1, 1991. Section C, the Financial Worksheet, provides the basis for completing Section B of the form but should not be returned to the Department. An owner of an affected medical care facility listed in Section 32.1-102.1 of the Code, specialized center or clinic, and physician's office has responsibility for registration thirty (30) days prior to making the proposed capital expenditure of \$1,000,000 or more. The person completing the registration form should answer all questions in the spaces provided. (If additional space is required, attach a separate sheet and identify the question for which the response is given.) All of the questions refer only to the capital expenditure in excess of \$1,000,000. Unless otherwise indicated, answer all questions by supplying dollar (\$) amounts. In certain instances, an expenditure may not be planned. In such cases, answer by placing a zero (0) in the appropriate space. Proper completion of the form should enable the registrant and the Department to meaningfully evaluate the costs of establishing or implementing a project not requiring a certificate for which there will be a capital expenditure of \$1,000,000 or more. Terms used on the registration form are on Pages ii and iii. If further explanation is required in responding to questions, contact the Division of Resources Development of the Virginia Department of Health at (804) 786-7463.

Upon completion of the form, please file two copies with the Division of Resources Development at the following address:

Virginia Department of Health
 Division of Resources Development
 1500 East Main Street, Suite 105
 Richmond, Virginia 23219

The information provided shall be excluded from the provisions of the Virginia Freedom of Information Act until such time as the capital expenditure is made.

The State Health Commissioner will acknowledge registration within 15 days of receipt by the Department of Health and assign a registration number to the capital expenditure.

SECTION A

1. BRIEFLY DESCRIBE THE PURPOSE FOR THE CAPITAL EXPENDITURE OF \$1,000,000 OR MORE. THIS SHOULD INCLUDE NEW CONSTRUCTION, RENOVATION, NEW SERVICES AND/OR EQUIPMENT THAT ARE PART OF THE PROJECT EXPENDITURE.

2. LEGAL NAME AND ADDRESS OF REGISTRANT (Includes any medical care facility listed in Section 32.1-102.1 of the Code, as well as specialized centers or clinics and physician's offices.)

TYPE OF REGISTRANT
 (check one) Proprietary Non-Profit Governmental

3. SITE OF THE FACILITY OR OTHER FOR WHICH THE CAPITAL EXPENDITURE IN EXCESS OF \$1,000,000 WILL BE MADE

4. SCHEDULE OF PROJECT COMPLETION

Date of Construction: Begin _____ Completion _____

SECTION B

Financial Data Summary Sheet

- 1. Sub-total Part I Direct Construction Costs (line 7 of Worksheet) \$ _____
- 2. Sub-total Part II Equipment not included in construction contract (line 9 of Worksheet) \$ _____
- 3. Sub-total Part III Site Acquisition Costs (line 15 of Worksheet) \$ _____
- 4. Sub-total Part IV Site Preparation Costs (line 23 of Worksheet) \$ _____
- 5. Sub-total Part V Off-Site Costs (line 28 of Worksheet) \$ _____
- 6. Sub-total Part VI Architectural and Engineering Fees (line 33 of Worksheet) \$ _____
- 7. Sub-total Part VII Other Consultant Fees (line 35 of Worksheet) \$ _____
- 8. Sub-total Part VIII Taxes During Construction (line 38 of Worksheet) \$ _____
- 9. Sub-total Part IX-1 HUD-232 Financing (line 53 of Worksheet) \$ _____
- 10. Sub-total Part IX-2 Industrial Development Authority Revenue & General Revenue Bond Financing (line 80 of Worksheet) \$ _____
- 11. Sub-total Part IX-3 Conventional Loan Financing (line 95 of Worksheet) \$ _____
- 12. **TOTAL CAPITAL COSTS (LINES 1 THRU 11)** \$ _____
- 13. Percent of total capital costs to be financed _____ %
- 14. Dollar amount of long-term mortgage (line 12 x line 13) \$ _____

- 15. Total Interest Cost on Long-Term Financing
 - a. HUD-232 Financing (line 53 of Worksheet) \$ _____
 - b. Industrial Development Authority Revenue & General Revenue Bond Financing (line 79 of Worksheet) \$ _____
 - c. Conventional Loan Financing (line 94) \$ _____
- 16. Anticipated Bond discount
 - a. HUD-232 Financing (line 53 of Worksheet) \$ _____
 - b. Industrial Development Authority Revenue & General Revenue Bond Financing (line 79 of Worksheet) \$ _____
 - c. Conventional Loan Financing (line 87 of Worksheet) \$ _____
- 17. **TOTAL CAPITAL AND FINANCING COSTS (ADD LINES 12, 15 a, b or c AND 16a, b or c)** \$ _____
- 18. Anticipated Sources of Funds for Proposed Project

	Amount
a. Public Campaign	\$ _____
b. Bond Issue (Specify Type) _____	\$ _____
c. Commercial Loans	\$ _____
d. Government Loans (Specify Type) _____	\$ _____
e. Grants (Specify Type) _____	\$ _____
f. Bequests	\$ _____
g. Private Foundations	\$ _____
h. Endowment Income	\$ _____
i. Accumulated Reserves	\$ _____
j. Other (Identify) _____	\$ _____

- 19. Describe the impact the proposed capital expenditure will have on the cost of providing care and the charges for care in the facility, if an existing facility. Specify total debt service cost and estimated debt service cost per patient day for the first two (2) years of operation, if an inpatient facility. (Total debt service cost is defined as total interest to be paid during the life of the loan(s). Estimate debt service cost per patient day by dividing estimated total patient days for year one into amount of debt service for that year. Repeat for year two.)

Attach a copy of the following information or documents.

- a. The existing and/or proposed room rate schedule, by type of accommodation, if an inpatient facility.
- b. A schedule of existing and/or proposed patient charges, by type of procedure, if an outpatient facility.
- c. A schedule of estimated income and expenses for the project for the first two years of its operation.

INSTRUCTIONS FOR COMPLETING FINANCIAL WORKSHEET

Pages i - v provide instructions for completing the Financial Worksheet. This worksheet should not be submitted to the Department but should be used as the basis for completing the Financial Data Summary Sheet, which is Section B (pages 2 and 3 of the Form). Only pages 1 - 5 (Sections A and B) should be returned to the Department to fulfill requirements for registration of capital expenditures of \$1,000,000 or more. Subtotals in Section B of the registration form refer to the subtotals of Parts I through IX of the following Financial Worksheet.

INSTRUCTIONS FOR COMPLETING PART I
DIRECT CONSTRUCTION COSTS

Answers to questions in this section should reflect planned expenditures for the construction of the primary structure(s) and all permanently affixed equipment. This includes construction materials (line 1) and labor (line 2) and equipment included in the construction contract which will be permanently attached to the structure (line 3). Examples of the latter include: life support systems, communications systems, central vacuuming, etc. Builder's overhead (line 4) is that portion of the builder's total overhead expenses allowable to the proposed facility and builder's profit (line 5), net earnings from the construction contract. Allocation for contingencies (line 6) is the dollar amount held in reserve for unanticipated construction expenses.

INSTRUCTIONS FOR COMPLETING PART II -
EQUIPMENT NOT INCLUDED IN CONSTRUCTION CONTRACT

List and price each piece of depreciable equipment not supplied as part of the construction contract (lines 8a through 8e). This generally includes equipment not permanently affixed to the structure. Examples include x-ray equipment, beds, freezers, etc.

INSTRUCTIONS FOR COMPLETING PART III
SITE ACQUISITION COSTS

Supply the acquisition price of the proposed facility site (line 10). If more than one use is planned for the site, include only that portion of the total purchase price which is allowable to the land area which will be occupied by the proposed facility. If a structure(s) currently stands on the proposed facility site and it is anticipated that this structure(s) will be used as part of the proposed facility portion, the total purchase between the value of the existing structure(s) and the value of the raw land (lines 11a and 11b), provide closing costs on line 12. These include legal fees, title fees, etc. If the site is to be leased rather than purchased, provide the annual leasehold on line 13. All other expenses already paid or accrued should be itemized separately on lines 14a through 14c.

ASSURANCE

I hereby assure and certify that:

The information included in this form is correct to the best of my knowledge and it is my intent to carry out the construction, renovation and/or services(s) as described.

Signature of Authorizing Officer	Address
Type or Print Name of Authorizing Officer	
Title of Authorizing Officer	
Date	Telephone Number

**INSTRUCTIONS FOR COMPLETING
PART IV - SITE PREPARATION COSTS**

Supply financial data for site preparation work related solely to the proposed facility site or that portion of the total site which is to be occupied by the proposed facility. Earth work (line 16) refers primarily to land contouring. Site utilities (line 17) include the costs of installing water, electric and gas utilities. Roads and walks (line 18), lawns and planting (line 19) and unusual site conditions (lines 20a and 20b) refer to expenditures for on-site work only. Accessory structures (line 21) refer to unattached structures which are to be used in support of the primary facility; examples include garage, club house, etc. Demolition costs (line 22) are those costs incurred in clearing standing structures from the proposed facility site.

**INSTRUCTIONS FOR COMPLETING
PART V - OFF-SITE COSTS**

Include only off-site construction costs for free standing structures which are to be used in support of the primary facility (lines 24 through 27). Examples might include off-site bus depots, clinics, extension of utilities to site, modification of highways for safe entrance, etc.

**INSTRUCTIONS FOR COMPLETING
PART VI - ARCHITECTURAL AND ENGINEERING FEES**

Include on line 29 the architect's design fee and on line 30 the fee for supervising the implementation of the design. Engineering fees (line 31) include engineering design expenses. Consultant fees (line 32) refer only to architectural and engineering consultant fees.

**INSTRUCTIONS FOR COMPLETING
PART VII - OTHER CONSULTANT FEES**

All consultant fees except for architectural and engineering consultant fees should be itemized separately on lines 34a through 34c.

**INSTRUCTIONS FOR COMPLETING
PART VIII - TAXES DURING CONSTRUCTION**

Property taxes to be paid during the construction period should be listed on line 36. For multiple use sites, include only that portion of the total property tax allocable to the proposed facility site. Any other taxes to be paid during construction should be itemized on lines 37a and b. These, for example, might include permit fees, utility taxes, etc.

- ii -

**INSTRUCTIONS FOR COMPLETING
PART IX-1 - HUD SECTION 232 FINANCING**

If it is expected that the proposed facility or project will be financed with HUD Section 232 Financing, complete and submit this section or otherwise complete either Section IX-B or IX-C. Regardless of the method of financing selected, registrants might choose to complete each of the facility financing sections. Such an exercise would permit a true comparison of the relative costs of the different methods of financing and in so doing, permit the applicant to select the least costly alternative. It is requested, however, that in submitting the registration form, the registrant include financial data only for that financing alternative he finally selects.

On line 39 estimate the number of months required to complete construction of the proposed facility. On line 40 supply the dollar amount of the construction loan. The construction loan interest rate should be supplied on line 41 and the total interest on the construction loan for the entire construction period on line 42.

The term, in years, of the permanent mortgage loan should be provided on line 43 and the mortgage interest rate on line 44. FHA mortgage insurance (line 45) premiums equal 0.5% of the outstanding loan balance per year. Mortgage fees (line 46), for example, include examination and inspection fees and are charged at a rate of \$8 per \$1,000 of mortgage value. Financing fees (line 47) are charged by the bank and may be as high as 2% of the loan. The placement fee (line 48) is a FNMA charge and is equal to 1/4% of the loan value. The AMPO (line 49) is a reserve to make the project operational and is available to non-profit sponsors only. Up to 2% of the loan balance can be allocated to the AMPO. Title and recording fees should be supplied on line 50 and legal fees on line 51. Total mortgage interest to be paid on the permanent mortgage loan should be estimated from a book or mortgage tables and written on line 52.

**INSTRUCTIONS FOR COMPLETING PART IX-2 -
INDUSTRIAL DEVELOPMENT AUTHORITY
REVENUE AND GENERAL OBLIGATION BOND FINANCING**

If it is expected that the proposed facility or project will be financed from the sale of industrial revenue or general obligation bonds, complete and submit this section. Otherwise, complete either Section IX-A or Section IX-C.

Specify the source of all construction capital on line 54. If construction is to be financed from the proceeds of a bond sale, do not answer questions on lines 55 through 58. If construction, however, is to be financed by a separate construction loan, answer questions 56, 57 and 58. How many months will it take to complete construction of the facility (line 55)? Provide the dollar amount of the construction loan on line 56 and the construction loan interest rate on line 57. Total interest costs on the construction loan should be supplied on line 58.

- iii -

On line 59 identify the nature of the bond placement, e.g., direct, underwriter, etc. Will bonds be issued before construction begins (line 60)? If yes, how many months before construction is started will the bonds be issued (line 61)? What is the dollar value of the bonds that are expected to be sold prior to the beginning of construction (line 62)? For bonds sold prior to or during construction, will interest and principal be paid or only interest (line 63)? Finally, what is the estimated pre-construction bond interest expense (line 64)? How many months after construction begins is it expected that the last bond will have been sold (line 65)? What is the estimated bond interest expense during construction (line 66)? The percentage of total construction which will be financed from the bond issue should be supplied on line 67. The expected annual interest rate, anticipated term and expected bond discount should be supplied on lines 68, 69, and 70, respectively. Legal costs, printing costs, placement fees, feasibility study costs, insurance fees, title and recording fees and other fees should be given on lines 71 through 77c, respectively. Debt service reserve, \$200,000 should be written on line 78. Life time bond should be estimated on line 79.

**INSTRUCTIONS FOR COMPLETING
SECTION V, PART IX-C -
CONVENTIONAL MORTGAGE or CONVENTIONAL LOAN FINANCING**

If it is expected that the proposed facility or project will be financed with conventional mortgage loan financing, complete and submit this section. Otherwise, complete either Section IX-A or Section IX-B.

On line 81 estimate the number of months required to complete the construction of the proposed facility or implement the project. On line 82 supply the dollar amount of the construction loan. The construction loan interest rate should be supplied on line 83 and the total interest on the construction loan for the entire construction period on line 84.

The term, in years, of the permanent mortgage loan or permanent loan should be provided on line 85. The expected annual interest rate and the anticipated mortgage or loan discount should be supplied on lines 86 and 87, respectively. Feasibility study costs, finder's fee, legal fees, insurance fees and other fees should be given on lines 88 through 93, respectively. Total interest to be paid on the mortgage or permanent loan should be estimated on line 94.

**SECTION C
FINANCIAL WORKSHEET**

ESTIMATED CAPITAL COSTS

Please see "Instructions for Completing Financial Worksheet for Capital Expenditure in Excess of \$1,000,000" (pages i - v). This worksheet should not be returned to the Department.

Part I - Direct Construction Costs

- | | |
|--|----------|
| 1. Cost of materials | \$ _____ |
| 2. Cost of labor | \$ _____ |
| 3. Equipment included in construction contract | \$ _____ |
| 4. Builder's overhead | \$ _____ |
| 5. Builder's profit | \$ _____ |
| 6. Allocation for contingencies | \$ _____ |
| 7. Sub-total (add lines 1 thru 6) | \$ _____ |

Part II - Equipment Not Included in Construction Contract
(List each separately)

- | | |
|-------------------------------------|----------|
| 8. a. _____ | \$ _____ |
| b. _____ | \$ _____ |
| c. _____ | \$ _____ |
| d. _____ | \$ _____ |
| e. _____ | \$ _____ |
| 9. Sub-total (add lines 8a thru 8e) | \$ _____ |

Part III - Site Acquisition Costs

- | | |
|---|----------|
| 10. Full purchase price | \$ _____ |
| 11. For sites with standing structures | \$ _____ |
| a. purchase price allocable to structures | \$ _____ |
| b. purchase price allocable to land | \$ _____ |
| 12. Closing costs | \$ _____ |
| 13. If leasehold, annual rent | \$ _____ |

14. Additional expenses paid or accrued:

- a. _____ \$ _____
- b. _____ \$ _____
- c. _____ \$ _____

15. Sub-total(add lines 10 thru 14c) \$ _____

Part IV - Site Preparation Costs

- 16. Earth work \$ _____
- 17. Site utilities \$ _____
- 18. Roads and walks \$ _____
- 19. Lawns and planting \$ _____
- 20. Unusual site conditions:
 - a. _____ \$ _____
 - b. _____ \$ _____

- 21. Accessory structures \$ _____
- 22. Demolition costs \$ _____
- 23. Sub-total (add lines 16 thru 22) \$ _____

Part V - Off-site Costs (List each separately)

- 24. _____ \$ _____
- 25. _____ \$ _____
- 26. _____ \$ _____
- 27. _____ \$ _____
- 28. Sub-total (add lines 24 thru 27) \$ _____

Part VI - Architectural and Engineering Fees

- 29. Architect's design fee \$ _____
- 30. Architect's supervision fee \$ _____
- 31. Engineering fees \$ _____
- 32. Consultant's fees \$ _____
- 33. Sub-total (add lines 29 thru 32) \$ _____

Part VII - Other Consultant Fees (List each separately)

- 34. a. _____ \$ _____
- b. _____ \$ _____
- c. _____ \$ _____

35. Sub-total (add lines 34a thru 34c) \$ _____

Part VIII - Taxes During Construction

- 36. Property taxes during construction \$ _____
- 37. List other taxes
 - a. _____ \$ _____
 - b. _____ \$ _____

38. Sub-total (add lines 36 thru 37b) \$ _____

Part IX-1 - HUD Section 232 Financing

- 39. Estimated construction time (in months) _____
- 40. Dollar amount of construction loan \$ _____
- 41. Construction loan interest rate _____%
- 42. Estimated construction loan interest cost \$ _____
- 43. Term of permanent financing (in years) _____
- 44. Interest rate on permanent loan _____%
- 45. FHA mortgage insurance premium \$ _____
- 46. FHA mortgage fees \$ _____
- 47. Financing fees \$ _____
- 48. Placement fees \$ _____
- 49. AMPO (non-profit only) \$ _____
- 50. Title and recording fees \$ _____
- 51. Legal fees \$ _____
- 52. Total interest expense on permanent mortgage loan \$ _____

53. Sub-total Part IX-1 HUD Section 232 Financing (add lines 42, 45, 46, 47, 48, 49, 50 and 51) \$ _____

Part IX-2 - Industrial Development Authority Revenue and
General Obligation Bond Financing
(Circle selected method of financing)

54. Method of construction financing (construction loan, proceeds of bond sales, if other, specify) _____
- If construction is to be financed from any source other than bond sale proceeds, answer question 56 through 58. Otherwise, proceed to question 59.
55. Estimated construction time (in months) _____
56. Dollar amount of construction loan \$ _____
57. Construction loan interest rate _____%
58. Estimated construction loan interest cost \$ _____
59. Nature of bond placement (direct, underwriter, if other specify) _____
60. Will bonds be issued prior to the beginning of construction? Yes No
61. If the answer to question 60 is yes, how long before (in months)? _____
62. Dollar amount of bonds expected to be sold prior to the beginning of construction \$ _____
63. Will principal and interest be paid during construction or only interest? _____
64. Bond interest expense prior to the beginning of construction (in dollars) \$ _____
65. How many months after construction begins will last bond be sold? _____
66. Bond interest expense during construction \$ _____
67. What percent of total construction will be financed from bond issue? _____%
68. Expected bond interest rate _____%
69. Anticipated term of bond issued (in years) _____
70. Anticipated bond discount (in dollars) \$ _____

71. Legal costs \$ _____
72. Printing costs \$ _____
73. Placement fee \$ _____
74. Feasibility study \$ _____
75. Insurance \$ _____
76. Title and recording fees \$ _____
77. Other fees (List each separately)
- a. _____ \$ _____
- b. _____ \$ _____
- c. _____ \$ _____
78. Sinking fund reserve account (Debt Service Reserve) \$ _____
79. Total bond interest expense (in dollars) \$ _____
80. Sub-total Part IX-B (add lines 58, 64, 66, 71, 72, 73, 74, 75, 76, 77a, b and c and 78) \$ _____

Part IX-2 - Conventional Mortgage Loan Financing

81. Estimated construction time (in months) _____
82. Dollar amount of construction loan \$ _____
83. Construction loan interest rate _____%
84. Estimated construction loan interest cost (in dollars) \$ _____
85. Term of long term financing (in years) _____
86. Interest rate on long term loan _____%
87. Anticipated mortgage discount (in dollars) \$ _____
88. Feasibility study \$ _____
89. Finder's fee \$ _____
90. Legal fees \$ _____
91. Insurance \$ _____
92. Other fees (List each separately)
- _____ \$ _____
93. _____ \$ _____
94. Total permanent mortgage loan interest expense (in dollars) \$ _____
95. Sub-total Part IX-3 (add lines 84 & 88 thru 93) \$ _____

QUARTERLY REPORT OF REGULATIONS
 CLINICAL HEALTH SERVICES AND MAJOR MEDICAL EQUIPMENT
 OPERATING ON OR AFTER ~~JUNE 15, 1989~~
 (PURSUANT TO SECTIONS 32.1-102.3:4, PART 1 OF THE CODE)

REPORT PERIOD: _____
 REGISTRATION NO. VA-R _____

PLEASE PRINT LEGIBLY OR TYPE, AND USE BLACK INK.

1. BRIEFLY DESCRIBE CLINICAL HEALTH SERVICE OR MAJOR MEDICAL EQUIPMENT INCLUDING THE NAME OF THE EQUIPMENT MANUFACTURER, IF APPLICABLE: (if clinical health service involves beds, identify the number of beds. If more than one unit of affected major medical equipment of the same type is operating, indicate the number of units.)
- _____
- _____
- _____

2. IDENTIFY SITE OF AFFECTED CLINICAL HEALTH SERVICE OR MAJOR MEDICAL EQUIPMENT. (If mobile operation, identify name and location of all medical care facility and physician sites.)
- _____
- _____
- _____

RESPONSES TO QUESTIONS 3 THRU 9 SHOULD ONLY COVER THE QUARTERLY REPORTING PERIOD AND SHOULD APPLY ONLY TO AFFECTED CLINICAL HEALTH SERVICE OR MAJOR MEDICAL EQUIPMENT. ADDITIONALLY, WHEN APPLICABLE, PROVIDE RESPONSES ONLY WHEN DIFFERENT FROM LAST REPORTING PERIOD.

3. Average Number of Hours of Operation for clinical health service or major medical equipment per day: _____
- Scheduled Hours of Operation for clinical health service or major medical equipment per day: _____
- Days of Week operational: _____
4. Identify staffing requirements for operating clinical health service or major medical equipment for the following categories in terms of full time equivalent personnel: (FTE means at least 35 hours per week)

Physicians	R.N.s	L.P.N.s	Technicians	Other Clinical	All Other
_____	_____	_____	_____	_____	_____

5. IDENTIFY QUARTERLY REVENUE AND EXPENSES FOR OPERATING CLINICAL HEALTH SERVICE OR MAJOR MEDICAL EQUIPMENT IN TERMS OF THE FOLLOWING:

GROSS REVENUE: _____

Adjustments: _____

Net Revenue: _____

TOTAL EXPENSES: _____

Variable Expenses: _____

Fixed Expenses: _____

6. INDICATE NUMBER OF PATIENTS AND VISITS OR PROCEDURES FOR CLINICAL HEALTH SERVICE OR MAJOR MEDICAL EQUIPMENT FOR THE QUARTER

Patients _____

Visits _____

Procedures _____

7. IDENTIFY QUARTERLY BED UTILIZATION FOR OBSTETRICAL AND NEONATAL SPECIAL CARE UNITS ONLY:

of Beds _____

of Patient Days _____

% Occupancy _____

of Discharges _____

of Discharge Days _____

Average Length of Stay _____

8. FOR TRANSPLANTATION SERVICES, OBSTETRICAL AND NEONATAL SPECIAL CARE SERVICES, IDENTIFY THE NUMBER OF DEATHS BY AGE AND THE REASONS FOR DEATH WITHIN 48 HOURS, ONE WEEK AND 30 DAYS OF TREATMENT DURING THE QUARTERLY REPORT PERIOD.

9. FOR TRANSPLANTATION SERVICES, OBSTETRICAL AND NEONATAL SPECIAL CARE SERVICES, IDENTIFY THE NUMBER OF PATIENTS WHO EXPERIENCED COMPLICATIONS, ACCORDING TO AGE AND REASONS WITHIN 48 HOURS, ONE WEEK OR 30 DAYS OF TREATMENT DURING THE QUARTERLY REPORT PERIOD.

IF SERVICE OR EQUIPMENT OPERATING FOR 12 MONTHS OR MORE, COMPLETE ALSO PAGE 3 FOR THE INITIAL REPORT SUBMITTED IN 1991 ONLY. IF SERVICE OR EQUIPMENT HAS BEEN OPERATIONAL LESS THAN 12 MONTHS, SKIP PAGE 3.

OWNERS OF EACH AFFECTED CLINICAL HEALTH SERVICE OR MAJOR MEDICAL EQUIPMENT OPERATING 12 MONTHS OR MORE, SHOULD RESPOND TO THE FOLLOWING QUESTIONS. IN RESPONDING TO QUESTIONS, PROVIDE INFORMATION FOR THE TWO MOST RECENT YEARS OF OPERATION, IF AVAILABLE. DATA ARE TO BE PROVIDED FOR THE TIME PERIOD OF JULY 1 THROUGH JUNE 30. IF DATA ARE NOT AVAILABLE FOR THE ENTIRE 12 MONTHS PERIOD, IDENTIFY THE MONTHS INCLUDED. IF MORE THAN ONE UNIT OF AFFECTED MAJOR MEDICAL EQUIPMENT OF THE SAME TYPE IS OPERATING, INDICATE THE NUMBER OF UNITS.

	YEAR 1	YEAR 2
	REPORT PERIOD	REPORT PERIOD
	()	()
NUMBER OF MAJOR MEDICAL EQUIPMENT UNITS OF SAME TYPE IN OPERATION	_____	_____

1. IDENTIFY REVENUE AND EXPENSES FOR OPERATING CLINICAL HEALTH SERVICE OR MAJOR MEDICAL EQUIPMENT IN TERMS OF THE FOLLOWING:

	YEAR 1	YEAR 2
GROSS REVENUE:	_____	_____
Adjustments:	_____	_____
Net Revenue:	_____	_____
TOTAL EXPENSES:	_____	_____
Variable Expenses:	_____	_____
Fixed Expenses:	_____	_____

2. INDICATE NUMBER OF PATIENTS AND VISITS OR PROCEDURES FOR CLINICAL HEALTH SERVICE OR MAJOR MEDICAL EQUIPMENT

	YEAR 1	YEAR 2
Patients	_____	_____
Visits	_____	_____
Procedures	_____	_____

3. INDICATE BED UTILIZATION FOR OBSTETRICAL AND NEONATAL SPECIAL CARE UNITS ONLY:

	YEAR 1	YEAR 2
# of Beds	_____	_____
# of Patient Days	_____	_____
% Occupancy	_____	_____
# of Discharges	_____	_____
# of Discharge Days	_____	_____
Average Length of Stay	_____	_____

OTHER

- Estimated costs to complete quarterly report form _____
- Estimated man-hours to complete quarterly report form _____

ASSURANCES

I hereby assure and certify that:

-- The information included in this form is correct to the best of my knowledge and belief.

Signature of Authorizing Officer _____	Address _____
Type or Print Name of Authorizing Officer _____	
Title of Authorizing Officer _____	
Date _____	Telephone Number _____

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: State Plan for Medical Assistance Relating to Specialized Care Services.

VR 460-02-3.1300. Standards Established and Methods Used to Assure High Quality Care.

VR 460-02-4.1940. Methods and Standards for Establishing Payment Rates - Long-Term Care.

VR 460-03-4.1944. Class Resource Cost Assignment, Computation of Service Intensity Index and Ceiling and Rate Adjustments to the Prospective Direct Patient Care Operating Cost Rate - Allowance for Inflation Methodology Base "Current" Operating Rate (Appendix IV to Nursing Home Payment System).

Statutory Authority: § 32.1-325 of the Code of Virginia.

Effective Date: June 3, 1992.

Summary:

These amendments modify specialized care services reimbursement language in response to a federal requirement.

The sections of the State Plan for Medical Assistance which are affected by this proposed regulation are as follows: VR 460-02-3.1300, VR 460-02-4.1940 §f and VR 460-03-4.1944 Appendix IV of the Nursing Home Payment System.

The existing Plan language was determined by the Health Care Financing Administration (HCFA) to be unacceptable because it appeared that for specialized care services, DMAS negotiated rates with specific facilities on a case-by-case basis. HCFA requires that the Plan "describe comprehensively the methods and standards used to establish rates for services." HCFA determined that the Plan required amendment for conformance to these requirements. In addition, HCFA has required DMAS' assurance that the rates for these services are reasonable and adequate to meet the costs of efficiently and economically operated facilities.

DMAS has determined that clarifying existing policy rather than a policy change is indicated. Therefore, Attachment 3.13 C, Attachment 4.19 D §f and Appendix IV to the Supplement to Attachment 4.19 D have been modified to set forth more clearly the agency's current policies on reimbursing for specialized care services.

VR 460-02-3.1300. Standards Established and Methods Used to Assure High Quality of Care.

The following is a description of the standards and the methods that will be used to assure that the medical and remedial care and services are of high quality:

§ 1. Institutional care will be provided by facilities qualified to participate in Title XVIII and/or Title XIX.

§ 2. Utilization control.

A. Hospitals.

1. The Commonwealth of Virginia is required by state law to take affirmative action on all hospital stays that approach 15 days. It is a requirement that the hospitals submit to the Department of Medical Assistance Services complete information on all hospital stays where there is a need to exceed 15 days. The various documents which are submitted are reviewed by professional program staff, including a physician who determines if additional hospitalization is indicated. This review not only serves as a mechanism for approving additional days, but allows physicians on the Department of Medical Assistance Services' staff to evaluate patient documents and give the Program an insight into the quality of care by individual patient. In addition, hospital representatives of the Medical Assistance Program visit hospitals, review the minutes of the Utilization Review Committee, discuss patient care, and discharge planning.

2. In each case for which payment for inpatient hospital services, or inpatient mental hospital services is made under the State Plan:

a. A physician must certify at the time of admission, or if later, the time the individual applies for medical assistance under the State Plan that the individual requires inpatient hospital or mental hospital care.

b. The physician, or physician assistant under the supervision of a physician, must recertify, at least every 60 days, that patients continue to require inpatient hospital or mental hospital care.

c. Such services were furnished under a plan established and periodically reviewed and evaluated by a physician for inpatient hospital or mental hospital services.

B. Long-stay acute care hospitals (nonmental hospitals).

1. Services for adults in long-stay acute care hospitals. The population to be served includes individuals requiring mechanical ventilation, ongoing intravenous medication or nutrition administration, comprehensive rehabilitative therapy services and individuals with communicable diseases requiring universal or respiratory precautions.

a. Long-stay acute care hospital stays shall be preauthorized by the submission of a completed comprehensive assessment instrument, a physician certification of the need for long-stay acute care

Final Regulations

hospital placement, and any additional information that justifies the need for intensive services. Physician certification must accompany the request. Periods of care not authorized by DMAS shall not be approved for payment.

b. These individuals must have long-term health conditions requiring close medical supervision, the need for 24-hour licensed nursing care, and the need for specialized services or equipment needs.

c. At a minimum, these individuals must require physician visits at least once weekly, licensed nursing services 24 hours a day (a registered nurse whose sole responsibility is the designated unit must be on the nursing unit 24 hours a day on which the resident resides), and coordinated multidisciplinary team approach to meet needs that must include daily therapeutic leisure activities.

d. In addition, the individual must meet at least one of the following requirements:

(1) Must require two out of three of the following rehabilitative services: physical therapy, occupational therapy, speech-pathology services; each required therapy must be provided daily, five days per week, for a minimum of one hour each day; individual must demonstrate progress in overall rehabilitative plan of care on a monthly basis; or

(2) Must require special equipment such as mechanical ventilators, respiratory therapy equipment (that has to be supervised by a licensed nurse or respiratory therapist), monitoring device (respiratory or cardiac), kinetic therapy; or

(3) The individual must require at least one of the following special services:

(a) Ongoing administration of intravenous medications or nutrition (i.e. total parenteral nutrition (TPN), antibiotic therapy, narcotic administration, etc.);

(b) Special infection control precautions such as universal or respiratory precaution (this does not include handwashing precautions only);

(c) Dialysis treatment that is provided on-unit (i.e. peritoneal dialysis);

(d) Daily respiratory therapy treatments that must be provided by a licensed nurse or a respiratory therapist;

(e) Extensive wound care requiring debridement, irrigation, packing, etc., more than two times a day (i.e. grade IV decubiti; large surgical wounds that cannot be closed; second- or third-degree burns covering more than 10% of the body); or

(f) Ongoing management of multiple unstable ostomies (a single ostomy does not constitute a requirement for special care) requiring frequent care (i.e. suctioning every hour; stabilization of feeding; stabilization of elimination, etc.).

e. Utilization review shall be performed to determine if services are appropriately provided and to ensure that the services provided to Medicaid recipients are medically necessary and appropriate. Services not specifically documented in the individuals' medical records as having been rendered shall be deemed not to have been rendered and no coverage shall be provided.

f. When the individual no longer meets long-stay acute care hospital criteria or requires services that the facility is unable to provide, then the individual must be discharged.

2. Services to pediatric/adolescent patients in long-stay acute care hospitals. The population to be served shall include children requiring mechanical ventilation, ongoing intravenous medication or nutrition administration, daily dependence on device-based respiratory or nutritional support (tracheostomy, gastrostomy, etc.), comprehensive rehabilitative therapy services, and those children having communicable diseases requiring universal or respiratory precautions (excluding normal childhood diseases such as chicken pox, measles, strep throat, etc.) and with terminal illnesses.

a. Long-stay acute care hospital stays shall be preauthorized by the submission of a completed comprehensive assessment instrument, a physician certification of the need for long-stay acute care, and any additional information that justifies the need for intensive services. Periods of care not authorized by DMAS shall not be approved for payment.

b. The child must have ongoing health conditions requiring close medical supervision, the need for 24-hour licensed nursing supervision, and the need for specialized services or equipment. The recipient must be age 21 or under.

c. The child must minimally require physician visits at least once weekly, licensed nursing services 24 hours a day (a registered nurse whose sole responsibility is that nursing unit must be on the unit 24 hours a day on which the child is residing), and a coordinated multidisciplinary team approach to meet needs.

d. In addition, the child must meet one of the following requirements:

(1) Must require two out of three of the following physical rehabilitative services: physical therapy,

occupational therapy, speech-pathology services; each required therapy must be provided daily, five days per week, for a minimum of 45 minutes per day; child must demonstrate progress in overall rehabilitative plan of care on a monthly basis; or

(2) Must require special equipment such as mechanical ventilators, respiratory therapy equipment (that has to be supervised by licensed nurse or respiratory therapist), monitoring device (respiratory or cardiac), kinetic therapy, etc; or

(3) Must require at least one of the following special services:

(a) Ongoing administration of intravenous medications or nutrition (i.e. total parenteral nutrition (TPN), antibiotic therapy, narcotic administration, etc.);

(b) Special infection control precautions such as universal or respiratory precaution (this does not include handwashing precautions only or isolation for normal childhood diseases such as measles, chicken pox, strep throat, etc.);

(c) Dialysis treatment that is provided within the facility (i.e. peritoneal dialysis);

(d) Daily respiratory therapy treatments that must be provided by a licensed nurse or a respiratory therapist;

(e) Extensive wound care requiring debridement, irrigation, packing, etc. more than two times a day (i.e. grade IV decubiti; large surgical wounds that cannot be closed; second- or third-degree burns covering more than 10% of the body);

(f) Ostomy care requiring services by a licensed nurse;

(g) Services required for terminal care.

e. In addition, the long-stay acute care hospital must provide for the educational and habilitative needs of the child. These services must be age appropriate, must meet state educational requirements, and must be appropriate to the child's cognitive level. Services must also be individualized to meet the child's specific needs and must be provided in an organized manner that encourages the child's participation. Services may include, but are not limited to, school, active treatment for mental retardation, habilitative therapies, social skills, and leisure activities. Therapeutic leisure activities must be provided daily.

f. Utilization review shall be performed to determine if services are appropriately provided and to ensure that the services provided to Medicaid recipients are medically necessary and appropriate.

Services not specifically documented in the patient's medical record as having been rendered shall be deemed not to have been rendered and no coverage shall be provided.

g. When the resident no longer meets long-stay hospital criteria or requires services that the facility is unable to provide, the resident must be discharged.

C. Nursing facilities.

1. Long-term care of residents in nursing facilities will be provided in accordance with federal law using practices and procedures that are based on the resident's medical and social needs and requirements.

2. Nursing facilities must conduct initially and periodically a comprehensive, accurate, standardized, reproducible assessment of each resident's functional capacity. This assessment must be conducted no later than 14 days after the date of admission and promptly after a significant change in the resident's physical or mental condition. Each resident must be reviewed at least quarterly, and a complete assessment conducted at least annually.

3. The Department of Medical Assistance Services shall conduct at least annually a validation survey of the assessments completed by nursing facilities to determine that services provided to the residents are medically necessary and that needed services are provided. The survey will be composed of a sample of Medicaid residents and will include review of both current and closed medical records.

4. Nursing facilities must submit to the Department of Medical Assistance Services resident assessment information at least every six months for utilization review. If an assessment completed by the nursing facility does not reflect accurately a resident's capability to perform activities of daily living and significant impairments in functional capacity, then reimbursement to nursing facilities may be adjusted during the next quarter's reimbursement review. Any individual who willfully and knowingly certifies (or causes another individual to certify) a material and false statement in a resident assessment is subject to civil money penalties.

5. In order for reimbursement to be made to the nursing facility for a recipient's care, the recipient must meet nursing facility criteria as described in Supplement 1 to Attachment 3.1-C, Part 1 (Nursing Facility Criteria).

In order for reimbursement to be made to the nursing facility for a recipient requiring specialized care, the recipient must meet specialized care criteria as described in Supplement 1 to Attachment 3.1-C, Part 2 (Adult Specialized Care Criteria) or Part 3

Final Regulations

(Pediatric/Adolescent Specialized Care Criteria). Reimbursement for specialized care must be preauthorized by the Department of Medical Assistance Services. In addition, reimbursement to nursing facilities for residents requiring specialized care will only be made on a contractual basis. *Further specialized care services requirements are set forth below.*

In each case for which payment for nursing facility services is made under the State Plan, a physician must recommend at the time of admission or, if later, the time at which the individual applies for medical assistance under the State Plan that the individual requires nursing facility care.

6. For nursing facilities, a physician must approve a recommendation that an individual be admitted to a facility. The resident must be seen by a physician at least once every 30 days for the first 90 days after admission, and at least once every 90 days thereafter. At the option of the physician, required visits after the initial visit may alternate between personal visits by the physician and visits by a physician assistant or nurse practitioner.

7. When the resident no longer meets nursing facility criteria or requires services that the nursing facility is unable to provide, then the resident must be discharged.

8. Specialized care services.

a. Providers must be nursing facilities certified by the Division of Licensure and Certification, State Department of Health, and must have a current signed participation agreement with the Department of Medical Assistance Services to provide nursing facility care. Providers must agree to provide care to at least four residents who meet the specialized care criteria for children/adolescents or adults.

b. Providers must be able to provide the following specialized services to Medicaid specialized care recipients:

- (1) Physician visits at least once weekly;*
- (2) Skilled nursing services by a registered nurse available 24 hours a day;*
- (3) Coordinated multidisciplinary team approach to meet the needs of the resident;*
- (4) For residents under age 21, provision for the educational and habilitative needs of the child;*
- (5) For residents under age 21 who require two of three rehabilitative services (physical therapy, occupational therapy, or speech-language pathology services), therapy services must be provided at a*

minimum of six sessions each day, 15 minutes per session, five days per week;

(6) For residents over age 21 who require two of three rehabilitative services (physical therapy, occupational therapy, or speech-language pathology services), therapy services must be provided at a minimum of four sessions per day, 30 minutes per session, five days a week;

(7) Ancillary services related to a plan of care;

(8) Respiratory therapy services by a board-certified therapist (for ventilator patients, these services must be available 24 hours per day);

(9) Psychology services by a board-certified psychologist related to a plan of care;

(10) Necessary durable medical equipment and supplies as required by the plan of care;

(11) Nutritional elements as required;

(12) A plan to assure that specialized care residents have the same opportunity to participate in integrated nursing facility activities as other residents;

(13) Nonemergency transportation;

(14) Discharge planning;

(15) Family or caregiver training; and

(16) Infection control.

D. Facilities for the Mentally Retarded (FMR) and Institutions for Mental Disease (IMD).

1. With respect to each Medicaid-eligible resident in an FMR or IMD in Virginia, a written plan of care must be developed prior to admission to or authorization of benefits in such facility, and a regular program of independent professional review (including a medical evaluation) shall be completed periodically for such services. The purpose of the review is to determine: the adequacy of the services available to meet his current health needs and promote his maximum physical well being; the necessity and desirability of his continued placement in the facility; and the feasibility of meeting his health care needs through alternative institutional or noninstitutional services. Long-term care of residents in such facilities will be provided in accordance with federal law that is based on the resident's medical and social needs and requirements.

2. With respect to each intermediate care FMR or IMD, periodic on-site inspections of the care being provided to each person receiving medical assistance,

by one or more independent professional review teams (composed of a physician or registered nurse and other appropriate health and social service personnel), shall be conducted. The review shall include, with respect to each recipient, a determination of the adequacy of the services available to meet his current health needs and promote his maximum physical well-being, the necessity and desirability of continued placement in the facility, and the feasibility of meeting his health care needs through alternative institutional or noninstitutional services. Full reports shall be made to the state agency by the review team of the findings of each inspection, together with any recommendations.

3. In order for reimbursement to be made to a facility for the mentally retarded, the resident must meet criteria for placement in such facility as described in Supplement 1, Part 4, to Attachment 3.1-C and the facility must provide active treatment for mental retardation.

4. In each case for which payment for nursing facility services for the mentally retarded or institution for mental disease services is made under the State Plan:

a. A physician must certify for each applicant or recipient that inpatient care is needed in a facility for the mentally retarded or an institution for mental disease. The certification must be made at the time of admission or, if an individual applies for assistance while in the facility, before the Medicaid agency authorizes payment; and

b. A physician, or physician assistant or nurse practitioner acting within the scope of the practice as defined by state law and under the supervision of a physician, must recertify for each applicant at least every 365 days that services are needed in a facility for the mentally retarded or institution for mental disease.

5. When a resident no longer meets criteria for facilities for the mentally retarded or an institution for mental disease or no longer requires active treatment in a facility for the mentally retarded, then the resident must be discharged.

E. Home health services.

1. Home health services which meet the standards prescribed for participation under Title XVIII will be supplied.

2. Home health services shall be provided by a licensed home health agency on a part-time or intermittent basis to a homebound recipient in his place of residence. The place of residence shall not include a hospital or nursing facility. Home health services must be prescribed by a physician and be part of a written plan of care utilizing the Home

Health Certification and Plan of Treatment forms which the physician shall review at least every 62 days.

3. Except in limited circumstances described in subdivision 4 below, to be eligible for home health services, the patient must be essentially homebound. The patient does not have to be bedridden. Essentially homebound shall mean:

a. The patient is unable to leave home without the assistance of others or the use of special equipment;

b. The patient has a mental or emotional problem which is manifested in part by refusal to leave the home environment or is of such a nature that it would not be considered safe for him to leave home unattended;

c. The patient is ordered by the physician to restrict activity due to a weakened condition following surgery or heart disease of such severity that stress and physical activity must be avoided;

d. The patient has an active communicable disease and the physician quarantines the patient.

4. Under the following conditions, Medicaid will reimburse for home health services when a patient is not essentially homebound. When home health services are provided because of one of the following reasons, an explanation must be included on the Home Health Certification and Plan of Treatment forms:

a. When the combined cost of transportation and medical treatment exceeds the cost of a home health services visit;

b. When the patient cannot be depended upon to go to a physician or clinic for required treatment, and, as a result, the patient would in all probability have to be admitted to a hospital or nursing facility because of complications arising from the lack of treatment;

c. When the visits are for a type of instruction to the patient which can better be accomplished in the home setting;

d. When the duration of the treatment is such that rendering it outside the home is not practical.

5. Covered services. Any one of the following services may be offered as the sole home health service and shall not be contingent upon the provision of another service.

a. Nursing services,

b. Home health aide services,

Final Regulations

- c. Physical therapy services,
 - d. Occupational therapy services,
 - e. Speech-language pathology services, or
 - f. Medical supplies, equipment, and appliances suitable for use in the home.
6. General conditions. The following general conditions apply to reimbursable home health services.
- a. The patient must be under the care of a physician who is legally authorized to practice and who is acting within the scope of his or her license. The physician may be the patient's private physician or a physician on the staff of the home health agency or a physician working under an arrangement with the institution which is the patient's residence or, if the agency is hospital-based, a physician on the hospital or agency staff.
 - b. Services shall be furnished under a written plan of care and must be established and periodically reviewed by a physician. The requested services or items must be necessary to carry out the plan of care and must be related to the patient's condition. The written plan of care shall appear on the Home Health Certification and Plan of Treatment forms.
 - c. A physician recertification shall be required at intervals of at least once every 62 days, must be signed and dated by the physician who reviews the plan of care, and should be obtained when the plan of care is reviewed. The physician recertification statement must indicate the continuing need for services and should estimate how long home health services will be needed. Recertifications must appear on the Home Health Certification and Plan of Treatment forms.
 - d. The physician orders for therapy services shall include the specific procedures and modalities to be used, identify the specific discipline to carry out the plan of care, and indicate the frequency and duration for services.
 - e. The physician orders for durable medical equipment and supplies shall include the specific item identification including all modifications, the number of supplies needed monthly, and an estimate of how long the recipient will require the use of the equipment or supplies. All durable medical equipment or supplies requested must be directly related to the physician's plan of care and to the patient's condition.
 - f. A written physician's statement located in the medical record must certify that:
 - (1) The home health services are required because the individual is confined to his or her home (except when receiving outpatient services);
 - (2) The patient needs licensed nursing care, home health aide services, physical or occupational therapy, speech-language pathology services, or durable medical equipment and/or supplies;
 - (3) A plan for furnishing such services to the individual has been established and is periodically reviewed by a physician; and
 - (4) These services were furnished while the individual was under the care of a physician.
 - g. The plan of care shall contain at least the following information:
 - (1) Diagnosis and prognosis,
 - (2) Functional limitations,
 - (3) Orders for nursing or other therapeutic services,
 - (4) Orders for medical supplies and equipment, when applicable
 - (5) Orders for home health aide services, when applicable,
 - (6) Orders for medications and treatments, when applicable,
 - (7) Orders for special dietary or nutritional needs, when applicable, and
 - (8) Orders for medical tests, when applicable, including laboratory tests and x-rays
6. Utilization review shall be performed by DMAS to determine if services are appropriately provided and to ensure that the services provided to Medicaid recipients are medically necessary and appropriate. Services not specifically documented in patients' medical records as having been rendered shall be deemed not to have been rendered and no reimbursement shall be provided.
7. All services furnished by a home health agency, whether provided directly by the agency or under arrangements with others, must be performed by appropriately qualified personnel. The following criteria shall apply to the provision of home health services:
- a. Nursing services. Nursing services must be provided by a registered nurse or by a licensed practical nurse under the supervision of a graduate of an approved school of professional nursing and who is licensed as a registered nurse.

b. Home health aide services. Home health aides must meet the qualifications specified for home health aides by 42 CFR 484.36. Home health aide services may include assisting with personal hygiene, meal preparation and feeding, walking, and taking and recording blood pressure, pulse, and respiration. Home health aide services must be provided under the general supervision of a registered nurse. A recipient may not receive duplicative home health aide and personal care aide services.

c. Rehabilitation services. Services shall be specific and provide effective treatment for patients' conditions in accordance with accepted standards of medical practice. The amount, frequency, and duration of the services shall be reasonable. Rehabilitative services shall be provided with the expectation, based on the assessment made by physicians of patients' rehabilitation potential, that the condition of patients will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with the specific diagnosis.

(1) Physical therapy services shall be directly and specifically related to an active written care plan designed by a physician after any needed consultation with a physical therapist licensed by the Board of Medicine. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by a physical therapist licensed by the Board of Medicine, or a physical therapy assistant who is licensed by the Board of Medicine and is under the direct supervision of a physical therapist licensed by the Board of Medicine. When physical therapy services are provided by a qualified physical therapy assistant, such services shall be provided under the supervision of a qualified physical therapist who makes an onsite supervisory visit at least once every 30 days. This visit shall not be reimbursable.

(2) Occupational therapy services shall be directly and specifically related to an active written care plan designed by a physician after any needed consultation with an occupational therapist registered and certified by the American Occupational Therapy Certification Board. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by an occupational therapist registered and certified by the American Occupational Therapy Certification Board, or an occupational therapy assistant who is certified by the American Occupational Therapy Certification Board under the direct supervision of an occupational therapist as defined above. When occupational therapy services are provided by a qualified occupational therapy assistant, such

services shall be provided under the supervision of a qualified occupational therapist who makes an onsite supervisory visit at least once every 30 days. This visit shall not be reimbursable.

(3) Speech-language pathology services shall be directly and specifically related to an active written care plan designed by a physician after any needed consultation with a speech-language pathologist licensed by the Board of Audiology and Speech Pathology. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by a speech-language pathologist licensed by the Board of Audiology and Speech Pathology.

d. Durable medical equipment and supplies. Durable medical equipment, supplies, or appliances must be ordered by the physician, be related to the needs of the patient, and included on the plan of care. Treatment supplies used for treatment during the visit are included in the visit rate. Treatment supplies left in the home to maintain treatment after the visits shall be charged separately.

e. A visit shall be defined as the duration of time that a nurse, home health aide, or rehabilitation therapist is with a client to provide services prescribed by a physician and that are covered home health services. Visits shall not be defined in measurements or increments of time.

F. Optometrists' services are limited to examinations (refractions) after preauthorization by the state agency except for eyeglasses as a result of an Early and Periodic Screening, Diagnosis, and Treatment (EPSDT).

G. In the broad category of Special Services which includes nonemergency transportation, all such services for recipients will require preauthorization by a local health department.

H. Standards in other specialized high quality programs such as the program of Crippled Children's Services will be incorporated as appropriate.

I. Provisions will be made for obtaining recommended medical care and services regardless of geographic boundaries.

* * *

PART I.

INTENSIVE PHYSICAL REHABILITATIVE SERVICES.

§ 1.1. A patient qualifies for intensive inpatient or outpatient rehabilitation if:

A. Adequate treatment of his medical condition requires an intensive rehabilitation program consisting of a

Final Regulations

multi-disciplinary coordinated team approach to improve his ability to function as independently as possible; and

B. It has been established that the rehabilitation program cannot be safely and adequately carried out in a less intense setting.

§ 1.2. In addition to the initial disability requirement, participants shall meet the following criteria:

A. Require at least two of the listed therapies in addition to rehabilitative nursing:

1. Occupational Therapy
2. Physical Therapy
3. Cognitive Rehabilitation
4. Speech-Language Therapy

B. Medical condition stable and compatible with an active rehabilitation program.

PART II. INPATIENT ADMISSION AUTHORIZATION.

§ 2.1. Within 72 hours of a patient's admission to an intensive rehabilitation program, or within 72 hours of notification to the facility of the patient's Medicaid eligibility, the facility shall notify the Department of Medical Assistance Services in writing of the patient's admission. This notification shall include a description of the admitting diagnoses, plan of treatment, expected progress and a physician's certification that the patient meets the admission criteria. The Department of Medical Assistance Services will make a determination as to the appropriateness of the admission for Medicaid payment and notify the facility of its decision. If payment is approved, the Department will establish and notify the facility of an approved length of stay. Additional lengths of stay shall be requested in writing and approved by the Department. Admissions or lengths of stay not authorized by the Department of Medical Assistance Services will not be approved for payment.

PART III. DOCUMENTATION REQUIREMENTS.

§ 3.1. Documentation of rehabilitation services shall, at a minimum:

A. Describe the clinical signs and symptoms of the patient necessitating admission to the rehabilitation program;

B. Describe any prior treatment and attempts to rehabilitate the patient;

C. Document an accurate and complete chronological picture of the patient's clinical course and progress in

treatment;

D. Document that a multi-disciplinary coordinated treatment plan specifically designed for the patient has been developed;

E. Document in detail all treatment rendered to the patient in accordance with the plan with specific attention to frequency, duration, modality, response to treatment, and identify who provided such treatment;

F. Document each change in each of the patient's conditions;

G. Describe responses to and the outcome of treatment; and

H. Describe a discharge plan which includes the anticipated improvements in functional levels, the time frames necessary to meet these goals, and the patient's discharge destination.

§ 3.2. Services not specifically documented in the patient's medical record as having been rendered will be deemed not to have been rendered and no reimbursement will be provided.

PART IV. INPATIENT REHABILITATION EVALUATION.

§ 4.1. For a patient with a potential for physical rehabilitation for which an outpatient assessment cannot be adequately performed, an intensive evaluation of no more than seven calendar days will be allowed. A comprehensive assessment will be made of the patient's medical condition, functional limitations, prognosis, possible need for corrective surgery, attitude toward rehabilitation, and the existence of any social problems affecting rehabilitation. After these assessments have been made, the physician, in consultation with the rehabilitation team, shall determine and justify the level of care required to achieve the stated goals.

§ 4.2. If during a previous hospital stay an individual completed a rehabilitation program for essentially the same condition for which inpatient hospital care is now being considered, reimbursement for the evaluation will not be covered unless there is a justifiable intervening circumstance which necessitates a re-evaluation.

§ 4.3. Admissions for evaluation and/or training for solely vocational or educational purposes or for developmental or behavioral assessments are not covered services.

PART V. CONTINUING EVALUATION.

§ 5.1. Team conferences shall be held as needed but at least every two weeks to assess and document the patient's progress or problems impeding progress. The team shall periodically assess the validity of the rehabilitation goals

established at the time of the initial evaluation, and make appropriate adjustments in the rehabilitation goals and the prescribed treatment program. A review by the various team members of each others' notes does not constitute a team conference. A summary of the conferences, noting the team members present, shall be recorded in the clinical record and reflect the reassessments of the various contributors.

§ 5.2. Rehabilitation care is to be terminated, regardless of the approved length of stay, when further progress toward the established rehabilitation goal is unlikely or further rehabilitation can be achieved in a less intensive setting.

§ 5.3. Utilization review shall be performed to determine if services are appropriately provided and to ensure that the services provided to Medicaid recipients are medically necessary and appropriate. Services not specifically documented in the patient's medical record as having been rendered shall be deemed not to have been rendered and no reimbursement shall be provided.

PART VI. THERAPEUTIC FURLOUGH DAYS.

§ 6.1. Properly documented medical reasons for furlough may be included as part of an overall rehabilitation program. Unoccupied beds (or days) resulting from an overnight therapeutic furlough will not be reimbursed by the Department of Medical Assistance Services.

PART VII. DISCHARGE PLANNING.

§ 7.1. Discharge planning shall be an integral part of the overall treatment plan which is developed at the time of admission to the program. The plan shall identify the anticipated improvements in functional abilities and the probable discharge destination. The patient, unless unable to do so, or the responsible party shall participate in the discharge planning. Notations concerning changes in the discharge plan shall be entered into the record at least every two weeks, as a part of the team conference.

PART VIII. REHABILITATION SERVICES TO PATIENTS.

§ 8.1. Rehabilitation services are medically prescribed treatment for improving or restoring functions which have been impaired by illness or injury or, where function has been permanently lost or reduced by illness or injury, to improve the individual's ability to perform those tasks required for independent functioning. The rules pertaining to them are:

A. Rehabilitative nursing.

Rehabilitative nursing requires education, training, or experience that provides special knowledge and clinical skills to diagnose nursing needs and treat individuals who have health problems characterized by alteration in

cognitive and functional ability.

Rehabilitative nursing are those services furnished a patient which meet all of the following conditions:

1. The services shall be directly and specifically related to an active written treatment plan approved by a physician after any needed consultation with a registered nurse who is experienced in rehabilitation;
2. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by a registered nurse or licensed professional nurse, nursing assistant, or rehabilitation technician under the direct supervision of a registered nurse who is experienced in rehabilitation;
3. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis; and
4. The service shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice and include the intensity of rehabilitative nursing services which can only be provided in an intensive rehabilitation setting.

B. Physical therapy.

Physical therapy services are those services furnished a patient which meet all of the following conditions:

1. The services shall be directly and specifically related to an active written treatment plan designed by a physician after any needed consultation with a physical therapist licensed by the Board of Medicine;
2. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by a physical therapist licensed by the Board of Medicine, or a physical therapy assistant who is licensed by the Board of Medicine and under the direct supervision of a qualified physical therapist licensed by the Board of Medicine;
3. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis; and

Final Regulations

4. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice; this includes the requirement that the amount, frequency and duration of the services shall be reasonable.

C. Occupational therapy.

Occupational therapy services are those services furnished a patient which meet all of the following conditions:

1. The services shall be directly and specifically related to an active written treatment plan designed by the physician after any needed consultation with an occupational therapist registered and certified by the American Occupational Therapy Certification Board;

2. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature, that the services can only be performed by an occupational therapist registered and certified by the American Occupational Therapy Certification Board or an occupational therapy assistant certified by the American Occupational Therapy Certification Board under the direct supervision of a qualified occupational therapist as defined above;

3. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis; and

4. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice; this includes the requirement that the amount, frequency and duration of the services shall be reasonable.

D. Speech-Language therapy.

Speech-Language therapy services are those services furnished a patient which meet all of the following conditions:

1. The services shall be directly and specifically related to an active written treatment plan designed by a physician after any needed consultation with a speech-language pathologist licensed by the Board of Audiology and Speech Pathology;

2. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by a speech-language pathologist licensed by the Board of Audiology and Speech Pathology;

3. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis; and

4. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice; this includes the requirement that the amount, frequency and duration of the services shall be reasonable.

E. Cognitive rehabilitation.

Cognitive rehabilitation services are those services furnished a patient which meet all of the following conditions:

1. The services shall be directly and specifically related to an active written treatment plan designed by the physician after any needed consultation with a clinical psychologist experienced in working with the neurologically impaired and licensed by the Board of Medicine;

2. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature, that the services can only be rendered after a neuropsychological evaluation administered by a clinical psychologist or physician experienced in the administration of neuropsychological assessments and licensed by the Board of Medicine and in accordance with a plan of care based on the findings of the neuropsychological evaluation;

3. Cognitive rehabilitation therapy services may be provided by occupational therapists, speech-language pathologists, and psychologists who have experience in working with the neurologically impaired when provided under a plan recommended and coordinated by a physician or clinical psychologist licensed by the Board of Medicine;

4. The cognitive rehabilitation services shall be an integrated part of the total patient care plan and shall relate to information processing deficits which are a consequence of and related to a neurologic event;

5. The services include activities to improve a variety of cognitive functions such as orientation, attention/concentration, reasoning, memory, discrimination and behavior; and

6. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be

necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis.

F. Psychology.

Psychology services are those services furnished a patient which meet all of the following conditions:

1. The services shall be directly and specifically related to an active written treatment plan ordered by a physician;
2. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by a qualified psychologist as required by state law;
3. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis; and
4. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice; this includes the requirement that the amount, frequency and duration of the services shall be reasonable.

G. Social work.

Social work services are those services furnished a patient which meet all of the following conditions:

1. The services shall be directly and specifically related to an active written treatment plan ordered by a physician;
2. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by a qualified social worker as required by state law;
3. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis; and
4. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of practice; this includes the requirement that the amount, frequency and duration of the services shall be reasonable.

H. Recreational therapy.

Recreational therapy are those services furnished a patient which meet all of the following conditions:

1. The services shall be directly and specifically related to an active written treatment plan ordered by a physician;
2. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services are performed as an integrated part of a comprehensive rehabilitation plan of care by a recreation therapist certified with the National Council for Therapeutic Recreation at the professional level;
3. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis; and
4. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of practice; this includes the requirement that the amount, frequency and duration of the services shall be reasonable.

I. Prosthetic/orthotic services.

1. Prosthetic services furnished to a patient include prosthetic devices that replace all or part of an external body member, and services necessary to design the device, including measuring, fitting, and instructing the patient in its use;
2. Orthotic device services furnished to a patient include orthotic devices that support or align extremities to prevent or correct deformities, or to improve functioning, and services necessary to design the device, including measuring, fitting and instructing the patient in its use; and
3. Maxillofacial prosthetic and related dental services are those services that are specifically related to the improvement of oral function not to include routine oral and dental care.
4. The services shall be directly and specifically related to an active written treatment plan approved by a physician after consultation with a prosthetist, orthotist, or a licensed, board eligible prosthodontist, certified in Maxillofacial prosthetics.
5. The services shall be provided with the expectation, based on the assessment made by physician of the patient's rehabilitation potential, that the condition of

Final Regulations

the patient will improve significantly in a reasonable and predictable period of time, or shall be necessary to establish an improved functional state of maintenance.

6. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical and dental practice; this includes the requirement that the amount, frequency, and duration of the services be reasonable.

J. Durable medical equipment.

1. Durable medical equipment furnished the patient receiving approved covered rehabilitation services is covered when the equipment is necessary to carry out an approved plan of rehabilitation. A rehabilitation hospital or a rehabilitation unit of a hospital enrolled with Medicaid under a separate provider agreement for rehabilitative services may supply the durable medical equipment. The provision of the equipment is to be billed as an outpatient service. Medically necessary medical supplies, equipment and appliances shall be covered. Unusual amounts, types, and duration of usage must be authorized by DMAS in accordance with published policies and procedures. When determined to be cost-effective by DMAS, payment may be made for rental of the equipment in lieu of purchase. Payment shall not be made for additional equipment or supplies unless the extended provision of services has been authorized by DMAS. All durable medical equipment is subject to justification of need. Durable medical equipment normally supplied by the hospital for inpatient care is not covered by this provision.

2. Supplies, equipment, or appliances that are not covered for recipients of intensive physical rehabilitative services include, but are not limited to, the following:

a. Space conditioning equipment, such as room humidifiers, air cleaners, and air conditioners;

b. Durable medical equipment and supplies for any hospital or nursing facility resident, except ventilators and associated supplies for nursing facility residents that have been approved by DMAS central office;

c. Furniture or appliance not defined as medical equipment (such as blenders, bedside tables, mattresses other than for a hospital bed, pillows, blankets or other bedding, special reading lamps, chairs with special lift seats, hand-held shower devices, exercise bicycles, and bathroom scales);

d. Items that are only for the recipient's comfort and convenience or for the convenience of those caring for the recipient (e.g., a hospital bed or

mattress because the recipient does not have a decent bed; wheelchair trays used as a desk surface; mobility items used in addition to primary assistive mobility aide for caregiver's or recipient's convenience, for example, an electric wheelchair plus a manual chair; cleansing wipes);

e. Items and services which are not reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member (for example, over-the-counter drugs; dentifrices; toilet articles; shampoos which do not require a physician's prescription; dental adhesives; electric toothbrushes; cosmetic items, soaps, and lotions which do not require a physician's prescription; sugar and salt substitutes; support stockings; and non-legend drugs);

f. Home or vehicle modifications;

g. Items not suitable for or used primarily in the home setting (i.e., but not limited to, car seats, equipment to be used while at school);

h. Equipment that the primary function is vocationally or educationally related (i.e., but not limited to, computers, environmental control devices, speech devices) environmental control devices, speech devices).

PART IX. HOSPICE SERVICES.

§ 9.1. Admission criteria.

To be eligible for hospice coverage under Medicare or Medicaid, the and elect to receive hospice services rather than active treatment for the illness. Both the attending physician (if the individual has an attending physician) and the hospice medical director must certify the life expectancy.

§ 9.2. Utilization review.

Authorization for hospice services requires an initial preauthorization by DMAS and physician certification of life expectancy. Utilization review will be conducted to determine if services were provided by the appropriate provider and to ensure that the services provided to Medicaid recipients are medically necessary and appropriate. Services not specifically documented in the patients' medical records as having been rendered shall be deemed not to have been rendered and no coverage shall be provided.

§ 9.3. Hospice services are a medically directed, interdisciplinary program of palliative services for terminally ill people and their families, emphasizing pain and symptom control. The rules pertaining to them are:

1. Nursing care. Nursing care must be provided by a registered nurse or by a licensed practical nurse under the supervision of a graduate of an approved school of professional nursing and who is licensed as a registered nurse.

2. Medical social services. Medical social services must be provided by a social worker who has at least a bachelor's degree from a school accredited or approved by the Council on Social Work Education, and who is working under the direction of a physician.

3. Physician services. Physician services must be performed by a professional who is licensed to practice, who is acting within the scope of his license, and who is a doctor of medicine or osteopathy, a doctor of dental surgery or dental medicine, a doctor of podiatric medicine, a doctor of optometry, or a chiropractor. The hospice medical director or the physician member of the interdisciplinary team must be a licensed doctor of medicine or osteopathy.

4. Counseling services. Counseling services must be provided to the terminally ill individual and the family members or other persons caring for the individual at home. Counseling, including dietary counseling, may be provided both for the purpose of training the individual's family or other caregiver to provide care, and for the purpose of helping the individual and those caring for him to adjust to the individual's approaching death. Bereavement counseling consists of counseling services provided to the individual's family up to one year after the individual's death. Bereavement counseling is a required hospice service, but it is not reimbursable.

5. Short-term inpatient care. Short-term inpatient care may be provided in a participating hospice inpatient unit, or a participating hospital or nursing facility. General inpatient care may be required for procedures necessary for pain control or acute or chronic symptom management which cannot be provided in other settings. Inpatient care may also be furnished to provide respite for the individual's family or other persons caring for the individual at home.

6. Durable medical equipment and supplies. Durable medical equipment as well as other self-help and personal comfort items related to the palliation or management of the patient's terminal illness is covered. Medical supplies include those that are part of the written plan of care.

7. Drugs and biologicals. Only drugs which are used primarily for the relief of pain and symptom control related to the individual's terminal illness are covered.

8. Home health aide and homemaker services. Home health aides providing services to hospice recipients must meet the qualifications specified for home health

aides by 42 CFR 484.36. Home health aides may provide personal care services. Aides may also perform household services to maintain a safe and sanitary environment in areas of the home used by the patient, such as changing the bed or light cleaning and laundering essential to the comfort and cleanliness of the patient. Homemaker services may include assistance in personal care, maintenance of a safe and healthy environment and services to enable the individual to carry out the plan of care. Home health aide and homemaker services must be provided under the general supervision of a registered nurse.

9. Rehabilitation services. Rehabilitation services include physical and occupational therapies and speech-language pathology services that are used for purposes of symptom control or to enable the individual to maintain activities of daily living and basic functional skills.

§ 10. RESERVED for Community Mental Health Services.

PART XI. GENERAL OUTPATIENT PHYSICAL REHABILITATION SERVICES.

§ 11.1. Scope.

A. Medicaid covers general outpatient physical rehabilitative services provided in outpatient settings of acute and rehabilitation hospitals and by rehabilitation agencies which have a provider agreement with the Department of Medical Assistance Services (DMAS).

B. Outpatient rehabilitative services shall be prescribed by a physician and be part of a written plan of care.

§ 11.2. Covered outpatient rehabilitative services.

Covered outpatient rehabilitative services shall include physical therapy, occupational therapy, and speech-language pathology services. Any one of these services may be offered as the sole rehabilitative service and shall not be contingent upon the provision of another service.

§ 11.3. Eligibility criteria for outpatient rehabilitative services.

To be eligible for general outpatient rehabilitative services, the patient must require at least one of the following services: physical therapy, occupational therapy, speech-language pathology services, and respiratory therapy. All rehabilitative services must be prescribed by a physician.

§ 11.4. Criteria for the provision of outpatient rehabilitative services.

All practitioners and providers of services shall be required to meet state and federal licensing and/or

Final Regulations

certification requirements.

A. Physical therapy services meeting all of the following conditions shall be furnished to patients:

1. Physical therapy services shall be directly and specifically related to an active written care plan designed by a physician after any needed consultation with a physical therapist licensed by the Board of Medicine.

2. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by a physical therapist licensed by the Board of Medicine, or a physical therapy assistant who is licensed by the Board of Medicine and is under the direct supervision of a physical therapist licensed by the Board of Medicine. When physical therapy services are provided by a qualified physical therapy assistant, such services shall be provided under the supervision of a qualified physical therapist who makes an onsite supervisory visit at least once every 30 days. This visit shall not be reimbursable.

3. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice; this includes the requirement that the amount, frequency, and duration of the services shall be reasonable.

B. Occupational therapy services shall be those services furnished a patient which meet all of the following conditions:

1. Occupational therapy services shall be directly and specifically related to an active written care plan designed by a physician after any needed consultation with an occupational therapist registered and certified by the American Occupational Therapy Certification Board.

2. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by an occupational therapist registered and certified by the American Occupational Therapy Certification Board, a graduate of a program approved by the Council on Medical Education of the American Medical Association and engaged in the supplemental clinical experience required before registration by the American Occupational Therapy Association when under the supervision of an occupational therapist defined above, or an occupational therapy assistant who is certified by the American Occupational Therapy Certification Board under the direct supervision of an occupational therapist as defined above. When occupational therapy services are provided by a qualified occupational therapy assistant or a graduate engaged in supplemental clinical experience required before registration, such services

shall be provided under the supervision of a qualified occupational therapist who makes an onsite supervisory visit at least once every 30 days. This visit shall not be reimbursable.

3. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice; this includes the requirement that the amount, frequency, and duration of the services shall be reasonable.

C. Speech-language pathology services shall be those services furnished a patient which meet all of the following conditions:

1. The services shall be directly and specifically related to an active written treatment plan designed by a physician after any needed consultation with a speech-language pathologist licensed by the Board of Audiology and Speech Pathology, or, if exempted from licensure by statute, meeting the requirements in 42 CFR 440.110(c);

2. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by or under the direction of a speech-language pathologist who meets the qualifications in Subdivision B1 above. The program must meet the requirements of 42 CFR 405.1719(c). At least one qualified speech-language pathologist must be present at all times when speech-language pathology services are rendered; and

3. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice; this includes the requirement that the amount, frequency, and duration of the services shall be reasonable.

§ 11.5. Authorization for services.

A. General physical rehabilitative services provided in outpatient settings of acute and rehabilitation hospitals and by rehabilitation agencies shall include authorization for up to 24 visits by each ordered rehabilitative service within a 60-day period. A recipient may receive a maximum of 48 visits annually without authorization. The provider shall maintain documentation to justify the need for services. A visit shall be defined as the duration of time that a rehabilitative therapist is with a client to provide services prescribed by the physician. Visits shall not be defined in measurements or increments of time.

B. The provider shall request from DMAS authorization for treatments deemed necessary by a physician beyond the number authorized by using the Rehabilitation Treatment Authorization form (DMAS-125). This request must be signed and dated by a physician. Authorization for extended services shall be based on individual need. Payment shall not be made for additional service unless

the extended provision of services has been authorized by DMAS. Periods of care beyond those allowed which have not been authorized by DMAS shall not be approved for payment.

§ 11.6. Documentation requirements.

A. Documentation of general outpatient rehabilitative services provided by a hospital-based outpatient setting or a rehabilitation agency shall, at a minimum:

1. describe the clinical signs and symptoms of the patient's condition;
2. include an accurate and complete chronological picture of the patient's clinical course and treatments;
3. document that a plan of care specifically designed for the patient has been developed based upon a comprehensive assessment of the patient's needs;
4. include a copy of the physician's orders and plan of care;
5. include all treatment rendered to the patient in accordance with the plan with specific attention to frequency, duration, modality, response, and identify who provided care (include full name and title);
6. describe changes in each patient's condition and response to the rehabilitative treatment plan; and
7. describe a discharge plan which includes the anticipated improvements in functional levels, the time frames necessary to meet these goals, and the patient's discharge destination.

B. Services not specifically documented in the patient's medical record as having been rendered shall be deemed not to have been rendered and no coverage shall be provided.

§ 11.7. Service limitations.

The following general conditions shall apply to reimbursable physical rehabilitative services:

A. Patient must be under the care of a physician who is legally authorized to practice and who is acting within the scope of his license.

B. Services shall be furnished under a written plan of treatment and must be established and periodically reviewed by a physician. The requested services or items must be necessary to carry out the plan of treatment and must be related to the patient's condition.

C. A physician recertification shall be required periodically, must be signed and dated by the physician who reviews the plan of treatment, and may be obtained when the plan of treatment is reviewed. The physician

recertification statement must indicate the continuing need for services and should estimate how long rehabilitative services will be needed.

D. The physician orders for therapy services shall include the specific procedures and modalities to be used, identify the specific discipline to carry out the plan of care, and indicate the frequency and duration for services.

E. Utilization review shall be performed to determine if services are appropriately provided and to ensure that the services provided to Medicaid recipients are medically necessary and appropriate. Services not specifically documented in the patient's medical record as having been rendered shall be deemed not to have been rendered and no coverage shall be provided.

F. Rehabilitation care is to be terminated regardless of the approved length of stay when further progress toward the established rehabilitation goal is unlikely or when the services can be provided.

VR 460-02-4.1940. Methods and Standards for Establishing Payment Rates - Long-Term Care.

The policy and the method to be used in establishing payment rates for nursing facilities listed in § 1905(a) of the Social Security Act and included in this State Plan for Medical Assistance are described in the following paragraphs.

a. Reimbursement and payment criteria will be established which are designed to enlist participation of a sufficient number of providers of services in the Program so that eligible persons can receive the medical care and services included in the Plan to the extent these are available to the general population.

b. Participation in the Program will be limited to providers of services who accept, as payment in full, the amounts so paid.

c. Payment for care of service will not exceed the amounts indicated to be reimbursed in accord with the policy and the methods described in the Plan and payments will not be made in excess of the upper limits described in 42 CFR 447.253(b)(2). The state agency has continuing access to data identifying the maximum charges allowed. Such data will be made available to the Secretary, HHS, upon request.

d. Payments for services to nursing facilities shall be on the basis of reasonable cost in accordance with the standards and principles set forth in 42 CFR 447.252 as follows:

(1) A uniform annual cost report which itemizes allowable cost will be required to be filed within 90 days of each provider's fiscal year end.

(2) The determination of allowable costs will be in

Final Regulations

accordance with Medicare principles as established in the Provider Reimbursement Manual (PRM-15) except where otherwise noted in this Plan.

(3) Field audits will be conducted on the cost data submitted by the provider to verify the accuracy and reasonableness of such data. Audits will be conducted for each facility on a periodic basis as determined from internal desk audits and more often as required. Audit procedures are in conformance with SSA standards set forth in PRM-13-2. Internal desk audits are conducted annually within six months of receipt of a completed cost report from the provider.

(4) Reports of field audits are retained by the state agency for at least three years following submission of the report.

(5) (Reserved.)

(6) Facilities are paid on a cost-related basis in accordance with the methodology described in the Plan.

(7) Modifications to the Plan for reimbursement will be submitted as Plan amendments.

(8) Covered cost will include such items as:

(a) Cost of meeting certification standards.

(b) Routine services which include items expense providers normally incur in the provision of services.

(c) The cost of such services provided by related organizations except as modified in the payment system supplement 4.19-D.

(9) Bad debts, charity and courtesy allowances shall be excluded from allowable cost.

(10) Effective for facility cost reporting periods beginning on or after October 1, 1978, the reimbursable amount will be determined prospectively on a facility by facility basis, except that mental institutions and mental retardation facilities shall continue to be reimbursed retrospectively. The prospective rate will be based on the prior period's actual cost (as determined by an annual cost report and verified by audit as set forth in section d(3) above) plus an inflation factor. Payments will be made to facilities no less than monthly.

(11) The payment level calculated by the prospective rate will be adequate to reimburse in full such actual allowable costs that an economically and efficiently operated facility must incur. In addition, an incentive plan will be established as described in the payment system supplement 4.19-D.

(12) Upper limits for payment within the prospective payment system shall be as follows:

(a) Allowable cost shall be determined in accordance with Medicare principles as defined in PRM-15, except as may be modified in this Plan.

(b) Reimbursement for operating costs will be limited to regional ceilings.

(c) Reimbursement, in no instance, will exceed the charges for private patients receiving the same services. In accordance with § 1903(a)(2)(B) of the Social Security Act, nursing facility costs incurred in relation to training and competency evaluation of nurse aides will be considered as state administrative expenses and, as such, shall be exempted from this provision.

(13) In accordance with 42 CFR 447.205, an opportunity for public comment was permitted before final implementation of rate setting processes.

(14) A detailed description of the prospective reimbursement formula is attached for supporting detail.

(15) Item 398D of the 1987 Appropriation Act (as amended), effective April 8, 1987, eliminated reimbursement of return on equity capital to proprietary providers.

e. Reimbursement of nonenrolled long-term care facilities.

(1) Nonenrolled providers of institutional long-term care services shall be reimbursed based upon the average per diem cost, updated annually, reimbursed to enrolled nursing facility providers.

(2) Prior approval must be received from the DMAS for recipients to receive institutional services from nonenrolled long-term care facilities. Prior approval can only be granted:

(a) When the nonenrolled long-term care facility with an available bed is closer to the recipient's Virginia residence than the closest facility located in Virginia with an available bed, or

(b) When long-term care special services, such as intensive rehabilitation services, are not available in Virginia, or

(c) If there are no available beds in Virginia facilities.

~~(3) Nothing in this regulation is intended to preclude DMAS from reimbursing for special services, such as rehabilitation, ventilator, and transplantation, on an exception basis and reimbursing for these services on~~

an individually, negotiated rate basis.

f. Specialized care services.

Nothing in this regulation is intended to preclude DMAS from reimbursing for specialized care services, such as rehabilitation, transplantation, ventilator dependent, and AIDS services. Specialized care services shall be provided to patients requiring, but not necessarily limited to, rehabilitation, complex healthcare, transplantation, ventilator dependent and AIDS services.

(1) Reimbursement for rehabilitation, complex healthcare, and ventilator dependent services shall be determined by using as the base period allowable per diem rate the FY 1991 average per diem rate of hospitals which are providing rehabilitation services, averaged with the per diem bids of nursing facilities proposing to provide such services and obtained during the same time period.

(2) Reimbursement for services to individuals with AIDS shall be determined by using as the base period allowable per diem rate the FY 1991 average Class C PIRS rate plus the estimated cost of additional services uniquely necessary to the care of AIDS patients. These additional services are nursing services, nonnutritional supplies required for the care of AIDS patients, psychological services, and nutritional elements.

(3) The allowance for inflation for specialized care services rates shall be that in § 2.7 B of the Nursing Home Payment System.

VR 460-03-4.1944. Class Resource Cost Assignment, Computation of Service Intensity Index and Ceiling and Rate Adjustments to the Prospective Direct Patient Care Operating Cost Rate—Allowance for Inflation Methodology Base “Current” Operating Rate.

§ 1. Effective October 1, 1990, the Virginia Medicaid Program reimbursement system for nursing facilities is the Patient Intensity Rating System.

§ 2. Patient Intensity Rating System (PIRS).

A. PIRS is a patient-based reimbursement system which links a facility's per diem rate to the level of services required by its patient mix. This methodology uses classes that group patients together based on similar functional characteristics and service needs.

B. PIRS recognizes four classes of patients:

1. Class A—Routine I: Patients are classified by their functioning status. Routine I classification includes care for patients with a 0 to 6 Activity of Daily Living (ADL) impairment score.
2. Class B—Routine II: Patients are classified by their

functioning status. Routine II classification includes care for patients with moderate or greater ADL impairment. A moderate or greater ADL score ranges from 7 to 12.

3. Class C—Heavy Care: Patients are classified by their high impairment score on functioning status and the need for specialized nursing care. These patients have an ADL impairment score of 9 or more and one or more of the following:

- a. Wound/lesions requiring daily care;
- b. Nutritional deficiencies leading to specialized feeding;
- c. Paralysis or paresis and benefiting from rehabilitation; or
- d. Quadriplegia/paresis, bilateral hemiplegia/paresis, multiple sclerosis.

4. ~~Special~~ Specialized care: This class includes patients who have needs that are so intensive or nontraditional that they cannot be adequately captured by a patient intensity rating system, e.g., ventilator dependent or AIDS patients. ~~Special~~ Specialized care reimbursement is based on selective contracting with facilities capable of providing intensive care shall be determined according to the methodology set forth in Attachment 4.19 D(f).

C. Patients in each class require similar intensities of nursing and other skilled services. Across classes, however, service intensities are quite different. Since treatment cost depends on overall service need, the patient class system has a direct correlation to nursing and therapy costs.

§ 3. Service Intensity Index (SII).

A. The function of a service intensity index is to identify the resource needs of a given facility's patient mix relative to the needs in other nursing homes. If the SII value equals 1.20, it indicates that the patient mix in that facility is 20% more resource-intensive than the patient mix in the average Virginia nursing facility.

B. The SII is used to adjust direct patient care cost ceilings and rates for application to individual nursing facilities. Indirect patient care cost ceilings and rates are not adjusted since these costs are not influenced by patient service needs.

C. To calculate the service intensity index:

1. Develop a relative resource costs for patient classes.
 - a. Average daily nursing resource costs per day for patients in each patient class were determined by using data obtained from (i) the Commonwealth's Long-Term Care Information System (LTCIS)

Final Regulations

identifying estimates of service needs, (ii) data from a 1987 Maryland time and motion study to derive nursing time requirements for each service, and (iii) KPGM Peat Marwick Survey of Virginia Long-term Care NF's Nursing Wages to determine the resource indexes for each patient class.

b. The average daily nursing costs per day for patients (see subdivision a above) were divided by a state average daily nursing resource cost to obtain a relative cost index.

c. Patients were grouped in three classes and the average relative cost by class is as follows:

- Class A--Routine I: .67
- Class B--Routine II: 1.09
- Class C--Heavy Care: 1.64

The cost for caring for a Class A patient is on the average equal to 67% of the daily nursing costs for the average Virginia nursing facility patient. Class B and C patients are respectively 9.0% and 64% more costly to treat in terms of nursing resources than the average nursing facility patient.

These resource cost values will remain the same until a new time and motion study conducted.

2. Develop an average relative resource cost of all patients in a facility. The result is called a facility score.

a. The number of patients in each class within a facility is multiplied by the relative resource cost value of that class.

b. These amounts are totaled and divided by the number of patients in a facility. For example:

Facility 1:

40 Class A patients x	..... .67	= 26.8
40 Class B patients x	.....1.09	= 43.6
20 Class C patients x	.....1.64	= 32.8
100 Patients	.....	103.2
Divided by number of Patients	.....	100.0
Facility Score	.....	1.03

The Facility Score for Facility 1 is 1.03.

3. Finally, the service intensity index for a facility is calculated by standardizing the average resource cost measure, across nursing facilities. The resource values up to this point are standardized or normalized across Virginia nursing facility patients but not across Virginia nursing facilities. To accomplish this step, the mean for the relative resource measure across all Virginia facilities is determined and the facility-specific value is divided by this mean.

For example: If the state's mean relative resource measure was .92 across all Virginia facilities, the Service Intensity Index for Facility 1 identified above would be 1.12, which equals 1.03 divided by .92. The 1.12 value indicates that patients in Facility 1 are 12% (1.12-1.00) more costly to treat than patients in the average Virginia nursing facility.

4. The Service Intensity Index will be calculated quarterly, and is used to derive the direct patient care cost ceiling and rate components of the facility's payment rate which will be adjusted semiannually. A semiannual SII is calculated by averaging appropriate quarterly SII values for the respective reporting period.

§ 4. Following is an illustration of how a NF's Service Intensity Index is used to adjust direct patient care prospective operating ceilings and the semiannual rate adjustments to the prospective direct patient care operating cost base rate.

A. Assumptions.

1. The NF's fiscal years are December 31, 1991, and December 31, 1992.
2. The average allowable direct patient care operating base rate for December 31, 1991, is \$25.
3. The allowance for inflation is 6.0% for the fiscal year end beginning January 1, 1992.
4. The NF's peer group ceiling for the fiscal year end beginning January 1, 1992, is \$30.
5. The NF's semiannual normalized SIIs are as follows:

1991 First Semiannual SII -	.....	.98
1991 Second Semiannual SII -	.....	.99
1992 First Semiannual SII -	.....	1.00

B. Calculation of NF's Direct Patient Care Prospective Ceiling.

1. PIRS adjusted ceiling for the period January 1, 1992, through June 30, 1992:

FYE 1992 Peer Group Ceiling	.....	\$30.00
FYE 1991 Second Semiannual SII	..... x .99	
Facility Ceiling	.....	\$29.70

2. PIRS adjusted ceiling for the period July 1, 1992, through December 31, 1992:

FYE 1992 Peer Group Ceiling	.....	\$30.00
1992 First Semiannual SII	..... x 1.00	
Facility Ceiling	.....	\$30.00

C. Calculation of NF's Prospective Direct Patient Care

Operating Cost Rate.

1. Prospective Direct Patient Care Operating Cost Base Rate:

FYE 1991 Average Allowable Direct Patient Care Operating Base Rate	\$25.00
Allowance For Inflation - FYE 1992	x1.06
.....	\$26.50

2. Calculation of FYE 1991 Average SII:

First Semiannual Period SII .....	.98
Second Semiannual Period SII .....	.99
Average FYE 1991 SII .....	.985

3. Calculation of FYE 1992 SII Rate Adjustments:

a. Rate adjustment for the period January 1, 1992, through June 30, 1992:

1991 Second Semiannual SII .....	.99
1991 Average SII (From C.2.) .....	.985
Calculation: .....	.99/.985
Rate Adjustment Factor	=1.0051
Prospective Direct Patient Care Operating Cost Base Rate (From C.1.)	\$26.50
Calculation:	\$26.50 x 1.0051
Prospective Direct Patient Care Operating Cost Rate	\$26.64

b. Rate adjustment for the period July 1, 1992, through December 31, 1992:

1992 First Semiannual SII	1.000
1991 Average SII (From C.2.) .....	.985
Calculation:	1.00/.985
Rate Adjustment Factor	=1.0152
Prospective Direct Patient Care Operating Cost Base Rate (From C.1.)	\$26.50
Calculation	\$26.50 x 1.0152
Prospective Direct Patient Care Operating Cost Rate	= \$26.90

D. In this illustration the NF's PIRS Direct Patient Care Operating Reimbursement Rate for FYE 1992 would be as follows:

1. For the period January 1, 1992, through June 30, 1992, the reimbursement rate would be \$26.64 since the rate is lower than the NF's PIRS adjusted ceiling of \$29.70 (From B.1.).
2. For the period July 1, 1992, through December 31, 1992, the reimbursement rate would be \$26.90 since the rate is lower than the NF's PIRS adjusted ceiling of \$30.00 (From B.2.).

§ 5. The methodology for applying the allowance for inflation to the NF's base "current" operating rate during

the phase-in period as outlined in § 2.8 of the Nursing Home Payment System (VR 460-03-4.1940:1) is as follows:

A. In the following methodology, 1st Q is defined as the first calendar quarter, 2nd Q is defined as the second calendar quarter, 3rd Q is defined as the third calendar quarter, and 4th Q is defined as the fourth calendar quarter.

B. NF's with fiscal years ending in the 4th quarter of 1990 shall have, in effect from October 1, 1990, through the end of the provider's 1990 fiscal year, as the base "current" operating rate, the rate calculated by DMAS to be effective September 30, 1990.

The base "current" operating rate shall be adjusted for 100% of the historical inflation from the 2nd Q of 1990 through the 4th Q of 1990 and 50% of the forecasted inflation from the 4th Q of 1990 through the 4th Q of 1991, to determine the prospective "current" operating rate for the provider's 1991 FY.

The base "current" operating rate, shall be adjusted for 100% of the historical inflation from the 2nd Q of 1990 through the 4th Q of 1991 and 50% of the forecasted inflation from the 4th Q of 1991 through the 4th Q of 1992, to determine the prospective "current" operating rate from the beginning of the provider's subsequent fiscal year end to June 30, 1992.

C. NF's with fiscal years ending in the 1st Q of 1991 shall have, in effect from October 1, 1990, through the end of the provider's 1991 fiscal year, as the base "current" operating rate, the rate calculated by DMAS to be effective September 30, 1990.

The base "current" operating rate shall be adjusted for 100% of the historical inflation from the 3rd Q of 1990 through the 1st Q of 1991 and 50% of the forecasted inflation from the 1st Q of 1991 through the 1st Q of 1992, to determine the prospective "current" operating rate for the provider's 1992 FY.

The base "current" operating rate shall be adjusted for 100% of the historical inflation from the 3rd Q of 1990 through the 1st Q of 1992 and 50% of the forecasted inflation from the 1st Q of 1992 through the 1st Q of 1993, to determine the prospective "current" operating rate from the beginning of the provider's subsequent fiscal year end to June 30, 1992.

D. NF's with fiscal years ending in the 2nd Q of 1991 shall have, in effect from October 1, 1990 through the end of the Provider's 1991 fiscal year, as the base "current" operating rate, the rate calculated by DMAS to be effective September 30, 1990.

The base "current" operating rate shall be adjusted for 100% of the historical inflation from the 4th Q of 1990 through the 2nd Q of 1991 and 50% of the forecasted inflation from the 2nd Q of 1991 through the 2nd Q of

Final Regulations

1992, to determine the prospective "current" operating rate for the provider's 1992 FY or until June 30, 1992 which ever is later.

E. NF's with fiscal year's ending in the 3rd Q of 1990 shall have as the base "current" operating rate, the rate calculated by DMAS to be effective September 30, 1990.

The base "current" operating rate shall be adjusted for 100% of the historical inflation from the 1st Q of 1990 through the 3rd Q of 1990 and 50% of the forecasted inflation from the 3rd Q of 1990 through the 3rd Q of 1991, to determine the prospective "current" operating rate from October 1, 1990, to the end of the provider's 1991 FY.

The base "current" operating rate shall be adjusted for 100% of the historical inflation from the 1st Q of 1990 through the 3rd Q of 1991 and 50% of the forecasted inflation from the 3rd Q of 1991 through the 3rd Q of 1992, to determine the prospective "current" operating rate from the beginning of the provider's subsequent fiscal year end to June 30, 1992.

§ 6. Definition of terms.

ADL. Activities of Daily Living.

ADL Score. A score constructed by the Virginia Center on Aging of the Medical College of Virginia as a composite measure of patient function in six different ADL areas: bathing, dressing, transferring, ambulation, eating, and continency. A zero score indicates that a patient needs no staff assistance in an ADL area. A score of three indicates the patient requires total assistance in an ADL area. The ADL scores range in value from 0 to 12. Low scores indicate fewer ADL deficiencies and high scores indicate more extensive deficits.

DMAS 95. The multidimensional assessment document that is completed by each nursing facility at admission, and Semiannually thereafter, on all of its Medicaid residents. The DMAS 95 assessment data is used to document patient characteristics and is entered into the LTCIS for PIRS.

Facility score. An average resource cost measure of all patients in a facility.

LTCIS. DMAS' Long-Term Care Information System. This system captures data used to identify functional and medical characteristics that have major impacts on the level of nursing resource utilization.

Nursing Facility (NF). A facility, other than an intermediate care facility for the mentally retarded, licensed by the Division of Licensure and Certification, State Department of Health, and certified as meeting the participation regulations.

Patient Intensity Rating System. A patient-based (PIRS) reimbursement system which links a facility's per diem

rate to the level of services required by its patient mix.

Service Intensity Index (SII). A mathematical index used to identify the resource needs of a given facility's patient mix relative to the needs in other nursing homes.

BOARD OF MEDICINE

Title of Regulation: VR 465-03-01. Regulations Governing the Practice of Physical Therapy.

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

Effective Date: June 5, 1992.

Summary:

These amendments to the current regulations more clearly define the physical therapist's supervisory responsibilities for specific practice settings, define the number of trainees the therapist may supervise in a traineeship program approved by the board, and further define on-site supervision of the physical therapist assistant in hospitals and other practice settings.

VR 465-03-01. Regulations Governing the Practice of Physical Therapy.

PART I. GENERAL PROVISIONS.

§ 1.1. Definitions.

The following words and terms, when used in these regulations, shall have the following meanings, unless the context clearly indicates otherwise:

"Board" means the Virginia Board of Medicine.

"Advisory board" means the Advisory Board on Physical Therapy.

"Evaluation" means the carrying out by a physical therapist of the sequential process of assessing a patient, planning the patient's physical therapy treatment program, and appropriate documentation.

"Examination" means an examination approved and prescribed by the board for licensure as a physical therapist or physical therapist assistant.

"Physical therapist" means a person qualified by education and training to administer a physical therapy program under the direction of a licensed doctor of medicine, osteopathy, chiropractic, podiatry, or dental surgery.

"Physical therapist assistant" means a person qualified by education and training to perform physical therapy

functions under the supervision of and as directed by a physical therapist.

"Physical therapy aide" means any nonlicensed personnel performing patient care functions at the direction of a physical therapist or physical therapist assistant within the scope of these regulations.

"Referral and direction" means the referral of a patient by a licensed doctor of medicine, osteopathy, chiropractic, podiatry, or dental surgery to a physical therapist for a specific purpose and for consequent treatment that will be performed under the direction of and in continuing communication with the referring doctor or dentist.

"Trainee" means a person undergoing a traineeship.

1. *"Relicensure trainee"* means a physical therapist or physical therapist assistant who has been inactive for two years or more and who wishes to return to the practice of physical therapy.

2. *"Unlicensed graduate trainee"* means a graduate of an approved physical therapy or physical therapist assistant program who has not taken the state licensure examination or who has taken the examination but not yet received a license from the board or who has failed the examination three times as specified in § 3.3 A.

3. *"Foreign trained trainee"* means a physical therapist or physical therapist assistant who graduated from a school outside the United States, its territories, or the District of Columbia and who is seeking licensure to practice in Virginia.

"Traineeship" means a period of activity during which an unlicensed physical therapist or physical therapist assistant works under the direct supervision of a physical therapist approved by the board.

"Direct supervision" means a physical therapist is present and is fully responsible for the activities assigned to the trainee.

§ 1.2. A separate board regulation entitled VR 465-01-01, Public Participation Guidelines, which provides for involvement of the public in the development of all regulations of the Virginia State Board of Medicine, is incorporated by reference in these regulations.

PART II LICENSURE: GENERAL REQUIREMENTS AND LICENSURE BY EXAMINATION.

§ 2.1. Requirements, general.

A. No person shall practice as a physical therapist or physical therapist assistant in the Commonwealth of Virginia except as provided in these regulations.

B. Licensure by this board to practice as a physical therapist or physical therapist assistant shall be by examination or by endorsement, whichever is appropriate.

§ 2.2. Licensure by examination: Prerequisites to examination.

A. Every applicant for initial board licensure by examination shall:

1. Meet the age and character requirements of §§ 54.1-2947 and 54.1-2948 of the Code of Virginia;

2. Meet the educational requirements prescribed in § 2.3 or § 2.4 of these regulations;

3. Submit the required application and credentials to the board not less than 30 days prior to the date of examination; and

4. Submit, along with his application, the examination fee prescribed in § 9.1, Fees, of these regulations.

B. Every applicant shall take the examination at the time prescribed by the board.

§ 2.3. Education requirements: Graduates of American institutions or programs.

A. A graduate of an American institution who applies for licensure as a physical therapist shall be a graduate of a school of physical therapy approved by the American Physical Therapy Association and shall submit to the board documented evidence of his graduation from such a school.

B. An applicant for licensure as a physical therapist assistant who attended an American institution shall be a graduate of a two-year college-level educational program for physical therapist assistants approved by the board and shall submit to the board documented evidence of his graduation from such a program.

§ 2.4. Educational requirement: Graduates of foreign institutions.

A. An applicant for licensure as a physical therapist or physical therapist assistant who graduated from a school outside the United States or Canada shall be a graduate of such a school which offers and requires courses in physical therapy acceptable to the board on the advice of the advisory board.

B. An applicant under this section for licensure as a physical therapist or physical therapist assistant, when filing his application and examination fee with the board, shall also:

1. Submit proof of proficiency in the English language by passing with a grade of not less than 560, the Test of English as a Foreign Language (TOEFL); or an

Final Regulations

equivalent examination approved by the board. TOEFL may be waived upon evidence of English proficiency.

2. Submit a photostatic copy of the original certificate or diploma verifying his graduation from a physical therapy curriculum which has been certified as a true copy of the original by a notary public.

3. If such certificate or diploma is not in the English language, submit either:

a. A translation of such certificate or diploma by a qualified translator other than the applicant; or

b. An official certification from the school attesting to the applicant's attendance and graduation date.

4. Submit verification of the equivalency of the applicant's education to the following standards from a scholastic credentials service approved by the advisory board.

a. The minimum educational requirements in general and professional education for licensure as a physical therapist shall be 120 semester hours as follows:

(1) General education requirements. 40 or more semester hours in the following subjects: humanities, social sciences, natural sciences, biological sciences and electives.

(2) Professional education requirements. 60 or more semester hours; the course of professional study shall include: basic health sciences, clinical sciences, clinical education, and other electives.

b. The minimum requirements in general and professional education for licensure as a physical therapist assistant shall be 68 semester hours as follows:

(1) General education requirements: 24 or more semester hours in the following subjects: humanities, social sciences, natural sciences, biological sciences, and electives.

(2) Professional educational requirements: 44 or more semester hours in the following course of professional study: basic health sciences, clinical sciences, clinical education, and electives.

c. Education requirements of foreign trained physical therapists or physical therapist assistants shall be equivalent to the entry level degree of U.S. trained physical therapists or physical therapist assistants as established by the American Physical Therapy Association.

5. An applicant for licensure as a physical therapist shall submit verification of having successfully

completed a full-time 1000 hour traineeship (approximately six months) under the direct supervision of a physical therapist licensed under § 54.1-2946 of the Code of Virginia. The initial 500 hours must be in an acute care facility treating both in and out patients and 500 hours may be in another type of physical therapy facility which is on the list approved by the advisory board.

6. An applicant for licensure as a physical therapist assistant shall submit verification of having successfully completed a full-time 500 hour traineeship in an acute care facility under the direct supervision of a physical therapist licensed under § 54.1-2946 of the Code of Virginia treating both inpatients and outpatients in a facility which meets the requirements of subdivision 7 below.

7. The traineeship must be completed in Virginia:

a. At a JCAH accredited hospital or other facility approved by the advisory board; and

b. At a facility that serves as a clinical education facility for students enrolled in an accredited program educating physical therapists or physical therapist assistants in Virginia.

8. It will be the responsibility of the trainee to make the necessary arrangements for his training with the Director of Physical Therapy, or the director's designee at the facility selected by the trainee.

9. The physical therapist supervising the trainee shall submit a progress report to the chairman of the advisory board at the end of 500 hours of training. A final report will be submitted at the end of the second 500 hours. These reports will be submitted on forms supplied by the advisory board.

10. If the trainee's performance is unsatisfactory, during the training period, the supervising therapist will notify, in writing, the chairman of the advisory board.

11. If the traineeship is not successfully completed at the end of the six-month period, the advisory board shall determine if the traineeship will be continued for a period not to exceed six months.

12. The traineeship requirements of this part may be waived, at the discretion of the advisory board, if the applicant for licensure can verify, in writing, the successful completion of one year of clinical practice in the United States, its territories or the District of Columbia.

13. A foreign trained physical therapist or physical therapist assistant licensed in another state who has less than one year of clinical practice in the United States, its territories or the District of Columbia must

comply with the traineeship requirement for licensure by endorsement.

PART III. EXAMINATION.

§ 3.1. Conditions of examinations.

A. The licensure examinations for both physical therapists and physical therapist assistants shall be prepared and graded as prescribed and approved by the board.

B. The advisory board shall schedule and conduct the examinations at least once each fiscal year, the time and place to be determined by the advisory board.

C. The physical therapy examination shall be a one-part comprehensive examination approved by the board as prescribed in § 54.1-2947 of the Code of Virginia.

D. The physical therapy assistant examination shall be an examination approved by the board as prescribed in § 54.1-2948.

§ 3.2. Examination scores.

A. The minimum passing scores shall be:

1. For the physical therapy examination: the grade shall be established by the board.
2. For the physical therapist assistant examination: the grade shall be established by the board.

B. The scores shall be filed with the appropriate reporting service.

§ 3.3. Failure to pass.

An applicant who fails the examination after three attempts shall be required to satisfactorily complete a full time supervised traineeship approved by the chairman of the Advisory Board on Physical Therapy as prescribed in § 8.4, Traineeship, prior to being eligible for three additional attempts.

PART IV. LICENSURE BY ENDORSEMENT.

§ 4.1. Endorsement.

A. A physical therapist or physical therapist assistant who has been licensed by another state or territory or the District of Columbia by examination equivalent to the Virginia examination at the time of licensure and who has met all other requirements of the board may, upon recommendation of the advisory board to the board, be licensed in Virginia by endorsement.

B. Any physical therapist or physical therapist assistant

seeking endorsement or as described in § 7.2 B who has been inactive for a period of two years or more and who wishes to resume practice shall first successfully complete a traineeship.

PART V. PRACTICE OF PHYSICAL THERAPY.

§ 5.1. General requirements.

All services rendered by a physical therapist shall be performed only upon medical referral by and under the direction of a doctor of medicine, osteopathy, chiropractic, podiatry, or dental surgery.

§ 5.2. Individual responsibilities to patients and to referring doctor of medicine, osteopathy, chiropractic, podiatry, or dental surgery.

A. The physical therapists' responsibilities are to evaluate a patient, plan the treatment program and administer and document treatment within the limit of his professional knowledge, judgment, and skills.

B. A physical therapist shall maintain continuing communication with and shall report the results of periodic evaluation of patients to the referring practitioner.

§ 5.3. Supervisory responsibilities.

A. A physical therapist shall supervise no more than three physical therapist assistants at any one time ~~participating in the treatment of patients per practice setting, but not to exceed a total of [three two] practice settings~~.

B. A physical therapist shall be responsible for any action of persons performing physical therapy functions under the physical therapist's supervision or direction.

C. A physical therapist may not delegate physical therapy treatments to physical therapy aides except those activities that are available without prescription in the public domain to include but not limited to hot packs, ice packs, massage and bandaging.

D. Supervision of a physical therapy aide means that a licensed physical therapist or licensed physical therapist assistant must be within the facility to give direction and instruction when procedures or activities are performed. Such nonlicensed personnel shall not perform those patient care functions that require professional judgment or discretion.

E. For patients assigned to a physical therapist assistant, the physical therapist shall make *on-site* visits to such patients jointly with the assistant at the frequency prescribed in § 6.1 of these regulations.

F. The advisory board may at its discretion approve the utilization of more than three physical therapist assistants

Final Regulations

supervised by a single physical therapist in institutions under the supervision of the Department of Mental Health, Mental Retardation and Substance Abuse Services where the absence of physical therapy care would be detrimental to the welfare of the residents of the institution.

G. A physical therapist shall supervise no more than two trainees at any one time as established in § 2.4 and Part VIII of these regulations.

PART VI.

PRACTICE OF PHYSICAL THERAPIST ASSISTANTS.

§ 6.1. Scope of responsibility.

A. A physical therapist assistant is permitted to perform all physical therapy functions within his capabilities and training as directed by a physical therapist. The scope of such functions excludes initial evaluation of the patient, initiation of new treatments, and alteration of the plan of care of the patient.

B. Direction by the physical therapist shall be interpreted as follows:

1. The initial patient visit shall be made by the physical therapist for evaluation of the patient and establishment of a plan of care.

2. The physical therapist assistant's first visit to the patient shall be made jointly with the physical therapist.

3. The physical therapist shall provide on-site supervision ~~one of every five visits made to the patient by the physical therapist assistant during a 30-day period. Should there be fewer than five visits to the patient by the physical therapist assistant in a 30-day period, the assistant shall be supervised on-site at least once during that period by the physical therapist according to the following schedules:~~

a. For inpatients in hospitals, [not less than] once a week.

b. For all other patients, one of 12 visits made to the patient during a 30-day period, or once every 30 days, whichever comes first.

4. Failure to abide by this regulation due to absence of the physical therapist in case of illness, vacation, or professional meeting, for a period not to exceed five consecutive days, will not constitute violation of the foregoing provisions.

PART VII.

RENEWAL OF LICENSURE; UPDATE FOR QUALIFICATIONS.

§ 7.1. Biennial renewal of license.

Every physical therapist and physical therapist assistant who intends to continue practice shall renew his license biennially during his birth month in each even numbered year and pay to the board the renewal fee prescribed in § 9.1 of these regulations.

A. A licensee whose license has not been renewed by the first day of the month following the month in which renewal is required shall be dropped from the registration roll.

B. An additional fee to cover administrative costs for processing a late application shall be imposed by the board. The additional fee for late renewal of licensure shall be \$25 for each renewal cycle.

§ 7.2. Updates on professional activities.

A. The board shall require from physical therapists and physical therapist assistants licensed or applying for licensure in Virginia reports concerning their professional activities as shall be necessary to implement the provisions of these regulations.

B. A minimum of 320 hours of practice shall be required for licensure renewal for each biennium.

C. Any physical therapist or physical therapist assistant who fails to meet the requirements of subsection B of this section shall be considered to have been inactive since the professional activity requirement was last satisfied and the license shall be deemed to have expired and become invalid.

PART VIII.

TRAINEESHIP REQUIREMENTS.

§ 8.1. Traineeship required for relicensure.

A. Any physical therapist or physical therapist assistant who has been inactive as described in § 7.1 for a period of two years or more and who wishes to resume practice shall first successfully complete a traineeship.

B. The period of traineeship to be served by such person shall be:

1. A minimum of one month full time for those inactive for a period of two to six years.

2. A minimum of two months full time for those inactive for a period of seven to 10 years.

3. A minimum of three months full time for those inactive for a period exceeding 10 years.

C. The physical therapist who serves as the supervisor of a trainee under this section shall certify to the advisory board upon completion of the traineeship that the trainee's knowledge and skills meet current standards of the practice of physical therapy.

D. Upon receipt of a petition from a person seeking relicensure and declaring hardship, the advisory board may, at its discretion, recommend to the board that the traineeship provision be waived.

§ 8.2. Additional requirement for physical therapist examination.

In addition to the traineeship required in § 8.1, any physical therapist seeking relicensure who has been inactive for seven years or more shall take and pass the examination approved by the board and pay a fee as prescribed in § 9.1. If a trainee fails the examination three times, the trainee must appear before the advisory board prior to additional attempts.

§ 8.3. Exemption for physical therapist assistant.

A physical therapist assistant seeking relicensure who has been inactive shall be exempt from reexamination requirements but not from traineeship requirements.

§ 8.4. Traineeship required for unlicensed graduate scheduled to sit for the board's licensure examination as required by regulation in § 2.1.

A. Upon approval of the chairman of the advisory board, an unlicensed graduate trainee may be employed under the direct supervision of a physical therapist while awaiting the results of the next licensure examination.

B. The traineeship shall terminate upon receipt by the candidate of the licensure examination results.

C. A person not taking the licensure examination within three years after graduation shall successfully complete a full-time three-month traineeship before taking the licensure examination.

PART IX. FEES.

§ 9.1. The following fees have been established by the board:

1. The fee for physical therapist examination shall be \$200.
2. The fee for the physical therapist assistant examination shall be \$200.
3. The fee for licensure by endorsement for the physical therapist shall be \$225.
4. The fee for licensure by endorsement for the physical therapist assistant shall be \$225.
5. The fees for taking the physical therapy or physical therapist assistant examination are nonrefundable. An applicant may, upon request 21 days prior to the scheduled exam, and payment of the \$100 fee,

reschedule for the next time such examination is given.

6. The fee for license renewal for a physical therapist assistant's license is \$80 and shall be due in the licensee's birth month, in each even numbered year. An additional fee to cover administrative costs for processing a late application may be imposed by the board. The additional fee for late renewal of licensure shall be \$25 for each renewal cycle.

7. The fee for license renewal for a physical therapy license is \$125 and shall be due in the licensee's birth month, in each even numbered year. An additional fee to cover administrative costs for processing a late application may be imposed by the board. The additional fee for late renewal of licensure shall be \$25 for each renewal cycle.

8. The examination fee for reinstatement of an inactive license as prescribed in § 8.2 shall be 200.

9. Lapsed license. The fee for reinstatement of a physical therapist or a physical therapist assistant license issued by the Board of Medicine pursuant to § 54.1-2904, which has expired for a period of two years or more, shall be \$225 and must be submitted with an application for licensure reinstatement.

* * *

NOTICE: The forms used in administering the Physical Therapy Regulations are not being published due to the large number; however, the name of each form is listed below. The forms are available for public inspection at the Board of Medicine, 1601 Rolling Hills Drive, Suite 200, Richmond, Virginia, or at the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Room 262, Richmond, Virginia.

Instructions for Licensure by Endorsement to Practice as a Physical Therapist/Physical Therapist Assistant (DHP-30-059), Revised 10/25/91
Instructions for Licensure by Endorsement to Practice as a Physical Therapist/Physical Therapist Assistant - Foreign Graduates (DHP-30-059), Revised 10/25/91
Instructions for Licensure by Examination to Practice as a Physical Therapist (DHP-30-059), Revised 10/25/91
Instructions for Licensure by Examination for Foreign Graduates to Practice as a Physical Therapist (DHP-30-059), Revised 10/25/91
Application for a License to Practice Physical Therapy Quiz - Physical Therapy Practice Act, Revised 10/25/91
Physical Therapist Licensing, Physical Therapist Assistant Licensing, Revised 6/90
Professional Reporting Service (PRS)
Verification of Physical Therapy Practice (DHP-30-059), Revised 10/2/91
Verification of State Licensure (DHP-30-059), Revised 10/2/91
Licensure Registration

Final Regulations

* * * * *

Title of Regulation: VR 465-09-01. Certification for Optometrists to Prescribe for and Treat Certain Diseases, Including Abnormal Conditions, of the Human Eye and Its Adnexa with Certain Therapeutic Pharmaceutical Agents.

Statutory Authority: §§ 54.1-2400, 54.1-2957.1, 54.1-2957.2 and 54.1-2957.3 of the Code of Virginia.

Effective Date: June 5, 1992.

Summary:

These regulations prescribe the standards for the certification of optometrists to prescribe for and treat certain diseases, including abnormal conditions, of the human eye and its adnexa with certain therapeutic pharmaceutical agents to assure delivery of appropriate eye care to the citizens in the Commonwealth of Virginia.

The amendments to the current regulations are in response to the Governor's request to review the regulations within one year of their publication. These amendments provide relief to the doctors of optometry by deleting the requirements for proof of cardiopulmonary resuscitation (CPR) for certification and renewal of certification; redefine the diseases and conditions of the eye and its adnexa that may be treated; redefine the strength of the agent in § 4.3; add an additional therapeutic agent; and do not preclude a method for in-office management of patients who develop anaphylactic shock.

VR 465-09-01. Certification for Optometrists to Prescribe for and Treat Certain Diseases, Including Abnormal Conditions, of the Human Eye and Its Adnexa with Certain Therapeutic Pharmaceutical Agents.

PART I. GENERAL PROVISIONS.

§ 1.1. Definitions.

The following words and terms when used in these regulations shall have the following meanings unless the context clearly indicates otherwise:

"Approved school" means those optometric and medical schools, colleges, departments of universities or colleges or schools of optometry or medicine currently accredited by the Council on Postsecondary Accreditation or by the United States Department of Education.

"Board" means the Virginia Board of Medicine.

"Certification" means the Virginia Board of Medicine certifying an optometrist to prescribe for and treat certain diseases, including abnormal conditions, of the human eye

and its adnexa and administer certain therapeutic pharmaceutical agents.

"Certified optometrist" means an optometrist who holds a current license to practice optometry in the Commonwealth of Virginia, is certified to use diagnostic pharmaceutical agents by the Virginia Board of Optometry, and has met all of the requirements established by the Virginia Board of Medicine to treat certain diseases, including abnormal conditions, of the human eye and its adnexa with certain therapeutic pharmaceutical agents.

"Examination" means an examination approved by the Board of Medicine for certification of an optometrist to prescribe for and treat certain diseases, including abnormal conditions, of the human eye and its adnexa with certain therapeutic pharmaceutical agents.

"Invasive modality" means any procedure in which human tissue is Invasive modalities include surgery, lasers, ionizing radiation, therapeutic ultrasound, medication administered by injection, and the removal of foreign bodies from within the tissues of the eye. For purposes of these regulations, the administration of a topical agent specified in § 4.3 of these regulations is not considered an invasive modality.

"Postgraduate clinical training" means a postgraduate program approved by the board to be eligible for certification.

"Protocol" means a prescribed course of action developed by the certified optometrist which defines the procedures for responding to any patient's adverse reaction or emergency.

§ 1.2. Public Participation Guidelines.

Separate Board of Medicine regulations, VR 465-01-01, entitled Public Participation Guidelines, which provide for involvement of the public in the development of all regulations of the Virginia Board of Medicine, are incorporated by reference in these regulations.

PART II. APPLICATION FOR CERTIFICATION EXAMINATION.

§ 2.1. Application for certification by examination.

An applicant for certification by examination shall be made on forms provided by the board. Such application shall include the following information and documents:

1. A complete application form;
2. The fee specified in § 7.1 of these regulations to be paid at the time of filing the application;
3. Additional documents required to be filed with the application are:

a. A letter from the Virginia Board of Optometry certifying that:

(1) The applicant holds a current license to practice optometry in Virginia, and

(2) The applicant is certified to use diagnostic pharmaceutical agents;

~~b. Documented evidence that the applicant has been certified to administer cardiopulmonary resuscitation (CPR);~~

~~e. b. Documented evidence of satisfactory completion of the postgraduate optometric training approved and prescribed by the board or documentation of graduate optometric training equivalent to the postgraduate optometric training required by the board;~~

~~d. c. Verification of licensure status in other states from the Board of Examiners in Optometry or appropriate regulatory board or agency.~~

PART III. EXAMINATION.

§ 3.1. Examination for certification.

The following general provisions shall apply to optometrists who apply to take the board's examination for certification to prescribe for and treat certain diseases, including abnormal conditions, of the human eye and its adnexa with certain therapeutic pharmaceutical agents.

A. The certification examination for an optometrist to prescribe for and treat certain diseases, including abnormal conditions, of the human eye and its adnexa with certain therapeutic pharmaceutical agents shall be in ~~two parts, pharmaceutical and clinical, and shall be taken as a unit one part .~~

B. A candidate for certification by the board who fails the examination following three attempts shall take additional postgraduate training approved by the board to be eligible to take further examinations, as required in § 6.1.

PART IV. SCOPE OF PRACTICE FOR AN OPTOMETRIST CERTIFIED TO USE THERAPEUTIC DRUGS.

§ 4.1. Certification.

An optometrist, currently licensed by the Board of Optometry, who has completed didactic and clinical training to ensure an appropriate standard of medical care for the patient and has met all other requirements and has passed an examination administered by the board, shall be certified to administer and prescribe certain therapeutic pharmaceutical agents in the treatment of

certain diseases, including abnormal conditions, of the human eye and its adnexa.

§ 4.2. Diseases and conditions which may be treated by an optometrist.

Diseases and conditions which may be treated by an optometrist certified by the board are :

1. Hordeolum, conjunctivitis, blepharitis, chalazion, and dry eye ; ~~superficial conjunctival foreign bodies and noninfectious superficial epithelial damage secondary to contact lens wear provided that no corneal opacity is present .~~

2. *Superficial [~~conjunctival~~] foreign bodies of the eye and its adnexa which can be treated by noninvasive modalities.*

3. *Superficial epithelial damage secondary to contact lens wear provided that no corneal opacity is present.*

§ 4.3. Therapeutic pharmaceutical agents.

Therapeutic pharmaceutical agents which a certified optometrist may administer and prescribe are all topical and are as follows:

1. Tetracycline
2. Erythromycin
3. Bacitracin
4. Polymyxin B/Bacitracin
5. Chlortetracycline
6. Sodium Sulfacetamide - 10%
7. Sodium Sulfacetamide - ~~15%~~ 30%
8. Sulfisoxazole - 4.0%
9. Sulfacetamide - 15% / Phenylephrine - 0.125%
10. Cromolyn Sodium - 4.0%
11. Naphazoline HCl - 0.1%
12. Phenylephrine HCl - 0.125% / Pheniramine Maleate - 0.5%
13. Phenylephrine HCl - 0.12% / Pyrilamine Maleate - 0.1% / Antipyrine - 0.1%
14. Naphazoline HCl - 0.025% / Pheniramine Maleate - 0.3%
15. Naphazoline HCl - 0.05% / Antazoline Phosphate - 0.5%

Final Regulations

16. Hydroxypropyl Cellulose Ophthalmic Insert

17. Polytrim Ophthalmic Solution

§ 4.4. Standards of practice.

A. A certified optometrist after diagnosing and treating a patient who has a disease or condition as defined in § 4.2, which disease or condition failed to improve appropriately, usually within 72 hours, shall refer the patient to an ophthalmologist. A patient with a superficial corneal abrasion which does not improve significantly within 24 hours shall be referred to an ophthalmologist.

B. The certified optometrist shall establish a written protocol for the management of patient emergencies and referrals to physicians.

C. *The list in § 4.3 does not preclude optometrists treating emergency cases of anaphylactic shock with intra-muscular epinephrine, such as obtained from a beesting kit.*

C. D. The treatment of certain diseases, including abnormal conditions, of the human eye and its adnexa with the administration of certain therapeutic pharmaceutical agents by certified optometrists is prohibited in children five years of age or younger.

PART V. RENEWAL OF CERTIFICATION.

§ 5.1. Renewal of certification.

Every optometrist certified by the board shall renew his certification biennially on or before July 1 and pay the prescribed fee in § 7.1 in each odd number year.

§ 5.2. Renewal requirement.

~~Every optometrist certified by the board must submit proof of current certification to administer cardiopulmonary resuscitation (CPR) for renewal of certification.~~

§ 5.3. § 5.2. Expiration of certification.

An optometrist who allows his certification to expire shall be considered not certified by the board. An optometrist who proposes to resume the treatment of certain diseases, including abnormal conditions, of the human eye and its adnexa and administer certain therapeutic pharmaceutical agents shall make a new application for certification and pay a fee prescribed in § 7.1.

PART VI. POSTGRADUATE TRAINING.

§ 6.1. Postgraduate training required.

Every applicant applying for certification to prescribe for and treat certain diseases, including abnormal conditions, of the human eye and its adnexa with certain therapeutic pharmaceutical agents shall be required to complete a full-time approved postgraduate optometric training program prescribed by the board or to document that his graduate optometric program contained equivalent elements to the postgraduate optometric program approved by the board.

A. The approved postgraduate program shall be the Ocular Therapy for the Optometric Practitioner #750B conducted by the Pennsylvania College of Optometry or any other postgraduate optometric program approved by the board.

B. Upon completing the required postgraduate optometric training program, the applicant may apply to sit for the certification examination administered by the board.

C. The certification examination shall be a ~~two-part~~ *one-part* comprehensive examination in accordance with § 3.1 of these regulations.

~~D. An applicant shall be certified to administer cardiopulmonary resuscitation (CPR).~~

PART VII. FEES.

§ 7.1. Fees required by the board.

A. Application fee for the examination to be certified to prescribe for and treat certain diseases, including abnormal conditions, of the human eye and its adnexa with certain therapeutic pharmaceutical agents shall be \$300. The examination fee is nonrefundable. An applicant may, upon written request 21 days prior to the scheduled examination and payment of a \$100 fee, be rescheduled for the next administration of the examination.

B. The fee for biennial renewal of certification shall be \$125.

C. The fee for reinstating an expired certification shall be \$150.

D. The fee for a letter of good standing/verification to another state for a license shall be \$10.

E. The fee for reinstatement of a revoked certificate shall be \$750.

HRB-601 INSTRUCTIONS FOR COMPLETING THE APPLICATION FOR CERTIFICATION BY EXAMINATION BOARD OF REGULATIONS
1/31/91

These instructions provide for a Doctor of Optometry to prescribe for and treat certain diseases or abnormal conditions of the human eye and its adnexa with certain therapeutic pharmaceutical agents.

The Virginia Certification examination will be held on _____ in Richmond, Virginia. The deadline date for receipt of the completed application is thirty (30) days prior to the date of the certification examination. EACH APPLICANT SHALL FURNISH THE BOARD HIS CURRENT BUSINESS ADDRESS. ANY CHANGE OF ADDRESS SHALL BE FURNISHED TO THE BOARD WITHIN 30 DAYS OF SUCH CHANGE.

THE FEE for taking the certification examination is \$300.00. The examination fee is non-refundable. The applicant may, upon written request twenty-one (21) days prior to the scheduled examination and payment of a \$100.00 fee, be rescheduled for the next administration of the examination. The payment of the fee must be made payable to: TREASURER OF VIRGINIA.

NOTE: FEES SENT BEFORE THE RECEIPT OF AN APPLICATION WILL BE RETURNED. APPLICATIONS SENT WITHOUT THE FEE WILL BE RETURNED ALSO.

VERIFICATION OF VIRGINIA LICENSURE - Contact the Virginia Board of Optometry to request verification of licensure to practice and certification to use diagnostic pharmaceutical agents be provided to the Virginia Board of Medicine. The Board of Optometry number is (804) 682-9910.

CERTIFICATION OF CARDIOPULMONARY RESUSCITATION - Provide evidence of certification completed within the past two years to administer CPR. FORWARD BOTH SIDES OF YOUR CARD AND BE CERTAIN THAT YOUR SIGNATURE IS INCLUDED ON THE CARD.

PROOF OF OPTOMETRIC TRAINING - Graduate Optometric Training or Postgraduate Optometric Training - Forward Form A to the graduate optometric or postgraduate training program for completion as directed. **NOTE:** SEE ATTACHED LIST OF APPROVED OPTOMETRIC TRAINING OR POSTGRADUATE OPTOMETRIC PROGRAMS. IF YOUR TRAINING PROGRAM IS NOT INCLUDED ON THIS LIST, PLEASE REQUEST THAT A COURSE STUDY OF THE TRAINING YOU RECEIVED BE ATTACHED TO FORM A.

LICENSURE IN OTHER STATES: Forward Form B to those states in which you have held or currently hold a license to practice Optometry. PLEASE NOTE THAT YOUR SIGNATURE MUST BE ON THE FRONT SIDE OF THE QUESTIONNAIRE. ONE QUESTIONNAIRE HAS BEEN ENCLOSED, AND YOU MAY DUPLICATE THIS FORM FOR YOUR CONVENIENCE.

Your application will be acknowledged upon receipt and you will be provided with a list of those documents which are outstanding.

The application will not be considered complete until all of the required information is received, and the application must be completed and approved to be eligible to sit for the certification examination.

FAX INFORMATION IS NOT ACCEPTABLE. ALL DOCUMENTS MUST BE HARD COPIES.

Contact Person: Brenda H. Irvin, Certification Administrator
Virginia Board of Medicine
(804) 662-7664

GRADUATE OPTOMETRIC PROGRAMS APPROVED

REGISTRAR OF OPTOMETRICS

92 APR 15 AM 11:52

School	Approved by Committee	Beginning Graduation Date Adopted for Approval in Lieu of Postgraduate Training
University of Alabama at Birmingham	5-10-91	1983
Ferris State College College of Optometry	4-12-91	1987
University of Houston	6-03-91	1981
Illinois College of Optometry	5-10-91	1987
Indiana University	5-10-91	1984
University of Missouri - St. Louis	5-10-91	1988
The New England College of Optometry	5-10-91	1987
The Ohio State University College of Optometry	4-12-91	1981
Pacific University College of Optometry	4-12-91	1981
Pennsylvania College of Optometry	4-12-91	1987
Southern College of Optometry	4-12-91	1981
SCHOOLS.med		

REGISTRATION
92 APR 15 AM 11:52

POSTGRADUATE OPTOMETRIC PROGRAMS APPROVED

<u>School of Optometry</u>	<u>Program</u>
The New England College of Optometry	Therapeutic Pharmaceutical Agents Program presented October 1988 - September 1990
Ferris State University College of Optometry	Therapeutic Pharmacology and the Management of Ocular Diseases
University of Houston	Concentrated Ocular Therapeutic Course
Illinois College of Optometry	Therapeutic Approaches Course
University of Missouri - St. Louis	Clinical Ocular Therapy/100 Hour Course
Pennsylvania College of Optometry	Pharmacology & Therapeutics for the Practicing Optometrist #701
Pennsylvania College of Optometry	Ocular Therapy for the Optometric Practitioner #750B
Southern California College of Optometry	Therapeutic Management of Ocular Conditions

POSTDOCTORAL RESIDENCIES OR FELLOWSHIPS

<u>School</u>	<u>Approved by Committee</u>	<u>Beginning Date Adopted for Approval of Postdoctoral Residency or Fellowship Programs in Lieu of Postgraduate Training</u>
Pennsylvania College of Optometry	5-10-91	1982

COURSES.med

DHP-035-070
Rev. 5/90

COMMONWEALTH of VIRGINIA

DEPARTMENT OF HEALTH PROFESSIONS
BOARD OF MEDICINE
1601 ROLLING HILLS DRIVE
RICHMOND, VA 23229-5005
(804) 562-9908
APPLICATION
TO PRACTICE AS A
CERTIFIED OPTOMETRIST

REGISTRATION
92 APR 15 AM 11:52

SECURELY PASTE
A PASSPORT SIZE
PHOTOGRAPH

TO THE BOARD OF MEDICINE OF VIRGINIA:
I HEREBY MAKE APPLICATION FOR A CERTIFICATE TO PRACTICE AS A CERTIFIED OPTOMETRIST IN THE COMMONWEALTH OF VIRGINIA AND SUBMIT THE FOLLOWING STATEMENTS:

1. NAME IN FULL (PLEASE PRINT OR TYPE)

(LAST)	(FIRST)	(MIDDLE/MAIDEN)	(JR./SR.)
(STREET)		(CITY)	(STATE) (ZIP CODE)
(DATE OF BIRTH)	(PLACE OF BIRTH)	(SOCIAL SECURITY NUMBER)	
(GRADUATION DATE)	(PROF. SCH. DEGREE)	(SCHOOL, CITY, STATE)	

*PLEASE SUBMIT ADDRESS CHANGES IN WRITING IMMEDIATELY!

*PLEASE ATTACH CERTIFIED CHECK OR MONEY ORDER. APPLICATIONS WILL NOT BE PROCESSED WITHOUT THE APPROPRIATE FEE. DO NOT SUBMIT FEE WITHOUT AN APPLICATION. IT WILL BE RETURNED.

APPLICANTS DO NOT USE SPACES BELOW THIS LINE — FOR OFFICE USE ONLY

XX

APPROVED BY: _____ Date

(CLASS)	(CERTIFICATE NO.)	(SUFFIX)	(SCH. CODE)	(FEE)	(HOW REG.)	(BASE STATE)
(CERTIFICATE NO.)		(EXPIRATION DATE)	(DATE ISSUED)			

(ADDRESS CHANGE)

(STREET)	(CITY)	(STATE)	(ZIP CODE)
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2. List in chronological order all professional practice since graduation (e.g. hospital department, outpatient centers, etc.). Also list all periods of absences from work and non-professional activity/employment of more than three months. Please account for all time. If engaged in private practice, list hospital or other professional practice.

From	To	Location and Complete Address	Position Held

ALL QUESTIONS MUST BE ANSWERED. If any of the following questions is answered YES, explain and substantiate with documentation.

- 3. I hereby certify that I studied optometry and received the degree of _____ (TYPE OF DEGREE)
on _____ (DATE) from _____ (SCHOOL).
- 4. Do you hold a current license to practice Optometry in Virginia? _____ If YES, give license number _____
- 5. List all jurisdictions in which you have been certified / licensed to practice optometry _____
- 6. List all didactic and clinical postgraduate training in the treatment of diseases or abnormal conditions of the human eye and its adnexa with therapeutic pharmaceutical agents. _____
- 7. Do you currently hold a certificate to administer cardiopulmonary resuscitation (CPR)? If YES, provide a copy of certification. _____ Yes No
- 8. Have you ever been convicted of a violation of or pled Nolo Contendere to any Federal, State, or local statute, regulation or ordinance, or entered into any plea bargaining relating to a felony or misdemeanor? (Excluding traffic violations, except convictions for driving under the influence). _____ Yes No
- 9. Have you ever had hospital privileges or any membership in a state or local professional society revoked, suspended, or sanctioned in any manner? _____ Yes No
- 10. Have you voluntarily withdrawn from a hospital staff or from any professional society while under investigation? _____ Yes No
- 11. Have you had any malpractice suits brought against you in the last ten years? If so, how many, and provide a letter from your attorney explaining each case. _____ Yes No
- 12. Have you ever been physically or emotionally dependent upon the use of alcohol/drugs or been treated by, consulted with, or been under the care of a professional for substance abuse? If so, please provide a letter from the treating professional. _____ Yes No
- 13. Have you ever received treatment for or been hospitalized for a nervous, emotional or mental disorder? If so, please provide a letter from your treating professional summarizing diagnosis, treatment, and prognosis. _____ Yes No
- 14. Do you have a serious physical disease or diagnosis which could affect your performance of professional duties? If so, please provide details. _____ Yes No
- 15. Have you ever been adjudged mentally incompetent or been voluntarily committed to a mental institution? Please provide details. _____ Yes No

HRB-601
1/31/91
Optometry

Form A

CERTIFICATION OF TRAINING

Every applicant applying for certification to prescribe for and treat certain diseases, including abnormal conditions, of the human eye and its adnexa, with certain therapeutic pharmaceutical agents shall provide evidence of having completed a full-time approved postgraduate optometric training program or a full-time approved graduate optometric training program to the Board.

I hereby authorize the director of the postgraduate or graduate training program to release to the Virginia Board of Medicine the information listed below in connection with the processing of my application.

Signature of Applicant

It is hereby certified that _____ completed
the program for _____
Title of Postgraduate or Graduate Optometric Program
from _____ to _____
(mo/day/yr) (mo/day/yr)

School of Optometry

Address

City/State

Program Director

Date

SCHOOL SEAL

Please return to: Virginia Board of Medicine
1601 Rolling Hills Drive
Richmond, VA 23229-5005

16. AFFIDAVIT OF APPLICANT:

I, _____, being first duly sworn, depose and say that I am the person referred to in the foregoing application and supporting documents.

I hereby authorize all hospitals, institutions, or organizations, my references, personal physicians, employers (past and present), business and professional associates (past and present) and all governmental agencies and instrumentalities (local, state, federal, or foreign) to release to the Virginia Board of Medicine any information, files, or records requested by the board in connection with the processing of individuals and groups listed above, which is material to me and my application. I have carefully read the questions in the foregoing application and have answered them completely, without reservations of any kind, and I declare under penalty of perjury that my answers and all statements made by me herein are true and correct. Should I furnish any false information in this application, I hereby agree that such act shall constitute cause for the denial, suspension or revocation of my certificate to practice as a certified optometrist in the Commonwealth of Virginia.

RIGHT THUMB PRINT


IF RIGHT THUMB IS MISSING, USE LEFT AND SO INDICATE.

THIS MUST BE SIGNED IN THE PRESENCE OF
A NOTARY PUBLIC

SIGNATURE OF APPLICANT

NOTARY: City/County of _____ State of _____

Subscribed and Sworn to before me this _____ day of _____ 19____

My Commission Expires _____

NOTARY PUBLIC

(NOTARY SEAL)

HRB-601
1-31-91
Optometry

EXAM

Form B

Please complete top portion and forward one form to each state Board where you hold or have held an optometry license. Extra copies may be xeroxed if needed.

NOTE: Some states require a fee, paid in advance, for providing clearance information. To expedite, you may wish to contact the applicable state/s.

92 APR 15 AM 11:52

CLEARANCE FROM OTHER STATE BOARD

I was granted license/certificate # _____ on _____
by the state of _____. The Virginia Board of medicine requests that I submit evidence
that my license/certification in the state of _____ is in good standing. You are
hereby authorized to release any information in your files, favorable, or otherwise, directly to the Virginia Board of Medicine,
1601 Rolling Hills Drive, Richmond, Virginia 23229-5005. Your earliest attention is appreciated.

Signature _____

(Please print or type name) _____

Executive Office of State Board:

Please complete and return this form to the Virginia Board of Medicine, 1601 Rolling Hills Drive, Richmond, Virginia 23229-5005.

State of _____ Name of Licensee _____

License/Certificate No. _____ Date Issued _____

Licensed/Certified through (Check one)

National Examination State Board Examination

Reciprocity/Endorsement from _____

License/Certificate is: Current Lapsed

_____ Diagnostic Pharmaceutical Agents _____ Therapeutic Pharmaceutical Drugs

Has applicant's License/Certificate ever been suspended or revoked? YES NO. If so, for what reason?

Derogatory Information, if any _____

(BOARD SEAL)

Signature _____

Title _____

State Board _____

GENERAL INFORMATION AND EXAMINATION DESCRIPTION

FOR: REGISTRAR OF REGULATIONS
CERTIFICATION OF OPTOMETRISTS

92 APR 15 AM 11:52

The examination in Advanced Certification for Optometrists for the State of Virginia was developed by an expert panel of practitioners in the fields of Pharmacology, Ophthalmology, and Optometry. All experts had more than 10 years experience in their respective fields. All examination items underwent a rigorous review by content experts, psychometricians and editors. The examination is designed to reflect tasks necessary to ensure the safe and effective practice of treating the human eye and its adnexa with therapeutic pharmaceutical agents.

This examination is in a multiple choice format, with four possible choices per question. Candidates are given three (3) hours to complete the 150-item examination. All examinations were developed with the guidance of the Virginia Board of Medicine and LGR Examinations.

LGR Examinations is an independent service for developing and administering professional licensing and certification examinations.

Examination content is based on expert judgment regarding what should be included in an Advanced Certification Examination and is based upon the regulations promulgated by the Board of Medicine.

The examination covers the following material:

1. Evaluation of the patient - which includes obtaining maximum pinhole acuity, clinical observation, pupillary examination, visual field assessment, exophthalmometry, biomicroscopy, retinoscopy, direct ophthalmoscopy, obtaining a culture, corneal sensation testing, removing superficial conjunctival foreign body, tonometry, Schirmer's test, and evaluation of lens material.
2. Formulate a differential diagnosis - which includes compiling and documenting information for an evaluation, ruling out inconsistent diseases and forming a list of possible diseases.
3. Formulate a treatment plan - which includes determining whether the particular disease can be legally treated, choosing the most appropriate drug, determining whether a particular drug can be legally administered according to the regulations, determining contraindications of legally administered usable drugs, formulating a treatment plan including drug side effects, determining patient follow-up, prescribing the drug and assessing patient response to the drug.
4. Responding to a patient's adverse reaction or emergency.

Each candidate will receive from the Board a letter advising the results of his/her examination as pass/fail. All scores are compiled by LGR Examinations and sent to the Board of Medicine.

REGISTRAR OF REGULATIONS

GENERAL RECOMMENDATIONS FOR TAKING TESTS

Please take your time and read each item carefully. Many incorrect answers are a result of the candidate not having read the question carefully. There is no extra penalty for guessing, therefore, try to answer all the items. Do not spend too much time on any one item. If you are not sure of an answer, try your best and continue on to the remainder of the items.

Regulation 3.1(B) reads, "A candidate for certification by the Board who fails the examination following three attempts shall take additional postgraduate training approved by the Board to be eligible to take further examinations, as required in Section 6.1". All examination versions are psychometrically equated to insure comparability in difficulty.

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STATE WATER CONTROL BOARD

GENERAL.

Title of Regulation: VR 680-15-03. Surface Water Management Area Regulation.

Statutory Authority: Chapter 24 (§ 62.1-242 et seq.) of Title 62.1 of the Code of Virginia.

Effective Date: June 3, 1992.

Summary:

In accordance with § 62.1-242 et seq. of the Code of Virginia, the State Water Control Board adopted a general regulation that delineates the procedures and requirements to be followed in connection with the establishment of surface water management areas, the issuance of surface water withdrawal permits and the issuance of surface water withdrawal certificates. Excluded from the requirements of these regulations are nonconsumptive users, water withdrawals of less than 300,000 gallons in any single month and water withdrawals from wastewater treatment systems. The Code of Virginia, § 62.1-242 et seq., requires the final adoption of general regulations six months prior to the designation of any surface water management areas.

Surface water management areas will be established by separate regulations. Proceedings may be initiated to establish a surface water management area anywhere throughout the state when a stream is found to have substantial instream value; low flow conditions could occur which would threaten important instream uses and current or potential offstream uses contribute to or are likely to exacerbate natural low flow conditions.

In surface water management areas, existing water users as of July 1, 1989, will have to apply for a Surface Water Withdrawal Certificate which will contain a board approved water conservation or management plan. If an existing user wants to increase his withdrawal, he will have to apply for a Surface Water Withdrawal Permit. Water users in existence after July, 1989, will have to apply for a Surface Water Withdrawal Permit which will contain withdrawal limits, instream flow conditions and a water conservation or management plan. Surface Water Withdrawal Permits will be issued by a priority system. The regulation encourages voluntary agreements among persons withdrawing water in the same surface water management area.

In response to public comments, revisions have been made in §§ 1.2, 2.1, 2.3, 2.4, 2.6, 2.8, 3.1, 4.2 5.2, 5.4, 5.6 and 7.2

VR 680-15-03. Surface Water Management Area Regulation.

PART I.

§ 1.1. Definitions.

Unless a different meaning is required by the context, the following terms, as used in these regulations, shall have the following meanings.

"Beneficial use" means both instream and offstream uses. Instream beneficial uses include but are not limited to protection of fish and wildlife habitat, maintenance of waste assimilation, recreation, navigation, and cultural and aesthetic values. Offstream beneficial uses include but are not limited to domestic (including public water supply), agricultural, electric power generation, commercial, and industrial uses. Domestic and other existing beneficial uses shall be considered the highest priority beneficial uses.

"Board" means the State Water Control Board.

"Existing beneficial consumptive user" means a person who is currently withdrawing water from a stream for a beneficial use and not returning that water to the stream near the point from which it was taken.

"Investor-owned water company" means a water supplier owned by private investors which operates independently of the local government and is regulated by the Department of Health.

"Nonconsumptive use" means the use of water withdrawn from a stream in such a manner that it is returned to the stream without substantial diminution in quantity at or near the point from which it was taken and would not result in or exacerbate low flow conditions.

"Public hearing" means a fact-finding proceeding held to afford interested persons an opportunity to submit factual data, views, and arguments to the board.

"Serious harm" means man induced reduction to the flow of a surface water resource that results in impairment of one or more beneficial uses.

"Surface Water Withdrawal Certificate" means a document issued by the board as found in subsection D of § 62.1-243 of the Code of Virginia.

"Surface water withdrawal permit" means a document issued by the board evidencing the right to withdraw surface water.

"Surface water management area" means a geographically defined surface water area in which the board deemed the levels or supply of surface water to be potentially adverse to public welfare, health and safety.

"Surface water" means any water in the Commonwealth, except groundwater as defined in §

Final Regulations

62.1-44.85 of the Code of Virginia.

“Water conservation program” means a program incorporating measures or practices which will result in the alteration of water uses resulting in reduction of water losses as contemplated by subsection B of § 62.1-243.

“Water management program” means a program incorporating measures or practices which will result in the alteration of water uses resulting in reduction of water losses as contemplated by subsection C of § 62.1-243.

§ 1.2. Purpose.

This regulation delineates the procedures and requirements to be followed in connection with establishment of surface water management areas, the issuance of surface water withdrawal permits and the issuance of surface water withdrawal certificates by the board pursuant to the Code of Virginia. The establishment of surface water management areas, the issuance of surface water withdrawal permits and surface water withdrawal certificates provide for the protection of beneficial uses during periods of low stream flow [~~and high offstream user demand~~] .

§ 1.3. Authority for regulations.

The authority for this regulation is found in the Code of Virginia, Chapter 24 (§ 62.1-242 et seq.) of Title 62.1.

§ 1.4. Initiate surface water management area proceeding.

A. The board upon its own motion or, in its discretion, upon receipt of a petition therefor by any county, city or town within the surface water management area in question, or any state agency, may initiate a surface water management area proceeding whenever in its judgment there is evidence to indicate that:

1. A stream has substantial instream values as indicated by evidence of fishery, recreation, habitat, cultural or aesthetic properties;
2. Historical records or current conditions indicate that a low flow condition could occur which would threaten important instream uses; and
3. Current or potential offstream uses contribute to or are likely to exacerbate natural low flow conditions to the detriment of instream values.

B. If the board finds that the conditions required in subsection A of § 1.4 exist and further finds that the public welfare, health and safety require that regulatory efforts be initiated, the board shall, by regulation, declare the area in question to be a surface water management area.

C. In its proceeding to declare an area to be a surface water management area, the board shall, by regulation, determine when the level of flow is such that permit conditions in a surface water management area are in force. This flow level will be determined for each regulation establishing a surface water management area and included therein.

D. The board shall include in its decision a definition of the boundaries of the surface water management area.

E. The regulations may provide that the board, or the board executive director may by order, declare that the level of flow is such that permit conditions are applicable for all or part of a surface water management area.

F. The board shall follow its Public Participation Guidelines (VR 680-41-01) for all hearings contemplated under this section. If after a public hearing held pursuant to § 9-6.14:7.1 of the Virginia Administrative Process Act, or at the request of an affected person or on the board motion, a hearing shall be held under § 9-6.14:8 of the Virginia Administrative Process Act.

§ 1.5. Notice of surface water management area.

A. The board shall cause notice of the declaration of a surface water management area to be published in a newspaper of general circulation throughout the area covered by the declaration.

B. The board shall mail a copy of its decision on the proposed declaration of a surface water management area to the mayor or chairman of the governing body of each county, city or town within which any part of the area lies, or which is known by the board to make offstream use of water from the area, and to the chief administrative officer of any federal facility known by the board to be using water from within the area.

§ 1.6. Agreements.

A. The board shall encourage, promote and recognize voluntary agreements among persons withdrawing surface water in the same surface water management area.

B. When the board finds that any such agreement, executed in writing and filed with the board, is consistent with the intent, purposes and requirements of this regulation, the board shall approve the agreement.

C. Board approval of the agreement shall be conducted according to the Virginia Administrative Process Act and the board's Public Participation Guidelines (VR 680-41-01).

D. Upon final adoption as a regulation the agreement shall control in lieu of a formal order, rule or regulation of the board under the provisions of this regulation. Permits issued in accordance with this regulation shall incorporate the terms of this agreement.

E. Any agreement shall specify the amount of water affected thereby.

F. Any agreement approved by the board as a regulation may include conditions which can result in its amendment or termination by the board, following a public hearing pursuant to § 9-6.14:7.1 of the Virginia Administrative Process Act and the board's Public Participation Guidelines (VR 680-41-01), if the board finds that it or its effect is inconsistent with the intent, purposes and requirements of this regulation. Such conditions include the following:

1. A determination by the board that the agreement originally approved by the board will not further the purposes of this regulation, or
2. A determination by the board that circumstances have changed such that the agreement originally approved by the board will no longer further the purposes of this regulation, or
3. One or more parties to the agreement is not fulfilling its commitments under the agreement.

PART II. PERMIT REQUIREMENTS, APPLICATION AND ISSUANCE.

§ 2.1. Application for a permit.

A. Duty to apply.

Any person who withdraws [surface] water or proposes to withdraw [surface] water in a surface water management area must have a Surface Water Withdrawal Permit, except persons excluded under subsection B of § 2.1, or exempted under subsection C of § 2.1 of this regulation. A complete application shall be submitted to the board in accordance with this section.

B. Exclusions.

The following do not require a Surface Water Withdrawal Permit but may require other permits under state and federal law:

1. Any nonconsumptive use.
2. Any water withdrawal of less than 300,000 gallons in any single month.
3. Any withdrawal in any area which has not been declared a surface water management area.
4. Any withdrawal from a wastewater treatment system permitted by the State Water Control Board or the Department of Mines, Minerals and Energy.

C. Exemptions.

The following do not require a Surface Water Withdrawal Permit but may require other permits under state and federal law. However, the following do require a Surface Water Withdrawal Certificate containing details of a board approved water conservation or management plan as found in [~~subsection B~~ subdivision 2] of § 2.4 and Part V of this regulation. It is not the intent or purpose of this certification program to affect the withdrawal of water approved by the board.

1. No political subdivision or investor-owned water company permitted by the Department of Health shall be required to obtain a surface water withdrawal permit for:

a. Any withdrawal in existence on July 1, 1989; however, a permit shall be required in a declared surface water management area before the daily rate of any such existing withdrawal is increased beyond the maximum daily withdrawal made before July 1, 1989.

b. Any withdrawal not in existence on July 1, 1989, if the person proposing to make the withdrawal has received, by that date, a § 401 certification from the State Water Control Board pursuant to the requirements of the Clean Water Act to install any necessary withdrawal structures and make such withdrawal; however, a permit shall be required in any surface water management area before any such withdrawal is increased beyond the amount authorized by the said certification.

c. Any withdrawal in existence on July 1, 1989, from an instream impoundment of water used for public water supply purposes; however, during periods when permit conditions in a water management area are in force pursuant to subsection G of § 2.2 and § 3.5 of this regulation, and when the rate of flow of natural surface water into the impoundment is equal to or less than the average flow of natural surface water at that location, the board may require release of water from the impoundment at a rate not exceeding the existing rate of flow of natural surface water into the impoundment. Withdrawals by a political subdivision or investor-owned water company permitted by the Department of Health shall be affected by [this] subdivision [~~3 of this section~~] only at the option of that political subdivision or investor-owned water company.

2. No existing beneficial consumptive user shall be required to obtain a surface water withdrawal permit for:

a. Any withdrawal in existence on July 1, 1989; however, a permit shall be required in a declared surface water management area before the daily rate of any such existing withdrawal is increased beyond the maximum daily withdrawal made before

Final Regulations

July 1, 1989.

b. Any withdrawal not in existence on July 1, 1989, if the person proposing to make the withdrawal has received, by that date, a § 401 certification from the State Water Control Board pursuant to the requirements of the Clean Water Act to install any necessary withdrawal structures and make such withdrawals; however, a permit shall be required in any surface water management area before any such withdrawal is increased beyond the amount authorized by the said certification.

D. Duty to reapply.

1. Any permittee with an effective permit shall submit a new permit application at least 180 days before the expiration date of an effective permit unless permission for a later date has been granted by the board.

2. Owners or persons who have effective permits shall submit a new application 180 days prior to any proposed modification to their activity which will:

a. Result in a significantly new or substantially increased water withdrawal, or

b. Violate or lead to the violation of the terms and conditions of the permit.

E. Complete application required.

1. Any person proposing to withdraw water shall submit a complete application and secure a permit prior to the date planned for commencement of the activity resulting in the withdrawal. There shall be no water withdrawal prior to the issuance of a permit.

2. Any person reapplying to withdraw water shall submit a complete application.

3. A complete Surface Water Withdrawal Permit application to the State Water Control Board shall, as a minimum, consist of the following:

a. The location of the water withdrawal, including the name of the waterbody from which the withdrawal is being made;

b. The average [daily] withdrawal, the maximum proposed withdrawal, and any variations of the withdrawal by season including amounts and times of the day or year during which withdrawals may occur;

c. The use for the withdrawal, including the importance of the need for this use;

d. Any alternative water supplies or water storage; and

e. If it is determined that special studies are needed to develop a proper instream flow requirement, then additional information may be necessary.

4. Where an application is considered incomplete the board may require the submission of additional information after an application has been filed, and may suspend processing of any application until such time as the applicant has supplied missing or deficient information and the board considers the application complete. Further, where the applicant becomes aware that he omitted one or more relevant facts from a permit application, or submitted incorrect information in a permit application or in any report to the board, he shall immediately submit such facts or the correct information.

5. Any person proposing to withdraw water shall submit an application for a permit 180 days prior to the date planned for commencement of the activity resulting in the withdrawal. There shall be no water withdrawal prior to the issuance of a permit.

6. Any person with an existing unpermitted water withdrawal operation shall submit an application immediately upon discovery by the owner or within 30 days upon being requested to by the board whichever comes first.

F. Informational requirements.

All applicants for a Surface Water Withdrawal Permit shall provide all such information consistent with this regulation as the board deems necessary. All applicants for a permit must submit a complete permit application in accordance with subsection A of § 2.1 of this regulation.

§ 2.2. Conditions applicable to all permits.

A. Duty to comply.

The permittee shall comply with all conditions of the permit. Nothing in these regulations shall be construed to relieve the Surface Water Withdrawal Permit holder of the duty to comply with all applicable federal and state statutes, regulations, standards and prohibitions. Any permit noncompliance is a violation of the law, and is grounds for enforcement action, permit suspension, cancellation, revocation, modification or denial of a permit renewal application.

B. Duty to mitigate.

The permittee shall take all reasonable steps to (i) avoid all adverse environmental impact which could result from the activity, (ii) where avoidance is impractical, minimize the adverse environmental impact and (iii) where impacts cannot be avoided, provide mitigation of the adverse impact on an in-kind basis.

C. Permit action.

1. A permit may be modified, revoked, suspended, cancelled, reissued, or terminated as set forth in this regulation.

2. If a permittee files a request for permit modification, suspension or cancellation, or files a notification of planned changes, or anticipated noncompliance, the permit terms and conditions shall remain effective until the request is acted upon by the board. This provision shall not be used to extend the expiration date of the effective permit.

3. Permits may be modified, revoked and reissued or terminated upon the request of the permittee, or upon board initiative to reflect the requirements of any changes in the statutes or regulations.

D. Inspection and entry.

Upon presentation of credentials, any duly authorized agent of the board may, at reasonable times and under reasonable circumstances:

1. Enter upon any permittee's property, public or private, and have access to, inspect and copy any records that must be kept as part of the permit conditions;

2. Inspect any facilities, operations or practices including monitoring and control equipment regulated or required under the permit.

E. Duty to provide information.

The permittee shall furnish to the board, within a reasonable time, any information which the board may request to determine whether cause exists for modifying, reissuing, suspending and cancelling the permit, or to determine compliance with the permit. The permittee shall also furnish to the board, upon request, copies of records required to be kept by the permittee. This information shall be furnished to the board pursuant to § 62.1-244 of the Code of Virginia.

F. Monitoring and records requirements.

1. Monitoring shall be conducted according to approved methods as specified in the permit or as approved by the board;

2. Measurements taken for the purpose of monitoring shall be representative of the monitored activity;

3. The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart or electronic recordings for continuous monitoring instrumentation, copies of all reports required by the permit, and records of all data used to complete the application

for the permit, for a period of at least three years from the date of the expiration of a granted permit. This period may be extended by request of the board at any time.

4. Records of monitoring information shall include:

a. The date, exact place and time of measurements;

b. The name of the individual(s) who performed the measurements;

c. The date the measurements were compiled;

d. The name of the individual(s) who compiled the measurements;

e. The techniques or methods supporting the information such as observations, readings, calculations and bench data used; and

f. The results of such techniques or methods.

G. Permit conditions become applicable.

1. Permit conditions become applicable in a surface water management area upon notice by the board to each permittee by mail or cause notice thereof to be published in a newspaper of general circulation throughout the area.

2. The board shall notify each permittee by mail or cause notice thereof to be published in a newspaper of general circulation throughout the surface water management area when the declaration of water shortage is rescinded.

§ 2.3. Signatory requirements.

Any application, report, or certification shall be signed as follows:

1. Application.

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

Final Regulations

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.

d. Any application for a permit under this regulation must bear the signatures of the responsible party and any agent acting on the responsible party's behalf.

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 a, b or c of this section; 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 a, b, or c of this section; 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, 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 shall be submitted to the board prior to or together with any separate information, or applications to be signed by an authorized representative.

3. Certification of application and reports. Any person signing a document under subdivision 1 or 2 of this section 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.]

§ 2.4. Establishing applicable limitations or other permit conditions.

In addition to the conditions established in § 2.2 of this regulation, each permit shall include conditions meeting the following requirements where applicable:

1. Instream flow conditions.

a. Subject to the provisions of the Virginia Code § 62.1-242 et seq. and subject to the authority of the State Corporation Commission over hydroelectric facilities contained in Virginia Code § 62.1-80 et seq. instream flow conditions may include but are not limited to conditions that limit the volume and rate at which water may be withdrawn at certain times and conditions that require water conservation and reductions [and in] water use.

b. This flow requirement shall be appropriate for the protection of beneficial uses.

c. In determining the level of flow in need of protection of beneficial uses, the board shall consider, among other things, recreation and aesthetic factors and the potential for substantial and long-term adverse impact on fish and wildlife found in that particular surface water management area. Should this determination indicate a need to restrict water withdrawal, the board shall consider, among other things, the availability of alternative water supplies, the feasibility of water storage or other mitigating measures, and the socioeconomic impacts of such restriction on the potentially affected water users and on the citizens of the Commonwealth in general.

2. Water conservation or management plans.

a. Subject to the provisions of Virginia Code § 62.1-242 et seq. permit conditions may include voluntary and mandatory conservation measures.

b. Political subdivisions and investor-owned water companies shall have water conservation plans which shall include, but not be limited to, the following:

(1) Use of water saving plumbing fixtures in new and renovated plumbing as provided under the Uniform Statewide Building Code;

(2) A water loss reduction program;

(3) A water use education program; and

(4) Ordinances prohibiting waste of water generally and providing for mandatory water use restrictions, with penalties during water shortage emergencies.

c. Beneficial consumptive users shall have water

management plans which shall include, but not be limited to, the following:

- (1) Use of water saving plumbing;
- (2) A water loss reduction program;
- (3) A water use education program; and
- (4) Mandatory reductions during water shortage emergencies. However, these reductions shall be on an equitable basis with other uses exempted under subsection C of § 2.1.

3. Compliance requirements. The permit shall include requirements to comply with all appropriate provisions of state laws and regulations.

4. Duration of permits. Surface Water Withdrawal Permits issued under this regulation shall have an effective duration of not more than 10 years. The term of these permits shall not be extended by modification beyond the maximum duration. Extension of permits for the same activity beyond the maximum duration specified in the original permit will require reapplication and reissuance of a new permit.

5. Monitoring requirements as conditions of permits.

a. All permits shall specify:

- (1) Requirements concerning the proper use, maintenance and installation, when appropriate, of monitoring equipment or methods when required as a condition of the permit; and
- (2) Required monitoring including type, intervals, and frequency sufficient to yield data which are representative of the monitored activity and including, when appropriate, continuous monitoring.

b. All permits shall include requirements to report monitoring results with a frequency dependent on the nature and effect of the water withdrawal, but in no case less than once per year.

6. Reissued permits. When a permit is renewed or reissued, limitations or conditions must be in conformance with current limitations or conditions.

[7. Reopening permits. Each permit shall have a condition allowing the reopening of the permit for the purpose of modifying the conditions of the permit to meet new regulatory standards duly adopted by the board or to reflect appropriate conditions to protect the water resource.]

§ 2.5. Draft permit formulation.

A. Upon receipt of a complete application, pursuant to subsection A of § 2.1 of this regulation, the board shall

review the application and make a tentative determination to issue the permit or deny the application. In considering whether to issue or deny a permit under this section, the board shall consider:

1. The number of persons using a stream and the object, extent and necessity of their representative withdrawal uses;
2. The nature and size of the stream;
3. The type of businesses or activities to which the various uses are related;
4. The importance and necessity of the uses claimed by permit applicants, or of the water uses of the area and the extent of any injury or detriment caused or expected to be caused to instream or offstream uses;
5. The effects on beneficial uses; and
6. Any other relevant factors.

B. If a tentative decision is to issue the permit then a draft permit shall be prepared in advance of public notice. The following tentative determinations shall be incorporated into a draft permit:

1. The level of flow that activates the permit conditions, water withdrawal limitations, and other requirements applicable to the permit;
2. Monitoring requirements;
3. Instream flow requirements; and
4. Water conservation or management requirements.

C. If the tentative decision is to deny the application, the board shall do so in accordance with § 4.5 of this regulation.

§ 2.6. Permit issuance.

A. Upon completion of all public involvement and consideration of all comments, the executive director may grant the permit, or, at his discretion, transmit the application, together with all written comments thereon and relevant staff documents and staff recommendations, if any, to the board for its decision.

B. Permits issued by priority system.

1. For the purposes of this regulation, the following water-use classification system based on beneficial uses, instream and offstream, shall be used by the board when issuing permits:

- a. Class I uses are domestic (including public water supply) [and . Class I uses are all] existing uses [as of July 1, 1989] . Included among existing uses

Final Regulations

shall be any projected use which has been relied upon in the development of an industrial project and for which a permit has been obtained by January 1, 1989, pursuant to § 404 of the Clean Water Act;

b. Class II uses are [new uses, not existing on July 1, 1989. These uses include both instream uses,] protection of fish and wildlife habitat, maintenance of waste assimilation [; ; and offstream uses,] agriculture, electric power generation, commercial and industrial; and

c. Class III uses [are new uses not existing on July 1, 1989. They] include but are not limited to recreation, navigation, and cultural and aesthetic values.

2. Class I uses shall be given the highest priority in the issuance of permits for other beneficial uses. Class II and Class III uses are of decreasing priority respectively.

3. The board may impose restrictions on one or more classes of beneficial uses as may be necessary to protect the surface water resources of the area from serious harm.

4. In its permit decision, the board shall attempt to balance offstream and instream uses so that the welfare of the citizens of the Commonwealth is maximized without imposing unreasonable burdens on any individual water user or water-user group. The decision to implement this balance may consist of approval of withdrawal without restriction, approval subject to conditions designed to protect instream uses from unacceptable adverse effects, or disapproval of the withdrawal.

§ 2.7. Effect of a permit.

A. Compliance with a Surface Water Withdrawal Permit constitutes compliance with the surface water withdrawal permit requirements of §§ 62.1-242 through 62.1-253 of the Code of Virginia.

B. Nothing contained in this regulation shall be construed as an expressed or implied waiver of other permit requirements, state or federal, including the Virginia Water Protection Permit and Water Withdrawal Reporting (VR 680-15-01) of the Regulations of the State Water Control Board.

C. The issuance of a permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize injury to private property or any invasion of personal rights or any infringement of federal, state or local law or regulation.

D. Nothing in this regulation shall be construed as altering, or authorizing any alteration of, any existing

riparian rights except as set forth in permits issued pursuant to this chapter. The conditions in such permits shall be in force only in those times when low stream flow, or the potential therefor, result in a declaration as provided for in subsection C of § 1.4.

§ 2.8. Variances and alternative measures.

A. Variances may be applied for, and alternative measures may be used to:

1. Prevent undue hardship; and
2. Ensure equitable distribution of water resources.

B. Alternative measures may include, but are not limited to, the following:

1. Alternative or secondary water source;
2. Water storage during times of minimum use and high stream flow; [and]

[3. Ponds, pits, ditches and basins when the sole source of water is storm water runoff; and]

[4.] Vary water withdrawal based on time of day, the season or the stream flow.

[C. The board must approve all variances and use of alternative measures.]

PART III.

PUBLIC INVOLVEMENT IN PERMIT PROCESS.

§ 3.1. Public notice of permit action and public comment period.

A. Every draft permit shall be given public notice paid for by the owner, by publication once in a newspaper of general circulation in the area affected by the [discharge withdrawal] .

B. The board shall allow a period of at least 30 days following the date of the public notice for interested persons to submit written comments on the tentative decision and to request a public hearing.

C. The contents of the public notice of an application for a permit, or proposed permit action shall include:

1. Name and address of the applicant. If the location of the activity resulting in the withdrawal of water differs from the address of the applicant the notice shall also state the location of the withdrawal in sufficient detail such that the specific location may be easily identified.

2. Brief description of the business or activity to be conducted at the withdrawal site.

3. The name of the affected waterway.
4. A statement of the tentative determination to issue or deny a permit.
5. A brief description of the final determination procedure.
6. The address and phone number of a specific person at the state office from whom further information may be obtained.
7. A brief description on how to submit comments and request a public hearing.

§ 3.2. Public access to information.

All information pertaining to permit processing or in reference to any source of water withdrawal shall be available to the public.

§ 3.3. Public comments and hearing.

A. The board shall provide a comment period of at least 30 days following the date of public notice of the formulation of a draft permit during which interested persons may submit written comments and requests for an informal hearing on the proposed permit. All written comments submitted during the comment period shall be retained by the board and considered during its final decision process.

B. The executive director shall consider all written comments and requests for an informal hearing received during the comment period, and shall make a determination on the necessity of an informal hearing in accordance with § 1.12 of Procedural Rule No. 1 (VR 680-31-01). All proceedings, informal hearings and decisions therefrom will be in accordance with Procedural Rule No. 1.

C. Should the executive director, in accordance with Procedural Rule No. 1, determine to dispense with the informal hearing, he may grant the permit, or, at his discretion, transmit the proposal, application or request, together with all written comments thereon and relevant staff documents and staff recommendations, if any, to the board for its decision.

§ 3.4. Public notice of hearing.

A. Public notice of any informal hearing held pursuant to § 3.3 shall be circulated as follows:

1. Notice shall be published once in a newspaper of general circulation in the county or city where the activity is to occur;
2. Notice of the informal hearing shall be sent to all persons and government agencies which received a copy of the notice of proposed regulation or permit

application and to those persons requesting an informal hearing or having commented in response to the public notice.

B. Notice shall be effected pursuant to subdivisions A 1 and 2 above at least 30 days in advance of the informal hearing.

C. The content of the public notice of any hearing held pursuant to § 3.3 shall include at least the following:

1. Name and address of each person whose application will be considered at the informal hearing and a brief description of the person's activities or operations;
2. The precise location of such activity and the state surface waters that will or may be affected. The location should be described, where possible, with reference to route numbers, road intersections, map coordinates or similar information;
3. A brief reference to the public notice issued for the permit application, including identification number and date of issuance of the permit application unless the public notice includes the informal hearing notice;
4. Information regarding the time and location for the informal hearing;
5. The purpose of the informal hearing;
6. A concise statement of the relevant water withdrawal issues raised by the persons requesting the informal hearing;
7. Contact person and the address of the State Water Control Board office at which the interested persons may obtain further information, request a copy of the draft permit prepared pursuant to § 2.5; and
8. A brief reference to the rules and procedures to be followed at the informal hearing.

§ 3.5. Public notice that permit conditions are in force.

A. When permit conditions become applicable in a surface water management area, the board shall notify each permittee by mail or cause notice thereof to be published in a newspaper of general circulation throughout the area.

B. The board shall notify each permittee by mail or cause notice thereof to be published in a newspaper of general circulation throughout the surface water management area when the declaration of water shortage is rescinded.

PART IV. PERMIT MODIFICATION, REVOCATION AND REISSUANCE, SUSPENSION, CANCELLATION

Final Regulations

AND DENIAL.

§ 4.1. Rules for modification, revocation and reissuance, suspension, cancellation and denial.

Permits shall be modified, revoked and reissued, suspended, or cancelled only as authorized by this section as follows:

1. A permit may be modified in whole or in part, revoked and reissued, suspended or cancelled.

2. Permit modifications shall not be used to extend the term of a permit.

3. Modification, revocation and reissuance, suspension or cancellation may be initiated by the board, permittee, or other person, under applicable laws or the provisions of this regulation.

4. After public notice and opportunity for a formal hearing pursuant to § 1.20 of Procedural Rule No. 1 a permit can be suspended or cancelled whenever the board finds that the holder of a permit is willfully violating any provision of such permit or any other provision of § 62.1-242 et seq. Whenever a permit is suspended the conditions to lift the suspension will be included in the board's decision. The determination to suspend, cancel or impose conditions on its future use in order to prevent future violations shall be based on the seriousness of the offense, the permittee's past record, the effect on beneficial uses, the effect on other users in the area and any other relevant factors. The causes for suspension or cancellation are as follows:

a. Noncompliance by the permittee with any condition of the permit;

b. The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts or the permittee's misrepresentation of any relevant facts at any time;

c. The permittee's violation of a special or judicial order; and

d. A determination that the permitted activity endangers human health or the environment and can be regulated to acceptable levels by permit modification or cancellation.

5. In considering whether to modify, revoke and reissue, or deny a permit under this section, the board shall consider:

a. The number of persons using a stream and the object, extent and necessity of their representative withdrawal uses;

b. The nature and size of the stream;

c. The type of businesses or activities to which the various uses are related;

d. The importance and necessity of the uses claimed by permit applicants, or of the water uses of the area and the extent of any injury or detriment caused or expected to be caused to instream or offstream uses;

e. The effects on beneficial uses; and

f. Any other relevant factors.

§ 4.2. Causes for modification.

A permit may be modified, but not revoked and reissued, except when the permittee agrees or requests, when any of the following developments occur:

1. When additions or alterations have been made to the affected facility or activity which require the application of permit conditions that differ from those of the existing permit or are absent from it.

2. When new information becomes available about the operation or withdrawal covered by the permit which was not available at permit issuance and would have justified the application of different permit conditions at the time of permit issuance.

3. When a change is made in the methodology or regulations on which the permit was based.

4. When it becomes necessary to change final dates in schedules due to circumstances over which the permittee has little or no control such as acts of God, materials shortages, etc. However, in no case may a compliance schedule be modified to extend beyond any applicable statutory deadline of the Act.

[5. When changes occur which are subject to "reopener clauses" in the permit.]

[6. 5.] When the board determines that minimum instream flow levels resulting from the permittee's withdrawal of water is detrimental to the instream beneficial use and that the withdrawal of water should be subject to further net limitations.

[7. 6.] When other states were not notified of the change in the permit and their waters may be affected by the [discharge withdrawal] .

§ 4.3. Transferability of permits.

A. Transfer by modification.

Except as provided for under automatic transfer in subsection B of this section, a permit shall be transferred only if the permit has been modified to reflect the transfer or has been revoked and reissued to the new

owner.

B. Automatic transfer.

Any permit shall be automatically transferred to a new user if:

1. The current user notifies the board 30 days in advance of the proposed transfer of the permit to the facility or property;
2. The notice to the board includes a written agreement between the existing and proposed new user containing a specific date of transfer of permit responsibility, coverage and liability between them; and
3. The board does not within the 30-day time period notify the existing user and the proposed user of its intent to modify or revoke and reissue the permit.

§ 4.4. Minor modification.

A. Upon request of the permittee, or upon board initiative with the consent of the permittee, minor modifications may be made in the permit without following the public involvement procedures.

B. For Surface Water Withdrawal Permits, minor modification may only:

1. Correct typographical errors;
2. Require reporting by the permittee at a greater frequency than required in the permit; and
3. Allow for a change in ownership or operational control when the board determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage and liability from the current to the new permittee has been submitted to the board.

§ 4.5. Denial of a permit.

A. The applicant shall be notified by letter of the staff's decision to recommend to the board, denial of the permit requested.

B. The staff shall provide sufficient information to the applicant regarding the rationale for denial, such that the applicant may at his option: (i) modify the application in order to achieve a favorable recommendation; (ii) withdraw his application; or (iii) proceed with the processing on the original application.

C. Should the applicant withdraw his application, no permit will be issued.

D. Should the applicant elect to proceed with the

original project, the staff shall make its recommendation of denial to the executive director for determination of the need for public notice as provided for in accordance with Part III of this regulation.

PART V. ISSUANCE OF CERTIFICATES.

§ 5.1. Duty to apply.

A. No political subdivision, investor-owned water company or existing beneficial consumptive user withdrawing water in a declared surface water management area and exempted under subsection C of § 2.1 of this regulation from needing a surface water withdrawal permit shall continue to withdraw water in the surface water management area except as authorized by a surface water withdrawal certificate.

B. If an area has been declared a surface water management area, any person exempted under subsection C of § 2.1 of this regulation shall apply for a certificate within 90 days of the declaration.

§ 5.2. [Duration of certificates.]

Surface water withdrawal certificates shall have an effective duration of not more than 10 years.

§ 5.3. Duty to re-apply.

Any person who has an effective surface water withdrawal certificate must apply for a new certification at least 180 days before the expiration date of an effective certificate unless permission for a later date has been granted by the board.

§ 5.4. Complete application required.

A. A complete Surface Water Withdrawal Certificate application to the State Water Control Board shall, as a minimum, consist of the following:

[1. General requirements.]

[1. a.] The location of the water withdrawal, including the name of the waterbody from which the withdrawal is being made;

[2. b.] The average [daily] withdrawal, the maximum withdrawal, and any variations of the withdrawal by season including amounts and times of the day or year during which withdrawals may occur;

[3. c.] The use of the withdrawal, including the importance for the need for this use; and

[4. d.] Any alternative water supplies or water storage.

Final Regulations

[2. Specific requirements. Water conservation or management plans as found in subdivision 2 of § 2.4.]

B. Where an application is considered incomplete the board may require the submission of additional information after an application has been filed, and may suspend processing of any application until such time as the applicant has supplied missing or deficient information and the board considers the application complete. Further, where the applicant becomes aware that he omitted one or more relevant facts from a certificate application, or submitted incorrect information in a certificate application or in any report to the board, he shall immediately submit such facts or the correct information.

§ 5.5. Information requirements.

All applicants for a Surface Water Withdrawal Certificate shall provide all such information consistent with this regulation as the board deems necessary. All applicants for a certificate must submit a complete application in accordance with § 5.4 of this regulation.

§ 5.6. Additional requirements.

In addition to the requirements found in this section, the requirements in subsections A and G of § 2.2, § 2.3, [subdivision 2 of § 2.4, subdivisions B 1 and 4 of] § 2.5, § 2.6, § 2.7, Part III and Part IV of this regulation also apply to certificate holders and certificate applicants [as necessary] .

PART VI. ENFORCEMENT.

§ 6.1. Enforcement.

The board may enforce the provisions of this regulation utilizing all applicable procedures under the law.

PART VII. MISCELLANEOUS.

§ 7.1. Delegation of authority.

The executive director, or a designee acting for him, may perform any act of the board provided under this regulation.

§ 7.2. Transition.

A. No surface water management area shall be designated by regulation sooner than six months following final adoption of this regulation.

B. If a [surface] water user holds more than one permit for water withdrawal, in any areas of conflict or disagreement among the permits, the Surface Water Withdrawal Permit shall hold priority.

DEPARTMENT OF WASTE MANAGEMENT (VIRGINIA WASTE MANAGEMENT BOARD)

Title of Regulation: VR 672-20-11. Solid Waste Management Facility Permit Application Fees.

Statutory Authority: § 10.1-1402 of the Code of Virginia.

Effective Date: June 8, 1992.

Summary:

At its 1990 session, the General Assembly authorized the Virginia Waste Management Board to collect permit application fees from any person operating or proposing to operate a facility for storage, treatment, or disposal of nonhazardous solid waste to defray costs related to the issuance of permits. Based on the historical time-and-effort data and the more recent outcome of the process streamlining effort, the board adopted a detailed schedule of fees that takes into account the type of facility, as required by the Code. To meet the further requirement to consider the levels of fees charged by neighboring states, the fee schedule has been set to recoup only a portion of the total costs associated with the issuance process. The fees range from \$3,300 to \$17,500, about 80% of the total direct costs of issuance of a permit for a new facility. Fees for permit amendments have also been adopted and reflect the same relationship to direct costs. As a result of the comments received during the public participation period, the proposed regulation has been amended to exempt those applicants that have submitted complete permit applications by July 1, 1990.

VR 672-20-11. Solid Waste Management Facility Permit Application Fees.

PART I. DEFINITIONS.

§ 1.1. Definitions.

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

"Act" or "regulations" means the Virginia Waste Management Act or regulation last cited in the context unless otherwise indicated.

"Applicant" means for the purposes of this regulation any and all persons seeking or holding a permit to manage solid or infectious waste.

"Board" means the Virginia Waste Management Board.

"Certification" means, for the purposes of this regulation, a statement from the governing body of the county, city or town in which the facility is to be located

that the location and operation of the facility are consistent with all applicable ordinances.

"Closure" means the act of securing a waste management facility pursuant to the requirements of applicable regulations.

"Closure plan" means the plan for closure prepared in accordance with the requirements of applicable regulations.

"Compost" means a stabilized organic product produced by a controlled aerobic decomposition process in such a manner that the product can be handled, stored, or applied to the land without adversely affecting public health or the environment. Composted sludge shall be as defined by the Virginia Sewerage Regulations.

"Compost facility" means, for the purpose of this regulation, a facility that produces compost.

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

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

"Contingency plan" means a document setting out an organized, planned and coordinated course of action to be followed in the event of a fire, explosion, or release of waste or waste constituents which could threaten human health or the environment.

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

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

"Department" means the Virginia Department of Waste Management.

"Director" means the Director of the Department of Waste Management.

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

"Disposal facility" means a facility or part of a facility at which waste is intentionally placed into or on any land or water, and at which the waste will remain after closure.

"Emergency permit" means a permit issued where an imminent and substantial endangerment to human health or the environment is determined to exist by the director.

"Energy recovery facility" means, for the purpose of this regulation, a facility that recovers energy from combustion or other thermal treatment of solid waste.

"Existing facility" means any permitted solid or infectious waste management facility that received waste prior to the effective date of these regulations and has not been closed in accordance with appropriate regulations.

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

"Groundwater" means any water, except capillary moisture, beneath the land surface in the zone of saturation or beneath the bed of any stream, lake, reservoir, or other body of surface water within the boundaries of the Commonwealth, whatever may be the subsurface geologic structure in which such water stands, flows, percolates or otherwise occurs.

"Incineration" means, for the purposes of this regulation, the controlled combustion of solid or infectious waste as defined in the Virginia Solid Waste Management Regulations (VR 672-20-10) or Infectious Waste Management Regulations (VR 672-40-1), as applicable.

"Incinerator" means, for the purposes of this regulation, a facility or device designed for the treatment of solid or infectious waste by combustion as defined in the Virginia Solid Waste Management Regulations (VR 672-20-10) or Infectious Waste Management Regulations (VR 672-40-1).

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

Final Regulations

include mining waste or oil and gas waste.

“Industrial waste landfill” means a solid waste landfill used primarily for the disposal of a specific industrial waste or a waste which is a byproduct of a production process.

“Infectious waste” means solid wastes defined to be infectious wastes in Part III of the Virginia Infectious Waste Management Regulations.

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

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

“Liner” means a layer of emplaced materials beneath or on the sides of a surface impoundment, landfill, or landfill cell which restricts the downward or lateral escape of solid waste, waste constituents or leachate.

“Materials recovery facility” means a solid waste management facility for the collection, processing and recovery of material such as metals from solid waste or for the production of a fuel from solid waste.

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

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

“New waste management facility” or “new facility” means, for the purposes of this regulation, a facility for which a permit was issued, or revoked and reissued, after the effective date of this regulation. (See also, existing waste management facility.)

“Notice of intent” means a statement from the applicant proposing to establish a new solid waste management facility, to modify an existing facility, or to amend an existing permit. The notice of intent shall include local government certification, any forms required by the Virginia Solid Waste Management Regulations, disclosure statement and all pertinent fees required by this regulation.

“Operator” means the person responsible for the overall

operation and site management of a solid or infectious waste management facility.

“Owner” means the person who owns a solid waste management facility or part of a solid or infectious waste management facility.

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

“Permit by rule” means provisions of the regulations stating that a facility or activity is deemed to have a permit if it meets the requirements of the provision.

“Permitted waste management facility (or permitted facility)” means a waste treatment, storage, or disposal facility that has received a permit in accordance with the requirements of appropriate regulations.

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

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

“Post-closure plan” means the plan for post-closure care prepared in accordance with the requirements of Part V of the Virginia Solid Waste Management Regulations.

“Resource recovery” means the recovery of material or energy from solid waste.

“Resource recovery facility” means any facility at which solid waste is processed for the purpose of extracting, converting to energy, or otherwise separating and preparing solid waste for reuse.

“Sanitary landfill” means an engineered land burial facility for the disposal of solid waste which is so located, designed, constructed and operated to contain and isolate the solid waste so that it does not pose a substantial present or potential hazard to human health or the environment.

“Site” means all land and structures, other appurtenances, and improvements thereon used for treating, storing, and disposing of solid waste. This term includes adjacent land within the property boundary used for the utility systems such as repair, storage, shipping or processing areas, or other areas incident to the management of solid or infectious waste. (Note: This term includes all sites whether they are planned and managed facilities or are open dumps.)

“Solid waste” means any of those materials defined as “solid waste” in Part III of Virginia Solid Waste Management Regulations.

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

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

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

"Storage facility" means any facility which stores waste.

"Training" means formal instruction, supplementing an employee's existing job knowledge, designed to protect human health and the environment via attendance and successful completion of a course of instruction in waste management procedures, including contingency plan implementation, relevant to those operations connected with the employee's position at the facility.

"Transfer facility" means any transportation related facility including loading docks, parking areas, storage areas, and other similar areas where shipments of hazardous or infectious waste are held during the normal course of transportation.

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

"Treatment" means any method, technique or process, including but not limited to incineration or neutralization, designed to change the physical, chemical or biological character or composition of any waste to neutralize it or to render it less hazardous or infectious, safer for transport, amenable to recovery, or storage or reduced in volume.

"Waste management" means the collection, source separation, storage, transportation, transfer, processing, treatment and disposal of waste or resource recovery.

PART II. LEGISLATIVE AUTHORITY AND GENERAL INFORMATION.

§ 2.1. Authority for regulation.

These regulations are promulgated pursuant to § 10.1-1402 11 of the Code of Virginia (hereinafter Code) which authorizes the Virginia Waste Management Board to promulgate and enforce such regulations as may be necessary to carry out its duties and powers and the intent of the Virginia Waste Management Act and the federal acts and § 10.1-1402 16 of the Code which authorizes the board to collect, from any person operating

or proposing to operate a sanitary landfill or other facility for the disposal, treatment, or storage of nonhazardous solid waste, permit application fees sufficient to defray only costs related to the issuance of permits.

§ 2.2. Purpose of regulation.

The purpose of this regulation is to establish schedules and procedures pertaining to the payment and collection of fees from any applicant seeking a new permit or seeking a modification or an amendment to an existing permit for operation of a solid or infectious waste management facility in this Commonwealth.

§ 2.3. Administration of regulation.

A. The Virginia Waste Management Board promulgates and enforces regulations that it deems necessary to carry out its powers and duties.

B. The director is authorized and directed to administer this regulation in accordance with the Virginia Waste Management Act, §§ 10.1-1400 through 10.1-1457 of the Code.

§ 2.4. Applicability of regulations.

A. This regulation applies to all applicants for solid or infectious waste management facility permits under Part VII of the Virginia Solid Waste Management Regulations or Part IX of the Infectious Waste Management Regulations, respectively, unless specifically exempt under § 2.4 E. The fees shall be assessed in accordance with Part III of this regulation.

B. When the director finds it necessary to amend or modify any permit under § 7.14 of the Virginia Solid Waste Management Regulations or §§ 9.14 and 9.15 of the Infectious Waste Management Regulations, as applicable, the holder of that permit shall be considered an applicant and shall be assessed a fee in accordance with § 3.3 of this regulation even if the director has initiated the amendment or modification action.

C. When the director finds it necessary to revoke and reissue any permit in accordance with § 7.12 B 1 of the Virginia Solid Waste Management Regulations or §§ 9.14 and 9.15 of the Infectious Waste Management Regulations, as applicable, the holder of that permit shall be considered an applicant for a new permit and shall be assessed a fee in accordance with § 3.2 of this regulation.

D. If the director finds it necessary either to revoke and reissue a permit in accordance with § 7.12 B 2 of the Virginia Solid Waste Management Regulations, or to perform a minor amendment or modification of a permit in accordance with § 7.14 F of the Virginia Solid Waste Management Regulations, or § 9.17 of the Infectious Waste Management Regulations, as applicable, the holder of that permit shall be considered an applicant and shall be assessed a fee in accordance with § 3.4 of this

Final Regulations

regulation.

E. Exemptions.

No permit application fees will be assessed to:

1. The applicant for an emergency permit to a nonhazardous solid or infectious waste treatment, storage, or disposal facility in accordance with applicable regulations.

2. The owners and operators of facilities which are deemed to possess a permit-by-rule in accordance with applicable regulations.

[3. The applicants for solid and infectious waste management facility permits who have submitted to the department complete permit applications by July 1, 1990.]

(NOTE: Transfer facilities regulated under the Infectious Waste Management Regulations do not require a permit and, consequently, are not subject to this regulation.)

§ 2.5. Payment, deposit, and use of fees.

A. Due date.

1. Except as specified in § 2.5 A 2 and 2.5 A 3 all permit application fees are due on the day of application and must accompany the application.

2. Applicants for solid waste management permits shall submit the appropriate fee along with the certification from the local governing body and the disclosure statements at the time of the submittal of the notice of intent.

3. All applicants for a solid or infectious waste management facility permit or for a modification or amendment of an existing permit [, not otherwise exempt under § 2.4 E 3,] who have submitted their application prior to the effective date of this regulation and who have not been issued such a permit or a modification or amendment to a permit by that date, shall submit the appropriate application fee within 60 days of the effective date of the regulation or by the effective date of the permit or the modification or amendment to the permit, whichever is sooner. Applicants that have received from the department an approval or a conditional approval of the Part A of their application prior to the effective date of these regulations need to submit only the fee for Part B of the application.

B. Method of payment.

Acceptable payment is cash or check made payable to the Commonwealth of Virginia, Department of Waste Management.

C. Incomplete payments.

All incomplete payments will be deemed nonpayments.

D. Late payment.

No applications will be deemed to be complete (see §§ 7.2 C and 7.2 D of the Virginia Solid Waste Management Regulations or § 9.2 C of the Infectious Waste Management Regulations) until proper payment is received by the department.

E. Deposit and use of fees.

The department shall collect all fees pursuant to this regulation and deposit them into a special fund. All moneys so collected by the department shall be used solely to defray the direct costs of processing solid waste management facility permit applications. No such moneys shall be used to defray indirect costs or otherwise be used except for the processing of solid waste management facility permit applications.

(NOTE: With the exception of emergency permits and permits-by-rule under the Infectious Waste Management Regulations, the department cannot act on an incomplete application (see §§ 7.2 C 2 and 7.2 D 2 of the Virginia Solid Waste Management Regulations or § 9.2 C of the Infectious Waste Management Regulations). Nonpayment of fees will result in the processing delay and may lead to termination procedures in case of permits being amended or revoked and reissued for cause.)

PART III. DETERMINATION OF FEE AMOUNT.

§ 3.1. General.

A. Each application for a new permit, each application for a modification or amendment to a permit, and each revocation and issuance of a permit is a separate action and shall be assessed a separate fee. The amount of such fees is determined on the basis of this Part III.

B. The amount of the permit application fee is based on the costs directly associated with the permitting program required by Part VII of the Virginia Solid Waste Management Regulations or Part IX of the Infectious Waste Management Regulations and includes costs for personnel and directly related public participation costs. The fee schedules are shown in Appendix 3.1. These schedules will be reevaluated annually and the results of such reevaluations will be used to recommend to the Virginia Waste Management Board the necessary adjustments, if any.

§ 3.2. New facility permits.

All applicants for new nonhazardous solid and infectious waste treatment, storage, and disposal facility permits are assessed an appropriate fee shown in Table 3.1-1,

Appendix 3.1 which depends on the type of facility permit being applied for.

(NOTE: Certain solid waste management facility permit amendments are so extensive that they require issuance of new permits (see § 7.0 C of the Virginia Solid Waste Management Regulations). Such applications will be considered to be applications for new facilities.)

§ 3.3. Applications for permit amendment or modification.

A. General.

Facility permits issued by the department are typically based on the modular concept to assure completeness and consistency of the documents. Each facility permit may consist of several modules dealing with the requirements addressing separate topics pertinent to the specific facility. The modules used in the nonhazardous solid and infectious waste program are:

1. General permit conditions module (Module I) that contains the general conditions required for all solid or infectious waste facility permits and includes documents to be submitted prior to operation, documents that must be maintained at the facility, and a compliance schedule, if any.

2. General facility requirements module (Module II) that contains the listing of wastes that the facility may accept or a list of wastes prohibited from acceptance, analysis plan, security and site access, inspection requirements, personnel training requirements, special standards based on particular location, preparedness and prevention plan, contingency plan, closure and post-closure cost estimates, and facility-specific financial assurance requirements.

3. Separate facility modules, one for each of the different type of facility provided for in Parts V and VI of the Virginia Solid Waste Management Regulations, that contain design requirements (e.g., liners, leachate management systems, aeration systems, wastewater collection systems), specific operating requirements (e.g., compaction and cover requirements, equipment, monitoring), and recordkeeping requirements. The following modules have been developed:

- a. Module III - Sanitary landfills;
- b. Module IV - Construction/demolition/debris landfill;
- c. Module V - Industrial landfill;
- d. Module VI - Compost facility;
- e. Module VII - Transfer station;

f. Module VIII - Materials recovery facility; and

g. Module IX - Energy recovery and incineration facility.

4. Groundwater monitoring modules that contain requirements for well location, installation, and construction, listing of monitoring parameters and constituents, sampling and analysis procedures, statistical procedures, data evaluation, recordkeeping and reporting, and special requirements when significant increases occur in monitoring parameters. Module X is designed specifically for Phase I monitoring and Module XI for Phase II or III monitoring.

5. Closure module (Module XII) included in all permits that contains requirements for actions during the active life of the facility (updating plan), during the closure process, and after the closure has been performed.

6. Post-closure module (Module XIII) included in solid waste disposal facility permits that contains requirements during the post-closure period and for periodic updating of the post-closure plan.

7. Schedule for compliance for corrective action (Module XIV) used when facility groundwater monitoring results indicate contamination.

8. Leachate handling module (Module XV) included in solid waste disposal facility permits that contains requirements for storage, treatment and disposal of leachate generated by the facility.

(NOTE: Appropriate modules for infectious waste storage and treatment facilities (other than incineration) have not been developed as yet.)

B. Applicants for a modification or amendment of an existing permit will be assessed a fee associated with only those modules that will require changes. In situations where the modular concept is not employed (for example, changes have been incorporated directly into an older permit), fees will be assessed as appropriate for the requirements stipulated for modules in § 3.3 A had they been used.

C. Applicants for a modification or amendment or subject to revocation and reissuance of an existing permit will be assessed a separate public participation fee whenever the modification or amendment requires a public hearing.

D. The fee schedules for the modification or amendment or subject to revocation and reissuance of an existing permit are shown in Table 3.1-2, Appendix 3.1.

E. In no case will the fee for a modification or amendment or revocation and reissuance of a permit be

Final Regulations

higher than that for a new facility of the same type.

§ 3.4. Minor amendments or modifications.

Notwithstanding the provisions of § 3.3, an applicant for a minor amendment or modification of an existing facility permit based on § 7.14 F of the Virginia Solid Waste Management Regulations or § 9.17 of the Infectious Waste Management Regulations will be assessed a fee shown in Table 3.1-3, Appendix 3.1.

APPENDIX 3.1 PERMIT APPLICATION FEE SCHEDULES

§ 3.1-1. Effective Date. The effective date of this Appendix is [June 8, 1992.]

§ 3.1-2. Application Fee Schedules.

TABLE 3.1-1. NEW FACILITIES

TYPE OF FACILITY	FEE
All landfills	
Part A application	\$3,200
Part B application	\$14,300
Incineration/Energy Recovery Facility	\$4,500
Transfer Station, Materials Recovery Facility, Infectious Waste Storage Facility, Infectious Waste Treatment Facility	\$3,300
Compost Facility	
Part A application	\$1,600
Part B application	\$8,100
Experimental Solid Waste Facility	(Reserved) ¹

¹ Indicates insufficient experience at the present time to determine proper fee. Should an application for such a facility be received, the lowest fee in the table will be assessed.

TABLE 3.1-2. PERMIT AMENDMENTS OR MODIFICATIONS

TYPE OF PERMIT MODULE	FEE
General - Module I	\$300
Facility - Module II	\$1,000
Landfill - Module III, IV, or V	\$5,400
Design plan review	\$700
Liner design review	\$1,500
Leachate system review	\$1,000
Gas management plan review	.....
Drainage plan review	\$700
Cover design review	\$1,400
Equipment	.....
Compost facility - Module VI	\$2,800
Design plan review	\$500
Liner design review	\$1,000
Leachate system review	\$700

Air supply system review	.....
Drainage plan review	\$500
Equipment	.....
Transfer station - Module VII	\$900
Material recovery facility - Module VIII	\$1,200
Waste supply analysis	\$500
Waste management areas	\$400
Wastewater management areas	\$300
Incinerator/Energy recovery facility - Module IX	\$2,300
Waste and residue storage	\$700
Operational requirements	\$1,200
Waste control procedures	\$400
Groundwater monitoring - Module X or XI	\$2,500
Well placement	\$1,000
Materials and specifications	\$300
Sampling plan	\$1,200
Well abandonment	.....
Closure - Module XII	\$300
Post-closure - Module XIII	\$300
Corrective action - Module XIV	(Reserved)
Leachate handling - Module XV	(Reserved)
Infectious waste storage facility - Module XVI	(Reserved)
Infectious waste treatment facility - Module XVII	(Reserved)
Public participation	\$800

TABLE 3.1-3. MINOR PERMIT AMENDMENT OR MODIFICATION

TYPE OF PERMIT MODULE	FEE
Minor amendment or modification	\$300

Title of Regulation: VR 672-30-1. Regulations Governing the Transportation of Hazardous Materials.

Statutory Authority: §§ 10.1-1402 and 10.1-1450 of the Code of Virginia.

Effective Date: June 3, 1992.

Summary:

Amendment 10 incorporates by reference changes that were made by U.S. DOT to Title 49 Code of Federal Regulations (CFR), Parts 171-179, 383, and 390-397 from July 1, 1990, to June 30, 1991. These changes include (i) extension of the compliance date for having vertical restraints systems on certain DOT specification tank cars from November 15, 1990, to November 15, 1992; (ii) revision of the definition of "Etiologic agent" in 49 CFR 172.386(a)(1), deletion of the "50 milliliter (1.666 fluid ounces) exception," and clarification of the "maximum net quantity in one packaging" limits for etiologic agents transported by aircraft as specified in Column 6 of the Hazardous Materials Table in § 172.101; (iii) revision of Part 396, Inspection, Repair and Maintenance, of the Federal Motor Carrier Safety Regulations (FMCSR) to require

motor carriers to ensure that brakes and brake systems of commercial motor vehicles (CMV) are properly maintained and inspected by appropriate employees; and (iv) corrections, editorial changes, clarifications, extension of effective dates of final rules, and other minor revisions.

In addition, this amendment includes a new section, Part 180, promulgated by U.S. DOT. Part 180 contains requirements for the maintenance, reconditioning, repair, inspection, and testing of packaging, as well as other functions relating to these activities. U.S. DOT believes that these changes will increase safety in the transportation of hazardous materials in cargo tanks by preventing leakage and the risk of fire in accidents through improvement of valving and closures.

VR 672-30-1. Regulations Governing the Transportation of Hazardous Materials.

PART I. DEFINITIONS.

§ 1.1. Definitions.

The following words and terms, when used in these regulations, shall have the following meaning, unless the context clearly indicates otherwise.

"Explosive" means any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion, i.e., with substantially instantaneous release of gas and heat, unless such compound, mixture, or device is otherwise specifically classified in 49 Code of Federal Regulations (CFR) Parts 170 through 177.

"Hazardous material" means a substance or material in a form or quantity which may pose an unreasonable risk to health, safety or property when transported, and which the Secretary of Transportation of the United States has so determined by regulation or order.

"Transport" or *"Transportation"* means any movement of property by any mode, and any packing, loading, unloading, identification, marking, placarding, or storage incidental thereto.

PART II. GENERAL INFORMATION AND LEGISLATIVE AUTHORITY.

§ 2.1. Authority for regulation.

A. These regulations are issued under authority of Article 7 (§ 10.1-1450 et seq.) of Chapter 14 of Title 10.1 of the Code of Virginia, Transportation of Hazardous Materials.

B. Section 10.1-1450 of the Code of Virginia assigns the Virginia Waste Management Board the responsibility for

promulgating regulations governing the transportation of hazardous materials.

C. The board is authorized to promulgate rules and regulations designating the manner and method by which hazardous materials shall be loaded, unloaded, packed, identified, marked, placarded, stored and transported, such rules to be no more restrictive than applicable federal regulations.

§ 2.2. Purpose of regulations.

The purpose of these regulations is to regulate the transportation of hazardous materials in Virginia.

§ 2.3. Administration of regulations.

A. The Director of the Department of Waste Management is designated by the Virginia Waste Management Board with the responsibility to carry out these regulations.

B. The Department of Waste Management is responsible for the planning, development and implementation of programs to meet the requirements of Article 7 (§ 10.1-1450 et seq.) of Chapter 14 of Title 10.1 of the Code of Virginia.

§ 2.4. Application of regulations.

Notwithstanding the limitations contained in Title 49, Code of Federal Regulations, § 171.1(a)(3), and subject to the exceptions set forth in § 2.5 below, these regulations apply to any person who transports hazardous materials, or offers such materials for shipment.

§ 2.5. Exceptions.

Nothing contained in these regulations shall apply to regular military or naval forces of the United States, nor to the duly authorized militia of any state or territory thereof, nor to the police or fire departments of this Commonwealth, providing the same are acting within their official capacity and in the performance of their duties; nor to the transportation of hazardous radioactive materials in accordance with § 44-146.30 of the Code of Virginia.

§ 2.6. Regulations not to preclude exercise of certain regulatory powers.

Pursuant to § 10.1-1452 of the Code of Virginia, the provisions of these regulations shall not be construed so as to preclude the exercise of the statutory and regulatory powers of any agency, department or political subdivision of the Commonwealth having statutory authority to regulate hazardous materials on specified highways or portions thereof.

§ 2.7. Transportation under United States Regulations.

Final Regulations

Pursuant to § 10.1-1454 of the Code of Virginia, any person transporting or offering for shipment hazardous materials in accordance with regulations promulgated under the laws of the United States, shall be deemed to have complied with the provisions of these regulations, except when such transportation is excluded from regulation under the laws or regulations of the United States.

§ 2.8. Enforcement.

A. Law-enforcement officers.

The Department of State Police and all other law-enforcement officers of the Commonwealth who have satisfactorily completed the course in Hazardous Materials Compliance and Enforcement as prescribed by the U.S. Department of Transportation, Research and Special Programs Administration, Office of Hazardous Materials Transportation, in federal safety regulations and safety inspection procedures pertaining to the transportation of hazardous materials, shall enforce the provisions of this article, and any rule or regulation promulgated herein. Those law-enforcement officers certified to enforce the provisions of this article, and any regulation promulgated hereunder, shall annually receive in-service training in current federal safety regulations and safety inspection procedures pertaining to the transportation of hazardous materials. Pursuant to § 10.1-1455 of the Code of Virginia, violation of these regulations is a Class 1 misdemeanor.

B. Civil judicial enforcement of these regulations shall be governed by § 10.1-1455 of the Code of Virginia.

§ 2.9. Application of Administrative Process Act.

The provisions of the Virginia Administrative Process Act, codified as § 9-6.14:1 of the Code of Virginia, govern the adoption, amendment, modification, and revision of these regulations, and the conduct of all proceedings hereunder.

PART III. COMPLIANCE WITH FEDERAL REGULATIONS.

§ 3.1. Compliance.

Every person who transports or offers for transportation hazardous materials within or through the Commonwealth of Virginia shall comply with the federal regulations governing the transportation of hazardous materials promulgated by the United States Secretary of Transportation with amendments promulgated and in effect as of ~~June 20, 1990~~ *June 30, 1991*, pursuant to the Hazardous Materials Transportation Act, and located at Title 49 of the Code of Federal Regulations (CFR) as set forth below and which are incorporated in these regulations by reference:

1. Exemptions. Hazardous Materials Program Procedures in 49 CFR, Part 107, Subpart B.

2. Hazardous Materials Regulations in 49 CFR, Parts 171 through 177.

3. Shipping Container Specifications in 49 CFR, Part 178.

4. Specifications for Tank Cars in 49 CFR, Part 179.

5. *Qualifications and Maintenance of Cargo Tanks in 49 CFR, Part 180.*

5. 6. Commercial Licensing Requirements in 49 CFR, Part 383.

6. 7. Motor Carrier Safety Regulations in 49 CFR, Parts 390 through 397 (~~provided, however, that the requirements of 49 CFR, Part 391 relating to Controlled Substances Testing shall not become effective until 120 days after the effective date of Amendment 9 of the Virginia Regulations Governing the Transportation of Hazardous Materials~~).

PART IV. HAULING EXPLOSIVES IN PASSENGER-TYPE VEHICLES.

§ 4.1. Hauling explosives in passenger-type vehicles.

Explosives shall not be transported in or on any motor vehicle licensed as a passenger vehicle or a vehicle which is customarily and ordinarily used in the transportation of passengers except upon written permission of the State Police and under their direct supervision and only in the amount and between points authorized. If the movement is intracity, the permission of the properly designated authority of such city shall be secured. Dangerous articles, including small arms ammunition, but not including other types of explosives, may be transported in passenger-type vehicles provided the maximum quantity transported does not exceed 100 pounds in weight. Such transportation shall not be subject to these rules.

PART V. OUT OF SERVICE.

§ 5.1. Out of service.

The Department of State Police and all other law-enforcement officers of the Commonwealth who have met the qualifications set forth in § 2.8, above, shall be the agents authorized to perform inspections of motor vehicles in operation and to declare and mark vehicles "out of service" as set forth in 49 CFR, § 396.9.

EDITOR'S NOTE ON INCORPORATION BY REFERENCE: Pursuant to § 9-6.18 of the Code of Virginia, 49 CFR Parts 171-179 and 390-397, is declared a document generally available to the public and appropriate for incorporation by reference. For this reason, it will not be printed in the Virginia Register of Regulations. Copies of this document are available for inspection at the Department of Waste Management, 11th floor, James Monroe Building, 101 N. 14th Street, Richmond.

Final Regulations

Virginia, and in the office of the Registrar of Regulations,
Room 262, General Assembly Building, Capitol Square,
Richmond, Virginia.

STATE CORPORATION COMMISSION

March 30, 1992

CASE NO. PUE900070

Administrative Letter 1992-7

Ex Parte: In re, Investigation
of Conservation and Load
Management Programs

TO: All Premium Finance Companies Licensed in Virginia

FINAL ORDER

RE: Refund of Unearned Interest

This letter is to inform all premium finance companies licensed in the Commonwealth that, pursuant to § 38.2-4705 of the Code of Virginia, interest may not be fully earned upon prepayment from any source (insurer or insured) for any reason, including default or cancellation. The Bureau of Insurance takes the position that in the event of prepayment, default, or cancellation, any unearned interest must be refunded to the insured either on a short-rate or a pro-rata basis.

The Bureau does not intend to propose any amendments to Regulation No. 6 (Rules Governing Insurance Premium Finance Companies) at the present time. However, the Bureau intends to enforce the provisions of § 38.2-4705 and random audits may be conducted to determine compliance with this section of the Code. Any premium finance company that is using a contract which permits interest to be fully earned should submit a revised contract to the Property and Casualty Market Regulation Section of the Bureau of Insurance for approval by June 1, 1992.

With regard to filing rate charts as specified in Section 2.1 of Regulation 6, the Bureau of Insurance takes the position that rates or the methods of calculating rates for all sums financed must be filed. It appears that some premium finance companies have filed only representative samples of rates being used. Henceforth, rate charts for all financed premiums must be filed. As an alternative, a statement of the methodology for calculating monthly payments and the range of sums financed may be filed or rates may be filed on diskette.

Questions regarding this letter may be directed to:

Jane J. Avery, Supervisor
State Corporation Commission
Bureau of Insurance
Box 1157
Richmond, Virginia 23209

/s/ Steven T. Foster
Commissioner of Insurance

STATE CORPORATION COMMISSION

AT RICHMOND, MARCH 27, 1992

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

By order of January 7, 1991, the Commission initiated an investigation to consider the subject of conservation and load management ("CLM") programs of electric and gas utilities. We noted therein that we have long encouraged utility efforts to promote CLM. However, we recognized that our policies have generally been developed on a case by case basis in reviewing tariff provisions, experimental CLM programs, ratemaking treatment for companies' CLM efforts, and advertising expenses and promotional practices (See Comm. of Va., at the relation of the S.C.C., Ex Parte: In Re, Investigation of Promotional Allowances, 1970 S.C.C. Ann. Rept. 136, Case No. 18796, Final Order, April 15, 1970). We therefore determined that it was now appropriate to address CLM in a more comprehensive manner. We requested comments on a broad spectrum of such issues, to be filed no later than February 28, 1991. Staff was directed to review those comments and prepare a report recommending specific rules or policies regarding CLM programs on or before April 26, 1991. Thereafter, the Commission invited a second round of comments on the Staff Report. Finally, we heard oral argument on October 29, 1991.

The response to our order was substantial. Almost 300 interested parties filed comments. Many of those were individual citizens who unanimously applauded CLM efforts. Companies, government agencies, nonprofit organizations, and citizen and environmental groups also responded. Utilities participating included Virginia Electric & Power Company ("Virginia Power"); Appalachian Power Company ("APCO"); The Potomac Edison Company ("Potomac Edison"); Kentucky Utilities d/b/a Old Dominion Power Company; Delmarva Power & Light Company ("Delmarva"); the Virginia, Maryland and Delaware Association of Electric Cooperatives ("the Cooperatives"); Commonwealth Gas Services, Inc. ("Commonwealth Gas"); Virginia Natural Gas, Inc. ("VNG"); United Cities Gas Company; and Washington Gas Light Company ("WGL"). Government agencies and other organizations filing comments included the Environmental Protection Agency ("EPA"); Elizabeth Haskell, Secretary of Natural Resources, Commonwealth of Virginia ("Secretary Haskell"); The Department of Mines, Minerals and Energy, Commonwealth of Virginia ("DMME"); Division of Consumer Counsel, Office of the Attorney General, Commonwealth of Virginia ("Consumer Counsel"); Transphase System, Inc.; Sycom Enterprises; Virginia Committee for Fair Utility Rates ("the Committee"); Southern Environmental Law Center ("SELC"); Conservation Council of Virginia; the Virginia Chapter of the Sierra Club; Natural Resources Defense Council ("NRDC"); Fairfax County Department of Consumer Affairs; Virginia Citizens Action ("VCA"); and the American Lung Association of Virginia.

STAFF RECOMMENDATIONS

The Staff report summarized existing CLM efforts in Virginia and the nation, provided an overview of existing Commission policy regarding CLM programs, suggested certain policy modifications, and discussed key issues which should be addressed in this proceeding.

First, the Staff recommended that the rules relating to promotional allowances be revised so as to permit such allowances for cost effective CLM programs. It distinguished such programs from those designed primarily to increase load or market share, and recommended, as a prerequisite to rate recovery of related costs, that all programs be evaluated and approved on a case by case basis to assure that a program is both cost effective and primarily directed at CLM, rather than some other objective.

A pivotal policy question identified by Staff was that of measuring the cost effectiveness of CLM programs. The criteria used to quantify costs and benefits, and thereby evaluate effectiveness, is clearly crucial to the determination of public interest. It was Staff's opinion that this issue requires more detailed work before a recommendation can be made to the Commission, and that a series of technical conferences or a task force should thus be organized. Such an effort would provide a focused and in-depth analysis of various evaluation methods.

The report also addressed the extent to which environmental and societal externalities should be considered in the evaluation of program costs and benefits, noting that this is "the most controversial issue in this proceeding." In question are those environmental and societal costs and benefits which are not currently internalized by utilities or explicitly quantified in the planning process. Staff said that any attempt to internalize such costs or benefits could have far reaching implications. It therefore suggested that new legislation might be a more appropriate vehicle to initiate such a change.

Once utilities implement optimal CLM programs, the focus will necessarily shift to recovery of costs. The Staff discussed two aspects of this issue: direct CLM program costs, and "lost revenues." Staff observed that currently most direct costs are expensed in the year they are incurred; however, other options are available and should be considered. For instance, some costs can be capitalized in rate base when programs have long term benefits. Staff felt that specific cost treatment should be addressed in individual rate cases, given the potentially wide disparity among programs of various companies. Automatic adjustment clauses should not be used for such recovery, in Staff's view, since the Commission's general policy regarding the use of such a clause is only to "allow a utility to adjust, without a rate increase, its revenues in response to changes in the costs of a relatively volatile, major expense item . . . over which it has no control." App. of Old Dominion P. Co., 1984 S.C.C. Ann. Rept. 408,

aff'd, Old Dominion P. Co. v. S.C.C., 228 Va. 528 (1984).

In regard to "lost revenue", the Staff noted that, since sales and profits are closely linked under current ratemaking principles, by promoting conservation a utility may forgo some profits due to lower sales. The parties expressed divergent views on whether such "lost revenues" should be accounted for in setting rates. Although Staff identified a variety of approaches for addressing the issue, it made no recommendation. It did believe utilities should be allowed to propose and attempt to justify lost revenue recovery methods in rate cases.

Several parties had addressed the role demand-side bidding might play in a utility's resource plan, and the potential benefits of injecting a market place pricing discipline into utility planning. One of the difficulties associated with demand-side bidding, however, is the measurement of the results of third party programs, to assure that projected savings are achieved. A related question is whether third party CLM programs will materialize and perform as promised over the long term. Because of such uncertainties, Staff did not suggest utilities be required to use bidding. It believed, however, that the potential benefits warranted examination, and it recommended that Virginia Power be directed to use a demand-side bidding program on an experimental basis, since that company has had extensive experience with supply-side bidding for nonutility generation over the last four years.

Staff also suggested that any proposed demand-side bidding programs should be considered in formal Commission proceedings, to foster a comprehensive review of a utility's integrated resource programs, plans for implementation, and cost/benefit analysis.

In oral argument, Staff said that consideration of side options must necessarily include study of supply-side options, as well, and it suggested it may be time to implement formal review of utility companies' entire integrated resource plans.

Numerous parties filed comments on the Staff Report: Consumer Counsel, Secretary Haskell, DMME, APCO, Potomac Edison, Delmarva, Virginia Power, Commonwealth Gas, WGL, VNG, the Cooperatives, the Committee, Arlington County, VCA, NRDC, SELC, and the Virginia Chapter of the Sierra Club. At the hearing, statements were received from Staff; State Senator Robert C. Scott; Secretary Haskell; EPA; NRDC; SELC; the Virginia Chapter of the Sierra Club; the Conservation Council of Virginia; Sycom; Elizabeth Ising; William B. Charlton; VCA; the Consumer Counsel; Thomas J. Charlton; the Committee; the Cooperatives; Potomac Edison; Virginia Power; Commonwealth Gas; and WGL and Shenandoah Gas Company.

Although we will not summarize all comments of all parties received in this proceeding, the Commission found such extensive input quite valuable in reaching its decision

State Corporation Commission

herein.

PARTICIPANTS' COMMENTS

Senator Scott urged the Commission to establish rules that would require electric utilities to meet as much need as possible through energy conservation. He recommended that environmental and social externalities should be considered. He also supported the Staff recommendations to remove prohibitions on promotional allowances, and to place demand and supply-side options on par. In addition, he suggested the Commission consider the potentially favorable impact certain rate structure innovations, such as the use of inclining block rates (under which the price per unit increases with higher usage), might have on CLM.

Secretary Haskell strongly supported energy conservation, noting that Governor Wilder has issued a state energy plan which emphasizes this point. She urged the Commission to encourage innovation to improve environmental quality in Virginia, and to remove regulatory and market barriers to energy conservation measures. She applauded liberalized promotional allowances as a good first step. She believed the Commission should equate demand and supply-side options and should consider environmental externalities in evaluating utility resource plans. Her final recommendation was that the Commission initiate a task force to address the many details associated with integrated resource planning. She observed that the bonus allowances available under the Clean Air Act clearly provide an economic incentive for Virginia to promote energy conservation.

The Consumer Counsel agreed with the Staff's recommendation that the costs associated with CLM programs should be treated in a comparable manner to those of supply-side options. He reviewed the concerns which gave rise to the present ban on subsidies and promotional allowances and urged that any revision to those rules respect those concerns. He expressed misgivings that some programs may result in building market share rather than decreasing loads, and approved the Staff's suggestion to limit proposals to CLM initiatives. Counsel urged the Commission not to take any action to reimburse utilities for "lost revenues." Whatever revenue impacts occur, he argued, will be short term, because the test year revenue level under the normal ratemaking process will already reflect lost revenues.

The EPA encouraged the Commission to evaluate demand and supply-side options on an equal basis. It favored incentives to save, rather than sell, electricity.

The NRDC urged the Commission to authorize the decoupling of utility net profits from sales volume, as has been done in several states. It also encouraged positive incentives for energy efficiency performance.

The SELC, the Virginia Chapter of the Sierra Club and the Conservation Council of Virginia urged Virginia to declare a clear preference for utilizing cost effective

conservation and efficiency measures as resources to meet the state's growing need for energy. They asserted that the cost effectiveness of CLM programs should be determined by comparing costs and benefits using the societal impact or "all rate payers" test. They urged the Commission to move forward to provide firm and aggressive guidelines promoting the development of demand-side programs that capture all cost aspects of conservation and efficient resources.

The Committee urged the Commission to proceed carefully, and to encourage innovation and promote cost effective programs, while bearing in mind the potential impact of significant changes in the ways utilities operate and the ways rates are set. It agreed that when CLM programs meet the utilities' needs and are more cost effective, they should be implemented instead of supply-side options, thereby resulting in the best mix of resources to meet the needs of customers at the lowest cost. The Committee opposed the concept of quantifying selected externalities. It argued that the suggestion to incorporate some externalities but ignore others could distort the balancing process, lead to economic inefficiency and result in higher utility rates. Further, it argued that the valuation of externalities is a nearly impossible task. It also agreed with the Consumer Counsel that the lost revenue issue need not be addressed, given the current ratemaking process.

The Cooperatives agreed with the Staff's proposed revision of the promotional allowance rules. They were concerned, however, with the related approval process and the potential for it to develop into protracted litigation, particularly related to alternative energy suppliers. They also endorsed the Commission Staff's position that quantification of externalities is more appropriately addressed by legislators than by the Commission.

Virginia Power believed that the Staff's proposed revisions to the rules for promotional allowances go a long way toward allowing the use of cost effective promotions as part of CLM programs. However, it urged the Commission to make clear that promotions which reduce unit cost of power, such as allowances for heat pumps, should also be allowed. Virginia Power stated that it was presently developing an internal methodology which would allow the company to give stronger consideration to many proposed CLM programs.

Commonwealth Gas Services urged further modification of the rules for promotional allowances to insure that no unfair competitive advantages are bestowed upon any utility in the name of CLM programs. It urged the Commission to consider source to site analyses, which it believed were necessary to validate claimed energy efficiencies.

WGL and Shenandoah Gas Company urged the adoption of a standard CLM cost benefit evaluation framework to be used by all utilities. They also proposed adoption of the "all rate payers test", which would consider the impact of

a proposed program on all regulated energy suppliers, gas or electric. Finally, they urged funding limits for cooperative advertising by utilities.

DISCUSSION

We believe cost effective CLM programs are essential components of the balanced resource portfolio that utilities must achieve to provide energy to Virginia consumers at fair and reasonable rates. We appreciate the valuable input provided by the participants and our Staff in this investigation.

As we have considered the many issues here, it has become clear that a more detailed investigation will be needed regarding the appropriate tests to employ in measuring the success of programs. We must also continue to refine the distinctions between CLM programs on the one hand and on- and off-peak load building programs on the other. Specific ratemaking treatment of program costs will need to be evaluated carefully in the context of each utility's rate cases. This Commission, utilities, consumers and third-party CLM program providers must all continue to increase the public awareness of energy efficiency and conservation so that we may aggressively pursue implementation of sound cost effective programs.

While we are encouraged about the role conservation can play in our future, we must move cautiously in an attempt to avoid promoting uneconomic programs, or those that are primarily designed to promote growth of load or market share without serving the overall public interest. Conservation at any cost is not appropriate, and we must closely evaluate utility companies' demand-side programs to assure that each company is carefully following a cost effective strategy. Our goal then can be succinctly stated as establishing the framework which will facilitate optimal CLM programs. The Commission, in fact, has a statutory mandate to investigate the "acts, practices, rates or charges" of utilities to determine whether they are calculated to "promote the maximum effective conservation and use of energy and capital resources used by public utilities in rendering utility service" (Va. Code § 56-235.1).

The first critical question which we must address is which test or tests should be applied to judge whether a program is cost effective. Opinions on this issue varied widely among the participants in this proceeding.

We must adopt uniform measures against which to evaluate programs designed to conserve energy or better balance a utility's load. It is only with that information that we can determine if a program is in the public interest. We agree with our Staff, however, that the advantages and disadvantages of various assessment methods are not adequately developed in this record.

Staff suggested a task force or a series of technical conferences as suitable approaches to continue this investigation. Either method is acceptable. Staff should

forthwith establish the necessary meeting schedules to collect the requisite data, followed by an interim report on or before July 31, 1992, which will detail the procedures it will follow in its investigation, the goals of the process, any progress to date, and the date it expects to complete a final report. This final report should describe all alternative cost effective measures, the advantages and disadvantages of each, and Staff's recommendation on the appropriate tests to apply.

This effort should not involve the question of how to quantify environmental externalities, however. This Commission clearly considers environmental factors in rendering our decisions, but these factors are taken into account from a qualitative, not quantitative, standpoint. See Va. Code § 56-46.1. Under that statute, such factors are analyzed in rendering our decisions on whether to approve the construction of major electric transmission facilities. Similarly, we consider all aspects of the public convenience and necessity in deciding whether to approve certificates for the construction of other utility facilities. Moreover, to the extent those conditions impose direct costs on the public utility, they are reflected in rates, as appropriate.

However, we believe that we lack the statutory authority to go beyond this direct effect on the ratemaking process. Virginia Code § 56-235.1 commands us to determine which acts, practices, rates or charges are reasonably calculated to promote conservation and the maximum effective use of energy, but specifies "that nothing in this section shall be construed to authorize the adoption of any rate or charge which is clearly not cost-based or which is in the nature of a penalty for otherwise permissible use of utility services." Also, Virginia Code § 56-235.2 specifically states that the utility must demonstrate that its "rates, tolls, charges or schedules in the aggregate provide revenues not in excess of the aggregate actual costs incurred by the public utility in serving customers within the jurisdiction of the Commission," and prohibits speculative adjustments to such costs. We believe that it would be speculative, and thus contrary to our legal authority, to include adjustments in rates for external environmental factors. Moreover, as noted by the Committee, incorporating selected externalities, but ignoring the impact of others, could distort the balancing process and lead to economic inefficiency, resulting in higher utility rates for all customers. We therefore agree with our Staff and a number of the parties, who suggested that incorporation of environmental externalities should be dealt with from a broader perspective than utility ratemaking. Congress and the General Assembly are the proper bodies to provide this perspective. When and if we are directed by legislation to incorporate quantified environmental externalities into the regulatory process, we shall do so, of course.

The Staff did propose specific revisions to our current rules relating to promotional allowances, established by Final Order in Case No. 18796, dated April 15, 1970. Therein, we prohibited electric and gas utilities from

State Corporation Commission

giving any payment, subsidy or allowance to influence the installation, sale, purchase or use of any appliance or equipment. We were concerned with public service companies competing with independent contractors in the appliance market and further, with avoiding having such payments subsidized by all customers, specifically those not receiving the benefits of the promotional program. The situation has changed sufficiently to require us to revisit those rules and to consider the need to establish programs which will encourage sound CLM. The participants in this proceeding uniformly supported revisions to our 1970 rules.

We believe that promotional allowances for cost effective CLM programs are appropriate. Rate recovery for such promotions should be allowed only for cost effective CLM programs, though, and not for those designed primarily to increase load or market share, unless a company proves that the program is cost effective and serves the overall public interest. We will not expressly prohibit the payment of such allowances by utilities, however, but rather, we will only address the propriety of cost recovery through rates. We also caution that the rules do not guarantee rate recovery for cost effective CLM programs. The reasonableness of the level of costs incurred will be evaluated as a part of each company's rate case.

Advertising, and particularly cooperative advertising, was also addressed by Staff and the participants. The Virginia Code prohibits rate recovery for electric utilities for advertising unless it is required by "law or rule or regulation, or for advertisements which solely promote the public interest, conservation or more efficient use of energy . . ." Virginia Code § 56-235.2. Accordingly, the Commission has allowed reasonable levels of advertising expenses associated with CLM. Such practice will continue, but we will more closely scrutinize those costs in the context of individual rate cases, to carefully distinguish between advertising for cost effective CLM programs and those primarily designed to promote load growth which do not otherwise serve the overall public interest. State law does not currently address advertising by gas companies, but we have historically applied the same standards there.

WGL urged the Commission to impose funding limits on cooperative advertising. We agree that utilities should not be allowed to recover excessive levels of advertising costs. However, the proper level will vary widely from company to company depending on many individual factors. It is appropriate, then, to review the proper funding level for each company in individual rate cases.

Questions were also raised related to the ratemaking treatment for CLM program costs. Recovery of direct CLM program costs is currently addressed in each company's rate case. Most such costs are expensed, but some costs with long term benefits may be more appropriately capitalized and included in ratebase. We have stressed the importance of similar ratemaking treatment in the context of buy and build options.

Use of an automatic adjustment clause, however, is not appropriate. These clauses are permitted only in extraordinary circumstances "and with great caution, after carefully weighing the expected benefits against their disadvantages, in light of the public interest." *Old Dominion P. Co. v. S.C.C.*, 228 Va. 528 (1984). Automatic adjustment clauses have been used to allow utilities to automatically adjust revenues to account for major, volatile costs beyond the company's control. At this time, the costs associated with CLM programs do not satisfy these criteria.

A number of participants also discussed alternative approaches to addressing "lost revenues", and this issue generated some controversy. If a conservation program is successful, utility sales should decrease and the company may forgo some profits until it can adjust its rates to reflect the decreased revenue. Staff identified some of the options other jurisdictions have implemented to deal with this subject. Staff made no specific recommendation, but suggested that the Commission consider proposals in the context of rate cases. Most utilities, not surprisingly, argued that an adjustment to compensate utilities for "lost revenues" is critical. Opponents countered that some regulatory lag exists with regard to all costs of service, and that the effect of CLM programs will be addressed in the normal course of ratemaking. We tend to agree. We should observe in this regard that we currently have a pending proceeding before us to revisit our utility rate case rules. In that case our Staff has proposed rules which provide a more forward looking test period. If such a concept is adopted, it may alleviate the problems associated with decreasing revenues resulting from aggressive conservation programs. We will, however, continue to monitor this phenomenon.

Rate design is also a powerful tool which can be used to achieve optimal CLM objectives. As Staff indicated, it is important to establish appropriate price signals to promote energy efficiency.

A large number of rate design objectives must be balanced in setting rates, and the Virginia Supreme Court has sustained the Commission's determination that "non-cost factors may be considered by the Commission in setting rates for various classes of services . . . to accomplish legitimate regulatory objectives." *Secretary of Defense v. C & P Telephone*, 217 Va. 149, 152 (1976).

Clearly then, we have the discretion to consider the impact of rate design on CLM. Rates can reflect costs or drive costs. Examples of the latter would include mandatory time of use rates and summer/winter differentials. In designing rates, utilities should consider costs and cost allocation in terms of the market signals sent by the rates. We thus encourage utilities to pursue innovative rate design and continue to improve costing methodologies.

Staff recommended that Virginia Power be required to implement a demand-side bidding program. There are clearly potential benefits which may flow from

demand-side bidding programs similar to those we have seen from the supply-side resource selection process. Competition appears to have lowered costs, encouraged technical innovation and provided an independent check on utility cost estimates. There are also a number of potential difficulties unique to demand-side bidding, as noted in the record, however. Therefore, an experimental program such as that suggested by Staff, and which Virginia Power has endorsed, will provide an opportunity to garner more data and information on the subject. Utilities are already free to implement demand-side bidding if they believe such a program would be advantageous, of course. A number of parties addressed the proper role of the Commission and its Staff in reviewing and providing oversight of a utility's CLM programs. Staff recommended formal Commission proceedings to promote a comprehensive review of each utility's demand-side strategy. Later, Staff expanded its recommendation to suggest that we should initiate formal review of both demand and supply-side resource plans. Currently, utilities file their long range resource plans with the Division of Economics and Finance and such plans are available there for public review. Although public hearings are not conducted, nor Commission approval granted or denied, our Staff reviews those long-range resource plans extensively. We believe the existing process is working well. We, therefore, will not mandate a comprehensive formal review of utilities' long-range resource plans. However, formal review and approval of CLM programs is appropriate at this juncture. Such proceedings may focus on each new program prior to its implementation, or involve periodic review of a utility's entire demand-side package. Each utility, after consulting with the Staff, should determine which process is more appropriate in its individual circumstance.

Finally, the more we have focused on the issues surrounding conservation and load management, the more it has become apparent that an information gap exists relating to this subject. Public interest in energy efficiency and conservation has been increasing, as is exhibited by the comments we received here. We therefore direct our Staff to survey the information currently available and identify what additional methods would aid the dissemination of appropriate data regarding CLM options. Now, the Commission, having considered the record developed in this case, is of the opinion and finds that the rules for promotional allowances should be revised as set forth in Attachment A; Staff, utilities, consumers and third party CLM providers should aggressively pursue cost effective CLM programs; Staff should initiate a working group to identify the alternative approaches to estimating demand-side program cost effectiveness and submit an interim report to the Commission on or before July 31, 1992; Virginia Power should initiate a demand-side bidding program; and further, Staff should review the information available to consumers about conservation and identify possible methods of distribution in order to reach the largest number of consumers interested in energy efficiency and conservation.

Accordingly, IT IS ORDERED:

- (1) That our rules on promotional allowances shall be, and hereby are, superseded by the rules set forth in Attachment A;
- (2) That Staff shall organize a working group to develop recommendations on an appropriate cost/benefit method or methods to estimate the effectiveness of CLM programs and submit an interim report to the Commission on or before July 31, 1992;
- (3) That Virginia Power shall develop an experimental demand-side bidding program and report the projected schedule for development and implementation on or before August 1, 1992;
- (4) That utilities shall file formal applications for review of CLM programs as discussed herein; and
- (5) That this case shall remain open for the filing of the required reports.

Commissioner Moore took no part in the decision in this case.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: Kendrick R. Riggs, Esquire, Virginia Electric and Power Company, P.O. Box 26666, Richmond, Virginia 23261; Donald A. Fickennscher, Virginia Natural Gas, 5010 East Virginia Beach Boulevard, Norfolk, Virginia 23502-3488; Donald R. Hayes, Esquire, Northern Virginia Natural Gas, 6801 Industrial Road, Springfield, Virginia 22151; Mark G. Thessin, United Cities Gas Company, 5300 Maryland Way, Brentwood, Tennessee 37027; Stephen H. Watts, II, Esquire, McGuire, Woods, Battle & Boothe, 1 James Center, Richmond, Virginia 23219; Kenworth E. Lion, Jr., Esquire, Virginia-Maryland-Delaware Association, 4201 Dominion Boulevard #200, Glen Allen, Virginia 23060; Edward L. Petrini, Office of the Attorney General, 101 North 8th Street, 6th Floor, Richmond, Virginia 23219; Allen Glover, Esquire, Appalachian Power Company, P.O. Box 720, Roanoke, Virginia 24004-0720; Robert M. Hewett, Vice President, Old Dominion Power Company, One Quality Street, Lexington, Kentucky 40507; Robert B. Murdoch, Esquire, Potomac Edison Company, Downsview Pike, Hagerstown, Maryland 21740; A. Hayes Butler, Esquire, Delmarva Power and Light Company, P.O. Box 231, Wilmington, Delaware 19899; Richard A. Parrish, 201 West Main Street #14, Charlottesville, Virginia 22901; Mark J. Lafratta, Esquire, Mays & Valentine, P.O. Box 1122, Richmond, Virginia 23208-1122; Elizabeth H. Haskell, Commonwealth of Virginia, Office of the Governor, Richmond, Virginia 23219; James C. Dimitri, Esquire, Virginia Commission for Fair Utility Act, 1200 Mutual Building, Richmond, Virginia 23219; Douglas A. Arnes, Transphase Systems, Inc., 800 Midatlantic Drive #2015, Mt. Laurel, New Jersey 08054; S. Lynne Sutcliffe, Sycom Enterprise, 7475 Wisconsin Avenue, 6th Floor, Bethesda, Maryland 20814; Lori Marsh, VPI and State University, Blacksburg, Virginia 24061-0512; Piedmont Environmental

State Corporation Commission

Council, 28-C Main Street, P.O. Box 460, Warrenton, Virginia 22186; Sierra Club-Virginia Chapter, P.O. Box 14648, Richmond, Virginia 23221-0648; William B. Grant, 803 Marlbank Drive, Yorktown, Virginia 23692-4353; Patricia J. Devlin, 3959 Pender Drive, Fairfax, Virginia 22030; Neal D. Emerald, 4033 Poplar Street, Fairfax, Virginia 22030; Stephen M. Ayres, M.D., P.O. Box 7065, Richmond, Virginia 23221-0065; Debose Egleston, Jr., P.O. Box 838, Waynesboro, Virginia 22980; Virginia Citizen Action, 1531 West Main Street, 2nd Floor, Richmond, Virginia 23220; Eileen B. Claussen, U.S. Environmental Protection Agency, Washington, D.C. 20460; and Daniel Lashof, 1350 New York Avenue N.W., Washington, D.C. 20005.

ATTACHMENT A

RULES GOVERNING UTILITY PROMOTIONAL ALLOWANCES

VIRGINIA STATE CORPORATION COMMISSION

I. Purpose

The purpose of these rules is to establish the conditions under which electric and gas utilities operating in Virginia may propose to recover reasonable costs associated with promotional allowances to customers. Any utility proposing a promotional allowance program shall demonstrate that such program is reasonably calculated to promote the maximum effective conservation and use of energy and capital resources in providing energy services. Promotional allowance programs shall be cost justified using appropriate cost/benefit methodologies.

II. Promotional Allowances Prohibited for Ratemaking

A. Except as provided for under Section III, no electric or gas utility shall give or offer to give any payment, subsidy or allowance, directly or indirectly, or through a third party, to influence the installation, sale, purchase, or use of any appliance or equipment.

B. No electric utility shall give or offer to give any monetary or other allowance or credits based on anticipated revenues for the installation of underground service. Schedules of charges for underground service based on revenue-cost ratios or cost differentials shall be filed with the Commission.

III. Permitted Activities

A. Unless otherwise specifically prohibited in writing by the Commission, the following activities are not prohibited by these rules:

- 1) Advertising by a utility in its own name, consistent with Virginia Code Section 56-235.2.
- 2) Joint advertising with others, if the utility is

prominently identified as a sponsor of the advertisement, consistent with Virginia Code Section 56-235.2.

3) Financing the purchase of appliances by utilities so long as the interest rate or carrying charge to the purchaser is not less than the interest rate paid by the utility for short term debt.

4) Merchandising of appliances or equipment by utilities.

5) Inspection and adjustment of appliances by utilities. Repairs and other maintenance to appliances and equipment if charges are at cost, or above.

6) Donation or lending of appliances by utilities to schools for instructional purposes.

7) Technical assistance offered to customers by employees of utilities.

8) Incentives to full time employees of utilities.

B. Promotional allowance programs designed to achieve energy conservation, load reduction, or improved energy efficiency are permitted under these rules, subject to the prior approval of the Commission. Any promotional allowance program proposed under this Section shall comply with the standards contained in Section IV.

IV. Promotional Allowance Program Standards

A. Any utility offering a promotional allowance program shall adhere to the following standards:

1) The promotional allowance program shall not vary the rates, charges and schedules of the tariff under which service is rendered to the customer.

2) A utility may not, directly or indirectly, offer or grant to a customer any form of promotional allowance except as is uniformly and contemporaneously extended to all customers in the same reasonably defined class.

3) Any utility promotional allowance program should be designed in such a manner so as to minimize the potential for placing private businesses at an undue competitive disadvantage.

4) To the extent applicable, any appliances or equipment promoted by a utility under a promotional allowance program shall have energy efficiency ratings which meet or exceed current federal standards as contained in the National Appliance Energy Conservation Act (Public Law 100-12), or any subsequent amendments thereof. The Commission may, at its discretion, impose other standards for appliances or equipment promoted under a utility promotional allowance program.

5) Any utility proposing a promotional allowance program that would have a significant effect on the sales levels of an alternative energy supplier shall consider the effect of the program on that supplier, and demonstrate that the program serves the overall public interest.

V. Waivers

A. A utility may file for exemptions from any or all of these rules. In making its decision regarding exemptions, the Commission will consider the size of the utility's operations in Virginia, the requirements of other regulatory bodies having jurisdiction over the utility, and the specific Virginia statutory authority under which the utility operates.

VI. Commission Authority

A. Notwithstanding any of the provisions of these rules, the Commission may authorize an otherwise prohibited promotional allowance program if the Commission finds that it is in the public interest.

B. Nothing in the provisions of these rules shall preclude the Commission from investigating, formally or informally, a utility promotional activity and, if it determines the activity to be adverse to the public interest, modifying or eliminating the activity.

STATE LOTTERY DEPARTMENT

DIRECTOR'S ORDER NUMBER TEN (92)

"CASH VAULT" INSTANT TICKET GIVEAWAY; FINAL RULES FOR GAME OPERATION.

In accordance with the authority granted by Section 58.1-4006A of the Code of Virginia, I hereby promulgate the "Cash Vault" instant ticket giveaway game rules for the Virginia Lottery's instant game promotional program to be conducted from Thursday, April 9, 1992 until such time as determined and announced by the Director. These rules amplify and conform to the duly adopted State Lottery Board regulations for the conduct of lotteries.

The rules are available for inspection and copying during normal business hours at the State Lottery Department headquarters, 2201 West Broad Street, Richmond, Virginia, and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Marketing Division, State Lottery Department, P. O. Box 4689, Richmond, Virginia 23220.

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/ Kenneth W. Thorson, Director
Date: March 31, 1992

DIRECTOR'S ORDER NUMBER ELEVEN (92)

CERTAIN DIRECTOR'S ORDERS RESCINDED

In accordance with the authority granted by Section 58.1-4006A of the Code of Virginia, I hereby rescind the following Director's Orders:

Order Number	Date Issued	Subject
18(90)	07/03/90	Summer Ambassador Program Promotional Games.
15(91)	06/07/91	Virginia's First "Pick 3" Ticket Giveaway; Game; Final Rules for Game Operation.
29(91)	10/21/91	"Cash Explosion"; Virginia Lottery Retailer Cashing Promotional Program and Rules.
30(91)	11/18/91	"Lucky Game Show Sweepstakes"; Final Rules for Game Operation; Revised.
02(92)	01/15/91	"Sunken Treasure"; Promotional Game and Drawing Rules.

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/ Kenneth W. Thorson, Director
Date: March 31, 1992

DIRECTOR'S ORDER NUMBER TWELVE (92)

"CASH VAULT"; PROMOTIONAL GAME AND DRAWING RULES

In accordance with the authority granted by Section 58.1-4006A of the Code of Virginia, I hereby promulgate the "Cash Vault" promotional game and drawing rules for the kickoff events which will be conducted at various lottery retailer locations throughout the Commonwealth on Thursday, April 9, 1992. These rules amplify and conform to the duly adopted State Lottery Board regulations for the conduct of lotteries.

The rules are available for inspection and copying during normal business hours at the State Lottery Department headquarters, 2201 West Broad Street, Richmond, Virginia, and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Marketing Division, State Lottery Department, P. O. Box 4689, Richmond, Virginia 23220.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect until April 30, 1992, unless otherwise extended by the Director.

/s/ Kenneth W. Thorson, Director
Date: April 2, 1992

DIRECTOR'S ORDER NUMBER THIRTEEN (92)

VIRGINIA'S TWENTY-SIXTH INSTANT GAME LOTTERY; "CASH VAULT," FINAL RULES FOR GAME OPERATION.

In accordance with the authority granted by Section 58.1-4006A of the Code of Virginia, I hereby promulgate the final rules for game operation in Virginia's twenty-sixth instant game lottery, "Cash Vault." 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, 2201 West Broad Street, Richmond, Virginia, and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Marketing Division, State Lottery Department, P. O. Box 4689, Richmond, Virginia 23220.

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/ Kenneth W. Thorson, Director
Date: April 6, 1992

MARINE RESOURCES COMMISSION

MARINE RESOURCES COMMISSION

NOTICE: The Marine Resources Commission is exempted from the Administrative Process Act (§ 9-6.14:4 of the Code of Virginia); however, it is required by § 9-6.14:22 B to publish all final regulations.

Title of Regulation: VR 450-01-9202. Unloading Point for Relaying Shellfish.

Statutory Authority: § 28.1-179 of the Code of Virginia.

Effective Dates: April 1, 1992, to May 1, 1992.

Preamble:

The following order of the Marine Resources Commission establishes a location where shellfish taken from a condemned shellfish growing area may be unloaded ashore.

VR 450-01-9202. Unloading Point for Relaying Shellfish.

§ 1. Authority, effective date.

A. This order is promulgated pursuant to the authority contained in § 28.1-179 of the Code of Virginia.

B. The effective date of this order is April 1, 1992.

§ 2. Designated area.

Shellfish taken from private grounds in Willoughby Bay may be unloaded at F. D. Hunt's dock on Sunset Creek in Hampton.

§ 3. Expiration date.

This order shall terminate on May 1, 1992.

/s/ William A. Pruitt
Commissioner
Date: March 27, 1992

GOVERNOR

EXECUTIVE ORDER NUMBER FORTY-THREE (92)

CREATING THE GOVERNOR'S COMMISSION ON DEFENSE CONVERSION AND ECONOMIC ADJUSTMENT

By virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and, including, but not limited to, Section 2.1-51.36 of the Code of Virginia, and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby create the Governor's Commission on Defense Conversion and Economic Adjustment.

Spending by the United States Department of Defense, amounting in Virginia to over seventeen billion dollars in 1990, is a prominent factor in the State's economy. Per capita defense expenditures are higher in Virginia than in any other state, leading many experts to believe that Virginia is especially vulnerable to sudden reductions in defense expenditures. Due to the end of the Cold War, defense-related expenditures are expected to decline significantly during the balance of this decade.

Recognizing the adverse consequences that may be suffered by Virginia businesses and the State's economy as a result of the anticipated reductions, the Secretary of Economic Development established an inter-agency task force in March, 1990 to review, analyze, and monitor defense-related issues and to recommend steps that should be taken by Virginia government to reduce these adverse impacts. During the summer of 1991, the Commonwealth, in cooperation with the National Governors' Association, conducted a pilot program to develop a strategy for mobilizing state government resources to aid Virginia businesses in this regard. The inter-agency task force has conducted research on Virginia's defense industry, produced analytical reports on defense procurement spending, developed the capability to perform economic impact analyses on defense expenditure reductions as they occur, and has begun to implement the recommendations of the pilot program.

Having begun to fully mobilize state government resources to meet the conversion needs of our businesses, it is now appropriate to take additional measures to coordinate state efforts and to work in partnership with the Virginia business community.

Accordingly, the Governor's Commission on Defense Conversion and Economic Adjustment is created as a public and private sector partnership to expand the work heretofore done and, more particularly, to do the following:

1. Conduct and supervise research to develop a better understanding of the defense industry, including the collection of data to assess the impact of defense expenditure reductions on the economy of Virginia and its substate areas.

2. Initiate community education programs to inform

defense-dependent communities of the availability of technical and financial assistance from the federal and state governments and other sources.

3. Coordinate state programs that provide direct assistance to defense-impacted firms, workers, and communities and exploring the need for new initiatives.

4. Make recommendations to the federal government for increased and effective support of conversion efforts in Virginia.

5. Coordinate conversion efforts with the appropriate authorities of the federal government and governments of other states.

6. Make recommendations for removal of superfluous regulations by the federal, state, and local governments that impede free enterprise, especially by firms attempting to convert to non-defense business activities.

7. Prepare a report and recommendations for the Secretary of Education and the Secretary of Economic Development, consistent with House Joint Resolution 325 as passed by the 1992 session of the General Assembly of Virginia, on how the Commonwealth can best assist military personnel in their transition to civilian employment and on how to encourage partnerships between the Commonwealth and the military to foster research and development in the Commonwealth.

The Commission shall pay special attention to the needs of small businesses, particularly minority and women owned enterprises, which are expected to be adversely affected in a disproportionate way by defense cutbacks.

It is recognized that a number of existing agencies, boards and commissions of the Commonwealth share responsibility for portions of the work assigned to the Governor's Commission on Defense Conversion and Economic Adjustment. Therefore, it is my intent that the Commission work in close cooperation with appropriate state boards, including the Governor's Economic Advisory Council, the Governor's Advisory Board of Economists, the Governor's Advisory Council on Revenue Estimates, the Industrial Development Services Advisory Board and the Small Business Advisory Board.

Members of the Commission shall be appointed by the Governor and shall serve at his pleasure. The Commission shall consist of no more than 15 members and may include, among others, leaders in business, industry, labor and the general citizenry. The Chairperson and Vice Chairperson shall be appointed by the Governor, and too, shall serve in such capacity at the pleasure of the Governor.

All agencies of the Commonwealth are expected to

cooperate with and provide assistance to the Commission to the fullest extent allowed by law and to the extent that such cooperation does not conflict with the missions of the various agencies. The Commission shall consult with and seek guidance from others in private industry, local government and agencies of the federal government as needed.

Such funding as is necessary for the fulfillment of the Commission's business during the term of its existence will be provided by such executive branch agencies as the Governor may from time to time designate. Total expenditures to support the Commission's work are estimated to be \$19,000.

Such staff support as is necessary for the conduct of the Commission's business during the term of its existence will be provided by the Virginia Employment Commission and such other executive branch agencies as the Governor may from time to time designate. An estimated 5,000 hours of staff support will be required to assist the Commission.

Members of the Commission shall serve without compensation and shall not receive any expenses incurred in the discharge of their official duties.

The Commission shall meet at the call of the Chairperson and make its first report to the Governor no later than November 1, 1992. It may issue interim reports and make recommendations at any time it deems necessary.

This Executive Order shall become effective March 25, 1992 and shall remain in full force and effect until March 24, 1993, unless amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia this 25th day of March, 1992.

/s/ Lawrence Douglas Wilder
Governor

GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

(Required by § 9-6.12:9.1 of the Code of Virginia)

DEPARTMENT OF HEALTH (BOARD OF)

Title of Regulation: **VR 355-30-000-06. Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations.**

Governor's Comment:

I approve of the form and the content of this proposal.

/s/ Lawrence Douglas Wilder
Governor

Date: April 20, 1992

BOARD OF MEDICINE

Title of Regulation: **VR 465-03-01. Regulations Governing the Practice of Physical Therapy.**

Governor's Comment: I concur with the form and content of this proposal. My final approval will be contingent upon a review of the public's comments.

/s/ Lawrence Douglas Wilder
Governor
Date: April 16, 1992

* * * * *

Title of Regulation: **VR 465-09-01. Certification of Optometrists to Prescribe for and Treat Certain Diseases or Abnormal Conditions of the Human Eye and Its Adnexa with Certain Therapeutic Pharmaceutical Agents.**

Governor's Comment:

I concur with the form and the content of this proposal. My final comment will be contingent upon a review of the public's comments.

/s/ Lawrence Douglas Wilder
Governor
Date: April 16, 1992

DEPARTMENT OF STATE POLICE

Title of Regulation: **VR 545-05-07. Motor Vehicle Safety Inspection Rules and Regulations.**

Governor's Comment:

These regulations will amend the Department of State Police's Motor Vehicle Safety Inspection Rules and Regulations to permit the use of colored or tinted ventvisors on motor vehicles. I recommend approval.

/s/ Lawrence Douglas Wilder
Governor
Date: March 31, 1992

GENERAL NOTICES/ERRATA

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

GENERAL NOTICES

NOTICE

Notices of Intended Regulatory Action are published as a separate section at the beginning of each issue of the Virginia Register.

DEPARTMENT OF GENERAL SERVICES

Division of Forensic Science

General Notice

Title of Regulation: VR 330-05-01. Regulations for the Approval of Field Tests for Detection of Drugs.

Statutory Authority: §§ 2.1-424 and 19.2-188.1 of the Code of Virginia.

In accordance with § 2 of the Regulations for the Approval of Field Tests for Detection of Drugs and under the authority of § 19.2-188.1 of the Code of Virginia, the following field tests for Detection of Drugs are Approved Field Tests:

Hecton Dickinson Public Safety
 147 Clinton Road
 West Caldwell, N. J. 07006

<u>Drug or Drug Type</u>	<u>Manufacturer's Field Test</u>
Marijuana	Test E (Duquenois-Levine Test)
Hashish	Test E (Duquenois-Levine Test)
Hashish Oil	Test E (Duquenois-Levine Test)
Cocaine Base	Test G (Modified Scott Reagent)
Heroin	Test K (Opiates Reagent)
Codeine	Test K (Opiates Reagent)
Morphine	Test K (Opiates Reagent)
Heroin	Test L (Brown Heroin Reagent)
Barbiturates	Test C (Dille-Koppanyi, Modified)
Amphetamine	Test A (Marquis Reagent)
Methamphetamine	Test A (Marquis Reagent)
Lysergic Acid Diethylamide	Test D (LSD Reagent System)

O D V Incorporated (NarcoPouch)
 Post Office Box 305
 South Paris, Maine 04281

<u>Drug or Drug Type</u>	<u>Manufacturer's Field Test</u>
Narcotic Alkaloids	901 - Mayer's Reagent
Heroin	901 - Mayer's Reagent
Morphine	901 - Mayer's Reagent
Cocaine Hydrochloride	901 - Mayer's Reagent
Opiates	902 - Marquis Reagent
Heroin	902 - Marquis Reagent
Morphine	902 - Marquis Reagent
Methamphetamine	902 - Marquis Reagent
Amphetamine	902 - Marquis Reagent
Heroin	903 - Nitric Acid
Morphine	903 - Nitric Acid
Cocaine Hydrochloride	904 - Scott (Modified) Reagent
Cocaine Base	904 - Scott (Modified) Reagent

O D V Incorporated (NarcoPouch) continued

<u>Drug or Drug Type</u>	<u>Manufacturer's Field Test</u>
Barbiturates	905 - Dille-Koppanyi Reagent
Amphetamine	906 - Mandelin Reagent
Methamphetamine	906 - Mandelin Reagent
Methadone	906 - Mandelin Reagent
Lysergic Acid Diethylamide (LSD)	907 - Ehrlich's (Modified) Reagent
Marijuana	908 - Duquenois-Levine Reagent
Hashish	908 - Duquenois-Levine Reagent
Hashish Oil	908 - Duquenois-Levine Reagent
Tetrahydrocannabinol (THC)	908 - Duquenois-Levine Reagent
Marijuana	909 - K N Reagent
Hashish	909 - K N Reagent
Hashish Oil	909 - K N Reagent
Tetrahydrocannabinol (THC)	909 - K N Reagent
Phencyclidine (PCP)	914 - PCP Methaqualone Reagent
Methaqualone	914 - PCP Methaqualone Reagent
Heroin	924 - Mecke's Modified
Diazepam	925 - Valium/Diazepam Reagent
Pentazocine	926 - Talwin/Pentazocine Reagent
Ephedrine	927 - Ephedrine Reagent

O D V Incorporated (Narcotest)
Post Office Box 105
South Paris, Maine 04281

<u>Drug or Drug Type</u>	<u>Manufacturer's Field Test</u>
Narcotic Alkaloids	7601 - Mayer's Reagent
Heroin	7601 - Mayer's Reagent
Morphine	7601 - Mayer's Reagent

O D V Incorporated (Narcotest) continued

<u>Drug or Drug Type</u>	<u>Manufacturer's Field Test</u>
Cocaine Hydrochloride	7601 - Mayer's Reagent
Opiates	7602 - Marquis Reagent
Heroin	7602 - Marquis Reagent
Morphine	7602 - Marquis Reagent
Methamphetamine	7602 - Marquis Reagent
Heroin	7603 - Nitric Acid
Morphine	7603 - Nitric Acid
Cocaine Hydrochloride	7604 - Cobalt Thiocyanate Reagent
Dibucaine	7604 - Cobalt Thiocyanate Reagent
Tetracaine	7604 - Cobalt Thiocyanate Reagent
Procaine	7604 - Cobalt Thiocyanate Reagent
Barbiturates	7605 - Dille-Koppanyi Reagent
Amphetamine	7606 - Mandelin Reagent
Methadone	7606 - Mandelin Reagent
Lysergic Acid Diethylamide (LSD)	7607 - Modified Ehrlich's Reagent
Marijuana	7608 - Duquenois Reagent
Hashish Oil	7608 - Duquenois Reagent
Hashish	7608 - Duquenois Reagent
Tetrahydrocannabinol (THC)	7608 - Duquenois Reagent
Marijuana	7609 - K N Reagent
Hashish	7609 - K N Reagent
Hashish Oil	7609 - K N Reagent
Tetrahydrocannabinol (THC)	7609 - K N Reagent
Cocaine Base	7613 - Test #13 (Cocaine Free-Base Reagent)

O D V Incorporated (Narcotest) continued

<u>Drug or Drug Type</u>	<u>Manufacturer's Field Test</u>
Phencyclidine (PCP)	7614 - Test #14 (Methaqualone Reagent)
Methaqualone	7614 - Test #14 (Methaqualone Reagent)
Diazepam	7625 - Test #25 (Diazepam Reagent)
Pentazocine	7626 - Test #26 (Talwin Reagent)
Ephedrine	7627 - Test #27 (Ephedrine Reagent)

Sirchie Fingerprint Laboratories
 5925 Triangle Drive
 Umstead Industrial Park
 Post Office Box 30576
 Raleigh, N. C. 27622-0576

<u>Drug or Drug Type</u>	<u>Manufacturer's Field Test</u>
Narcotic Alkaloids	#1 - Mayers Reagent
Heroin	#1 - Mayers Reagent
Morphine	#1 - Mayers Reagent
Cocaine Hydrochloride	#1 - Mayers Reagent
Morphine	#1 - Mayers Reagent
Amphetamine	#1 - Mayers Reagent
Opium Alkaloids	#2 - Marquis Reagent
Heroin	#2 - Marquis Reagent
Amphetamine	#2 - Marquis Reagent
Meperidine (Demerol) (Pethidine)	#2 - Marquis Reagent
Heroin	#3 - Nitric Acid Reagent
Morphine	#3 - Nitric Acid Reagent

Sirchie continued

<u>Drug or Drug Type</u>	<u>Manufacturer's Field Test</u>
Cocaine Hydrochloride	#4 - Cobalt Thiocyanate Reagent
Procaine	#4 - Cobalt Thiocyanate Reagent
Tetracaine	#4 - Cobalt Thiocyanate Reagent
Methadone	#4 - Cobalt Thiocyanate Reagent
Barbiturates	#5 - Dille-Koppanyi Reagent
Amphetamine	#6 - Mandelin Reagent
Lysergic Acid Diethylamide (LSD)	#7 - Ehrlich's Reagent
Marijuana	#8 - Duquenois Reagent
Hashish	#8 - Duquenois Reagent
Tetrahydrocannabinol (THC)	#8 - Duquenois Reagent
Marijuana	#9 - NDB (Fast Blue B Salt) Reagent
Hashish	#9 - NDB (Fast Blue B Salt) Reagent
Tetrahydrocannabinol (THC)	#9 - NDB (Fast Blue B Salt) Reagent
Cocaine Base (Crack)	#13 - Cobalt Thiocyanate/Crack Test
Methamphetamine	#1 - Mayers Reagent
Methamphetamine	#1 - Marquis Reagent
Hashish Oil	#8 - Duquenois Reagent
Hashish Oil	#9 - NDB (Fast Blue B Salt) Reagent



DEPARTMENT OF HEALTH

Public Notice

The State Health Commissioner, acting on behalf of the Board of Health, has established in § 3.7 C of the proposed Alternative Discharging Sewage Treatment System Regulations for Individual Single Family Dwellings a minimum standard to which sewage effluent discharged to a dry ditch or intermittent streams must be treated. This treatment standard requires effluent quality not to exceed 10 mg/l of BOD5 (Five Day Biochemical Oxygen Demand), 10 mg/l of suspended solids and a fecal coliform level of less than or equal to 100 per 100 ml.

The purpose of this notice is to request public comments on the appropriateness of this proposed standard taking into consideration public health factors, ground water protection factors, nuisance factors, as well as environmental resource factors. Comments as to other appropriate standards necessary to reduce risks to public health, abate nuisances, or reduce the impact to environmental resources are also requested.

The preferred point of discharge is an all weather stream where sewage effluent can be readily diluted at least 10:1 as measured during a 7 consecutive day average of a 10 year low flow (7-Q-10) and thereby minimize public health and water quality impacts. The State Water Control Board's General Permit establishes discharge limitations of 30 mg/l of BOD5, 30 mg/l of suspended solids, and a fecal coliform bacteria level of less than or equal to 200 per 100 ml. If these limitations remained the same for discharges to dry ditches or intermittent streams then comments are requested on the requirement that a polishing sand filter or similar device be added to the treatment facility. The purpose of this requirement is to reduce the risks to public health and the impact on groundwater and other environmental resources and to minimize nuisances, where partially treated effluent is not diluted.

Comments on these proposals should be submitted to Donald J. Alexander, Director, Bureau of Sewage and Water Services, Virginia Department of Health, P.O. Box 2448, Richmond, Virginia 23218. Comments must be received by May 29, 1992.

DEPARTMENT OF LABOR AND INDUSTRY

† Notice to the Public

Notice is hereby given that the Department of Labor and Industry has revised the procedures to be followed by Labor Law Division staff for investigation, collection of wages, and assessment of civil monetary penalties under the Virginia Payment of Wage Law, § 40.1-29 of the Code of Virginia. These procedures became effective January 1, 1992, with revisions effective February 10, 1992. They are published solely for public information.

Labor Law Division Policy Statement 89-5, published in The Virginia Register, Volume 5, Issue 19, page 2738, "Procedures for Assessment of Civil Money Penalty for Violations of the Virginia Payment of Wage Law, § 40.1-29," has been rescinded effective January 1, 1992. The matters covered in the rescinded Policy Statement 89-5 are now covered by Labor Law Division Policy Statement 91-1.

For information contact: Dennis G. Merrill, Director, Labor Law Division, Department of Labor and Industry, Powers-Taylor Building, 13 South Thirteenth Street, Richmond, Virginia 23219, telephone (804) 786-2386.

- I. Purpose
- II. Scope
- III. Background
- IV. Policy

- A. Employer Notification of Wage Claim Received
- B. Notification of Representative's Determination
- C. Informal Conference
- D. Notification of Supervisor's Determination
- E. Employer's Right to Trial in Court
- F. Filing Suit When Notice of Contest Is Filed
- G. Entry of Final Order
- H. Assessment of Penalties after Court Judgment for Wages, Or Where Wages are Paid Without Legal Action
- I. Certification of Final Order
- J. Recording Final Orders and Closure of Case
- K. Collection of Civil Monetary Penalties, Wages, Interest and Attorneys' Fees
- L. Write-Off Request for Civil Monetary Penalty
- M. Prejudgment Attachments
- N. Penalty Calculations; Waiver of Penalties
- O. Interest Calculation
- P. Attendance by Representatives at Court Hearings; Subpoenas

General Notices/Errata

Q. Claimant Authorization for Collection and Deduction of Attorneys' Fees

APPENDIX - Section 40.1-29 of the Code of Virginia as effective July 1, 1991

ATTACHMENTS - Division Policy Statement 91-1 Forms

Revised February 10, 1992

TO: All Staff, Labor Law Division

FROM: Dennis G. Merrill, Director

SUBJECT: Procedures for Adjudication of Wage Claims and Assessment of Civil Monetary Penalty for Violations of the Virginia Payment of Wage Law, § 40.1-29

EFFECTIVE DATE: January 1, 1992

I. Purpose:

The purpose of this policy is to establish the procedures to be followed by the Virginia Department of Labor and Industry, Labor Law Enforcement Division, when deciding wage claims and assessing civil money penalties for violations of the Virginia Payment of Wage Law, § 40.1-29, Code of Virginia (1950).

II. Scope:

These procedures shall be followed by all Division staff members and shall apply whenever pertinent in the enforcement of § 40.1-29, Code of Virginia (1950).

III. Background:

This policy statement institutes a major revision of policy relating to informal settlement and adjudication of wage claims and civil monetary penalties for violations of § 40.1-29. This policy replaces Labor Law Division Policy 89-5, "Procedures for Assessment of Civil Money Penalty for Violations of the Virginia Payment of Wage Law, § 40.1-29," which is being rescinded.

The Payment of Wage Law of the Code of Virginia is set out as the Appendix to this Policy Statement.

IV. Policy:

Labor Law Division Representatives shall investigate complaints alleging a violation of § 40.1-29 according to procedures established by Division policy.

In obtaining initial information from the employer, the representative shall attempt to ascertain the legal entity responsible, and the number of employees at the time of the investigation. This information is necessary in order to calculate the reduction-for-size portion of the Civil Monetary Penalty ("CMP") Calculation Report.

Representatives and supervisors shall, to the extent possible, conduct investigations by telephone and mail. Travel shall be limited to those situations in which an investigation cannot otherwise be pursued effectively or reasonably.

A. Employer Notification of Wage Claim Received

Upon receipt of a wage claim, the employer shall be notified with the form letter, LLA(91-1)-1, sent by both certified mail, return receipt requested and regular first class mail.

B. Notification of Representative's Determination

1. If the representative is uncertain as to the validity of the claim, he shall request advice from the supervisor as to how to proceed.

2. If the representative determines that the claim is clearly not valid, he shall so notify all parties using form letter LLA(91-1)-2.

3. If the representative determines that the claim is valid and that the Code of Virginia has been violated, he shall notify the employer with form letter LLA(91-1)-3, or, if a repeat offense, LLA(91-1)-3(A). This letter shall be mailed both by first class mail and by certified mail, return receipt requested. Where appropriate, the representative may attempt to personally deliver this letter to the employer in lieu of service by mail. If personal service is made, delivery by mail is not required.

Before preparing this letter, the representative shall complete the CMP Calculation Report.

In accordance with the terms of LLA(91-1)-3 and LLA(91-1)-18 (Consent Agreement Form), the Civil Monetary Penalty will be waived if the wages are paid within 15 calendar days of the employer's receipt of LLA(91-1)-3, and the employer signs the Consent Agreement Form.

Whenever under this Policy an act is required to be done within 15 days of receipt of a notice which has been sent both by certified mail and first class mail, and the certified letter is not signed for, the deadline shall be calculated by adding 3 days to allow for mail delivery time. In such a case, therefore, the deadline will be the 18th day following the date the notice was mailed.

Employers shall be instructed to whom checks are payable, and where they are to be sent. Generally, checks for both wages and CMPs should be sent to the regional office before final orders are issued, and both are to be sent to the Central Office after they are issued. Please note that if an attorney is involved and his fees are to be collected, the attorney may request that checks be made jointly to the attorney and the employee or the Commonwealth, as appropriate.

C. Informal Conference

On written request of the employer, an informal conference shall be held. The conference shall be scheduled as soon as possible after the employer's request is received. If the employer fails to agree to a conference date within 5 working days from the time he is asked to agree to a date, a date for the conference shall be unilaterally selected by the Department and the employer shall be notified in writing of the scheduled time for the conference, and the Department's efforts to schedule the conference shall be thoroughly documented in the Case Diary Log. A reasonable effort shall be made to schedule informal conferences within 15 calendar days of the date the employer requests the conference. Both employer and employee shall be advised that no evidence presented after the informal conference shall be considered.

The conference will normally be held by the supervisor. In the conference, the parties shall be granted the following rights: (i) to have reasonable notice thereof, (ii) to appear in person, or by counsel or other qualified representative, for the informal presentation of factual data, argument, or proof, (iii) to have notice of any contrary fact basis or information in the possession of the agency which can be relied upon in making an adverse decision, (iv) to receive a prompt decision, and (v) to be informed, briefly and generally in writing, of the factual or procedural basis for an adverse decision in any case.

The complainant shall be invited to this conference, and a reasonable effort shall be made in scheduling the meeting to permit the complainant to attend. He shall be advised, however, that no evidence will be accepted after the conference. The representative should normally attend this conference, but need not at the discretion of the supervisor.

The supervisor may request security for an informal conference if he deems it necessary. The supervisor shall receive any information which either party may wish to submit. The supervisor shall prepare a memorandum to the case file, which may be hand-written, listing participants at the meeting, and succinctly summarizing the employer's defenses and any other matters discussed. This will be part of the record forwarded to Circuit Court if a Final Order is appealed, and shall be type written at that time if necessary.

D. Notification of Supervisor's Determination

Following the supervisor's informal conference the supervisor shall, if he finds the complaint to be invalid, inform the complainant in writing of his determination in the format illustrated in form LLA(91-1)-4. If he finds the complaint to be valid, he shall inform the employer in writing in the format LLA(91-1)-5, or, if a repeat offense, LLA(91-1)-5(A). This letter shall be sent both first class mail and certified mail, return receipt requested. The supervisor's letter need not be a formal or lengthy document. It shall, however, succinctly explain the reason

for his determination, and the reason why the employer's argument, if any, was not accepted.

In accordance with the terms of LLA(91-1)-5 and LLA(91-1)-18 (Consent Agreement Form), the Civil Monetary Penalty will be waived if the wages are paid within 15 calendar days of the employer's receipt of LLA(91-1)-5, and the employer signs the Consent Agreement Form.

When an employer fails to appear for a scheduled informal conference, and the supervisor is of the opinion that the claim is valid, he is not required to notify the employer of his determination with Forms LLA(91-1)-5 or LLA(91-1)-5(A), and may instruct the representative to prepare final orders for wages and a civil monetary penalty in accordance with Paragraph IV G of this policy.

E. Employer's Right to Trial in Court

In every case the employer shall be afforded the right to a de novo trial in the appropriate court. When the Department has determined that the claim against him is valid, and he is so notified with Form LLA(91-1)-3 or LLA(91-1)-3(A), he shall be granted 15 calendar days from the date he receives the notification to file a written notice of contest requesting the court hearing. In the alternative, at that time, he may request an informal conference. If such a conference is held, and it is determined that the claim is valid, he shall be notified with Form Letter LLA(91-1)-5 or LLA(91-1)-5(A), that he has 15 calendar days to file a notice of contest requesting a court hearing.

F. Filing Suit When Notice of Contest Is Filed

In any case in which an employer files a timely notice of contest, the notice shall be acknowledged with Form LLA(91-1)-6. Each such case shall be referred to the appropriate Commonwealth's Attorney for prosecution with Form Letter LLA(91-1)-7. Form Letter LLA(91-1)-7 shall be sent in each individual case, regardless of whether the Commonwealth's Attorney has advised us that he will not accept these cases. The purpose of this prosecution by the Commonwealth's Attorney is to establish that a violation of § 40.1-29 occurred and that the civil monetary penalty assessed is due and owing the Commonwealth.

When suit is brought, the Commonwealth's Attorney should be requested to initiate two warrants in debts, one for the wage claim and the other for the CMP. This is necessary since the Court is being requested to issue separate judgments in favor of the complainant and the Commonwealth. A copy of the Payment of Wage Civil Monetary Penalty Calculation Report, LLA(91-1)-8, shall always be sent to the Commonwealth's Attorney with the request that it be brought to the attention of the Court.

If the Commonwealth's Attorney refuses to accept and prosecute the case, the complainant will be notified of this fact, with Form Letter LLA(91-1)-9, and advised that he or

General Notices/Errata

she may pursue the matter on his own in General District Court or by hiring his own private counsel and that if he decides to pursue it, our representative will appear as a witness on his behalf if subpoenaed.

If the Commonwealth's Attorney accepts the case and the Court rules in the Department's favor, but does not rule on the question of a Civil Monetary Penalty, the court judgment will be the basis for issuing a Final Order assessing a civil monetary penalty and will also be turned over to an attorney to collect the wages, interest, and attorneys' fee if not paid promptly.

G. Entry of Final Order

In appropriate cases under this policy, the representative shall prepare Final Orders. Separate orders shall be prepared for the payment of wages and interest and for assessing a civil monetary penalty and attorneys' fees. A wage order shall be prepared in the format illustrated by LLA(91-1)-10 (Order-Adjudication of Wages and Interest Due). A civil monetary penalty order shall be prepared in the format illustrated by forms LLA(91-1)-11 (Order - Assessment of Civil Monetary Penalty and Attorneys' Fees Without Court Judgment) or LLA(91-1)-13 (Order - Assessment of Civil Monetary Penalty and Attorneys' Fees Upon Court Judgment). (Both Forms LLA (91-1)-11 and (91-1)-13 are necessary because some courts may decline to rule on the Civil Monetary Penalty issue.) All Orders shall be printed on a letter quality printer. A Final Order Case Summary shall be prepared in the form illustrated in LLA(91-1)-14.

The Final Order Case Summary, the Wage Claim CMP Calculation Sheet, and Final Orders shall be sent to the Labor Law Director, and then to the Assistant Commissioner for Enforcement for review and approval, and then to the Commissioner for approval and signature. The Central Office shall mail a notarized true copy of the orders issued by the Commissioner to the employer by both certified mail, return receipt requested and regular first class mail with copies to the regional office.

Original copies of all orders issued by the Commissioner shall be entered into a Wage Claim Order Book maintained in chronological order by the Central Office. Appeals from Department Orders shall be to the Circuit Court for errors of law only.

H. Assessment of Penalties after Court Judgment for Wages, Or Where Wages are Paid Without Legal Action

In any case in which a court renders judgment in favor of the Department in a wage case, but does not decide the CMP issue, the representative shall notify the employer of the Department's right to assess a Civil Monetary Penalty, and of his right to a hearing, with Form LLA(91-1)-12. If properly requested, an informal conference shall be held in accordance with Division Policy Statement 89-9. If an informal conference is not requested, or if a Civil Monetary Penalty is to be assessed following the informal

conference, a Final Order shall be prepared in accordance with Form LLA(91-1)-13, in the same manner described in Paragraph G above. Such an Order shall not be sent to the Labor Law Director until the court appeal period has expired, with no appeal having been taken.

In every case, after the investigation has been completed and Form LLA(91-1)-3 has been sent, the wages are paid without legal adjudication by a court or the Department, the representative shall obtain either payment of the civil monetary penalty or a consent agreement. In the event the employer refuses to do either, an informal conference shall be held in accordance with Policy Statement 89-9. Forms LLA(91-1)-12 and LLA(91-1)-13, with appropriate modifications, may be used to initiate and adjudicate such a hearing.

I. Certification of Final Order

After 33 calendar days have expired following the employer's receipt of a Final Order, the Central Office shall notify the representative of the expiration of the appeal period, and the representative shall prepare the Certification of Final Order of the Commissioner of Labor and Industry on a letter quality printer and forward it to the Labor Law Director. The Certification form shall be approved and signed by the Labor Law Director. The Certification shall be prepared in the format illustrated in form LLA(91-1)-15.

J. Recording Final Orders and Closure of Case

After the Certification Form has been returned to the representative, the representative shall record the Certification of Final Order with the circuit court in the jurisdiction(s) in which the employer conducted business, and in all other jurisdictions in which the employer may have real property. After recording the Orders, the representative shall close the case and send closure information to the Central Office.

K. Collection of Civil Monetary Penalties, Wages, Interest and Attorneys' Fees

After docketing the Final Order along with the certification form, collection activity shall be initiated, and shall be the responsibility of the Central Office. A Penalty Demand Letter shall be sent to the employer for collection of the civil monetary penalty, Form Letter LLA(91-1)-16. If the employer does not pay the penalty in accordance with the terms in the Demand Letter, the case will be referred to the Attorney General's Office or a private collection agency for collection. The case shall be referred to private counsel for collection of wages and interest due and attorneys' fees. If collection efforts of the Attorney General's Office, collection agency and private counsel fail to satisfy the Final Order because of one or more of the following conditions, the Central Office shall close the Division case file and no further action will be taken:

- The debtor employer has become bankrupt and

evidence of bankruptcy can be documented.

- The debtor employer has no assets which can be attached and this status can be independently verified and documented.

If collection efforts of the Attorney General's Office, collection agency and private counsel do not satisfy the final order in full, a case shall be written off in accordance with State and Department procedure.

ATTORNEYS' FEES: Each Final Order entered by the Commissioner will include an award of one-third of the judgment or CMP amount for attorneys' fees. It is important to note, however, that IN ANY CASE IN WHICH AN ATTORNEY IS NOT ENGAGED, THE ATTORNEY'S FEE WILL NOT BE COLLECTED, AND IF SENT TO THE DEPARTMENT, WILL BE RETURNED. In such a case, when full payment is received the Clerk's office where the Final Order is entered will be notified that the debt is fully satisfied, even though no attorneys' fees were paid.

L. Write-off Request for Civil Monetary Penalty

When advised by the Attorney General's Office, collection agency or private counsel that no assets are available to satisfy the final order, the Central Office will use the agency's write-off form to submit this information to the Accounts Receivable Coordinator to have the civil monetary penalty approved by the Assistant Commissioner and Commissioner for write off.

In addition to bankruptcy and establishment of the fact the employer has no assets to levy on, the Central Office shall also prepare a write-off request for the penalty when the employer cannot be located. The documentation should describe all efforts made by the Attorney General's Office or collection agency to locate the employer.

M. Prejudgment Attachments

If there is reason to believe the employer is attempting to hide or remove assets from the Commonwealth in an attempt to defraud the claimant(s), the representative should immediately bring the matter to the attention of the field supervisor. If the supervisor believes it is appropriate, he shall advise the Labor Law Director, who shall consult with the Assistant Commissioner for Enforcement to determine whether assistance of legal counsel shall be sought for the purpose of filing a pre-judgment attachment.

N. Penalty Calculations; Waiver of Penalties

A Civil Monetary Penalty shall be assessed in each case where an employer who knowingly fails to make payment of wages in accordance with § 40.1-29 of the Code of Virginia, unless waived under other provisions of Division policy. Ignorance of the law does not mean an employer "unknowingly" fails to make payment. If the employer is aware of the amount being paid to the employee, and if

that amount is insufficient under the law, the employer "knowingly" fails to make payment of wages in accordance with § 40.1-29.

Before calculating a civil monetary penalty, the representative shall check regional and central records and databases to determine whether the defendant has had a previous violation. A final Department Order, a final court judgment, or a previous consent agreement constitutes evidence of a previous violation.

All civil monetary penalties, shall be calculated by the Payment of Wage Civil Monetary Penalty Calculation Report, LLA(91-1)-8. A separate sheet shall be used for each claimant.

Each separate pay period 1) in which an employee works, and 2) is not paid on or before the established payday for that pay period, is a separate violation of the Payment of Wage Law. CMP's calculated with the calculation sheet where there are multiple pay period violations may result in inappropriately large CMP's, however. The field staff is requested to bring such cases to the Director's attention.

A "repeat offender" is a defendant for which there is a legally final court judgment or a Department of Labor and Industry Order adjudicating the defendant to be in violation of the Virginia Payment of Wage Law, or one who has previously signed a consent agreement. "Final" means all legal appeals have been exhausted. No such violation which occurred 3 years or earlier from the present violation, nor a violation occurring prior to January 1, 1992, shall be considered.

A repeat offender shall be assessed a civil monetary penalty of \$1000 per violation, and shall not be offered a waiver of the penalty for prompt payment of the wages.

The Civil Monetary Penalty as calculated on the Penalty Calculation Report, LLA(91-1)-8, shall be the standard penalty expected to be assessed. No greater amount shall be assessed. In the interest of justice, however, the regional supervisor may reduce a standard civil monetary penalty by no more than 50%. The Labor Law Director may, subject to review of the Assistant Commissioner for Enforcement, reduce a penalty by any amount, or may determine that no penalty shall be assessed.

In any case in which the standard civil monetary penalty is reduced, a written statement explaining the reasons for the reduction shall be placed in the file. Reasons for reducing a penalty include but are not limited to obvious or demonstrated financial hardship or inability to pay of the employer; the degree of good faith by the employer in attempting to comply with the law, and in attempting to properly compensate his employees; and whether the assessment of a penalty would serve the purpose of deterring the defendant or others from failing to obey the Payment of Wage Law in the future. One example of the latter would be where the culpable

General Notices/Errata

employer is deceased or permanently disabled or, in the case of a corporation, where the corporation has ceased business and is unlikely to resume active status.

The Central Office shall track the assessment of collection activities and will provide the Division of Administrative Services with Accounts Receivable Reports and Penalty Collection Reports as required.

O. Interest Calculation

Interest may be calculated using the following method:

- Multiply the Wages Due by .08 (8%). The figure that results is the Yearly Interest.
- Divide the Yearly Interest by 365 (number of days in a year). This figure equals the Daily Interest amount.
- Multiply the Daily Interest amount by the number of days the wages are overdue.
- The result is the Total Interest Due the claimant.

Please note that if wage violations have occurred over more than one pay period, the correct amount of interest due must be determined by repeating the interest calculation for each affected pay period. Once the representative has completed a series of individual interest calculations, the separate interest due amounts must be added together to arrive at the total interest due the claimant.

All final orders must specify that interest shall accrue at eight (8) percent from the date the wages were legally owed to the complainant.

P. Attendance by Representatives at Court Hearings; Subpoenas

In cases prosecuted by a Commonwealth's Attorney, the Attorney General, or other attorney engaged by the Commonwealth, a representative shall appear at trial on request of the attorney whether or not a subpoena has been issued for the representative's appearance.

No representative shall appear at any other court hearing or trial unless he or she has received a subpoena from the court compelling attendance.

Q. Claimant Authorization for Collection and Deduction of Attorneys' Fees

In each case in which a Final Order of the Commissioner or a court judgment has been entered in favor of the claimant, and the case is sent to Richmond for collection, the representative shall obtain the signature of the claimant on Form LLA(91-1)-19 and send it to Richmond.

APPENDIX TO DIVISION POLICY STATEMENT 91-1

§ 40.1-29. Time and medium of payment; withholding wages; written statement of earnings; agreement for forfeiture of wages; penalty for violation of section; proceedings to enforce compliance.— A. 1. All employers operating a business shall establish regular pay periods and rates of pay for employees except executive personnel. All such employers shall pay salaried employees at least once each month and employees paid on an hourly rate at least once every two weeks or twice in each month, except that a student who is currently enrolled in a work-study program or its equivalent administered by any secondary school, institution of higher education or trade school may be paid once each month if the institution so chooses. Upon termination of employment an employee shall be paid all wages or salaries due him for work performed prior thereto; such payment shall be made on or before the date on which he would have been paid for such work had his employment not been terminated.

2. Any such employer who knowingly fails to make payment of wages in accordance with subsection A of this section shall be subject to a civil penalty not to exceed \$1000 for each violation. The Commissioner shall notify any employer who he alleges has violated any provision of this section by certified mail. Such notice shall contain a description of the alleged violation. Within fifteen days of receipt of notice of the alleged violation, the employer may request an informal conference regarding such violation with the Commissioner. In determining the amount of any penalty to be imposed, the Commissioner shall consider the size of the business of the employer charged and the gravity of the violation. The decision of the Commissioner shall be final.

B. Payment of wages or salaries shall be in lawful money of the United States or check payable at face value upon demand in lawful money of the United States.

C. No employer shall withhold any part of the wages or salaries of any employee except for payroll, wage or withholding taxes or in accordance with law, without the written and signed authorization of the employee. An employer, upon request of his employee, shall furnish the latter a written statement of the gross wages earned by the employee during any pay period and the amount and purpose of any deductions therefrom.

D. No employer shall require any employee, except executive personnel, to sign any contract or agreement which provides for the forfeiture of the employee's wages for time worked as a condition of employment or the continuance therein, except as otherwise provided by law.

E. An employer who willfully and with intent to defraud violates this section shall be guilty of a misdemeanor.

F. The Commissioner may require a written complaint of the violation of this section and, with the written and

signed consent of an employee, may institute proceedings on behalf of an employee to enforce compliance with this section, and to collect any moneys unlawfully withheld from such employee which shall be paid to the employee entitled thereto. In addition, following the issuance of a final order by the Commissioner or a court, the Commissioner may engage private counsel, approved by the Attorney General, to collect any moneys owed to the employee or the Commonwealth. Upon entry of a final order of the Commissioner, or upon entry of a judgment, against the employer, the Commissioner or the court shall assess attorneys' fees of one-third of the amount set forth in the final order or judgment.

G. In addition to being subject to any other penalty provided by the provisions of this section, any employer who fails to make payment of wages in accordance with subsection A of this section shall be liable for the payment of all wages due, plus interest at an annual rate of eight percent accruing from the date the wages were due.

H. Civil penalties owed under this section shall be paid to the Commissioner for deposit into the general fund of the State Treasurer. The Commissioner shall prescribe procedures for the payment of proposed assessments of penalties which are not contested by employers. Such procedures shall include provisions for an employer to consent to abatement of the alleged violation and pay a proposed penalty or a negotiated sum in lieu of such penalty without admission of any civil liability arising from such alleged violation.

Final orders of the Commissioner, the general district courts or the circuit courts may be recorded, enforced and satisfied as orders or decrees of a circuit court upon certification of such orders by the Commissioner or the court as appropriate.

FORMS INDEX

- LLA(91-1)-1, Employer Notification of Wage Claim Received
- LLA(91-1)-2, Notification of Representative's Determination - Invalid
- LLA(91-1)-3, Notification of Representative's Determination - Valid
- LLA(91-1)-3(A), Notification of Representative's Determination - Valid, Repeat Offense
- LLA(91-1)-4, Notification of Supervisor's Determination - Invalid
- LLA(91-1)-5, Notification of Supervisor's Determination - Valid And Notification or Order to be Entered
- LLA(91-1)-5(A), Notification of Supervisor's Determination - Repeat Offense and Notification of Order To Be Entered

- LLA(91-1)-6, Acknowledgment of Notice of Contest
- LLA(91-1)-7, Letter of Referral to Commonwealth's Attorney
- LLA(91-1)-8, Payment of Wage Civil Money Penalty Calculation Report
- LLA(91-1)-9, Notification of Complainant of Commonwealth Attorney's Inability to Prosecute
- LLA(91-1)-10, Final Order - Adjudication of Wages and Interest Due
- LLA(91-1)-11, Final Order - Assessment of Civil Monetary Penalty and Attorneys' Fees Without Court Judgment
- LLA(91-1)-12, Notification of Order To Be Entered Upon Court Judgment
- LLA(91-1)-13, Final Order - Assessment of Civil Monetary Penalty and Attorneys' Fees Upon Court Judgment
- LLA(91-1)-14, Final Order Case Summary
- LLA(91-1)-15, Certification of Final Order of the Commissioner of Labor and Industry
- LLA(91-1)-16, Penalty Demand Letter
- LLA(91-1)-17, Sample Affidavit and Certification of Mailing
- LLA(91-1)-18, Payment of Wage Consent Agreement Form
- LLA(91-1)-19, Claimant's Authorization for Collection and Deduction of Attorneys' Fees

VIRGINIA CODE COMMISSION

NOTICE TO STATE AGENCIES

Change of Address: Our new 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 do not follow-up with a mailed copy. Our FAX number is: 371-0169.

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.

General Notices/Errata

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 OR GUBERNATORIAL OBJECTIONS - RR08
DEPARTMENT of PLANNING AND BUDGET (Transmittal Sheet) - DPBRR09

Copies of the Virginia Register Form, Style and Procedure Manual may also be obtained at the above address.

ERRATA

DEPARTMENT OF COMMERCE

Title of Regulation: VR 190-04-1:1. Private Security Services Businesses Regulations.

Publication: 8:15 VA.R. 2434-2448 April 20, 1992.

Correction to Final Regulation:

Page 2437, § 3.1 C 2, the following nonsubstantive language should be deleted in accordance with advice rendered by the Office of the Attorney General:

after:

2. Evidence

strike:

, as required by § 3.3 of this regulation,

DEPARTMENT OF LABOR AND INDUSTRY

Title of Regulation: VR 425-02-83. Virginia Occupational Safety and Health Standards for the General Industry - Occupational Exposure to Bloodborne Pathogens (1910.1030)

Publication: 8:13 VA.R. 2245-2159 March 23, 1992.

Correction to Final Regulation:

Page 2146, column 1, after Note on Incorporation by Reference, line 4, delete:

When the regulations as set forth in the Occupational Exposure to Bloodborne Pathogens standard are applied to the Commissioner of the Department of Labor and Industry or to Virginia employers, the federal terms are to

be read as given.

insert:

When the regulations as set forth in the Occupational Exposure to Bloodborne Pathogens Standard are applied to the Commissioner of the Department of Labor and Industry or to Virginia employers, the following federal terms shall be considered to be read as follows:

FEDERAL TERMS	VOSH EQUIVALENT
Assistant Secretary	Commissioner of Labor & Industry
29 CFR 1910.20	1910.20
March 6, 1992	June 1, 1992
May 5, 1992	August 1, 1992
June 4, 1992	September 1, 1992
July 6, 1992	October 1, 1992

CALENDAR OF EVENTS

Symbols 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



DEPARTMENT FOR THE AGING

Long-Term Care Council

May 8, 1992 - 9 a.m. – Open Meeting
Virginia Housing Development Authority, 601 S. Belvidere Street, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A general business meeting.

Contact: Janet Lynch, Director, Long-Term Care Council, Virginia Department for the Aging, 700 E. Franklin Street, 10th Floor, Richmond, VA 23219, telephone (804) 371-0552 or (804) 225-2271/TDD ☎

VIRGINIA AGRICULTURAL COUNCIL

May 18, 1992 - 9 a.m. – Open Meeting
May 19, 1992 - 9 a.m. – Open Meeting
Holiday Inn-Airport, 5203 Williamsburg Road, Sandston, Virginia.

A meeting to (i) hear new project proposals which are properly supported by the Board of Directors of a Commodity Group; (ii) review financial statements; and (iii) discuss any other business that may come before the members of the council.

Contact: Henry H. Budd, Assistant Secretary, 7th Floor, Washington Building, 1100 Bank Street, Richmond, VA 23219, telephone (804) 371-0792.

BOARD OF AGRICULTURE AND CONSUMER SERVICES

† **May 20, 1992 - 9 a.m. – Open Meeting**
Washington Building, 1100 Bank Street, Room 204, Richmond, Virginia. ☒

A meeting to discuss legislation, regulations and fiscal matters and to receive reports from the staff on the Department of Agriculture and Consumer Services. The board may consider other matters relating to its responsibilities. At the conclusion of other business, the board will review public comments for a period not to exceed 30 minutes.

Contact: Roy E. Seward, Secretary to the Board, Virginia Department of Agriculture and Consumer Services, Washington Building, 1100 Bank Street, Richmond, VA 23219, telephone (804) 786-3501 or (804) 371-6344/TDD ☎

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Virginia Farmer's Market Board

May 21, 1992 - 1 p.m. – Open Meeting
State Capitol Building, House Room 1, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A meeting to (i) review update on markets; (ii) review finances; (iii) discuss southwest farmer's market grand opening; and (iv) discuss upcoming tours of markets by special interest groups. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes.

Contact: Nancy L. Israel, Farmers' Market Network, Program Director, 1100 Bank Street, Washington Building, Richmond, VA 23219, telephone (804) 371-6157.

Calendar of Events

Virginia Winegrowers Advisory Board

† July 7, 1992 - 10 a.m. - Open Meeting
State Capitol Building, House Room 4, Richmond, Virginia.

A meeting to elect a new chairman and vice-chairman. In addition, the board will hear committee and project monitor reports.

Contact: Annette Ringwood, Secretary, Virginia Winegrowers Advisory Board, P.O. Box 1163, Richmond, VA 23209, telephone (804) 371-7685.

STATE AIR POLLUTION CONTROL BOARD

May 8, 1992 - 9 a.m. - Open Meeting
General Assembly Building, Capitol Square, Senate Room A, Richmond, Virginia. ☒

The board will consider draft proposed regulations on VOC and NOX emission standards, petroleum liquid storage and transfer operations, and new source permits.

Contact: Dr. Kathleen Sands, Policy Analyst, Department of Air Pollution Control, P.O. Box 10089, Richmond, VA 23240, telephone (804) 786-2722.

ALCOHOLIC BEVERAGE CONTROL BOARD

May 11, 1992 - 9:30 a.m. - Open Meeting
May 27, 1992 - 9:30 a.m. - Open Meeting
June 8, 1992 - 9:30 a.m. - Open Meeting
June 22, 1992 - 9:30 a.m. - Open Meeting
2901 Hermitage Road, Richmond, Virginia. ☒

A meeting to receive and discuss reports and activities from staff members. Other matters not yet determined.

Contact: Robert N. Swinson, Secretary to the Board, 2901 Hermitage Road, P.O. Box 27491, Richmond, VA 23261, telephone (804) 367-0616.

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

May 21, 1992 - 9 a.m. - Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to (i) approve minutes from March 19, 1992, meeting; (ii) review correspondence; and (iii) review enforcement files.

Contact: Willie Fobbs, III, Assistant Director, Department of Commerce, 3600 W. Broad Street, Richmond, VA 23230,

telephone (804) 367-8514.

Board for Landscape Architects

May 8, 1992 - 2 p.m. - Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to (i) approve minutes from February 28, 1992, meeting; (ii) review correspondence; and (iii) review applications.

Contact: Willie Fobbs, III, Assistant Director, Department of Commerce, 3600 W. Broad Street, Richmond, VA 23230, telephone (804) 367-8514.

Board for Land Surveyors

May 20, 1992 - 9 a.m. - Executive Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

An exam writing session.

An executive meeting only.

Contact: Willie Fobbs, III, Assistant Director, Department of Commerce, 3600 W. Broad Street, Richmond, VA 23230, telephone (804) 367-8514.

Board for Professional Engineers

May 7, 1992 - 9 a.m. - Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to (i) approve minutes from February 11, 1992, meeting; (ii) review correspondence; (iii) review applications; and (iv) review enforcement files.

Contact: Willie Fobbs, III, Assistant Director, Department of Commerce, 3600 W. Broad Street, Richmond, VA 23230, telephone (804) 367-8514.

ASAP POLICY BOARD - VALLEY

May 11, 1992 - 8:30 a.m. - Open Meeting
Augusta County School Board Office, Fishersville, Virginia. ☒

A regular meeting to conduct business pertaining to (i) court referrals; (ii) financial report; (iii) director's report; and (iv) statistical reports.

Contact: Mrs. Rhoda G. York, Executive Director, 2 Holiday Court, Staunton, VA 24401, telephone (703) 886-5616 or in Waynesboro (703) 943-4405.

AUCTIONEERS BOARD

† **May 19, 1992 - 9 a.m.** – Open Meeting
Department of Commerce, 3600 West Broad Street,
Richmond, Virginia. ☒

A meeting to conduct regulatory review and other matters which may require board action.

Contact: Mr. Geralde W. Morgan, Board Administrator, Department of Commerce, 3600 West Broad Street, Richmond, VA 23230-8534, telephone (804) 367-8534.

DEPARTMENT OF AVIATION (VIRGINIA AVIATION BOARD)

June 19, 1992 – Written 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 Virginia Aviation Board intends to repeal existing regulations entitled: **VR 165-01-02. Rules and Regulations of the Virginia Aviation Board Governing the Licensing of Airmen, Aircraft and Airports, and the Operation of Aircraft and Airports in the State of Virginia**, and promulgate new regulations entitled: **VR 165-01-02:1. Regulations Governing the Licensing and Operation of Airports and Aircraft and Obstructions to Airspace in the Commonwealth of Virginia**. The proposed regulations address topical aviation areas in Virginia for the protection and enhancement of safe and efficient air transportation in the Commonwealth.

Statutory Authority: § 5.1-2 of the Code of Virginia.

Written comments may be submitted until June 19, 1992.

Contact: Keith F. McCrea, AICP, Aviation Planner, 4508 S. Laburnum Avenue, Richmond, VA 23235, telephone (804) 786-1365 or toll-free 1-800-292-1034.

CHESAPEAKE BAY COMMISSION

May 7, 1992 - 1 p.m. – Open Meeting
May 8, 1992 - 9 a.m. – Open Meeting
Harrisburg Hilton, One North Second Street, Harrisburg, Pennsylvania.

A quarterly meeting. Topics will include recent legislative actions, the 40% nutrient reduction strategy, the activities of the tributary states, exotic species introduction and the CBC FY '93 budget.

Contact: Ann Pesiri Swanson, Executive Director, 60 West Street, Suite 200, Annapolis, MD 21401, telephone (410) 263-3420.

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

May 5, 1992 - 9 a.m. – Open Meeting
Anchor Motel Conference Room, Route 13, Nassawadox, Virginia. ☒ (Interpreter for deaf provided upon request)

The board will take a field trip to observe waterside development and development sites on the Eastern Shore. No public comment will be heard.

Contact: Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440 or toll-free 1-800-243-7229/TDD ☒

May 6, 1992 - 8 a.m. – Open Meeting
Anchor Motel Conference Room, Route 13, Nassawadox, Virginia. ☒ (Interpreter for deaf provided upon request)

The board will conduct general business, including review of local Chesapeake Bay Preservation Area Programs. Public comment will be heard early in the meeting. A tentative agenda will be available from the Chesapeake Bay Local Assistance Department by April 29, 1992.

The board will also hold a public information meeting on an intended regulatory action. The board intends to repeal its current Public Participation Procedures (VR 173-01-00) and promulgate Public Participation Guidelines which will be consistent with those of all the agencies within the Natural Resources Secretariat and will ensure that interested parties have the necessary information to comment meaningfully on regulatory actions in all phases of the regulatory process. The board will hear public comment after a brief explanation of the intended regulatory action.

Contact: Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440 or toll-free 1-800-243-7229/TDD ☒

† **June 4, 1992 - 10 a.m.** – Open Meeting
General Assembly Building, Senate Room B, 9th and Broad Streets, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

The board will approve local assistance grants for fiscal year 1993 and conduct general business, including review of local Chesapeake Bay Preservation Area programs. Public comment will be heard in the meeting. A tentative agenda will be available from the Chesapeake Bay Local Assistance Department by May 28, 1992.

Contact: Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440 or toll-free 1-800-243-7229/TDD ☒

Calendar of Events

Central Area Review Committee

May 11, 1992 - 10 a.m. - Open Meeting
June 8, 1992 - 10 a.m. - Open Meeting
June 22, 1992 - 10 a.m. - Open Meeting
General Assembly Building, Senate Room B, 9th and Broad Streets, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

The committee will review Chesapeake Bay Preservation Area Programs for the Central 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 Review Committee meetings. However, written comments are welcome.

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

Northern Area Review Committee

May 13, 1992 - 10 a.m. - Open Meeting
May 27, 1992 - 10 a.m. - Open Meeting
June 10, 1992 - 10 a.m. - Open Meeting
June 24, 1992 - 10 a.m. - Open Meeting
General Assembly Building, Senate Room B, 9th and Broad Streets, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

The committee will 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 Review Committee meetings. However, written comments are welcome.

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

Southern Area Review Committee

May 6, 1992 - 10 a.m. - Open Meeting
June 3, 1992 - 10 a.m. - Open Meeting
General Assembly Building, Senate Room B, 9th and Broad Streets, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

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

Regulatory Review Committee and Program Study Group

May 20, 1992 - 10 a.m. - Open Meeting
June 17, 1992 - 10 a.m. - Open Meeting
Monroe Building, 101 North 14th Street, Conference Room D, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

The committee and group will consider issues relating to Chesapeake Bay Preservation Area Designation and Management Regulations, VR 173-02-01. Public comment will be heard at the end of the meeting.

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

CHILD DAY-CARE COUNCIL

† May 14, 1992 - 9 a.m. - Open Meeting
Koger Executive Center, West End, Blair Building, Conference Rooms A and B, 8007 Discovery Drive, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A meeting to discuss issues, concerns and programs that impact child care centers, camps, school age programs, and preschool/nursery schools. The public comment period is 1 p.m. Please call ahead of time for possible changes in meeting time.

Contact: Peggy Friedenber, Legislative Analyst, Office of Governmental Affairs, Department of Social Services, 8007 Discovery Drive, Richmond, VA 23229-8699, telephone (804) 662-9217.

BOARD OF COMMERCE

May 4, 1992 - 10 a.m. - Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

A regular meeting. Items to be discussed include legislation passed in the 1992 Session of the General Assembly which will impact upon the agency, and the full board will receive a study progress report concerning HJR 365, requesting a study of contractors who install electronic security systems.

Contact: Alvin D. Whitley, Secretary to the Board, Department of Commerce, 3600 W. Broad Street, Richmond, VA 23230, telephone (804) 367-8564 or SCATS (804) 367-8519.

STATE BOARD FOR COMMUNITY COLLEGES

† May 27, 1992 - 2 p.m. - Open Meeting

Calendar of Events

Williamsburg Lodge, Williamsburg, Virginia.

State board committee meetings will be held.

† **May 28, 1992 - 9 a.m.** – Open Meeting
Williamsburg Lodge, Williamsburg, Virginia.

A regularly scheduled state board meeting. Agenda available by May 13, 1992.

Contact: Joy Graham, Assistant Chancellor, Public Affairs, Virginia Community College System, 101 North 14th Street, Richmond, VA 23219, telephone (804) 225-2126 or (804) 371-8504/TDD ☎

COMPENSATION BOARD

May 28, 1992 - 5 p.m. – Open Meeting
June 25, 1992 - 5 p.m. – Open Meeting
Ninth Street Office Building, Room 913/913A, 9th Floor, 202 North Ninth Street, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

A routine meeting to conduct business.

Contact: Bruce W. Haynes, Executive Secretary, P.O. Box 3-F, Richmond, VA 23206-0686, telephone (804) 786-3886.

DEPARTMENT OF CONSERVATION AND RECREATION (BOARD OF)

May 22, 1992 - 9 a.m. – Open Meeting
Conference Room B, First Floor, James Monroe Building, 101 North 14th Street, Richmond, Virginia. ☒

A meeting to receive views and comments and to answer questions of the public on the board's intent to adopt VR 215-00-00. Regulatory Public Participation Guidelines.

May 22, 1992 - 9 a.m. – Open Meeting
Conference Room B, First Floor, James Monroe Building, 101 North 14th Street, Richmond, Virginia. ☒

A meeting to receive views and comments and to answer questions of the public on the department's intent to adopt VR 215-01-00. Public Participation Guidelines and to adopt VR 217-00-00. Regulatory Public Participation Guidelines.

Contact: Leon E. App, Executive Assistant, Virginia 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 ☎

Board on Conservation and Development of Public Beaches

† **May 15, 1992 - 10:30 a.m.** – Open Meeting

Virginia Institute of Marine Science, Directors Conference Room, Newport News, Virginia. ☒

A meeting to discuss proposals from localities requesting matching grant funds from the board.

Contact: Susan M. Townsend, Shoreline Programs Bureau, Program Support Technician, P.O. Box 1024, Gloucester Point, VA 23062, telephone (804) 642-7121.

Falls of the James Scenic River Advisory Board

May 15, 1992 - Noon – Open Meeting
Planning Commission Conference Room, Fifth Floor, City Hall, Richmond, Virginia.

A meeting to review river issues and programs.

Contact: Richard G. Gibbons, Environmental Program Manager, Department of Conservation and Recreation, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-4132 or (804) 786-2121/TDD ☎

Virginia Soil and Water Conservation Board

† **May 20, 1992 - 6 p.m.** – Open Meeting
Legend's Restaurant, 380 Broadview Avenue, Warrenton, Virginia.

A regular bi-monthly business meeting.
(Dinner Meeting)

Contact: Linda J. Cox, Department of Conservation and Recreation, 203 Governor St., Suite 206, Richmond, VA 23219, telephone (804) 786-2152.

May 22, 1992 - 9 a.m. – Open Meeting
Conference Room B, First Floor, James Monroe Building, 101 North 14th Street, Richmond, Virginia. ☒

A meeting to receive views and comments and to answer questions of the public on the board's intent to consider repeal of VR 625-00-00. Public Participation Guidelines and to adopt VR 625-00-00:1. Regulatory Public Participation Guidelines.

Contact: Leon E. App, Executive Assistant, Virginia 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 ☎

BOARD OF CORRECTIONS

May 13, 1992 - 10 a.m. – Open Meeting
6900 Atmore Drive, Board of Corrections Board Room, Richmond, Virginia. ☒

A regular monthly meeting to consider such matters as may be presented to the board.

Calendar of Events

Contact: Mrs. Vivian Toler, Secretary to the Board, 6900 Atmore Drive, Richmond, VA 23225, telephone (804) 674-3235.

Liaison Committee

May 14, 1992 - 9:30 a.m. – Open Meeting
6900 Atmore Drive, Board of Corrections Board Room, Richmond, Virginia. ☐

A meeting to address and discuss criminal justice issues.

Contact: Mrs. Vivian Toler, Secretary to the Board, 6900 Atmore Drive, Richmond, VA 23225, telephone (804) 674-3235.

BOARD FOR COSMETOLOGY

May 11, 1992 - 2 p.m. – Public Hearing
Department of Commerce, 3600 West Broad Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Cosmetology intends to adopt regulations entitled **VR 235-01-03. Nail Technician Regulations**. The purpose of the proposed regulations is to protect the health and safety of those citizens obtaining manicures, pedicures or artificial nail services from disease or unsanitary practices by requiring the licensure of nail technicians, nail salons and those schools teaching these techniques. In licensing this profession, its practitioners are held to uniform standards for entry and conduct which is subject to disciplinary action by the Board for Cosmetology.

The regulations contain standards for entry into the profession as a nail technician, nail salon and nail school. In order to obtain a license as a nail technician one must complete 150 hours of education and pass a written and practical examination. Nail salons shall provide a current address and other information. Nail schools shall provide a copy of their proposed curriculum for approval by the board before licensure. The regulations also set forth standards for renewal, and standards of sanitary practice and discipline.

Statutory Authority: §§ 54.1-201, 54.1-202, 54.1-1200 and 54.1-1202 B of the Code of Virginia.

Written comments may be submitted until June 20, 1992.

Contact: Demetra Y. Kontos, Assistant Director, Board for Cosmetology, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-2175.

† **May 11, 1992 - 9 a.m. – Open Meeting**
Department of Commerce, 3600 West Broad Street,

Richmond, Virginia.

A regular business meeting.

† **May 12, 1992 - 9 a.m. – Executive Session**
Department of Commerce, 3600 West Broad Street, Richmond, Virginia.

A meeting to review examinations.

Contact: Demetra Y. Kontos, Assistant Director, Board for Cosmetology, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-2175.

CRIMINAL JUSTICE SERVICES BOARD

† **May 6, 1992 - 11 a.m. – Open Meeting**
General Assembly Building, House Room D, Capitol Square, Richmond, Virginia. ☐

A meeting to consider matters relating to the board's responsibilities for criminal justice training and improvement of the criminal justice system. Public comments will be heard before adjournment of the meeting.

Contact: Paula J. Scott, Staff Executive, Department of Criminal Justice Services, 805 East Broad Street, Richmond, Virginia 23219, telephone (804) 786-4000.

Committee on Training

† **May 6, 1992 - 9 a.m. – Open Meeting**
General Assembly Building, House Room D, Capitol Square, Richmond, Virginia. ☐

A meeting to discuss matters related to training for criminal justice personnel.

Contact: Paula J. Scott, Staff Executive, Department of Criminal Justice Services, 805 East Broad Street, Richmond, Virginia 23219, telephone (804) 786-4000.

BOARD OF DENTISTRY

May 6, 1992 - 11:30 a.m. – Open Meeting
Alcoholic Beverage Commission, 4907 Mercury Boulevard, Hampton, Virginia. ☐

Informal conferences. No public testimony will be received.

May 9, 1992 - 9 a.m. – Open Meeting
Northern Virginia Community College, 8333 Little River Turnpike, Annandale, Virginia. ☐

Informal conferences. No public testimony will be received.

June 20, 1992 - 8 a.m. - Open Meeting
Wytheville Community College, Wytheville, Virginia. ☒

Informal conferences. No public testimony will be received.

Contact: Nancy Taylor Feldman, Executive Director, 1601 Rolling Hills Drive, Richmond, VA, telephone (804) 662-9906.

STATE EDUCATION ASSISTANCE AUTHORITY

May 19, 1992 - 10 a.m. - Public Hearing
State Education Assistance Authority, 411 East Franklin Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Education Assistance Authority intends to amend existing regulations entitled VR 275-01-1. Regulations Governing Virginia Administration of the Federally Guaranteed Student Loan Programs Under Title IV Part B of the Higher Education Act. The purpose of the proposed amendments is to update and clarify the administration of the Title IV Part B Loan Programs.

Statutory Authority: § 23-38.64 of the Code of Virginia.

Written comments may be submitted until June 5, 1992, to Marvin L. Ragland, Jr., 411 E. Franklin Street, Richmond, VA 23219.

Contact: Lyn Hammond or Sherry Scott, Policy Analyst, 411 E. Franklin Street, Richmond, VA 23219, telephone (804) 775-4626, 775-4071 or toll-free 1-800-792-5626.

May 19, 1992 - 10 a.m. - Public Hearing
State Education Assistance Authority, 411 East Franklin Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Education Assistance Authority intends to amend existing regulations entitled VR 275-02-1. Regulations Governing the Edvantage Loan Program. The purpose of the proposed amendments is to update and clarify the administration of the Edvantage Loan Program.

Statutory Authority: §§ 23-30.42, 23-38.33:1 and 23-38.64(2) of the Code of Virginia.

Written comments may be submitted until June 5, 1992, to Marvin L. Ragland, Jr., 411 E. Franklin Street, Richmond, VA 23219.

Contact: Lyn Hammond or Sherry Scott, Policy Analyst, 411 E. Franklin Street, Richmond, VA 23219, telephone

(804) 775-4626, 775-4071 or toll-free 1-800-792-5626.

DEPARTMENT OF EDUCATION (STATE BOARD OF)

† May 28, 1992 - 8 a.m. - Open Meeting

† June 24, 1992 - 8 a.m. - Open Meeting

James Monroe Building, 101 North Fourteenth Street, Conference Rooms D and E, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

The Board of Education and the Board of Vocational Education will hold a regularly scheduled meeting. Business will be conducted according to items listed on the agenda. The agenda is available upon request. Public comment will not be received at the meeting.

Contact: Dr. Margaret Roberts, Executive Director, State Department of Education, P.O. Box 6-Q, Richmond, VA 23216, telephone (804) 225-2540.

May 23, 1992 - Written 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 Board of Education intends to amend regulations entitled VR 270-01-0012. Regulations Establishing Standards for Accrediting Public Schools in Virginia. These regulations establish the basis for accrediting public schools. Such accreditation is required by the Standards of Quality.

Statutory Authority: § 22.1-253.13:3 B of the Code of Virginia.

Written comments may be submitted until May 23, 1992.

Contact: Lin Corbin-Howerton, Lead Specialist, Policy Analysis, Department of Education, P.O. Box 6-Q, Richmond, VA 23216-2060, telephone (804) 225-2543.

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

† May 12, 1992 - 10 a.m. - Open Meeting

Monroe Building, Council Conference Room, 9th Floor, Richmond, Virginia. ☒

A general business meeting. For more information contact the Council.

Contact: Anne Pratt, Associate Director, 101 North Fourteenth Street, 9th Floor, Monroe Building, Richmond, VA 23219, telephone (804) 225-2629.

Calendar of Events

STATE BOARD OF ELECTIONS

† **May 11, 1992 - 10 a.m.** – Open Meeting
Ninth Street Office Building, 6th Floor Conference Room,
Room 625, Richmond, Virginia.

A meeting to ascertain and certify the results of the
May 5, 1992, Special Election for the 70th House of
Delegates District.

Contact: Lisa M. Strickler, Executive Secretary Senior, 200
North Ninth Street, Room 101, Richmond, VA 23219,
telephone (804) 786-6551 or 1-800-552-9745/TDD ☎

LOCAL EMERGENCY PLANNING COMMITTEE - CHESTERFIELD COUNTY

May 7, 1992 - 5:30 p.m. – Open Meeting
June 4, 1992 - 5:30 p.m. – Open Meeting
Chesterfield County Administration Building, 10001
Ironbridge Road, Chesterfield, Virginia. ☒

A meeting to meet requirements of Superfund
Amendment and Reauthorization Act of 1986.

Contact: Linda G. Furr, Assistant Emergency Services,
Chesterfield Fire Department, P.O. Box 40, Chesterfield,
VA 23832, telephone (804) 748-1236.

LOCAL EMERGENCY PLANNING COMMITTEE - FAIRFAX COUNTY, THE CITY OF FAIRFAX, AND THE TOWNS OF HERNDON AND VIENNA

May 14, 1992 - 10 a.m. – Open Meeting
John C. Wood Municipal Center, 3730 Old Lee Highway,
Fairfax, Virginia. ☒

A general meeting.

Contact: Marysusan Giguere, 4031 University Drive,
Fairfax, VA 22030, telephone (703) 246-3971.

LOCAL EMERGENCY PLANNING COMMITTEE - PRINCE WILLIAM COUNTY, MANASSAS CITY, AND MANASSAS PARK CITY

† **May 18, 1992 - 1:30 p.m.** – Open Meeting
† **June 15, 1992 - 1:30 p.m.** – Open Meeting
1 County Complex Court, Potomac Conference Room,
Prince William, Virginia. ☒

A multi-jurisdictional local emergency planning
committee to discuss issues related to hazardous
substances in the jurisdictions. SARA Title III
provisions and responsibilities for hazardous material
emergency response planning.

Contact: John E. Medici, Hazardous Materials Officer, 1

County Complex Court, Internal Zip MC470, Prince
William, VA 22192, telephone (703) 792-6800.

LOCAL EMERGENCY PLANNING COMMITTEE - WINCHESTER

May 6, 1992 - 3 p.m. – Open Meeting
Shawnee Fire Company, 2333 Roosevelt Boulevard,
Winchester, Virginia.

A general meeting.

Contact: L. A. Miller, Fire Chief, Winchester Fire and
Rescue Department, 126 N. Cameron Street, Winchester,
VA 22601, telephone (703) 662-2298.

VIRGINIA EMPLOYMENT COMMISSION

State Advisory Board

† **May 13, 1992 - 8:30 a.m.** – Open Meeting
703 East Main Street, Richmond, Virginia. ☒ (Interpreter
for deaf provided if requested)

A regular meeting.

Contact: Nancy L. Munnikhaysen, Chief of Marketing and
Public Affairs, 703 E. Main Street, Richmond, VA 23219,
telephone (804) 371-6004 or (804) 371-8050/TDD ☎

CITIZEN'S ADVISORY COUNCIL FOR INTERPRETING AND FURNISHING THE EXECUTIVE MANSION

† **May 13, 1992 - 10:30 a.m.** – Open Meeting
The Executive Mansion, Capitol Square, Richmond,
Virginia.

A general business meeting.

Contact: Cathy Walker Green, Executive Mansion Director,
The Executive Mansion, Capitol Square, Richmond, VA
23219, telephone (804) 786-2220 or SCATS (804) 786-4546.

BOARD OF FORESTRY AND RESTORATION BOARD

May 20, 1992 - 9 a.m. – Open Meeting
Roslyn Conference Center, 8727 River Road, Richmond,
Virginia. ☒

A meeting to discuss general business and to review
accomplishments and budgets followed by a joint
meeting of the two boards.

Contact: Phil T. Grimm, Assistant Chief, Forest
Management or Barbara A. Worrell, Administrative Staff
Specialist, P.O. Box 3758, Charlottesville, VA 22903,
telephone (804) 977-6555/TDD ☎

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

May 5, 1992 - 9 a.m. - Open Meeting
1601 Rolling Hills Drive, Surry Building, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

State licensure examinations.

May 6, 1992 - 9 a.m. - Open Meeting
1601 Rolling Hills Drive, Surry Building, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

Informal hearings.

† **May 18, 1992 - 7 p.m. - Open Meeting**
† **May 19, 1992 - 9 a.m. - Open Meeting**
1601 Rolling Hills Drive, Surry Building, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

A regular board meeting. Public comment period will be during the first 30 minutes of the meeting.

Contact: Meredyth P. Partridge, Executive Director, Board of Funeral Directors and Embalmers, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9907 or (804) 662-7197/TDD ☎

BOARD OF GAME AND INLAND FISHERIES

May 14, 1992 - 9:30 a.m. - Open Meeting
Farmville, Virginia.

Board members will meet in Farmville and tour department owned lands and facilities in the area.

May 15, 1992 - 9:30 a.m. - Open Meeting
Longwood College, Main Ruffner Hall, Virginia and Prince Edward Rooms, Farmville, Virginia.

Committees of the Board of Game and Inland Fisheries will meet, beginning at 9:30 a.m. with the Wildlife and Boat Committee, followed by the Planning Committee, Finance Committee, Law and Education Committee and ending with the Liaison Committee.

The Wildlife and Boat Committee will discuss and possibly recommend to the full board that it adopt certain nongame regulation proposals that define wild animal, native animal, naturalized animal, nonnative (exotic) animal and domestic animal; a new regulation that prohibits the possession, importation or selling of any wild animal unless specifically permitted and defines those nonnative animals for which a permit for the importation and possessions thereof will be required. These nongame regulation proposals may include either a requirement that a permit will be necessary to import, liberate or possess in the Commonwealth wolf hybrids, or in the alternative that the definition of a domestic animal will include the wolf hybrid, thus exempting this animal from the

permit requirement.

In addition, this committee will also consider and possibly recommend to the full board that it adopt a proposed bear hound training season outside of the regular hunting season, a proposed extension of the raccoon chase season in counties west of the Blue Ridge Mountains, and proposed emergency deer hunting regulations for the City of Lynchburg.

The Planning, Finance, Law and Education and Liaison Committees will review items appropriate to their authority and recommend any general and administrative matters necessary to the full board for adoption or consideration.

May 16, 1992 - 9 a.m. - Open Meeting
Longwood College, Main Ruffner Hall, Virginia and Prince Edward Rooms, Farmville, Virginia.

The board will meet to consider for adoption nongame regulation proposals that will define wild animal, native animal, naturalized animal, nonnative (exotic) animal and domestic animal; a new regulation that prohibits the possession, importation or selling of any wild animal unless specifically permitted and defines those nonnative animals for which a permit for the importation and possession thereof. These nongame regulation proposals may include either a requirement that a permit will be necessary to import, liberate or possess in the Commonwealth wolf hybrids, or in the alternative that the definition of a domestic animal will include the wolf hybrid, thus exempting this animal from the permit requirement.

The board will also consider for adoption a proposed bear hound training season outside of the regular hunting season, a proposed extension of the raccoon chase season in counties west of the Blue Ridge Mountains, and proposed emergency deer hunting regulations for the City of Lynchburg.

Other general and administrative matters as necessary, will be discussed and acted on.

Contact: Belle Harding, Secretary to Bud Bristow, 4010 W. Broad Street, P.O. Box 11104, Richmond, VA 23230, telephone (804) 367-1000.

BOARD FOR GEOLOGY

June 4, 1992 - 10 a.m. - Open Meeting
Department of Commerce, 3600 West Broad Street, Conference Room 1, Richmond, Virginia. ☒

June 5, 1992 - 10 a.m. - Open Meeting
Department of Commerce, 3600 West Broad Street, Conference Room 1, Richmond, Virginia. ☒

A general board meeting.

Calendar of Events

Contact: Nelle P. Hotchkiss, Assistant Director, 3600 W. Broad Street, Richmond, VA 23230, telephone (804) 367-8595 or (804) 367-9753/TDD ☎

GOVERNOR'S ADVISORY COMMISSION ON THE DILLON RULE AND LOCAL GOVERNMENT

May 5, 1992 - 2 p.m. - Public Hearing
Tidewater Community College, Portsmouth Campus, in the "Theater," Portsmouth, Virginia.

May 6, 1992 - 9 a.m. - Public Hearing
Eastern Shore Community College, Melfa Campus, in the Lecture Hall, Accomack, Virginia.

May 14, 1992 - 10 a.m. - Public Hearing
Martha Washington College, Klein Theatre in dePont Hall, Fredericksburg, Virginia.

May 19, 1992 - 10 a.m. - Public Hearing
Blue Ridge Community College, Auditorium, Weyers Cave Exit, I-81, Harrisonburg, Virginia.

May 20, 1992 - 10 a.m. - Public Hearing
Loudoun County Courthouse, Board Room, Leesburg, Virginia.

May 26, 1992 - 10 a.m. - Public Hearing
General Assembly Building, Senate Room A, Richmond, Virginia.

The Commission has been established to study the application of the Dillon Rule as it affects local government authority to operate in an efficient and effective manner.

Contact: Paul Grasewicz, Department of Housing and Community Development, 205 North Fourth Street, Richmond, VA 23219, telephone (804) 786-7893.

GOVERNOR'S JOB TRAINING COORDINATING COUNCIL

† May 18, 1992 - 10:30 a.m. - Open Meeting
The Hyatt Hotel, 6624 West Broad Street, Richmond, Virginia. ☎

A general meeting.

Contact: Abria M. Singleton, Executive Secretary, 4615 W. Broad Street, The Commonwealth Building, Third Floor, Richmond, VA 23230, telephone (804) 367-9816.



DEPARTMENT OF HEALTH (STATE BOARD OF)

May 18, 1992 - 7 p.m. - Public Hearing
Wise County Health Department, 134 Roberts Street, S.W., Wise, Virginia.

May 19, 1992 - 7 p.m. - Public Hearing
J. Robert Jamison Memorial Library, Main Street, Appomattox, Virginia.

May 20, 1992 - 7 p.m. - Public Hearing
Council Chambers Room, City Hall, 715 Princess Anne Street, Fredericksburg, Virginia.

May 21, 1992 - 7 p.m. - Public Hearing
112 South Main Street, Board Meeting Room, Woodstock, Virginia.

May 27, 1992 - 7 p.m. - Public Hearing
Peninsula Health Center, Auditorium, J. Clyde Morris Boulevard, Newport News, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Health intends to adopt regulations entitled: **VR 355-34-400. Alternative Discharging Sewage Treatment Regulations for Individual Single Family Dwellings.** These regulations govern the construction and operation of sewage treatment systems serving individual, single family homes with flows of 1,000 gallons per day or less.

Statutory Authority: §§ 32.1-12, 32.1-163 and 32.1-164 of the Code of Virginia.

Written comments may be submitted until June 5, 1992.

Contact: Donald J. Alexander, Director, Bureau of Sewage and Water, P.O. Box 2448, Richmond, VA 23218, telephone (804) 786-3559.

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

May 18, 1992 - 7 p.m. - Open Meeting
Syndicated Collection Agency, Board Room, 43 Reserve Avenue, Roanoke, Virginia.

The meeting will begin with a public comment period. Those wishing to address the impact of health care institutions' commercial diversification or any issue that may be addressed by the council are welcomed. Comments should be limited to three minutes and

written statements are requested.

Contact: Kim Schulte Barnes, Information Officer, 805 East Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371/TDD ☎

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May 22, 1992 – Written 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 Virginia Health Services Cost Review Council intends to amend regulations entitled: **VR 370-01-001. Rules and Regulations of the Virginia Health Services Cost Review Council.** Section 6.3 of the regulation is being amended to specify when amendments or modifications to currently filed charge schedules would have more than a minimal impact on revenues and would therefore have to be filed at least 60 days in advance of their effective date.

Statutory Authority: §§ 9-161(D) and 9-164(2) of the Code of Virginia.

Written comments may be submitted until May 22, 1992.

Contact: G. Edward Dalton, Deputy Director, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371/TDD ☎

BOARD FOR HEARING AID SPECIALISTS

† **May 18, 1992 - 8:30 a.m.** – Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, VIRGINIA. ☒

A meeting to (i) administer examination to eligible candidates; (ii) review enforcement cases; and (iii) consider other matters which may require board action.

Contact: Mr. Geralde W. Morgan, Board Administrator, Department of Commerce, 3600 West Broad Street, Richmond, VA 23230-8534, telephone (804) 367-8534.

VIRGINIA HISTORIC PRESERVATION FOUNDATION

† **May 13, 1992 - 10 a.m.** – Open Meeting
Petersburg City Hall Chambers, Union and Tabb Streets, Petersburg, Virginia. ☒ (Interpreter for deaf provided if requested)

A general business meeting.

Contact: Hugh C. Miller, Director, 221 Governor Street, Richmond, VA 23219, telephone (804) 786-3143 or (804) 786-1934/TDD ☎

DEPARTMENT OF HISTORIC RESOURCES (BOARD OF)

May 27, 1992 - 10 a.m. – Open Meeting
Department of Historic Resources, Board Room, 221 Governor Street, Richmond, Virginia.

A meeting to receive views and comments and to answer questions of the public on the board's intent to consider adopting VR 390-01-01:1, Public Participation Guidelines.

Contact: H. Bryan Mitchell, Deputy Director, Department of Historic Resources, 221 Governor Street, Richmond, VA 23219, telephone (804) 786-3143 or (804) 786-1934/TDD ☎

HOPEWELL INDUSTRIAL SAFETY COUNCIL

May 5, 1992 - 9 a.m. – Open Meeting
† **June 2, 1992 - 9 a.m.** – Open Meeting
† **July 7, 1992 - 9 a.m.** – Open Meeting
Hopewell Community Center, Second & City Point Road, Hopewell, Virginia. ☒ (Interpreter for deaf provided if requested)

Local Emergency Preparedness Committee meeting on Emergency Preparedness as required by SARA Title III.

Contact: Robert Brown, Emergency Services Coordinator, 300 North Main Street, Hopewell, VA 23860, telephone (804) 541-2298.

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

† **May 19, 1992 - 11 a.m.** – Open Meeting
601 S. 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; and (iv) 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 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.

COUNCIL ON INFORMATION MANAGEMENT

† **May 15, 1992 - 9 a.m.** – Open Meeting
1100 Bank Street, 9th Floor Conference Room, Richmond,

Calendar of Events

Virginia. ☒

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A regular business meeting.

Contact: Linda Hening, Administrative Staff Specialist, 1100 Bank Street, Suite 901, Richmond, VA 23219, telephone (804) 225-3622 or (804) 225-3624/TDD ☎

VIRGINIA INTERAGENCY COORDINATING COUNCIL ON EARLY INTERVENTION

May 13, 1992 - 9 a.m. - Open Meeting
Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

The Virginia Interagency Coordinating Council according to PL 102-119, Part H, early intervention program for disabled infants and toddlers and their families, is meeting to advise and assist the Department of Mental Health, Mental Retardation and Substance Services as lead agency to develop and implement a statewide interagency early intervention program.

Contact: Michael Fehl, Director, MR Children/Youth Services, Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3710.

DEPARTMENT OF LABOR AND INDUSTRY

Apprenticeship Council

† **May 18, 1992 - 7 p.m. - Open Meeting**
Fairfax City Hall, City Council Chambers, 10455 Armstrong Street, Fairfax, Virginia. ☒

† **May 19, 1992 - 7 p.m. - Open Meeting**
Roanoke County Administration Center, Community Room, 3738 Brambleton Avenue, Roanoke, Virginia. ☒

† **May 20, 1992 - 7 p.m. - Open Meeting**
State Capitol, House Room 1, Richmond, Virginia. ☒

† **May 21, 1992 - 7 p.m. - Open Meeting**
Norfolk Technical Vocational Center, 1330 North Military Highway, Norfolk, Virginia.

A meeting to hear comments on the proposed amendment to VR 425-01-26, Regulations Governing the Administration of Apprenticeship Programs in the Commonwealth of Virginia, § 6, Deregistration Procedure.

Contact: Robert S. Baumgardner, Director, Apprenticeship Division, Department of Labor and Industry, 13 South Thirteenth Street, Richmond, VA 23219, telephone (804) 786-2381.

† **July 16, 1992 - 10 a.m. - Public Hearing**
General Assembly Building, House Room C, 910 Capitol Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Apprenticeship Council intends to amend regulations entitled: **VR 425-01-26. Regulations Governing the Administration of Apprenticeship Programs in the Commonwealth of Virginia.** This amendment provides criteria and procedure for deregistration of apprenticeship programs.

STATEMENT

Basis, purpose, substance, issues and impact: The current involuntary deregistration procedure is cumbersome and unwieldy, making it difficult for council to act decisively in the few, extreme cases where a sponsor's program is significantly out of compliance with apprenticeship regulations. The deregistration process can be strengthened by making the deregistration of apprenticeship programs under such conditions more straightforward.

The purpose of the regulation is to set out those conditions which warrant immediate, direct action on the part of council. The expected impact on businesses will be minimal, given that most businesses operate apprenticeship programs within the council's regulations. Similarly, the administrative impact on the Commonwealth will be minimal because of the low number of deregistrations expected.

Statutory Authority: § 40.1-118 of the Code of Virginia.

Written comments may be submitted until July 6, 1992.

Contact: Robert S. Baumgardner, Director, Apprenticeship Division, Department of Labor and Industry, 13 South Thirteenth Street, Richmond, VA 23219, telephone (804) 786-2381.

† **July 16, 1992 - Immediately following public hearing beginning at 10 a.m. - Open Meeting**
General Assembly Building, House Room C, 910 Capitol Street, Richmond, Virginia. ☒

A regular quarterly meeting.

Contact: Robert S. Baumgardner, Director, Apprenticeship Division, Department of Labor and Industry, 13 South Thirteenth Street, Richmond, VA 23219, telephone (804) 786-2381.

LIBRARY BOARD

NOTE: CHANGE OF DATE

May 15, 1992 - 9:30 a.m. - Open Meeting

June 23, 1992 - 9:30 a.m. - Open Meeting
Virginia State Library and Archives, 3rd Floor, Supreme Court Room, 11th Street at Capitol Square, Richmond, Virginia. ☒

A meeting to discuss administrative matters of the Virginia State Library and Archives.

Contact: Jean H. Taylor, Secretary to State Librarian, Virginia State Library and Archives, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

STATE COUNCIL ON LOCAL DEBT

May 20, 1992 - 11 a.m. - Open Meeting
101 North 14th Street, James Monroe Building, 3rd Floor, Treasury Board Conference Room, Richmond, Virginia. ☒

A regular meeting subject to cancellation unless there are action items requiring the Council's consideration. Persons interested in attending should call one week prior to meeting date to ascertain whether or not the meeting is to be held as scheduled.

Contact: Art Bowen, Senior Debt Analyst, Department of the Treasury, P.O. Box 6-H, Richmond, VA 23215, telephone (804) 225-4929.

MARINE RESOURCES COMMISSION

May 26, 1992 - 9:30 a.m. - Open Meeting
June 23, 1992 - 9:30 a.m. - Open Meeting
† July 28, 1992 - 9:30 a.m. - Open Meeting
2600 Washington Avenue, 4th Floor, Room 403, Newport News, Virginia. ☒ (Interpreter for 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: regulatory proposals, fishery management plans, fishery conservation issues, licensing, shellfish leasing.

Meetings are open to the public. Testimony is taken under oath from parties addressing agenda items on permits and licensing. Public comments are 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: Cathy W. Everett, Secretary to the Commission, P.O. Box 756, Room 1006, Newport News, VA 23607,

telephone (804) 247-8088, toll-free 1-800-541-4646 or (804) 247-2292/TDD ☎

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

† May 5, 1992 - 8 a.m. - Open Meeting
Salon 3, Marriott Suites, 801 Asaph Street, Alexandria, Virginia. ☒

A meeting to discuss medical assistance services and issues pertinent to the board.

Contact: Patricia A. Sykes, Policy Analyst, 600 East Broad Street, Suite 1300, Richmond, VA 23229, telephone (804) 786-7958 or 1-800-343-0634/TDD ☎

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May 8, 1992 - Written 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 Medical Assistance Services intends to amend regulations entitled: **State Plan for Medical Assistance Relating to Inpatient Outlier Adjustments: VR 460-02-4.1910. Methods and Standards for Establishing Payment Rates-Inpatient Hospital Care.** These regulations propose the same outlier policy for hospital reimbursement as was contained in an earlier emergency regulation.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Written comments may be submitted until 4:30 p.m., May 8, 1992, to Wm. R. Blakely, Director, Division of Cost Settlement and Audit, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23229, telephone (804) 786-7933.

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May 8, 1992 - Written 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 Medical Assistance Services intends to amend regulations entitled: **State Plan for Medical Assistance Relating to Reimbursement Adjustment for Nonemergency ER Care. VR 460-02-4.1920. Methods and Standards Used for Establishing Payment Rates-Other Types of Care.** These amendments promulgate permanent regulations to supersede emergency regulations which

Calendar of Events

provide for the same policy.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Written comments may be submitted until 4:30 p.m., May 8, 1992, to Mike Jurgenson, Policy and Planning Supervisor, Division of Policy and Research, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23229, telephone (804) 786-7933.

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May 8, 1992 – Written 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 Medical Assistance Services intends to amend regulations entitled: **State Plan for Medical Assistance Relating to Community Mental Health/Mental Retardation Services: VR 460-03-3.1100, Narrative for the Amount, Duration and Scope of Services; VR 460-03-3.1102, Case Management Services; VR 460-03-3.1300, Standards Established and Methods Used to Assure High Quality Care; VR 460-02-4.1920, Methods and Standards for Establishing Payment Rates—Other Types of Care; and VR 460-04-8.1500, Community Mental Health and Mental Retardation Services: Amount, Duration and Scope of Services.** This proposed regulation provides for local community mental health/mental retardation services delivered through the Community Services Boards.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Written comments may be submitted until 4:30 p.m., May 8, 1992, to Ann Cook, Consultant, Division of Policy and Research, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23229, telephone (804) 786-7933.

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May 8, 1992 – Written 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 Medical Assistance Services intends to amend regulations entitled: **VR 460-03-4.1921, Pediatric and Obstetric Services Maximum Payments.** This proposed regulation conforms the plan to federal requirements

of OBRA '89 § 6402 and to the American Medical Association's new coding convention for procedure codes.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Written comments may be submitted until 4:30 p.m., May 8, 1992, to C. Mack Brankley, Director, Division of Client Services, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23229, telephone (804) 786-7933.

BOARD OF MEDICINE

May 28, 1992 - 8 a.m. – Open Meeting
May 29, 1992 - 8 a.m. – Open Meeting
May 30, 1992 - 8 a.m. – Open Meeting
May 31, 1992 - 8 a.m. – Open Meeting
Department of Health Professions, Board Room 1, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

A meeting to (i) conduct general business; (ii) receive committee and board reports; and (iii) discuss any other items which may come before the board. The board will also review reports, interview licensees, and make case decisions on disciplinary matters. The board will entertain brief public comments at the pleasure of the President.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9923.

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† **July 6, 1992** – Written 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 Medicine intends to amend regulations entitled: **VR 465-04-01, Regulations Governing the Practice of Respiratory Therapy Practitioners.** The proposed amendment is to establish biennial certification renewal to occur in the therapists' birth month each odd-numbered year, and to make grammatical corrections to be consistent with the language of the Code of Virginia.

STATEMENT

Basis: § 54.1-2400 of the Code of Virginia.

Statement of purpose: The proposed amendments to the current regulations, VR 465-04-01, address the need to accommodate the biennial renewal process for certification to practice as a respiratory therapy practitioner, and

grammatical corrections of terminology in "Definitions," for clarity.

Estimated entities and impacts:

A. Regulated entities: There are 1,500 respiratory therapy practitioners certified to practice in Virginia.

B. Projected costs to the regulated entities: The impact upon the licensees and new applicants of these regulations is assessed as follows:

1. Section 1.1. Definitions: The term "Committee" was deleted and "Advisory Board" was inserted to reflect the changes in the Code of Virginia. The certified therapist and new applicants will not be impacted.

2. Section 1.1. Definitions: The definition for "NBRC" was grammatically corrected by deleting "of" and inserting "for" to be in conformance with the national organization title. There is no impact to the therapist or new applicant.

3. Section 2.3. Renewal of certificate: The proposed amendment establishes a biennial, birth month, renewal cycle in each odd-numbered year. There will be no additional financial burden to the applicant.

4. Section 4.1. Fees: The proposed amendments establish a new renewal process, for certification to practice as a respiratory therapy practitioner, to be biennial in each odd-numbered year and birth month of the therapists. The amendment will ease the regulatory burden for the certificate holder by reducing the frequency of the renewal process.

C. Projected costs to the agency for implementation and enforcement: The Board of Medicine and the Advisory Board on Respiratory Therapy Practitioners project a savings of \$5,000 each even-numbered year for postage, renewal materials, and staff participation in the renewal process. The savings will provide the board with additional resources and funds to meet the increasing costs related to investigations, hearings, and case management.

D. Source of funds: All funds of the Board of Medicine and the Advisory Board on Respiratory Therapy Practitioners are derived from fees paid by the therapist and applicants for certification.

Public hearings: In the interest of reducing costs to the board, it was determined not to schedule a public hearing. The board will entertain all written comments received at the next full meeting of the board, following the closing date for written comments.

Statutory Authority: §§ 54.1-2400 and 54.1-2954 of the Code of Virginia.

Written comments may be submitted until July 6, 1992, to Hilary H. Connor, M.D., Executive Director, Board of

Medicine, 1601 Rolling Hills Dr., Richmond, VA 23229.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9923.

Credentials Committee

June 20, 1992 - 8 a.m. - Open Meeting
Department of Health Professions, Board Room 3, 1601 Rolling Hills Drive, Richmond, Virginia. ☐

A meeting to (i) conduct general business; (ii) interview and review medical credentials of applicants applying for licensure in Virginia, in open and executive session; and (iii) discuss any other items which may come before the committee. Public comments will not be received.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9923.

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES (STATE BOARD)

May 27, 1992 - 10 a.m. - Open Meeting
Southside Community Service Board, South Boston, Virginia. ☐

A regular monthly meeting. The agenda will be published on May 20 and may be obtained by calling Jane V. Helfrich.

Tuesday: Informal Session - 8 p.m.

Wednesday: Committee Meetings - 9 a.m.

Wednesday: Regular Session - 10 a.m.

See agenda for location.

Contact: Jane V. Helfrich, Board Administrator, State Mental Health, Mental Retardation and Substance Abuse Services Board, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3921.

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June 5, 1992 - Written 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 Mental Health, Mental Retardation and Substance Abuse Services Board intends to adopt regulations entitled: **VR 470-05-02. Regulations Governing Certification of Therapeutic Consultation and Residential Services.** These regulations establish the standards which must

Calendar of Events

be met by individuals and facilities providing therapeutic consultation and residential support services under the Mental Retardation Waiver.

Statutory Authority: §§ 37.1-10, 37.1-179 of the Code of Virginia, and Items 466.F.5 and 478.F.1 of the 1990 Appropriations Act.

Written comments may be submitted until June 5, 1992, to Ben Saunders, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23229.

Contact: Rubyjean Gould, Director of Administrative Services, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3915.

MIDDLE VIRGINIA BOARD OF DIRECTORS AND THE MIDDLE VIRGINIA COMMUNITY CORRECTIONS RESOURCES BOARD

May 7, 1992 - 7 p.m. - Open Meeting

502 South Main Street #4, Culpeper, Virginia.

From 7 p.m. until 7:30 p.m. the Board of Directors will hold a business meeting to discuss DOC contract, budget, and other related business. Then the CCRB will meet to review cases before it for eligibility to participate with the program. It will review the previous month's operation (budget and program related business).

Contact: Lisa Ann Peacock, Program Director, 502 South Main Street #4, Culpeper, VA 22701, telephone (703) 825-4562.

VIRGINIA MILITARY INSTITUTE

Board of Visitors

May 15, 1992 - 8 a.m. - Open Meeting

The Virginia Military Institute, Smith Hall Board Room, Smith Hall, Lexington, Virginia. ☐

A regular meeting of the VMI Board of Visitors to (i) consider committee reports; (ii) approve awards, distinctions and diplomas; (iii) discuss personnel changes; and (iv) elect president pro tem.

Contact: Colonel Edwin L. Dooley, Jr., Secretary to the Board, Virginia Military Institute, Lexington, VA 24450, telephone (703) 464-7206.

DEPARTMENT OF MINES, MINERALS AND ENERGY

Division of Mined Land Reclamation

† **May 14, 1992 - 1 p.m. - Open Meeting**
Department of Mines, Minerals and Energy, Conference Room 116, U.S. Route 23 South at Route 387 near Big Stone Gap, Virginia. ☐

A meeting to give interested persons an opportunity to be heard in regard to the FY 1992 Virginia Abandoned Mine Land Emergency Grant application to be submitted to the Federal Office of Surface Mining.

Contact: Roger L. Williams, Abandoned Mine Land Manager, P.O. Drawer 900, Big Stone Gap, VA 24450, telephone (703) 523-8206.

DEPARTMENT OF MINORITY BUSINESS ENTERPRISE

June 19, 1992 - Written 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 Minority Business Enterprise intends to adopt regulations entitled: **VR 486-01-02. Regulations to Govern the Certification of Minority Business Enterprises.** The proposed regulations will provide rules governing the certification of a business as a bonafide minority business enterprise.

Statutory Authority: § 2.1-64.35:8 of the Code of Virginia.

Written comments may be submitted until June 19, 1992.

Contact: Garland W. Curtis, Deputy Director, Department of Minority Business Enterprise, 200-202 N. 9th Street, 11th Floor, Richmond, VA 23219, telephone (804) 786-5560 or toll-free 1-800-223-0671.

BOARD OF NURSING HOME ADMINISTRATORS

June 4, 1992 - 8:30 a.m. - Open Meeting
1601 Rolling Hills Drive, Richmond, Virginia. ☐

A board meeting and formal conferences.

Contact: Meredyth P. Partridge, Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229-5005, telephone (804) 662-9111.

* * * * *

† **July 3, 1992 -** Written 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 Nursing

Home Administrators intends to amend regulations entitled: **VR 500-01-2:1. Regulations of the Board of Nursing Home Administrators.** The board is amending regulations to delete outdated requirements, clarify continuing education requirements, provide an additional route to licensure, and revise reinstatement requirements.

STATEMENT

Basis: Chapter 1 (§ 54.1-100 et seq.), Chapter 24 (§ 54.1-2400 et seq.), Chapter 25 (§ 54.1-2500 et seq.), and Chapter 31 (§ 54.1-3100 et seq.) of Title 54.1 of the Code of Virginia provide the statutory basis for promulgation of the Regulations of the Board of Nursing Home Administrators. The Board of Nursing Home Administrators approved the proposed regulations on March 4, 1992.

Purpose: The regulations are amended to (i) include a definition of "practicum" and require that the practicum be served under a preceptor registered with the board, (ii) relax the reinstatement requirements and allow for a late renewal process, (iii) clarify the renewal date in § 4.1, (iv) revise § 4.5 to delete burdensome and overly stringent reinstatement requirements, (v) revise § 5.1 to increase routes to licensure thus relaxing requirement, (vi) delete § 8.3 which is now outdated, and (vii) clarify continuing education requirements through amendments to the former §§ 8.4, 8.5, and 8.6.

Impact: The impact on nursing home administrators subject to licensure by the Board of Nursing Home Administrators includes the following:

1. Defining practicum distinguishes it from an Administrator-in-training program and affords ease of compliance.
2. Relaxing the reinstatement requirements and adding a late renewal process is less burdensome for the licensee.
3. Clarifying the renewal date prevents confusion.
4. Requiring a practicum to be served under a preceptor registered by the board may impose an impact on candidates expecting to serve their practicums in the college or university locale.
5. Licensure of nursing home administrators through degree in a random field plus a certificate affords an additional option of licensure and relaxes the entry requirements for licensure.
6. Clarification of continuing education requirements allows ease of compliance determination for licensees.

Statutory Authority: §§ 54.1-2400 and 54.1-3101 of the Code of Virginia.

Written comments may be submitted until July 3, 1992.

Contact: Meredyth P. Partridge, Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229-5005, telephone (804) 662-9111.

BOARD OF OPTOMETRY

† **May 21, 1992 - 9 a.m.** – Open Meeting
Williamsburg Hilton and National Conference Center, 50 Kingsmill Road, Williamsburg, Virginia.

A regular meeting. A formal hearing is scheduled for 2 p.m.

Contact: Lisa J. Russell, Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229-5005, telephone (804) 662-9910.

DEPARTMENT OF STATE POLICE

May 8, 1992 – Written 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 State Police intends to amend regulations entitled: **VR 545-01-07. Motor Vehicle Safety Inspection Rules and Regulations.** The proposed amendment permits colored or tinted vent visors to be installed on motor vehicles, provided they do not extend more than two inches from the forward door post into the driver's viewing area.

Statutory Authority: §§ 46.2-1002, 46.2-1163 and 46.2-1165 of the Code of Virginia.

Written comments may be submitted until May 8, 1992.

Contact: Captain J. P. Henries, Safety Officer, P.O. Box C-32008, Richmond, VA 23261, telephone (804) 674-2017.

PRIVATE SECURITY SERVICES ADVISORY BOARD

† **May 7, 1992 - 9:30 a.m.** – Open Meeting
Fairfax County Police Department, Pine Ridge Training Facility, Woodburn Road, Annandale, Virginia. ☒

A regular business meeting.

Contact: Paula J. Scott, Staff Executive, Department of Criminal Justice Services, 805 East Broad Street, Richmond, VA 23219, telephone (804) 786-4000.

BOARD OF PSYCHOLOGY

Examination Committee

May 11, 1992 - 9 a.m. – Open Meeting

Calendar of Events

Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

A meeting to discuss and prepare examinations. No public comment will be received.

Contact: Evelyn B. Brown, Executive Director or Joyce D. Williams, Administrative Assistant, 1601 Rolling Hills Drive, Richmond, VA 23229-5005, telephone (804) 662-9913.

REAL ESTATE BOARD

† **May 20, 1992 - 10 a.m.** – Open Meeting
Department of Commerce, Conference Room 3, 3600 West Broad Street, Richmond, Virginia.

The board will meet to conduct a formal hearing: File No. 90-02169, Real Estate Board v. Barbara A. Swank.

Contact: Gayle Eubank, Hearings Coordinator, Department of Commerce, 3600 W. Broad Street, Fifth Floor, Richmond, VA 23230, telephone (804) 367-8524.

BOARD OF REHABILITATIVE SERVICES

† **May 19, 1992 - 10 a.m.** – Open Meeting
4901 Fitzhugh Avenue, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A meeting to (i) receive department reports; (ii) consider regulatory matters; and (iii) conduct the regular business of the board.

Contact: Susan L. Urofsky, Commissioner, 4901 Fitzhugh Avenue, Richmond, VA 23230, telephone (804) 367-0318, toll-free 1-800-552-5059/TDD and Voice ☎ or (804) 367-0280/TDD ☎

Finance Committee

† **May 19, 1992 - 9 a.m.** – Open Meeting
4901 Fitzhugh Avenue, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

The committee will review monthly financial reports and budgetary projections.

Contact: Susan L. Urofsky, Commissioner, 4901 Fitzhugh Avenue, Richmond, VA 23230, telephone (804) 367-0318, toll-free 1-800-552-5059/TDD and Voice ☎ or (804) 367-0280/TDD ☎

Legislation Committee

† **May 19, 1992 - 9 a.m.** – Open Meeting
4901 Fitzhugh Avenue, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

General Assembly legislative update.

Contact: Susan L. Urofsky, Commissioner, 4901 Fitzhugh Avenue, Richmond, VA 23230, telephone (804) 367-0318, toll-free 1-800-552-5059/TDD and Voice ☎ or (804) 367-0280/TDD ☎

Program and Evaluation Committee

† **May 19, 1992 - 9 a.m.** – Open Meeting
4901 Fitzhugh Avenue, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A meeting to discuss appropriate program information relative to General Assembly issues.

Contact: Susan L. Urofsky, Commissioner, 4901 Fitzhugh Avenue, Richmond, VA 23230, telephone (804) 367-0318, toll-free 1-800-552-5059/TDD and Voice ☎ or (804) 367-0280/TDD ☎

INTERDEPARTMENTAL REGULATION OF RESIDENTIAL FACILITIES FOR CHILDREN

Coordinating Committee

May 15, 1992 - 8:30 a.m. – Open Meeting
June 19, 1992 - 8:30 a.m. – Open Meeting
Office of the Coordinator, Interdepartmental Regulation, 1603 Santa Rosa Road, Tyler Building, Suite 208, Richmond, Virginia. ☒

A regular meeting to consider such administrative and policy issues as may be presented to the committee. A period for public comment is provided at each meeting.

Contact: John J. Allen, Coordinator, Interdepartmental Regulation, Office of the Coordinator, 8007 Discovery Drive, Richmond, VA 23229-8699, telephone (804) 662-7124.

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

† **May 20, 1992 - 2 p.m.** – Open Meeting
† **May 21, 1992 - if necessary - 9 a.m.** – Open Meeting
Cavalier Hotel, 42nd and Oceanfront, Virginia Beach, Virginia. ☒

† **June 17, 1992 - 2 p.m.** – Open Meeting
† **June 18, 1992 - if necessary - 9 a.m.** – Open Meeting
† **July 15, 1992 - 2 p.m.** – Open Meeting
† **July 16, 1992 - if necessary - 9 a.m.** – Open Meeting
Department of Social Services, 8007 Discovery Drive, Richmond, Virginia. ☒

A work session and formal business meeting of the aforementioned board.

Contact: Phyllis Sisk, Staff Specialist, Department of Social Services, 8007 Discovery Drive, Richmond, VA 23229, telephone (804) 662-9236, toll-free 1-800-552-3431 or

1-800-552-7096/TDD ☎

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June 19, 1992 - 10 a.m. – Public Hearing
Blair Building, Conference Room C, 8007 Discovery Drive,
Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Social Services intends to amend regulations entitled: **VR 615-08-1. Virginia Energy Assistance Program.** The purpose of the Virginia Energy Assistance Program is to provide assistance to eligible households to offset the costs of home energy that are excessive in relation to household income and to respond to energy-related, weather-related, and supply shortage emergencies.

The amendments to the crisis assistance component will clarify that routine maintenance such as chimney cleaning and that supplemental heating equipment such as oil tanks and stands will be provided. The second amendment to the crisis assistance component will further clarify the intent to provide fuel to respond to the crisis situation of households who did not receive fuel assistance in the current program year.

Statutory Authority: § 63.1-25 of the Code of Virginia.

Written comments may be submitted until June 19, 1992, to Charlene H. Chapman, Department of Social Services, 8007 Discovery Drive, Richmond, VA.

Contact: Peggy Friedenber, Legislative Analyst, Department of Social Services, 8007 Discovery Drive, Richmond, VA 23229-8699, telephone (804) 662-9217.

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May 22, 1992 – Written 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 Social Services intends to **repeal** regulations entitled: **VR 615-32-01. Administrative Procedures for Child Development Associate Scholarship Program.** This regulation addresses eligibility requirements and procedures to be used in applying for scholarships awarded through the federal Child Development Associate Scholarship Program, and is being repealed to allow for promulgation of new regulations which will address the availability of additional federal and state funding streams and different eligibility requirements for scholarship recipients. This current regulation is outdated.

Statutory Authority: § 63.1-25 of the Code of Virginia.

Written comments may be submitted until May 22, 1992.

Contact: Peggy Friedenber, Legislative Analyst, Office of Governmental Affairs, Department of Social Services, 8007 Discovery Drive, Richmond, VA 23229-8699, telephone (804) 662-9217.

BOARD OF SOCIAL WORK

May 8, 1992 - 1 p.m. – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive,
Richmond, Virginia. ☒

A meeting to (i) conduct general board business; (ii) respond to correspondence; and (iii) certify oral examinations. No public comment will be received.

May 20, 1992 - 10 a.m. – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive,
Richmond, Virginia. ☒

A meeting to discuss current regulations for regulatory changes. No public comment will be received.

Contact: Evelyn B. Brown, Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9914.

**DEPARTMENT OF TRANSPORTATION
(COMMONWEALTH TRANSPORTATION BOARD)**

May 20, 1992 - 2 p.m. – Open Meeting
Virginia Department of Transportation, Board Room, 1401
East Broad Street, Richmond, Virginia. ☒ (Interpreter for
deaf provided upon request)

A work session of the Commonwealth Transportation Board and the Department of Transportation staff.

Contact: John G. Milliken, Secretary of Transportation, 1401 East Broad Street, Richmond, VA 23219, telephone (804) 786-6670.

May 21, 1992 - 10 a.m. – Open Meeting
Virginia Department of Transportation, Board Room, 1401
East Broad Street, Richmond, Virginia. ☒ (Interpreter for
deaf provided upon request)

A monthly meeting to vote on proposals presented regarding bids, permits, additions and deletions to the highway system, and any other matters requiring board approval.

Public comment will be received at the outset of the meeting on items on the meeting agenda for which the opportunity for public comment has not been afforded the public in another forum. Remarks will be limited to five minutes. Large groups are asked to select one individual to speak for the group. The board reserves the right to amend these conditions.

Calendar of Events

Contact: John G. Milliken, Secretary of Transportation, 1401 East Broad Street, Richmond, VA 23219, telephone (804) 786-6670.

June 11, 1992 - 9 a.m. - Public Hearing
Salem District Office, Harrison Avenue, North of Main Street and East of VA 311, Salem, Virginia. ☒ (Interpreter for deaf provided upon request)

A final hearing to receive comments on highway allocations for the coming year and on updating the Six-Year Improvement Program for the Interstate, Primary, and Urban Systems for the Bristol, Salem, Lynchburg, and Staunton Districts, as well as public transit.

June 18, 1992 - 9 a.m. - Public Hearing
Virginia Department of Transportation, Auditorium, 1221 East Broad Street, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A final hearing to receive comments on highway allocations for the coming year and on updating the Six-Year Improvement Program for the Interstate, Primary, and Urban Systems for the Richmond, Fredericksburg, Suffolk, Culpeper, and Northern Virginia Districts, as well as public transit.

Contact: Mr. Albert W. Coates, Jr., Assistant Commissioner, Virginia Department of Transportation, 1401 East Broad Street, Richmond, VA 23219, telephone (804) 786-9950.

DEPARTMENT OF THE TREASURY (STATE TREASURER AND TREASURY BOARD)

May 20, 1992 - 9 a.m. - Open Meeting
James Monroe Building, 101 North 14th Street, 3rd floor, Treasury Board Conference Room, Richmond, Virginia. ☒

A regular meeting.

Contact: Belinda Blanchard, Assistant Investment Officer, Department of the Treasury, P.O. Box 6-H, Richmond, VA 23215, telephone (804) 225-2142.

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May 8, 1992 - Written 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 Treasurer intends to adopt regulations entitled: **VR 640-04-1. Regulations Governing Escheats.** The proposed regulations address the annual reporting requirements for local government treasurers and escheators and outline the escheator's responsibilities for the disclosures to be made at escheat auctions, the collection and remittance of sale proceeds, and the notifications to be made to defaulting purchasers. In

addition, the regulations stipulate the required bonding for escheators, specify the commission basis for escheators and auctioneers as well as the reimbursable expenses of auctioneers, and outline department charges for requests for information under the Freedom of Information Act.

Statutory Authority: § 55-200.1 of the Code of Virginia.

Written comments may be submitted until May 8, 1992.

Contact: Robert S. Young, Director of Financial Policy, Department of the Treasury, P.O. Box 6-H, Richmond, VA 23215, telephone (804) 225-3131.

VIRGINIA RESOURCES AUTHORITY

May 12, 1992 - 9 a.m. - Open Meeting
The Mutual Building, 909 East Main Street, Suite 707, Conference Room A, Richmond, Virginia.

The board will meet to (i) approve minutes of its previous meeting; (ii) review the Authority's operations for the prior months; and (iii) 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: Mr. Shockley D. Gardner, Jr., 909 East Main Street, Suite 707, Mutual Building, Richmond, VA 23219, telephone (804) 644-3100 or FAX number (804) 644-3109.

VIRGINIA VETERANS CARE CENTER

Board of Trustees

May 7, 1992 - 9:30 a.m. - Open Meeting
State Capitol Building, House Room 1, Richmond, Virginia. ☒

A regular meeting to continue discussion of agenda and programs for the Virginia Veterans Care Center.

Contact: Arlene Smith, Cabinet Support Secretary, 633 Ninth Street Office Building, 200 N. Ninth Street, P.O. Box 1475, Richmond, VA 23212, telephone (804) 786-1201.

VIRGINIA VOLUNTARY FORMULARY BOARD

May 7, 1992 - 10:30 a.m. - Open Meeting
1100 Bank Street, Washington Building, 2nd Floor Board Room, Richmond, Virginia.

A meeting to consider public hearing comments and

review new product data for products pertaining to the Virginia Voluntary Formulary.

Contact: James K. Thomson, Director, Bureau of Pharmacy Services, 109 Governor Street, Room B1-9, Richmond, VA 23219, telephone (804) 786-4326.

DEPARTMENT FOR THE VISUALLY HANDICAPPED

† **May 18, 1992 - 2 p.m.** – Open Meeting
† **May 18, 1992 - 6:30 p.m.** – Open Meeting
Virginia Rehabilitation Center for the Blind, Assembly Room, 401 Azalea Avenue, Richmond, Virginia. ☒ (interpreter for deaf provided upon request)

† **May 20, 1992 - 5 p.m.** – Open Meeting
Lion's Eye Bank, 501 Elm Avenue, S.W., Roanoke, Virginia. ☒ (interpreter for deaf provided upon request)

A meeting to seek public input regarding amendments to the Vocational Rehabilitation State Plan to provide vocational rehabilitation services by the Department for the Visually Handicapped.

Contact: Jim Taylor, VR Program Specialist, 397 Azalea Avenue, Richmond, VA 23227, telephone (804) 371-3111, (804) 371-3140/Voice/TDD ☎ or toll-free 1-800-622-2155.

Advisory Committee on Services

† **July 25, 1992 - 11 a.m.** – Open Meeting
Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. ☒ (interpreter for deaf provided upon request)

A meeting to advise the Virginia Board for the Visually Handicapped on matters related to services for blind and visually impaired citizens of the Commonwealth.

Contact: Barbara G. Tyson, Executive Secretary, 397 Azalea Avenue, Richmond, VA 23227, telephone (804) 371-3140/TDD ☎ or toll-free 1-800-622-2155.

VIRGINIA COUNCIL ON VOCATIONAL EDUCATION

May 6, 1992 - 8:30 a.m. – Open Meeting
Comfort Inn of Lynchburg, Route 29, Lynchburg, Virginia.

8:30 a.m. - Orientation meeting for site visits.
9:30 a.m. - Site visits to vocational education training sites in the area.
1 p.m. - General session.
2:30 p.m. - Committee meetings.

May 7, 1992 - 8:30 a.m. – Open Meeting
Comfort Inn of Lynchburg, Route 29, Lynchburg, Virginia.

Business session.

Contact: George S. Orr, Jr., Executive Director, Virginia Council on Vocational Education, 7420-A Whitepine Road, Richmond, VA 23237, telephone (804) 275-6218.

DEPARTMENT OF WASTE MANAGEMENT

May 20, 1992 - 2 p.m. – Open Meeting
State Water Control Board, Board Room, Innsbrook Corporate Center, 4900 Cox Road, Glen Allen, Virginia. ☒

A meeting to receive views and comments and to answer questions of the public on the Waste Management Board's intent to consider repealing VR 672-01-1, Public Participation Procedures for Formation and Promulgation of Regulations, and adopting VR 672-01-1:1, Public Participation Guidelines.

Contact: Karol A. Akers, Policy and Planning Manager, Department of Waste Management, 11th Floor, Monroe Building, 101 N. 14th Street, Richmond, Virginia 23219, telephone (804) 225-2966.

May 21, 1992 - 7 p.m. – Public Hearing
Amelia County High School Commons, Route 614, Amelia, Virginia.

Pursuant to the requirements of Part VII of the Virginia Solid Waste Management Regulations (Permitting of Solid Waste Management Facilities), the Department of Waste Management will hold a public hearing on the proposed draft permit for a Sanitary Landfill to be located along State Route 360 approximately five miles west of the Township of Amelia. The permit was drafted by the Department of Waste Management for Chambers Waste Systems of Virginia, Inc., in accordance with Part VII of the SWMR. The purpose of the public hearing will be to solicit comments concerning the technical merits of the permit as they pertain to the landfill design, operation and closure.

The public comment period will extend until June 1, 1992. Comments concerning the draft permit must be in writing and addressed to Hassan Vakili, Permits Program Supervisor, Department of Waste Management, 11th Floor, Monroe Building, 101 North 14th Street, Richmond, VA 23219. Copies of the draft permit will be available for review in the Amelia County Administrator's Office, Room 106, Beopple Building, and the James L. Hamner Public Library during normal business hours. Copies of the draft permit may also be obtained by writing to Brian McReynolds of the Department of Waste Management at the following address.

Contact: Brian McReynolds, Environmental Engineer Senior, Virginia Department of Waste Management, 11th Floor, Monroe Building, 101 N. 14th Street, Richmond, Virginia 23219, telephone (804) 371-2520.

Calendar of Events

† June 9, 1992 - 9 a.m. - Open Meeting

General Assembly Building, House Room C, 9th and Broad Streets, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A meeting on the proposed amendments to the Solid Waste Management Regulations, VR 672-20-10.

† June 9, 1992 - 10:30 a.m. - Open Meeting

General Assembly Building, House Room C, 9th and Broad Streets, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A meeting on the proposed amendments to the Hazardous Waste Management Regulations, VR 672-10-1.

Contact: Michael P. Murphy, Environmental Programs Manager, Virginia Department of Waste Management, 11th Floor, Monroe Building, 101 N. 14th Street, Richmond, Virginia 23219, telephone (804) 371-0044 or (804) 371-8737/TDD ☎

† June 11, 1992 - 7:30 p.m. - Open Meeting

West Point Town Hall, 6th and Main Streets, West Point, Virginia.

Pursuant to the requirements of Part VII, Permitting of Solid Waste Management Facilities, of the Virginia Solid Waste Management Regulations, the draft Solid Waste Disposal Facility Permit for the development of an industrial landfill proposed by Chesapeake Paper Products Company is available for public review and comment. The permit allows the proposed facility to accept only authorized, nonhazardous wastes which result from the operations of Chesapeake Paper Products Company. The proposal incorporates design elements for a synthetic cap which is not provided for in the regulations. Chesapeake Paper Products Company petitioned for these features pursuant to the requirements of Part IX of the regulations (Rulemaking Petitions and Procedures), and the Department of Waste Management has granted tentative approval.

Contact: Khoi T. Nguyen, Environmental Engineer Senior, Virginia Department of Waste Management, 11th Floor, Monroe Building, 101 N. 14th Street, Richmond, Virginia 23219, telephone (804) 371-0658 or (804) 371-8737/TDD ☎

STATE WATER CONTROL BOARD

May 20, 1992 - 2 p.m. - Open Meeting

State Water Control Board, Board Room, Innsbrook Corporate Center, 4900 Cox Road, Glen Allen, Virginia. ☒

A meeting to receive views and comments and to answer questions of the public on the Waste Management Board's intent to consider repealing VR 680-41-01, Public Participation Guidelines, and adopting

VR 680-14-01:1, Public Participation Guidelines.

Contact: Cindy M. Berndt, Policy and Planning Supervisor, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230, telephone (804) 527-5158.

BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

June 25, 1992 - 10 a.m. - Public Hearing

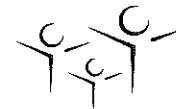
Virginia Department of Commerce, 3600 West Broad Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Waterworks and Wastewater Works Operators intends to amend regulations entitled: **VR 675-01-02. Board for Waterworks and Wastewater Works Operators Regulations.** The proposed regulation will adjust the fee structure of the board and bring the fee structure of the board in line with costs to cover the preparation of the examinations by an outside examination vendor.

Statutory Authority: §§ 54.1-113, 54.1-201, 54.1-202, and 54.1-2301 B of the Code of Virginia.

Written comments may be submitted until June 22, 1992.

Contact: Mr. Geralde W. Morgan, Administrator, Department of Commerce, 3600 W. Broad Street, Richmond, Virginia 23230-4917, telephone (804) 367-8534.



VIRGINIA DEPARTMENT OF
**YOUTH &
FAMILY SERVICES**
Youth Begins With You.

BOARD OF YOUTH AND FAMILY SERVICES

May 22, 1992 - Written comments may be submitted until this date.

Department of Youth and Family Services, 7th and Franklin Streets, 700 Centre, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Youth and Family Services intends to adopt regulations entitled: **VR 690-15-001. Regulations for State Reimbursement of Local Juvenile Residential Facility Construction.** The proposed regulation establishes Board of Youth and Family Services Standards for reimbursement of local juvenile residential facility construction costs.

Statutory Authority: §§ 16.1-313, 16.1-322.5 through 16.1-322.7 and 66-10 of the Code of Virginia.

Written comments may be submitted until May 22, 1992.

Contact: Paul Steiner, Policy Coordinator, Department of Youth and Family Services, P.O. Box 3AG, Richmond, Virginia 23208, telephone (804) 371-0700.

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May 13, 1992 - 4 p.m. - Public Hearing
Department of Youth and Family Services, 7th and Franklin Streets, 700 Centre, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Youth and Family Services intends to adopt regulations entitled: **VR 690-10-001. Regulations Governing the Certification Process.** This proposed regulation establishes the board's procedures for the review and certification of facilities and programs which are under the regulatory authority of the board. It is a revision and update of similar standards issued by the Board of Corrections as VR 230-01-003.

Statutory Authority: §§ 16.1-233, 16.1-234, 16.1-311, 16.1-312 and 66-10 of the Code of Virginia.

Written comments may be submitted until June 5, 1992.

Contact: Paul Steiner, Policy Coordinator, Department of Youth and Family Services, P.O. Box 3AG, Richmond, Virginia 23208, telephone (804) 371-0700.

May 14, 1992 - 10 a.m. - Open Meeting
Site to be announced. Richmond, Virginia.

A general business meeting.

Contact: Paul Steiner, Policy Coordinator, Department of Youth and Family Services, P.O. Box 3AG, Richmond, Virginia 23208-1108, telephone (804) 371-0692.

LEGISLATIVE

SPECIAL ADVISORY COMMISSION ON MANDATED HEALTH INSURANCE BENEFITS

† **May 18, 1992 - 10 a.m. - Public Hearing**
General Assembly Building, Senate Room B, First Floor, Richmond, Virginia.

The Advisory Commission's agenda includes consideration on House Bill 539 (1992) that would mandate coverage for autologous bone marrow transplants and House Bill 1089 (1992) that would require insurers to reimburse certified nurse midwives directly for services performed within the scope of their licenses. The Advisory Commission is also scheduled to complete its review of House Bill 178 (1990) which would revise the current mandated coverage of newborn children.

Contact: Hil Richardson, Bureau of Insurance, P.O. Box 1197, Richmond, VA 23209, telephone (804) 371-0388 or toll-free 1-800-552-7945.

COMMISSION ON POPULATION GROWTH AND DEVELOPMENT

† **June 18, 1992 - 9:30 a.m. - Open Meeting**
† **June 19, 1992 - 9:30 a.m. - Open Meeting**
Roslyn Conference Center, Richmond, Virginia.

A meeting to discuss developing growth strategies at the local and regional levels.

Contact: Katherine L. Imhoff, Executive Director, General Assembly Building, Suite 519B, 910 Capitol Street, Richmond, VA 23219, telephone (804) 371-4949.

JOINT SUBCOMMITTEE STUDYING SCHOOL DROP OUT

† **May 4, 1992 - 10 a.m. - Open Meeting**
General Assembly Building, House Room C, Richmond, Virginia.

The subcommittee will meet for purpose of reorganization and review of Project YES. (HJR 177)

Contact: Brenda Edwards, Division of Legislative Services, 910 Capitol Street, Richmond, VA 23219, telephone (804) 786-3591.

YOUTH SERVICES COMMISSION

† **May 7, 1992 - 10 a.m. - Open Meeting**
General Assembly Building, House Room D, Richmond, Virginia.

A general business meeting.

Contact: Mary Simmons, Youth Services Commission, General Assembly Building, Suite 517 B, 910 Capitol Street, Richmond, VA 23219, telephone (804) 371-2481.

CHRONOLOGICAL LIST

OPEN MEETINGS

- May 4**
Commerce, Board of
† School Drop Out, Joint Subcommittee Studying
- May 5**
Chesapeake Bay Local Assistance Board
Funeral Directors and Embalmers, Board of
Hopewell Industrial Safety Council
† Medical Assistance Services, Board of

Calendar of Events

- May 6**
Chesapeake Bay Local Assistance Board
- Southern Area Review Committee
† Criminal Justice Services Board
- Committee on Training
Dentistry, Board of
Emergency Planning Committee, Local - Winchester
Funeral Directors and Embalmers, Board of
Vocational Education, Virginia Council on
- May 7**
Architects, Professional Engineers, Land Surveyors and
Landscape Architects, Board for
- Board for Professional Engineers
Chesapeake Bay Commission
Emergency Planning Committee, Local - Chesterfield
County
Middle Virginia Board of Directors and the Middle
Virginia Community Corrections Resources Board.
† Private Security Services Advisory Board
Virginia Veterans Care Center
- Board of Trustees
Vocational Education, Virginia Council on
Voluntary Formulary Board, Virginia
† Youth Services Commission
- May 8**
Aging, Department for the
- Long-Term Care Council
Air Pollution Control Board, State
Architects, Professional Engineers, Land Surveyors and
Landscape Architects, Board for
- Board for Landscape Architects
Chesapeake Bay Commission
Social Work, Board of
- May 9**
Dentistry, Board of
- May 11**
Alcoholic Beverage Control Board
ASAP Policy Board - Valley
Chesapeake Bay Local Assistance Board
- Central Area Review Committee
† Cosmetology, Board for
† Elections, State Board of
Psychology, Board of
- Examination Committee
- May 12**
† Cosmetology, Board for (Executive Session)
† Higher Education for Virginia, State Council of
Virginia Resources Authority
- May 13**
Chesapeake Bay Local Assistance Board
- Northern Area Review Committee
Corrections, Board of
† Employment Commission, Virginia
- State Advisory Board
† Executive Mansion, Citizens' Advisory Council for
- Interpreting and Furnishing the
† Historic Preservation Foundation, Virginia
Interagency Coordinating Council on Early
Intervention, Virginia
- May 14**
† Child Day-Care Council
Corrections, Board of
- Liaison Committee
Emergency Planning Committee, Local - Fairfax
County, the City of Fairfax and the Towns of Herndon
and Vienna.
Game and Inland Fisheries, Board of
† Mines, Minerals and Energy, Department of
- Division of Land Reclamation
Youth and Family Services, Board of
- May 15**
† Conservation and Recreation, Department of
- Board on Conservation and Development of Public
Beaches
- Falls of the James Scenic River Advisory Board
Game and Inland Fisheries, Board of
† Information Management, Council on
Interdepartmental Regulation of Residential Facilities
for Children
- Coordinating Committee
Library Board
Military Institute, Virginia
- Board of Visitors
- May 16**
Game and Inland Fisheries, Board of
- May 18**
Agricultural Council, Virginia
† Emergency Planning Committee, Local - Prince
William County, Manassas City, and Manassas Park
City
† Governor's Job Training Coordinating Council
† Funeral Directors and Embalmers, Board of
Health Services Cost Review Council, Virginia
† Hearing Aid Specialists, Board for
† Labor and Industry, Department of
- Apprenticeship Council
† Visually Handicapped, Department for the
- May 19**
Agricultural Council, Virginia
† Auctioneers Board
† Funeral Directors and Embalmers, Board of
† Housing Development Authority, Virginia
† Labor and Industry, Department of
- Apprenticeship Council
† Rehabilitative Services, Board of
- Finance Committee
- Legislation Committee
- Program and Evaluation Committee
- May 20**
† Agriculture and Consumer Services, Board of
-

Calendar of Events

- Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for
- Board for Land Surveyors (Executive Meeting)
Chesapeake Bay Local Assistance Board
- Regulatory Review Committee and Program Study Group
† Conservation and Recreation, Department of
- Soil and Water Conservation Board
Forestry and Reforestation Board
† Labor and Industry, Department of
- Apprenticeship Council
Local Debt, State Council on
† Real Estate Board
† Social Services, State Board of
Social Work, Board of
Transportation Board, Commonwealth
Treasury Board
Virginia Racing Commission
† Visually Handicapped, Department for the
Waste Management, Department of
Water Control Board, State
- May 21**
Agriculture and Consumer Services, Department of
- Virginia Farmers' Market Board
Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for
† Labor and Industry, Department of
- Apprenticeship Council
† Optometry, Board of
† Social Services, State Board of
Transportation Board, Commonwealth
- May 22**
Conservation and Recreation, Department of
- Virginia Soil and Water Conservation Board
- May 26**
Marine Resources Commission
- May 27**
Alcoholic Beverage Control Board
Chesapeake Bay Local Assistance Board
- Northern Area Review Committee
† Community Colleges, State Board for
Historic Resources, Board of
Mental Health, Mental Retardation and Substance Abuse Services Board, State
- May 28**
† Community Colleges, State Board for
Compensation Board
† Education, Board of
Medicine, Board of
- June 2**
† Hopewell Industrial Safety Council
- June 3**
Chesapeake Bay Local Assistance Board
- Southern Area Review Committee
- June 4**
† Chesapeake Bay Local Assistance Board
Emergency Planning Committee, Local - Chesterfield County
Geology, Board for
Nursing Home Administrators, Board of
- June 5**
Geology, Board for
- June 8**
Alcoholic Beverage Control Board
Chesapeake Bay Local Assistance Board
- Central Area Review Committee
- June 9**
† Waste Management, Department of
- June 10**
Chesapeake Bay Local Assistance Board
- Northern Area Review Committee
- June 11**
† Waste Management, Department of
- June 15**
† Emergency Planning Committee, Local - Prince William County, Manassas City, and Manassas Park City
- June 16**
† Labor and Industry, Department of
- Apprenticeship Council
- June 17**
Chesapeake Bay Local Assistance Board
- Regulatory Review Committee and Program Study Group
† Social Services, State Board of
- June 18**
† Population Growth and Development, Commission on
† Social Services, State Board of
- June 19**
Interdepartmental Regulation of Residential Facilities for Children
- Coordinating Committee
† Population Growth and Development, Commission on
- June 20**
Dentistry, Board of
Medicine, Board of
- Credentials Committee
- June 22**
Alcoholic Beverage Control Board
Chesapeake Bay Local Assistance Board
- Central Area Review Committee
- June 23**

Calendar of Events

Library Board
Marine Resources Commission

June 24
Chesapeake Bay Local Assistance Board
- Northern Area Review Committee
† Education, Board of

June 25
Compensation Board

July 7
† Agriculture and Consumer Services, Department of
- Virginia Winegrowers Advisory Board
† Hopewell Industrial Safety Council

July 15
† Social Services, State Board of

July 16
† Social Services, State Board of

July 25
† Visually Handicapped, Department for the
- Advisory Committee on Services

July 28
† Marine Resources Commission

June 18
Transportation, Department of

June 19
Social Services, Department of

June 25
Waterworks and Wastewater Works Operators, Board
for

July 4
† Medicine, Board of

July 16
† Labor and Industry, Department of
- Apprenticeship Council

PUBLIC HEARINGS

May 11
Cosmetology, Board for

May 13
Youth and Family Services, Board of

May 18
Health, Department of
† Special Advisory Commission on Mandated Health
Insurance Benefits

May 19
Education Assistance Authority, State
Health, Department of

May 20
Health, Department of

May 21
Health, Department of
Waste Management, Department of

May 27
Health, Department of

June 11
Transportation, Department of